

THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.04.2016

PRONOUNCED ON : 22.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

and

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

Criminal Appeal No.446 of 2013

Manikandan @ Pillappa ... Appellant

- Vs -

State Rep. by
Inspector of Police,
P-6, Kodungaiyur Police Station,
Chennai - 600 118.
(Crime No.738 of 2007) ... Respondent

Prayer:- Appeal is filed under Section 374 of the Code of Criminal Procedure against the judgment passed by the learned IV Additional Sessions Judge, Chennai, in S.C.No.293 of 2011 dated 04.02.2013.

For Appellant : Mr.R.Mohandas
Legal Aid Counsel

For Respondent : Mr.S.Shanmugavelayutham,
Public Prosecutor
Asst. by Mr.M.Maharaja
Additional Public Prosecutor

J U D G M E N T

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

"Justice to all" is one of the salutary goals of our Constitution. Right to life enshrined in Article 21 of the Constitution permits deprivation of life and liberty by following the established fair, just and reasonable procedure. Fair investigation, fair and speedy trial and just verdict are the concomitants of right to life. Such right is not exclusive for the accused. The victim, their family members and the society at large are also entitled to have a fair trial and just

verdict. Under the guise of being fair to the accused, no Court can afford to be unfair towards the victims and the witnesses. At the whims and fancies of the accused, the witnesses cannot be harassed by summoning them to Court repeatedly and to humiliate them. Protection of a witness itself is implicit in Article 21. The system should not be diverted heavily in favour of the accused and the agencies who are the part of the system should be sensitive to the plight and the rights of the victims. Allowing the real culprits to escape through the man made holes in the system will surely erode the confidence of the people in the very foundation of the system. The trial Court should ensure that both the accused and the witnesses, including the victims get a fair deal during trial and ultimately justice triumphs. The Court must act positively to discover the truth. With this prelude, let us go into the facts of the case.

2. The deceased in this case was one Mr.Selvam. The relationship between him and his brother-in-law one Mr.Kesavan was cordial for sometime/initially. Unfortunately, 20 days prior to the occurrence, there arose a casual wordy quarrel between the deceased Mr.Selvam and Mr.Kesavan. Mr.Kesavan, used certain abusive words against Mr.Selvam casting aspersions on the chastity of Selvam's wife. Provoked by the said words, Mr.Selvam slapped Mr.Kesavan. The accused is the son of Mr.Kesavan. He was present at the time of incident. He shouted at the deceased as to how dare he was to attack his father. He further shouted that he would take revenge on the deceased for the said incident. This was witnessed by P.W.1, the son of the deceased also. The deceased and P.W.1 took it as an empty challenge and they did not take it seriously.

3. On 01.11.2010, by about 10.30 p.m., the deceased was returning from his work place. He came in an auto and got down near a temple by the side of his house. The accused was lying in wait with a knife for the deceased. As soon as the deceased got down from the auto, the accused rushed towards him, pulled his shirt and started cutting him with knife. P.W.1 rushed towards him and tried to prevent. The deceased fell down. The accused repeatedly cut him with knife. P.W.1 retreated out of fear and from a short distance, he witnessed the entire occurrence, unable to go to the rescue of his father. The accused, brandished the weapon against P.W.1 and ran away from the scene of occurrence. The deceased died on the spot. P.W.2, a neighbour of the deceased, who was present at the time of occurrence, also witnessed the entire episode.

4. P.W.1 immediately went to Kodungaiyur Police Station and made a complaint under Ex.P1. P.W.8, the Inspector of Police on receipt of the said complaint registered a case in Crime No.738 of 2010 under Sections 341, 336, 302 and 506(ii) I.P.C. against the accused. Ex.P9 is the F.I.R. He forwarded both the

documents to Court, which were received by the learned Judicial Magistrate at 06.00 am on 02.11.2010.

5. P.W.8, took up the case for investigation. On going over to the place of occurrence, he prepared an observation mahazar and a rough sketch and also recovered blood stained earth and sample earth from the place of occurrence. He conducted inquest on the body of the deceased. P.W.5 conducted autopsy on the body of the deceased on 02.11.2010 at 01.00 p.m. Ex.P5 is the post mortem certificate. He gave opinion that the death was due to shock and hemorrhage due to the multiple injuries found on the body of the deceased and he further opined that the said injuries could have been caused by a weapon like M.O.1.

