

BAIL SLIP

That the Appellants/Accused namely Kathiravan and Deepanraj were directed to be released on bail as per the order of this Court dt.05.10.2015 in Crl.MP.No.2/2015 in Crl.A.No.424/15

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
AND
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Appeal No.424 of 2015

1.Senthil Kumar @ Mudikondan
2.Kathiravan
3.Deepanraj ..

Appellants

Vs

State By:
The Inspector of Police,
Sozhatharam Police Station,
Cuddalore District
(Crime No.303 of 2011) ..

Respondent

Prayer:- Criminal Appeal filed under Section 374(2) Cr.P.C., against the judgment of the learned II Additional District & Sessions Judge, Chidambaram in S.C.No.181 of 2012 dated 29.06.2015.

For Appellants : Mr.S.Anantha Narayanan,
Senior Counsel, for
Mr.A.Arasu Ganesan

For Respondent : Mr.M.Maharaja,
Additional Public Prosecutor

JUDGEMENT

(Judgment of the Court was delivered by S.Nagamuthu.J)

The appellants are A.1 to A.3 in S.C.No.181 of 2012 on the file of the learned II Additional District & Sessions Judge, Chidambaram. The trial Court framed charges against A.1 to A.3 as detailed below:-

Sl.No	Accused	Section of law
1	A.1	341, 302, 506(ii) I.P.C.,
2	A.2	341, 302, 506(ii) r/w 34 I.P.C.,
3	A.3	341, 302, 506(ii) r/w 34 I.P.C.,

All the accused denied the above charges framed against them. By judgment dated 29.06.2015, the trial Court convicted and sentenced all the accused as detailed below:-

Accused	Section of law	Sentence
A.1	341 I.P.C., 506(ii) I.P.C., 302 I.P.C.,	Simple imprisonment for one month Rigorous imprisonment for seven years and to pay a fine of Rs.2,000/- in default to undergo simple imprisonment for six months Imprisonment for life and to pay a fine of Rs.10,000/- in default to undergo simple imprisonment for three months
A.2	341 I.P.C., 302 I.P.C.,	Simple imprisonment for one month Imprisonment for life and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for three months
A.3	341 I.P.C., 302 I.P.C.,	Simple imprisonment for one month Imprisonment for life and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for three months

The trial Court has ordered the above sentences to run concurrently. Challenging the said conviction and sentence, the appellants/A.1 to A.3 are before this Court with this Criminal Appeal.

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

The deceased in this case was one Mr.Udhaya Kumar. He was functioning as the District Deputy Secretary of a political party for Chudalore District. A.1 was the Panchayat Board President of

Mudikandanallur and he also belongs to the same political party. A.1 did not like the deceased functioning as the District Deputy Secretary of the said political party. Because of this political rivalry, there was personal enmity between A.1 and the deceased. A.1 had committed some irregularities in payment of wages to the workers under the 100 days employment scheme, floated by the Government. The affected workers made complaint to the deceased, as he was a Very Important Person in the village. In this regard, the deceased made a complaint to the District Collector against A.1. The District Collector took some action against A.1. This further aggravated the enmity between A.1 and the deceased. Some time before the occurrence, there was a temple festival in the Village. Being the President and Head of the village, A.1 had fixed Rs.300/- per family as Kudi Vari (tax) to spend for the temple celebration. The deceased, objected to the same. A.1 was running a sand quarry in the village, illegally. The deceased told that per day, A.1 was gaining Rs.50,000/- from out of the sand quarry and therefore, one day's such income could be spent for the celebration of the festival instead of collecting money from the poor people of the village. This is yet another incident which aggravated the enmity between A.1 and the deceased.

3. Some time before the occurrence, one Ms. Parimala was raped by one Mr. Selvamani, the Vice President of the said Village and an associate of A.1. The deceased questioned the same and took some action against him. Since, the deceased had taken action against his supporter, A.1 got further wield against the deceased. These are all the incidents which are stated by the prosecution as aggravated motive for A.1 to decide to kill the deceased.

