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Crl.A.Nos.448, 512 & 928 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	25.09.2024
Pronounced on	19.02.2025

CORAM :

THE HONOURABLE Mr. JUSTICE **M.S. RAMESH**
AND
THE HONOURABLE Mr. JUSTICE **C.KUMARAPPAN**

Crl.A.Nos.448, 512 & 928 of 2019
and
CRL.MP.Nos.5332 of 2022 & 5014 of 2023

Crl.A.No.448/2019

Minor Kuross @ Venkattagiri

... Appellant

Vs.

State by
The Inspector of Police,
Denkanikottai Circle,
Thali Police Station,
Krishnagiri District.
(Crime No.121 of 2002)

... Respondent

PRAYER: Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code praying to call for the records and set aside the conviction and sentence imposed against the appellant on 26.03.2019 in SC.No.7/2007 on the file of the Sessions Court for Exclusive Trial of Bomb Blast Cases, Poonamallee, Chennai and acquit the appellant.



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For Appellant : Mr.P.Pugalenthir

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

Crl.A.No.512/2019

1. Krishnappa (A1)
2. Narayanan @ Narayanappa (A3)

... Appellants

Vs.

State represented by
The Inspector of Police,
Denkanikottai Circle,
Thali Police Station,
Krishnagiri District.
(Crime No.121 of 2002)

... Respondent

PRAYER: Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code to set aside the conviction and sentence imposed in SC.No.4 of 2005 dated 26.03.2019 on the file of Special Court for Bomb Blast Cases, Chennai at Poonamallee.

For Appellants : Mr.R.Sankarasubbu

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

Crl.A.No.928/2019

Naga @ Nagappa

... Appellant

Vs.



Crl.A.Nos.448, 512 & 928 of 2019

State through
The Inspector of Police,
Thali Police Station,
Krishnagiri District.
(Crime No.121 of 2002)

... Respondent

PRAYER: Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code to call for the records in SC.No.4 of 2005 on the file of Special Court for Bomb Blast Cases, Chennai at Poonamallee, set aside the judgment and conviction dated 26.03.2019.

For Appellant : Mr.T.Naveen Chandar

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

COMMON JUDGMENT

C.KUMARAPPAN, J.

These appeals are arising against the murder of one Venkatesan, which took place on 08.05.2002 at about 9.00 a.m at Thali. The same was registered in Crime No.121 of 2002. After completion of investigation, the charge sheet was filed against 15 accused and the same was taken on file in PRC.No.24 of 2002.

2. For convenience sake, we deem it appropriate to refer the accused's



rank as shown in the charge sheet [PRC.No.24 of 2002]. Similarly, the witnesses will be referred according to their number assigned in SC.No.4 of 2009.

3. Though the charge sheet was filed against 15 persons, the accused viz., Minor Kuross @ Venattasiri [A14] and Kamalanathan [A15] were shown as absconding. Accordingly, the case was split up as against the absconding accused, and the trial proceeded against A1 to A13 in SC.No.4 of 2005. Subsequently, Kamalanathan [A15] was secured and tried in the above case. While so, after securing another absconding 14th accused [A14] qua Minor Kuross @ Venattasiri, a separate trial was conducted in SC.No.7 of 2007.

4. After conclusion of two separate trials, two judgments were passed on 26.03.2019, convicting the present appellants qua A1 [Krishnappa], A3 [Narayanan @ Narayanappa], A6 [Nagan @ Nagappa] and A14 [Minor Kuross @ Venattasiri]. Against the order of conviction passed in SC.No.4 of 2009, the Accused 1 & 3 preferred the Criminal Appeal in CRL.A.No.512 of 2019. The 6th accused preferred another appeal in CRL.A.No.928 of 2019. Similarly, the 14th accused preferred an appeal in CRL.A.No.448 of 2019 against the order passed in SC.No.7 of 2007. Since all the above appeals



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arise out of the same occurrence and the witnesses are same, we deem it appropriate to take all the above appeals together for disposal.

