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Crl.A.Nos.28, 36, 62, 94 & 176 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 24.04.2023

Pronounced on : 18.05.2023

CORAM

THE HONOURABLE Dr. JUSTICE **G.JAYACHANDRAN**

Criminal Appeal Nos.28, 36, 62, 94 & 176 of 2020
and
Crl.M.P.Nos.13144, 17682 & 17683 of 2022

Crl.A.No.28/2020

1.Murugaiyan

2.Sundaramoorthy

... Appellants/Accused 4 & 5

Crl.A.No.36/2020

Sekar @ Chinnathambi

... Appellant/Accused 7

Crl.A.No.62/2020

Nagarajan

... Appellant/Accused 9

Crl.A.No.94/2020

Ponnivalavan @ Murugan

... Appellant/Accused 13

Crl.A.No.176/2020

Jeyachandran

... Appellant/Accused 6

/versus/



Crl.A.Nos.28, 36, 62, 94 & 176 of 2020

State rep.by
The Inspector of Police,
Q-Branch CID,
Perambalur.
(Crime No.234/1997
on the file of Andimadam P.S,
Ariyalur District)

... Respondent / Complainant
in all Crl.As.

Common Prayer:- Criminal Appeals are filed under Section 374(2) of Cr.P.C., praying to set aside the conviction and sentence imposed against the appellants on 29.11.2019 in S.C.No.2/2022 on the file of Sessions Court for Exclusive Trial of Bomb Blast Cases, Poonamallee, Chennai and acquit the appellants.

For Appellants in C.A.No.28, 62 & 94/2020 : Mr.P.Pugalenthi

For Appellant in C.A.No.36/2020 : Mr.R.Rajan for
Mr.N.Chandrasekharan

For Appellant in C.A.No.176/2020 : Mr.R.Sankarasubbu

For Respondent in all Crl.As : Mr.R.Kishore Kumar
Government Advocate (Crl.Side)

COMMON JUDGMENT

On 13.07.1997 at about 11.20 p.m., while Grade-I Police Constable Irulappan was on para duty at Andimadam Police Station, an armed gang consisting of about 20 members entered into the police station and barged into the Inspector room. On seeing them the Headconstable Kandasamy and Constable Ulaganathan locked the door inside. One of the members of the gang latched the room out side to prevent the Head Constable Kandasamy



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and Constable Ulaganathan from coming out of the Inspector room. One of them wielding the weapon forced Irulappan to sit on the varanda. At the same time, few of them tried to enter the writer room. Viswanathan, the Sub Inspector of Police and Typist Rajendran, Baskar and Kannan were in the Writer room. They tried to close the room door, but the armed gang pushed through the room. One of them kept the country gun on the chest of Viswanathan, another member kept Aruval on the neck of Viswanathan, the third member pressed knife on the abdomen of Viswanathan. Rest of the members threatened Typist Rajendran, Baskar and Kannan showing the weapon and asked them to sit in the corner of the room. One of them enquired Viswanathan, where the arms are kept. When Viswanathan was said that they were sent for refurbishing, the person who was holding the country gun took a hammer and broke open the lock of the wooden box where the weapons kept. The gang members collected the weapons kept in the box. For telling lie, Viswanathan, was reprimanded by the gang members and one of them tried to cut the neck of Viswanathan. To avoid injury on the neck, Viswanathan defended the attack with his left hand. The man, who attacked him, kicked him down from the chair after robbing the arms and ammunitions. Before leaving the police station, they damaged the VHF equipments in the police



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station and also took away the police uniform of Viswanathan, which was kept in the suit case and they threw written pamphlets containing slogans eulogising their leader and their ideology of separate Tamil Desam. Some of the posters were pasted on the compound wall of the police station. Irulappan, who regained self, opened the doors of Inspector room and writer room. The higher officials were informed about the incident and they all by mid-night came to the police station. Irulappan narrated the incident and gave a statement. It was reduced into writing which is marked as Ex.P1.

