



Crl.R.C.No.240 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2025

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.240 of 2025

and

Crl.M.P.Nos.1896 & 1899 of 2025

1. Mariappan

2. Anitha

3. Varun

... Petitioners

Vs

The State represented by,
The Inspector of Police,
Palaiyur Police Station,
Mayiladuthurai District.

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 read with Section 401 Cr.P.C./Section 401 Cr.P.C./Section 438 read with Section 442 of BNSS, to allow this Criminal Revision Petition and set aside the order passed in C.A.No.1 of 2022 on the file of the District and Sessions Judge, Mayiladuthurai dated 23.08.2024 and which was confirmed by the learned Judicial Magistrate No.II, Mayiladuthurai in S.T.C.No.55 of 2020 dated 15.12.2021.



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For Petitioners : Mr.U.Kathiravan

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor

ORDER

This Criminal Revision Case has been filed to set aside the judgment dated 23.08.2024 passed in C.A.No.1 of 2022 on the file of the District and Sessions Judge, Mayiladuthurai, confirming the order dated 15.12.2021 passed in S.T.C.No.55 of 2020 on the file of the learned Judicial Magistrate No.II, Mayiladuthurai.

2. The case of the prosecution is that on 27.10.2019, the accused persons scolded P.W.1 with filthy language and assaulted him with bare hands and wooden log and threatened him with dire consequences.

3. Learned counsel for the petitioners submitted that false case has been foisted against them. P.W.1 who is the victim has stated that



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the first accused scolded him with filthy language and also received the stick from his wife and attacked him. Later, he stated that the first accused assaulted the victim with hands only and due to which, there was bleeding on the nose. The Doctor has stated that the victim sustained injuries only on the lips. P.W.2 has not spoken anything about the alleged incident and he is only a hearsay witness. Though P.Ws.3 and 4 are cited as eye witnesses, they have not stated specifically as to who are the accused attacked the victim and on which part of the body of the victim getting injured. There are material contradictions between the evidence of prosecution witnesses. Further, two of the eye witnesses have turned hostile. The eye witnesses who have supported the case of the prosecution have not specifically stated that the petitioners have scolded the victim with filthy language in a public view. The petitioners have challenged the judgment of the trial court and filed an appeal before the first appellate court. The first appellate court is a fact finding court, failed to re-appreciate the evidence, simply endorsed the views of the trial court and dismissed the appeal. Hence, the petitioner is before this Court.



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4. He further submitted that as per decision of the Hon'ble Supreme Court of India, mere scolding in the private place or in the covered place offence under Section 294(b) would not attract. Except P.W.1, none of the witnesses have spoken that the accused scolded the victim with filthy language in their presence. Therefore ingredients of offence under Section 294(b) IPC would not attract. Both the courts below failed to appreciate the evidence and over sighted the material contradictions in the evidence of the defacto complainant and the eye witnesses.

5. Learned Additional Public Prosecutor submitted that the prosecution has proved its case by examination of the witnesses and out of which, P.W.1 who is the victim has clearly spoken about the offence committed by the petitioners. P.Ws.3 and 4 are the eye witnesses who have corroborated the same. Hence, the trial court appreciated the evidence and convicted the accused. The appellate Court has also rightly re-appreciated the evidence and confirmed the judgment of the trial court. There is no merit in the appeal.



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6. Heard the learned counsel appearing for the petitioners and the learned Additional Government Pleader appearing for the respondent-Police and perused the materials available on record.

7. The respondent/Police registered a case in Crime No.297 of 2020 against the petitioners for the offences under Sections 294(b), 323 and 506(i) IPC in Crime No.927 of 2020. After completion of investigation, charge sheet was filed before the learned Judicial Magistrate No.II, Mayiladuthurai. The petitioners were charged for the offence under Sections 294(b), 323, 506(ii) IPC. During trial, in order to substantiate the case of the prosecution, nine witnesses were examined on the side of the prosecution and five documents were marked. On the side of the defence, neither witness was examined nor document was marked.

8. After completion of trial, the trial court convicted the petitioners for the offence under Sections 294(b) and to pay fine of Rs.500/-, in default to undergo simple imprisonment for one week and

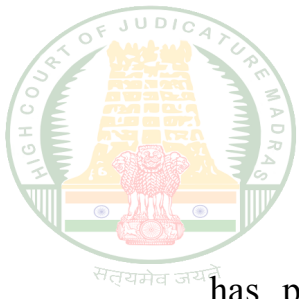


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also convicted the petitioners for the offence under Section 323 IPC and imposed sentence of simple imprisonment of six months and fine of Rs.1,000/-, in default to undergo simple imprisonment for one week. Challenging the same, the petitioner has filed the appeal before the learned Principal District Judge, Mayiladuthurai in Crl.A.No.1 of 2022. The appellate court after hearing both parties and re-appreciated the evidence, confirmed the order passed by the trial court.

9. P.W.1, who is the victim has clearly spoken about the involvement of the petitioner in the said offence. P.Ws.3 and 4 have corroborated the evidence of P.W.1. Though P.Ws.3 to 6 are cited as eye witnesses, P.Ws.5 and 6 have turned hostile. It is submitted by the learned counsel for the petitioners that except P.W.1, no other eye witnesses have spoken that the accused scolded the victim with filthy language and there is no corroboration regarding the offence under Section 294(b) IPC. Both the Courts below held that charge for the offence under Section 294(b) IPC has been proved by the prosecution beyond reasonable doubt. Further, the learned counsel for the petitioner



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has pointed out some contradictions regarding the handling of the weapons and also the place of attack. However, on a reading of materials, it is seen that P.W.1 has clearly spoken that all the three accused have come to the occurrence place and scolded him with filthy language and attacked P.W.1 with stick. The victim/P.W.1 has clearly spoken that A1 attacked with stick and A2 attacked with hands and also both pulled her and kicked him. Other eye witnesses P.Ws.2 and 3 have clearly stated that after hearing the noise, they came to the occurrence place and they have also seen that the accused who are the petitioners herein attacked P.W.1/victim.

10. Though there are contradictions between the evidence of P.Ws.1,2,3 and 4 and the doctor's evidence, but the said contradictions are not material contradictions. P.Ws.3 and 4 have clearly spoken about the presence of th petitioners in the occurrence place and also stated that they attacked the defacto complainant/victim/P.W.1 and immediately they admitted the victim in the hospital. The doctor has clearly stated about the injuries sustained by the victim. Hence charges for the



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offences under Sections 294(b) and 323 IPC were made out as against the petitioners.

11. Considering the materials available on record, this Court finds that the contradictions pointed out by the learned counsel for the petitioners are not material contradictions. Further, evidence of P.W.1 was corroborated with the eye witness and also medical evidence/witness.

12. Under the above facts and circumstances of the case, this Court does not find any merit in the criminal revision case and the same is liable to be dismissed. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

05.02.2025

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No



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1. The District and Sessions Judge, Mayiladuthurai.
2. The Judicial Magistrate No.II, Mayiladuthurai.
3. The Inspector of Police,
Palaiyur Police Station,
Mayiladuthurai District.
4. The Public Prosecutor,
High Court, Chennai.



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P.VELMURUGAN, J

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