5. According to the prosecution, the deceased Venkatesh was the Chairman of Thali Panchayat Union. These accused are the members of Left Wing called Radical Youth Wing. The motive for the occurrence was, non payment of donation to the accused's organization. This conduct enraged the accused and they hatched criminal conspiracy to do away the deceased Venkatesh. In furtherance thereof, on 08.05.2002 at about 9.00.AM, when the deceased and his other close associates proceeded to “Manjunath Fancy Store” to make a phone call, the accused suddenly came to the scene of occurrence and exploded a country bomb on the deceased, apart from attacking the deceased with sickles and acid. As a consequence of these brutal attack, the deceased and some of the bystanders sustained grievous injuries, and the deceased fell down in a pool of blood. Immediately thereafter, his associates who accompanied him, took him to the Hosur hospital, where he was declared dead.

(a). On coming to know about the occurrence and death of the deceased at Hosur hospital, the Police Inspector Mr.Ramachandiran [PW28]



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attached to the Hosur Police Station obtained a statement from PW1-Diwakar and forwarded the same to the Thali Police Station. On receipt of the same, Mr.Krishnan [PW29] registered the FIR in Crime No.121 of 2002. The factum of the registration of the FIR was informed to the Investigating Officer Mr.Krishnan [PW45] at about 2.00.PM on 08.05.2002. On receipt of the information, he [PW45] proceeded to the Hosur Government Hospital and conducted an inquest upon the body of the deceased and also made arrangements for the postmortem.

(b). Dr.Guruviah Setty [PW34], who conducted the postmortem, gave the postmortem certificate under Ex.P44. According to his postmortem certificate, the deceased sustained various grievous injuries, and the cause of death was due to the shock and hemorrhage of the injury to the vital organ.

(c). The Investigating Officer [PW45] prepared the observation mahazar [Ex.P36], and has also collected the remnants of the explosive from the scene of occurrence. He has also recovered live cartridge and a knife at the scene of occurrence. On 09.05.2002, he arrested the accused Kuttalamma [A12] and recorded her confession statement and recovered the vehicle used for the commission of the offence and other material objects. While so, on 11.05.2002, Mr.A.V.Ramalingam [PW31], Inspector of Police,



Q Branch, arrested Krishnappa [A1], Narayanan @ Narayanappa [A3], Palanisamy @ Palani [A4], Kalagakara Krishnan @ Krishnappa[A5] and Subramani [A7]. All the arrested accused were handed over to the Investigating Officer Mr.Krishnan [PW45]. Before the Investigating Officer, Krishnappa [A1], Narayanan @ Narayanappa [A3], Palanisamy @ Palani [A4], Kalagakara Krishnan @ Krishnappa[A5] gave confession statement voluntarily in the presence of the witnesses. Based on the above confession statements, discovery of fact was effected.

(d). The 2nd accused Baskaran @ Gunaseelan @ Chinnathambi was arrested by Mr.Rajendiran [PW32], and after recording his confession statement, a discovery of fact was effected by recovering a small rifle. Again on 05.06.2002, Mr.A.V.Ramalingam [PW31], Q Branch Inspector arrested another accused Naga @ Nagappa [A6] and recorded his confession statement. In pursuance thereof, a discovery of fact was effected. He also made arrangements to send all the material objects to the concerned Magistrate under form 91. After concluding the investigation, since the accused 14 & 15 were absconding, he laid the charge sheet against the accused 1 to 13 under various Sections of IPC including Section 302 IPC, Section 27, 25(1B)(a) of Arms Act and Section 9B (1)(b) of Explosive Act.