4. On 06.08.2011, the deceased along with P.W.2 had come to the sand quarry to enquire whether sand was available for his brickyard for manufacturing bricks. After visiting the sand quarry around 11.00 am, the deceased was returning in his motorcycle. P.W.2 was traveling with him as a pillion rider. When they were nearing the place of occurrence, suddenly, all the three accused emerged there. A.1 was having an Aruval and A.2 & A.3 had one iron pipes each. They intercepted the motorcycle and as soon as the deceased stopped the motorcycle, even before he could try to escape, A.1 cut him with all force with Aruval on his neck. A.2 attacked him with iron pipe on his head. A.3 attacked him with iron pipe on his back and on his chest. The deceased in an attempt to escape from the further attacks of the accused, ran into the sand quarry. In the sand quarry, a dipper lorry was found parked. The deceased got into the said lorry and tried to hide. All the three accused claimed atop of the said lorry. A.1 cut the deceased with Aruval on various parts of the body repeatedly and A.2 & A.3 attacked him with iron pipes repeatedly. The deceased died in the lorry itself. Leaving the dead body in the lorry, in a pool of blood, all the three accused fled away from the scene of occurrence. The occurrence was witnessed by P.Ws. 2, 4 & 5.

5.P.W.2 immediately informed about the occurrence to P.W.1, the father of the deceased. P.W.1 immediately rushed to Sozhatharam Police Station which is situated at a distance of 10 kilometers from the place of occurrence and made a complaint at 2.00 pm on 06.08.2011. P.W.8, the then Special Sub Inspector of Police of the said Police Station, on receipt of the said complaint registered a case in Crime No.303 of 2011 for the offences under Sections 341 & 302 I.P.C. Ex.P.1 is the complaint and Ex.P.9 is the F.I.R. He forwarded both the documents to Court which were received by the learned Judicial Magistrate at 7.30 pm on 06.08.2011.

6.P.W.10, the then Inspector of Police took up the case for investigation. He proceeded to the place of occurrence at 2.45 pm on 06.08.2011 and in the presence of P.W.3 and another witness, he prepared an observation mahazar and a rough sketch. He recovered the blood stained earth and the sample earth from the place of occurrence under a mahazar. Then, in the sand quarry also, he recovered the blood stained earth and the sample earth. P.W.11, the Photographer was summoned to the place of occurrence to take photographs. Accordingly, P.W.11 took photographs at the place of occurrence. Then, P.W.10 conducted inquest on the body of the deceased between 3.30 pm and 4.45 pm on the same day and forwarded the same for post mortem.

7.P.W.12 Dr.Anitha, conducted autopsy on the body of the deceased on 06.08.2011 at 5.15 pm. She found the following injuries:-

"External Injuries:-

(1)Lacerated wounds :- Deep lacerated wound measuring 10 x 4 x 1/2 cms extending from above the right ear to occipital region

(2)Wound 4x2x1/2 cm right frontal region.

(3)Deep wound 8x5x2cm on the right upper occipital region

(4)Wound 5x2x1/2 cm above the 3rd wound

(5)Deep wound 11x5x2 cm under right temporal parietal

(6)Wound 6x3x1cm before the 5th wound

(7)Wound 6x4x1cm over left parietal occipital region

(8)Deep lacerated wound right side jaw 7x2x2cm from the right side parietal extending to the lower hip

<https://hcservices.ecourts.gov.in/hcservices/> (9)Deep wound on the chin extending to the

lower neck right side 8x2x4cm drooling the fracture of left mandible right side of fracture of one mandible left side.

(10) Deep wound 4 x 2 x 2cm on the right shoulder

(11) Deep wound 6 x 4x2cm on the right elbow

(12) Parietal wound 8x3x2cm on the right hand entering on the interdigital space of RA middle finger -c fracture involving the right index, middle & ring fingers

(13) Multiple lacerated wound in the left forearm extending the forearm bones and elbow just

(14) Wound on the dorsum of the RA - foot 4x3x1cm

(15) Multiple linear abrasion over the upper chest megreans both right and left chest

(16) Abrasion in the medial side of the left thigh and right knee below knee and right side.
"

Ex.P.15 is the post mortem certificate. She gave opinion that the above injuries found on the dead body of the deceased would have been caused by the weapons like M.Os.1 to 3. She has further opined that the death was due to shock and hemorrhage due to the multiple injuries found on the body of the deceased.

