



Crl.A.No.30 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

CORAM

THE HONOURABLE **MRS.JUSTICE R.KALAIMATHI**

Crl.A.No.30 of 2018

1. Siva
2. Munivel
3. Prem Kumar
4. Venkatesh
5. Sankar ... Appellants

vs

State by the Inspector of Police,
J.7 Police Station,
Velachery, Chennai 600 042.
(Crime No.3207 of 2015) ... Respondent

Prayer: Criminal Appeal is filed under Section 374 (2) of Cr.P.C., to call for the records of the learned XVIII Additional Sessions Judge, Chennai made in S.C.No.315 of 2016 and to set aside the judgment dated 10.01.2018.

For Appellants : Mr.G.Mohanakrishnan

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl. Side)

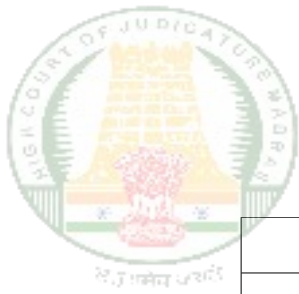
JUDGMENT



Crl.A.No.30 of 2018

This Criminal Appeal is preferred against the conviction and sentence passed in S.C.No.315 of 2016 on the file of the XVIII Additional Sessions Court, Chennai on 10.01.2018, by all the accused - Accused No. 1 to 5.

Title	Description
Name of the Complaint	Inspector of Police J7 Velachery Police Station Chennai 42.
Name of the Accused	1. Siva M/A 23 S/o Barani 2. Munivel M/A 26 S/o Munusamy 3. Premkumar M/A 21 S/o Srinivasan 4. Venkatesh M/A 24 S/o Kasi 5. Sankar M/A 23 S/o Dachinamurthy
Case of the Prosecution	The accused committed the offences under Sections 147, 148, 341, 294(b), 326, 307 read with 34 IPC
Charges Framed	Against the accused A1 under Sections 341, 294 (b), 307 r/w 34, 326 IPC Against the accused A2 to A5 under Sections 341, 307 read with 34, 326 IPC
Plea of the accused	Not guilty
Finding of the Judge	A1 was found guilty under Section 294(b), 307 read with 34, 326 IPC and A2 to A5 are found guilty under Section 307 read with 34, 326 IPC and for A1 was imposed to pay a fine of Rs.1000/- I.d.S.I. / 3 months for the offence under Section 294 (b) IPC and convicted and sentenced to A1 to A5 to undergo



CrI.A.No.30 of 2018

Title	Description
	rigorous imprisonment for 7 years each and imposed to pay a fine of Rs.5000/- each i.d.S.I. / 3 months and A1 to A5 convicted and sentenced to undergo rigorous imprisonment for 7 years each and imposed to pay a fine of Rs.5000/- each i.d.s.i. 3 months each for the offence under Section 326 IPC. The sentences shall run concurrently. Total fine of Rs.51,000/- M.O.I is ordered to be destroyed after appeal time is over. Further A1 to A5 found not guilty under Section 341 and A1 and A5 are acquitted under Section 235 (1) Cr.P.C.

The case of the prosecution in brief is given as follows:

2. On 13.08.2015, at about 21.15 hours, while the witnesses Sriram (P.W.1) and Manikandan (P.W.2) were walking in front of house bearing door No.20/1, Rajalakshmi Nagar, 5th Cross Street, Velachery, the accused No.1 to 5 were coming in the opposite side. Mani @ Manikandan (P.W.2) asked the Accused No.1 to 5 as to why they teased Murthy's mother in filthy language. Immediately, Accused No.1 Siva dissuaded the witnesses Sriram and Manikandan and assaulted P.W.2 Manikandan on his head with hollowblock stone. The other accused also assaulted Manikandan with hollowblock stone and caused grievous injury and attempted to murder the witness Manikandan. Therefore, the accused have committed the offence



Crl.A.No.30 of 2018

punishable under Sections 147, 148, 341, 294(b), 326 and 307 read with 34 of IPC.

