



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.07.2017

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.A(MD).No.293 of 2017

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Ravichandran

... Appellant

Vs

1.State rep.by
Inspector of Police,
Kadayam Police Station,
Tirunelveli District,
Crime No.429/2013.

2.Chinnasamy

3.Manoharan

4.Durai @ Kattadurai

5.Balasubramanian

6.Guruputhiran

7.Kannan

8.Raj

9.Udayakumar

10.Ajith Kumar

... Respondents

Prayer : Criminal Appeal filed under Section 372 Cr.P.C., to call for records in S.C.No.416 of 2016 on the file of the IV Additional Sessions Judge, Tirunelveli, Tirunelveli District and set aside the Judgment dated 15.12.2016 and punish the respondents 2 to 10/accused Nos.1 to 9 in accordance with law.

For Appellant : Mr.A.Thiruvadikumar

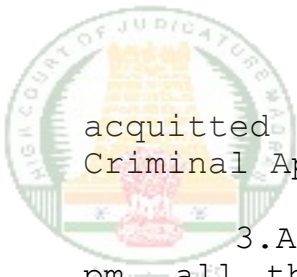
For R - 1 : Mr.C.Mayilvahana Rajendran
Additional Public Prosecutor

For RR - 2 to 10 : Mr.S.R.A.Ramachandran

JUDGMENT

Challenging the order of acquittal passed in S.C.No.416 of 2016 by the IV Additional Sessions Judge, Tirunelveli the present Criminal Appeal has been filed.

2.Earlier, based on the complaint given by PW1/victim, the first respondent herein has registered a case in Crime No.429 of 2013 against the respondents 2 to 10 for the offences punishable under Sections 147, 148, 294(b) and 506(ii) IPC and also under Section 3 of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992. The Investigating Officer, after completing the investigation, has laid a filed final report on the file of the trial Court and the same has been taken on file in S.C.No.416 of 2016. The trial Court has found all the accused not guilty and



acquitted them. Challenging the order of acquittal, the present Criminal Appeal has been filed.

3. According to the prosecution, on 03.10.2013 at about 09.50 pm, all the accused have formed an unlawful assembly in front of the house of PW1 and thrown bricks, stones inside the house and also intimidated PW1 and caused damage to his house to the extent of Rs.660/-. In order to prove its case, the prosecution has examined as many as eight witnesses (PWs.1 to 8) and marked Exs.P1 to P6 and M.Os.1 to 5.

4. The trial Court after considering the evidence available on record, has given a finding that there are lot of contradictions in the evidence of eye witnesses and come to the conclusion that the prosecution has failed to prove its case beyond reasonable doubt and acquitted all the accused.

5. The learned counsel appearing for the appellant would submit that the trial Court has acquitted all the accused mainly on the ground that there is a delay of 11 hours in lodging the complaint which was explained by the prosecution and apart from that the Court below has also given a finding that there are material contradictions in the testimonies of eye witnesses. It is further submitted that the discrepancies found in the evidence would not affect the case of the prosecution and hence, the order of acquittal passed by the trial Court is liable to be set aside.

6. Per contra, the learned counsel appearing for the respondents 2 to 10 submitted that the trial Court after considering the evidence adduced on the side of the prosecution, has rightly acquitted all the accused and therefore, the order of acquittal passed by the trial Court need not be interfered with.

7. I have heard the rival submissions made on either side and carefully considered the materials available on record.

8. Even though there is a delay in filing the complaint, the delay has been clearly explained on the side of the the prosecution. But there are material contradictions in between the evidence of PWs.1, 2 and 3. According to PW1, A5 has alone thrown stone in the house of PW1. According to PW2, except accused Nos.1 and 2, other seven accused have thrown stone in the house of PW1. But PW3 has stated in his evidence that nearly 100 to 150 persons have assembled in front of the house of PW1 and only one or two persons have alone thrown stones. Further, it is seen from the evidence available on record that the prosecution did not establish as who has thrown stone in the house of PW1 and there is also a doubt who are all the members of the unlawful assembly in front of the house of PW1.

9. The trial Court after considering the infirmities found in the case of the prosecution has rightly acquitted all the accused. In the above circumstances, I find no illegality or infirmity in the



Judgment rendered by the trial Court. Hence, this Criminal Appeal is liable to be dismissed.

10. In fine, this Criminal Appeal is dismissed.

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Sd/-
Assistant Registrar (AD-II)

Sub Assistant Registrar

To

1. The IV Additional Sessions Judge, Tirunelveli,
Tirunelveli District.

2. The Inspector of Police,
State of Tamil Nadu,
Kadayam Police Station,
Tirunelveli District,

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.A.Thiruvadi Kumar Advocate in SR. No.68179
+1cc to Mr.S.R.A.Ramachandran Advocate in SR. No.68181
MJ
JS/JC/SAR.3/16.08.2017/ 3P-6C

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