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Crl.R.C.No.1435 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.06.2025

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.No.1435 of 2023 &
Crl.M.P.No.12370 of 2023

Dineshkumar @ Dinesh

... Petitioner

Vs.

State rep. by
Inspector of Police,
Madukkarai Police Station,
Coimbatore.

...Respondent

Criminal Revision Case filed under Sections 397 r/w 401 of Cr.P.C., to call for the records and set aside the Judgment dated 05.04.2023 passed in Criminal Appeal No.175 of 2021 on the file of the learned I Additional District and Sessions Judge, Coimbatore District by confirming the Judgment dated 01.11.2021 in S.C.No.162 of 2017 passed by the learned II Additional Assistant Subordinate Court, Coimbatore.

For Petitioner : Mr. T.Balachandran

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side)



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ORDER

The present Revision has been filed challenging the Judgment passed in Crl.Appeal No.175 of 2021 dated 05.04.2023 on the file of the learned 1st Additional District and Sessions Judge, Coimbatore thereby confirming the conviction and sentence imposed by the trial court in S.C.No.162 of 2017 dated 01.11.2021 on the file of the learned II Additional Assistant Subordinate Court, Coimbatore for offence punishable under Sections 326 of IPC.

2. The case of the prosecution is that the victim is the spinster and mentally challenged person and she was under the care and protection of the defacto complainant. The petitioner used to steal the coconuts for his own use and expenses from the heap and therefore, the victim warned the petitioner and as such the petitioner developed animosity as against the victim. While being so, on 03.06.2016 at about 11.00 a.m., when the victim questioned the petitioner while stealing coconuts, immediately, the petitioner with an intention to do away the life of the victim attacked her by stones, thereby caused grievous injury on her, immediately she was taken to hospital for treatment. After completion of investigation, the trial court had taken cognizance for offence punishable under Section 307 of IPC.

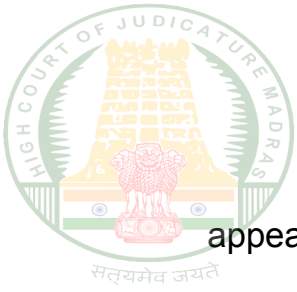
3. On the side of the prosecution, P.Ws.1 to 10 were examined and



Exhibits P.1 to P.6 were marked and the prosecution obtained material objects and marked as M.Os.1 to3 and on the side of the petitioner no one was examined and no material objects were marked. On a perusal of the entire materials on record, the trial court convicted the petitioner for offence under Section 326 of IPC and sentenced to undergo 3 years rigorous imprisonment and to pay a fine of Rs.3,000/- in default to undergo three months simple imprisonment. Aggrieved by the same, the petitioner preferred an appeal and the order of conviction and sentence awarded by the trial court was confirmed, as against the same, the petitioner has come up with the present revision.

4. The learned counsel for the petitioner would submit that the victim was examined as P.W.7 and her witness has been very clear and did not support the case of the prosecution. That apart, the petitioner already met with an accident and he is not able to run. The specific case of the prosecution is that the petitioner after attacking victim ran away from the scene of crime. The Doctor, who treated the victim was examined as P.W.8 and he deposed that the injury sustained by the victim could also happen when she fell down in the rough floor, thereby pleaded to set aside the order passed by both the courts below.

5. Per contra, the learned Government Advocate (Crl.Side)



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appearing for the respondent submitted that though the respondent filed a final report for offences punishable under Section 307 of IPC, the trial court convicted the petitioner for offence punishable under Section 326 of IPC. The petitioner never denied the occurrence and the victim is mentally challenged person and whenever the petitioner steals the coconut, the victim used to scold him and warn him, therefore, there was previous enmity and on the date of occurrence, when the petitioner was stealing coconuts, it was questioned by the victim and immediately the petitioner had attacked the victim by stone, thereby caused grievous injuries. Accordingly, both the courts below found that the charges punishable under Section 326 of IPC is categorically proved and awarded punishment and hence the same does not require any interference by this Court, thereby pleaded to dismiss the petition.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent and perused the documents placed on record.

7. Originally, the petitioner was charged for offence punishable under



Section 307 of IPC, however, the trial court convicted the petitioner for offences under Sections 326 of IPC. Admittedly, the victim, who is the mentally challenged person was examined as P.W.7 by the trial court after verification. P.W.7 categorically deposed that on 03.06.2016 at about 11.00 a.m., when she was warning and questioning the petitioner while he was stealing coconuts along with other person, the petitioner attacked her by stone on her head. Therefore, the victim sustained grievous injuries and also one of her teeth was broken, immediately, a person, who was doing agricultural work, came to the scene of crime and the petitioner escaped from the scene of crime.

8. Subsequently, the injured was admitted to hospital and the Doctor, P.W.8 who treated her found cut injuries on her right side head, back side of right ear, temporal portion in the right side of the head, upper portion of the right side lips and three small cut injuries in the back side of the head. Further, P.W.8, Doctor opined that the injury sustained by the victim is grievous in nature and the Doctor deposed that the victim was admitted in the hospital on 03.06.2016 to 13.06.2016 as inpatient. The minor controversies pointed out by the petitioner would not be fatal to the case of prosecution, therefore, the trial court as well as the appellate court



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convicted the petitioner for offence punishable under Section 326 of IPC.

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9. Accordingly, this Court finds no infirmity or illegality in the order passed by the trial court and the appellate court as well and hence the order passed by both the courts below are confirmed. The present Criminal Revision is dismissed. Consequently, connected miscellaneous petition is closed. The petitioner did not even surrender to comply with the conviction and sentence imposed by the courts below till today and the miscellaneous petition filed for Suspension of Sentence is also pending, therefore, the respondent is directed to secure the petitioner in order to comply with the conviction and sentence imposed on the petitioner by the trial court and confirmed by the appellate court.

18.06.2025

Index : Yes/No
Internet : Yes/No
Speaking /Non-Speaking order
ssd



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To

1. The I Additional District and Sessions Judge,
Coimbatore
2. The II Additional Assistant Subordinate Court,
Coimbatore.
3. State rep. by
Inspector of Police,
Madukkarai Police Station,
Coimbatore.
4. The Public Prosecutor,
High Court, Madras



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G.K.ILANTHIRAIYAN, J.,

ssd

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