2. Considering the ramification of the offence, the investigation was transferred to Q branch CID, Perambalur. In the course of investigation, 15 persons were arrested. Confession statements of those persons were recorded. The arms looted from the police station substantially recovered from them. One of the accused by name Veeraiyan was granted pardon, turned approver. Identification parade was conducted in the prison and the accused were identified by Irulappan [PW.1]. The overt act of each of the accused spoken by PW.1 in his testimony, Based on the materials collected in the course of investigation, final report was filed against 14 accused. The following charges were framed against the accused



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<i>Rank of the accused</i>	<i>Charges</i>
A1	120 B
A2	120B, 148 450, 395, 395 r/w.397, 307 and 332 IPC
A3	120B, 148 450, 395, 395 r/w.397 IPC and 4 b & 5 of Explosive Substances Act, 1908.
A4	120B, 147 450 & 395 IPC
A5	120B, 147 450 & 395 IPC
A6	120B, 148, 450, 395, 395 r/w.397, 307 and 332 IPC
A7	120B, 148 450, 395, 395 r/w.397, 307 and 332 IPC
A8	120B, 147 450, 395 IPC and 4 b & 5 of Explosives Substances Act, 1908.
A9	120B IPC and 4 b & 5 of Explosives Substances Act, 1908.
A10	120B, 148, 450, 395 and 395 r/w.397 IPC
A11	120B, 148, 450, 395 and 395 r/w.397 IPC and Section 3(1) TNPPDL Act.
A12	120B, 148, 450, 395 and 395 r/w.397 IPC
A13	120B, 148, 450, 395 and 395 r/w.397 IPC and 3(1) of TNPPDL Act, 1992
A14	120B, 147, 450 and 395 IPC

3. To prove the above charges, prosecution examined 72 witnesses marked 101 Exhibits and 67 Material Objects. In defence, 3 witnesses and 8 Exhibits were marked.



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4. For the prosecution Irulappan [PW.1] Grade I Constable, the first informant, Viswanathan S.I., [PW.2], Constables Kandasamy [PW.3] and Ulaganathan [PW.4], who were witnessed to the incident, had spoken about the overt act of each of the accused persons in the incident. The accused Veeraiyan turned approver examined as PW.6, who had deposed in detail about how the conspiracy hatched among the conspirators to loot the arms in the Andimadam Police Station to cause terror in the minds of the people and also to propagate the separatists ideology among the public. Sukumar [PW.7], the Trainee S.I., who came to Andimadam Police Station on receiving the information, had witnessed the hand written posters pasted on the police station compound wall and the inside the station ransacked by the armed gang, which left the station and the hand written pamphlets scattered around the police station. PW.9, the photographer, who has taken photographs of the ransacked police station, has identified the photographs and negatives marked as M.O.17 to M.O.19 and M.O.25 & M.O.26. The Inspector of Police [PW.10] attached to Andimadam Police Station at the relevant point of time, who received the complaint Ex.P.1 from Irulappan [PW.1], registered FIR in Crime No.234 of 1997, had deposed about the FIR [Ex.P6] registered by him. Preparation of sketch [Ex.P7], the Observation Mahazar [Ex.P2], recovery of



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damaged wooden box, where the weapons were kept and the damaged VHF set under the Mahazar. He had deposed about the damages caused to the property kept in the police station and the arms and ammunitions stolen from the station. Till the investigation transferred to Q Branch CID, Perambalur, PW.10 had carried on the investigation. The log book for the weapon maintained by the station and the nature of arms spoken by James [PW.11] and Natarajan [PW.12]. Regarding the damage of VHF equipment, Thirumalaikumar [PW.13] had deposed. The other witnesses to the prosecution are witnesses to the confession statement and recovery of weapons from the accused persons. The doctor, who treated Viswanathan [PW.2] for the injury caused by the armed gang, was examined as PW.8. The diary maintained by A8, which was recovered in the course of investigation, was sent to Forensic Laboratory to ascertain the scribe of the diary and from the expert opinion, it was ascertained that the diary containing incriminating materials was maintained and written by A8.

5. Based on the identification of the accused persons by PW.1 in the course of identification parade conducted by the Judicial Magistrate examined as PW.43. The evidence of approver Veeraiyan [PW.6], the testimony of eye



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witnesses PW.1 to PW.4, wound certificate for PW.2 had taken into consideration by the Trial Court and they were found guilty of charges framed.

Pending trial A1, A8 and A12 died and the charges were abated against them.

