

THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 09..03..2017

Pronounced on : 06..04..2017

Coram:

THE HON'BLE MR. JUSTICE S.NAGAMUTHU
AND
THE HON'BLE DR. JUSTICE ANITA SUMANTH

Criminal Appeal No.196 of 2016

State Rep. by
Inspector of Police,
Ariyankuppam Police Station,
[Crime No.91 of 2012]
through
Public Prosecutor for Puducherry
at High Court, Madras.
[G.O.Ms.No.23/15 dated 27.03.2015]

...Appellant/Complainant

-Versus-

1. Mani @ Manikandan
@ Murder Mani
2. Karuna @ Karunagaran
@ Manoharan
3. Iyyappan
4. Manikandan @ Suthi Manikandan
5. Sathish @ Ravi
6. Sundar @ Sakthivel
7. Jana @ Parimalazhagan
8. Dhandapani
9. Murali [since deceased]
10. Susairaj
11. Raja @ Pokkaraja
12. Mathiyas [since deceased]
13. Anthony @ Anthonysamy
14. Arun @ Anbazhagan
15. Dilip
16. Mahesh
17. Mahesh @ Maduvapet Mahesh
@ Maheswaran
18. Johnpaul
19. Alex @ Karuppu Alex @ Katta Alex
20. Sankar @ Sivasankar

21.Murthy
22.Jakson @ Jaison Lenin Joseph Thalash
23.Sasikumar @ Beem
24.Gnanavel
25.Oosi @ Tamilselvam
26.Chandra @ Chandru Prasanna
27.Sudhagar

... Respondents/A1 to A27

Appeal filed under Section 372 of Cr.P.C. challenging the judgement of acquittal dated 12.12.2014 passed by the learned III Additional Sessions Judge, Puducherry, Puducherry Union Territory, in S.C.No.9 of 2013.



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For Appellant/State : Mr.A.Raghunathan, Senior
Counsel Assisted by
Mr.V.Balamurugane, Special
Public Prosecutor,
Puducherry

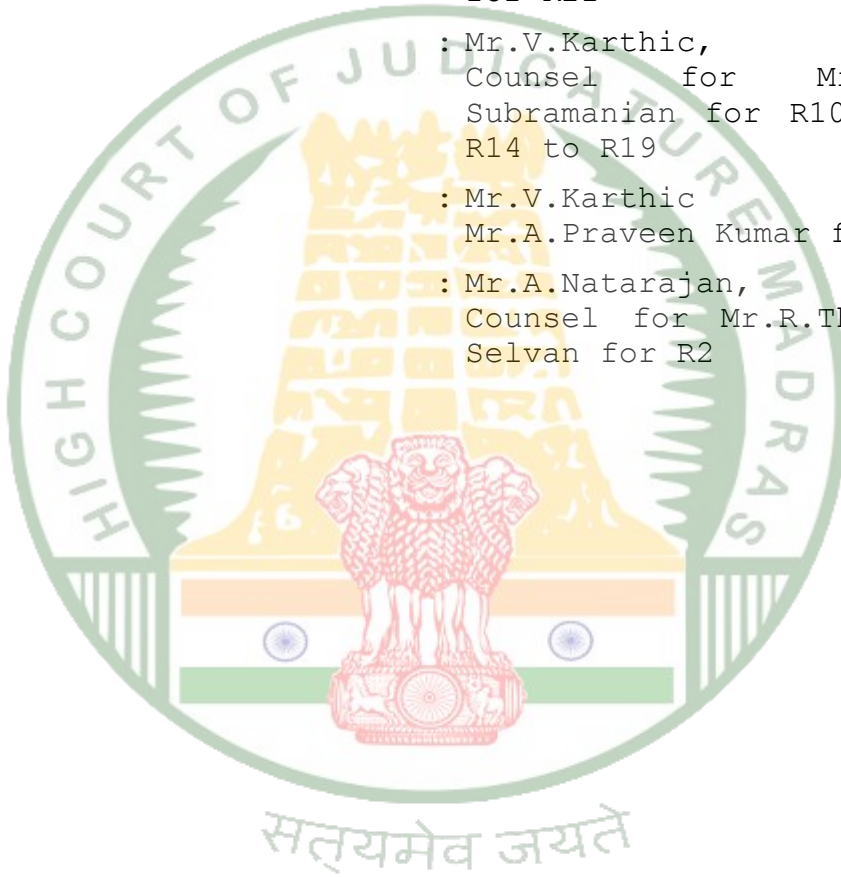
For Respondents/Accused : Mr.V.Gopinath, Senior
Counsel for
Mr.L.Mahendran for R1, R3
to R8, R20, R22 to R27