3. Mr.G.Mohanakrishnan, the learned counsel appearing for the Accused No.1 to 5 vehemently contended that though the motive for occurrence is said to be the accused teased one Murthy's mother, but the prosecution did not examine the said Murthy or his mother. The place of occurrence details do not tally in the accident register. Seizure mahazar, Ex.P.19, is said to have been prepared belatedly after 40 minutes from the time of occurrence and the hollow block stones were not seized in the presence of the accused. Therefore, such seizure is fatal to the case of the prosecution. It is his further argument that P.W.1 and P.W.2 did not identify the accused. P.W.1 and P.W.2 did not state the names of P.W.4 and P.W.8, who are said to have witnessed the occurrence.

4. Per contra, Mr.S.Udaya Kumar, learned Government Advocate (Crl. Side) strenuously argued that place where occurrence held is situated within few feet from Rajalakshmi Nagar and with regard to the scene of occurrence, the prime witnesses have stated about the place of occurrence and occurrence place is 5th Cross Street, Rajalakshmi Nager, Velachery. It is his further argument that P.W.1 and P.W.2 have deposed clearly in



Crl.A.No.30 of 2018

consonance with the charges framed against the accused. The other ocular witnesses P.W.4 and P.W.8 have also corroborated the evidence of ocular witnesses.

5. At trial, to substantiate the charges, on the prosecution side, 11 witnesses were examined, 20 documents and one material object were marked. No witness was examined on the defence side.

6. The defacto complainant Sriram was examined as P.W.1. Another ocular witness / injured Manikandan was examined as P.W.2, P.W.3 is Lakshmannan father of P.W.1 Sriram. P.W.4 Sivanandam and P.W.8 Sridhar are also ocular witnesses. P.W.5 Veeraselvam is hearsay witness. P.W.6 Karthick is the observation mahazar and seizure mahazar witness. P.W.7 Prabhu and P.W.9 Prabhakar are the confession statement witnesses. P.W.10 Dr.Ashwini is the Medical Officer of Sri Ramachandra Hospital, Porur. who issued wound certificate for PW2. P.W.11 Mr.Sekar Babu is the Investigation Officer.

7. It is the argument of Mr.G.Mohanakrishnan, learned counsel appearing for the appellants that in Ex.P.14 (Accident Register of Manikandan-PW2), the scene of occurrence is mentioned as Velachery 100 feet road behind Indian Bank. But, as per the prosecution case, the



Crl.A.No.30 of 2018

place of occurrence is Door No.20/1, 5th Cross street, Rajalakshmi Road, Velachery. From the perusal of records and the evidence, it appears that occurrence took place in front of house bearing Door No. 20/1, 5th Cross Street, Rajalakshmi Nagar, Velachery. In this regard, during the cross examination of P.W.6 Karthick, the above said details were elucidated and the exact portion of evidence is culled out which is as follows:-

" . . . ராஜலக்ஷ்மிநகரம் நகரைத் தாண்டி 100 அடி ரோடு வரும் என்றால் சரி."

8. P.W.2 has clearly stated that when he was walking at Rajalakshmi Nagar, the occurrence had taken place. The above said details were not elucidated from the Investigation Officer during cross examination. Therefore, the above said arguments of the learned counsel Mr.G.Mohanakrishnan has no force.

9. The next limb of argument of the learned counsel appearing for the appellants is that the motive for the commission of offence is not established. Motive can be inferred from evidence. Where the act of attempt to commit murder is charged, it is not incumbent on the part of the prosecution to show what particular motive actuated the criminals mind and induced them to commit the crime. It is the evidence of P.W.1 and P.W.2 that when they were walking at Rajalakshmi Nagar, the accused



Crl.A.No.30 of 2018

No.1 to 5 came in the opposite direction and P.W.2 asked accused no.1 Siva as to why he teased the mother of Murthy in filthy language. From the evidence of P.W.1 and P.W.2, motive for the occurrence is inferable that as the accused no.1 teased their friend Murthy's mother in filthy language, PW2 shouted at accused no.1 and wordy altercation turned into assault.

