

BAIL SLIP

The Accused namely R1.Pedraj, R2.Samu, R3.Samson, R4.Yesi @ Yesudoss, R6.Yesu @ Yesu Pillai, R7.Seemon @ Simmon, R8.Amul @ Janson, directed to be released on bail vide order of the Hon'ble Court dated 31.10.2013 made in M.P.No.1 of 2013 in CrI.A. 641 of 2013.

The Accused namely R5.Pagasalai Sampath (R5) directed to be released on bail vide order of the Hon'ble Court dated 10.07.2014 made in M.P.No.2 of 2014 in CrI.A.641 of 2013.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2016

CORAM

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

Criminal Appeal No.641 of 2013

1.Pedraj  
2.Samu  
3.Samson  
4.Yesi @ Yesudoss  
5.Pagasalai Sampath  
6.Yesu @ Yesu Pillai  
7.Seemon @ Simmon  
8.Amul @ Janson

... Appellants/A1 to A8

-Versus-

State Rep. by  
The Inspector of Police,  
Manavalanagar Circle,  
Mappedu Police Station,  
Tiruvallur District.  
[Crime No.328 of 2004]

... Respondent

Criminal Appeal filed under Section 374(2) of Cr.P.C. challenging the conviction and sentence imposed on the appellants by the learned I Additional Sessions Judge, Tiruvallur, in S.C.No.210 of 2008 dated 29.07.2013.

For Appellants : Mr.R.Rajan  
For Respondent : Mr.M.Maharaja,  
Additional Public Prosecutor

# JUDGEMENT

(Judgement of the Court was delivered by S.NAGAMUTHU, J.)

The appellants are Accused Nos.1 to 8 in S.C.No.210 of 2008 on the file of the learned I Additional Sessions Judge, Tiruvallur. They stood charged for various offences as detailed below :-

| Charge Number | Rank of Accused       | Charged under              |
|---------------|-----------------------|----------------------------|
| 1             | A1 to A8              | Section 147 of IPC         |
| 2             | A1 to A3 & A8         | Section 148 of IPC         |
| 3             | A4                    | Section 323 of IPC         |
| 4             | A1 to A3 and A5 to A8 | Section 323 r/w 149 of IPC |
| 5             | A5                    | Section 302 of IPC         |
| 6             | A1 to A4 and A6 to A8 | Section 302 r/w 149 of IPC |
| 7             | A6                    | Section 323 of IPC         |
| 8             | A1 to A5, A7 and A8   | Section 323 r/w 149 of IPC |
| 9             | A5                    | Section 323 of IPC         |
| 10            | A1 to A4 and A6 to A8 | Section 323 r/w 149 of IPC |
| 11            | A7                    | Section 324 of IPC         |
| 12            | A1 to A6 and A8       | Section 324 r/w 149 of IPC |
| 13            | A2                    | Section 323 of IPC         |
| 14            | A1, A3 to A8          | Section 323 r/w 149 of IPC |
| 15            | A1, A3 and A8         | Section 336 of IPC         |
| 16            | A2, A4 and A5 to A7   | Section 336 r/w 149 of IPC |

The trial court by judgement dated 29.07.2013 convicted the appellants/A1 to A8 under various offences and accordingly, sentenced them as detailed below:-

| Charge Number | Rank of Accused | Penal provision under which conviction was recorded under | Quantum of Sentence                                                                                                       |
|---------------|-----------------|-----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|
| 1             | A1 to A8        | Section 147 of IPC                                        | Simple Imprisonment for one year with a fine of Rs.1,000/- each in default to suffer simple imprisonment for three months |