: Mr.V.Gopinath for Mr.Kumar
for R21

: Mr.V.Karthic, Senior
Counsel for Mr.Swami
Subramanian for R10, R11,
R14 to R19

: Mr.V.Karthic for
Mr.A.Praveen Kumar for R13

: Mr.A.Natarajan, Senior
Counsel for Mr.R.Thamarai
Selvan for R2



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JUDGEMENT

S.NAGAMUTHU, J.

This is an appeal preferred by the State against acquittal. The respondents are Accused Nos.1 to 27 in S.C.No.9 of 2003 on the file of the learned III Additional Sessions Judge, Puducherry. The trial court had framed as many as ten charges against the accused as detailed below:-

Charge No. (s)	Charge(s) framed against	Penal provision under which charge(s) framed
1	A1 to A27	Section 148 r/w 109 of IPC
2	A1 to A27	Section 341 r/w 149 and 109 of IPC
3	A1 to A27	Section 302 r/w 149 and 109 of IPC
4	A1 to A27	Section 307 [5 counts] r/w 149 and 109 of IPC
5	A1 to A27	Section 326 [4 counts] r/w 149 and 109 of IPC
6	A1 to A27	Section 3(a) of The Explosive Substances Act, 1908 r/w 149 and 109 of IPC
7	A1 to A27	Section 25(1-AAA) and 27 (1) of the Arms Act r/w 149 and 109 of IPC
8	A1 to A27	Section 332 [5 counts] r/w 149 and 109 of IPC
9	A1 to A27	Section 333 [4 counts] r/w 149 and 109 of IPC
10	A1 to A27	Section 4 of the Prevention of Damages to Public Property Act, 1984 r/w 149 and 109 of IPC

The trial court, by judgement date 12.12.2014, acquitted A1 to A27 from all the charges. Challenging the judgment of acquittal, the State has come up with this criminal appeal. The respondents 9 and 12 who were A9 and A12 respectively before the trial court, died pending appeal and, therefore, this appeal stands abated as against A9 and A12.

2. The case of the prosecution in brief is as follows: P.W.1-Senthilkumar was working as a Sub Inspector of Police at Orleanpet Police Station in Puducherry Union Territory. P.W.2-Rajendran was working as a Constable. P.W.3 was working as Assistant Sub Inspector of Police. P.W.4 Nagarajan was working as a Police Constable. P.W.7 was working as a Home Guard and he was also the driver of the police vehicle bearing Regn. No. PY01 G 9961. One Mr.Jegan @ Jagannathan @ Jayakrishnan was a life convict lodged in Sub Jail at Karaikkal in Puducherry Union Territory. P.W.1, the Sub Inspector of Police was investigating the case in Crime No.218 of 2012 on the file of Orleanpet Police Station. In connection with the said case, P.W.1 effected formal arrest of Jegan @ Jagannathan @ Jayakrishnan [hereinafter referred to as "the deceased"] in the sub jail at Karaikkal. Initially, on a prisoner transit warrant issued by the Judicial Magistrate-II, Puducherry, he was brought to the court after the above said formal arrest and he was remanded to judicial custody. On 10.08.2012 at 01.00 p.m. as per the orders of the learned Magistrate, the deceased was to be produced before the said court. P.Ws.1 to 4 went to the sub jail and took the deceased into the custody. P.W.5 the van bearing Regn. No. PY 01 G 9961 (M.O.1). They carried the deceased in the said van and brought him to Puducherry. After he was produced before the Judicial Magistrate-II, Puducherry, the learned Magistrate directed him to be taken back and lodged in the sub jail at Karaikkal. Accordingly, at 04.30 p.m. they left the court in the same police van driven by P.W.5. The deceased was sitting by the side of P.W.2. The others were sitting in different seats in the van. P.W.1 was having a 0.9 mm pistol. He had loaded the same with 9 rounds. P.W.3, the Assistant Sub Inspector of Police, had a pistol which was also loaded with ammunitions. When the van was to cross Chunnambar bridge, at the end of the bridge, a bus was stopped. The passengers from the bus were found getting down from the bus and surrounding the bus. Because the said bus blocked the way on the bridge, the van carrying the deceased could not have a smooth passage. At that time, one Innova Car bearing Regn. No. PY 01 AC 4466 (MO.2) came from the opposite direction and it completely blocked the way. As a result , the police van could not proceed further.

