



BAIL SLIP

Appellant/Accused, namely, Rasu, S/o.Nagappan was directed to be released on bail in and by the order of this Court dated 24/07/2014 made in M.P.(MD)No.1 of 2014 in Crl A(MD)No.222 of 2014.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	30.07.2019
Date of Judgment	08/11/19

CORAM

THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

Crl.A. (MD)No.222 of 2014

Rasu : Appellant/A1

Vs.

State represented by
Inspector of Police,
Thenkarai Police Station,
Periyakulam, Theni District.
(Crime No.432 of 2011)

: Respondent/Complainant

Prayer: Criminal Appeals filed under Section 374(2) of the Criminal Procedure Code against the judgment, and conviction, dated 30.06.2014 passed by the Mahalir Fast Track Court, Theni, in SC No.48 of 2012 and acquit the Appellant.

For Appellant

: Mr.V.Sasikumar
(Legal Aid counsel)

For Respondent

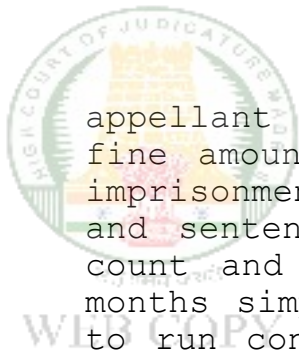
: Mr.R.Anandharaj
Additional Public Prosecutor

J U D G M E N T

This Criminal Appeal is directed against the judgment, dated 30.06.2014 passed by the Mahalir Fast Track Court, Theni, in SC No.48 of 2012.

2.The case of the prosecution is that on 04.11.2011 at about 20.00 hours when the complainant trying to tie the cattle cows in front of her house, A1 abused the complainant with filthy language and when the same was questioned by the family members of the complainant, the accused persons attacked them with Aruval and caused injuries to them. The Inspector of Police attached to Thenkarai Police Station, has filed a final report against the accused persons examining the witnesses.

3.The trial court, on proper appreciation of the evidence both oral and documentary, found A1 guilty and convicted the

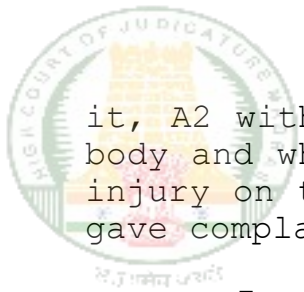


appellant for the offence under section 294(b) IPC by imposing a fine amount of Rs.1,000/-, in default to undergo 3 months simple imprisonment and for the offence under section 324 IPC (3 counts) and sentenced to undergo 3 months rigorous imprisonment for each count and to pay a fine of Rs.1,000/-, in default to undergo 3 months simple imprisonment each and all the sentences are directed to run concurrently. Aggrieved over the same, the appellant/A1 is before this court.

4.Heard both sides and perused the materials available on record.

5.The main contention raised on the side of the appellant/A1 is that PW2 deposed before the trial court that MO1 Aruval was not used in the occurrence, so there is contradiction between PW2 and PW1, PW3 regarding the use of Aruval in the occurrence and if there is doubt that the weapon was issued in the occurrence, the conviction based on using of that weapon in the occurrence is also to be set aside and the evidence of the material witness is that the blood-stained shirts and sand were seized by the Investigating Officer, but they were not produced before the trial court and the weapons used for the occurrence are not blunt weapon and it is very sharpened one and PW9 said that the injuries may be caused by blunt weapon and one independent witness was examined in this case and all the occurrence witnesses are close relatives of PW1 and PW1 and PW9 sustained simple injuries and hence, the above injuries are not possible by way of Aruval and there is no material evidence both oral and documentary or material object attracting the offence against the appellant/A1 and the allegation against the appellant/A1 that the caused simple injury is not established by the prosecution case beyond reasonable doubt and independent and reliable evidence and hence, the conviction of the trial court is liable to be set aside and prays that the criminal appeal has to be allowed.