6. During the course of investigation, P.W.8 arrested the accused on 02.11.2010 at 04.00 p.m. in the presence of one Siva and Ragu. On such arrest, he made a voluntary confession in which he disclosed the place where he had hidden a knife. In pursuance of the same he took P.W.8 and the witness to a channel and from a bush, he produced M.O.1 knife, bloodstained clothes viz., T-Shirt, Jeans pant and a Jatti (M.O.5 series). P.W.8 recovered the same under a mahazar. The material objects were sent for chemical examination through Court. The report revealed that there were human bloodstains on all the material objects including the knife. But there was no bloodstain found on the jatti. On the request of P.W.8, the learned Magistrate (P.W.6) recorded the statements of P.Ws.1 and 2 and two more witnesses. On completing the investigation, he laid charge sheet against the accused.

7. Based on the above materials, the trial Court framed charges under Sections 341, 302 and 506(ii) I.P.C. against the accused. He denied the same. In order to prove the same, on the side of the prosecution as many as 8 witnesses were examined, 16 documents and 5 material objects were marked.

8. Out of the said witnesses, P.Ws.1 and 2 are the eyewitnesses to the occurrence. They have vividly spoken about the entire occurrence in their respective chief examination. P.W.3, examined as an eyewitness, has turned hostile and he has not supported the case of the prosecution in any manner. P.W.4 is a police constable who has stated that he carried the dead body to the hospital on the orders of P.W.8 and handed over the same to P.W.5 for postmortem. P.W.5 has spoken about the postmortem conducted by him and his final opinion regarding the cause of death. P.W.6, the learned Judicial Magistrate has stated that she recorded the statements of P.Ws.1 and 2 and few more witnesses under Section 164 Cr.P.C. as requested by P.W.8. P.W.7 has spoken about the photographs taken by him at the place of occurrence as requested by P.W.8. P.W.8 has spoken about the

registration of the case, investigation done and the final report filed by him.

9. When the above incriminating materials were put to the accused, he denied the same as false. However, he did not choose to examine any witness on his side nor marked any document. His defense was a total denial. Having considered all the above, the trial Court convicted him for offences punishable under Sections 341, 302 and 506(ii) of I.P.C. and sentenced him to undergo simple imprisonment for one month and pay a fine of Rs.500/- in default to undergo simple imprisonment for one week for the offence under Section 341 I.P.C. and to undergo imprisonment for life and pay a fine of Rs.7,500/- in default to undergo rigorous imprisonment for 6 months for the offence under Section 302 I.P.C. and to undergo rigorous imprisonment for one year and pay a fine of Rs.2,000/- in default to undergo simple imprisonment for three months for the offence under Section 506 (ii) I.P.C. Challenging the said conviction and sentence, the appellant is before this Court with this appeal.

10. We have heard Mr.R.Mohandas, learned Legal Aid Counsel appearing for the appellant and Mr.S.Shanmugavelayutham learned State Public Prosecutor appearing for the State and we have also perused the records, carefully.

11. The learned counsel for the appellant would submit that the trial Court had erroneously made reliance on the evidences of P.Ws.1 and 2, who have, during the cross examination, stated that they did not witness the occurrence at all and they heard about the occurrence later on. The learned counsel would further submit that even their evidence in chief examination cannot be believed as their presence at the place of occurrence itself is doubtful.

12. But, the learned Public Prosecutor would submit that P.Ws.1 and 2 have stated in a vivid fashion about the entire occurrence as eyewitnesses. But they were not cross examined forthwith. They were recalled after more than a year and then they were cross examined by the learned counsel for the accused. In the interregnum period, according to the learned Public Prosecutor, these two witnesses had been won over by the accused and on account of the same, during cross examination, they have stated that they did not witness the occurrence at all. The learned public prosecutor would therefore submit that the evidence of these two witnesses spoken during cross examination should be rejected and acting on the facts spoken by these witnesses during chief examination, the conviction should be sustained.

