

SUPREME COURT OF INDIA

M.Dhandapani

Vs.

R.Muthu Naliappan

CrI.A.Nos.453-454 of 2003

(Dr.Arijit Pasayat, C.K. Thakker and Lokeshwar Singh Panta JJ.)

21.10.2008

JUDGMENT

Dr.Arijit Pasayat, J.

1. Heard.

2. Challenge in this appeal is to the judgment of a learned Single Judge of the Madras High Court dismissing the appeal under Section 378(4) of the *Code of Criminal Procedure, 1973* (in short the 'Code'). The appeal was filed questioning the order dated 20.12.2001 made in CC No. 85/2000 on the file of Learned Munsif cum Judicial Magistrate, Kodumudi, Erode District. The allegations were to the effect that on 18.2.1997 at about 9.45 P.M. accused persons took exception to the fact that the complainant had kept his shop open after the time fixed for closing the shop. The complainant was questioned by respondent No. 1 as to why he had kept the shop open. The complainant replied that the shop was kept open for the cleaning the utensils. This does not appear to have satisfied respondent No. 1 who directed the other two accused persons who were constables to put the accused in the jeep and assaulted him.

3. The trial court with reference to the evidence of witnesses came to hold that the accusations were without substance and there was no material to show the alleged commission of offence. Since the order was passed in a complaint case, appeal was preferred by grant of leave. The High Court referred to the various conclusions of the trial court and hold that the accusations have not been established. Learned counsel for the appellant submitted that the High Court's conclusions are contrary to the evidence on record. The High Court has concluded about the contradictions based on the evidence of PW1 and PW2. It is pointed out that the conclusions are at variance with the evidence on records.

4. We have perused the records and after hearing learned counsel for the appellant we are satisfied that no interference is called for. The High Court has indicated several reasons as to why the complainant version lacks credibility or cogency. That being the position, we find no merit in these appeals. The appeals are accordingly dismissed.