

(2007) 08 MAD CK 0168

In the Madras High Court

Case No : Criminal R.C. No. 482 of 2005

Periammal

APPELLANT

Vs

Palanisamy and State of Tamil Nadu

RESPONDENT

Date of Decision : 17-08-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 207
Penal Code, 1860 (IPC) — Section 294, 341, 354, 506

Citation : (2007) 08 MAD CK 0168

Hon'ble Judges : S. Tamilvanan, J

Bench : Single Bench

Advocate : M. Devaraj, for the Appellant; R. Muniyappa Raj, Government Advocate (Crl. side) for R2, for the Respondent

Final Decision : Dismissed

Judgement

S. Tamilvanan, J.—This Criminal Revision has been preferred against the Judgment of acquittal, dated 30.11.2004, made in C.C. No. 368

of 2004, on the file of the Judicial Magistrate No. 2, Namakkal.

2. As per the prosecution case, on 11.08.2004, at about 9.20 a.m, while the defacto complainant was walking on the pathway, belonged to the

revision petitioner, she was prevented from proceeding further by the first respondent/accused and abused her with filthy languages and outraged

her modesty and also threatened with dire consequences. Based on the complaint given by P.W.1, the case was registered against the first

respondent herein under Sections 341, 294(b), 354 and 506(ii) IPC.

3. As per the Judgment of the trial court, it is seen that the copies relied on by the prosecution was furnished to the first respondent, as per Section

207 Cr.P.C. As the first respondent had pleaded not guilty, the case was posted

for trial. In support of the prosecution case, 7 witnesses were examined, apart from marking Exs.P.1 to P.7 and M.O.1. On the side of the first respondent/accused, one Natesan was examined as D.W.1.

Considering the evidence available on record and the arguments advanced by both sides, the trial court held that the guilt against the first respondent/accused was not proved by the prosecution, beyond reasonable doubt and recorded acquittal.

4. In the criminal revision, the learned Counsel appearing for the revision petitioner/defacto complainant would contend that the prosecution evidence is sufficient to establish the guilt against the first respondent/accused beyond reasonable doubt and that the petitioner was no way responsible for the delay caused in sending the FIR. According to the learned Counsel for the revision petitioner, there is no contradiction, which would go to the root of the prosecution case.

5. It is not in dispute that the complaint, Ex. P. 1 was given by the revision petitioner/defacto complainant, only on 19.08.2004, 8 days after the alleged occurrence. Based on the complaint, Ex. P. 1, the case was registered by the second respondent police under Sections 341, 294(b), 354, and 506(ii) IPC. For the delay of 8 days in preferring the complaint, the petitioner herein has not given any satisfactory explanation, either in the complaint or in her evidence, as P.W.1. Further, in her cross-examination, she has deposed that there was no other person available at the scene of occurrence, except herself and the first respondent. For the delay in lodging the complaint, the revision petitioner has stated that since she had aged parents, she could not give the complaint on the same day.

6. Though, P.W.2 is not an eye witness, he has deposed evidence, as if he was an eye witness to the occurrence, but, as found by the court below, he has given only a contradictory version that on 11.08.2004, at 9.30 a.m., the first respondent/accused had threatened P.W.1 with the sickle, though the same is not the case of the revision petitioner, as per Ex. P. 1, complaint.

7. P.W.3 and P.W.4 are only the witness to the observation mahazar, Ex. P. 2 and Ex.P.3 respectively. P.W.5 was the Head Constable, who registered the case on 19.08.2004 at 3 p.m, on the complaint given by the defacto complainant/P.W.1 and the FIR registered by him has been

marked as Ex. P.4. As found by the trial court, there is no cogent or corroborative evidence available on record to substantiate the case of the

revision petitioner/P.W.1.

8. The trial court has discussed in detail about the self-contradictory version of P.W.1 and P.W.2, with reference to Ex. P.1. With regard to the

place of occurrence also, the defacto complainant, P.W.1 has given only a contradictory version, as found by the trial court. As found by the court

below, there is contradiction, even with regard to the place of occurrence. The revision petitioner/P.W.1 could have lodged a complaint on the

same day or at least on the next day. As held by the court below, the delay of 8 days in preferring the complaint Ex. P.1 before the second

respondent and the self-contradictory version of P.W.1 and P.W.2 would clearly show that the case against the first respondent was not

established by the prosecution beyond reasonable doubt.

9. In the aforesaid circumstances, I could find no error or infirmity in the Judgment of acquittal recorded by the trial court, so as to warrant any

interference of this Court. Considering the arguments and the evidence available on record, I hold that the criminal revision fails and accordingly,

the same is dismissed.