



Crl.R.C.No.241 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.03.2024
PRONOUNCED ON : 04.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.241 of 2024

Bascal Leo

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
E-1, Singanallur Police Station,
Coimbatore.

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to call for judgment of passed by the I Additional District Court, Coimbatore, dated 03.01.2024, made in Crl.A.No.66 of 2023 confirming the judgment of conviction and sentence made in C.C.No.429 of 2018, passed by the Judicial Magistrate Court-III, Coimbatore, dated 11.01.2023 and set aside the same.

For Petitioner : Mr.B.Jawahar

For Respondent : Mr.S.Raja Kumar,
Additional Public Prosecutor



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ORDER

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The petitioner was convicted by the learned Judicial Magistrate No.III, Coimbatore (Trial Court) *vide* judgment, dated 03.01.2024 in C.C.No.429 of 2018 and sentenced to undergo one week Simple Imprisonment and to pay a fine of Rs.5,000/- for offence under Section 325 of IPC and also sentenced to undergo one week Simple Imprisonment for offence under Section 506(i) of IPC and also imposed a fine of Rs.1,000/- for offence under Section 75(1)(C) of the Tamil Nadu City Police Act, 1888. Challenging the same, the petitioner preferred an appeal before the learned I Additional District Judge, Coimbatore (lower appellate Court) in Crl.A.No.66 of 2023 and the same was dismissed *vide* judgment, dated 03.01.2024. Aggrieved over the same, the present criminal revision case is filed.

2.Gist of the case is that PW1 is the defacto complainant and his son is one Sathish Kumar. The said Sathish Kumar owned house property in site No.199, Kothari Nagar, Singanallur, Coimbatore in which the petitioner's wife was a tenant. The petitioner is a Veterinary Doctor, was



running a business dealing with chicken feeds. The petitioner became defaulter of rent to the tune of Rs.84,000/-. The defacto complainant's son Sathish Kumar asked the petitioner to vacate the property. One and half months prior to the incident, the petitioner and his wife vacated the property, thereafter the defacto complainant's son locked the premises. There is a civil suit filed by the petitioner's wife in O.S.No.1529 of 2017 was pending before the civil Court. On 31.10.2017, petitioner along with his wife came to the said property of the defacto complainant's son, attempted to open the lock, thereafter went around the house, took photographs in their mobile, which was objected by the neighbours, thereafter, the defacto complainant's came there, questioned the petitioner and his wife, at that time, the petitioner twisted left hand of defacto complainant, pushed him down and the defacto complainant sustained fracture in his left hand little finger. One Balaji present near the scene of occurrence came there and rescued defacto complainant. Thereafter, the petitioner abused the defacto complainant and left the place. The defacto complainant had gone to Muthoos Hospital, got admitted as inpatient, information sent to the respondent Police. The Investigating Officer/PW8 had gone to the hospital, recorded statement of



the defacto complainant and took his signature, but no action taken. After discharge from the hospital, on 02.11.2017, the defacto complainant lodged a complaint to the respondent Police who registered FIR (Ex.P4) in Crime No.996 of 2017 for offence under Section 75(1)(c) of Tamil Nadu City Police Act, 1888 and Sections 323 and 506(i) IPC. On conclusion of investigation, charge sheet filed against the petitioner on 20.09.2018 listing nine witnesses and documents. The trial Court took cognizance of offence under Section 75(1)(c) of Tamil Nadu City Police Act, 1888 and Sections 325 & 506(i) IPC. During trial, on the side of the prosecution, eight witnesses examined as PW1 to PW8 and marked six documents as Exs.P1 to P6. On the side of the defence, no witness examined and no document marked. On conclusion of trial, the trial Court convicted the petitioner as stated above which was confirmed by the lower appellate Court. Challenging the same, the present criminal revision case is filed.