13. We have considered the above submissions.

14. Let us elucidate certain startling facts as seen in the records. P.W.1, in this case was examined in chief on 16.09.2011. But the chief examination was not completed on that day. On the request made by the learned public prosecutor, the trial Court adjourned the case to 22.09.2011 for continuation of the chief examination to enable the prosecution to prove the material objects through the said witness. This would indicate that on 16.09.2011, when this witness was examined, the material objects were not made readily available in Court so as to be used in trial.

15. P.W.1 was again examined on 22.09.2011, in continuation of Chief Examination. M.O.1, the knife, was marked through him. The deposition of this witness reveals that there was no record made by the learned Judge as to whether the cross examination of the witness was deferred or there was no cross examination done on that date. The deposition of P.W.1 further reveals that on 27.08.2012, he was cross examined. It is not known as to whether he was recalled at the instance of the accused or he appeared on his own on 27.08.2012. At the end, there is no indication on 27.08.2012, as to whether the examination of the said witness was deferred for reexamination or no reexamination was intended.

16. Again, this witness was examined on 29.11.2012. There is no indication as to how the said witness appeared in Court on 29.11.2012. Whether the said witness was recalled at the instance of the prosecution or the accused or by the Court suo motu is not known. The deposition indicates that he was examined again on 29.11.2012 in continuation of the chief examination.

17. It is not understandable as to how can there be further chief examination when the chief examination of the said witness was completed on 22.09.2011 itself. As we have already highlighted, though he had narrated the entire occurrence as an eyewitness when he was examined on 16.09.2011 in his deposition in cross examination on 27.08.2012, he stated that he did not witness the occurrence and that at the time of occurrence he was at his home and later on he heard about the occurrence. Despite this complete hostility exhibited by this witness, it did not occur to the learned public prosecutor to seek permission from the Court under Section 154 of the Evidence Act to cross examine him and to establish that he was an eyewitness to the occurrence and might be, because he had been won over, he had shown hostility during cross examination.

18. On 29.11.2012, as we have pointed out, this witness was, quite strangely examined again in chief examination, during which, he spoke only three sentences which are as follows:

"The deceased Selvam was my father. I witnessed the occurrence. What I told during the chief examination were all true."

19. It is not known as to how these three answers were necessary when there was no dispute that P.W.1 is the son of the deceased as the same has been spoken by him on 16.09.2011 itself. Why the first question about the relationship between P.W.1 and the deceased was asked is not known. The fact that he witnessed the occurrence has already been spoken by him in the chief examination on 16.09.2011 itself. Therefore, the second question is also irrelevant. The third question is very vital. The learned public prosecutor had asked the witness as to whether the evidence given in chief examination is true or not. He has answered that what he deposed in chief examination contains the truth. We are unable to understand as to how such question could be asked to a witness. Does it mean that the witness has a choice to speak anything on oath, either true or false, and then to elect and to say what are the facts spoken by him are true and what are false ? The Evidence Act, regulates the questions which are lawful and which are relevant. In our considered view, this question is absurd. We feel, on account of sheer ignorance, this witness was not cross examined by the prosecutor by getting permission under Section 154 of the Evidence Act. It is strange that the trial Court has allowed the chief examination again when no new fact was sought to be introduced.

20. On 29.11.2012, the defence counsel was permitted to cross examine the same witness again. He cross examined him again at length. Even after that, there is indication as to whether any reexamination was conducted or not. The deposition thus remains incomplete.

21. Now, turning to the evidence of P.W.2, he was examined in chief on 22.09.2011, on the very same day when P.W.1 was further examined in chief examination. During chief examination, P.W.2 had vividly spoken about the entire occurrence as eyewitness. The deposition reveals that on that date, there was no cross examination done by the learned defence counsel. The deposition of this witness further reveals that on 04.09.2012, this witness was again put in the witness box. There is no indication as to whether this witness was recalled at the instance of the accused or he was recalled by the Court suo motu or the witness himself appeared on his own volition. He was cross examined by the learned defence counsel during which he has stated straightaway that he did not witness the occurrence at all. He has further stated that he came to know about the occurrence subsequently from somebody.

22. This would clearly indicate that this witness had shown a complete hostility. Here again, it did not occur to the learned public prosecutor to seek permission from the Court to cross examine him under Section 154 of the Evidence Act. There was not even reexamination done by the prosecutor. There is no indication in the deposition that the learned public prosecutor made any attempt to prove that what was said by him during cross examination was false and what was said by him in the chief examination alone is true. Thus, the evidence of this witness, during cross examination that he did not witness the occurrence remains unchallenged by the learned public prosecutor.