8.P.W.10 examined few more witnesses including P.Ws.1 to 5 and recorded their statements. Then the investigation was taken over by P.W.13. On 08.08.2011, P.W.13 had received the message that all the three accused were hiding in Kanyakumari. On 12.08.2011, he reached Kanyakumari and arrested all the three accused who were in the Car bearing registration No.TN 02 AB 0308. On such arrest, in the presence of P.W.4 and another witness, all the three accused gave independent voluntary confessions one after the other. The Car in their possession bearing registration No.TN 03 AB 0308 (M.O.8) was seized by P.W.13, in the presence of the same witnesses. In pursuance of the disclosure statement made, on 13.08.2011, at 11.30 am, A.1 took the Police and witnesses to the place of hide out and produced a Omni Car (M.O.9). P.W.13 recovered the same under a mahazar. Then he forwarded all the three accused to Court for judicial remand. After the post mortem was over, P.W.13 had recovered the clothes found on the body of the deceased. He forwarded all the said material objects to Court. On

the disclosure statements made by A.1 to A.3, A.1 identified the Aruval (M.O.1) and A.2 & A.3 identified two iron pipes (M.Os.2 & 3). P.W.13 recovered the same under the mahazars. On completing investigation, he laid charge sheet against all the three accused.

9. Based on the above materials, the trial Court framed the charges as detailed in the first paragraph of this judgment against the accused. The accused denied the same. In order to prove the case of the prosecution, on the side of the prosecution, as many as 13 witnesses were examined and 21 documents were exhibited, besides 13 Material Objects.

10. Out of the said witnesses, P.Ws.2, 4 & 5 are the eye witnesses to the occurrence. P.W.2 has vividly spoken about the entire occurrence. He has stated that he accompanied the deceased in a motorcycle as a pillion rider and he was present throughout the occurrence. He has further stated that he informed P.W.1, the father of the deceased about the same. P.W.1 has stated about the motive and he has further stated about the complaint made by him on 06.08.2011, upon which, the present case has been registered. P.W.4, in chief examination has fully supported the case of the prosecution inasmuch as he has stated about the entire occurrence as an eye witness. But, when he was cross examined after a long time, he has shown hostility and has deposed as though he did not witness the occurrence at all. Therefore, he was treated as hostile. P.W.5 has also not fully supported the case of the prosecution. Though he was not treated as hostile, his evidence is not much useful for the prosecution. P.W.3 has spoken about the preparation of observation mahazar, rough sketch, recovery of material objects, blood stained earth and the sample earth from the place of occurrence. P.W.6, the then Police Constable has stated that he took the dead body from the place of occurrence to the Doctor, for post mortem. P.W.7, the then learned Judicial Magistrate has stated that she recorded the statements of P.Ws.2, 4 & 5 and one Mr. Prabakaran, under Section 164 Cr.P.C., as requested by the Investigating Officer (P.W.10). P.W.8 has spoken about the registration of the case on the complaint of P.W.1. P.W.9 has spoken about the chemical examination conducted by him on the material objects. According to his opinion, human blood was found on all the material objects including the Aruval (M.O.1) and except the one metal pipe and the earth recovered from the place of occurrence. P.W.11 has spoken about the photographs taken by him at the place of occurrence. P.W.12 has spoken about the post mortem conducted by her on the body of the deceased and her final opinion regarding the cause of death. P.Ws.10 & 13, have spoken about the investigation done and the final report filed in this case.

11. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., they denied the same as false. However, they did not chose to examine any witness nor did they mark any documents on their side.

12. Having considered all the above materials, the trial Court convicted the appellants/accused as stated in the first paragraph

of this judgment. Challenging the same, the appellants/accused are before this Court with this Criminal Appeal.

