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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

AND

THE HONOURABLE MR.JUSTICE V.S.RAVI

Cr1.A.(MD)No.52 of 2015

1. Rajkumar

2. Periya Karuppan ... Appellants / Accused Nos. 1 & 2

Vs.

The State,

Rep. by Inspector of Police,

Reddiyar Chatram Police Station,

Dindigul District.

(Cr. No.203 of 2010) ... Respondent/ Complainant

PRAYER: The Criminal Appeal is filed under Section 374 of Cr.P.C, praying to call for the records in connection with the judgment made in S.C.No.184 of 2011 dated 30.01.2015 by the learned Additional District and Sessions Judge, Dindigul and set aside the same by allowing this appeal.

For Appellants : Mr. N.Anantha Padmanabhan, Advocate

For Respondent : Mr.R.Ramachandran

Additional Public Prosecutor

Judgment reserved on : 15.07.2015

Judgment pronounced on : 27.07.2015

JUDGMENT

Both the appellants are the accused in S.C.No.184 of 2011, on the file of the learned Additional District and Sessions Judge, Dindigul. They have been charged for the offence punishable under Section 302 I.P.C. By judgment dated 30.01.2015, the Lower Court convicted and sentenced the appellants, to undergo Life Imprisonment and pay a fine of Rs.1,000/- each, in default to undergo two months rigorous Imprisonment. As against, the said judgment, the appellants have preferred the present Criminal Appeal and they are, right now, in Central Prison, Madurai, undergoing the imprisonment.



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

According to the prosecution, the deceased Makesh @ Makeshkumar has got illicit relationship with Amutha wife of second accused and due to that enmity, the second accused and his brother, first accused, have brutally assaulted the deceased Makesh @ Makeshkumar with the help of M.O.12 and M.O.14 knives. On 06.09.2010, the accused have assaulted the deceased, when the deceased Makesh @ Makeshkumar has travelled along with his mother, namely, P.W.1 in the Palanimurugan bus with Registration No.TN 57-M-3553 at 02.45 P.M. P.W.1, Easwari, is the mother of the deceased has seen the occurrence and also lodged the complaint as per Ex.P1 and other eyewitnesses, namely, P.W.2, Balasubramani and P.W.3, Kannadhasan have also seen the occurrence.

2.1 Further, the P.W.1 has stated in her evidence that she has travelled along with the deceased Makesh @ Makeshkumar in the said bus and near Reddiarchathram bus stop, both the accused have assaulted the deceased with the help of the knives and she has lodged the complaint as per Ex.P.1 and she has also identified the dresses, namely, M.O.1 to M.O.4 as the dresses of the deceased at the time of occurrence and also her dresses of M.O.5 and M.O.6. P.W.2, Balasubramani has stated that he has also seen the occurrence and he has also signed as an attesting witness in Ex.P.1 complaint lodged by the P.W.1 and the accused have used two knives which are almost similar in nature. P.W.3, Kannadhasan has stated about the Panchayat that has taken place, due to the illicit intimacy between the wife of second accused, namely, Amutha and the deceased Makesh @ Makeshkumar and P.W.3 has also stated that he has also seen the occurrence along with P.W.2 Balasubramani and also P.W.1.

2.2 P.W.4, Velmurugan has stated that he has worked as driver of the said bus and on 06.09.2010 at 01.38 P.M., he has stopped the bus, after hearing the whistle sound from the conductor and he has seen the dead body of the deceased Makesh @ Makeshkumar in the bus. P.W.5, Karthikeyan, Conductor of the said bus has also stated that after hearing the noise in the said bus, he has given whistle sound and stopped the bus and he has seen the dead body of the deceased Makesh @ Makeshkumar in the bus.