3. It is further alleged that from the said car (M.O.2), A3, A4, A5, A14, A6, A13 and A8 got down. They were armed with knives and country bombs. They rushed towards police van menacingly. There were 20 others who also rushed towards the police van. It is alleged that on nearing the said van, A3 to A7, A9, A10, A13 to A17, A19 and A21 started hurling country bombs on the police van. They exploded and caused injuries to some of the inmates. A1, A2, A3 and A7 got into the police van and cut the deceased with knives and also threw country bombs.

A3 and A4 cut the deceased and killed him on the spot. Due to throwing of bombs, the other inmates also sustained injuries. When P.W.4 tried to drive the car backwards, another Innova Car came from behind and blocked the van. The police van hit against the said car. The Sub Inspector of Police opened fire in his SLR gun. He shot four rounds. P.W.3 shot with his pistol two rounds. But, nobody in the crowd sustained any injuries. Then, all the assailants ran away from the scene of occurrence. The deceased died inside the van instantaneously. Then, all the injured were taken to the Government Hospital at Puducherry and admitted as inpatients.

4. On receiving the intimation from the hospital, the Sub Inspector of Police Mr.Lenin Bharathi (P.W.120) went to the hospital at 04.35 p.m., recorded the statement of P.W.1 and on returning to the police station, he registered a case in Crime No.91 of 2012 under Sections 147, 148, 341, 332, 333, 302, 307, 109 of IPC , Section 3 of The Explosive Substances Act, 1908 and Section 3 of the Prevention of Damage to Public Property. Ex.P.1 is the complaint and Ex.P.141 is the FIR. In the FIR, P.W.1 had mentioned the names of A1 to A21 and few unknown persons as the assailants.

5. The case was taken up for investigation by P.W.122. He went to the place of occurrence and at 06.45 p.m. and 07.15 p.m. on the same day. He prepared an observation mahazar and a rough sketch at the place of occurrence. He examined P.Ws.1 to 5 and few others and recorded their statements. He recovered M.Os.53 to 60 from inside the police van in the presence of witnesses. He recovered two pieces of broken glasses stained with blood from the van. He recovered 4 empty cartridges which were lying inside the van. Then, he recovered the other material objects lying inside the van. Then, he forwarded the said van to the Regional Transport Officer for examination. He recovered the blood stained cloths of the victims. He also recovered the Innova Car which was left behind by the accused. He examined the driver and conductor of the bus also. Thereafter, he forwarded a copy of the FIR to the Executive Magistrate and also to the learned jurisdictional Magistrate. They held independent inquiries as provided in sub-section (1) of 176 and sub-section (1-A) of Section 176 of Cr.P.C. It was only thereafter, the dead body of the deceased was forwarded to the hospital for post-mortem.

6. P.W.10, Dr.S.Divakar, conducted autopsy on the body of the deceased and found the following injuries:-

"External Injuries:

(1) Empdermo - dermal burns of 18 cms
x 6 cms over the upper aspect of left
shoulder

(2) Epidermo - dermal burns of 8 cms x 3 cms over the lower and outer aspect of left forearm

Oblique incised gaping wounds: (with cut fractures beneath)

(3) 23 cms x 8 cms over the top of the head, with loss of entire brain.

(4) 18 cms x 6 cms over the right fronto temporo parietal areas of the scalp

(5) 5 cms x 2 cms over the middle of forehead

(6) 4 cms x 1 cm over the left side of forehead

(7) 5 cms x 1 cm over the outer aspect of left eye

(8) 1 1/4 cms x 1cm over the left cheek

(9) 3 1/2 cms x 1/2 cm over the upper aspect of left ear

(10) 4 cms x 1/2 cm over the middle of left ear.

He gave a opinion that the death was due to multiple cut injuries found on the body of the deceased. After the postmortem was over, P.W.122 recovered the blood stained cloths from the body of the deceased.

