



Crl.R.C.No.267 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : .12.02.2025

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THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.267 of 2025

and

Crl.M.P.No.2342 of 2025

J.Arockia Akilan

... Petitioner

Vs

State represented by
The Inspector of Police,
W-15, All Women Police Station,
Royapuram, Chennai -13.

... Respondent

PRAYER:

Criminal Revision Case filed under Sections 438 and 442 of the BNSS 2023, to set aside the judgment dated 27.12.2024 passed in Crl.A.No.447 of 2024 by the I Additional Sessions Judge, City Civil Court, Chennai, by confirming the conviction and judgement passed in C.C.No.496 of 2021 on the file of the XVI Metropolitan Magistrate, George Town, Chennai -1 dated 20.05.2024 and acquit the petitioner herein.



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For Petitioner : Mr.N.Elayaraja

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor

ORDER

This Criminal Revision Case has been filed to set aside the judgment dated 27.12.2024 passed in Crl.A.No.447 of 2024 by the I Additional Sessions Judge, City Civil Court, Chennai, confirming the conviction and judgment passed in C.C.No.496 of 2021 on the file of the XVI Metropolitan Magistrate, George Town, Chennai -1 dated 20.05.2024 and acquit the petitioner herein.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent-Police and perused the materials available on record.

3. Learned counsel for the petitioner submitted that though both the Courts below acquitted the petitioner for the offences under Sections 498(A) and 406 of IPC, convicted the petitioner for the offence under



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Section 324 of IPC. As per the evidence of P.W.1, the petitioner had assaulted the defacto complainant and her son and hence they have taken treatment in the hospital and for that, they have produced Exs.P3 and P4 series, but the same were not recovered/seized by the investigating officer in the manner known to law. Further, it is not stated as to who took the photos of the injuries sustained by P.Ws.1 and 2. Ex.P4-O.P sheet does not contain the type of injuries sustained by P.Ws.1 and 2. The author of the document Ex.P4 was not examined to prove that P.Ws.1 and 2 have taken treatment in the hospital. The Courts below failed to consider that Ex.P3 series which contain photographs of the wounds were not supported by a certificate under Section 65-B of Indian Evidence Act. The respondent-Police has not proved the charge against the petitioner for the offence under Section 324 IPC. The Courts below, without considering the materials, simply convicted the petitioner only based on the OP sheet- Ex.P4. There is perversity in appreciation of evidence by both the Courts below. Hence, he prayed for allowing this criminal revision petition.

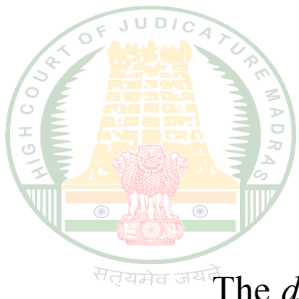


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4. It is found from the complaint given by the *de-facto* complainant, deposition of witnesses and other materials, both the Courts below acquitted the petitioner for the offences under Sections 498(A) and 406 of IPC, however, convicted the petitioner for the offence under Section 324 of IPC.

5. On a reading of the materials, it is found that the prosecution has not conducted investigation in proper manner. Usually aggrieved party has to approach the Police to set the law in motion. But in this case, the prosecution either under corruption or incompetency, has not conducted fair investigation and simply laid the charge sheet with bereft of particulars. Unfortunately, some of the cases are ended in acquittal because of the improper investigation by the prosecution. Since the prosecution has not proved the case beyond reasonable doubt, the Courts below have also extended the benefit of doubt and acquitted the accused. Unfortunately, the *de-facto* complainants/victims are suffering due to corruptive attitude/incompetency of some of the investigating officers. The only beneficiary is the accused who are all not law abiding citizens.



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The *de-facto* complainants are not able get any justice due to inaction or illegal practice of some of the investigating officers and the present case is one such example.

6. The respondent Police collected the O.P sheet alone from the defacto complainant and have not conducted proper investigation as to whether the *de-facto* complainant sustained injury by collecting copy of accident report maintained in the hospital or whether the Doctor has given treatment or not. There is no material or particular is available to show that the prosecution agency approached the hospital authority to collect materials and examined the medical officer who gave treatment to the injured. The statement recorded from the doctor or any material with regard to injuries sustained and treatment underwent by the defacto complainant are absent. This is the way in Tamilnadu, some of the police officials/investigating officers are conducting investigation. In all the cases, the press cannot make any rescue and do media trial or publicity to activate the investigating officer. Some of the investigating officers due to corruptive practice or incapacity are not properly



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investigating the matter. Hence, most of the cases are ended in acquittal.

In criminal jurisprudence, the accused presumed to be innocent unless the prosecution proved its case beyond all reasonable doubt.

7. It is a settled proposition of law that the defective investigation is not the ground for acquitting the accused. However, the courts are handicapped in many cases, due to lack of particulars and attitude of some of the investigating officers.

8. Under the above facts and circumstances of the case, the judgment of both Courts below are set aside and the matter is remitted back to the XVI Metropolitan Magistrate, George Town, Chennai -1.

9. The respondent/Police is directed to conduct further investigation and file a report afresh before the learned Magistrate and on receipt of the same, the learned Magistrate is directed to proceed with the case further in accordance with law.



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10. With the abovesaid direction, this Criminal Revision Case is disposed of. Consequently, connected miscellaneous petition is closed.

12.02.2025

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

1. The Additional Sessions Judge, City Civil Court, Chennai.
2. The XVI Metropolitan Magistrate, George Town, Chennai -1.
3. The Inspector of Police,
W-15, All Women Police Station,
Royapuram, Chennai -13.
4. The Public Prosecutor, High Court, Chennai.



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P.VELMURUGAN, J.

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