



Crl.R.C.No.1221 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2024

CORAM

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

Crl.R.C.No.1221 of 2019

1.Kala
2.Karuthavanam
3.Udaya
4.Selvi

... Petitioners

Vs.

State represented by
The Sub-Inspector of Police,
H-8, Thiruvottiyur Police Station,
Chennai.
(Crime No.43/2009)

... Respondent

Prayer : Criminal Revision filed under Section 397 r/w. 401 of Criminal Procedure Code to set aside the judgment and orders dated 26.09.2019 passed in C.A.No.195/2017 by the learned Principal Sessions Judge, Tiruvallur confirming the judgment and orders dated 12.12.2017 passed in C.C.No.195/2009 by the learned Judicial Magistrate, Thiruvottiyur.



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For Petitioners : Mr.V.Sathish
For Respondent : Mr.S.Rajakumar, APP
Assisted by Ms.A.Shahana Fathima, GA (Crl. side)

ORDER

The present Criminal Revision is filed against the judgment dated 26.09.2019 passed in Crl.A.No.195/2017 by the learned Principal Sessions Judge, Tiruvallur, confirming the judgment dated 12.12.2017 passed in C.C.No.195/2009 by the learned Judicial Magistrate, Thiruvottiyur.

2. The revision petitioners are the accused in C.C.No.195/2009 on the file of the Judicial Magistrate, Thiruvottiyur. The Sub Inspector of Police, H-8, Thiruvottiyur Police Station, Chennai filed a final report against the petitioners/accused for the offences under Sections 341 & 324 IPC.

3. The case of the prosecution as could be discerned from the oral and documentary evidence is as follows :



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3.1 On 15.01.2009 at about 04.00 p.m. when Vanitha (P.W.1), Vani (P.W.2) and Vathani (P.W.3) three sisters were talking near Vanitha's house (P.W.1), the first revision petitioner/A1 questioned P.W.2 as to why her husband Kumar (P.W.5) is talking ill of A1's family members. Thereafter, the revision petitioners went to the cremation ground and wrongly restrained P.W.5 and at that time P.W.1 to P.W.3 came over in there and prevented the revision petitioners from assaulting P.W.5. The first revision petitioner (A1) got wild and attacked P.W.2 with a blade on her right hand and causing her grievous injury. The second revision petitioner (A2) also attacked Vanitha (P.W.1) with a blade on her left side face and caused simple injury to her. While A1 and A3 caught hold of P.W.3, A4 attacked her with a blade on her left side face, chest and resulting in grievous injuries. P.W.1 to P.W.4 were rushed to Government Stanley Hospital, Chennai.

3.2. Dr.Dinakar Moses (P.W.8), attached to Stanley Medical College Hospital, on 15.01.2009 at about 05.15 P.M. examined Vanitha



WEB COPY (P.W.1), Vani (P.W.2) and Vathani (P.W.3) and found the following injuries on them :

Vanitha (P.W.1)

Laceration on her left eye and left cheek both measuring 4 x 1 x 1 cm.

Vani (P.W.2)

Cut injury measuring 5 x 3 x 2 cm over the right dorsum

Vathani (P.W.3)

Laceration on her left side face and right cheek and on her right chest.

He took x-ray for all P.W.1 to P.W.3 and Accident Registers were marked as Ex.P7 to Ex.P9. Vanitha (P.W.1), Vani (P.W.2) and Vathani (P.W.3) were all admitted as an inpatient by Dr.Dinakar Moses (P.W.8). Dr.Sengutuvan (P.W.9), Assistant Professor, Government Stanley Medical College Hospital, Chennai gave treatment to P.W.1 to P.W.3 and issued a wound certificates (Ex.P10 and Ex.P11) stating that the injuries sustained by P.W.1 is simple in nature and P.W.2 & P.W.3 as grievous.



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3.3. Based on the complaint of P.W.1, Thiru. Gunasekaran, Sub Inspector of Police (P.W.10) registered an FIR in Crime No.43/2009 of H-8, Thiruvottiyur Police Station, for the offences punishable under Sections 341 & 324 IPC against the revision petitioners (accused).

3.4. Thiru.Gunasekaran (P.W.10), took up investigation in Crime No.43/2009, went to the scene of occurrence, prepared an observation mahazar (Ex.P3) and a rough sketch (Ex.P13) in the presence of the witnesses Kumar (P.W.5) and Azhwar (P.W.6) and also recovered three blades (M.O.1). He examined the witnesses and recorded their statements individually.

3.5. After completing the investigation, P.W.10 laid a final report before the learned Judicial Magistrate, Thiruvottiyur against the revision petitioners for the offences punishable under Sections 341, 324 & 326 IPC.



