



CrI.R.C.(MD)No.210 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

CrI.R.C.(MD)No.210 of 2019

Gengaiya @ Selvam

... Petitioner

VS.

The Inspector of Police,
Sethur Police Station,
Viruthunagar District.
(Crime No.218/2014)

... Respondent

Prayer: Criminal Revision Case filed under Section 397 read with 401 of the Code of Criminal Procedure praying to call for the Judgement and orders dated 11.01.2019 in C.A.No.33 of 2016 passed by the Additional District and Sessions Judge, Srivilliputhur confirming the Judgement and orders dated 23.03.2016 in S.C.No.17 of 2015 passed by the Chief Judicial Magistrate, Virudhunagar District and revise the same.

For Petitioner

:Mr.N.Mohideen Basha

For Respondent

:Mr.M.Sakthi Kumar,
Government Advocate (Criminal Side)



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ORDER

Challenging the conviction and sentence passed by the Additional District and Sessions Judge, Srivilliputhur in C.A.No.33 of 2016, the present petitioner has filed this Criminal Revision Case.

2. The petitioner (accused) was charged for the offences punishable under Sections 294(b) and 307 (2 counts) IPC.

3. The case of the prosecution is that on 02.06.2014, at about 06.30 am, when the victim Gajendhraprabhu (PW1) was walking in front of a Temple near Mettupatti Village, Seithur Taluk, the present petitioner (accused), who is the brother-in-law of the victim, attacked him with a sickle (MO1), as a result of which, he sustained injuries on his left hand and fell down. The petitioner again hit him with the sickle on his legs. PW1's father (PW2) attempted to prevent the petitioner from attacking his son PW1. However, he also sustained injuries. According to the prosecution, the petitioner abused both PW1 and PW2 in filthy language. Based on the complaint (Ex.P1) given by PW1, the Sub Inspector of



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Police, Seithur Police Station registered FIR (Ex.P12) in Crime No.218 of 2014 against the accused for the offences punishable under sections 294(b), 324, 326, 307 (2 counts) IPC. After concluding investigation, the Inspector of Police laid a final report before the Judicial Magistrate, Rajapalayam against the accused for the aforesaid offences. The learned Judicial Magistrate after furnishing copies of records under Section 207 Cr.P.C. to the accused, committed the case to the Court of Sessions and the Principal District Judge, Srivilliputhur took the case on file in S.C.No. 17/2015 and made over the same to the Chief Judicial Magistrate, Virudhunagar District at Srivilliputhur. The Chief Judicial Magistrate framed charges against the accused for the offences punishable under Sections 294(b) and 307 (2 counts) IPC.

4. In order to bring home the guilt of the accused, the prosecution examined 24 witnesses, marked 15 documents and 1 material object.



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5. The circumstances appearing in evidence against the accused were put to him under Section 313 of Cr.P.C. and the accused denied of having committed any offence. However, he did not examine any witness on his side. The learned trial Judge after analysing the oral and documentary evidence, convicted the accused for the offences punishable under Sections 294(b) and 307 (2 counts) and sentenced him as detailed hereunder.

Section of Law	Sentence of imprisonment	Fine amount
294(b) IPC	-	Rs.1,000/- in default, to undergo Simple imprisonment for one month.
307 IPC (2 counts)	Rigorous Imprisonment for five years (for each count)	Rs.20,000/- (for each count) in default, to undergo Simple imprisonment for one year (for each count).

Aggrieved over the conviction and sentence passed by the trial Court Judge, the accused filed an appeal before the Additional District and Sessions Judge, Srivilliputhur in C.A.No.33 of 2016. The learned Additional District and Sessions Judge vide his Judgement and Orders dated 11.01.2019 confirmed the conviction and sentence passed by the trial Court, as against which, the present Criminal Revision Case is filed.



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6. Mr.N.Mohideen Bazha, learned counsel appearing for the petitioner would contend that the accused's younger sister was given in marriage to PW1 and at the time of marriage, 21 sovereigns of gold jewels were presented to him as dowry. Since PW1 was not having good mental health, his family members pledged a portion of the jewels and gave him treatment in various hospitals. Since he was not fit for marriage, the accused's sister was forced to leave her matrimonial home and is now presently living with her parents. His contention is that the accused did not attack PW1 and PW2 as alleged by the prosecution and therefore, prayed for acquittal of the accused.