7. On 11.08.2012 at 05.00 p.m., he arrested A4, A12, A18 and A26. On such arrest, one after the other, they made a voluntary confessions. In pursuance of his confession, A4 took out two knives from the Innova Car and produced the same. P.W.122 recovered the same under a mahazar. Then, he forwarded all the five accused to the court for judicial remand. A3, A14, A6 and A8 had surrendered before the court. P.W.122 took police custody of all of them on 15.08.2012 as per the orders of the learned Magistrate. While in custody, they made confessions voluntarily one after the other. In his confession, A3 identified the place where he had hidden a motor cycle. He took the police and the witnesses to the said place of hide out and produced an Apache motor cycle which was recovered under a mahazar. Then, he recovered a black pulsar motor cycle [M.O.17] in pursuance of the disclosure statement made by A8. In pursuance of the disclosure statement made by A6, Pulsar motor cycle bearing Regn. No. PY 01 8255 [M.O.18] and in pursuance of the disclosure statement made by A14, Pulsar motor cycle bearing Regn. No. PY 01 BJ 718 [M.O.19] were recovered. P.W.122, thereafter, forwarded all the accused to the court for judicial remand. Similarly, few more accused also surrendered before the court and they were taken into custody and some material objects like knives were recovered from out of their disclosure statement.

At the request of P.W.122, the material objects were sent for chemical examination.

8. During the course of investigation, on the disclosure statement made by A3, one country made bomb was recovered. On the disclosure statement made by A6, an aruval was recovered. From A26, 200 grams of explosive substances were recovered. On completing the investigation, P.W.122 laid charge sheet against the accused. [The details of arrest of other accused and the consequential recoveries made are omitted at this stage as the same would be discussed in the later parts of this judgement.]

9. Based on the above materials, the trial court framed as many as ten charges as detailed in the first paragraph of this judgement. The accused denied the same. In order to prove the case, on the side of the prosecution, as many as 122 witnesses were examined, 174 documents and 100 material objects were marked. In addition, a letter addressed to the Chief Secretary, Union Territory of Puducherry was marked as Ex.C.1.

10. When the above incriminating materials arising out of the prosecution side witnesses were put to the accused under Section 313 of Cr.P.C., they denied the same as false. However, they did not choose to examine any witness, but, Exs.D.1 to D.35 were marked on their side. Their defence was a total denial.

11. Having considered all the above, the trial court acquitted all the accused from all the charges. Challenging the acquittal, the State is before this Court with the present criminal appeal.

12. We have heard the learned senior counsel Mr.A.Raghunathan appearing for the appellant/State and the learned counsel appearing for the respondents/A1 to A27 and we have also perused the records carefully.

13. Out of the said witnesses, P.Ws.1 to 5 are the eye witnesses to the occurrence. They have stated about the entire occurrence. P.W.1 has identified A3, A4, A5, A6, A8, A13 and A14. The trial court has disbelieved him for more than one reason. First of all, it is stated that though the FIR was registered at 04.15 p.m. on 10.08.2012, it had reached the hands of the learned Magistrate only at 03.00 a.m. on 11.08.2012. Absolutely, there is no explanation for this inordinate delay. When there are multiple number of accused, such unexplained long delay assumes much importance. The trial court has considered this issue and had doubted the case of the prosecution.

14. Then, in the FIR itself, P.W.1 has mentioned about the names of 21 accused. But, it is not the case that he knew the

identity of all the accused. It is not explained to the court as to how did he mention 21 named persons as accused in the FIR. Ex.D.13 is the statement of P.W.1 to the Executive Magistrate cum Tahsildar on 23.09.2012 during inquiry under Section 176 of Cr.P.C. This statement has been duly used by the defence to contradict P.W.1. In the said statement, he has not at all stated that these accused were in the crowd which hurled the country made bombs at the van and killed the deceased by cutting him. In the said statement, he has stated that only a crowd of ten people came, threw country bombs at the van, entered into the van and killed the deceased. In his evidence, P.W.1 has stated that he knew the above mentioned accused already. If that be so, he would not have omitted to mention the names of these known accused in the said statement. Instead, he has stated that only unknown persons came and attacked. Though Ex.D.13 was brought to the notice of P.W.1 and though he was confronted with the same, he has got no explanation to offer as to why he did not mention about the presence and participation of any of the accused. It was for this reason, the trial court has rejected the evidence of P.W.1. We find no reason to take a different view than the one taken by the trial court.

