



WEB COPY



Crl.RC No.343 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.343 of 2023

Muthu @ Kirukku Muthu, ...Petitioner/Appellant/Sole accused

Vs.

State Rep.by

The Inspector of Police,

Peralam Police Station,

Peralam, Thiruvvarur District.

Crime No.20 of 2017

...Respondent/Respondent/Complainant

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C., to set aside the conviction and sentence of the Judgment in Crl.A.No.16 of 2021 dated in 05.09.2022 on the file of the Principal District and Sessions Judge at Thiruvvarur by confirming the Judgment in C.C.No.231 of 2017 dated 26.08.2021 on the file of the District Munsif cum Judicial Magistrate, Nannilam.

For Petitioner : Mr.S.Madhusudanan

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)

ORDER

The revision challenges the concurrent Judgments convicting the petitioner/appellant/sole accused for the offence under Section 325 of the



IPC and sentenced him to undergo three years of simple imprisonment and to pay a fine of Rs.1,500/-, in default to undergo two months of simple imprisonment.

2. It is the case of the prosecution that the petitioner/appellant/sole accused on 14.01.2017 had visited the shop belonging to P.W.1/victim, and towards the purchase of bangles worth about Rs.160/- (Rupees One Hundred and Sixty only), the petitioner had paid Rs.100/- only, and when P.W.1 demanded the balance Rs.60/-, the petitioner had abused him in filthy language and had twisted his hand and caused dislocation of his elbow.

3. On the complaint given by the victim, a case was registered against the petitioner/accused for offences under Sections 294(b), 323 and 506(i) of the IPC.

4. After completing the investigation, P.W.8 filed a final report against the petitioner/accused for the offences under Sections 294(b), 325 and 506(i) of the IPC. The prosecution had examined 8 witnesses and marked Ex.P1 to Ex.P10.



5. The trial Court, after considering the evidence, found the petitioner guilty of the offence under Section 325 of the IPC and sentenced him to undergo three years of simple imprisonment and to pay a fine of Rs.1,500/-, in default to undergo two months of simple imprisonment and acquitted the appellant for the offences under Sections 294 (i) and 506(i) of the IPC.

6. The appellate Court confirmed the conviction and sentence imposed by the trial Court.

7. The learned counsel for the petitioner/accused would submit that there is no evidence to show that the petitioner committed the offence under Section 325 of the IPC; that the Doctor/P.W.6, who had certified that there was a dislocation, is not an Orthopedic Doctor; that she was not a Doctor, who had taken the X-ray of the victim; that the conviction of the trial Court on the basis of the evidence of the Doctor/P.W.6 and the accident register/Ex.P3 and wound certificate/Ex.P4 cannot be sustained; and that the evidence of P.W.1 is not reliable and prayed for setting aside the Judgments of conviction.



WEB COURT

8. Mr.S.Udaya Kumar, the learned Government Advocate (Crl.Side) for the respondent, *per contra*, submitted that the prosecution had established its case beyond reasonable doubt; and that the trial Court acquitted the petitioner for the offences under Sections 294 (b) and 506(i) of the IPC and convicted the petitioner for the offence under Section 325 of the IPC on the evidence of P.W.1/victim and P.W.6/Doctor, besides the evidence of eyewitnesses, namely P.W.2 and P.W.3, and therefore, there is no infirmity warranting interference in the revision.

9. As stated earlier, the prosecution had examined eight witnesses. P.W.1 is the victim and the *de-facto* complainant. P.W.2 and P.W.3 are the eyewitnesses who corroborate the evidence of P.W.1. P.W.4 and P.W.5 are the Observation Mahazar witnesses. P.W.6 is a Doctor, who had treated the victim and made entries in the accident register/Ex.P3 and issued wound certificate/Ex.P4. P.W.7 is the Sub Inspector of Police, who had registered the FIR. P.W.8 is the Sub Inspector of Police, who had prepared the Observation Mahazar and Rough Sketch and filed the Final Report for the offences under Sections 294(b), 325 and 506(i) of the IPC.

10. The above would show that the prosecution relied upon the evidence of P.W.1 to P.W.3/eyewitnesses and the evidence of



P.W.6/Doctor to establish the charge under Section 325 of the IPC.

WEB COPY

11. P.W.6/the Doctor, in the accident register and the wound certificate had noted that the victim had suffered a dislocation in the left elbow. In Ex.P.3/accident register, the Doctor had noted that there was a *posterior lateral dislocation in the left elbow joint*. The injury has been mentioned in Ex.P4/wound certificate also. This is confirmed by X-ray/Ex.P6.

12. In the light of the above evidence, it is clear that the prosecution had established that the victim sustained grievous injuries, namely a dislocation in the elbow, which falls within the definition of grievous hurt under Section 320 of the IPC.

13. The contention of the learned counsel for the petitioner/accused is that a specialist or a radiologist was not examined. It is not the case of the petitioner that the Doctor is not qualified to speak about the dislocation. To prove the dislocation, it is not necessary that a specialist should be examined. On the basis of the evidence of P.W.6, this Court is of the view that the prosecution had established that a grievous hurt was



caused to the victim.

WEB COPY

14. The next question is whether the petitioner had caused the grievous injury. P.W.1, the victim himself, had clearly deposed that it is the petitioner who had caused injury and has narrated the occurrence in a cogent manner. Nothing has been elicited in the cross-examination to discredit his testimony. Further, his evidence is corroborated by the evidence of eyewitnesses, P.W.2 and P.W.3. Therefore, the trial Court and the Lower Appellate Court had rightly believed the evidence of P.W.1 to P.W.3 and convicted the petitioner for the offence under Section 325 of the IPC.

15. However, considering the nature of the evidence, the age of the petitioner and the fact that he had sought a lesser sentence before the trial Court as he had to take care of his two daughters, this Court is of the view that the sentence imposed for the offence under Section 325 of the IPC, can be reduced from three years of simple imprisonment to one year of simple imprisonment and to pay a fine of Rs.1500/- in default suffer two months of simple imprisonment. The respondent shall secure the petitioner/accused and commit him to prison to undergo the remaining



Crl.RC No.343 of 2023

period of sentence,

WEB COPY

16. With the above modification, the Criminal Revision stands partly allowed.

09.12.2024

Index: Yes/No
Speaking/Non-speaking order
Neutral citation: Yes/No.
dk



Crl.RC No.343 of 2023

To

WEB COPY

1. The Principal District and Sessions Judge,
Thiruvarur.
2. The District Munsif cum Judicial Magistrate,
Nannilam
3. The Inspector of Police,
Peralam Police Station,
Peralam,
Thiruvarur District.
4. The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.RC No.343 of 2023

SUNDER MOHAN, J.

dk

Crl.R.C.No.343 of 2023

09.12.2024