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3.6. When the revision petitioners were questioned under Section 313 Cr.P.C. with regard to the incriminating circumstances appearing in evidence against them, they denied of having committed any offence. However, they did not adduce any evidence on their side.

3.7. Learned Judicial Magistrate, Thiruvottiyur, after analysing the oral and documentary evidence on record, found the revision petitioners guilty of the offences punishable under Sections 341, 324 & 326 IPC and convicted and sentenced them as detailed hereunder :

<i>Accused</i>	<i>Conviction</i>	<i>Sentence</i>
A1 & A4	Section 341 IPC	Simple imprisonment for one month
A1 & A4	Section 326 IPC	Rigorous imprisonment for six months
A2	Section 324 IPC	Rigorous imprisonment for three months
A3	Section 341 IPC	Simple imprisonment for one month

3.8. Aggrieved over the conviction and sentence passed by the learned Judicial Magistrate, Thiruvottiyur, the revision petitioners filed an appeal in C.A.No.195/2017 before the Principal Sessions Judge, Tiruvallur. The learned Principal Sessions Judge, Tiruvallur, found the judgment of the trial court in order and dismissed the appeal vide his



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judgment and orders dated 26.09.2019.

3.9. Aggrieved by the same, the present criminal revision has been preferred by the revision petitioners.

4. Heard Mr.V.Sathish, learned counsel for the revision petitioners and Mr.S.Raja Kumar, learned Additional Public Prosecutor appearing for the respondent.

5. The three sisters (P.W.1 to P.W.3) who were injured in the attack by the accused A1 to A4 (all women) had in fact tried to protect P.W.5, the husband of P.W.2, who happened to be the main target. A1, Kala had confronted the sisters to know the whereabouts of P.W.5 when the other three accused A2 to A4 along with A1 rushed to the cremation ground and dragged him to the front of P.W.1's residence. When the three sisters tried to prevent the attack, the four accused women slashed the three sisters with blade. While P.W.1 sustained simple injuries, P.W.2 & P.W.3 sustained grievous injuries. They were treated in the

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Government Hospital (Stanley Hospital).

6. The following facts are revealed in this case .

- (a) There was a previous enmity between the P.W.1, P.W.2 & P.W.3 families and A1 family. They were also distantly related.
- (b) All the assailants used blade as weapon to inflict cut injuries on the victims.
- (c) The victims did not turn violent or tried to attack the four assailants.
- (d) While P.W.2 was discharged the same day i.e. 19.01.2009 P.W.1 & P.W.3 were treated as an inpatient and discharged only on 23.01.2009.
- (e) The attack was preplanned but it was P.W.1 to P.W.3 who got injured and not P.W.5, the husband of P.W.2.
- (f) There was no provocation from P.W.1 to P.W.3 except for their efforts to protect P.W.5.



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7. The contentions of the learned counsel for the revision petitioners are that

- (a) the place of occurrence as per the rough sketch (Ex.P13) and as deposed by P.W.1 to P.W.3 are different.
- (b) the complaint preferred by P.W.1 based on which FIR was registered was given in the Police Station is what P.W.1 deposed during her cross examination while she earlier contradicted the same in her chief examination by stating that it was in the hospital.
- (c) Recovery of material object was belated causing doubt.
- (d) As there was a previous enmity, the lower court ought not to have relied on the depositions of P.W.1 to P.W.3.

8. All these grounds appears to be flimsy. It is clear that the group of women who attacked were with a clear objective of hurting P.W.5 while the three sisters (P.W.1 to P.W.3) became the victims as they were caught unawares. They got injured in the melee. I do not find any reason to interfere in the conviction and sentence already confirmed in the appeal.



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9. In the result, the Criminal Revision Case is dismissed.

- i. The judgment dated 26.09.2019 passed in C.A.No.195/2017 by the learned Principal Sessions Judge, Tiruvallur and the judgment dated 12.12.2017 passed in C.C.No.195/2009 by the learned Judicial Magistrate, Thiruvottiur, are confirmed.
- ii. The revision petitioner/accused shall surrender before the Judicial Magistrate, Thiruvottiur, within 15 days from the date of receipt of a copy of this order, failing which, the Trial Court shall take steps to secure his presence for serving the remaining period of sentence.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl



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To

- 1.The Principal Sessions Judge, Tiruvallur.
- 2.The Judicial Magistrate, Thiruvottiyur.
- 3.The Section Officer, Criminal Section, Madras High Court, Chennai.



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R. HEMALATHA, J.
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