15. In Ex.D.11-Sentry Relief Book, P.W.1 had entered that unknown persons, who could not even be identified, threw country bombs at the police van and killed the deceased. When P.W.1 was confronted with Ex.D.11, he has no explanation to offer as to why he recorded in the sentry relief register that unknown persons who could not even be identified by him, hurled bombs at the van, attacked the deceased and killed him. Thus, in our considered view, the trial court was right in rejecting the evidence of P.W.1.

16. So far as P.W.2, another eye witness is concerned, he has stated that in the crowd, he found A7, A15 and A17 alone. He was confronted with Ex.D.15 which was the statement made by him to the Executive Magistrate cum Tahsildar during inquiry under Section 176 of Cr.P.C. In that he has not at all mentioned anything about any of these accused. He has no explanation to offer as to why he did not mention the names of any of the accused. In fact, in the said statement, he has stated that the assailants were not known. In Ex.D.15, he has stated that one Rowdy Iyyappan entered into the van and killed the deceased. In his evidence also, he has stated that A3-Iyyappan entered into the van and killed the deceased. In view of the material contradictions between the evidence of P.W.2 and Ex.D.15, the trial court has disbelieved him also. He has further stated that on the date of occurrence at 07.00 p.m., the Sub Inspector of Police recorded the statement from him. But, the said statement has not seen the light of the day.

17. Now, turning to P.W.3, he knew many of the accused. He has identified A1 and A2 alone as known persons. According to him, accused Raja, Mathiyas (since deceased), John Paul, Susairaj, Suthi Manikandan, Sathish @ Ravi, Iyappan, Dhandapani, Arul @ Anbazhagan & Murali (since deceased) were in the crowd which hurled bombs at the police van and killed the deceased. He has further stated that the accused Sundar @ Sakthivel, Maduvapatti Mahesh, Karuppu Alex, Kulla Mahesh, Jana @ Parimel Azhagan and Moorthy were also hurled bombs. This witness has also been disbelieved. He was confronted with his statement under Ex.D.17 made to the Executive Magistrate cum Tahsildar. In Ex.D.17, he has not mentioned about the names of any of the accused. When he was confronted with the said statement, he has got no explanation to offer as to why, he did not mention the names of any of the accused in that earliest statement. Had it been true that he knew the assailants, he would not have omitted to mention the names of these accused and their participation in the crime in the said statement. So far as the attack made on the deceased is concerned, during cross examination, he has stated that because bombs were hurled at the police van, he fainted due to smoke and when he regained consciousness he found the deceased lying inside the van with injuries. For these reasons, the trial court has disbelieved this witness. We find no reason to take a different view.

18. P.W.4 is yet another eye witness who travelled in the police van. He has also mentioned about the presence and participation of some of the accused. But, in Ex.D.18, the earliest statement made by him to the Executive Magistrate cum Tahsildar, he has not stated about the presence and participation of any of the accused. He has only stated that some people who could not even be identified, came in a car, hurled bombs and killed the deceased. When he was confronted with Ex.D.18, he had no explanation as to why he did not mention the presence and participation of any of the accused.

19. P.W.5 was the driver of the police van. He has also mentioned the names of some of the accused in his evidence as the assailants. He was confronted with Ex.D.20, the earliest statement made by him to the Executive Magistrate cum Tahsildar. In that, he has not stated anything about the presence and participation of any of these accused. When was confronted with the said statement, he has got no explanation at all. He has only stated that more than 15 people who were not previously known to him hurled bombs, attacked the deceased and killed him. Thus, his evidence has also been doubted by the trial court in which also we find no reason to take a different view.

20. P.Ws.6, 7, 8 and 9 have turned hostile and they have

not stated anything incriminating against the accused. P.W.10 was the owner of the Innova Car bearing Regn. N.TN 21 AA 3336. According to him, on the date occurrence, he was proceeding in the said car to Thirunallar from Chennai. When the car was passing Chunnambar bridge, the police van in question was going ahead of his car. At that time he heard a violent sound of a blast. He was unable to drive the car further. Thus, he has spoken only about the occurrence, but, not about any of the accused. P.W.11 is the driver of the bus. He has also stated that a crowd of people attacked the police van. He has not stated anything about the accused. P.W.12 has turned hostile. P.W.13 has stated that he went to the place of occurrence after the entire occurrence was over. P.W.14 has turned hostile.