13.We have heard the learned counsel for the appellants and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

14.Admittedly, A.1 was the Panchayat President of Mudikandanallur Village, in which, the deceased was appointed as the District Deputy Secretary. Both of them belong to the same Political Party. According to P.W.1, this was not to the liking of A.1. There was a political inner party rivalry between A.1 and the deceased. According to P.W.1, A.1 was running a sand quarry and from out of which, he was earning a lot. For the village temple festival, when A.1 fixed Rs.300/- per family, as kudi vari (tax), the deceased objected to the same. He told that A.1 could spend a day's income from the sand quarry, for the said purpose, instead of collecting money from the poor village people. This further aggravated the motive of enmity over the deceased. A.1 had not paid the wages for the workers under the 100 days employment scheme, floated by the Government. In this regard, the deceased had made a complaint to the District Collector and some action was taken against A.1. This is stated to be yet another incident which intensified the enmity. One Ms.Parimala was raped by one Mr.Selvamani, who was the Vice President of the village and an associate of A.1. The deceased had taken action against him. It is further aggravated the enmity between A.1 and the deceased. Thus, according to the case of the prosecution, there were very strong enmity between A.1 and the deceased. This fact is not disputed by the defence at all.

15.Instead, during cross examination, A.1 had projected a bad picture about the deceased. From P.W.1 during cross examination, the defence has elicited that in the panchayat election, there was a meeting of the villagers held to decide about the election. In that, the deceased offered to pay Rs.1,00,000/- for the village temple and in consideration of the same, the deceased shall be put up as the unanimous candidate in the election. A.1 objected to the same and, he said that in such an event, he would give Rs.5,00,000/- for the village temple. According to the defence, this incident gave rise to a strong enmity between A.1 and the deceased. It has been further elicited that the deceased had sold away a minor girl to one person from Andhra Pradesh at Tambaram for a sum of Rs.10,000/-. A.1 intervened, rescued and restored the minor girl to her parents. According to the defence, this is yet another enmity between them. It has also been suggested to P.W.1 that the deceased was an accused in a case of car theft in which, he was arrested and appearing before the Police regularly, in pursuance of the condition imposed by the Court, while granting bail. Thus, according to the defence, there were so many other instances which aggravated the enmity between A.1 and the deceased. Thus, it is the admitted case of the accused that there were strong enmity between A.1 and the deceased. At the same time, after all,

motive is always a double edged weapon and on that score, we cannot rush to the conclusion that it was these accused who killed the deceased. We only say at this juncture that the prosecution has proved the motive.

16.P.W.2 is a prime eye witness to the occurrence. According to him, he went along with the deceased in his motorcycle to the sand quarry, where the deceased wanted to know whether sand was available for his brickyard for manufacturing bricks. After seeing the same, in the motorcycle they came out of the quarry and they were proceeding on the bank of the river. It was at that time, according to him, all the three accused emerged suddenly, A.1 armed with Aruval and others two armed with iron pipes. A.1 cut the deceased on his neck, hand and lower jaw. A.2 attacked him with iron pipe on his head and A.3 attacked him with iron pipe on his chest. The deceased ran into sand quarry, in an attempt to escape. A dipper lorry was parked there. The deceased climbed on to the cabin of the lorry. The accused were also got into the said Lorry and A.1 cut the deceased on various parts of his body with Aruval and A.2 & A.3 attacked him with iron pipes repeatedly and as a result, the deceased died instantaneously. Thus, according to P.W.2, all these three accused caused the death of the deceased and they criminally intimidated him and the others who were present at the scene of occurrence. Immediately, he informed P.W.1 about the occurrence.

17.The learned counsel for the appellants would submit that P.W.2 is an interested witness and hence, he cannot be believed. In our considered view, it is too well settled that simply because a witness is closely related and highly interested in the affairs of the deceased, on that score, the entire evidence of the said witness cannot be rejected. Prudence requires that the evidence of such interested witness should be closely scrutinized. In this case, we do not find any reason to doubt the presence of P.W.2 at the place of occurrence. His presence is quite natural. The reason for his presence at the place of occurrence has been spoken by P.W.2 inasmuch as he has stated that he went along with the deceased to the sand quarry, in the motorcycle, as a pillion rider. Thus, we do not find any reason to disbelieve the evidence of P.W.2. The conduct of P.W.2 in immediately informing P.W.1 is yet another circumstance which makes the evidence of P.W.2 more credible. Immediately thereafter, P.W.1 had gone to the Police Station covering a distance of 10 kilometers from the said Village and made a complaint at 2.00 pm on 06.08.2011. Thus, there is no delay in preferring the complaint also. The learned Senior Counsel appearing for the appellants is not in a position to point out any infirmity in the evidence of P.W.2 so as to create doubt in his evidence.