10. In this case, it explicates from the evidence of P.W.11 Investigation Officer, when he visited the scene of occurrence at 11.45, he has prepared observation mahazar and Rough Sketch. Ex.P19 Seizure mahazar is prepared at 12.25 (wee hours). The broken hollow block stones have been seized in the presence of the witnesses Karthick and Mani Rajan. As per Section 102 of Cr.P.C., it empowers the Police Officer to seize the property connected with the commission of crime. The basic requirement is the property seized should be some nexus with the alleged offence which is under investigation of the Police Officer concerned. In this case, the Investigating Officer has seized the hollow block stones in the presence of two independent witnesses at the place of occurrence. In these circumstances, the seizure cannot be held to be invalid. The case of the prosecution as projected through the prosecution witnesses has been stated in brief:-



Crl.A.No.30 of 2018

11. It is the evidence of P.W.1 Sri Ram that on 13.08.2015, at about 9.05 p.m, when he along with Manikandan was going to his residence while passing through Rajalakshmi Nagar, the first accused Siva came in the opposite side. P.W.2 Manikandan asked the first accused A1 Siva as to why he teased their friend Murthy's mother in filthy language. The first accused, by stating that "நீ யாராடா கேட்பது என்று தகாத வார்த்தைகளால் திட்டி", used filthy language, took hollow block stone and hit on the head of Manikandan (P.W.2). When he attempted to prevent the quarrel, all the accused hit him with the stone. He sustained injury on the back of his head and fell on the ground. He was admitted in the Royapettah Hospital. His injuries over the head were sutured. The next day, he was discharged from the hospital. He identified the broken hollow block stones, which were used for the commission of offence by the accused. The broken hollow block stones are M.O.I (5 in Numbers).

12. It has come on evidence of P.W.2, Manikandan that, on 13.08.2015, at about 9.00 p.m, at Rajalakshmi Nagar, when he, along with P.W.1 Sriram were walking, the accused came by walking . He asked the accused no.1 Siva as to why he teased Murthy's mother in filthy language, for which, the accused Siva shouted at him in filthy language and all the accused hit on his head with hollow block stones. When he shouted, all



Crl.A.No.30 of 2018

the accused fled away and he was taken to Excellent Hospital by his relatives. From there, he was taken to Ramachandra Hospital and he was in the hospital for 26 days as inpatient.

13. It has come on record through the evidence of P.W.3 Lakhmanan that P.W.3 received information that near Jaganathapuram his son Sriram and Manikandan, were assaulted with stones by four or five persons and they were admitted at Excellent Hospital. He went to Excellent Hospital and found that only Manikandan was admitted in the hospital. He came to know that his son had gone to Police Station. In the Police Station, he saw his son Sriram sitting inside the 108 Ambulance with bleeding injury over his head.

14. It is the evidence of P.W.4 Sivanandam that on 13.08.2015 at about 9.15 p.m., when he was coming along with his elder brother Sridhar along the 5th cross street, Rajalakshmi Nagar, the accused and others were standing there. In the opposite side Manikandan (P.W.2) and Sri Ram (P.W.1) were coming. When Manikandan asked Siva as to why he shouted at the mother of Murthy, he got wild and took the hallow block stone and hit on his head. The persons who were present along with Siva also assaulted Manikandan. When Sriram sought to prevent the same, the accused assaulted him with the same stones. Having seen the occurrence



Crl.A.No.30 of 2018

P.W.4 and his elder brother ran away and the accused also escaped from the place. Except accused no.3, he has identified all the other accused.

Manikandan and Sriram were the persons who were assaulted by hallow block stones. He took Manikandan and Sriram to the Excellent Hospital.

15. P.W.4 and P.W.8 corroborated the evidence of P.W.1 and P.W.2. P.W.4 identified all the accused. P.W.5 Veeraselvam came to know about the occurrence. On 14.08.2015, his inmates of the house told him that Premkumar, Siva, Munivel, Sankar and Venkatesh assaulted Manikandan and on the next day morning, he saw Manikandan at Excellent Hospital where he was kept in Intensive Care Unit.