21. P.W.18 is another star witness for the prosecution. According to him, he travelled in the bus which was stopped on the bridge at the place of occurrence. He has stated that a crowd of people attacked the police van. He has stated that he already knew the accused Iyyappan, Suthi Manikandan and Jana. But, he has not identified anybody else. He was treated as hostile. He was examined by the police after 18 days of occurrence. For these reasons, the trial court disbelieved him in which we do not find anything erroneous. P.W.19 has not stated anything incriminating. P.W.20, the then Inspector of Police, Rural Traffic Wing, has stated that he went to the place of occurrence and helped the investigating officer. P.Ws.21 to 28 have turned hostile and they have not supported the case of the prosecution in any manner. P.W.29, yet another Inspector of Police, who was then working at Mudaliarpur Police Station, has spoken about the earlier occurrence to prove the motive. P.W.30 has spoken about the arrest of some of the accused on 11.08.2012. P.W.31 has turned hostile. P.W.32 has spoken about the preparation of the observation mahazar and the rough sketch. P.W.33 has spoken about the confession made by some of the accused and the consequential recoveries. P.W.34 has spoken about the confession statements of few more accused and the consequential recoveries. P.W.35 has spoken about the arrest of some more accused and the consequential recoveries made.

22. P.W.36 has also spoken about the arrest of some more accused and the disclosure statements made and the consequential recoveries of the material objects. P.W.37 to P.W.42 have turned hostile and they have not supported the case of the prosecution in any manner. P.W.43 has spoken about the arrest of A1 and A2. P.W.44 to P.W.56 have turned hostile and they have not stated anything in favour of the accused. P.W.57 has stated that A8-Dhandapani used to bring Innova Car bearing Regn. No. PY 01 AC 4466 to his mechanic shed for service and repair. P.W.58 to P.W.73 have turned hostile and they have not supported

the case of the prosecution in any manner. P.W.74 has stated that he was the owner of the motor cycle bearing Regn. No.PY 01 AG 8886 . He has further stated that he pledged the same to one Solomon. P.W.75 has turned hostile. P.W.76 has stated that he sold away the car bearing Regn. PY 01 AC 4466 to one Elumalai. P.W.77 has stated that he had given his cellphone No. 84899 99413 to his elder son. He has not stated anything incriminating. P.W.78 has turned hostile.

23. P.W.79 has spoken about the diffusing the live bombs found at the place of occurrence. P.W.80 has stated about the parking of the motorcycle bearing Regn. No. PY 01 BF 8255 at Tindivanam Railway Station. P.W.81 and P.W.82 have turned hostile. P.W.83 has stated that he heard about the occurrence and he was present at the time of inquest. P.W.84 has stated the pulsar motor bearing Regn. No.PY 01 BJ 0718 was belonged to him. P.W.85 has stated that he pledged the motor cycle PY 01 AG 8886 to Mr.Moorthy. P.W.86 has stated that he came to know that the innova car bearing Regn. No. PA 01 AC 4466 was involved in the occurrence. P.W.87 has spoken about the motive occurrence. P.W.89, the Village Administrative Officer has spoken about the recoveries of some of the material objects on the disclosure statements made by few accused. P.W.90, the then Assistant Motor Vehicle Inspector, has stated that he examined the innova car bearing Regn. No.TN 31 AA 3336 and the Tempo Traveller (police van) PY 01 G 9961. He found that there were extensive damages to both the vehicles. P.W.91 has turned hostile.

24. P.W.92 has spoken about the treatment given to the injured witnesses. P.W.93 has also spoken about the treatment given to one Alex @ Karuppu Alex on 10.08.2012 at 04.15 p.m. P.W.94, the Doctor, has spoken about the treatment given to the injured witnesses. P.W.95 has spoken about the treatment given to P.W.5. P.W.96 was working as Nodal Officer in Vodafone South Limited. He has spoken about the call details supplied by him for the phone No. 84899 99413 for 09.08.2012 and 10.08.2012. P.W.97 has spoken about the chemical examination conducted on the visceral organs of the deceased. According to him, there were neither any poison nor alcohol detected in any of the visceral organs. P.W.98, the doctor, has spoken about the examination of the injured witnesses in the hospital by the investigating officer. He has stated that he was by the side of the said witnesses and certified that they were conscious. P.W.99 has stated that he typed out the statements of the accused as spoken by them to the investigating officer.

