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Crl.A.No.897 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2026

CORAM :

The Hon'ble Mr.JUSTICE N.SATHISH KUMAR
and
The Hon'ble Mr.Justice K.RAJASEKAR

Criminal Appeal No.897 of 2019

1.Chinnasamy
2.Govindammal
3.Ranjith
4.Vasanth

.. Appellants

Vs.

State by Inspector of Police,
Kambainallur Police Station,
Dharmapuri District.
Crime No.278 of 2012.

.. Respondent

This Criminal appeal has been filed under Section 374(2) Cr.P.C. seeking to set aside the conviction imposed in judgment dated 12.11.2019 made in S.C.No.48 of 2014 on the file of the learned Additional Sessions Judge, Dharmapuri by allowing this criminal appeal and thus render justice.

For Appellants : Mr.V.Rajmohan
For Respondent : Mr.M.Mohamed Riyaz,
Government Advocate (Criminal side)

JUDGEMENT

(Judgment of the Court was made by **N.SATHISH KUMAR, J.**)

Aggrieved over the judgment of conviction and sentence, dated

, all the four accused have



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preferred this criminal appeal. The appellants/accused were convicted and sentenced by the trial Court as follows :

<i>Accused</i>	<i>Conviction</i>	<i>Sentence</i>
A1	Section 302 of IPC	Each to undergo life imprisonment with fine of Rs.5000/- in default to undergo 1 year simple imprisonment for the offence
A2 to A4	Sections 302 read with 34 of IPC	Each to undergo life imprisonment with fine of Rs.5000/- in default to undergo 1 year simple imprisonment
These sentences were ordered to run concurrently		

2.The brief facts of the prosecution case is as follows:

2.1. A1 and A2 are husband and wife. A3 and A4 are their sons. PW1 and PW2 are brothers, PW3 is the cousin of PW1, PW2 and PW6. PW16 is the wife of the deceased. PW20 is one of the eye witnesses/relative of injured. The deceased Akkumari is the brother of PW1 and PW2. It is the case of the prosecution that on 12.08.2012 from the morning itself, the accused created commotion in the village and fought with the deceased family and though they had pacified, they continued to involve in the altercation. PW1, after receipt of information about the activity of the accused reached the village and he also called A3 and informed as to why they are involving in such activity since the marriage of PW3's daughter is scheduled to be performed in three days. At that time, A4 suddenly brought a knife. PW3 and PW3's wife caught hold of the knife and took the A4 on other side and they tried to remove



the knife from A4 & at the time, A3 suddenly came with knife and stabbed the PW1 on the right shoulder. On hearing the sound of PW1, deceased and other villagers rushed to the spot including PW16 and PW20, at the time, A1 stabbed the deceased on the chest. A2 also carried knife and in the commotion, PW20 also received a stab injury. Immediately, PW1, deceased and injured were taken to the Government Hospital, Dharmapuri.

2.2. PW17 recorded the statement from PW1 under Ex.P1 and registered FIR in Cr.No.278 of 2012 under Sections 324, 302 of IPC and 3(2)(1) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 under Ex.P16 and forwarded the copy to the Court and higher officials for investigation. PW18 took up the investigation and went to the place of occurrence by 6 am on 13.08.2012 and prepared observation mahazar under Ex.P2, rough sketch under Ex.P17 and conduct inquest over the dead body and prepared inquest report under Ex.P18 and also made a requisition to the Medical Officer to conduct autopsy under requisition letter under Ex.P11. PW13/Medical Officer conducted postmortem and found the following injuries (Translated from the evidence):-

External injury

1) A cut injury measuring approximately 3x2, extending to a depth sufficient to expose the bone was found



on the right side of the chest. The cut injury was located at the 5th rib.

2. The 5th and 6th ribs on the right side of the chest were found fractured. The larynx was found to be in a good condition.

Internal injury

1) The right lung was found lacerated and it was found pale on the cross cut section.

2) Approximately 1 liter of blood in coagulated state was found inside the thoracic cavity.

3) The chambers of the heart were found empty.

4) Approximately 50 ml of clotted blood was found in the stomach

and issued Ex.P12 opining that the deceased died due to shock and hemorrhage between 12 to 24 hours prior to autopsy. PW14/Medical Officer attached to the Dharmapuri Government Hospital deposed in that regard on 12.08.2012 at 9.40 pm, PW20 was brought to the hospital and he has stated that at about 9.15 pm, he was attacked by three known persons. PW14 noted the following injuries on PW20:

4x3x3 laceration on the left side chest and issued Ex.P13

Similarly, PW1 was brought to the hospital and he also informed that he was attacked by three known persons and found the following the following injuries on PW1:-

3x3x2cm laceration on the right forearm and on x-ray, it was found that the injury is only simple in nature. In this regard, he has issued Ex.P14.

