



Crl.A.(MD) Nos.186 and 201 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 30.01.2026

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CORAM:

**THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN
and
THE HONOURABLE MS.JUSTICE R.POORNIMA**

Crl.A.(MD) Nos.186 and 201 of 2023

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Muniyammal

... Appellant

-VS-

1. The Assistant Commissioner of Police
Anna Nagar (Law and Order Circle)
Madurai City,
Anna Nagar Police Station
Madurai District

2. Pandi
(Suo motu impleaded as per the order of this
Court dated 29.08.2023)

... Respondents

Criminal appeal filed under Section 374(2) of Cr.P.C., to call for the entire records connected to the judgment in Spl.S.C.No.24 of 2018 on the file of the III Additional District and Sessions Court (PCR)Madurai dated 03.02.2023 and set aside the conviction and sentence imposed against the appellant.

For Appellant	: Mr.R.Manikkaraj for Dr.R.Alagumani
For R-1	: Mr.T.Senthil Kumar Additional Public Prosecutor
For R-2	: Mr. Sugadev



Crl.A.(MD) Nos.201 of 2023

Irulandi

... Appellant

-vs-

1. The Assistant Commissioner of Police
Anna Nagar (Law and Order Circle)
Madurai City,
Anna Nagar Police Station
Madurai District

2. Pandi
(Suo motu impleaded as per the order of this
Court dated 30.11.2023)

... Respondents

Criminal appeal filed under Section 374(2) of Cr.P.C., to call for the entire records connected to the judgment in Spl.S.C.No.24 of 2018 on the file of the III Additional District and Sessions Court (PCR)Madurai dated 03.02.2023 and set aside the conviction and sentence imposed against the appellant.

For Appellant	: Mr.R.Manikkaraj for Dr.R.Alagumani
For R-1	: Mr.T.Senthil Kumar Additional Public Prosecutor
For R-2	: Mr. Sugadev

J U D G M E N T

G.K.ILANTHIRAIYAN, J.,

Challenging the conviction and sentence rendered by the III Additional District and Sessions Court (PCR)Madurai dated 03.02.2023, the present criminal appeals have been filed by the appellants.



2. The trial Court has convicted the accused as follows:

Penal Provisions	Sentence of Imprisonment	Fine Amount
3(1)(s) of SC/ ST (PoA) Act r/w. 34 of IPC	Five years Rigorous imprisonment	Rs.500/- i/d to under go six months simple imprisonment
307 of IPC r/w.34 of IPC r/w.3(2) (v) of SC/ ST (PoA) Act	Ten years Rigorous imprisonment	Rs.1,000/- i/d to under go six months simple imprisonment
302 r/w.34 of IPC r/w. Section 3(2) (v) of SC/ST(PoA) Act	Life Imprisonment	Rs.2,000/- i/d to under go one year simple imprisonment

3. The case of the prosecution is that the deceased and the injured belongs to the Scheduled caste/Scheduled Tribe community and they were living in the house owned by the P.W.6. In the same road opposite to their house the accused were living in the first floor. They belong to other community. While being so, the first accused, while he was going to his house, very often used to knock the house door of the deceased and as such there was previous enmity between them. The accused also used to scold them in filthy language by using their caste name. On the date of occurrence, while he was on the way to his house, knocked the house door of the deceased. While, P.W.1 opened the door, the first



accused assaulted him by using his hook which he uses for lifting bundle of bags. Immediately after hearing the noise, the deceased came out of the kitchen and prevented the first accused, for which she was also assaulted with the same hook indiscriminately.