16. P.W.6 Karthik has spoken about the preparation of observation mahazar and seizure mahazar. It is his evidence that the police came to the scene of occurrence at about 11.45 p.m on 13.08.2015, prepared the rough sketch, in which he attested and identified his signature found in the observation mahazar. He has not spoken about the seizure mahazar.

17. P.W.7 and P.W.9 are the confession statement witnesses.

18. It is the evidence of P.W.10 Dr.Ashwini, Medical Officer of Sri



Crl.A.No.30 of 2018

Ramachandra Medical Center, Porur that the accident register pertaining to Manikandan (P.W.2) was recorded by Dr.Sri Ganesh. He did not work in the said hospital now. She is acquainted with his hand writing. It is her evidence that on 14.08.2015 at about 12.15 (Mid-Night) one Manikandan with head injury was admitted in the hospital, and he was examined by Dr.Sri Ganesh. The accident register is Ex.P.14. The said Manikandan got discharged on his own accord on 05.09.2015. Manikandan sustained head injury with internal bleeding and she has opined that the said injury is grievous in nature as mentioned in Ex.P.14. The wound certificate issued by her is Ex. P.15. She has issued the said certificate on 24.02.2016 much after the accident (after 6 months).

19. P.W.11 Mr.Sekar Babu is the Investigation Officer. It is his evidence that on 13.08.2015 at 23.00 hours, one Sriram [PW1] gave a complaint and a case in Crime No.3207 of 2015 under Sections 147, 148, 341, 324 and 307 IPC was registered and the FIR is Ex.P.16. He took up the case for investigation, visited the scene of occurrence at about 23.45 hours, prepared observation mahazar Ex.P.17 and rough sketch Ex.P.18 in the presence of witnesses Karthik(PW6) and Manirajan. At about 00.25 hours, the hallow block stones used by the accused were seized under the seizure mahazar (Ex.P.19) in the presence of above said witnesses. On



Crl.A.No.30 of 2018

14.08.2015 at about 11.00 a.m, all the accused were arrested at Marudhu Salai, Velachery and they were sent to judicial custody. The witnesses Sriram, Manikandan, Sridhar, Lakhmanan, Shivanathan, Veeraselvam, Karthick, Manirajan, Prabhakar, Prabhu, Dr.Balu, Dr.Ganesh were examined by him and he recorded their statements. On account of his transfer, his successor Mr.Sethu, obtained the medical records and filed alteration report under Sections 147, 148, 341, 294 (b), 326 and 307 IPC. His successor examined Dr.Ashwini and recorded her statement.

20. It is useful to extract Section 307 IPC:-

“307. Attempt to murder

Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, and if hurt is caused to any person by such act, the offender shall be liable either to [imprisonment for life], or to such punishment as is hereinbefore mentioned.

Attempts by life convicts: *when any person offending under this section is under sentence of [imprisonment for life] he may, if hurt is caused, be punished with death.”*

21. To constitute an offence under Section 307 IPC, the accused must have done an act with guilty intention and knowledge and in such



Crl.A.No.30 of 2018

circumstances, but for some intervening fact, the act would have amounted to murder in the normal course of happenings. There must be some overt act combined with evidence of 'mens rea'. The burden is always on the prosecution to prove the 'actus reus', i.e. the accused had done something which in the point of law marked the commission of the offence and the 'mens rea'.

22. That apart, it depends upon the facts and circumstances of each case, whether the accused had the intention to cause death or knew in the circumstances that his act is going to cause death. The nature of the weapon used, intention expressed at the time of act, motive for the commission of the offence, the nature and the size of the injuries, the part of the body of the victim selected for causing the injuries and the severity of the blow or blows are important factors that may be taken into consideration in coming to a finding whether in a particular case, the accused can be convicted of an attempt of murder.