2.3 P.W.6, Thiru.Pitchai Sebastian, Speical Sub Inspector of Police of Reddiarchatram has stated that on 06.09.2010, he has served in Reddiarchatram police station and in the said bus, he has heard the noice at about 02.45 P.M. Hence, he and another police, P.W.7, namely, Thiru.Seenivasan, have gone into the bus and also they have seen the accused, assaulted the deceased with the help of the knives and he and P.W.7 have caught hold of both the accused on the spot itself in the bus and he has sent the accused for medical treatment for the injuries sustained by them. P.W.7, Thiru.Seenivasan has also stated that he has served as Constable in Reddiarchatram police station and he has also stated about the said incident and also about he has



caught hold of the first accused and P.W.6 has caught hold of the second accused. P.W.8, Thiru.Rajamaarthandam has stated that he has worked as Head Constable in Reddiarchatram police station on 06.09.2010 and he has seen that P.W.6 and P.W.7 have caught hold of the accused and the said P.W.6 and P.W.7 have reached the police station along with the accused and also P.W.6 has prepared Medical Memo and he has taken the accused for medical treatment to Ottanchatram Government Hospital for treatment along with P.W.8. Also, P.W.9, Thiru.Dhavamani, Special Sub Inspector of Police has stated that he has taken the said accused to Ottanchatram Government Hospital for treatment.

2.4 P.W.10, Kalimuthu has stated that on 06.09.2010 at 03.00 P.M., the Reddiarchatram police have recovered the bus seat and also the police have prepared Observation Magazar and he has signed in Magazar as per Ex.P.2 and he has also signed in Athatchi as per Ex.P3. P.W.11, Arumugham has stated that the police have recorded the confession statement of the first accused and he has signed as an attesting witness as per Ex.P.4 and he has also signed in the confession statement given by the second accused as per Ex.P.5 and he has also signed in Athatchi as per Ex.P.6, for the recovery of the knives, cell phone and dresses and he has also signed in Athatchi as per Ex.P.7, for the recovery of Yamaha Motorbike with Registration No.TN 57-Y-8883 from the first accused Rajkumar and he has also signed in Athatchi as per Ex.P8 for the recovery of knife, dresses and cell phone from the second accused Periya Karuppan. P.W.12, Periyasamy has stated that the accused have given confession statements and he has signed in the confession statements and Ex.P.9, is the admissible portion of the confession statement of the first accused and Ex.P.10 is the admissible portion of the confession statement of the second accused and he has signed in the Athatchi as per Ex.P.11 for the recovery of the said Yamaha Motorbike from the first accused. He has also signed in the Athatchi as per Ex.P.12, for the recovery of knife and cellphone from the first accused and as per Ex.P.13, he has signed in the Athatchi for the recovery of knife and cell phone from the second accused and M.O.7 shirt has been produced by the first accused. M.O.8 shirt and M.O.9 lungi have been produced by the second accused and Yamaha Motorbike is the M.O.10.

2.5 P.W.14, Thiru.Subramani, Special Sub Inspector has stated that he has handed over the body of the deceased Makesh @ Makeshkumar for Postmortem with regard to the case filed in Crime No.203 of 2010 and he has also recovered the dresses namely M.O.1 to M.O.4 from the body of the deceased and handed over to the police. P.W.15, Dr. Prema has stated that she has examined the second accused and also the first accused, and she has also stated that on 06.09.2010, the first accused has assaulted the deceased Makesh @ Makeshkumar and the second accused has tried to stop the first accused from assaulting the deceased. During the incident, the injury has happened in his hands and Ex.P.14 is the Accident Register and in the injury could have been happened, when the accused have assaulted the deceased