4. At this juncture the second accused came to their house and assaulted both the deceased and P.W.1 with wooden log. They also scolded them with filthy language by using their caste name. Due to the assault both the deceased and P.W.1 sustained grievous injuries and they got fainted. Thereafter P.W.1 went to the house of P.W.3 who is none other than his and the deceased's son who is residing at a close distance and informed the occurrence. Thereafter PW.3 and other relatives came to the place of occurrence and took P.W.1 and the deceased to the hospital. Next day morning i.e. 26.11.2017 the police came to the hospital, recorded the statements from P.W.1 and registered the First Information Report in Crime No.2039 of 2017 for the offences under Sections 323,307 of IPC and Sections 3(2)(va), 3(1)(r) and 3(1)(s) of SC/ST Act. After the death of the deceased the case was altered to offences under Sections 323,307,302 of IPC and Section 3(2)(va),3(1)(r), 3(1)(s) of SC/ST(PoA)Act.



5. After completion of investigation the respondent police filed final report before the III Additional District and Sessions Court (PCR)Madurai and the same was taken on file in Spl.S.C.No.24 of 2018.

6. In order to substantiate the case of the prosecution, the prosecution examined 19 witnesses as P.W.1 to P.W.19, and 26 exhibits were marked as Ex.P.1 to Ex.P.26 and six material objects as M.O.1 to M.O.6.

7. After examination of the prosecution witnesses, when the appellants were questioned under Section 313 of the Code of Criminal Procedure on the incriminating circumstances appearing against them, they denied the charges as false. No witness was examined on the side of the accused, nor was any document marked.

8. The trial Court, after considering the evidence on record and hearing both sides, by judgment dated 03.02.2023, convicted the appellants and sentenced them as detailed in Paragraph No.2 supra. Challenging the above-said conviction and sentence, both the accused have filed separate appeals.



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9. The learned counsel appearing for the appellants would submit that the alleged occurrence took place on 25.11.2017 at about 8.30 pm. The prosecution relied upon the sole eye witness for the entire case to prove the charges. According him the occurrence took place at about 8.30pm.,on 25.11.2017 and both got fainted. After one hour P.W. 1 woke up , went to the house of P.W.3 and informed to him about the occurrence. Immediately P.W.3 took P.W.2 to their house and called an ambulance and both P.W.1 and the deceased were taken to the hospital. The doctor who attended both the injured and the deceased recorded accident register which were marked as Ex.P.12 and Ex.P.13. The doctor recorded that both the deceased and P.W.1 came to the hospital at about 10.25p.m., and 10.33 pm., respectively. It was stated that two known persons assaulted them at about 5.00 pm., that too with a knife. Immediately the occurrence was informed to the police by the hospital authorities and on receipt of the same the Sub Inspector of Police came to the hospital and at that time the deceased and P.W.1 were unconscious, hence he was unable to record their statements. The next day, on 26.11.2017 in the morning, once again he visited the hospital and recorded the statements from the injured and registered the First



Information Report at about 8.20 a.m., however the said First Information Report reached the Court only at about 11.45 pm., The jurisdictional magistrate court is very close to the police station. There is absolutely no explanation by the prosecution for the said delay in lodging the complaint as well as the delay in sending the First Information Report reaching the Court. Once the registration of the First Information Report itself goes, the entire genesis of the prosecution case is vitiated.

10. The Sub Inspector of Police who registered the First Information Report is examined as P.W.18. According to him, he received the information from the hospital on the next day morning and went to the hospital. According to P.W.1, the occurrence took place at 8.30 a.m., and thereafter he fainted along with the deceased. He informed P.W.3 at around 11.00 p.m., and only thereafter both were taken to hospital

11. The doctor who recorded the accident register deposed as P.W. 17. He categorically deposed that P.W.1 was very conscious at the time of admitting him in the hospital and the accident register was recorded



at about 10.30 p.m., on 25.11.2017, those discrepancies are fatal to the case of prosecution. The exact time of alleged occurrence itself is contradicted by all the witnesses. The prosecution did not clearly state that on what time the crime was committed by the appellant and on what time they were taken to hospital.