2.3. PW15 also examined PW20 and found that he was already



treated in the Government Hospital, Dharmapuri and suture was done on the left side of chest. In this regard, he has issued Ex.P15. PW16/wife of the deceased deposed that she was also present in the Village. According to her, there was commotion in the village from the morning and in the evening, A1 stabbed her husband and A3 also stabbed PW20. PW18 in continuation of the investigation examined the witnesses recorded their statement deleted the 5th accused from the array of the accused and removed the charges under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and filed alteration report under Ex.P19 and handed over the case file to PW19.

2.4. PW19 took up the further investigation and on 15.08.2012 arrested A2 to A4 in the presence of PW10 and recorded their confession. The admitted portion of their confession are Ex.P3 to P5 respectively and recovered M.O.1 to M.O.3 under recovery mahazar under Exs.P7, 6 & 8 respectively and forwarded the material objects to the Court. Later on 17.08.2012, he arrested the A1 in the presence of PW11 and recorded the admitted portion of confession under Ex.P9. Thereafter, PW21 took up the investigation and after verifying the CD files finally laid the final report against the accused under sections 302 read with 34 of IPC.



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Charges against the accused :

2.6. The trial Court framed the following charges against the accused:

<i>Accused</i>	<i>Charges</i>
A1	Sections 302 & 307 of IPC
A2 to A4	Section 302 read with 34 of IPC

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2.8. On completion of the evidence on the side of the prosecution, the accused were questioned under section 313 Cr.P.C. as to the incriminating circumstances found against them in the evidence adduced by the prosecution witnesses. They denied all the incriminating circumstances as false. On the side of the defence, no evidence was recorded, however,

2.9. The trial Court, after appreciating the oral and documentary

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evidence and materials on record, by judgment dated 12.09.2019, found all the accused guilty of the offences and convicted and sentenced them to undergo imprisonment as stated above. Challenging the same, the present criminal appeal has been preferred.

3. The learned counsel for the appellants submitted that the entire case is shrouded with serious doubt. Admittedly, A1 to A3 were severely injured on the same day, in respect of which a counter case has been filed against the PW1, PW4 and the deceased under Ex.D1. The Investigating Officer has not even investigated the counter case; in fact, PW18 has commenced the investigation at the initial stage, however, he does not even know the nature of the counter-case pending against PW1, PW4 and deceased. The prosecution has suppressed one version of the case and projected only the version of its own witnesses. The eye witnesses' version clearly shows that there was commotion and altercation throughout the day from the morning onwards, and there was no reason as to why no complaint whatsoever was lodged at an earlier point of time.

4. Furthermore, the alleged occurrence took place during night hours, the witnesses projected as if there was no injury whatsoever caused on the accused. Hence, their entire evidence is highly interested and creates serious doubt. The Investigating Officer failed to investigate both the case and the counter-case and the Police Standing Order 566 has not



been followed. Therefore, the prosecution's version is shrouded with serious doubt; only one version has been projected by the prosecution, and the entire occurrence has not been placed on record. Hence, seeks for allowing this criminal appeal.

5. Mr.M.Mohamed Riyaz, learned Government Advocate (Crl.Side) submitted that the eye witnesses/PW1 and PW20 are also injured and PW2, PW3, PW4 & PW16 have spoken about the presence of the accused and the role played by each of the accused. Hence, submitted that merely because the FIR has been filed against the injured and deceased, that cannot be a ground to disbelieve the entire prosecution. Hence, seeks for dismissal of this criminal appeal.

6. Heard both sides and perused the entire materials placed on record.

7. PW1 and PW20 are said to be injured witnesses. According to PW1, there was commotion in village from the morning, and the accused party had been threatening his brother and family members from the morning itself. In the evening, when the PW1 came to Village and asked A4 as to why they were involved in such activity, since the marriage of PW3's daughter was scheduled three days later. While he was interacting with A3, A4 came with knife to attack them. Immediately, PW1, PW3 and PW3's wife caught hold of A4 and tried to snatch the knife from A4,



however, A3 stabbed the PW1 on the right shoulder; in fact, the knife had pierced his shoulder and had come outside. PW20, upon hearing the sound and about the stabbing of his uncle/deceased, rushed to the spot, at that time, he was also stabbed by A1. Thereafter, they all went to the Hospital. However, PW20's evidence does not show the presence of A2 to A4 at the relevant point of time. According to PW1 to PW3, all the accused were present in the place of occurrence carrying the knives, whereas, PW20 evidence indicate that he has immediately rushed to the spot and did not see the presence of A2 to A4.

