



CrI.R.C.No.706 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.706 of 2023

Palaniyandi @ TSP Durai

... Petitioner

Vs.

State by

The Inspector of Police

Vanur Police Station

Vilupuram District

Cr.No.32 of 2012

... Respondent

Prayer: Criminal Revision Case filed under Section 397 read with 401 Cr.P.C. to call for the records pertaining to the judgment in C.A.No.14 of 2023 dated 29.03.2023 passed by the learned I Additional District and Sessions Judge, Tindivanam (Learned II Additional District and Sessions Judge Full Additional Charge, Tindivanam) confirming the judgement passed in C.C.No.16 of 2013 dated 02.02.2023 by the learned Judicial Magistrate, Vanur, set aside the same.



WEB COPY



Crl.R.C.No.706 of 2023

For Petitioner

: Mr.K.Selvakumaraswami

For Respondent

: Mr.S.Sugendran

Additional Public Prosecutor

ORDER

This Criminal Revision Case has been filed by the petitioner/accused to set aside the judgment passed in in C.A.No.14 of 2023 dated 29.03.2023 by the learned I Additional District and Sessions Judge (II Additional District and Sessions Judge Full Additional Charge, Tindivanam) confirming the judgement passed in C.C.No.16 of 2013 dated 02.02.2023 by the learned Judicial Magistrate, Vanur, set aside the same.

2. The case of the petitioner is that the respondent police registered a case in Crime No.32 of 2012 for the offence under Sections 341, 323, 355, 448, 383 IPC read with Man Missing based on the complaint given by the wife of the victim/P.W.1 alleging that the petitioner and other accused assaulted the victim/P.W.6 and another person claiming that their sledge hammer (சுமட்டி)



Crl.R.C.No.706 of 2023

was stolen and thereafter, made the victim to eat faecal matter (மலம்) in front of

his wife/P.W.1 and also videographed the same and being humiliated by the same, the victim went missing and after completion of investigation, the respondent police filed the charge sheet against the petitioner and two others for the offence under Sections 323, 341, 355, 384 and 448 IPC and the same was taken on file in C.C.No.16 of 2013 on the file of the Judicial Magistrate, Vanur. Though the learned Magistrate after conclusion of trial, acquitted the other two accused from all the charges and also the petitioner/A1 from the charges under Section 348 and 384 IPC, however convicted the petitioner/A1 for the offence under Sections 323, 341 and 355 of IPC and sentenced to undergo six months simple imprisonment for the offence under Section 323 IPC; one month simple imprisonment for the offence under Section 341 IPC and one year simple imprisonment for the offence under Section 355 IPC. Hence, Challenging the same, the petitioner/A1 filed an appeal before the I Additional District and Sessions Judge (II Additional District and Sessions Judge Full



Crl.R.C.No.706 of 2023

Additional Charge) Tindivanam in Crl.A.No.14 of 2023. The learned Sessions

WEB COPY

Judge, after hearing the appeal, dismissed the same by judgment dated 29.03.2023 and confirmed the judgment of conviction and sentence passed by the Magistrate. Aggrieved by the same, the petitioner/A1 has filed the present revision.

3. The learned counsel for the petitioner submitted that it is a false case foisted against the petitioner/A1. The trial Court acquitted the other two accused from all the charges and though the trial Court acquitted the petitioner from the charges under Section 348 and 384 IPC, convicted him for the offence under Sections 323, 341 and 355 of IPC and sentenced to undergo imprisonment as stated above. Even though it is a concurrent findings, it is a false case and the petitioner has not committed any offence as alleged by the prosecution. He further submitted that there is no eyewitness in this case and that the prosecution has not proved the case beyond all reasonable doubt. However, the Magistrate convicted the petitioner only on sympathy ground. He



Crl.R.C.No.706 of 2023

also submitted that the petitioner has already undergone 48 days of imprisonment as under trial prisoner and that the petitioner is ready to pay the compensation in terms of money to the victim and P.W1 also accepted for compounding the matter. Therefore, the sentence imposed by the trial Court may be modified.