12. Further as per the statement of P.W.1 the first accused assaulted the deceased and P.W.1 with knife. Further P.W.2 deposed that he was informed about the incident by his father namely P.W.1 at about 11.00 pm., on 25.11.2027 and thereafter he called the 108 ambulance and both were taken to hospital. Further according to him, P.W.1 was conscious and he had come to his house and informed about the incident. Further his house is situated one km away from the house of the deceased. Even then no First Information Report was registered on the date of alleged occurrence i.e., on 25.11.2017. The First Information Report was not registered even after receipt of information from the hospital. He further submitted that the First Information Report and the alteration report were sent to the Court at about 11.40 pm., on 26.11.2017. P.W. 2 and 4 who are the neighbors of the deceased also deposed that they went to the house of the deceased at about 11.00 pm., and thereafter



the injured and the deceased were taken to hospital, therefore the prosecution has miserably failed to prove the case and the trial Court ought not have convicted the appellant.

13. The learned Additional Public Prosecutor would submit that though there are contradictions and discrepancies among the prosecution witnesses the prosecution clearly proved the motive of the appellant to do away the life of the deceased. Very often the first accused used to scold the deceased and P.W.1 by using their caste name and threaten them to vacate the house since the said house belongs to their paternal aunt. Therefore they had clear motive to do away the life of the deceased. Infact A1, under the influence of alcohol, knocked the house door of deceased and P.W.1 and when P.W.1 opened the door the first accused immediately assaulted him with a hook which he carries with him all the time. Thereafter the second accused also came to the house of the deceased and assaulted both the deceased and P.W.1 by using a wooden log. Therefore the deceased sustained multiple injuries on her head and face, due to which she died on the next day. Initially the first accused attacked P.W.1 with hook and thereafter the second accused also attacked P.W.1 and the deceased with wooden log, in order to do



away with the life and, thereby the prosecution has proved the charges beyond all reasonable doubts and the trial Court has rightly convicted the appellants and thereby there is no merit in the appeals and the same are liable to be dismissed.

14. We have considered the submissions of the learned Counsel for the appellants and the learned Additional Public Prosecutor for the State, and have consciously gone through the evidence and materials on record.

15. In this case there are totally two accused. The husband is the first accused and his wife is the second accused. Admittedly the deceased and P.W.1 belong to SC/ST community and the accused persons belong to other community. The occurrence took place on 25.11.2017 at about 8.30 pm. The first accused used to knock the house door of the deceased very often when he passes by that way. He also used to scold P.W.1. and his wife(deceased) by using their caste name. On the date of occurrence, the first accused, while he was going to his house had knocked the house door of the deceased and P.W.1 and when P.W.1 opened the door, immediately the first accused assaulted him on



his head indiscriminately. After hearing the noise, the deceased had come out from the kitchen and attempted to prevent the first accused from attacking. Immediately the first accused also attacked her indiscriminately on his face and head, therefore both sustained grievous injuries and got fainted. P.W.1 further stated that at that this juncture the second accused came to the scene of occurrence and she also attacked both the deceased and P.W.1 with wooden log. The deceased and P.W.1 were living in the ground floor tiled house adjacent to the compound wall and the first and second accused were living in the first floor in the tiled house. Only after crossing P.W.1's house the accused can enter into the stair case to reach their house.

16. The injured deposed as P.W.1. The relevant portion of the deposition of P.W.1 is extracted here under:

"25.11.2017 அன்று நானும் என் மனைவியும் வீட்டிற்கு
உள்ளே உட்கார்ந்து இருந்தோம். அப்போது சாப்பிட தட்டு
எடுத்து வைத்து கொண்டிருந்தோம். அவர் டம் டம் என்று
கதவை இடிக்கும் சத்தம் கேட்டது. நான் என்ன சத்தம்
என்று வந்து பார்த்தேன். 1வது எதிரி அங்கு நின்று
கொண்டிருந்தார். அவர் மதுபானம் குடித்திருந்தார்.