10. Further, it is to be noted that it is the specific case of the PW1 that A3 stabbed his right shoulder, as a result of which the knife pierced through and came out on the other side. This version of PW1 is supported by PW2. Whereas, PW3 stated that A3 has stabbed PW1 on the left side. The evidence of PW3 is totally contradictory with the evidence of PW1 and PW2. Be that as it may, when the evidence of PW1 and PW2 seen in the light of the medical evidence, PW14, the Medical Officer who has seen PW1 on the same day at 9.40 pm and found only 3x3x2 cm laceration on the right forehead and the opined that the said injury was simple in nature and there was no fracture whatsoever. This evidence, in fact, creates serious doubt about the PW1 and PW2 version that PW1



sustained injury on the right shoulder, whereas, PW3 would submit that injury was on the left hand. This fact creates serious doubt.

11. Be that as it may, before the Medical Officer, PW1 has stated that occurrence took place in 9.15 pm and that only three known persons attacked him, whereas, in the complaint, he has named 5 persons as accused. In his cross examination, he has clearly admitted that only after agitation and road roko organised by PW1, since, he also belonged to one of the political party, FIR came to be filed later.

12. Though, the entire evidence indicates that there was commotion from the morning, there was no explanation as to why complaint was not given to the police station with regard to several incidents said to have taken place from the morning itself in the village. Except close relatives, none of the witnesses have supported the version of the prosecution. It is further to be noted that witnesses parrot like version projected as if there was single occurrence on the day and that after stabbing the witnesses and deceased, the accused ran away from the place of occurrence but the fact remains that a series of incidents appear to have taken place and the accused had also sustained severe head injury.

13. Ex.D1 series clearly shows that for the same incident, an FIR was also lodged against the deceased, PW1 and PW4 by the A1 and others. The FIR also clearly shows that A1, A3 and A4 were severely

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injured; and PW1 and others were booked for the offences under Sections 147, 148, 324, 323 and 307 of IPC. PW18, who conducted the investigation has not even made an attempt to find out which side of the parties are aggressor. It is also relevant to note that even assuming that in this type of nature, it is difficult to find out who are the aggressors, in such case, proper method for the Investigating Officer to conduct the investigation simultaneously by same Investigating Officer and in the event, he is not in a position to arrive at conclusion who are the aggressors ought to have filed final report in both cases for trial before the same court. Whereas, in this case, admittedly the counter-case was suppressed and the Investigating Officer did not even make an attempt to find out what are the nature of the injuries sustained by the accused. In fact, he feigned ignorance about the counter-case during the cross examination. This fact clearly show only one version alone has been projected by the prosecution while the other version is totally suppressed. Further, injuries sustained by the accused is also suppressed and not explained and there was head injury also. The parrot like version of the witnesses projecting the single transaction and suppressing all the series of transactions from the morning also creates serious doubt.

14. It is well settled that when there are rival versions of two incidents, the Investigating Officer ought to have followed the procedure

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as under PSO 566. The Hon'ble Supreme Court in the case of *Nathi Lal* vs. *State of U.P.* (1990 Supp SCC 145) has held as follows:-

"We think that the fair procedure to adopt in a matter like the present where there are cross cases, is to direct that the same learned judge must try both the cross cases one after the other. After the recording of evidence in one case is completed, he must hear the arguments but he must reserve the judgment. Thereafter he must proceed to hear the cross case and after recording all the evidence he must hear the arguments but reserve the judgment in that case. The same learned judge must thereafter dispose of the matters by two separate judgments. In deciding each of the cases, he can rely only on the evidence recorded in that particular case. The evidence recorded in the cross case cannot be looked into. Nor can the judge be influenced by whatever is argued in the cross case. Each case must be decided on the basis of the evidence which has been placed on record in that particular case without being influenced in any manner by the evidence or arguments urged in the cross case. But, both the judgments must be pronounced by the same learned Judge one after the other."

15. Since one version is totally suppressed and even the trial has not conducted simultaneously in a case and in a case-in-counter and the Investigation Officer has not followed the procedure as per PSO 506 as well as the guidelines issued by the Hon'ble Supreme Court in the case of *Nathi Lal* (supra), it is very unsafe to rely upon the prosecution to convict the accused and hence, we are inclined to extend the benefit of doubt to all the accused/appellants.

16. Accordingly, this criminal appeal is allowed and the judgment of the trial Court dated 12.11.2019 made in S.C.No.48 of 2014 is set aside



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and all the accused/appellants herein are acquitted of the charges levelled against them. Fine amount, if any, paid by the appellants, shall be refunded to them. Bail bonds executed by the appellants shall stand discharged.

(N.S.K., J.) (K.R.S., J.)
19.08.2026

Index : Yes / No
Speaking Order /Non speaking order
Neutral Citation : Yes /No

To

1.The Additional Sessions Judge,
Dharmapuri

2.The Inspector of Police,
Mecheri Police Station,
Salem District.

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

N.SATHISH KUMAR, J.
and



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