with knives. P.W.16, Dr.Mala has stated that she has conducted Postmortem on the body of the deceased Makesh @ Makeshkumar on 07.09.2010 and also issued the Postmortem Report as per Ex.P.17 and Ex.P.16 is the request made by the police to conduct the Postmortem. P.W.17, Thiru.Jeyaraman, Inspector of Police has stated that he has seen the place of occurrence in the presence of Kalimuthu and Chinnappan and he has prepared Rough Sketch as per Ex.P.18 and he has recovered M.O.11 from the bus seat and he has recorded the confession statement from the accused and the first accused has produced M.O.12 knife and Ex.P.9 is the admissible portion of the confession statement of the first accused and he has also recovered Yamaha Motorbike with Registration No.TN 57-Y-8883 as per the Magazar and he has recorded the admissible portion of the confession statement given by the second accused as per Ex.P.10 and he has prepared the Athatchi and also he has recovered the knife produced by the second accused as per M.O.14 and dresses produced by the second accused as per M.O.15 and M.O.8, cell phone M.O.16 and he has prepared Athatchi as per Ex.P.20, and Ex.P.21 Athatchi for the recovery of the said bike, and also he has recovered the knife, dresses and cell phone as per Ex.P.22 Athatchi, from the second accused and he has drawn the Rough Sketch of the two knives as per Ex.P.23 (series). Further, P.W.18, Thiru.Arumugham, Inspector of Police has stated that he has continued the investigation of the case, and also conducted the further investigation and he has enquired the doctors and registered the final report on 29.10.2010 as against the accused.

3. In order to prove the case of the prosecution, the prosecution has examined 18 witnesses as P.W.1 to P.W.18 and also marked 26 exhibits as Ex.P.1 to Ex.P.26 and also Material Objects as M.O.1 to M.O.16. Having considered all the materials on record, the Lower Court has convicted the appellants / accused as stated above on 30.01.2015. As against which, the appellants have preferred the present appeal.

4. In the Grounds of Appeal, the appellants have stated that the Court below has failed to consider the admitted fact of the deceased Makesh @ Makeshkumar has got illicit intimacy with the wife of the second appellant and eloped with her on two occasions. The Court below ought not to have convicted under Section 302 I.P.C., as the alleged occurrence said to have been committed due to sudden and immediate provocation. There are material contradictions in respect of seizure of M.O.12 and M.O.14, namely, the knives, which have been alleged to be used by the appellants at the time of occurrence and also the evidences of P.W.1 to P.W.3 are not clear. The evidence of P.W.20 and 22 also raised doubt of the above mentioned M.O.12 and M.O.14. The entire evidence against the appellants in the Trial Court for convicting the appellants are against law and improper.



5. The points that arise for consideration in the present Criminal Appeal are as follows:-

1) Whether the Lower Court has passed the impugned judgment, after properly appreciating the materials on record, in the proper perspective?

2) Whether the Criminal Appeal has to be allowed for the reasons and grounds stated in the Memorandum of Appeal and also for the submissions made on behalf of the appellants?

6. Analysis, discussions and findings with regard to the above mentioned points:-

The learned counsel appearing for the appellants has pointed out that there are several independent witnesses available on the scene of occurrence as the alleged offence said to have been committed in the bus and the prosecution has purposely chosen to examine P.W.1 to P.W.3 who are none else than the interested witnesses of the deceased. Further, the whole case has been filed on the evidences of the interested witnesses only. Further, the learned counsel for the appellants has submitted that it is totally unsafe to rely on the testimony of the highly interested witnesses and hence the evidences may be discarded. The occurrence is said to have taken place in the bus, during day time, in the presence of so many public persons. Hence, the evidences of interested witnesses, examined on behalf of the prosecution, have to be considered with much care and caution. Further, there are improvements in the case of the prosecution and also in the evidences of the prosecution. Further, the direct enmity between the deceased and the second accused has not been, properly, established on behalf of the prosecution. The prosecution has not established the enmity to the extent to commit murder and the reasons furnished by the prosecution are unbelievable. The P.W.2 and P.W.3 have been purposely introduced to strengthen the case of the prosecution. The motive part of the prosecution is not established, properly. The conduct of P.W.1 to P.W.3, only shows that they have been procured by the prosecution to promote the case of prosecution. The possibilities of developing the case of the prosecution can not be ruled out. The learned counsel for the appellants has repeatedly pointed out that the evidences of P.W.1 to P.W.3 can not be accepted as eye witness evidences and the F.I.R has been prepared by giving an anti-time. Further, the learned counsel for the appellants has submitted that the case of the prosecution has not been substantiated beyond reasonable doubt as against the accused and therefore, the judgment of the Trial Court is liable to be set aside.

