



Crl.R.C.No.224 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.224 of 2023

Raja Mohamed

... Petitioner/Accused

Vs.

State Rep. By,  
The Sub Inspector of Police,  
Mettur Police Station, Mettur.  
(Crime No.62 of 2018)

...Respondent

PRAYER: Criminal Revision Petition filed under Section 438 r/w 442 of BNSS, to set aside the judgment dated 29.11.2022 passed by the learned Additional District Judge, Fast Track Court, Mettur in C.A.No.74 of 2022 confirming the conviction and sentence to undergo three years rigorous imprisonment for offence under Section 332 of the Indian Penal Code and 2 years rigorous imprisonment for offence under Section 506(i) of Indian Penal Code imposed by the judgment dated 22.08.2022 passed by the learned Judicial Magistrate No.I, Mettur in C.C.No.239 of 2018.



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For Petitioner : M/s.L.Mouli

For Respondent : Mr.S.Udaya Kumar  
Government Advocate (Crl. Side)

ORDER

The revision challenges the conviction and sentence passed against the petitioner for offences under Sections 332 and 506(i) of I.P.C.

2.It is the case of the prosecution that the petitioner was working as a Watchman in the III Additional District Court, Mettur; that the victim was working as Night watchman in the Judicial Magistrate Court No.II, Mettur; that on 01.05.2018 at about 11.30 p.m., on account of prior enmity, the petitioner went to the Court and knocked the door and asked the victim/PW1 to come out of the Court and abused him and attempted to attack him and that after informing the occurrence to the learned Judicial Magistrate, the victim had lodged a complaint on 03.05.2018 (Ex.P1). PW5-Sub Inspector of Police



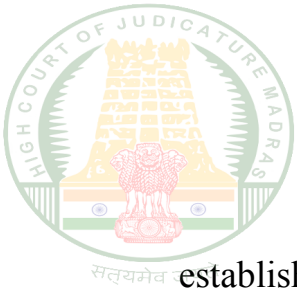
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registered an F.I.R. (Ex.P3) for offences under Sections 332 and 506(i) of  
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I.P.C., thereafter examined PW2 to PW4 and filed a final report.

3.The learned counsel for the petitioner would submit that PW1 is the victim, PW2 is the eyewitness to the occurrence; that PW3 and PW4 are witnesses to the rough sketch and observation mahazar and PW5 is the Investigating Officer; that PW2 turned hostile and that PW1 did not support the case of the prosecution; that the complaint was lodged three days after the alleged occurrence and hence, the judgments of the Courts below are liable to be set aside.

4.The learned Government Advocate (Crl. Side) per contra submitted that the petitioner is a habitual offender and another case is pending in C.C.No.258 of 2019 and that the evidence of PW1 and the entries in the Accident Register (Ex.P5) would show that the prosecution had



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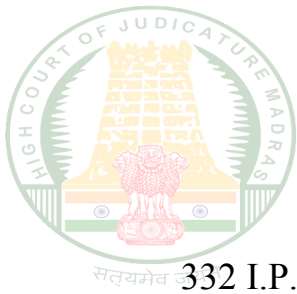
established its case beyond the reasonable doubt and prayed for dismissal of the revision.

5.Heard both sides and perused the records.

6.The prosecution examined five witnesses to prove its case and marked Exs.P1 to P5. PW2 eyewitness to the occurrence turned hostile. PW1 had admitted in the cross examination that the petitioner had not attacked him and that he made an attempt to cause hurt. The relevant portion of PW1's evidence reads as follows:

“...வெளியே வரவில்லை என்றால்,  
அடித்துவிடுவேன் என்று மிரட்டினார். அவர் உள்ளே வந்து  
என்னை அடிக்க முற்பட்டார். ஆனால் அடிக்கவில்லை...”

7.Further PW1 had also admitted that he lodged a complaint three days after the alleged occurrence. In order to attract the offence under Section



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332 I.P.C. the accused must have caused hurt to a public servant or prevent or deter a public servant from discharging his duty as public servant. However, in the light of the evidence of PW1 that no hurt was caused to him, the offence under Section 332 of I.P.C. is not made out and hence, the conviction cannot be sustained for the offence under Section 332 of I.P.C.

8.As regards the offence under Section 506(i) of I.P.C. the nature of allegation would show that the threat is not real threat. This Court, had repeatedly held that in order to attract offence under Section 506(i) of I.P.C., the prosecution must prove that there was a real threat. This Court in ***Noble Mohandass vs. State*** reported in ***1989 Cri.Lj 669***, had held as follows:

*“7. .... Further for being an offence under Section 506(2) which is rather an important offence punishable with imprisonment which may extend to seven years, the threat should be a real one and not just a mere word when the person uttering it does exactly mean what he says and also when the person at whom threat is launched does not feel threatened actually. ....”*



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9.In view of the above, the conviction and sentence imposed on the petitioner in C.C.No.239 of 2018 dated 22.08.2022 by the learned Judicial Magistrate No.I, Mettur for offences under Sections 332 and 506(i) of I.P.C., which was confirmed in Crl.A.No.74 of 2022 dated 29.11.2022 by the learned Additional District Judge, Fast Track Court, Mettur are set aside and the petitioner/accused is acquitted of the charges.

10.Accordingly, the Criminal Revision Case is allowed.

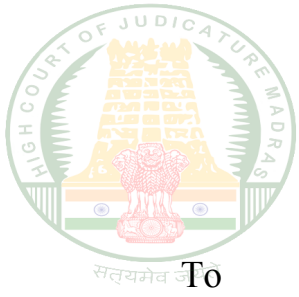
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Index: Yes/No

Speaking order / Non-speaking order

Neutral Citation : Yes/No

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To  
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- 1.The Additional District Judge,  
Fast Track Court, Mettur.
- 2.The Judicial Magistrate No.I,  
Mettur.
- 3.The Sub Inspector of Police,  
Mettur Police Station, Mettur.
- 4.The Public Prosecutor,  
High Court, Madras.



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**SUNDER MOHAN, J.**

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**21.01.2025**