



Crl.R.C(MD)No.618 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.618 of 2017

and

Crl.M.P(MD)Nos.7053 & 7054 of 2017

Murugan

... Revision Petitioner/
Appellant/1st Accused

Vs.

The Inspector of Police,
Seevalaperi Police Station,
Seevalaperi,
Tirunelveli.

(Crime No.114 of 2013)

... Respondent/
Respondent/Complainant

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records of the Judgment dated 22.07.2017 passed in Crl.A.No.18 of 2007 on the file of the learned IV Additional Sessions Court, Tirunelveli, modifying the Judgment dated 15.02.2017 passed in C.C.No.290 of 2014 on the file of the learned Judicial Magistrate No.3, Tirunelveli and set aside the same.

For Petitioner : Mr.N.Pragalathan

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)



Crl.R.C(MD)No.618 of 2017

ORDER

WEB COPY

The revision has been filed to set aside the Judgment dated 22.07.2017 passed in Crl.A.No.18 of 2007 on the file of the learned IV Additional Sessions Court, Tiruneveli, modifying the Judgment dated 15.02.2017 passed in C.C.No.290 of 2014 on the file of the learned Judicial Magistrate No.3, Tirunelveli.

2.The case of the prosecution is that on 22.09.2013 at about 21.35 hours when the defacto complainant was returning home in his two-wheeler TVS XL bearing Registration No.TN 72 AF 5356, the accused persons intercepted him and threatened to give the money, which is possessed by him. They also made a search on him, and they did not find any money as such, they fed up and scolded him with filthy language. The first accused attacked him with Aruval on his head and right hand and thereby caused grievous injuries. On the said complaint, the respondent registered the F.I.R in Crime No.114 of 2013 for the offences under Sections 341, 294(b) and 324 of I.P.C. After completion of the investigation, the respondent filed a final report and the same has been taken cognizance in C.C.No.290 of 2014 on the file of the learned Judicial Magistrate No.3, Tirunelveli.



Crl.R.C(MD)No.618 of 2017

WEB COPY

3.On the side of the prosecution, they had examined P.W.1 to P.W.12 and marked Exs.P.1 to P.9 and on the side of the accused, no one was examined and no materials were produced.

4.On perusal of both the oral and documentary evidence, the trial Court found the petitioner/1st accused alone guilty for the offences punishable under Sections 341 and 324 of I.P.C and sentenced him to undergo one month Rigorous Imprisonment for the offence punishable under Section 341 of I.P.C and he was sentenced to undergo two years Rigorous Imprisonment and to pay a fine of Rs.500/-, in default, shall undergo one week Rigorous Imprisonment for the offence punishable under Section 324 of I.P.C. In so far as Accused Nos.2 and 3 are concerned, the trial Court acquitted them. Aggrieved by the same, the petitioner/1st Accused preferred an appeal in Crl.A.No.18 of 2007 on the file of the learned IV Additional Sessions Court, Tirunelveli and the Appellate Court dismissed the appeal by partly modifying the conviction and sentence imposed by the trial Court. Hence, the Revision.



Crl.R.C(MD)No.618 of 2017

5.The learned counsel appearing for the petitioner would submit that the petitioner was not at all identified by the complainant in the Court, only in the custody of the respondent, the defacto complainant identified the petitioner. There are serious lapses in the investigation and there is suppression of material facts that would prove the innocence of the petitioner. Except P.W.1, no one supported the case of the prosecution. Therefore, the entire conviction and sentence imposed by the Courts below are liable to be set aside.

6.Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner was duly identified by P.W.1. He also deposed that the petitioner alone attacked him with Aruval and as such, he sustained grievous injuries on his right hand. Thereafter, he was admitted in the Hospital as an inpatient. He identified the petitioner in the Court. Therefore, the prosecution proved its case beyond any doubt by examining Exs.P.1 to P.9. Hence, the interference of this Court does not warrant and prayed for dismissal of the revision.

7.Heard the learned counsel appearing on either side and perused the materials available on record.



WEB COPY

8. Totally, there are three accused, in which the petitioner is arraigned as the first accused. When P.W.1 was proceeding to his house in his two-wheeler on 22.09.2013 at about 09.30 p.m., all the accused persons intercepted him and asked for money. They also searched for him and found no money. Therefore, the petitioner herein immediately had taken Aruval and attacked P.W.1 on his head and right hand. Therefore, he sustained grievous injuries. Immediately, he was admitted in the hospital as an inpatient. Though there was no evidence, except P.W.1. On perusal of the evidence of P.W.1 revealed that three unknown persons intercepted him and asked for money. They also searched for him and found no money and as such, the first accused attacked him with Aruval. Immediately, they escaped from the crime by another two-wheeler. On the information, P.W.10 went to the hospital and recorded the statement. On such a statement, F.I.R was registered which was marked as Ex.P.7. P.W.1 also identified the accused persons in the Court. P.W.1 specifically identified that the petitioner only attacked him with Aruval. It is also seen that there was no previous enmity between the petitioner and P.W.1 in order to depose as against the petitioner. He did not even know the name of the petitioner. If at all P.W.1 identified the petitioner/accused in the



Crl.R.C(MD)No.618 of 2017

presence of the respondent, then he would have revealed the name of all the accused persons. There was light in the place of occurrence. Therefore, P.W.1 had seen the face of the accused persons. The wound certificate was marked as Ex.P.6. It also revealed that P.W.1 was attacked by the petitioner. Therefore, the prosecution proved its case beyond any doubt, and this Court finds no infirmity or illegality in the order passed by the Courts below.

9. Accordingly, the Judgment dated 22.07.2017 passed in Crl.A.No.18 of 2007 on the file of the learned IV Additional Sessions Court, Tirunelveli, modifying the Judgment, dated 15.02.2017 passed in C.C.No.290 of 2014 on the file of the learned Judicial Magistrate No.3, Tirunelveli is confirmed and the Criminal Revision Case is dismissed. Consequently, connected Miscellaneous Petitions are closed.

16.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
ps



WEB COPY



Crl.R.C(MD)No.618 of 2017

To

- 1.The IV Additional Sessions Court,
Tiruneveli.
- 2.The Judicial Magistrate No.3,
Tirunelveli.
- 3.The Inspector of Police,
Seevalaperi Police Station,
Seevalaperi,
Tirunelveli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.R.C(MD)No.618 of 2017

G.K.ILANTHIRAIYAN, J.

ps

Order made in
Crl.R.C(MD)No.618 of 2017

16.03.2023