23. My view is fortified by the observation made by the Hon'ble Supreme Court in ***Hari Singh vs. Sukhbir Singh and others [(1988) 4 SCC 551]***. Wherein, the Honb'le Supreme Court observed that “Under Section 307 IPC what the Court has to see is, whether the act irrespective



Crl.A.No.30 of 2018

of its result, was done with the intention or knowledge and under circumstances mentioned in that section. The intention or knowledge of the accused must be such as is necessary to constitute murder. Without this ingredient being established, there can be no offence of "attempt to murder". Under Section 307 the intention precedes the act attributed to accused. Therefore, the intention is to be gathered from all circumstances, and not merely from the consequences that ensue. The nature of the weapon used, manner in which it is used, motive for the crime, severity of the blow, the part of the body where the injury is inflicted are some of the factors that may be taken into consideration to determine the intention."

24. In this case, it has been established clearly through the evidence of P.W.1 and P.W.2 in particular, when P.W.2 Manikandan asked the first accused Siva as to why he teased the mother of Murthy in filthy language. Accused no.1 Siva uttered நீ ஏன் கேட்கிறாய் என்று அசிங்கமாக திட்டினான். Then it harmed with assault. Immediately he took a broken hollow block stone and hit on the head of P.W.2 Manikandan. The accused A1 Siva abused P.W.2 and it is the evidence of P.W.2 that all the accused assaulted him with the hollow block stones.

25. In this regard Dr.Ashwini would state that Manikandan was



Crl.A.No.30 of 2018

admitted in the surgical ward. On perusal of Ex.P.14 Medico-legal Certificate, P.W.2 Manikandan suffered fracture of temporal bone and Maxilla. The Doctor gave opinion that the injury sustained is grievous in nature (Ex.P.15 Wound Certificate). The size of the injuries are not elicited through P.W.10, Dr.Ashwini.

26. From the evidence of P.W.1 and P.W.2, it is inferable that when the first accused was asked by P.W.2 as to why he teased the mother of Murthy, the accused Siva used abusive language and in the heat of moment, without premeditation assaulted P.W.2 with broken hollow block stone which has caused serious injuries. It is the evidence of P.W.2 Manikandan that he was in the hospital as inpatient for about 26 days. The intention of the accused to inflict injuries is evident from the object with which P.W.2 was assaulted.

27. When several persons with hollow block stone hit P.W.2 on his head, one cannot expect P.W.2 to observe by which accused he was assaulted. It is the evidence of P.W.1 that accused Siva (A1) assaulted P.W.2 Manikandan on his head with hollow block stone.

28. The 1st accused hit on the head of P.W.2 Manikandan with



Crl.A.No.30 of 2018

broken hollow block stone, thereby caused grievous injury. Upon the evidence of P.W.1 and P.W.2 coupled with medical evidence and the object with which the offence was committed, this Court is of the considered view that the offence would fall under Section 326 IPC alone and not under Section 307 IPC.

29. P.W.1 (Sriram) has stated the name of the 1st accused alone. P.W.1 has deposed that accused no.1 shouted in abusive language and hit on the head of Manikandan with hollow block stone. When he tried to prevent the same, he was hit by all the accused with the same stone and he suffered injury on the back of his head, he fell down and fainted. He was admitted at Rayapettah Hospital. The wound over the head was switched and he was discharged on the next day of occurrence. He has identified the hollow block stones (M.O.1 - 5 in number). His medical records are not marked during the trial.

30. It is evident that P.W.1 sustained injury due to the assault made on his head by hollow block stone. He has stated that all the accused hit on his head. Of course when a person is assaulted by many persons with object, it is extremely difficult for him to specify the name of the accused. However from his evidence, it is inferable that he sustained serious injuries



Crl.A.No.30 of 2018

but by whom it was inflicted is not established either through the evidence of P.W.1 or P.W.2.

31. As per Lord Macaulay report, wrongful restraint means keeping a man out of a place where he wishes to be and has a right to be. In support of the charge under Section 341 IPC both the ocular witnesses P.W.1 and P.W.2 have not stated anything against the accused.