7. Per contra, Mr.M.Sakthi Kumar, learned Government Advocate (Criminal Side), would contend that both the Courts had concurrently held that the accused had committed the offences punishable under Sections 294(b) and 307 (2 counts) IPC and there are no grounds to interfere with the findings recorded by both the Courts below.



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8. This Court while exercising revisional jurisdiction cannot re-appreciate the evidence and can only find out the legality, regularity and propriety of the impugned orders. A perusal of the evidence of PW1 and PW2 clearly shows that the accused had attacked PW1 with a sickle (MO1) on 02.06.2014. The presence of the accused at the place of occurrence had not been denied as is seen from the line of cross examination made by the defence. The arguments put forth by the learned counsel for the accused before the trial Court was that PW1 and PW2 attempted to attack the accused and since it was prevented by him, both PW1 and PW2 sustained injuries. This argument was not accepted by both the Courts below and the reason for arriving at the same is cogent and acceptable.

9. The victim, immediately after the occurrence, was admitted in Government Hospital, Rajapalayam, from where, he was referred to the Government Rajaji Hospital, Madurai. Dr.Vijayaperumal (PW22) had opined that the injuries sustained by PW1 are simple in nature and the injuries sustained by PW2 are grievous in nature. The evidence of PW1



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and PW2 are acceptable and nothing useful was suggested to PW1 and PW2 during the course of examination to discredit or disbelieve their versions.

10. At this juncture, Mr.N.Mohideen Basha, learned counsel appearing for the petitioner would contend that the petitioner always had a feeling that his sister was deceived by her husband by concealing his actual mental status thereby leading to their separation. According to the counsel for the revision petitioner, the petitioner had no other reason for animosity with PW1 and therefore, his act should not be construed as wilful one. It was also his contention that this Court should take into consideration the age of the revision petitioner and show some leniency in the matter of sentence.

11. In the instant case, it is pertinent to point out that PW1 and the petitioner (accused) are closely related to each other in the sense that the accused's sister was given in marriage to PW1. PW1 and the accused's sister are living separately on account of some



misunderstanding between them. The accused is now aged 29 years and in the circumstances, such a harsh sentence of Rigorous Imprisonment of 5 years would make his future oblique. Therefore, the sentence passed by the Courts below is modified as under.

Section of Law	Sentence of imprisonment	Fine amount
294(b) IPC	-	Rs.1,000/- in default, to undergo Simple imprisonment for one month.
307 IPC (2 counts)	Rigorous Imprisonment for two years (for each count)	Rs.20,000/- (for each count) in default, to undergo Simple imprisonment for one year (for each count).

12. In the result,

- (i) This Criminal Revision Case is partly allowed.
- (ii) The conviction passed by the Courts below is confirmed.
- (iii) The sentence passed in respect of the offence punishable under Section 307 IPC (2counts) is modified as stated above.
- (iv) There is no modification with regard to the fine amount.
- (v) The petitioner (accused) shall surrender before the Judicial Magistrate, Rajapalayam within a period of 15 days from the date of this order to serve the remaining period of sentence.



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(vi) If the accused does not appear before the Judicial Magistrate, Rajapalayam, the learned Judicial Magistrate shall pass appropriate orders to secure the presence of the accused to serve the remaining period of sentence.

(vii) The period of detention already undergone by the petitioner shall be set off under Section 428 of Cr.P.C.

07.03.2024

NCC: Yes/No

Index : Yes/No

Speaking/Non-Speaking order

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To

- 1.The Additional District and Sessions Judge,
Srivilliputhur
- 2.The Chief Judicial Magistrate,
Virudhunagar District at Srivilliputhur
- 3.The Judicial Magistrate, Rajapalayam
- 4.The Inspector of Police,
Sethur Police Station,
Viruthunagar District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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R.HEMALATHA, J.

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