

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.08.2015

CORAM

THE HON'BLE DR.JUSTICE S.TAMILVANAN
and
THE HON'BLE MR.JUSTICE C.T.SELVAM

Criminal Appeal No.707 of 2010

State represented by
The Inspector of Police,
Vellore South Police Station,
Vellore District.
Crime No.223 of 2002

... Appellant/Complainant

-vs-

1.Ramesh Babu
S/o.Selvaraj

2.Suresh Kumar
S/o.Selvaraj

3.Rajendran
S/o.Ramu

... Respondents/A1 to A3

Criminal Appeal filed under Section 378 of Criminal Procedure Code against the judgment dated 23.04.2009 in S.C.No.154 of 2006 on the file of learned Principal Sessions Judge, Vellore.

For Appellant : Mr.V.M.R.Rajendran
Additional Public Prosecutor

For Respondents: Mr.Karthick
for M/s.T.S.Gopalan & Co.

J U D G M E N T

(Judgment of the Court was made by C.T.SELVAM, J.)

State has preferred this appeal against the judgment of learned Principal Sessions Judge, Vellore, in S.C.No.154 of 2006 on 23.04.2009, acquitting the respondents of offences u/s.341, 302 r/w 34 and 506(ii) IPC.

2. The case of the prosecution is that respondents and another, who was a juvenile, due to dispute over conduct of a village festival, attacked the deceased on 24.04.2002 at about 05.00 p.m. PWs.1, 2 and 3 sought to take the deceased to hospital but he died on the way. PW-1/aunt of the deceased, preferred a

complaint before PW-9, Sub-Inspector of Police, Vellore South Police Station, who registered a case in Crime No.223 of 2002 for offence u/s.302 IPC. Upon completion of investigation and filing of charge sheet informing commission of offences u/s.341, 302 and 506(ii) r/w 34 IPC, the case, upon committal was tried in S.C.No.154 of 2006 on the file of learned Principal Sessions Judge, Vellore.

3. To substantiate its case, the prosecution examined PWs.1 to 11, marked Exs.P1 to P19 and MOs.1 to 10. One witness was examined on behalf of the respondents/accused and Exs.D1 to D6 were marked. On questioning under Section 313 Cr.P.C., the accused denied the charges.

4. Learned trial Judge, on appreciation of the evidence adduced by the prosecution, held that the prosecution has failed to establish its case beyond reasonable doubt and rendered a finding of acquittal. Hence, the present appeal by the State.

5. Heard learned Additional Public Prosecutor and learned counsel for respondents as also perused the records.

6. In acquitting respondents, the Court below has taken into consideration the following:

- (i) The evidence of PW-1, aunt of the deceased/de facto complainant and PW-9, Sub-Inspector of Police, Vellore South Police Station, who registered the First Information Report, was contradictory. While PW-1 deposed to her having been taken to the police station from C.M.C.Hospital, Vellore, whereupon the First Information Report was prepared at the police station, PW-9 had deposed that the First Information Report had been registered on the basis of a written complaint handed over to him.
- (ii) PW-1, allegedly was an eye witness. In the trial, PW-1 had deposed to having witnessed the occurrence. However, in her deposition in the case against the juvenile, she had informed of having proceeded to the scene along with others, upon hearing a noise. Therefore, her having witnessed the occurrence was doubtful. The other two alleged eye witnesses, PWs.2 and 3, had turned hostile.
- (iii) The respondents/accused had suffered the following injuries:

R1	R2	R3
1.An incised wound reddish in colour in 2'' length at the right side of axilla region. 2.An incised wound measuring about 1'' on the left side forehead.	A punctured wound on the upper right side of the abdomen. Injury is simple in nature.	1.A diffused wound at about 2'' on the left side of the head. 2.A lacerated wound 1 x 1 cm on the right forearm. 3.A lacerated wound 1 x 1 cm on the right hand dorsum portion.

In the instant case, the First Information Report has been registered under Crime No.223 of 2002 on 24.04.2002. Therein, the

occurrence is alleged to have taken place at 05.00 p.m. On the same date, upon the complaint of respondents/accused, a counter case has been registered in Crime No.224 of 2002. Therein, the occurrence is said to have taken place at 05.30 p.m. and the deceased was one of two accused and a charge sheet has been filed informing commission of offences u/s. 341, 324, 323 and 506(ii) IPC. Though two First Information Reports inform of occurrence within a space of half-an-hour, apparently the case is one of both parties having suffered injuries in one and the same occurrence. The prosecution has neither explained the rather serious injuries upon the accused nor ascertained which party was the aggressor.

(iv)PW-9, Sub-Inspector of Police, Vellore South Police Station, had spoken to having seen the respondents/accused at the hospital on 24.04.2002. However, their arrest was not effected.

In these circumstances, the Court below rendered a finding of acquittal and afforded the benefit of doubt to the respondents. We find no infirmity nor reason to interfere with the judgment under challenge.

This Criminal Appeal accordingly is dismissed.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

1.The Principal Sessions Judge,
Vellore.

2.The Public Prosecutor,
High Court, Madras.

3.The Inspector of Polcie,
Vellore South Police Station, Vellore District.

+1 cc to M/s.T.S.Gopalan & Co., Advocate, sr.45546

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