23. P.Ws.3 and 4 were examined on 11.10.2011. P.W.5 was examined on 25.11.2011, P.W.6 was examined on 02.01.2012, P.W.7 was examined on 03.02.2012, P.W.8 was examined on 28.06.2012 and he was cross examined on 11.10.2012, i.e. after four months.

24. The accused was questioned under Section 313 Cr.P.C. on 28.06.2012. This would indicate that P.W.8 was cross examined after the examination of the accused under Section 313 Cr.P.C. was over. The arguments were heard only on 01.02.2013 i.e. again after four months of the cross examination of P.W.8. At last, the judgment was delivered by the Court on 04.02.2013. Thus, though the trial commenced on 16.09.2011, the judgment was delivered after 17 months. Would it amount to speedy trial ?

25. Now, turning to the evidence of P.W.1 and P.W.2. The learned public prosecutor would submit that though P.Ws.1 and 2 have stated during cross examination that they did not witness the occurrence at all, on that score, their evidence cannot be rejected. But, we find no force in the said argument of the learned public prosecutor. As rightly pointed out by the learned counsel for the appellant, the facts spoken by P.Ws.1 and 2 during cross examination that they did not witness the occurrence have not been challenged by the prosecution by cross examining these witnesses by treating them as hostile by taking permission from the Court under Section 154 of the Evidence Act. Thus, their evidence spoken during cross examination remains unchallenged. But solely on that score we do not find it appropriate to reject the evidence of P.Ws.1 and 2. We find it difficult to act on the evidence of these witnesses even after ignoring the cross examination as their presence at the time of occurrence itself is doubtful. Assuming that the evidences of these witnesses during cross examination are ignored on the ground that they had been won over, which course is possible in law, we find that from the facts spoken by them in chief examination that their presence at the place of occurrence is doubtful. There is no other evidence to corroborate the evidence of P.Ws.1 and 2. Therefore, we find it difficult to act upon the evidences of these witnesses alone so as to sustain the conviction. Therefore, we are constrained to acquit them.

26. Before concluding, we are unable to contain ourselves with out highlighting the following. This case illustrates as to how the criminal justice delivery system could be taken for a ride by the unscrupulous men who are parties to the system.

27. In this regard, we may refer to a recent judgment of the Hon'ble Supreme Court in Vindo Kumar Vs. State of Punjab reported in (2015) 3 SCC 220, wherein, the Hon'ble Supreme Court, virtually shedding tears, has recorded its anguish and agony for the manner in which trial in respect of serious offences are being conducted by trial Courts, in this country, in these days. Suffice for us to extract certain observations of the Hon'ble Supreme Court in the said judgment. In paragraphs 1 to 3 of the judgment, the Hon'ble Supreme Court has observed as follows:

"1. If one is asked a question, what afflicts the legally requisite criminal trial in its conceptual eventuality in this country the two reasons that may earn the status of phenomenal signification are, first, procrastination of trial due to non-availability of witnesses when the trial is in progress and second, unwarranted adjournments sought by the counsel conducting the trial and the unfathomable reasons for acceptance of such prayers for adjournments by the trial courts, despite a statutory command Under Section 309 of the Code of Criminal Procedure, 1973 (Code of Criminal Procedure) and series of pronouncements by this Court. What was a malady at one time, with the efflux of time, has metamorphosed into malignancy. What was a mere disturbance once has become a disorder, a diseased one, at present.

2. The instant case frescoes and depicts a scenario that exemplifies how due to passivity of the learned trial Judge, a witness, despite having stood embedded absolutely firmly in his examination-in-chief, has audaciously and, in a way, obnoxiously, thrown all the values to the wind, and paved the path of tergiversation. It would not be a hyperbole to say that it is a maladroitness and ingeniously designed attempt to strangle and crucify the fundamental purpose of trial, that is, to arrive at the truth on the basis of evidence on record. The redeeming feature is, despite the malevolent and injurious assault, the cause of justice has survived, for there is, in the ultimate

eventuate, a conviction which is under assail in this appeal, by special leave.