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6. In order to prove the charges, the prosecution relied as many as 46 witnesses in SC.No.4 of 2005, and 38 witnesses in SC.No.7 of 2007. On behalf of the defence in SC.No.4 of 2005, 3 witnesses were examined. Similarly in SC.No.7 of 2007, one defence witness was examined. In SC.No.4 of 2005, the prosecution relied on 68 documents and 37 material objects. On behalf of the defence, two exhibits were marked. Similarly, in SC.No.7 of 2007, 42 exhibits, 34 Material Objects were marked, and 2 documents were marked on behalf of the defence.

7. The Trial Court, after having considered the oral and documentary evidences, and the submissions of either side, had convicted Krishnappa [A1], Narayanan @ Narayanappa [A3], and Nagan @ Nagappa [A6] in SC.No.4 of 2005. Similarly, in SC.No.7 of 2007, the sole accused Minor Kuross @ Venkatagiri [A14] was convicted. During the pendency of trial, the accused Baskaran @ Gunaseelan @ Chinnathambi [A2], Palanisami @ Palani [A4], Kalakakara Krishnan @ Krishnappa [A5] died and therefore the charge against them got abated. The remaining accused qua Subramani [A7], Nagan @ Nagappa [A8], Raja @ Rajappa [A9], Senthilkumar @ Senthil [A10], Saravanan [A11], Kuttalamma [A12], Rathinamma [A13] and Kamalanathan [A15] were acquitted. The convicted accused were sentenced



to undergo maximum punishment of life imprisonment along with other sentences and the sentences were ordered to run concurrently. Aggrieved with the same, the accused 1, 3, 6 and 14 preferred the instant appeals.

8. Heard Mr.R.Sankara Subbu, learned counsel for the accused 1 and 3, Mr.T.Naveen Chandar, learned counsel for the 6th accused, and Mr.P.Pugalenthi, learned counsel for the 14th accused.

9. The learned counsel appearing for the accused 1 and 3 would vehemently contend that the very genesis of the case is doubtful and that the alleged independent injured eyewitnesses PW4 and PW12 did not support the prosecution and that the alleged eyewitnesses are close friends of the deceased and they are planted witnesses. He would further contend that there are wild contradictions between the testimonies of the eyewitnesses, and that the delay of 100 days in forwarding 161 Cr.P.C. statements of the material witnesses would cause reasonable doubt in the prosecution case. It was also contended that the alleged eyewitnesses are the party member of the deceased, and were his close associates who benefited from him, and therefore, it would be unsafe to rely upon their testimony. He would also contend that the proclivity of the arrest of Krishnappa [A1], Narayanan @ Narayanappa [A3], Palanisamy @ Palani [A4], Kalagakara Krishnan @



Krishnappa[A5] and Subramani [A7] by PW31 are concocted.

10. The learned counsel would further contend that the evidence of postmortem Doctor would falsify the bomb explosion and acid attack, which by itself is sufficient to disbelieve the case of the prosecution. The learned counsel would also rely upon the defence witnesses and contended that the accused were not at all at the scene of occurrence. He would also submit that the absence of test identification parade would make the very identification of the accused first time before the Trial Court doubtful. He would further contend that the motive is trivial, besides the prosecution having miserably failed to investigate the involvement of one Raja Reddy against whom the deceased was inimically disposed and therefore, prayed for an acquittal against the accused 1 and 3. He also placed an alternate argument that assuming an offence is made out against A1 and A3, it could be only under Section 326 IPC. To buttress his submission, he relied upon the following judgments:-

1. ***Chilamakur Nagireddy and others Vs. State of Andhra Pradesh*** reported in ***1977 SCC (Cri) 562***;
2. ***K.A.Kotrappa Reddy and another Vs. Rayara manjunatha Reddy @ Manjunatha and others*** reported in ***(2016) 4 SCC 729***;



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3. **Noorahammad and Ors Vs. State of Karnataka** reported **AIR 2016 SC 679**;
4. **Kanan and Others Vs. State of Kerala** reported in **AIR 1979 SC 1127**.