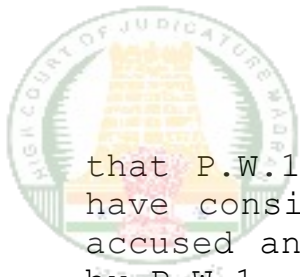
7. Per contra, the learned Additional Public Prosecutor has submitted that the evidences of P.W.2 and P.W.3 cannot be



discarded on the flimsy ground, and in fact the evidences of P.W.1 to P.W.3 are natural and trustworthy and can not be discarded. The accused have armed with the knives, as pointed in Ex.P.23 and also brutally assaulted the deceased Makesh @ Makeshkumar, and the occurrences have taken place in a quick succession and after hearing the noise, the accused have tried to run away from the scene of occurrence and P.W.6 and P.W.7 have caught hold of the accused in the place of occurrence itself and the case and the F.I.R. have been filed immediately, after receipt of the complaint as per Ex.P.1 and there is no delay in registering the case and also in sending the F.I.R., to the learned Judicial Magistrate. Further, in a case of this nature, one cannot expect third parties or persons available at that time in the said bus to come forward and give evidence. P.W.1 to P.W.3 are the natural witnesses and also in fact there are the eyewitnesses for the occurrence. Their evidences being consistent and corroborative with Ex.P.1 complaint and the same cannot be brushed aside. Further, the P.W.1 to P.W.3 evidences have been substantiated the case of the prosecution beyond reasonable doubt and such evidences are also corroborated by the medical evidences. Further, it is submitted on behalf of the prosecution that the reasons assigned by the Trial Court for convicting and sentencing the appellants, are well found and hence there is no valid ground for interference.

8. This Court has perused the materials available on record carefully, and also considered the submissions made on behalf of both sides.

9. The occurrence has taken place on 06.09.2010 at about 2.45 P.M in the bus with Registration No.TN 57-M-3553. The deceased Makesh @ Makeshkumar and also P.W.1, mother of the deceased have travelled together along with P.W.2 and P.W.3. Immediately, after the occurrence, P.W.1 has lodged the complaint to the police on 06.09.2010 at 15.30 hours itself and a case has been registered in Reddiarchatram police station in Crime No.203 of 2010. P.W.1 has categorically deposed that the deceased Makesh @ Makeshkumar has got illegal intimacy with Amutha, wife of the second accused and due to the said enmity, the accused, namely, blood brothers of the first accused and the second accused have brutally assaulted the deceased within the bus itself with the help of knives and in the Ex.P1 complaint, P.W.2, Balasubramani has also attested. P.W.2, Balasubramani and P.W.3, Kannadhasan have clearly deposed that they have seen both the accused brutally attacking the deceased with the help of knives and P.W.2 has also attested in Ex.P.1 complaint lodged by P.W.1 about the occurrence. Further, P.W.1 has particularly stated that he has affixed only one finger impression in the complaint. Hence, it is found that P.W.1 as an illiterate lady and also living in Muthanampatti village only. Though, it is pointed out on behalf of the accused



that P.W.1 to P.W.3 are interested persons, it is found that they have consistently stated about the said occurrence caused by the accused and also about P.W.2 attesting in Ex.P.1 complaint lodged by P.W.1.

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10. Further, P.W.4, Velmurugan, driver of the said bus has clearly stated that he has seen the body of the deceased Makesh @ Makeshkumar in the bus on the said date. P.W.5, Karthikeyan, conductor of the said bus has specifically stated that he has seen the body of the deceased Makesh @ Makeshkumar in the said bus on 06.09.2010. P.W.6, Thiru.Pitchai Sebasthian has exactly mentioned that he has worked as Special Sub Inspector of Police in Reddiarchatram police station and on the date of occurrence, he and P.W.7, Thiru.Srinivasan, Head Constable have gone inside the bus, after hearing the noise from the public and they have also seen the accused assaulting the deceased with the help of knives and after the said brutal assault, they have also tried to escape from the scene of occurrence and he and P.W.7 have caught hold of the accused in the said place of occurrence itself and also taken them to the police station. Further, P.W.6 and P.W.7 have pointed out that they have sent the accused to Ottanchatram Government Hospital for medical treatment of injury in the hands. P.W.8, Thiru.Rajamaarthandam, Special Sub Inspector of Police has particularly deposed that on 06.09.2010 he has seen P.W.6 and P.W.7 have caught hold of the accused and he has taken them for medical treatment as per the medical memo prepared by P.W.6. P.W.9, Dhavamani, Special Sub Inspector of Police has deposed that they have taken the accused to Ottanchatram Government Hospital for the medical treatment for the injury in their hands as per the Medical Memo No.30/ML/L4-P.S./10.