3. The narration of the sad chronology shocks the judicial conscience and gravitates the mind to pose a question, is it justified for any conscientious trial Judge to ignore the statutory command, not recognize "the felt necessities of time" and remain impervious to the cry of the collective asking for justice or give an indecent and uncalled for burial to the conception of trial, totally ostracizing the concept that a civilized and orderly society thrives on the rule of law which includes "fair trial" for the accused as well as the prosecution ?"

28. Then the Hon'ble Supreme Court has traced the law on the subject by referring to various judgments of the Hon'ble Supreme Court and finally in paragraph 57 has held as follows:

"57. Before parting with the case we are constrained to reiterate what we have said in the beginning. We have expressed our agony and anguish the manner in which trials in respect of serious offences relating to corruption are being conducted by the trial courts.:

57.1. Adjournments are sought on the drop of a hat by the counsel, even though the witness is present in court, contrary to all principles of holding a trial. That apart, after the examination-in-chief of a witness is over, adjournment is sought for cross-examination and the disquieting feature is that the trial courts grant time. The law requires special reasons to be recorded for grant of time but the same is not taken note of.

57.2. As has been noticed earlier, in the instant case the cross-examination has taken place after a year and 8 months allowing ample time to pressurize the witness and to gain over him by adopting all kinds of tactics.

57.3. There is no cavil over the proposition that there has to be a fair and proper trial but the duty of the court while conducting the trial to be guided by the mandate of the law, the conceptual fairness and above all bearing in mind its sacrosanct duty to arrive at the truth on the basis of the material brought on record. If an accused for

his benefit takes the trial on the path of total mockery, it cannot be countenanced. The Court has a sacred duty to see that the trial is conducted as per law. If adjournments are granted in this manner it would tantamount to violation of rule of law and eventually turn such trials to a farce. It is legally impermissible and jurisprudentially abominable. The trial courts are expected in law to follow the command of the procedure relating to trial and not yield to the request of the counsel to grant adjournment for non-acceptable reasons.

57.4. In fact, it is not all appreciable to call a witness for cross examination after such a long span of time. It is imperative if the examination-in-chief is over, the cross examination should be completed on the same day. If the examination of a witness continues till late hours the trial can be adjourned to the next day for cross examination. It is inconceivable in law that the cross examination should be deferred for such a long time. It is anathema to the concept of proper and fair trial.

57.5. The duty of the court is to see that not only the interest of the accused as per law is protected but also the societal and collective interest is safe-guarded. It is distressing to note that despite series of judgments of this Court, the habit of granting adjournment, really an ailment, continues. How long shall we say, "Awake! Arise!". There is a constant discomfort. Therefore, we think it appropriate that the copies of the judgment be sent to the learned Chief Justices of all the High Courts for circulating the same among the learned trial Judges with a command to follow the principles relating to trial in a requisite manner and not to defer the cross-examination of a witness at their pleasure or at the leisure of the defence counsel, for it eventually makes the trial an apology for trial and compels the whole society to suffer chicanery. Let it be remembered that law cannot allowed to be lonely; a destitute."

29. As directed by the Hon'ble Supreme Court in paragraph 57 (5) of the judgment, we are informed that this Court in ROC No.451-A/2015/F, dated 11.02.2015 has circulated the above

judgment of the Hon'ble Supreme Court to all trial Judges in the State of Tamil Nadu as well as the Union Territory of Puducherry. Despite the same, we are pained to say, apparently we do not find any change in the scenario, more particularly in the mindset of the legal fraternity and the Judges of the subordinate judiciary. We have come across such kinds of unnecessary adjournments in many cases, without recording any reason whatsoever, being given for the mere asking by the learned counsel.

30. It also happens, that in some cases, when an unreasonable request for adjournment or unreasonable request to recall any witness is made and in the event, the trial Court turns down such request, the parties are advised to approach the High Court either under Section 482 Cr.P.C. or by way of revision, challenging the said order of the trial Court.

31. Thereafter, without getting the original petition numbered and keeping the same in the filing stage, the trial Court is informed by means of a memo that the matter is pending in the High Court. In some cases, after getting the original petition numbered, by taking adjournment in the High Court, even in the absence of any order of stay, a memo is filed in the trial Court informing the Court about the pendency of the matter requesting the Court not to proceed with the trial. As a result, the trial Courts in the State, under the guise of maintaining judicial discipline, adjourn the case without making any progress in the trial. In this manner, the trial is prolonged for an unreasonable time by unscrupulous litigants.