| Charge Number | Rank of Accused       | Penal provision under which conviction was recorded under | Quantum of Sentence                                                                                                       |
|---------------|-----------------------|-----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|
| 2             | A1 to A3 & A8         | Section 148 of IPC                                        | Simple Imprisonment for one year with a fine of Rs.2,000/- each in default to suffer simple imprisonment for three months |
| 3             | A4                    | Section 323 of IPC                                        | Fine of Rs.1,000/- in default to undergo simple imprisonment for one month                                                |
| 4             | A1 to A3 and A5 to A8 | Section 323 r/w 149 of IPC                                | Fine of Rs.1,000/- each in default to suffer simple imprisonment for one month                                            |
| 5             | A5                    | Section 302 of IPC                                        | Imprisonment for life and to pay a fine of Rs.5,000/- in default to suffer simple imprisonment for one year               |
| 6             | A1 to A4 and A6 to A8 | Section 302 r/w 149 of IPC                                | Imprisonment for life and to pay a fine of Rs.5,000/- each in default to suffer simple imprisonment for one year          |
| 7             | A6                    | Section 323 of IPC                                        | Fine of Rs.1,000/- in default to suffer simple imprisonment for one month                                                 |
| 8             | A1 to A5, A7 and A8   | Section 323 r/w 149 of IPC                                | Fine of Rs.1,000/- each in default to suffer simple imprisonment for one month                                            |
| 9             | A5                    | Section 323 of IPC                                        | Fine of Rs.1,000/- in default to suffer simple imprisonment for one month                                                 |

| Charge Number | Rank of Accused       | Penal provision under which conviction was recorded under | Quantum of Sentence                                                               |
|---------------|-----------------------|-----------------------------------------------------------|-----------------------------------------------------------------------------------|
| 10            | A1 to A4 and A6 to A8 | Section 323 r/w 149 of IPC                                | Fine of Rs.1,000/- each in default to suffer simple imprisonment for one month    |
| 11            | A7                    | Section 324 of IPC                                        | Fine of Rs.2,000/- in default to suffer simple imprisonment for three months      |
| 12            | A1 to A6 and A8       | Section 324 r/w 149 of IPC                                | Fine of Rs.2,000/- each in default to suffer simple imprisonment for three months |
| 13            | A2                    | Section 323 of IPC                                        | Fine of Rs.1,000/- in default to suffer simple imprisonment for one month         |
| 14            | A1 & A3 to A8         | Section 323 r/w 149 of IPC                                | Fine of Rs.1,000/- each in default to suffer simple imprisonment for one month    |
| 15            | A1, A3 and A8         | Section 336 of IPC                                        | Fine of Rs.250/- each in default to suffer simple imprisonment for 15 days        |
| 16            | A2, and A4 to A7      | Section 336 r/w 149 of IPC                                | Fine of Rs.250/- each in default to suffer simple imprisonment for 15 days        |

Further, the trial court ordered payment of Rs.10,000/- each to P.Ws.2 to 5 and further, a sum of Rs.66,000/- as compensation to P.W.3, the mother of the deceased from and out of the fine so imposed.

2. The case of the prosecution in brief is as follows:-  
The deceased in this case was an young boy aged 18 years by name Mr.Venkatesan. P.W.6-Mrs.Alamelu is his brother's wife. On 02.11.2004 at about 08.00 p.m. the deceased and P.W.6 were proceeding in a bicycle towards their house from the Shoe



Company where P.W.6 was working. The deceased was riding the bicycle and P.W.6 was sitting on the carrier. When they were nearing their house, A1 to A3, who came in one single bicycle dashed their bicycle against the bicycle rode by the deceased. In that impact, the deceased and P.,W.6 fell down. The deceased shouted at the accused for having been so negligent. This resulted in a quarrel between the deceased and A1 to A3. The people who were present there intervened and separated them. Thereafter, the deceased and P.W.6 went to their house and A1 to A3 also left the said place of occurrence.

3. On the next day, that was on 03.11.2004, around 08.15 a.m. the deceased was at his house with his other family members including P.Ws.2 to 5. At that time, all these eight accused came to the house of the deceased and they enquired as to "whether the deceased was available"? At that time, A1 to A3 and A8 were armed with stones; A4 was armed with a wooden-log; and the other accused were unarmed. On hearing the commotion, the deceased came out of the house followed by his other family members. On seeing him, A5 inflicted a single blow with wooden-log on the head of the deceased; A6 attacked P.W.2 with wooden-log on his body and caused a simple hurt; A5 attacked P.W.3 with wooden-log on her head and caused a simple hurt; A7 attacked P.W.2 with stones on his head and caused a simple hurt; A2 attacked P.W.4 with wooden-log on her leg and caused a simple hurt; and A1, A3 and A8 pelted stones. After having attacked the deceased and others, as narrated above, all the accused fled away from the scene of occurrence. In the said occurrence, at the hands of the accused, the deceased and P.Ws.2 to 5 sustained injuries. P.Ws.1, 6 and 9 though not injured witnesses, they are eye witnesses to the occurrence.