32. As regards, the charge under Section 294(b) IPC, both P.W.1 and P.W.2 have not specifically stated the abusive language used by the accused.

33. P.W.1 and P.W.2 are the ocular witnesses and sustained injury. On careful perusal of evidence of both the witnesses, they have not specified the names of A2 to A5, Medical records of PW1 is not marked.

34. It has come on record through the evidence of P.W.1 and P.W.2 that all the accused were present at the time of occurrence. The charge under Section 307 as against the 1st accused is taken as under Section 326 IPC. Therefore, the charge under Section 307 r/w.34 as against the Accused No.2 to 5 is also altered to Section 326 r/w. 34 IPC.



Crl.A.No.30 of 2018

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35. As regards the charge under Section 326 r/w.34 IPC, it is the evidence of PW1 Sriram, that when PW2 asked 1st Accused Siva as to why he teased Murthy's mother, for which, accused no.1 Siva abused him and assaulted Manikandan with a hollow block stone on his head. He would further state that when he sought to prevent the assault, all the accused hit him with the same hollow block stone. The injured PW2-Manikandan has stated that " ஆஜர் எதிரிகள் அனைவரும் என்னை தலை முழுவதும் உறாலோ பிளாக் கல்லினால் அடித்தார்கள்...". Sivanandam (PW4) has corroborated the evidence of PW1 and PW2. With regard to the presence of Accused No.2 to 5, it is the evidence of PW4 that the persons accompanied with Siva also hit on Manikandan. When Sriram tried to prevent, the accused assaulted him with the same hollow block stone. Another ocular witness Sridhar-PW8 would depose that on 13.08.2015 at about 9.15 p.m., when he was going by walk along with Sivanandam(PW4) along the 5th cross Rajalakshmi Nagar, Manikandan and Sriram also going by walk near them. He would further state that from the opposite side, the accused were coming by walk. He has specifically identified all the accused by names. "அப்போது மணிகண்டன் என்பவர் ஆஜர் எதிரியிடம் ஏண்டா முர்த்தியின் அம்மாவை கிண்டல் செய்தீர்கள் என்று கேட்டார். அப்போது, ஆஜர்



Crl.A.No.30 of 2018

1வது எதிரி நீ யாராடா அதை கேட்பதற்கு என்று சொல்லிக்கொண்டே, அருகில்

இருந்த உறாலோ பிளாக் கல்லை எடுத்து மணிகண்டனின் தலையில் ஓங்கி அடித்தார். அப்போது, மணிகண்டன் கீழே விழுந்து விட்டார். பிறகு ஆஜர் மற்ற 4 எதிரிகளும், ஆளக்கொரு உறாலோபிளாக் கல்லை எடுத்து மணிகண்டனை தாக்கினர், அதை தடுக்க வந்த ஸ்ரீராம் என்பரையும் அவர்கள் தாக்கினர். அப்போது, நானும், மற்றவர்களும், அதை தடுக்க முயன்றபோது, அவர்கள் என்னை தள்ளிவிட்டு தப்பியோடிவிட்டனர்.”

36. In this regard it is beneficial to refer to the observations made by the Apex Court in **Sewaram v, State of U.P. reported in AIR 2008 SC 682**. The Hon'ble Supreme Court has observed that Section 34 has been enacted on the principle of joint liability in the doing of a criminal act. The section is only a rule of evidence and does not create a substantive offence. The distinctive feature of the section is the element of participation in action. The liability of one person for an offence committed by another in the course of criminal act perpetrated by several persons arises under Section 34 if such criminal act is done in furtherance of a common intention of the persons who join in committing the crime. Direct proof of common intention is seldom available and, therefore, such intention can only be inferred from the circumstances appearing from the proved facts of



Crl.A.No.30 of 2018

the case and the proved circumstances. In order to bring home the charge of common intention, the prosecution has to establish by evidence, whether direct or circumstantial, that there was plan or meeting of minds of all the accused persons to commit the offence for which they are charged with the aid of Section 34, be it pre-arranged or on the spur of the moment; but it must necessarily be before the commission of the crime. The true concept of the section is that if two or more persons intentionally do an act jointly, the position in law is just the same as if each of them has done it individually by himself.