11. While reiterating the above submissions, Mr.T.Naveen Chandar, learned counsel for 6th accused, would further contend that PW2, PW3, PW6, PW8 and PW14 were not at all at the scene of occurrence and their absence, manifested through the material contradictions brought out during cross examination. Thus, he also would pray for an acquittal against the 6th accused.

12. Mr.P.Pugalenthi, the learned counsel for the 14th accused, while concurring with the above submissions, would also contend that the delay in forwarding the 161 Cr.P.C statement of PW1, PW6 and PW7 would make the prosecution case become highly doubtful. He would also invite our attention about the evidence of Dr.Gurviah Setty [PW34] so as to explain the absence of telltale materials, for the use of explosive. Thus, he also prayed for an order of acquittal. In support of his contentions, he relied upon the following precedents:-

1. **Suresh Chaudhary Vs. State of Bihar** reported in **(2003) 4 SCC 128**;



2. ***State of Madhya Pradesh Vs. Wazir Khan and another*** reported in (2008) 15 SCC 447.

13. We have given our anxious consideration to either side submissions.

14. The entire prosecution's case is based upon the eyewitness account. It is well settled principle of law that if the veracity of the eyewitness is highly trustworthy, any inconsistency in the Doctor/expert evidence and the infirmity in the discovery of fact, will in no way impact upon the prosecution's case. Here, it was mainly contended that the postmortem Doctor's [PW34] evidence would demonstrate the falsity over the prosecution's case, as there are no materials to support the usage of explosive material and Gun.

15. Now let us consider whether the doctor's evidence can have any impact upon the evidence of the eyewitnesses.

16. According to the prosecution, PW1-Diwakar had set the law in motion through his complaint [Ex.P37]. However, when he was examined before the Court, he did not support the complaint [Ex.P37] and turned hostile. However, he had deposed before the Court that he was present in the scene of occurrence, along with one Girish [PW2], Muniraj [PW4],



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Chandirappa [PW5] and Mani [PW8]. He would further categorically speak about the presence of the deceased Venkatesh at the scene of occurrence. According to him, when the deceased Venkatesh was returning from Manjunath Store, some unknown persons, who came in a vehicle, exploded the bomb and as a consequence, the scene of occurrence was engulfed in smoke. In his evidence, he did not implicate any of the accused, but had categorically spoke about the injuries sustained by the deceased and the presence of Girish [PW2], Muniraj [PW4], Chandirappa [PW5], Mani [PW8], Ellappa and Nagaraj at the scene of occurrence and also about the arrangement to treat Venkatesh at Hosur Hospital, where he was declared dead.

17. Though PW1 turned hostile, his evidence unequivocally established the explosion of bomb and the presence of some of the associates of deceased Venkatesh, more specifically, PW2 [Girish], PW4 [Muniraj] PW5 [Chandrappa] and PW8 [Mani] at the scene of occurrence. It is well settled principle of law that just because a witness had turned hostile, his entire evidence need not be eschewed. On the other hand, the same can be used to the extent it supports the prosecution's case. Fortunately or unfortunately, his



evidence was not at all challenged by the accused and not even a suggestion was made to deny his statement. The wholesome reading of PW1 evidence would indubitably demonstrate that the deceased was attacked by a group of people, and while the occurrence took place, Girish [PW2], Muniraj [PW4], Chandirappa [PW5] and Mani [PW8] were present at the scene of occurrence. In view of the above discussion, the unchallenged testimony of PW1 would make the submission of the appellant about the doubt in using explosive become contrary to the admitted fact. It is in this background, the evidence of Doctor would become insignificant.

18. Now let us consider the evidence of eyewitnesses one after another, whose presence was proved through PW1. Let us start with the evidence of Girish [PW2]. While narrating the occurrence, he would also state that at the time of the occurrence, Diwakar [PW1], Madhesh [PW3], Mani [PW8], Pathi [PW13], Chandirappa [PW5] and Subbarao [PW6] were present. Though PW2-Girish has included certain other names, two names viz., Chandirappa [PW5] and Mani [PW8] tallied with Diwakar's [PW1] unchallenged evidence. As such, the presence of PW1, PW2, PW5 & PW8 at the scene of occurrence is covertly and overtly proved.