4. Immediately, thereafter, all the injured were taken to the Government Hospital at Tiruvallur. P.W.23, the doctor, examined P.W.2 at 09.00 a.m. P.W.2 told him that on 03.11.2004, he was attacked by seven known persons with stick, hand and stones. He found a lacerated injury measuring 4 x 5 x 2 cm on the right side of the forehead of P.W.2 with new tender bleeding. Ex.P.19 is the accident register. On the same day, at 09.00 a.m. P.W.21, the doctor, examined the deceased. At that time, the deceased was conscious. He told that he was attacked by seven known persons with stones, hands and sticks. He found a contusion 4 x 4 cm on the left parietal region on the deceased. Ex.P.20 is the accident register. Then, P.W.21, the doctor, examined P.W.3. She also told that she was attacked by seven known persons with sticks, hands and stones. P.W.21, the doctor, found a lacerated wound 6 x 1 x 1 cm with new tender bleeding on the left parietal scalp of P.W.3. Ex.P.21 is the accident register.

5. On the same day, P.W.21 examined P.W.4 also. She told that she was attacked by seven known persons with sticks, hands and stones. P.W.21, the doctor, found a contusion on the left leg measuring 6 x 4x 5 cm on the left leg of P.W.4 with new tender bleeding injury. Ex.P.22 is the accident register.

6. After admitting P.Ws.2, 3 and 4 and the deceased to the hospital, P.W.1 went to Mappedu Police Station and made a complaint (Ex.P1). P.W.24, the then Sub Inspector of Police, on receipt of the said complaint under Ex.P.1, registered a case in Crime No.328 of 2004 under Sections 147,148, 323 and 324 of IPC. Ex.P.23 is the FIR. Then, P.W.24, forwarded both the complaint-Ex.P.1 and the FIR-Ex.P.23 to the court which were received by the learned jurisdictional Magistrate at 06.00 p.m. on 03.11.2004. In the mean time, taking up the case for investigation, P.W.24 visited the place of occurrence, prepared an observation mahazar (Ex.P24) and a rough sketch in the presence of P.W.18 and another witness. He examined all the injured eye witnesses as well as the other eye witnesses and recorded their statements. While so, the deceased died in the hospital, succumbed to the injuries at 06.45 p.m. on 03.11.2004. Therefore, P.W.24 altered the case into one under Section 302 of IPC and submitted an alteration report (Ex.P25) to the court. Thereafter, he handed over the case diary to the Inspector of Police for further investigation.

7. Taking over the case for further investigation, P.W.29, the then Inspector of Police, rushed to the hospital, conducted inquest on the body of the deceased and prepared an inquest report (Ex.P30). Then, he forwarded the body through a Head Constable for postmortem.

8. P.W.25, the doctor, conducted autopsy on the body of the deceased at 01.15 p.m. on 04.11.2004. He found the following injuries:-

"External Injuries:-

1. Diffuse swelling involving the whole of left parieto temporal region of scalp.

Internal Injuries:-

1. Contusion involving the whole of left parieto temporal region of scalp.

2. Obliquely placed fissured fracture of 9 cms length over the middle of left parieto temporal bone of vault of skull.

3. 200 grams multiple, small, soft clots of blood in 150 ml of dark fluid blood seen extradurally in the whole of left parieto

temporal region including the base of temporal lobe with the underlying dura intact.

4. Thin sub dural and sub arachnoid haemorrhage over the entire surface of left cerebral hemisphere of brain.

5. Internal injury No.2 was found contusing as fissured fracture over the whole length of left side petrous part of temporal bone of vault of skull.

Heart: Chambers and valves normal. Cavities: Empty. Coronary: Patent. Aorta: Normal.

Lungs: Both on cut section pale.

Hyoid: Intact.

Stomach: Contains 100 ml of yellowish brown coloured fluid with no specific smell. Mucosa: Pale.

Liver, Spleen and both kidneys: Cut section pale.

Intestines Duodenum: Contained 50 ml of yellowish brown coloured fluid with no specific smell. Mucosa-Pale.

Bladder: Empty. Pelvis & Membranes: Intact.

Brain: Cut section pale. Spinal Column: Intact"

Ex.P.26 is the postmortem certificate. He gave opinion that the death of the deceased was due to shock and hemorrhage as a result of injuries to the head.