4. The learned Additional Public Prosecutor appearing for the respondent police submitted that there are totally 3 accused in this case. The petitioner has been arrayed as A1 in C.C.No.16 of 2013. A2 and A3 were acquitted by the trial Court from all the charges. Though the petitioner was acquitted for the offence under Sections 348 and 384 IPC, the learned Magistrate rightly convicted the petitioner for the offence under Sections 341, 323 and 355 IPC. Even during the proceedings under Section 313 Cr.P.C. and also during question of sentence, the petitioner had not denied the occurrence and he had stated that without intention he had done it and he pleaded for minimum punishment. Therefore, the learned Magistrate awarded only minimum



Crl.R.C.No.706 of 2023

sentence of one year. Therefore, there is no merit in this revision and the same is liable to be dismissed.

WEB COPY

5. Heard both sides and perused the materials available on record.

6. The case of the prosecution is that originally the charges were framed against the petitioner and two others in C.C.No.16 of 2013 on the file of the Judicial Magistrate, Vanur for the offence under Sections 323, 341, 355, 384, and 448 IPC and after trial, the trial Court acquitted the other two accused from all the charges. Though the trial Court acquitted the petitioner from the charges under Section 348 and 384 IPC, convicted him for the offence under Sections 323, 341 and 355 of IPC and sentenced to undergo six months simple imprisonment for the offence under Section 323 IPC; one month simple imprisonment for the offence under Section 341 IPC and one year simple imprisonment for the offence under Section 355 IPC. Challenging the same, the petitioner preferred an appeal before the Sessions Court and the learned Sessions Judge, after hearing the arguments, dismissed the appeal and



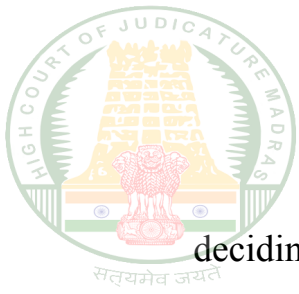
Crl.R.C.No.706 of 2023

confirmed the conviction and sentence passed by the Magistrate. Aggrieved by the same, the petitioner has filed the present revision.

7. A reading of the entire materials and the oral and documentary evidence shows that the offence is serious in nature. The learned Magistrate by appreciating the entire oral and documentary evidence, found the guilt of the petitioner for the offence under Sections 323, 341 and 355 IPC.

8. A reading of the evidence of P.W.1 and P.W.6/victim clearly shows that the petitioner has made the victim to faecal matter which is an inhuman attitude and therefore, the learned Magistrate found the petitioner guilty for the offences as stated above and convicted him. Even the appellate Court as a fact finding Court, after re-appreciating the entire evidence, dismissed the appeal and confirmed the conviction and sentence imposed by the trial Court.

9. Jurisdiction of the revision Court is limited. The revision Court cannot sit in the arm chair of the appellate Court and re-visit or re-appreciate the entire oral and documentary evidence appreciated by the Courts below. While



Crl.R.C.No.706 of 2023

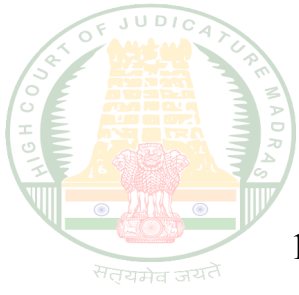
deciding a matter, the revision Court has to see as to whether any perversity or illegality or infirmity in the appreciation or re-appreciation of evidence by the Courts below.

10. As a revision Court, this Court while perusing the entire materials and oral and documentary evidence, does not find any perversity in the appreciation and re-appreciation of evidence by the Courts below.

11. The case of this nature cannot be encouraged as it is not only against a private individual, but it is an offence against Society. Though the maximum sentence for the offence under Section 355 IPC is upto 2 years or fine or both, the Magistrate has only ordered the sentence of one year.

12. Therefore, this Court does not find any reason to interfere with the judgement of conviction and sentence passed by the Courts below. There is no merit in this revision and the same is liable to be dismissed.

13. Accordingly, this Criminal Revision Case is dismissed.



Crl.R.C.No.706 of 2023

14. The respondent police is directed to secure the petitioner to undergo

the remaining period of sentence if any.

18.03.2025

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

ksa-2

To

1. The I Additional District and Sessions Judge (II Additional District and Sessions Judge Full Additional Charge,) Tindivanam
2. The Judicial Magistrate,
Vanur
3. The Inspector of Police
Vanur Police Station
Vilupuram District
4. The Public Prosecutor
High Court of Madras



WEB COPY



Crl.R.C.No.706 of 2023

P.VELMURUGAN. J.

Ksa-2

Crl.R.C.No.706 of 2023

18.03.2025