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Crl.A.(MD) Nos.186 and 201 of 2011

ஏன் இப்படி செய்கிறீர்கள் என நான் கேட்டேன். வீட்டை கால் செய்யுடா சக்கிலிய பயலே இது என் சின்னம்மா வீடுடா சாமான்களை எல்லாம் எடுத்து வெளியே எறிந்து விடுவேன். காலி செய்கிறாயா என்ன செய்யற என கேட்டார். நான் நீ யாருடா சொல்வதற்கு வீட்டின் உரிமையாளர் நான் சொல்ல வேண்டும் என்று கூறினேன். எதிரி தன் கையில் மூட்டை தூக்கும் மாட்டு கொம்பு பிடிபோட்ட இரும்பு ஊக்கு கையில் வைத்திருந்தார். அது வைத்து கழுத்தில் குத்த வந்தார். நான் குனிந்து கொண்டேன். அதில் எனக்கு தலை, முகம், உதடு, ஆகிய இடங்களில் காயம் ஏற்பட்டது. பற்கள் உடைந்து விட்டது. என சத்தம் கேட்டு என் மனைவி வெளியே வந்தார். ஏன். இப்படி செய்கிறாய் என்று இருளாண்டியை என மனைவி கேட்கவும் அவரையும் முடியை பிடித்து இழுத்து அதே இரும்பு ஊக்கால் தலையில் 4 இடங்களில் குத்தினார். 1 வது எதிரியின் மனைவி முனியம்மான் கட்டை கம்போடு வந்து என்னையும் என் மனைவியையும் தாக்கினார். நான் மயங்கி விழுந்து விட்டேன். என் மனைவியும் மயங்கி விழுந்து விட்டார். மயக்கம் தெளிந்து எழுந்து நான் என் மகன் சரவணனிடம் போய் சொல்லி அவரை அழைத்து வந்தேன். அவர் மற்றும் உறவினர்கள் வந்து ஆம்புலன்சை வரவழைத்து என்னையும் என் மனைவியையும் அரசு ராஜாஜி

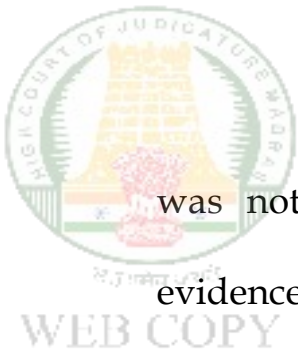


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மருத்துவமனையில் சேர்த்தார்கள். ஏன் மனைவியையும்
என்னையும் உள்நோயாளியாக அனுமதித்தார்கள். ஏன்
உத்தரவையும், தலையிலும் தையல் போட்டார்கள். ஏன்
மனைவி மறுநாள் காலை இறந்து விட்டார். மறுநாள்
காலையில் கே.கே. நகரில் உள்ள அண்ணாநகர் போலீசார்
வந்து என்னிடம் வாக்குமூலம் வாங்கினார்கள்.

17. Thus it is clear that the first accused only had knocked the house door and thereafter when the door was opened by P.W.1, the first accused had assaulted him and only thereafter the second accused came there and attacked P.W.1 and the deceased with a wooden log. After registration of the First Information Report the second accused was arrested on 28.11.2017 and the first accused was arrested on 11.12.2017. After recording the confession statement from the first accused hook was recovered and produced as M.O.1 before the trial Court.

18. In so far as the wooden log is concerned in the presence of P.W. 7 it was recovered on 21.06.2017 itself. Though it was recovered in the scene of occurrence it was recovered out of the confession statement given by the accused to the investigation officer. The materials recovered



was not subjected for any finger print expert opinion. Except the evidence of P.W. 1, there is no other evidence to show that the second accused assaulted P.W.1 and the deceased with wooden log. Infact the injuries are not corroborated with the alleged assault committed by A2. Further, it was not the statement of police that A2 scolded them with filthy language by using their caste name, therefore the presence of second accused in the scene of occurrence is highly doubtful, therefore the prosecution failed to prove all the charges levelled as against the second accused.