18.P.W.3 was examined in chief by the prosecution on 20.06.2014. But, he was not cross examined by the defence counsel on the same day. This witness was recalled on 11.07.2014. Though, this witness has been cross examined at length, the learned Senior

Counsel appearing for the appellants was not able to point out any material on record, so as to doubt the credibility of this witness.

19. Now, turning to the evidence of P.W.4, who is yet another eye witness, he has stated that when he was sitting in the lorry along with one Mr. Prabakaran, in the sand quarry at Munikondanallur Shanthi Nagar i.e., the place of occurrence, around 11.00 am on 06.08.2011, the deceased, P.W.2 had come to the place of occurrence to know whether sand was available. After enquiry, when the deceased was driving the motorcycle and P.W.2 was sitting as a pillion rider and moving towards the bank of the river, P.W.4 could see these three accused suddenly emerging and intercepting the deceased. He has further stated that all the three accused attacked the deceased. A.1 attacked the deceased with Aruval and A.2 & A.3 had attacked him with iron pipes. The deceased ran into the sand quarry and got into the dipper lorry bearing registration No. TN 31 AD 5457. A.2 & A.3 got into the said lorry and attacked the deceased and dragged him out. When the head was dragged out of the said lorry, A.1 cut the deceased repeatedly on his neck and various parts of the body. After leaving the dead body in the lorry, all the three accused ran away from the scene of occurrence. Thus, when P.W.4 was examined in chief on 27.06.2014, he gave the fullest account of the entire occurrence. His statement was recorded by P.W.7, the then learned Judicial Magistrate, under Section 164 Cr.P.C., as requested by the Investigating Officer (P.W.10). In that statement also, he had narrated the entire occurrence as an eye witness. Thus, what was stated by P.W.4 in his chief examination has been duly corroborated by his statement made under Section 164 Cr.P.C. P.W.4 has further stated that he went along with the Investigating Officer (P.W.13) to Kanyakumari, where all the three accused were arrested on being identified by him. He has further stated about the recovery of Car bearing registration No. TN 02 AB 0308 and he has also spoken about the confession statement made by all the three accused and the consequential recoveries of Omni Van (M.O.9), Aruval (M.O.1) and the Iron Pipes (M.Os.2 & 3). However, the said witness was cross examined by the defence counsel only on 24.09.2014 i.e., after three months from the date of his chief examination.

20. The learned Senior Counsel appearing for the appellants would submit that this witness during cross examination has stated that he did not know as to how the occurrence had taken place and he came to know about the occurrence only later. Thus, according to the learned Senior Counsel, the evidence of this witness is not reliable.

21. As we have already pointed out, this witness was examined in chief on 27.06.2014. On that day, though the defence counsel was present, he did not choose to cross examine P.W.4. The defence Counsel did not even assign any reason as to why he did not cross examine the said witness on the same day. Thereafter, on the petition filed by the accused, P.W.4 was recalled for the purpose of cross examination. Accordingly, on 24.09.2013, i.e., after three

months, he was recalled and cross examined. During such cross examination, for many questions hurled by the defence counsel, he simply nodded his head in favour of the accused. When an important question was raised by the defence counsel about the occurrence, he answered that he did not know about the occurrence personally and he came to know about the same only later. He has further stated that he was given a piece of paper by the Police in writing and asked to memorise the contents of the same and to repeat the same when the statement under Section 164 Cr.P.C., was recorded. Thus, when he was cross examined after three months, this witness has shown a complete hostility, in an attempt to nullify his evidence in chief examination. He has further stated that even P.W.2 was not present at the place of occurrence. Rightly, the learned Public Prosecutor who conducted the trial had sought permission to the Court to cross examine him by treating him as hostile witness.