3.The learned counsel for the petitioner submitted that the petitioner



was a Veterinary Doctor and his wife was a Tenant under the defacto complainant's son. Prior to the occurrence, there was some dispute with regard to tenancy. The defacto complainant's son Sathish Kumar locked the portion denying the petitioner's wife entry. Earlier, the petitioner's wife filed civil suit in O.S.No.1429 of 2017 which is pending before the civil Court. To somehow vacate the petitioner's wife from the property, false case fabricated against the petitioner which both Courts below failed to consider. The respondent Police failed to consider landlord tenant dispute and pendency of civil suit and conducted investigation in a partisan manner. In this case, the landlord viz., Sathish Kumar, the defacto complainant's son not even examined as witness. PW1 admits that Sundaram (PW2) took him to Muthoos Hospital for treatment. But PW2 does not state taking defacto complainant to the said hospital. Added to it, the Doctor (PW7) evidence is that the defacto complainant was brought by one Jayakumar and the said Jayakumar not examined as witness in this case. Thus, the evidence of PW1, PW2 and PW7 are contradictory with each other. PW1 admits that when he was admitted in Muthoos Hospital, the respondent Police came there, recorded his statement, took his signature, but the same not produced.



The Investigating Officer/PW8 evidence is contrary. PW1 further admits that earlier to this complaint, there was complaint and FIR in Crime No.573 of 2017 registered. Thus, there is a clear motive for the defacto complainant (PW1) to implicate the petitioner and using criminal case as arm twisting, exerted pressure to settle landlord tenant dispute, which the trial Court as well as the lower appellate Court failed to consider.

4.He further submitted that PW2, friend of PW1 clearly stated that he has not accompanied PW1 to the hospital. PW3 is an Acting Driver who is projected as chance witness in the scene of occurrence. PW4, a Tenant under the defacto complainant (PW1) projected as eye witnesses, but not supported the case of the prosecution. PW5 is a witness for Observation Mahazar (Ex.P2), admits that at the request of the Police, he signed in Ex.P2. PW6, the other Observation Mahazar not supported the case of the prosecution. PW7, the Doctor from Muthoos Hospital stated that he took X-ray and recorded Accident Register to confirm the fracture sustained by the defacto complainant. But neither X-ray nor Accident Register copy produced in this case. PW8 the Investigating Officer admits not conducting



any investigation with regard to landlord tenant dispute and admits non collection of medical records except wound certificate (Ex.P3). Though the wound certificate is dated 01.11.2017 and FIR is dated 02.11.2017, there is no mention in the FIR about the wound certificate. The Doctor (PW7) examined by the respondent Police only on 29.12.2017. The Investigating Officer (PW8) took no steps to examine the defacto complainant (PW1) by the Government Doctor and confirm the veracity of Ex.P3 with any Government Doctor. In this case, even the FIR reached the Court only on 15.12.2017 with considerable delay. Hence, the petitioner falsely implicated on a landlord tenant dispute and using the criminal case the defacto complainant vacated the petitioner and his wife.

5.It is submitted that the petitioner is a Veterinary Doctor who appeared for Veterinary Assistant Surgeon Exam conducted by the Tamil Nadu Public Service Commission. Though he was selected, his candidature not considered due to above case. Now, the petitioner's future has been jeopardized. Hence, he prays for setting aside the judgment of Courts below.



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6.The learned Additional Public Prosecutor appearing for the respondent Police submitted that the petitioner's wife was a Tenant under the defacto complainant's son Sathish Kumar. There was some landlord tenant dispute. On 31.10.2017, the petitioner along with his wife went to the tenancy house, found door locked, attempted to forcibly open, then they went around the house, took photographs which was questioned by the defacto complainant. At that time, the petitioner abused and pushed down the defacto complainant and kicked him. Due to which, the defacto complainant sustained fracture on his left hand little finger. PW2, PW3 and PW4 are the neighbours, who were present near the scene of occurrence had come to help the defacto complainant. Thereafter, the defacto complainant got admitted in Muthoos Ortho Hospital. The Doctor (PW7) gave treatment and issued wound certificate (Ex.P3). In presence of PW5, Observation Mahazar (Ex.P2) and Rough Sketch (Ex.P5) drawn. After collecting documents, the Investigating Officer (PW8) filed charge sheet before the trial Court. During trial, eight witnesses examined and six documents marked. On conclusion of trial, the trial Court convicted the petitioner as



stated above. The petitioner's appeal was also dismissed by the lower appellate Court confirming the conviction of the trial Court.