As against the remaining accused, the trial Court sentenced them as under:-

<i>Rank of the accused</i>	<i>Section</i>	<i>Conviction</i>
A2, A6 & A7	120 B, 450, 395, 395 r/w.397, 307, IPC	Each of the accused shall undergo 10 years Rigorous Imprisonment and fine of Rs.1,000/-, in default 6 months R.I., for each offence
	148, 332 IPC	Each of the accused shall undergo 3 years Rigorous Imprisonment and fine of Rs.500/-, in default 6 months R.I., for each offence
A3	120 B, 450, 395 and 395 r/w.397 IPC	To undergo 10 years Rigorous Imprisonment and fine of Rs.1,000/-, in default 6 months R.I., for each offences
	148 IPC	To undergo 3 years Rigorous Imprisonment and fine of Rs.500/-, in default 6 months R.I.
	4 B of Explosives Substances Act	To undergo 7 years Rigorous Imprisonment and fine of Rs.1,000/-, in default 6 months R.I.
	Section 5 of Explosives Substances Act	To undergo 5 years Rigorous Imprisonment and fine of Rs.1,000/-, in default 6 months R.I.



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<i>Rank of the accused</i>	<i>Section</i>	<i>Conviction</i>
A4, A5 & A14	120 B, 450 & 395 IPC	Each of the accused shall undergo 10 years Rigorous Imprisonment and fine of Rs.1,000/-, in default 6 months R.I., for each offences
	147 IPC	Each of the accused shall undergo 2 years Rigorous Imprisonment and fine of Rs.500/-, in default 6 months R.I.
A9	120 B IPC	To undergo 10 years Rigorous Imprisonment and fine of Rs.1,000/-, in default 6 months R.I.
	Section 4 B of Explosives Substances Act	To undergo 7 years Rigorous Imprisonment and fine of Rs.1,000/-, in default 6 months R.I.
	Section 5 of Explosives Substances Act	To undergo 5 years Rigorous Imprisonment and fine of Rs.1,000/-, in default 6 months R.I.
A10	120 B, 450, 395 and 395 r/w.397 IPC	To undergo 10 years Rigorous Imprisonment and fine of Rs.1,000/-, in default 6 months R.I., for each offences
	148 IPC	To undergo 3 years Rigorous Imprisonment and fine of Rs.500/-, in default 6 months R.I.
A11 & A13	120 B, 450, 395 and 395 r/w.397 IPC	Each of the accused shall undergo 10 years Rigorous Imprisonment and fine of



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<i>Rank of the accused</i>	<i>Section</i>	<i>Conviction</i>
		Rs.1,000/-, in default 6 months R.I., for each offences
	148 IPC	Each of the accused shall undergo 3 years Rigorous Imprisonment and fine of Rs.500/-, in default 6 months R.I.
	Section 3(1) of TNPPDL Act, 1992	Each of the accused shall undergo 5 years Rigorous Imprisonment and fine of Rs.1,000/-, in default 6 months R.I.

6. Aggrieved by the conviction and sentence, Murugaiyan [A4] Sundaramoorthy [A5] have filed Criminal Appeal No.28 of 2020. Jeyachandran [A6] has filed Crl.A.No.176 of 2020. Sekar @ Chinnathambi [A7] has filed Crl.A.No.36 of 2020. Nagarajan [A9] has filed Crl.A.No.62 of 2020. Ponnivalavan @ Murugan [A13] has filed Crl.A.No.94 of 2020. Natarajan [A4] has filed Crl.A.No.20 of 2020. Pending appeal, he died in the prison and his appeal is abated.

7. The learned counsels for the appellants submitted that the case initially registered in Crime No.234 of 1997 against 20 unknown persons and the investigation was done by Mohan, the Inspector of Police [PW.10]



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attached to Andimadam Police Station. On 25.07.1997, the investigation was transferred to Q branch CID, Perambalur. During investigation, the appellants were arrested on suspicion and were arrayed as accused in the final report without adequate evidence. Out of alleged five eye witnesses to the occurrence, PW.5, the independent witness turned hostile and only interested witnesses PW.1 to PW.4, who are the police personnel of Andimadam police station, had deposed against the appellants. The identification parade alleged to have been conducted in the presence of PW.43 is a fast exercise and the evidence of PW.6 [the approver], which is contrary to the evidence of PW.1 ought to have been disbelieved. PW.1 to PW.5 had not implicated A6 in the trial and purely based on the statement of the approver, which is a very weak piece of evidence, A6 has been convicted. The contradiction between the alleged eye witnesses PW.1 to PW.4 were not properly appreciated by the trial Court and their credibility is highly suspicious in view of the hostility of the independent witness who was examined as PW.5. While the alleged occurrence took place on 13.07.1997 at about 11.30 p.m., the copy of FIR has reached the Judicial Magistrate after 21.00 hours and no explanation given for the said delay.