22. From the narration of the above facts, it is crystal clear that obviously, with a view to win over the said witness, the accused did not cross examine this witness on the day when he was examined in chief. If really, the accused had any genuine cause preventing his counsel from cross examining the said witness then that would have been stated to the Court and cross examination would have been deferred, in such an event. But, the learned Sessions Judge, has recorded that though the defence counsel was present in Court, on the day when the said witness was examined in chief, he was not directed to cross examine the witness. This would give an inference that the accused had instructed his counsel to gain time without cross examining the said witness, on the same day, so that, they could win over the said witness. Accordingly, after three months, he had shown complete hostility. This would only go to show that in the interregnum period, this witness was won over by the accused and that is the reason why P.W.4 has shown hostility. Since there was no explanation as to why P.W.4 was not cross examined on the same day, when he was examined in chief, and since, he had shown hostility after three months when he was recalled, we presume that this witness was won over and therefore, we are not prepared to give any importance to the answers elicited during cross examination of P.W.4.

23. Further, when a statement under Section 164 Cr.P.C., was recorded from P.W.4, he had stated that he witnessed the entire occurrence as an eye witness. This statement under Section 164 Cr.P.C., should be used as a corroborative piece of evidence to corroborate his evidence in chief examination, given in Court. This accordingly, corroborates the eye witness account of this witness in chief examination. Had it been true that the Police had given him a prepared statement and wanted him to memorise the same and then to tell the same to Court, nothing would have prevented him from informing the same to the learned Judicial Magistrate concerned while he recorded his statement under Section 164 Cr.P.C. Similarly, nothing would have prevented him from making a complaint to the Police or to the higher authorities completing that he was forced by the Police to give false evidence. The very fact that he did not do so, would go to prove that he was truthful only when he

was examined in chief and thereafter only, he was won over by the accused. Therefore, considering the evidence of this witness in chief examination, which is corroborated by his earlier statement under Section 164 Cr.P.C., we hold that his evidence, duly corroborated the eye witness account of P.W.2 goes to prove that these three accused alone had caused the death of the deceased.

24. Then comes the evidence of P.W.5. Though this witness, in the beginning of the chief examination has narrated the entire occurrence as though, he witnessed the entire occurrence, at the fag end of his evidence, he had deposed that he came to know about the occurrence only later. This witness was also not cross examined by the defence on the same day. Neither the Public Prosecutor who conducted the trial treated him as hostile nor did he re-examine the said witness for the reasons best known to him.

25. As we have already pointed out, this witness was examined in chief on 27.06.2014. On that day, though the defence counsel was present, he did not chose to cross examine P.W.4. The defence Counsel did not even assign any reason as to why he did not cross examine the said witness on the same day. Thereafter, on a petition filed by the accused, P.W.5 was recalled for the purpose of cross examination. Accordingly, on 28.08.2014, i.e., after two months, he was recalled and cross examined. During cross examination, he has made several statements which are in favour of the accused. For the same reasons, which we have stated when we discussed about the evidence of P.W.4, we do not attach any importance to the favourable answers made by this witness in favour of the accused which were elicited during cross examination belatedly.

26. The learned Senior Counsel appearing for the appellants would submit that the F.I.R., in this case had reached the hands of the learned Judicial Magistrate at 7.30 pm on 06.08.2011, though, it is stated that the case was registered at 2.00 pm. He would submit that there is no explanation at all for the same. Further, this would create enormous doubt in the case of the prosecution, the learned Senior Counsel contended.

27. But, we find no force in the said argument at all. It is not on record as to what is the distance between the Police Station and the house of the learned Judicial Magistrate. Assuming that there was some delay in forwarding the F.I.R., to Court in the instant case, on that score, we cannot reject the evidence of the eye witness as the same fully inspires the confidence of this Court. For the mistake committed by the Police in delaying to forward the F.I.R., to Court, we cannot acquit the accused because, in every case, the unscrupulous Policemen may, with a view to help the accused, adopt such a technique to delay in sending the F.I.R., to Court. The test is, de hors delay, whether the evidence of eye witness inspires the confidence of the Court. In the instant case, there is no other circumstance brought on record to doubt the credibility of P.W.2 and also P.W.4.