32. Having taken note of the said sordid state of affairs, this Court issued a circular in R.O.C.No.5141-A/2010/F1, dated 03.11.2010 instructing the trial Court suitably. Even after issuance of the said circular, the practice of adjourning the cases on the ground that either a petition or an appeal or a revision is pending before the High Court or before the lower Appellate Court / Forum, has not come to a halt. Therefore, the High Court has again issued a circular in R.O.C.No.17155-A/2016/F1, dated 24.03.2016, which reads as follows:

"The practice being followed in the Subordinate Courts of adjourning cases pending in the trial stage, on representation of counsel that Appeal/Revision/Petition has been filed before the High Court, or before the competent Lower Appellate Court / forum shall be avoided forthwith.

The Hon'ble High Court in the reference cited has issued Circular to all the Sessions Courts by enclosing a copy of the Order of the Hon'ble High Court, dated 22.09.2010 in

Crl.R.C.No.1701/2005, to proceed with the trial unless the proceedings are specifically stayed by the order of the Hon'ble High Court.

It is made clear that the Subordinate Courts shall strictly adhere to Order XLI Rule 5 of Code of Civil Procedure, 1908 and shall proceed with trial, unless a stay has been granted or has any legal impediment and the trial should not be adjourned merely for the reason that some Petition/Appeal/Revision is pending before the High Court or before the Lower Appellate Court / forum.

All the Subordinate Courts shall strictly adhere to the order of the Hon'ble High Court dated 22.09.2010 in Crl.R.C.No.1701/2005 and shall proceed with trial unless the proceedings are specifically stayed either by the orders of the High Court or by the competent Lower Appellate Court / forum in Appeal/Revision/Petition etc. or by reason of any other legal impediment.

The above instructions shall be followed scrupulously without any deviation."

33. In the light of the judgment of the Hon'ble Supreme Court in Vindo Kumar Vs. State of Punjab (cited supra) and in the light of the circular of this Court in R.O.C.No.17155-A/2016/F1, dated 24.03.2016, as read above, we direct all the Subordinate Criminal Courts in the State of Tamil Nadu as well as in the Union Territory of Puducherry to scrupulously follow the directions of the Hon'ble Supreme Court in the above judgment and the directions of this Court in the Administrative Circular in R.O.C.No.17155-A/2016/F1, dated 24.03.2016.

34. The independence of judiciary emanates from the independent judicial thinking of the Judges. Interference in the course of justice is not confined only to interference by other agencies into the functioning of the judiciary. In our perception, in order to maintain independence of the judiciary, the Judges should not allow any interference in their independent judicial thinking to do justice which is their Constitutional obligation. The Society expects and the Constitution makers also expected the members of the judiciary to be fair and fearless. It is none of the business of the members of the judiciary to please the legal fraternity by granting uncalled for adjournments for mere asking ignoring the legal mandate of Section 309 Cr.P.C. Granting such unnecessary

adjournments, in our considered view, by itself is an interference into the independence of the judiciary. In order to impress upon the subordinate judiciary about this vital requisite for the Judges, the Hon'ble Supreme Court in the above judgment has expressed its anguish in ever so many words in its rich vocabulary.

35. In the instant case, as we have already pointed out, the Judge who conducted the trial had demonstrably exhibited total indifference to his Constitutional obligation to do speedy and real justice to the parties. He had allowed the witnesses to be dragged to Court and being harassed for many days. He has not recorded the reasons as to why the witnesses were again and again put in the witness box. He has not even recorded as to whether these witnesses were recalled at the instance of the accused or the prosecution.

36. The learned Judge has only exhibited his ignorance in allowing the prosecutor to recall P.W.1 after several months to again examine the witness in chief examination when no new fact was in the hands of the learned public prosecutor to be introduced. As we have already pointed out, the learned Public Prosecutor who conducted the trial, we feel sorry to say, had also been quite indifferent and equally ignorant of the legal positions. Had the learned public prosecutor been a little vigilant or at least, had the learned Judge been watchful, without being a silent spectator, in this case, the anomalies mentioned above, which have impelled us to acquit the accused would not have come into being.