11. Further, P.W.15, Dr.Prema has definitely deposed that she has examined the second accused and he has stated that he has sustained the injury in his hands, when he has tried to stop the assault caused by Rajkumar, first accused to the deceased Makesh @ Makeshkumar and she has issued Accident Register as per Ex.P.14 and also referred about the said Medical Memo in the said Ex.P.14 and also in the Ex.P.15, the said P.W.15, Doctor has mentioned about Accident Register issued to the first accused Rajkumar and in that also, she has referred about the said Medical Memo and the first accused has stated to the said Doctor that the injury has happened when he has assaulted the deceased with the help of the knives. P.W.11, Arumugham has undoubtedly deposed that the first accused has given confession statement and he has attested the said confession statement as per Ex.P.4 and he has also attested in the confession statement of the second accused as per Ex.P.5 and he has also attested in the Athatchi as per Ex.P.6, Services of the knife, shirt, dresses and cell phone of the first accused and he has also attested in Athatchi as per Ex.P.7, for the recovery of Yamaha Motorbike from the first



accused and he has also attested in Athatchi as per Ex.P.8 for the recovery of knife, dresses and cell phone from the second accused. P.W.12, Periyasamy has deposed that he has signed in the admissible portion of the confession statement as per Ex.P.9, given by the first accused and also he has signed in the admissible portion of the confession statement as per Ex.P.10, given by the second accused and also he has signed in the Athatchi as per Ex.P.11, for the recovery of Yamaha Motorbike from the first accused and also he has signed in the Athatchi as per Ex.P.12 for the recovery of the knives and cell phone from the first accused and also he has signed in the Athatchi as per Ex.P.13, for the recovery of the knives and cell phone from the second accused and the first accused has produced M.O.7 shirt and the second accused has produced M.O.8 shirt and M.O.9 lungi and Yamaha Motorbike as M.O.10. Accordingly, it is seen that the said P.W.11 and P.W.12 have attested in the above mentioned admissible portion of confession statement and also in the said Athatchi.

12. P.W.16, Dr.Mala has exactly deposed that she has conducted the postmortem of the body of the deceased Makesh @ Makeshkumar and issued Postmortem Certificate as per Ex.P.17 and Ex.P.16 is the requisition to conduct the postmortem. She has specifically pointed out that in the Postmortem Certificate, as follows:-

"External Injuries :

- 1. A cut injury of 4 x 2cm over the right side of forehead.*
- 2. A cut injury of 14 x 5 x 1cm over the right temporal region.*
- 3. A cut injury of 17 x 3 x 4cm (torn) the neck.*
- 4. A cut injury of 4 x 2 x 3cm over the right side of chest.*
- 5. An abrasion of 5 x 1 cm over right arm.*
- 6. An abrasion of 3 x 2cm over right ankle.*
- 7. A cut injury of 6 x 3 x 1cm over right arm.*
- 8. A cut injury of 10 x 3 x 1cm over right elbow.*
- 9. Cut injury of 5 x 2 x 1cm over right forearm.*
- 10. Cut injury of 12 x 3 x 2cm above right angle.*
- 11. A cut injury of 5 x 3 x 2cm over right*



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hand
fingers.

12.A cut injury of 3 x 1 x 1cm over middle
finger of

left hand.

13.A cut injury of 3 x 2cm over left knee.

Opinion as to cause of Death:

The deceased would appear to have
died of **SHOCK AND HAEMMORHAGE** due to
multiple injuries sustained & death could
have occurred about 18 to 22 hours prior
to autopsy."