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19. According to Girish [PW2], he spoke about hurling of the bomb by Krishnappa [A1], Narayanan @ Narayanappa [A3], Nagan @ Nagappa [A6], Palanisami @ Palani [A4]. Apart from that, he also had spoken about the assault of Krishnappa [A1] and Nagan @ Nagappa [A6] through sickle. At this juncture, it is appropriate to discuss the alleged contradictions of PW2 put forth by the learned counsel for the Accused 1 and 3. For convenience sake, we deem it appropriate extract the alleged contradictions along with date of examination in chief and cross:-

<i>Deposition of Chief Examination with date</i>	<i>Cross examination with date</i>
28.01.2008 நாகா அருவாளுடன் வெங்கடேசை வலது கழுத்துக்கு அருகில் இரண்டு வெட்டு வெட்டினார். கிருஷ்ணப்பா அருவாளுடன் வெங்கடேசை முகத்தில் வெட்டினார். அது வாயின் அடிப்பகுதியில் பட்டது.	20.06.2016 வெங்கடேசனின் பிரேதத்தை பார்த்தேனா என்றால் பார்த்தேன். அது எங்கு கிடந்தது என்றால் மருகநாதா ஸ்டோரில் கிடந்தது. எந்த திசையில் அது கிடந்தது என்று சொல்ல இயலுமா என்றால் சொல்ல இயலாது.
28.01.2008 சம்பவத்தில் அ.சா.1 திவாகருக்கு காயம் ஏற்பட்டது.	21.10.2009 திவாகருக்கு காயம் ஏற்பட்டதா என எனக்கு நினைவில்லை, சம்பவத்தில் எனக்கு காயம் எதுவும் ஏற்படவில்லை. 06.02.2008 சம்பவ இடத்தில் நான் இருக்கவில்லை அதானால்தான் எனக்கு எவ்வித காயமும் ஏற்படவில்லை என்றால் சரியல்ல



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Deposition of Chief Examination with date	Cross examination with date
28.01.2008 நானும் அ.சா.1ம், சந்திரப்பா, பதி, மணி, நாகராஜ், கங்கப்பா, சுப்பாராவ், ஆகியோர்கள் வெங்கடேசை ஆஸ்பத்திரிக்கு எடுத்துச்சென்றோம்,	20.06.2016 வெங்கடேசனுடன் நான் மருத்துவமனைக்கு சென்றேன் என்றால் அவரை சுமார் காலை 10.45 மணிக்கு மருத்ருவமனையில் சேர்த்தோம். வெங்கடேசனுக்கு காயம்பட்ட பின்னர் எத்தனை மணிக்கு தளியிலிருந்து கிளம்பினோம் என்றால் ரூபகமில்லை.
28.01.2008 திவாகருக்கு அவர் சட்டை முழுவதும் ரத்தம் படிந்திருந்தது.	21.10.2009 வெங்கடேசனை துக்கிச் சென்றதில் எனக்கு ரத்தம் பட்டதா என எனக்கு நினைவில்லை. காயம்பட்ட வெங்கடேசனை நானும் துக்கினேன். சம்பவத்தில் நான் வெங்கடேசனை துக்கி இருந்தால் என் உடைகளில் இரத்தம் படிந்திருக்கும் என்பதும் அதை நான் போலீசில் ஒப்படைத்திருப்பேன் என்பதும் சரியல்ல.
28.01.2008 இன்ஸ்பெக்டர் வந்து விசாரித்தார். திவாகரையும் விசாரித்தார். திவாகர் ஸ்டேட்மெண்ட் சொன்னார் அவர்கள் எழுதிக்கொண்டார்கள்.	21.10.2009 என்னை ஒரு ஆய்வாளர் விசாரித்தார். அவர் பெயர் நினைவில்லை. அன்று பகல் 11 மணிக்குப் பின் என்னை யாரும் இந்த வழக்கு பொருட்டு விசாரித்தார்களா என்று ரூபகம் இல்லை. 20.06.2016 இந்த வழக்கு விசயமாக எத்தனை மணிக்கு எந்த ஆய்வாளர் என்னை விசாரித்தார் என்றால் சரியாக ரூபகமில்லை, வெங்கடேசன் அண்ணன் சந்திரப்பாதான் முதன் முதலில் புகார் கொடுத்தார் என்றால் ரூபகமில்லை. சந்திரப்பா கொடுத்த புகாரை வேண்டுமென்று இந்த வழக்கில் மறைத்துள்ளார்கள் என்றால் ரூபகமில்லை. நான் மருத்துவமனைக்கு சென்ற நிலையில் என்னிடம் போலீசார் ஏதேனும் புகார் கொடுக்கச் சொன்னார்களா என்றால் நான் நடந்ததை சொன்னேன். முதன் முதலில் என்னிடம்தான் கேட்டார்களா என்றால் ரூபகமில்லை.
28.01.2008 எதிரிகளை சாட்சி நீதிமன்றத்தில் காட்டி 1.கிருஷ்ணப்பா, 2.பாச்கர், 3. நாராயணன், 4.பழனி,	20.06.2016 1 மற்றும் 3 எதிரிகளை சம்பவத்திற்கு முன்னர் எப்போது பார்த்தேன் எந்த தேதியில் பார்த்தேன் என்று சொல்ல



