
(2011) 04 MAD CK 0295
In the Madras High Court
Case No : Criminal R.C. No. 558 of 2009

B. Santhosh

APPELLANT

Vs

The Sub-Inspector of Police and Others

RESPONDENT

Date of Decision : 07-04-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 448, 506

Citation : (2011) 04 MAD CK 0295

Hon'ble Judges : R. Mala, J

Bench : Single Bench

Advocate : A. Bobblie, for the Appellant; S. Rajendiran, Government Advocate (Crl. Side) for Respondent 1 and V. Rajamohan, for Respondents 2 to 5, for the Respondent

Final Decision : Dismissed

Judgement

R. Mala, J.—The Crl. R.C. is filed against the order of acquittal, dated 23.4.2008 passed in C.C. No. 113 of 2006, on the file of the Court of Judicial Magistrate, Ootacamund, acquitting Respondents 2 to 5 herein, of the offences under Sections 448 and 506 (Part 2) IPC.

2. The skeleton of the prosecution case is as follows:

On 30.8.2006 at about 17.30 hours, when P.W.1 Santhosh and P.W.2 Rathinaammal, the mother of Dr. Mohan were in the house bearing Door No. 67, Blue mountain School Road, at that time, Respondents 2 to 5/accused broke open the Door and trespassed into the house and made criminal intimidation to them to vacate the house, otherwise, they will kill them. Immediately, P.W.1 intimated the same to his father P.W.3 Bhojan and P.W.1 and his grandmother went to the Police Station and gave Ex.P-1 complaint. P.W.9 Sub-Inspector of Police received the complaint at about 20.30 hours and registered a case in Crime No. 973 of 2006 for the offences under Sections 448 and 506 (Part 2) IPC and prepared Ex.P-3 FIR and inspected the scene of occurrence and prepared

Ex.P-2 observation mahazar and drew Ex.P-4 rough sketch in the presence of the witnesses P.W.6 Samsudeen and P.W.8 Dasan and he examined the other witnesses and recorded their statements. P.W.9 investigating officer arrested the Respondents 2 to 5 (A-1 to A-4) and remanded them to judicial custody. P.W.9 concluded the investigation and filed the charge sheet against the accused for the said offences.

3. The trial Court followed the procedures and considered the plea raised by the Respondents 2 to 5/A1 to A4, and since they pleaded not guilty, the trial Court examined P.Ws.1 to 9 and marked Exs.P-1 to P-4 and considering oral and documentary evidence, acquitted the Respondents 2 to 5/A1 to A4 and acquitted them on the ground that the prosecution has not proved the guilt of the accused beyond reasonable doubt, against which, the present Crl. R.C. has been preferred by P.W.1/complainant.

4. Challenging the said acquittal order passed by the trial Court, learned Counsel appearing for the revision Petitioner/P.W.1 submitted that the trial Court has not considered the evidence of P.Ws.1 and 2 and the reason assigned by the trial Court for discarding the evidence of P.Ws.1 to 3 is not convincing and there is no delay in preferring the complaint and hence, he prayed for setting aside the acquittal order and for re-trial.

5. Learned Counsel appearing for the Respondents 2 to 5/A1 to A4 submitted that there was a civil dispute in respect of the house in question. But on a perusal of P.Ws.1 and 2's evidence, it is seen that they are not the eye-witnesses, and their cross-examination has been properly considered by the trial Court, which came to the correct conclusion. He further submitted that P.W.3 is not the eye-witness. The trial Court considered the oral and documentary evidence and came to the correct conclusion that merely because of a civil dispute between A1/second Respondent's husband and one Dr. Mohan, who is none other than the junior paternal uncle of P.W.1 and brother of P.W.3 and son of P.W.2, false case has been foisted against the accused, and that has been considered by the trial Court. He further submitted that the findings of the trial Court are not perverse and there is no illegality or infirmity or irregularity in the impugned order of acquittal passed by the trial Court. He further contended that the powers of the Revisional Court is very limited and hence, there is no need to interfere with the findings of the trial Court.

6. Heard the learned Government Advocate (Crl. Side) appearing for the first Respondent-Police on the above aspects.

7. Considering the rival submissions made by both sides and the materials available on record, it is seen that the Respondents 2 to 5/A1 to A4 had been charge-sheeted for the offences under Sections 448 and 506 (Part 2) IPC. While perusing the evidence of P.Ws.1 and 2, in their cross-examination, they have fairly conceded that at the time of the alleged incident, they were not personally aware of the same and P.W.2 in her evidence stated that she was watching TV

and P.W.2's grandmother was inside the house. Further, during cross-examination, P.W.2 fairly conceded that there was a civil dispute between Narayanan, the husband of A-1, the father of A-2 and Dr. Mohan, the son of P.W.2, in respect of the ownership of the house and so, P.W.1 and his parents were directed to reside in the disputed property by Dr. Mohan, which shows that there was enmity prevailing between Dr. Mohan and A-2's husband Narayanan. The ownership of the house is yet to be decided and it is under lis. The evidence of P.Ws.1 and 2 who is alleged to be the eye-witnesses, is that they were not aware of the incident and one week prior to the alleged incident, there was a Police complaint and the dispute was settled.

8. The trial Court considered these aspects in proper perspective and came to the correct conclusion. On a perusal of the impugned order of acquittal passed by the trial Court, it is seen that the trial Court has appreciated the evidence and there is no illegality or infirmity or irregularity in the findings of the trial Court, which are not perverse. This Court being the Revisional Court, the powers of the Revisional Court is very limited and hence, this Court is not inclined to interfere with the findings of the trial Court.

9. The Crl. R.C. is devoid of merits, and the impugned order of acquittal passed by the trial Court is confirmed. The Crl. R.C. is dismissed.