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Crl.A.No.991 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2023

CORAM :

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

Crl.A.No.991 of 2023

Vilvanathan

...Appellant

Vs.

1. Thirilogachandar
2. Thirunavukarasu
3. Shanmugam
4. Kasi Gounder
5. Gopalakrishnan
6. Gajendiran
7. Kuppu
8. Parimala
9. Santhanakumari
10. Sivalingam @ Samu
11. Ethiraj
12. Kanniyappan
13. Murugan
14. Anbu
15. Kuppan
16. Shanmugam
17. Govindaraj
18. The Inspector Police
(Crime No.15/2011 of
Paradarami Police Station)
K.V. Kuppam Circle,
Vellore District.

...Respondents



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PRAYER: Criminal Appeal filed under Section 378 (4) of the Criminal Procedure Code, 1973, is filed against the judgment dated 16.02.2023 made in C.C.No.1/2019 on the file of the I Additional District and Sessions Court, Vellore.

For Appellant : Mr.E.Kannadasan
For R1 to R4, R8 & R9 : Mr.G.Pugazhenth
For R5 to R7, R10 to R17: Mr.R.Jayasankar
For R18 : Mr. R.Vinothraja
Government Advocate (Crl. Side)

J U D G M E N T

The present Criminal Appeal is filed by the defacto complainant viz., Vilvanathan (P.W.1) against the judgment dated 16.02.2023 made in C.C.No.1/2019 on the file of the I Additional District and Sessions Court, Vellore.

2. The Inspector of Police, K.V. Kuppam Circle, registered an FIR in Crime No.15/2011 of Paradarami Police Station based on the compliant given by one Vilvanathan (P.W.1) against 50 named persons and others.



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3. The case of the prosecution in a condensed form is as follows :

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- i. The accused 1 to 18 are the residents of K. Mottur Village, Kallapadi Post, Gudiyatham Taluk, and the complainant Vilwananthan (P.W.1) is also residing in the same village.
- ii. The accused, on account of previous enmity, during a village festival on 16.01.2011 let the bullocks to run through the Bajanai Koil Street, which was against the Resolution passed in connection with Bullock Cart Race.
- iii. According to the prosecution, all the accused armed with deadly weapons unlawfully assembled and stabbed the appellant herein / defacto complainant (P.W.1) and K.Munirathinam P.W.2 with a knife.
- iv. The accused also hit P.W.1 and P.W.2 with wooden logs and iron rods apart from pelting stones on them.
- v. After completing investigation, the Inspector of Police, K.V.kuppam Circle filed a final report against A1 to A18 alone before the Judicial Magistrate Court, Gudiyatham, in C.C.No.1/2019 for the offences punishable under Sections 147, 148, 323, 324, 294(b) and 506(ii) IPC.



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vi. The learned Judicial Magistrate, Gudiyatham, furnished copies of

WEB COPY records to the accused under Section 207 Cr.P.C.

vii. Thereafter, since the connected case in S.C.No.166 of 2017 was committed to the Court of Sessions, this case was transferred as per the orders passed by the learned Sessions Judge, I Additional District and Sessions Judge, Vellore. Accordingly, S.C.No.166 of 2017 and C.C.No.1/2019 were tried jointly.

viii. The following Charges were framed against the accused:

<i>S.No.</i>	<i>Rank of Accused</i>	<i>Offences</i>
1.	A1, A2, A5 to A11, A13 to A18	U/s. 147, 148, 294(b), 324 and 506 (ii) I.P.C.
2.	A3 and A4	U/s. 147, 148, 294(b), 323 and 506 (ii) I.P.C.

ix. In order to bring home the guilt of the accused, the prosecution examined 10 witnesses and marked Ex.P1 to Ex.P12. M.O.1 to M.O.3 were also adduced

x. When the accused were questioned with regard to the circumstances appearing in evidence against them under Section 313 Cr.P.C., they denied of having committed any offence. However, they did not examine any witnesses on their side, except marking Ex.D1 to Ex.D5 during the course of cross examination of



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prosecution witnesses.

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xi. The learned I Additional District and Sessions Judge, after analysing the evidence adduced on both sides acquitted all the accused under Section 235(1) Cr.P.C, vide judgment dated 16.02.2023. During the pendency of the trial A12 died and the case against him got abated.