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Deposition of Chief Examination with date	Cross examination with date
5.நாகா, 6. சுப்பிரமணி அடுத்த நபர் பெயர் தெரியவில்லை..... மற்ற எதிரிகள் பெயர் தெரியவில்லை என்றும் அடையாளம் தெரியும் என்றும் மேற்சொன்ன நபர்கள்தான் சம்பவத்து அன்று இருந்ததாக சாட்சி கூறுகின்றார்.	இயலுமா என்றால் சொல்ல இயலாது. சம்பவத்திற்கு முன்பு 1 மற்றும் 3 எதிரிகள் பற்றி எனக்கு தெரியாது என்றால் சரிதான். எனவே அவர்களுடைய பெயர், ஊர், முகவரி பற்றி சம்பவத்திற்கு முன்பு எனக்கு தெரியாது என்றால் சரிதான். மீண்டும் சாட்சி யோசித்து சம்பவத்திற்கு முன்னர் எதிரிகளை பற்றி கேள்விப்பட்டிருக்கிறேன் என்றும் அவர்களைப் பார்த்திருக்கிறேன் என்றும் மீண்டும் கூறுகிறார். 21.10.2009 சம்பவ இடத்தில் நான் இல்லை என்பதால்தான் என்னிடம் கேட்கப்பட்ட கேள்விகளுக்கு நான் நனைவில்லை என்று சொல்கிறேன் என்பது சரியல்ல. 20.06.2016 மருத்துவரிடம் நடந்த விவரங்களைப் பற்றி எங்கள் தரப்பில் யார் சொன்னார்கள் என்று தெரியுமா என்றால் ரூபகமில்லை. மருத்துவமனையில் எத்தனை மணியிலிருந்து எத்தனை மணி வரை இருந்தேன் என்று சொல்ல முடியுமா என்றால் ரூபகமில்லை. நான் எத்தனை மணிக்கு தளிக்கு திரும்பி வந்தேன் என்று சொல்ல இயலுமா என்றால் சரியாக ரூபகமில்லை.

From the above spate of alleged contradictions, we could not find any material contradiction, which goes to the root of the matter. At the best, through this alleged contradictions, the appellant may challenge the presence of PW2. But in contrast, his presence at the scene of occurrence is proved beyond reasonable doubt through PW1's unchallenged evidence.