19. In so far as the first accused is concerned though there are several contradictions and discrepancies between the prosecution witnesses about the time of taking the injured and admitting them into the hospital, the injured witness categorically deposed about the assault committed by the first accused. Those contradictions and discrepancies cannot brush aside the entire case of prosecution. Immediately after admitting them into the hospital, accident registers of P.W.1 and the deceased which were marked as Ex.Ps.12 and 13 were produced. Admittedly the alleged occurrence took place in the night time . P.W.1 as well as deceased fainted and they sustained grievous injuries on their



face and head . Infact P.W.1 sustained injuries in his mouth, wherein some of this teeth were also broken as per medical records. Though P.W. 1 was conscious on the date of occurrence ie., on 25.11.2017 he was not able to speak , therefore P.W.15 visited the hospital on the date of occurrence and he was not able to record any statement. Moreover, P.W.15 visited the hospital on the next day at 8.00 a.m., on 26.11.2017 and thereafter he recorded statement from P.W.1 and registered the First Information Report. Initially First Information Report was registered for the offence under Section 307 of IPC and therefore it was not sent to the Court immediately. Only after the demise of the deceased the offences were altered into Section 302 of IPC. After altering the First Information Report both the First Information Report and the alteration report were sent to the Court at about 11.40 pm., therefore it cannot be stated that there was delay in lodging the complaint and sending the First Information Report to the court.

20. In so far as minor discrepancies and contradictions are concerned it is not fatal to the case of prosecution. At this juncture, it is relevant to rely upon the Judgment of the Hon'ble Supreme Court in the case of State represented by *Inspector of Police Vs. Saravanan and*



another (2008) 17 SCC 587, wherein it is held as follows:

"18.The High Court also held that as there were some discrepancies and improvements in the statement of the witnesses, their evidence should not be relied upon. In [State of U.P. v. M.K. Anthony](#), [(1985) 1 SCC 505] this Court has laid down the approach which should be followed by the Court in such cases: While appreciating the evidence of a witness, the approach must be whether the evidence of the witness read as a whole appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the court to scrutinise the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief. Minor discrepancies on trivial matters not touching the core of the case, hyper- technical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical error committed by the investigating officer not going to the root of the matter would not ordinarily permit rejection of the evidence as a whole. If the court before whom the witness gives evidence had the opportunity to form the opinion about the general tenor of evidence given by the witness, the appellate court which had not this benefit will have to attach due weight to the appreciation of evidence by the trial court and unless there are reasons weighty and formidable it would not be proper to reject the evidence on the ground of minor variations or infirmities in the matter of trivial details. Even honest and truthful witnesses may differ in some details unrelated to the main incident because power of observation, retention and reproduction differ with individuals. Cross- examination is an unequal duel between a rustic and refined lawyer....."



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Even otherwise, it has been said time and again by this Court that while appreciating the evidence of a witness, minor discrepancies on trivial matters without affecting the core of the prosecution case, ought not to prompt the court to reject evidence in its entirety. Further, on the general tenor of the evidence given by the witness, the trial court upon appreciation of evidence forms an opinion about the credibility thereof, in the normal circumstances the appellate court would not be justified to review it once again without justifiable reasons. It is the totality of the situation, which has to be taken note of. Difference in some minor detail, which does not otherwise affect the core of the prosecution case, even if present, that itself would not prompt the court to reject the evidence on minor variations and discrepancies."

31. In view of the above, this Court is of the opinion that all the discrepancies pointed out by the appellant are minor in nature and do not in any way shake the core of the prosecution's case.

21. Therefore the prosecution has proved the charges for the offence under Section 307 and 302 IPC as against the first accused.

22. In so far as the offence under Section SC/ST act is concerned though the deceased and the P.W.1 belong to SC/ST community this Court has to see whether the prosecution has proved the charges for the offences under Section SC/ST act.,



23. Both the accused were charged for the offences under Sections 3(1)(s) of SC/ST Act r/w.34 of IPC. It is relevant to extract the provisions of 3(1)(s) of SC/ST Act, which reads as follows:

“ abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view”

