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CrI.R.C.No.716 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2025

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.716 of 2023

Logaprasad

... Petitioner

Vs

State by,
The Inspector of Police,
J-6, Thiruvanmiyur Police Station,
Chennai.

... Respondent

PRAYER:

Criminal Revision Petition filed under Section 397 read with 401 of Cr.P.C., to set aside the judgment dated 07.03.2023 passed in C.A.No.331 of 2019 by the learned Principal Session Judge at Chennai, modifying the conviction and sentence passed by the learned XVIII Metropolitan Magistrate Court at Saidapet, Chennai vide order dated 05.09.2019 passed in C.C.No.4722 of 2016.

For Petitioner : Mr.M.Jaikumar

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



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ORDER

This Criminal Revision Petition has been filed by the petitioner/accused to set aside the judgment dated 07.03.2023 passed in Crl.A.No.331 of 2019 by the Principal Session Court at Chennai, modifying the conviction and sentence passed by the XVIII Metropolitan Magistrate Court at Saidapet, Chennai, vide order dated 05.09.2019 passed in C.C.No.4722 of 2016.

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. The learned counsel for the petitioner submitted that, in this case, totally eight witnesses were examined. Out of eight witnesses, except P.Ws.1 and 2, other witnesses have turned hostile. P.Ws.2 and 1 are husband and wife who are interested witnesses. According to P.Ws.1 and 2, the petitioner left the weapon in the spot, after commission of the



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offence. The investigating officer has not recovered the said weapon from the spot and he recovered the same based on the confession statement, which itself is false. Other independent witnesses have not supported the case of the prosecution. Though the date of occurrence is on 19.01.2016 at 4.30 hours, the statement of the medical officer in the wound certificate of the victim was obtained only on 29.08.2016 nearly after eight months from the date of occurrence. Though the date of alleged occurrence is on 19.01.2016, the complaint was given only on 21.01.2016 after much deliberation. The prosecution has not properly explained the delay in filing the complaint. Though the prosecution failed to prove the case beyond all reasonable doubts, the trial Court convicted the petitioner for the offences under Sections 294(b), 324 and 506(ii) IPC and sentenced him to undergo two months simple imprisonment for the offence under Section 294(b) and sentenced him to undergo two years simple imprisonment for the offence under Section 324 IPC and also sentenced him to undergo three years simple imprisonment for the offence under Section 506(part 2) IPC. However, the appellate Court modified the conviction and sentence passed by the



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trial Court and reduced the sentence from two years simple imprisonment to six months simple imprisonment for the offence under Section 324 IPC. Both the Courts below failed to appreciate and re-appreciate the evidence, especially, when the eye witnesses have turned hostile, who have not supported the case of the prosecution. P.Ws.1 and 2 are interested witnesses. It is unsafe to convict the petitioner based on the evidence and statement of the interested witnesses alone. Hence, the judgment and conviction passed by the trial Court, as modified by the appellate Court, are liable to be set aside.

4. Learned Additional Public Prosecutor appearing for the respondent-Police submitted that P.W.2 is the victim. P.W.1 is none other than the wife of PW.2, who is the eye witness and took the injured to the hospital soon after the occurrence. The entry made in the Accident Register clearly shows that the victim went to the hospital and took the treatment within the proximate time. The Doctor who was examined as P.W.7, has clearly spoken about the injuries sustained by the victim. The accused and victim are relatives and they are known to each other. The



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occurrence place is also a known place to them. Soon after the occurrence, P.W.1 and P.W.2 went to the hospital and P.W.2 had also taken treatment. At that time, P.W.1 was not in a position to give the complaint. After taking treatment and first aid, P.W.1 who is the wife of victim has given the complaint on the next day. The evidence of injured witness is corroborated by the medical evidence. The trial Court rightly appreciated the evidence and the appellate Court has also modified the sentence imposed on the accused. There is no merit in the revision petition and the same is liable to be dismissed.

5. The specific case of the prosecution is that due to previous enmity between the husband of the de-facto complainant and the accused, on 19.01.2016 at about 4.30 pm, the accused abused the husband of the de-facto complainant in filthy language and assaulted him with knife on his left side neck, thereby, he caused injury and also threatened him with dire consequences.



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6. Originally, the respondent/Police registered a case in Crime No.189 of 2016, against the accused for the offences under Sections 294(b), 324 and 506(part2) IPC. After completion of investigation, the respondent/Police laid a charge sheet before the XVIII Metropolitan Magistrate Court at Saidapet, Chennai. The trial Court framed the charges against the accused. During trial, in order to substantiate the charges framed against the accused, on the side of the prosecution, totally, eight witnesses were examined as P.Ws.1 to 8 and 12 documents were marked as Exs.P 1 to P12. Besides, one material object has also been marked as M.O.1.

7. P.W.1 is the eye witness who has given the complaint and set the law in motion. P.W.2 is the victim. P.Ws.2 and 1 who are husband and wife respectively, soon after the occurrence, went to the hospital and the victim had taken treatment in the hospital. The Doctor who attended P.W.2, has made entry in the Accident Register and the said Accident Register copy has been marked as Ex.P4. P.W.2 is the injured witness.

