



WEB COPY



Crl.A.No.638 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2026

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.638 of 2016

Ramesh Babu

... Appellant

Vs.

1.Krishnaveni

2.Viswanathan

3.Thulasimani

... Respondents

Prayer: Criminal Appeal filed under Section 378(2) of Cr.P.C., to set aside the judgment of acquittal dated 13.04.2026 made in C.C.No.1 of 2011 on the file of District Munsif cum Judicial Magistrate, Kodumudi, Erode District and to convict the respondents.

For Appellant : Mr.M.Vignesh
for Mr.C.S.Saravanan

For Respondents : Mr.M.Ganesh
for Mr.N.Manokaran



CrI.A.No.638 of 2016

JUDGMENT

WEB COPY

The appellant as complainant filed a private complaint against the respondents in C.C.No.1 of 2011. The Trial Court by judgment dated 13.04.2026 dismissed the complaint. Against which, the present appeal is filed.

2.The gist of the complaint is that the second respondent is the maternal uncle of the complainant. The first and second respondent are husband and wife. The third respondent is the mother of the first respondent. The complainant's grandfather Ramasamy Gounder had three children, namely, second respondent, complainant's mother Kamalaveni and his aunt Parvathi. During the lifetime of his grandfather he partitioned his properties in two halves, one half given to second respondent and the other half retained by his grandfather. After the marriage of the second respondent with the first respondent, the demand for more properties was made by the second respondent and the complainant's grandfather was harassed, abused and not allowed to carry on with his cultivation work in his agricultural lands. Civil suit in O.S.No.62 of 2005 was filed before II Additional Sub



Crl.A.No.638 of 2016

Court, Erode seeking injunction against the respondents. Further, his grandfather and grandmother was assaulted and a case registered by Malayampalayam Police in Crime No.143 of 2005. The complainant's grandfather passed away on 09.09.2008. Prior to it, his grandmother passed away and thereafter it was only the complainant's mother who was staying along with him and taking care of Ramasamy Gounder. This being so, on 26.12.2008, the complainant's mother passed away. Thereafter, last rites were conducted in the native at Chinniyampalayam. On 31.01.2009, the complainant sent two of his employees, Sumathi and Dandayee to clean the house and to keep it in order. Both went there, at that time, the respondents restrained them and not allowed them to enter the house and they were also threatened. This was informed to the complainant, who came there in a Scooter at about 3.00 pm to find out the reason. As he entered the house, the first respondent flinched a knife which was warded using his hands and he sustained cut injury on his right forehead but for his timely alertness, the attack would have been on his neck and he would have died, the second respondent attacked him using a log on his head and all over his body. The third respondent used a bamboo stick and assaulted the complainant badly. The employees of the complainant, namely PW2 and PW3 were witnesses to



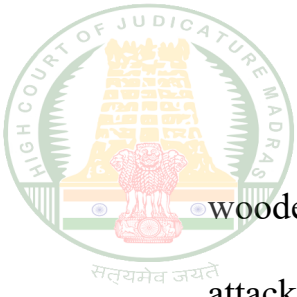
WEB COPY

the incident and they attempted to save him. Later, alarm was raised and neighbours came there and the respondents left the place threatening that today complainant escaped but his life will be taken away. The complainant sustained serious cut blood injuries. The complainant was taken to Hospital and PW6 gave treatment. PW4 is a neighbour who on hearing the noise of commotion had come there, saw the complainant with blood injuries. PW5, another neighbour who came there after the incident. Before the Trial Court, PW1 to PW6 examined and Ex.P1 to Ex.P15 marked. PW1 to PW3 deposed about the assault made by the respondents using aruval, stick and wooden log. PW1 is the injured witness who was immediately taken to the hospital, PW6 is the Doctor who gave treatment to the complainant, PW4 and PW5 are the neighbours who were present at the time of the occurrence. Thus the complainant proved the case beyond all reasonable doubt against the respondents, but the Trial Court on extraneous consideration referring to the closure of earlier case with regard to property dispute and civil suit, disbelieving the evidence, dismissing the complaint and acquitting the respondents is not proper. Hence the above appeal is filed.



WEB COPY

3.The learned counsel for the appellant admitted that the relationship between the appellant and the respondents is not in dispute and the partition of the property is also not in dispute. During the lifetime of the complainant's grandfather Ramasamy Gounder he partitioned the property into two halves, one half retained by him and another half given to the second respondent. The second respondent, not satisfied, along with his wife and mother-in-law started giving trouble to his grandfather and grandmother when they were alive and further not allowed the grandfather to continue his cultivation. Hence civil suit filed in O.S.No.62 of 2005 before the II Additional Sub Court, Erode and got favourable injunction. After the demise of complainant's grandmother, the complainant's mother shifted and was residing with her father in their native village. After demise of her father, she continued to stay there and after her death on 26.12.2008, her last rites held in the native place Chinayapalayam. On 31.01.2009 the complainant sent two of his employees PW2 and PW3 to clean the house and restore the house, they were restrained and complainant was informed. Immediately complainant went there, at that time, A1 flunge aruval at him, the second respondent used a wooden log and the third respondent used a