24. Admittedly in this case the crime is said to have been committed in the house of the deceased. Except P.W.1 no one had seen the occurrence. Prosecution had examined P.W.1 as eye witness to the occurrence and also the injured witness. No one had seen the occurrence and as such the entire occurrence had happened in the house of P.W.1 and not in public view. It is relevant to extract the relevant paragraphs of the judgment of the Hon'ble Supreme Court in the case of **Karuppudayar v. State (2025 INSC 132)** hereunder:

“The term “any place within public view” initially came up for consideration before this Court in the case of Swaran Singh and others v. State through Standing Counsel and another². This Court in the case of Hitesh Verma v. State of Uttarakhand and another referred to Swaran Singh (supra) and reiterated the legal position as under:

“14. Another key ingredient of the provision is insult or intimidation in “any place within public view”. What is to be regarded as “place in public view” had come up for consideration



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before this Court in the judgment reported as *Swaran Singh v. State* [*Swaran Singh v. State*, (2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527]. The Court had drawn distinction between the expression “public place” and “in any place within public view”. It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view (sic) [Ed. : This sentence appears to be contrary to what is stated below in the extract from *Swaran Singh*, (2008) 8 SCC 435, at p. 736d-e, and in the application of this principle in para 15, below: “Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view.”] . The Court held as under : (SCC pp. 443-44, para 28)

“28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by Appellants 2 and 3 (by calling him a “chamar”) when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the



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remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression "place within public view" with the expression "public place". A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies." (emphasis in original)"

11. It could thus be seen that, to be a place 'within public view', the place should be open where the members of the public can witness or hear the utterance made by the accused to the victim. If the alleged offence takes place within the four corners of the wall where members of the public are not present, then it cannot be said that it has taken place at a place within public view.

.....

14. It is thus clear that even as per the FIR, the incident has taken place within the four corners of the chambers of the complainant. The other colleagues of the complainant arrived at the scene after the occurrence of the incident.

15. We are, therefore, of the considered view that since the incident has not taken place at a place which can be termed to be a place within public view, the offence would not come under the provisions of either Section 3(1)(r) or Section 3(1)(s) of the SC-ST Act."

25. Considering the above stated view of the Hon'ble Apex Court,



it can be seen that the prosecution failed to produce any piece of evidence to show that the occurrence had taken place in a public view, therefore prosecution miserably failed to prove the charges for the offence under Section 3(1)(s) of SC/ST act.

26. In view of the above the conviction for the offence under Section 3(1)(s) of SC/ST Act and Section 307 of IPC is set aside as against the second accused.

27 Conviction under Section 3(1)(s) of SC/ST Act is set aside as against the first accused. Conviction under Section 307r/w.302 r/w.34 of IPC as against the first accused is confirmed.

28. In the result:

i)In the result Criminal Appeal(MD) No.186 of 2023 stand allowed. The conviction and sentence passed in Spl.S.C.No.24 of 2018 on the file of the III Additional District and Sessions Court (PCR)Madurai is set aside and the appellant is acquitted of all charges. Bail bond if any executed by the appellant shall stand cancelled. Fine amount if any paid shall be refunded.



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ii) In the result Crl.A(MD) No.201 of 2023 stands partly allowed.

The conviction under Section 307 of IPC r/w.34 of IPC and 302r/w.34 of IPC is confirmed. The appellant is acquitted from the charges under Section 3(1)(s) of SC/ST Act. The trial Court is directed to take steps to secure the appellant to undergo the remaining period of sentence.

[G.K.I.,J] [R.P.,J]
30.01.2026

Internet : Yes / No

Index : Yes / No

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To

1. The III Additional District and Sessions Court (PCR)Madurai
2. The Assistant Commissioner of Police
Anna Nagar (Law and Order Circle)
Madurai City,
Anna Nagar Police Station
Madurai District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
4. The Record keeper
Vernacular Records, Madurai Bench of Madras High Court, Madurai



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Crl.A.(MD) Nos.186 and 201 of 2023

**G.K.ILANTHIRAIYAN, J.
and
R.POORNIMA, J..**

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Crl.A.(MD) Nos.186 and 201 of 2023

30.01.2026