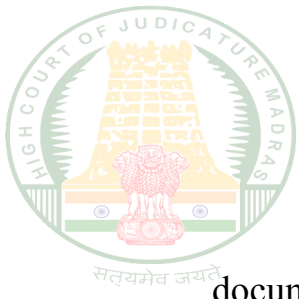


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Injuries sustained by the victim have been clearly shown in Ex.P4. Wound certificate and discharge summary have also been marked as Ex.P5 and Ex.P6, respectively. From the evidence of P.W.2 and documents Ex.P4 to Ex.P6, it is proved that the victim sustained injuries. Though the trial Court convicted the petitioner for the offence under Section 506(part2) IPC, considering the weapon used by the petitioner for causing injuries on P.W.2, the appellate Court, while re-appreciating the evidence, modified the sentence for the offence under Section 324 IPC into six months simple imprisonment. Further, the appellate Court set aside the sentences imposed on the petitioner for the offences under Sections 294(b) and 506(part2) IPC. Either the State or the victim, has not filed any appeal. However, the petitioner/accused challenged the judgment of the appellate Court.

8. P.Ws.1 and 2 are the eye witnesses. P.W.2 is the injured witness. P.W.5 is the Doctor who has given treatment to the victim and he has spoken about the injuries sustained by the victim/P.W.2. On a reading of the evidence of P.Ws.1,2 and 4 and on perusing the



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documents, Exs.P4 to P6, it is clear that the injuries sustained by the victim, have been proved. Though there is delay in filing the complaint, whereas, the occurrence was said to have taken place on 19.01.2016 at about 4.30 pm. The injuries sustained by the victim/P.W2 are grievous in nature. The accused had used the deadly weapon and hence, in order to take treatment, P.Ws.1 and 2 have rushed to the hospital. Ex.P4, Accident Register entry has proved the same. P.W.1 is none other than the wife of P.W.2, who was alone with her husband and the injuries sustained by P.W.2 are grievous in nature. The injury is on the vital part of the body of the victim. Hence, a woman could not prefer any complaint immediately soon after the occurrence. However, on the next day, P.W.1 made a complaint before the respondent-Police and based on that, the complaint was registered. Therefore, delay is not inordinate and the same is reasonable. Mere delay is not fatal to the case of the prosecution. A combined reading of deposition of P.W.1 and Ex.P4-Accident Register, it is seen that there is no delay in filing the complaint.



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9. Further, the learned counsel for the petitioner submitted weapon has been recovered based on the confession statement from the accused. It is settled proposition of law that the defect in investigation is not fatal to the case of the prosecution. Non-support of other witnesses are also not fatal to the case of the prosecution, when the evidence of the injured witness and prime eye witness, namely the complainant and the medical evidence is also corroborated. Further, the prosecution had proved their case beyond all reasonable doubts. The petitioner is the one who caused injuries on P.W.2/ victim. Evidence of P.W.1 is also corroborated the same. P.W.1 and P.W.2 are relatives, which is not the sole ground to discard the evidence of P.W.1, who is the complainant in this case. The medical evidence and the evidence of P.W.1 are cogent and reliable. There is no reason to discard their evidence. Evidence of P.W.2 and P.W.1 cannot be discarded for the only reason that they are husband and wife.



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10. The learned Magistrate had testified the evidence of P.Ws.1 and 2, and medical evidence and had come to the conclusion that the petitioner has committed the offences under Sections 294(b), 324 and 506(part 2) IPC. The learned Appellate Court has also re-appreciated the evidence and found the petitioner guilty of the offences and modified the charges and also reduced the sentence.

11. This Court as a revisional Court, while exercising revisional jurisdiction, cannot occupy the arm chair of the appellate Court and re-appreciate the evidence. As the revisional Court, has the limited power and jurisdiction, it has to see as to whether there is any perversity or illegality or infirmity in the order passed by the appellate Court/trial Court, from the materials produced by the prosecution and appreciation of materials by the trial Court and re-appreciation of the evidence by the appellate Court.

12. On a reading of materials, this Court does not find any sustainable legal ground to interfere with the judgment of conviction and



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sentence passed by the trial Court. As far as the factual aspects are concerned, this Court does not find any perversity in appreciation of evidence, when the victim is the injured witness who has clearly spoken about the commission of offence and the involvement of the petitioner in the said offence and the same was corroborated by the medical evidence.

13. Under the above facts and circumstances, this Court does not find any compelled reason to interfere with the judgment dated 07.03.2023 passed in Crl.A.No.331 of 2019 by the Principal Session Court at Chennai, modifying the conviction and sentence passed by the learned XVIII Metropolitan Magistrate Court at Saidapet, Chennai, vide order dated 05.09.2019 passed in C.C.No.4722 of 2016.

14. Under the above facts and circumstances of the case and as the appellate Court has modified the sentence from two years simple imprisonment to six months simple imprisonment for the offence under Section 324 IPC, this Court does not find any reason to reduce the sentence imposed by the appellate Court further.



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15. In view of the above discussion, this Criminal Revision Petition is dismissed confirming the conviction and sentence modified by the appellate Court. Since the revision petitioner/accused is on bail, the trial Court is directed to secure his custody to undergo the remaining period of sentence, if any.

18.03.2025

mfa

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

1. The Principal Session Judge at Chennai,
2. XVII Metropolitan Magistrate Court at Saidapet, Chennai.
3. The Inspector of Police,
J-6, Thiruvanmiyur Police Station,
Chennai.
4. The Public Prosecutor
High Court, Chennai.



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P.VELMURUGAN, J

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