8. The prosecution case is that at the time of occurrence there were



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independent witnesses in the police station, but only one was examined and he too turned hostile. Therefore, the very incident is doubtful and even if such incident has taken place, the accused persons were falsely implicated to cover up the lapse of the police. While the statement of PW.2 recorded in the next day of occurrence does not speak about the overt act of the accused in detail. Contrarily, when he was examined in the Court after 19 years of the occurrence, he had elaborately narrated the overt act of the accused persons, which is quite natural and unbelievable. The embellishment and improvement in his testimony after lapse of 19 years ought not to have been considered as a reliable evidence by the trial Court.

9. The alleged confession statements of the accused persons obtained under force and duress is totally inadmissible in evidence. Above all, the learned counsels in unison submitted that even according to the prosecution the intention of the armed gang, was not to hurt any of them, but only to loot the arms to highlight their ideology. The appellants, who were youth at that point of time being carried away by their ideology, were committed to the ideology. Therefore, only on suspicion they were arrested and falsely implicated. In any event the period of imprisonment is excessive



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and having suffered the ordeal of trial for more than 25 years, leniency to be shown.

10. Per contra, the learned Government Advocate (Crl.Side) appearing for the State submitted that the prosecution through his witnesses had clearly established that these accused persons have met the residence of PW.48 and PW.41 conspired to commit the crime. Their scheme of conspiracy vividly spoken by PW.6, the approver. The overt act of each of the persons has been spoken by the first informant [PW.1] and PW.2 to PW.4, the other three witnesses, who were present in the police station at the time of occurrence. The hostility of PW.5 out of fear cannot be a reason to disbelieve the consistent case of the prosecution exposed through PW.1 to PW.4. The country made bomb and country gun carried by the accused persons has been spoken by the eye witnesses and also establishes the gravity of offence committed by these accused. The identity of the persons were clearly spoken by PW.1 both during the identification parade and in the Court. His evidence is corroborated by the evidence of approver Veeraiyan [PW.6] who was close associate of all the accused persons. The recovery of weapons from the accused persons from the Mahazar spoken by the witnesses and therefore,



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there is no ground to interfere the well considered of the trial Court.

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11. Regarding the sentence, the learned Government Advocate (Crl.Side) has furnished the list of cases pending against A4, A7 and A13 and submitted that they have antecedents of using explosive substances for the crime and therefore, no leniency need to be shown in terms of sentence.

12. Heard the learned counsels and records perused.

13. Based on the materials placed by the prosecution, the trial Court framed charges against these accused persons A1 to A14 along with approver Veeraiyan [PW.6] belongs to a baned organisation by name Tamilnadu Liberation Force. The object of the association is to liberate Tamilnadu from Union of India. They all conspired to attack Andimadam police station on 13.07.1997 and to loot the arms and destroy other materials. For the said purpose, between January 1996 to July 1997, they met at various places and schemed the crime and pursuant to the said conspiracy, on 13.07.1997 at about 11.30 p.m., A2, A10, A11 and A12 carrying the country gun, A7 and A13 holding sword and Axe respectively. A3, A6, A10 and A12 with knife, A12



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with hammer and a pipe bomb. A2, A6 and A10 with pipe bomb along with approver Veeraiyan and two other unknown persons assembled unlawfully to cause riot and in continuation trespassed into the Andimadam police station. While Sundaramoorthy [A5] took guard out side the station, A3 wrongfully restrained Constable Irulappan, placed gun on the chest of Viswanathan, S.I., and threatened him. A7 and A6 kept Aruval and knife on the neck of Viswanathan. A11 broke open the wooden box kept in the police station. A2, A6, A7, A10, A11, A12 and A14 took a tape recorder from Ulaganathan and the police Caps, Uniform and belt from the suit case of Viswanathan and put in a gunny bag. Robbed arms and materials from the custody of police under threat and fear of death. Removed 5 rifle cartridges, 2 Nos. 410 bayonets, 380 Revolvers, 18 Nos. 380 rounds, 135 rounds in No.410 musket, 40 buckshots and 1 No.VHF set. A2, A6 and A7 attempted to murder Viswanathan when he refused to give his revolver. A11 damaged the wooden box in which weapons were kept under lock. A13 damaged the wires of VHF set and removed it. A2, A6 and A7 using weapon and causing simple injury to S.I.Viswanathan prevented him from discharging his official duty and in continuation of the said incident, A3, A8 and A9 on 24.01.1998, 28.01.1998 and 04.02.1998 had in possession of explosives at the time of their arrest.