9. In the course of investigation, P.W.29 arrested A7 and A8 on 06.11.2014 at Perambakkam Bus stand in the presence of P.W.11 and another witness. On returning to the police station, he forwarded A7 and A8 to the court for judicial remand. On 07.11.2004, he arrested A1 and A3 and forwarded them to the court for judicial remand. On 09.11.2004, P.W.29 arrested A4 in the presence of P.W.13 and P.W.14. On such arrest, A4 gave a voluntary confession in which he disclosed the place where he had hidden a wooden log. In pursuance of the said disclosure statement (Ex.P31), A4 took the police and the witnesses to the place of hide out and produced the wooden-log [one of the items in M.O.1]. P.W.29, recovered the same under a mahazar (Ex.P.32). On 13.11.2004, P.W.29 arrested A2 and A6. On such arrest, A2 and A6 gave independent voluntary confessions. The disclosure statements of A2 and A6 are Exs.P.34 and 35 respectively. A2 in his confession disclosed the place where he had hidden a wooden-log. In pursuance of his disclosure statement (Ex.P34), A2 took the police and the witnesses to the place of hideout and produced a wooden log [one of the items in M.O.1]. P.W.29, recovered the same in the presence of the same witnesses under a



mahazar (Ex.P36). On returning to the police station, P.W.29 forwarded both A2 and A6 to the court for judicial remand. He forwarded the material objects also to the court.

10. The investigation was, thereafter, taken over by P.W.27. In the course of investigation, P.W.27 arrested A5 on 10.03.2005 in the presence of P.W.21 and P.W.22. On such arrest, A5 gave a voluntary confession in which he disclosed the place where he had hidden a wooden-log. In pursuance of the said disclosure statement (Ex.P.28), A5 took the police and the witnesses to the place of hide out and produced a wooden-log [one of the items in M.O.1]. P.W.27 recovered the same under a mahazar (Ex.P28) in the presence of the same witnesses. Thereafter, P.W.27 collected the medical records, examined the doctors and recorded their statements and on completing the investigation, he laid charge sheet against all the eight accused.

11. Based on the above materials, the trial court framed as many as sixteen charges as detailed in the first paragraph of this judgement. A1 to A8 denied the same. In order to prove the case, on the side of the prosecution, as many as 29 witnesses were examined, 37 documents and M.O.1-Woodenlog [series] material objects were marked.

12. Out of the said witnesses, P.Ws.1 to 9 are the eye witnesses to the occurrence out of them P.Ws.2 to 5 are injured eye witnesses. All the eye witnesses have clearly spoken about the entire occurrence including the previous day's occurrence. P.W.10 has spoken only about the hearsay information. He has stated that he went to the hospital on hearing about the occurrence. P.Ws.11 to 15, 17, 21 and 22 have turned hostile and they have not supported the case of the prosecution in any manner.

13. P.W.16 has spoken about the preparation of the observation mahazar and the rough sketch at the place of occurrence and also the recovery of material objects from the place of occurrence. P.W.18 has also spoken about the same. P.W.19 has also spoken about the mahazar. P.W.20 has turned hostile. P.W.23 has spoken about the treatment given to P.Ws.2, 3 and P.W.4 and the deceased at Government Hospital, Tiruvallur. P.W.24 has spoken about the registration of the case on the complaint of P.W.1 and the investigation done by him until the demise of the deceased on 03.11.2004. P.W.25 has spoken about the autopsy conducted and his final opinion regarding the cause of death. P.W.28, the Head Clerk of the Court of Judicial Magistrate has spoken about the fact that he forwarded the material objects on the orders of the learned Judicial Magistrate to the Forensic Laboratory for chemical analysis.



P.W.27 and P.W.29 have spoken about the investigation done by them and the filing of charge sheet against the accused.

14. When the above incriminating materials were put to the A1 to A8 under Section 313 of Cr.P.C. they denied the same as false. However, they did not choose to examine any witness nor did they mark any document on their side. Their defence was a total denial.

15. Having considered all the above, the trial court convicted the appellants/A1 to A8 as detailed in the first paragraph of this judgement. Challenging the above said conviction and sentences, A1 to A8 are now before this Court with the present criminal appeal.