28.The recovery of material objects at the instance of the accused which contain human blood will also be yet another circumstance against the accused. The medical evidence duly corroborates the eye witness account.

29.Having regard to the above, we are of the view that the prosecution has proved the case beyond reasonable doubts that it was these three accused who caused the death of the deceased in a gruesome manner. Going by the motive, number of injuries caused, weapons used and all the other attending circumstances, we hold that the act of these accused would squarely fall within the first limb of Section 300 I.P.C., and therefore, they are liable to be punished for offence under Section 302 I.P.C. For having wrongfully restrained the deceased, the accused are liable to be punished for offence under Section 341 I.P.C. Similarly, for having criminally intimidated, he is liable to be punished for offence under Section 506(ii) I.P.C.

30.Now, turning to the quantum of punishment, the trial Court has imposed only minimum punishment which also does not require any interference at the hands of this Court. Thus, we do not find any merit at all in this appeal.

31.In the result, the Criminal Appeal fails and accordingly, the same is dismissed. The conviction and sentence imposed by the trial Court on the appellants are confirmed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1.The II Additional District & Sessions Judge,
Chidambaram.

2.-do- thro The Principal Sessions Judge,
Cuddalore.

3.The District Munsif-cum-Judicial Magistrate,
Kattumannarkoil.

4.-do- thro' The Chief Judicial Magistrate,
Cuddalore.

5.The Superintendent,
Central Prison, Cuddalore.

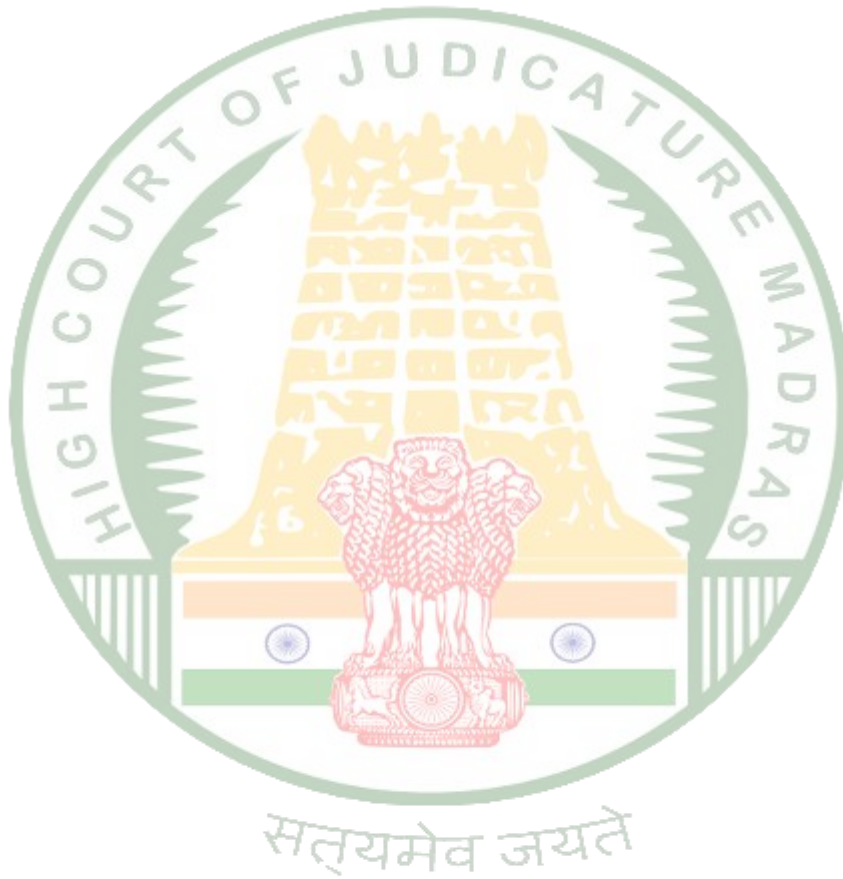
6.The Inspector of Police,
Sozhatharam Police Station,
Cuddalore.

7.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.Arasu Ganesan, advocate,sr.38120.

mg(co)
krd 2/8

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