7.He further submitted that in this case, the defacto complainant (PW1) is an injured witness and PW2 and PW3 are eye witnesses to the occurrence. PW4 and PW6 not supported the case of the prosecution. The medical evidence is in conformity to the ocular evidence. The trial Court on considering the same, rightly convicted the petitioner. Hence, he opposed the revision.

8.Considering the rival submissions and on perusal of materials, it is not in dispute that the petitioner's wife was a tenant under the defacto complainant's son Sathish Kumar and there is landlord tenant dispute between them and O.S.No.1429 of 2017 is pending before the civil Court. There was earlier complaint and FIR in Crime No.573 of 2017 register for offence of similar nature. The evidence of PW1 is that he was pushed down by the petitioner and left hand little finger got fractured. The evidence of the Doctor (PW7) is that Accident Register recorded and X-ray taken, but in



this case, both not produced. PW1 gives explanation that these documents were lost, not traceable, appears artificial. The medical records copy will be available in the hospital which has been withheld, not produced. The Investigating officer (PW8) admits wound certificate (Ex.P3) issued on 01.12.2017 and FIR registered on 02.12.2017 and the injuries sustained are grievous in nature. In such circumstances, missing of X-ray and Accident Register cannot be accepted.

9.The evidence of PW1 is that after the occurrence, PW2 took him to the hospital. PW2 evidence is that he had not accompanied PW1 to the hospital and PW2 came to the scene of occurrence at a later point of time. PW3 is projected as chance witness, his presence is highly doubtful. PW4, a Tenant under the defacto complainant (PW1) not supported the case of the prosecution. The evidence of the Doctor (PW7) is that the defacto complainant was accompanied by one Jayakumar, but the said Jayakumar not examined as witness. The wound certificate (Ex.P3) not supported with X-ray to confirm the fracture and grievousness of the injury. The Accident Register is the earliest medical record which is not produced in this case.



The ocular evidence and the medical evidence are not in conformity. The Investigating Officer/PW8 admits that he has not conducted any enquiry or evidence as regards landlord tenant dispute despite mentioning of pendency of civil suit in O.S.No.1429 of 2019 in the complaint (Ex.P1). It is to be seen that FIR in Crime No.573 of 2017 registered for occurrence of similar in nature. The primary dispute is between the landlord tenant over tenancy. Both Courts below failed to consider the evidence on right perspective.

10.In view of the above, this Court finds the conclusion by both the Courts below not sustainable. In the result, the judgment of the trial Court, dated 11.01.2023 in C.C.No.429 of 2018 and the judgment of the lower appellate Court, dated 03.01.2024 in Crl.No.66 of 2023 are hereby set aside. Accordingly, this criminal revision case stands allowed.

11.It is seen that the petitioner already lost opportunity of getting employed in the Government service as Veterinary Doctor though he cleared examination conducted by the Tamil Nadu Public Service Commission due to the pendency of the above case. The petitioner's future jeopardized due to



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landlord tenant dispute. Since the petitioner is acquitted from all charges,
the stigma of criminal case pending against the petitioner is hereby erased.

04.06.2024

Neutral Citation: Yes/No
Speaking Order/Non Speaking Order
Internet: Yes
Index: Yes/No

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To

- 1.The I Additional District Judge,
Coimbatore.
- 2.The Judicial Magistrate No.III,
Coimbatore.
- 3.The Inspector of Police,
E-1, Singanallur Police Station,
Coimbatore.
- 4.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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PRE-DELIVERY ORDER IN
Crl.R.C.No.241 of 2024

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