20. Further, it is pertinent to mention here that while the occurrence



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took place on 08.05.2002, Girish-PW2 was examined in Chief on 28.02.2008, after a period of 6 years, and the so called contradictions, most of which was during the cross examination dated 20.02.2016, after a lapse of 14 years from the date of occurrence. Those contradictions do not affect the credibility of PW2's evidence, since they are not material contradictions. Further, the long delay of 14 years for cross examination, from the date of occurrence, and 8 years after the examination in chief would also dilute the rigour of these contradictions, as we cannot expect a witness to remember the events perpetually with all its precious and minute details. Hence, we are of the firm view that these alleged contradictions will in no way cause any dent in the prosecution case.

21. Similarly, Madhesh [PW3] has also reiterated the involvement of Palani [A4] and the present appellants. Likewise, Muniraj [PW4] had spoken about the presence of PW1-Diwakar, PW8-Mani and PW13-Pathi at the scene of occurrence, though he turned hostile. He also deposed about the explosion of bomb and the nature of occurrence, but had not identified the assailants.

22. Similarly, Chandrappa [PW5], who turned hostile, has again reiterated the presence of PW1-Diwakar, PW6-Subbarao, PW8-Mani and PW4-Muniraj.



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23. Here, Mani [PW8] supported the prosecution's case and deposed before the Court that one Mr.Palani [deceased] hurled a bomb on the deceased, after which, one Krishnappa [A1], Nagan @ Nagappa Devarpatta [A6] and Narayanan @ Narayanappa [A3] along with other unidentifiable persons, arrived at the scene of occurrence, wherein Nagan @ Nagappa Devarpatta [A6] had assaulted the deceased with a sickle. However, the evidence of PW8 was challenged on the ground that his statement under Section 161 Cr.P.C reached the Court on 26.08.2002 after a lapse of 100 days. No doubt, his 161 Cr.P.C statement reached the Court with certain delay, but the fact remains that his presence at the scene of occurrence was proved through PW1's unchallenged testimony. But, we are only relying his [PW8] evidence for the purpose of corroboration, as he spoke about the nature and proclivity of the occurrence and the respective accused's overtact, which tallies with PW2-Girish evidence. In such view of the matter, a delay in sending the 161 Cr.P.C statement can only be construed as defective investigation, which has no force to impede the strength of the PW8's evidence.

24. It is equally pertinent to mention here that PW8-Mani was examined in chief during 2008, after a lapse of 6 years from the date of



occurrence. Thereafter, he was cross examined on 05.10.2009 and 20.06.2016 almost after a period of 7 years, and 14 years respectively from the date of occurrence. In spite of such long delay, the defence could not shatter his credibility through their cross examination.

25. The learned counsel for the Accused 1 and 3 has also culled out certain alleged contradiction of other witnesses. But, we are of the firm view that those contradictions are not on the material particulars. As such, we do not want to burden this judgment by extracting those alleged contradictions.

26. Similarly, PW6-Subbarao had also spoken about the involvement of one Palani [A4] and the presence of appellants. From our above discussions, it is amply clear that the presence of the eyewitnesses, more particularly PW2 and PW8, was not under challenge. Further, we could not find any ground to disbelieve their versions and their evidences are cogent and to the point. Apart from that, the charges, though not specifically framed along with Section 149 IPC against A1, A6 & A14, on a wholesome reading of the charges covertly and overtly indicates the ingredients of Section 149 IPC. As such, even if there were any contradictions in respect of specific overtact of these accused, the fact remains that their presence at the scene of occurrence and their common object to do away the deceased was



unequivocally established through the eyewitness account, qua PW2-Girish, PW3-Madhesh, PW6-Subbarao and PW8-Mani.