25. P.W.100, the then Sub Inspector of Police, has stated that he assisted the Inspector of Police in the matter of investigation. P.W.101 has also spoken about the similar facts.

P.W.102, the Head Constable, has stated that he handed over the material objects to the Forensic Sciences Laboratory. P.W.103 has also spoken about the similar facts. P.W.104 was the Assistant Inspector of Police. He has stated that on getting information about the occurrence, he rushed to the place of occurrence at 07.15 p.m. on the same day. He has further stated that he assisted the Inspector of Police to recover the material objects. P.W.105, the Head Constable, has stated that he reduced the statements of the witnesses into writing as spoken by them in the presence of the investigating officer, as directed by the investigating officer. P.W.106 has also spoken about the similar facts.

26. P.W.107, the Police Photographer, has stated that he too photographs as directed by the investigating officer. P.W.108 was the then Motor Vehicle Inspector at Puducherry. According to him, the Innova Car bearing Regn. No. PY 01 AC 4466 stood in the name of one Chandran. P.W.110 has spoken about the autopsy conducted and the final opinion regarding the cause of death. P.W.111 was an Expert from the Regional, Forensic Sciences Laboratory. He examined the material objects. According to him, there were human blood stains on many of the material objects. P.W.112 has also spoken about the chemical examination conducted on the material objects. P.W.113 has stated that he examined the material objects and found explosive substances on some of them. P.W.114 has spoken about the call details of the cellphone of some accused during 09.08.2012 and 10.08.2012. P.W.115 has also spoken about the call details. P.W.116 has spoken about the treatment given to P.W.2. P.W.117 has stated that he handed over the FIR to the court. P.W.118, an Expert from Forensic Sciences Laboratory, has stated that he examined the material objects and found human blood stains on the same. P.W.119, The Executive Magistrate cum Tahsildar, has spoken about the inquiry held by him under Section 176 of Cr.P.C.

27. P.W.120, the Sub Inspector of Police, has spoken about the registration of the case and the initial investigation done by him. P.W.121, the learned Judicial Magistrate, has spoken about the inquiry held by him under sub-section (1-A) of Section 176 of Cr.P.C. P.W.122 has spoken about the investigation done by him in this case.

28. As we have already discussed, the prosecution relies on the eye witness account of P.Ws.1 to 5 and the trial court has rejected their evidence for some valid reasons. Though the prosecution has succeeded in establishing that a crowd of people came to the place of occurrence, hurled bombs, entered into the police van and killed the deceased, there is no evidence that these accused were the perpetrators of the crime. Thus, the prosecution has failed to prove the charges against the accused.

29. In fact, we need to state that the initial presumption of innocence of an accused gets doubled, if he is acquitted by the trial court. Unless such presumption is rebutted by making out a very strong case, it would not be possible for the appellate court to take a different view than the view taken by the trial court so as to substitute its views. In this case we do not find any perversity in the judgement of the trial court at all. The trial court has given cogent reasons as to why it has rejected the case of the prosecution. In such view of the matter, we find no merit in this appeal and the appeal fails.

30. In the result, the Criminal Appeal is dismissed and the judgement of the trial court acquitting the respondents 1 to 8, 10, 11 and 13 to 27 is hereby confirmed. This appeal stands abated as against the respondents 9 and 12.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmk

To

- 1.The III Additional Sessions Judge, Puducherry, Puducherry Union Territory
- 2.Thro The Principal Sessions Judge, Puducherry
3. The Judicial Magistrate No.I, Puducherry
- 4.Thro The Chief Judicial Magistrate, Puducherry
5. The District Collector, Puducherry

6. The Director General of Police,
Mylapore, Chennai.

7.The Inspector of Police,Ariyankuppam Police Station,
Puducherry Union Territory.

8.The Public Prosecutor, High Court, Chennai.

+lcc to Mr.Mahendran, Advocate, S.R.No.21372

+lcc to Mr.Tamaraiselvan, Advocate, S.R.No.21129

+lcc to the Government Pleader, S.R.No.20858

Cr1.A.No.196 of 2016

KJ(CO)
RS(04/05/2017)



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