37. We believe that this case shall be taken by the subordinate judiciary to remind themselves of their Constitutional obligation as reiterated by the Hon'ble Supreme Court in the above judgment, so as to ensure that the criminal justice delivery system is not put to jeopardy, but it reaches its logical end to do justice unfailingly.

38. In the result, this appeal is allowed, the conviction and sentence imposed on the appellant by the trial Court in S.C.No.293 of 2011 is set aside and he is acquitted of all the charges leveled against him. Since the appellant is in jail, he is directed to be set at liberty forthwith, unless his presence is required in connection with any other case. The fine amount, if any paid, shall be refunded to the appellant.

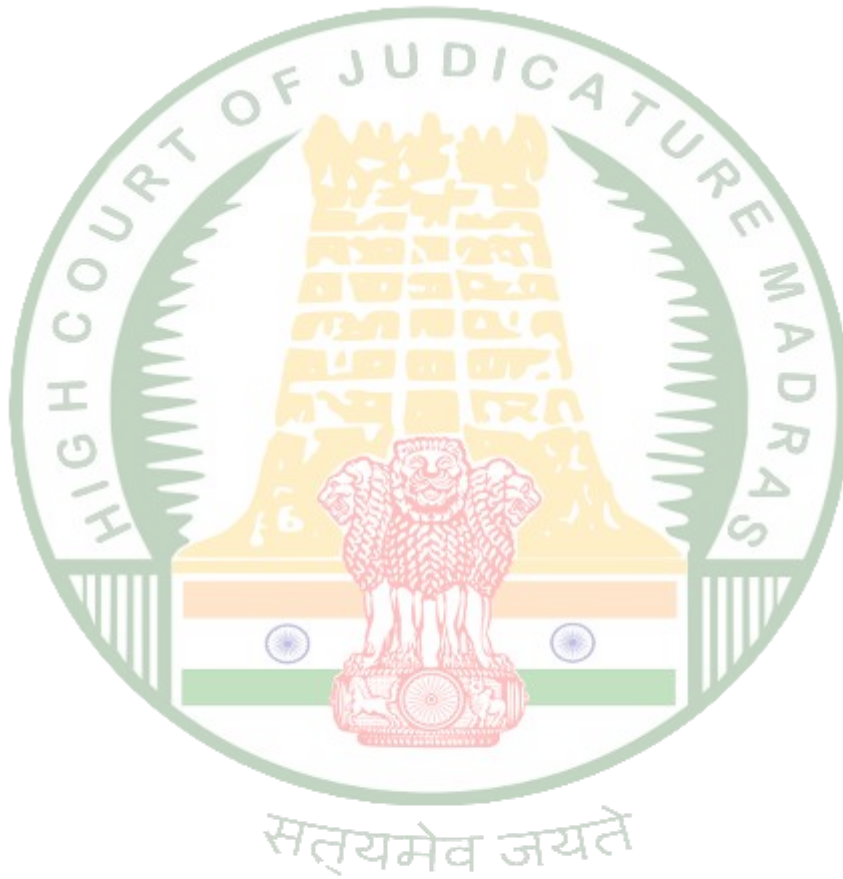
39. We record our appreciation for the good assistance rendered by Mr.R.Mohandas, Advocate appointed as Legal Aid Counsel for the appellant.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

kk



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To

1. The IV Additional Sessions Judge,
Chennai.
- 2.The Principal Sessions Judge Chennai
- 3.The District Collector, Chennai
- 4.The Director General of Police,
Mylapore, Chennai-4
- 5.The Superintendent, Central Prison,
Puzhal, Chennai
6. The Inspector of Police,
P-6, Kodungaiyur Police Station,
Chennai - 600 118.
- 7.The Public Prosecutor,
Madras High Court.
- 8.The secretary The Tamil Nadu State
Legal Service Authority
High Court Madras
- 9.The Section Officer,
B Section High Court Madras
- 10.The Section Officer (Records)
Criminal Section, High Court, Madras
- 11.The Judicial Registrar
High Court, Madras
- 12.The Section Officer,
'F' Section High Court, Madras
- 13.The Sub Assistant Registrar
Judicial Section, High Court Madras
- 14.The Court Manager
High Court, Madras

CrI.A.No.446 of 2013

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