4. As against the judgement passed by the trial Court in C.C.No.01 of 2019, dated 16.02.2023, P.W.1, preferred the present Criminal Appeal.

5. Heard Mr.E.Kannadasan learned counsel for the appellant, Mr.G.Pugazhenth, learned counsel for the R1 to R4, R8 and R9, Mr.R.Jayasankar, learned counsel for R5 to R7, R10 to R17 and Mr.R.Vinothraja, learned Government Advocate (Crl. Side), appearing for the 18th respondent.

6. Mr.E.Kannadasan, learned counsel for the appellant contended that the trial court, without considering the evidence adduced on the side of the prosecution, had erroneously acquitted the accused and therefore, the present criminal appeal should be allowed.



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7. The trial court in paragraph Nos. 16,17 and 18 of its judgment

had observed thus:

“16. P.W.1 stated he was assaulted by A1 to A4. But P.W.3 stated that A1 assaulted P.W.1 Vilvanathan with wooden log and P.W.4/Megaraj stated that A1 used filthy language against P.W.1 and assaulted him with iron rod and A2 cut his left hand with knife and A3 & A4 assaulted with wooden logs on his left hand finger and P.W.5 / Saravanan stated that A1 to A4 assaulted P.W.1 with iron rods. But, the Police have seized only one knife, one wooden log and one black stone at the occurrence place. Further, it was not made clear as to which accused used the material objects 1 to 3 at the time of occurrence. P.W.1 has further stated in the cross examination that, குறிப்பாக யார் யார் எதை வைத்திருந்தார்கள் என்று குறிப்பிட்டு சொல்லவில்லை”

17. From P.W.1's evidence it is evident that after returning from pooja the problem was started and in the occurrence place in total more than 150 persons were gathered. P.W.1 also stated that a group of persons attack with each others. All the other witnesses have stated that P.W.1 was assaulted with iron rod. But this case no iron rod was recovered.

18. P.W.8 doctor in her evidence stated that P.W.1 stated in her that அவள் அன்று மாலை 5 மணியளவில் 4 பேர் கத்தியால், கம்பியால், தாக்கியதில் காயம் ஏற்பட்டதாக கூறினார். இடது பக்க தொடையின் உள்புறம் ஒரு சிதைந்த காயம் 2.



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வலது கையின் கீழ்ப்பகுதியில் ஒரு கிழிந்த காயம் 3. வலதுபக்க கீழ் நெஞ்சு பகுதியில் ஒரு மேலான சிராய்ப்பு காயம் 4. இடது கன்னத்தில் ஒரு கன்றிய காயம் 5. வலது சுண்டுவிரலில் ஒரு சிதைந்த காயம் தோல் ஆழத்திற்கு காணப்பட்டது”. So, from the evidence of doctor it is evident that P.W.1 stated to the doctor that he was assaulted with iron rod and knife by 4 persons at 5 p.m. In his evidence he stated that he was assaulted on his thigh, right hand, right shoulder, finger. But the injuries stated by the doctor are different. P.W.1 has not stated that he got injury on his chest and cheek. The injuries stated by the doctor are simple incised injuries and contusion and abrasion and these injuries may happened even any one fall on the ground.

8. Thus it is seen that the trial court had analysed the evidence adduced on both sides threadbare. A successful prosecution of a criminal action largely depends on proof of things, the identification of the author of the crime and his actual commission of the same. An ample proof that a crime has been committed has no use if the prosecution is unable to convincingly prove the offender's identity. The presumption of innocence that an accused enjoys is not demolished by an identification that is full of uncertainties.



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9. In the result

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i. The appeal is dismissed.

ii. the judgment dated 16.02.2023 made in C.C.No.1/2019 on the file of the I Additional District and Sessions Court, Vellore, is hereby confirmed.

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vum

Index : yes/no

Speaking /Non speaking Order

To

1. The Inspector Police
Paradarami Police Station
K.V. Kuppam Circle
Vellore District.
2. The I Additional District and Sessions Court, Vellore.
3. The Section Officer, Criminal Section, High Court, Madras.



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R.HEMALATHA, J.

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