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WEB COPY 14. Irulappan [PW.1] the Constable who was present in the police station at the time of occurrence has given a complaint marked as Ex.P1. In the complaint he had stated that 20 unknown persons armed with weapon trespassed into the police station confined Kandasamy and Ulaganathan inside the Inspector room attacked S.I.Viswanathan and threatened to kill him by placing Aruval on his neck and gun on his chest. He has spoken about the damage caused in the wooden box, where the weapons kept and the looting of weapons throwing of handwritten pamphlets. VHF set removed and taken away by the gang. PW.1, the *de facto* complainant had deposed about the decoity of arms from the police station. PW.11 and PW.12 had spoken about the ammunitions supplied to the Andimadam police station. Based on the confession given by Natarajan [A14] 380 Revolver, revolver pouch and bullets looted from the Andimadam police station were recovered from him under Mahazar Ex.P70. 410 muskets -8 Nos., 74 live bullets, 4 spent bullets and 11 dummy bullets recovered from him under Mahazar Ex.P71. Pipe bomb recovered from Saravanan [A8] was with the permission of the Court sent to the Bomb Disposal Squad and defused and the proceedings for the said purpose is found in Ex.P18. Sekar [A7] after this crime was arrested



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subsequently when he attempted to blast Gandhi statue and attacked the S.I.Viswanathan on duty, who try to prevent him. Some of the looted arms were recovered from the deceased accused Uthirapathy [A12]. A1 had identified A2-Venkatesan, A3-Kalai, A4-Murugaiyan, A5-Sundaramoorthy, A6-Jeyachandran, A7-Sekar and spoken about their overt act. S.I.,Viswanathan [PW.2] has identified A7 Sekar as a person, who had Aruval in his hand and kept on his left side neck and pressed. He has identified A6-Jeyachandran, who kept knife in his abdomen and pressed. He has also identified A10-Maran as a person, who took away the revolver and 6 bullets, which are marked as M.O.15 and M.O.16. PW.2 has also identified the weapons carried by the accused persons, which are marked as M.O.1 to M.O.5. [Sword, Hammer, Axe, knife and Iron pipe]. M.O.12 series – 410 muskets (5), the handwritten posters pasted on the wall of police station and pamphlets thrown inside the police station identified by him and marked as M.O.9 and M.O.10 respectively.

15. PW.6, approver has spoken about the accused persons, their participation in the conspiracy and overt act in the crime. Though the approver testimony is a weak piece of evidence, when it lend credence to the evidence



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of other substantive witnesses namely the eye witnesses, his evidence is required for the identity of the persons who form part of the unlawful assembly armed with weapons. Devaraj [PW.19] an independent person had deposed that he was introduced to Maran [A10] by one Vazhaiselvam, one day Maran came in a Hero Honda bicycle with a gunny bag and kept it in his house when he enquired what is in the gunny bag, he opened and showed. The witness saw 5 rifles marked as M.O.12. 2 revolvers marked as M.O.15 and another M.O.13. A wireless set M.O.14, Bullets 86 M.O.36. This witness was cross examined by the learned counsels representing the accused nothing impeaching his credibility elucidated in the cross examination. Vazhaiselvan [PW.21] corroborates the testimony of Devaraj [PW.19].

16. It is a high profile case, where the members of separatist organisation were involved in looting the arms in the police station. Despite notoriety of the organisation, public witnesses have come forward to substantiate the case of the prosecution regarding arrest, recovery based on the confession of the accused persons. The Material Objects recovered from these accused has been identified by the witnesses of police department that they belong to the department and supplied to the Andimadam police station. That



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apart the weapons used by the accused persons, when they found unlawful assembly also identified by the eye witnesses particularly, PW.2, who has suffered the worst. From the evidence, this Court is able to arrive at conclusion that the accused persons had no intention to cause death or harm to any person. Their intention was to loot arms from the police station and to record their intention by pasting the posters and distributing the pamphlets.

17. In the said course, PW.2 had initially told them that there is no weapon and it has been gone for refurbishing, later found to be a lie. A2 and A7 had shown a sign of violence and force on PW.2. To restrain PW.2, from reacting A2, A6 and A7 had kept weapon on his body and put him under threat of death. The photographs of the ransacked police station is marked Ex.P.17 series, Ex.P.18 series, Ex.P.19 series and Ex.P.20 series are the evidence to prove that the public property has been extensively damaged besides decoity committed by the armed gang. The said act was pursuant to conspiracy and the same is proved through the evidence of PW-6, PW-48 and PW-51. In the case of conspiracy, the act of one person is the act of all the other co conspirators. The presence of the appellants at the scene of occurrence has been spoken by the witnesses present and the approver. The



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recovery of the looted arms from the accused persons in the presence of independent witnesses well established through the witnesses, who have signed the respective recovery Mahazar.