16. We have heard the learned counsel appearing for the appellants/A1 to A8 and the learned Additional Public Prosecutor appearing for the respondent/State and we have also perused the records carefully.

17. The learned counsel for the appellants would submit that though P.Ws.2 to 5 are injured eye witnesses, they cannot be believed inasmuch as they are highly interested in the case of the prosecution and that there are lot of contradictions and improbabilities in their evidences. He would further submit that similarly, the other eye witnesses also cannot be believed for the same reasons. He would further submit that there is no corroboration from any other independent sources. He would further submit that though the occurrence had taken place at 08.00 a.m. on 03.11.2004, the FIR was registered only at 03.15 p.m. on 03.11.2004 and the FIR had reached the hands of the learned Magistrate only at 06.00 p.m. This, according to the learned counsel, creates a lot of doubts in the case of the prosecution. The learned counsel would take us through the evidences and pointed out the contradictions in respect of overt acts spoken by these witnesses. For all these reasons, the learned counsel for the appellants would pray for acquittal of the appellants/A1 to A8

18. The learned Additional Public Prosecutor would vehemently oppose this criminal appeal. He would submit that the prosecution has proved the occurrence that had taken place on the previous day, that was on, 02.11.2004, in which, A1 to A3 were involved. He would further submit that because of the previous day's occurrence with a strong motive in their mind, A1 to A8 joined together, formed an unlawful assembly, came to the house of the deceased and attacked the deceased armed with deadly weapons and others indiscriminately. Thus, A1 to A8 are liable for appropriate punishments and the trial court was right

in convicting and sentencing them, he contended.

19. The learned Additional Public Prosecutor would lastly submit that the medical evidences also duly corroborate the eye witness account. Therefore, according to him, the criminal appeal deserves to be dismissed.

20. We have carefully considered the above submissions.

21. There is sufficient evidence to prove that on 02.11.2004, A1 to A3 had dashed against the bicycle in which the deceased and P.W.6 were proceeding to their house. This resulted, quite naturally, in a quarrel. The people who were present there intervened and separated them. This was, of course, a small incident which was quite unexpected. A1 to A3 should have forgotten the same, but, instead, they had gathered A4 to A8, came to the house of the deceased on the next day in which some of the accused were armed with wooden-logs and some armed with stones and others were unarmed. Thus, from the fact that all these accused formed themselves into an unlawful assembly and came to the house of the deceased with weapons would clearly go to prove that they assembled with a common object. This fact has been proved by all the eye witnesses including the injured eye witnesses.

22. In the occurrence, A5 attacked the deceased by inflicting a single blow with a stick on his head. The other accused did not cause any injury on the deceased. The said single blow fell on the deceased resulted in fracture of the skull and due to shock and hemorrhage as a result of head injury, the deceased died later on in the hospital. The fact that the said single blow was inflicted by A5 on the deceased has been spoken without any contradiction by all the eye witnesses including the injured witnesses. Thus, we do not find any reason to reject these evidences of the eye witnesses so far as the overt act of A5 is concerned. Therefore, we conclude that it was A5 who caused the death of the deceased by causing head injury.

23. Now, turning to the nature of offence committed by A5, in our considered view, he is not liable for punishment for the offence under Section 302 of IPC. As we have already pointed out, absolutely, there was no motive at all. A small incident which had happened on the previous day was the cause for the subsequent occurrence. From the narration of the facts it is crystal clear that A1 to A8 had not gone to the house of the deceased with the intention to cause the death of anybody. The object was to go and teach a lesson for the previous day's occurrence. But, unfortunately, in the fight the blow fell on

the head of the deceased which resulted in his death. Had he had any intention to cause the death of the deceased, he would not have stopped with one single blow on the deceased. Further, had it been the object of the unlawful assembly, the other accused would not have restrained themselves from causing any injury on the deceased. The very fact that A5 did not repeat the attack on the deceased and the other accused did not at all attack the deceased would all go to prove that there was no intention for A5 to cause the death of the deceased and the object of the unlawful assembly itself was not to cause the death of the deceased. But, the attack made by A5 was certainly in prosecution of the common object. As we have already pointed out, the common object was to teach a lesson to the deceased by assaulting him. In our considered view, the act of A5 in causing the death of the deceased would squarely fall within the fourth limb of section 300 of IPC. However, since A5 was provoked on the spot, and since the said provocation was so sudden and grave, he had inflicted a single blow on the head of the deceased. There are sufficient evidences available for arriving at such conclusion. Therefore, we hold that the act of A5 would squarely fall within the first exception to Section 300 of IPC and so, A5 is liable to be punished under Section 304(ii) of IPC.