27. At this juncture, the learned counsel for the accused 1 and 3, would rely upon the judgment of Hon'ble Supreme Court in **Chilamakur Nagireddy's** case [cited supra] and contend that when there are no evidence as to the nature of injury inflicted by the individual accused and when the opinion of the Doctor is based upon the cumulative effect of all the injuries, imposing a punishment under Section 326 IPC is proper course, instead under Section 302 IPC. But, on a close reading of the above precedent, the accused have charged under Section 302 simplicitor, but, in the case in hand, the 3rd accused were charged under Section 302 r/w 149 IPC, and the charges framed against the other accused overwhelmingly have the ingredients of Section 149 IPC, which would also make them vicariously liable even if the injury caused by the respective accused is not sufficient to cause death.

28. The learned counsel has also relied upon other judgments of the Hon'ble Supreme Court in **K.A.Kotrappa Reddy's** case [cited supra] and **Noorahammad's** case [cited supra]. Those cases which arose against the order of acquittal, deals about the trustworthiness of the eyewitnesses. In the



case on hand, as we already discussed, the presence of the eyewitnesses is unchallenged and they had categorically spoken about the involvement of these appellants and one Palani and their evidences were sufficiently corroborated by other witnesses. Therefore, we do not find any ground to apply the above ratio.

29. The learned counsel has also relied upon yet another judgment of the Hon'ble Supreme Court reported in **Kanan's** case [cited supra], and would contend that the reliance of identification of a person for the first time before Court, would become highly dangerous to lay conviction. However, the facts of the reported case is altogether different from the case on hand. In the reported judgment, the Court was of the view that the witness, who identifies the accused has no previous acquaintance with the accused. It is in that background, his evidence was not relied. But, in the case in hand, the witnesses and the accused were known to each other. Hence, this Court does not find any infirmity in placing reliance on the evidence of the eyewitness regarding the identity of the accused.

30. In addition to the above judgments, the learned counsel appearing for the 14th accused has also relied upon the judgements of the Hon'ble Supreme Court in **Suresh Chaudhary's** case [cited supra] and **Wazir Khan's**



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case [cited supra] and would contend that the absence of any material in the Doctor's [PW34] evidence about the use of explosion, would lead to a reasonable doubt in the prosecution's case. As already stated, the explosion of bomb has been proved to it's hilt through the eyewitnesses. It is pertinent to mention here that the evidence of experts viz., PW41 to PW44 would also support the case of the prosecution about the use of explosion. If at all there could be any dispute, it may be only as to who caused the explosion? Here, in our case, such factum was proved by the prosecution beyond all reasonable doubts. Therefore, the above cited case laws, have no application to the facts of the case in hand.

31. In view of our above detailed discussions, we can safely conclude that the Trial Court considered the evidence and documents in it's right perspective and has arrived at a right conclusion. Further, the appellants could not make out any ground to deviate from the finding of the Trial Court. Thus, we do not find any justifiable grounds to interfere with the order of the Trial Court, and as a concomitant, these appeals are liable to be dismissed.

32. Accordingly, all the Criminal Appeals are dismissed. The judgments dated 26.03.2019 passed in S.C.Nos.7 of 2007 and 4 of 2005 by the Special Court for Bomb Blast Cases, Chennai at Poonamallee are hereby



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confirmed. The trial Court is directed to secure the custody of the appellants/accused to undergo the remaining period of sentence, if any. Consequently, connected CMPs are also closed.

[M.S.R., J.] [C.K., J.]
19.02.2025

Index: Yes

Speaking order

Neutral Citation: Yes
kmi

To

1. The Sessions Judge,
Sessions Court for Exclusive Trial of Bomb Blast Cases,
Poonamallee, Chennai.
2. The Inspector of Police,
Denkanikottai Circle, Thali Police Station,
Krishnagiri District.
3. The Public Prosecutor,
High Court, Chennai-104.



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M.S.RAMESH, J.
and
C.KUMARAPPAN, J.

kmi

Pre-delivery judgment made in
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19.02.2025