18. In the said circumstances, this Court finds no error in the judgment of the trial Court. Regarding the sentence the substantive period of sentence imposed on these appellants is 10 years R.I. For conspiracy, criminal trespass in order to commit offence punishable with imprisonment for life, decoity and for possessing explosive substances are the offences for which these appellants had been sentenced to undergo 10 years R.I.. The witness for prosecution has not spoken about any explosive substances possessed by these accused when they committed decoity. Even according to the prosecution and the charges, the explosive substances were recovered from A3, A8 and A9 on 24.01.1998, 28.01.1998 and 04.02.1998 respectively. Out of three accused, who were charged for offence under Sections 4 b and 5 of Explosive Substances Act. A9 alone is before us in Crl.A.No.62 of 2020. As far as this case is concerned, which has occurred on 13.07.1997 at Andimadam police station, none of the prosecution witnesses had deposed that A9 had any explosive substances in his possession on that day. Neither the charge against



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him is for possessing explosives substances on 13.07.1997. In the said circumstances, A9 cannot be punished for offence under Sections 4(b) and 5 of Explosives Substances Act, 1908. In this case, if that charge is excluded, the major offence committed by these appellants will be decoity, unlawful assembly armed with weapon preventing public servant from discharging the duty putting them under fear of death and wrongful confinement.

19. Taking note of the gravity of offence as well as the period of incarceration by these appellants pending trial and after trial, this Court is of the view to modify the period of sentence as below:-

<i>Rank of the accused</i>	<i>Section</i>	<i>Conviction</i>
A4 & A5	120 B, 450 & 395 IPC	Each accused to undergo 7 years Rigorous Imprisonment and fine of Rs.1,000/-, in default 6 months R.I., for each offence
	147 IPC	Each accused to undergo 2 years Rigorous Imprisonment and fine of Rs.500/-, in default 6 months R.I.
A6 & A7	120 B, 450, 395, 395 r/w.397 IPC	Each accused to undergo 7 years Rigorous Imprisonment and fine of Rs.1,000/-, in default 6 months R.I., for each offence
	148, 332 IPC	Each accused to undergo 3



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<i>Rank of the accused</i>	<i>Section</i>	<i>Conviction</i>
		years Rigorous Imprisonment and fine of Rs.500/-, in default 6 months R.I., for each offences
A9	120 B IPC	To undergo 7 years Rigorous Imprisonment and fine of Rs.1,000/-, in default 6 months R.I.
A13	120 B, 450, 395 and 395 r/w.397 IPC	To undergo 7 years Rigorous Imprisonment and fine of Rs.1,000/-, in default 6 months R.I., for each offences
	148 IPC	To undergo 3 years Rigorous Imprisonment and fine of Rs.500/-, in default 6 months R.I.
	Section 3(1) of TNPPDL Act, 1992	To undergo 5 years Rigorous Imprisonment and fine of Rs.1,000/-, in default 6 months R.I.

20. Accused 6 and 7 found not guilty of offence under Section 307 IPC, since it is a case of restraining and deactivating PW.2 from making any attempt to retaliate and there was no intention to cause death. Therefore, the offence under Section 307 IPC is not made out against the Accused 6 and 7. Further, he being punished for offence under Section 395 r/w.397 of IPC which covers ingredients of attempt to cause death or grievous hurt in the course of robbery or decoity. A distinct offence under Section 307 which is



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for attempt to commit murder independently will not attract in this case.

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21. Explosives were recovered from A9 subsequently in his house. However, none of the prosecution witnesses had incriminated this accused for possessing explosive substances on 13.07.1997, when he along with others committed decoity. Therefore, sentence under Section 4(b) and 5 of Explosive Substances Act, against A9 is set aside.

22. With the above modifications, these Criminal Appeals are partly allowed. The period of sentence shall run concurrently. The period already undergone shall ordered to be set off. Consequently, the connected Criminal Miscellaneous Petitions are closed.

18.05.2023

Index : Yes/No
Speaking order/Non-speaking Order
rpl

To

1.The Sessions Court for Exclusive Trial of Bomb Blast Cases, Poonamallee, Chennai.



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2.The Inspector of Police,
Q-Branch CID,
Perambalur.

3.The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN.J.,

rpl

Delivery Judgment made in
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and
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