24. Since the other accused were the members of the unlawful assembly and since the act of A5 in causing the death of the deceased was in prosecution of the common object of the unlawful assembly, the other accused are liable to be punished for offence under Section 304(ii) r/w 149 of IPC.

25. Similarly, for having caused injuries on P.Ws.2 to 5, the trial court was right in convicting and imposing sentence as detailed in the first paragraph. The trial court has convicted A1 to A8 under Section 147 of IPC for rioting and further, A1 to A3 and A8 for offence under Section 148 of IPC for rioting armed with deadly weapons. The conviction of A1 to A3 and A8 for offence under Section 147 of IPC as well as under Section 148 of IPC would amount to double jeopardy and, therefore, the same cannot be sustained. A1 to A3 and A8 are liable to be punished only for offence under Section 148 of IPC and the other accused are liable to be punished for offence under Section 147 of IPC. To that extent, the judgement of the trial court needs again interference.

26. The learned counsel for the appellant would further submit that there are inconsistencies among the evidences of the eye-witnesses in respect of the overt acts of each accused. The learned counsel would try to blow out of proportion these inconsistencies so as to paint a picture as though these accused did not participate in the occurrence. We do not find any force



in the said argument. After all eight accused had gone to the house of the deceased, five of them had attacked. When the injured eye witnesses were attacked simultaneously and the other eye witnesses were witnessing the same, it would be highly unnatural to expect them to speak precisely about each overt act of the other accused. There are bound to be inconsistencies. On that score, we cannot brand these witnesses as liars. There is no inconsistency in respect of participation of A1 to A8 in the occurrence and being the members of the unlawful assembly. Therefore, de hors, these inconsistencies in respect of the overt acts, we have to hold that the prosecution has proved the participation of these eight accused in the occurrence.

27. So far as the delay in preferring the complaint is concerned, in the instant case, where five persons had sustained injuries, including the deceased, who sustained serious had to be taken to government Royapettah Hospital, Chennai for further treatment and condition of the deceased was so critical then. In such a grave situation, one cannot expect the family members of the injured to rush straightaway to the police station with a complaint. Their main concern would have been to save the injured including the deceased who sustained serious injuries and later on died in the hospital, to take them to the hospital. It was only after admitting the injured and the deceased at the hospital, P.W.1 had gone to the police to make complaint and thus, the delay is quite natural. The delay in our considered view stands explained and the same did not cause any dent in the case of the prosecution at all. So far as the time taken to forward the FIR to the court, there had been no delay. Thus, the argument advanced by the learned counsel for the appellant on the ground of delay is rejected.

28. In view of the above discussions, we hold that A1 to A8 participated in the occurrence and A5 caused the death of the deceased by inflicting a head injury. As we have already pointed out hereinabove, the prosecution has proved the case against A1 to A8 and they are accordingly liable for appropriate punishments. The conviction of A5 for the offence under Section 302 of IPC and conviction of the A1 to A4 and A6 to A8 for the offence under Section 302 r/w 149 of IPC are not sustainable and instead, A5 is liable for punishment for offence under Section 304(ii) of IPC and A1 to A4 and A6 to A8 are liable for punishment for offence under Section 304(ii) r/w 149 of IPC.

29. Now turning to the quantum of punishment for the offence of culpable homicide, going by the fact that there was no motive, no premeditation, no dangerous weapon was used and all other attending circumstances, we are of the considered view that sentencing A5 to undergo rigorous imprisonment for five



years besides a fine of Rs.5,000/- in default to suffer simple imprisonment for four weeks for offence under Section 304(ii) of IPC and sentencing A1 to A4 and A6 to A8 to undergo rigorous imprisonment for four years and to pay a fine of Rs.5,000/- in default to suffer rigorous imprisonment for four weeks for offence under Section 304(ii) r/w 149 of IPC would meet the ends of justice.