Further, the said Doctor has given opinion that the above mentioned injuries could have been caused by the two knives shown to her and the said injuries are very much sufficient to cause of death to the deceased. Hence, it is found that the medical evidence is also very much clear, regarding the guilt of the accused and P.W.17, Thiru.Jeyaraman, Inspector of Police has prepared as per Ex.P.18 Rough Sketch and also taken the bus seat cloth as M.O.11 and also prepared the Inquest Report as per Ex.P.19 and also specifically stated about the admissible portion of the confession statement of the first accused as per Ex.P.9 and also about the recovery of M.O.12 knife produced by the first accused and also about the recovery of Yamaha Motorbike as M.O.10 and also the second accused has given the admissible portion of confession statement as per Ex.P.10 and also he has recovered M.O.14 knife, M.O.15 pant, M.O.8 shirt and M.O.16 cell phone from the second accused, as per Ex.P.20 Athatchi and also he has recovered Yamaha Motorbike from the first accused as per Ex.P.21 and also he has recovered the knife, dresses and cell phone from the second accused as per Ex.P.22 Athatchi. Further, P.W.17 has categorically stated in his evidence that he has prepared the Rough Sketch for the two knives as per Ex.P.23(series) as both the knives are almost similar in nature. Accordingly, after conducting further investigation, P.W.18, Thiru.Arumugham, Inspector of Police has filed the final report on 29.11.2010 for the above mentioned offence caused by the accused to the deceased Makesh @ Makesh Kumar.

13. Further, it is seen that the evidences of P.W.1 to P.W.3 are natural and their evidences are being consistent and corroborative with Ex.P.1 complaint and other exhibits and Material Objects and therefore their evidences cannot be brushed aside, as the request on behalf of the appellants herein. Through eye witnesses of P.W.1 to P.W.3, and other materials on record, the prosecution has well substantiated its case beyond reasonable doubt and such evidences have also been corroborated by the
<https://www.hcjudiciary.gov.in/hcjudiciary/>
evidences of P.W.4 to P.W.18 and other exhibits and Material Objects as mentioned herein above. Further, it is found that the testimony



of the eye witnesses are cogent and trustworthy.

14. In the present case, the recovery of material objects and also the taking custody of the accused by the police immediately in the place of occurrence itself and also the recovery of knives used to commit the offence after the arrest of the accused and medical evidences and documents also established the case of the prosecution beyond reasonable doubt. It is again pointed out that the oral testimony of P.W.1 to P.W.3 are not only corroborated by the medical evidences but also by other contemporaneous materials collected during the course of the investigation. Further, the F.I.R came into existence in the usual course and also reached the Court without any loss of time. On a close perusal of Ex.P.1 complaint, it could be seen that the prosecution case has been projected in detail including the motive part. When the sequence of events continued in the short span of time, it is impossible to state that a false case has been filed as against the accused to implicate them in the present case. In this regard, it is useful to mention the following judgments:-

i. In the judgment reported in **2006 (2) C.T.C. 650**, it is held as follows:-

"Held, Criminal justice should not be made a casualty for wrongs committed by IOs - If Court is convinced that testimony of witnesses to occurrence is true, Court is free to act on it albeit IO's suspicious role - Hence, even if IO failed to reveal as to how he came to know about presence of P/ws 2 to 4 at scene of occurrence, said fact immaterial in face of their clinching evidence ."

Moreover, there are cogent and natural eyewitnesses for the occurrence and also P.W.6 and P.W.7 have caught hold the accused on the place of occurrence itself and taken into the custody, the said accused.

ii. Further, in the judgment of Hon'ble Supreme Court, in the case of **State of U.P V. Deoman Upadhaya**, reported in **AIR 1960 SC 1125**, it is clearly observed as follows:-

"The various requirements of the Section 27, as follows:-

(1) The fact of which evidence is sought to be given must be relevant to the issue. It must be borne in mind that the provision has nothing to do with question of relevancy. The relevancy of the fact discovered must be established according to the prescriptions relating to relevancy of other evidence connecting it with the crime in order to made the



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fact discovered admissible.