37. In ***Ashok Kumar v. State of Punjab(1977(1) SCC 746)***, wherein it is held that the existence of a common intention amongst the participants in a crime is the essential element for application of this section. It is not necessary that the acts of the several persons charged with commission of an offence jointly must be the same or identically similar. The acts may be different in character, but must have been actuated by one and the same common intention in order to attract the provision.

38. From the evidence of ocular witnesses, it is clear that it was not pre-meditated. The *mens-rea* can be inferred from the proven circumstances. The charge as against Accused No.2 to 5 is under Section



Crl.A.No.30 of 2018

326 r/w.34 IPC. From the evidence of PW1, PW2, it is pellucid that it was the 1st accused who assaulted PW2 on his head by picking up the hollow block stone and caused serious injuries. More so, it has come on record that Accused No.2 to 5 were also present along with the 1st accused.

39. In order to have a proper understanding of Section 34 of IPC, the said provision of law is extracted hereunder:-

"When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone".

40. It is relevant to observe that this Section does not create a substantive offence but a rule of evidence. Section 34 lays down a principle of constructive liability. The substance of Section 34 IPC is a simultaneous consensus of the minds of the persons participating in criminal action to bring about a particular result. Section 34 of IPC was framed to meet the situation where the offence was committed by only one of two or three persons who all had a common intention. In furtherance of a common intention, several acts may be done by several persons losing in the commission of crime. In such a situation, Section 34 provides that each one of them would be liable for that crime in the same manner as if it



Crl.A.No.30 of 2018

were done by him alone.

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41. Every person is responsible for a criminal act done by him. But, Section 34 IPC is an exception to this principle. It lays down the principle of constructive liability. The reason why all the persons are deemed guilty in such cases is that the persons of accomplice gives encouragement, protection and support and strength to the person actually committing an act. When PW2 - Manikandan asked the 1st accused as to why he teased the mother of his friend Murthy, the 1st accused abused him and picked up a hollow block stone and assaulted PW2-Manikandan on his head. The above said details of evidence clearly depicts the fact that Accused No.2 to 5 were present along with the 1st accused, thereby the charge under Section 326 r/w 34 IPC as against the Accused No.2 to 5 stands proved beyond reasonable doubt.

42. Based on the above said observations, it is concluded that the charges as against A2 to A5 under Sections 341 and 294 (b) IPC are not proved beyond reasonable doubt by the prosecution.

43. In fine, this Criminal Appeal is partly allowed. Accused No.1 is found guilty under Section 326 IPC, convicted and sentenced to undergo



Crl.A.No.30 of 2018

rigorous imprisonment for three years and imposed fine of Rs.5,000/- in default to pay fine to undergo three months simple imprisonment.

44. A2 to A5 are found guilty under Section 326 r/w.34 IPC, convicted and sentenced to undergo for three years rigorous imprisonment with a fine of Rs.5000/- in default of payment of fine, to undergo three months simple imprisonment.

45. A1 to A5 are not found guilty under Sections 341 and 294(b) IPC, ordered to be acquitted under Section 235 (1) of Cr.P.C. Fine amount if paid already to be adjusted.

46. The trial Court shall issue warrant against A1 to A5 and send them to prison in order to serve the sentence, within a period of one month from the date of receipt of a copy of this judgment.

26.03.2024

Index : Yes/No
Internet : Yes/No
mac/ssn



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Crl.A.No.30 of 2018

R.KALAIMATHI, J.,

mac/ssn

To

- 1.The XVII Additional Sessions Judge,
City Civil Court, Chennai.
- 2.The Inspector of Poilce,
J7 Velachery Police Station,
Chennai 42.
- 3.The Public Prosecutor,
Madras High Court, Chennai.

Crl.A.No.30 of 2018

26.03.2024