30. So far as A1 to A3 and A8 are concerned, their conviction and sentence for offence under Section 147 of IPC are set aside. However, their conviction for offence under Section 148 of IPC and the sentence imposed on them by the trial court are confirmed. The conviction of A4 to A7 for the offence under Section 147 of IPC and sentence imposed on them by the trial court are also liable to be confirmed. The conviction and sentences imposed on A1 to A8 under the other charges by the trial court, except as modified above, are liable to be confirmed.

31. In the result, This criminal appeal is partly allowed in the following terms:-

(1) The conviction of A1 to A3 and A8 for offence under Section 147 of IPC and the sentence imposed thereunder by the trial court are set aside. However, their conviction and sentence under Section 148 of IPC are confirmed.

(2) The conviction of A4 to A7 for the offence under Section 147 of IPC and sentence imposed thereunder by the trial court are hereby confirmed.

(3) The conviction of A5 for the offence under Section 302 of IPC and the sentence imposed thereunder by the trial court are set aside and instead, he is convicted under Section 304(ii) of IPC and sentenced to undergo rigorous imprisonment for five years and to pay a fine of Rs.5,000/- in default to suffer rigorous imprisonment for four weeks.

(4) The conviction of A1 to A4 and A6 to A8 for the offence under Section 302 r/w 149 of IPC and the sentence imposed thereunder by the trial court are set aside and instead, they are convicted under Section 304(ii) r/w 149 of IPC and sentenced to undergo rigorous imprisonment for four years and to pay a fine of Rs.5,000/- each in default to suffer rigorous imprisonment for four weeks.

(5) The conviction and sentence imposed on A4 by the trial court for offence under Section 323 of IPC are hereby confirmed;

(6) The conviction and sentence imposed on A1 to A3 and A5 to A8 by the trial court for offence under Section 323 r/w 149 of IPC are hereby confirmed;

(7) The conviction and sentence imposed on A6 by the trial court for offence under Section 323 of IPC are hereby confirmed;

(8) The conviction and sentence imposed on A1 to A5, A7 and A8 by the trial court for offence under Section 323 r/w 149 of IPC are hereby confirmed;

(9) The conviction and sentence imposed on A5 by the trial court for offence under Section 323 of IPC are hereby confirmed;

(10) The conviction and sentence imposed on A1 to A4 and A6 to A8 by the trial court for offence under Section 323 r/w 149 of IPC are hereby confirmed;

(11) The conviction and sentence imposed on A7 by the trial court for offence under Section 324 of IPC are hereby confirmed;

(12) The conviction and sentence imposed on A1 to A6 and A8 by the trial court for offence under Section 324 r/w 149 of IPC are hereby confirmed;

(13) The conviction and sentence imposed on A2 by the trial court for offence under Section 323 of IPC are hereby confirmed;

(14) The conviction and sentence imposed on A1, A3 to A8 by the trial court for offence under Section 323 r/w 149 of IPC are hereby confirmed;

(15) The conviction and sentence imposed on A1, A3 and A8 by the trial court for offence under Section 336 of IPC are hereby confirmed;

(16) The conviction and sentence imposed on A2 and A4 to A7 by the trial court for offence under Section 336 r/w 149 of IPC are hereby confirmed.

The order of the trial court with respect to the compensation shall remain unaltered.

It is directed that the substantive sentences imposed hereinabove are to run concurrently and the period of detention undergone by the appellants/A1 to A8 shall be given set off as required under Section 428 of Cr.P.C.

Since it is reported that the appellants are on bail, the learned I Additional Sessions Judge, Tiruvallur, shall take steps to secure the presence of the appellants/A1 to A8 and to commit them to prison so as to undergo the sentences imposed by this judgement.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

kmk

To

1.The I Additional Sessions Judge,  
Tiruvallur,  
Tiruvallur District.

2.The Inspector of Police,  
Manavalanagar Circle,  
Mappedu Police Station,  
Tiruvallur District.

3.The Judicial Magistrate No.II,  
Tiruvallur, Tiruvallur District.

4.The Chief Judicial Magistrate,  
Tiruvallur.

5.The Superintendent,  
Central Prison,  
Puzhal, Chennai.

6.The Judicial Magistrate No.I,  
Salem.

7.The Public Prosecutor,  
High Court, Chennai.

+1cc to Mr.K.Rajan, Advocate, S.R.No.30320

Cr1.A.No.641 of 2013

SSK(CO)  
CA(10/08/2016)

सत्यमेव जयते  
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