

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 25.07.2017****C O R A M****THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN****WEB COPY****Criminal Appeal (MD) No.241 of 2017**

Ramu ... Appellant/Victim PW1

Vs.

1. State through the
Deputy Superintendent of Police,
Thirumangalam Sub Division,
Thirumangalam.

... 1st Respondent/Complainant

2. Manikandan

3. Ayyappan

... II & III Respondents/Accused

Appeal filed under Section 372 crpc read with 29 of CrI. Amendment Act, to call for the records in S.S.C.No.80 of 2007 dated 31.07.2013 on the file of the learned III Additional District Court (P.C.R), Madurai and set aside the orders passed therein.

For Appellant : Mr.T.Saravana Pandiyan

For 1st Respondent : Mr.C.Mayilvahana Rajendran,
Additional Public Prosecutor.***For 2nd and 3rd****Respondents : Mr.Babu Rajendran****JUDGMENT**

The appellant is a defacto complainant. Based on the complaint given by the appellant, a case in Crime No.421 of 2006 has been registered against the respondents 2 and 3 for the offence punishable under Sections 323 and 324 and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. After trial, the learned III Additional District Judge (PCR), Madurai acquitted both the respondents 2 and 3 herein. The said judgment is challenged in the present appeal.

2.It is seen from the records that there are several contradictions in the evidence of prosecution witnesses particularly, the injured witness while deposing has stated that he has given a complaint before the police station and his statement was recorded by one Head Constable where he stated that three persons were attacked him but in the FIR, it was stated that two persons were attacked him. Further, it is stated that at the time of occurrence one Eswaran was present but that he was not examined. It is further stated that P.W.2 and 3, the sister in



law, and brother of P.W.1, came to the place of occurrence only after the occurrence and therefore, they cannot be treated as eye witnesses to the occurrence.

3. Admittedly, in an appeal/revision against acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him and the fundamental principle of criminal justice delivery system is that every person accused of committing an offence shall be presumed to be innocent, unless his guilt is proved by a competent Court of law. Secondly, if the accused has secured an order of acquittal, the presumption of his innocence is reaffirmed and strengthened by the trial Court. Even if two reasonable conclusions are possible on the basis of evidence on record, the appellate Court should not disturb the finding of the acquittal recorded by the trial Court.

4. In the instant case, as already held, the prosecution has suppressed the origin and genesis of the occurrence and as truth is not before this Court, the trial Court has rightly acquitted the accused. Hence, I find no perversity in the judgment of the trial Court. In the above said circumstances, I find no reason to interfere with the order of acquittal passed by the trial Court. Accordingly, the Criminal Appeal is dismissed.

Sd/-
25.07.2017

***(Amended as per the order dt.
29.08.2016 vide Cr1.A(MD)241/17)**

Sd/-
Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

To

(To be substituted to the order already dispatched on 16/08/2017)

1. The Deputy Superintendent of Police,
Thirumangalam Sub Division,
Thirumangalam.
2. The III Additional District Court (P.C.R),
Madurai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.Babu Rajendran, Advocate SR.No.67679

SMS

VB/MR/KKR/SAR4/11/08/2017/2P/5C

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