(2) The fact must have been discovered.

(3) The discovery must have been in consequence of some information received from the accused and not by the accused's own act.

(4) The person giving the information must be accused of any offence.

(5) He must be in the custody of a police officer.

(6) The discovery of a fact in consequence of information received from an accused in custody must be deposed to.

(7) Thereupon only that portion of the information which relates distinctly or strictly to the fact discovered can be proved. The rest is inadmissible."

iii. Further, in the judgment of Hon'ble Supreme Court, in the case of **Sayed Darain Ahsan @ Darain V. State of West Bengal and another**, reported in **(2012) 3 MLJ (Cri) 91 (SC)**, it is clearly stated as follows:-

"The High Court has held in the impugned judgment that all the eyewitnesses have given a vivid and true account of the incident and had seen the occurrence on close range and as they were residents of the locality they had no problem in identifying the assailants and there was nothing on record suggesting that they nurtured ill feeling and harboured enmity against the appellant and that the evidence of the eyewitnesses was consistent and finds due corroboration from the postmortem report. In Court's considered opinion, the High Court has rightly sustained the conviction of the appellant on the evidence of four eyewitnesses as corroborated by the medical evidence."

iv. Further, in the judgment of Hon'ble Supreme Court, in the case of **Waman and others V. State of Maharashtra**, reported in **(2011) 3 MLJ (crl) 999(SC)**, it is observed as follows:-

"I. The relationship is not a factor to affect the credibility of a witness and the Courts have to scrutinize their evidence meticulously with a little care.

II. Merely on the basis of minor



contradictions about the use and nature of weapons, the statements of the prosecution witnesses cannot be ignored in toto."

WEB COPY v. Further, in the case of **Saira Zackira V. Joint Secretary, Government of India**, reported in **(2004) M.L.J. (Crl.) 290**, it is specifically held as follows:-

"There are compelling and substantial reasons for doing so. If the impugned judgment is clearly unreasonable and relevant and convincing materials have been unjustifiably eliminated in the process, it is a compelling reason for interference."

Further, an appellate Court has full power to review, re-appreciate and reconsider the evidence upon which the judgment of conviction is founded. Furthermore, an appellate Court on the evidence before it may reach its own conclusion, both on questions of fact and of law. On a careful analysis of the evidence of above mentioned prosecution witnesses, and also the materials on record, this Court is able to agree with the prosecution version.

15. On a careful perusal of the evidences of P.W.1 to P.W.3, this Court is of the view that the reliance can be placed on their evidences, since, it is corroborated by the medical evidences as well as other materials collected during the course of the investigation. The case of the prosecution has been well substantiated through evidences of the eye witnesses and also, by the above mentioned materials on record. Sound reasonings have been assigned by the Trial Court for convicting the accused/appellants. This Court do not find any valid ground or reason to interfere with the well considered judgment of the Trial Court.

16. **In the result**, the judgment of the learned Additional District and Sessions Judge, Dindugul, passed in S.C.No.184 of 2011 dated 30.01.2015 is confirmed and the Criminal Appeal is dismissed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub Assistant Registrar

To

1. THE ADDITIONAL DISTRICT AND
SESSIONS JUDGE, DINDIGUL.



2. THE DISTRICT AND SESSIONS JUDGE,
DINDIGUL

3. THE JUDICIAL MAGISTRATE
OTTANCHATHIRAM

4. THE CHIEF JUDICIAL MAGISTRATE
DINDIGUL

5. THE DIRECTOR GENERAL OF POLICE
MYLAPORE, CHENNAI

6. THE DISTRICT COLLECTOR
DINDIGUL

7. THE INSPECTOR OF POLICE
REDDIYAR CHETRAM POLICE STATION, DINDIGUL DIST

8. THE SUPERINTENDENT
CENTRAL PRISON, MADURAI
(With Copies to communicate to the appellants)

9. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

+1cc to MR.N.Ananthapadmanabhan, Advocate Sr.No.41888

pmu

AA/05.08.2015/13p- 11c/

Judgment made in

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