WEB COPY

wooden stick, assaulted him and they used threatening abusive words and attacked him mercilessly, but for the alarm raised by PW2 and PW3 and the rushing of the neighbours and timely medical treatment, saved him. PW6/Doctor confirms the complainant/appellant taking treatment in the Hospital immediately after the attack. In the Accident Register/Ex.P15, the assault by three known persons using aruval, wooden log and stick recorded. Further, the complainant sustaining 7cm cut injury on his right forehead and bruises, are recorded in the Accident Register. The Trial Court discarded the medical evidence for the reason the complainant left the hospital without information. In this case PW4 and PW5 neighbours and independent witnesses. PW4 had seen the complainant with cut injuries in the scene of occurrence and PW5 came there and saw appellant rushing to the hospital. The Trial Court discarding the evidence of PW2 and PW3 since they are employees and interested witnesses is not proper. The pendency of the civil suit and about referring to closure report in Crime No.29 of 2009 and giving its own interpretation that only landed properties partitioned and not the house and thereby disbelieving the evidence of the witnesses and dismissing the complaint is not proper.



WEB COPY

4.The learned counsel for the respondents submitted that the Trial Court on the analysis of the evidence and materials by a well reasoned judgment dismissed the complaint and discharged the respondents. In this case, for the same occurrence, earlier a complaint was lodged and a case in Crime No.29 of 2009 registered by Malayampalam Police and the case was closed as mistake of fact in RCS.No.11/2009 and the same has not been challenged. Unless the closure report is set aside or protest petition filed and objected for closure of case, second complaint cannot be filed on the same set of facts. He would submit that in this case, PW1 is the complainant, PW2 and PW3 are his long term employees, working under him for more than 12 years and under the tutelage of the complainant had deposed falsehood. PW4 and PW5 neighbours admittedly not seen the occurrence. He further submitted that PW6 Doctor confirms that the complainant took first aid treatment and thereafter he left without information, there is no wound certificate in this case. He further submitted that the complainant marked 14 documents, of which Ex.P9 is the FIR in Crime No.29 of 2009. Ex.P10 is the closure report, Ex.P11 is the rough sketch, Ex.P12 is the observation mahazar and Ex.P13 is the statement of witnesses, examined in



Crime No.29 of 2009. In Ex.P11 and Ex.P12, it is recorded that the house belongs to the second respondent and further the scene of occurrence is shown to be the bedroom of the first respondent. Even according to the complainant, he states that the properties of Ramasamy Gounder was divided during his lifetime into two halves, one half retained by Ramasamy Gounder and the other half was settled favouring second respondent. The complainant's grandfather Ramasamy Gounder further divided and settled to his two daughters equally including the petitioner's mother. Nowhere the house was divided and settled and settlement was only for the agricultural land. Even in the civil suit, there is no reference about the house. There is no proof to show that the complainant's mother was residing in the house. Thus, to somehow create a right over the said house. The Malayapalayam Police closed the case in Crime No.29 of 2009 as mistake of fact. The Trial Court on the evidence and materials had rightly found that the appellant/complainant failed to prove the case beyond reasonable doubt and dismissed the complaint. Hence, prayed for dismissal of the appeal.

5.Considering the submissions made and on perusal of the materials, it



is not in dispute that the second respondent is the maternal uncle of the appellant, the first respondent and second respondent are husband and wife, the third respondent is the mother of the first respondent. The appellant's grandfather, Ramsamy Gounder died on 09.09.2008 and prior to it, his grandmother passed away. Though it has been projected that the appellant's mother was staying along with complainant's grandfather till his death, but no proof produced. On the other hand, the respondents residing in the said address is confirmed by the statement of witnesses who were examined in Crime No.29 of 2009 and Ex.P11/rough sketch and Ex.P12/observation mahazar prove the same. It is the appellant who attempted to enter the dwelling house of respondents by trespass. Being an aggressor and the reason for the commotion cannot later made a turn around and make allegations that the respondents attacked him when he was entering the house of his mother. The Trial Court considering the evidences and materials had rightly dismissed the appeal by a well reasoned judgment, which needs no interference.

6.In view of the above, this Court finds that the appellant failed to prove his case beyond all reasonable doubt. The Hon'ble Apex Court and



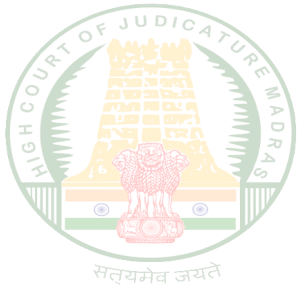
Crl.A.No.638 of 2016

this Court consistently held that a judgment of acquittal cannot be reversed merely because of alternate view is possible. The Appellate Court should not interfere with the acquittal unless there is perversity or wrong appreciation of facts. In this case, there is no perversity or wrong reading of evidence which requires interference.

7.In the result, this Criminal Appeal stands dismissed and the judgment of acquittal dated 13.04.2026 in C.C.No.1 of 2011 passed by the learned District Munsif cum Judicial Magistrate, Kodumudi, Erode District is hereby affirmed.

22.07.2026

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
cse



WEB COPY



CrI.A.No.638 of 2016

To

The District Munsif cum Judicial Magistrate,
Kodumudi,
Erode District.



WEB COPY



Crl.A.No.638 of 2016

M.NIRMAL KUMAR, J.

cse

Crl.A.No.638 of 2016

22.07.2026