6.PW1 to PW5 are the injured. PW1 gave Ex.P1 complaint in respect of the occurrence. PW1 in her complaint statement stated that due to previous enmity on 04.11.2011 at 8.00 pm, when she tried to tie her cattle, at that time A1 came and said ""ஏன் தேவடியா மகளே இந்த ஏன் இடத்தில் ஏன் மாடுகட்டுகிறாய்" and when it was questioned by his son Muthu Pandi, immediately A1 took Aruval which lies in the place of occurrence and said "'இத்தோடு செத்து தொலைந்து போ" and caused injury on the right forearm and when it was resisted by his son Muthu Pandi, it caused injury on the left hand thumb finger and then, he turned back position of the Aruval and caused injury on the left and right thigh and his another son Madhan Kumar came to resist it, A1 with Aruval and said "'இத்தோடு செத்து தொலைந்துபோ" and used filthy language and caused injury on the left ear of his son Madhan Kumar and his brother-in-law and son Manickam came and resisted it, A1 said "'இத்தோடு செத்து தொலைந்துபோ" and caused injury on



it, A2 with wooden log repeatedly assaulted on several parts of the body and when she attempted to resist it, A2 with wooden log caused injury on the right side hip and she went to the police station and gave complaint to the police.

7.PW1 during her evidence stated that prior to 8 months at 8.00 pm, when she tried to tie her cattle, at that time A1 came and used filthy language and her son Muthu Pandi questioned A1, then A1 with Aruval assaulted her son and caused injury on his left shoulder, left hand thumb finger, right forearm and left and right thighs and A1 assaulted her with wooden log and caused injury on her back. From Ex.P1 and the evidence of PW1, it reveals that due to previous enmity, on the date of the occurrence A1 and A2 came with Aruval and assaulted PW1 to PW5 and caused injuries.

8.PW2 to PW5 are injured. PW2 to PW5 deposed that due to previous enmity, when PW1 tried to tie the cattle before her house, at that time A1 with Aruval came and assaulted PW2 to PW4 and A2 with wooden log caused injury on PW1 and PW4. PW2 stated during his evidence that A1 came to the place of occurrence and questioned his mother why she tied her cattle in the place of the accused and used filthy language and when it was questioned by him, A1 with Aruval caused injury on his right forearm, left hand thumb finger and when his brother Madhan Kumar came and resisted it, A1 with Aruval caused injury on the right ear and A1 assaulted his relative Manickam and caused injury on his back and when came and resisted it, A2 caused injury on his back shoulder and A1 and A2 assaulted his mother with Aruval and wooden log on her back and all the injured were taken to the Government Hospital, Periyakulam.

9.PW3 deposed that prior to 9 months, when his mother tried to tie the cattle in front of their house, at that time, A1 came and used filthy language and his brother came and resisted it, A1 with Aruval caused injury on the right forearm, left hand thumb finger and caused injury on his right ear and A1 assaulted his relative Manickam and caused injury on his back side and A1 with wooden log assaulted on his mother's back side, A1 turned the position of Aruval and caused injury on his mother's back side and all the injured were taken to the Government Hospital, Periyakulam.

10.PW4 deposed that prior to 10 months, his Aunt tried to tie her cattle in front of her house, at that time A1 came and used filthy language and when it was resisted by PW2 Muthu Pandi, then A1 with Aruval assaulted PW2 and caused injury on his right hand, and left hand shoulder and when it was resisted by PW3 Madhan Kumar, A1 caused injury on his left ear and A1 assaulted PW1 and A2 with wooden log caused injury on their backside and then all the injured were taken to the Government Hospital, Periyakulam.

11.PW5 deposed that prior to 10 months at 8.00 pm, when PW1 tried to tie her cattle in front of her house, at that time A1 came and used filthy language and when it was questioned by PW2 Muthu



Pandi, A1 with Aruval caused injury on his right hand and thumb finger and the thumb finger was hanged and when PW3 came and resisted it, A1 caused injury on her left ear and further assaulted PW4 with Aruval and caused injury on his left shoulder, A2 with wooden log caused injury on her back side and all the injured were taken to the Government Hospital, Periyakulam. Hence, in respect of the occurrence, there was corroboration between the evidence of PW1 to PW5 and there was no contradiction in their evidence.

12.PW6 and PW7 are cited as eye witnesses. PW6 and PW7 deposed that due to previous enmity prior to 10 months at 8.00 pm, when PW1 trying to tie her cattle in front of her house, at that time, A1 came and used filthy language and PW2 to PW5 came, A1 assaulted PW2 with Aruval and caused injury on his left shoulder, right hand and assaulted PW3 with Aruval and caused injury on his left ear and A2 with wooden log caused injury on her hip and A1 caused injury on PW4 and A2 assaulted PW5 with wooden log.

13.The Doctor, who gave treatment to PW1 was examined as PW9. PW9 deposed that on 04.11.2012 at 08.05 pm, when he was on duty, at that time, PW2 Muthu Pandi came and told him that he was assaulted by two known persons with Aruval and he found injuries on PW2 viz., (i)lacerated injury 3 x 1 x 05 cm on the right upper forearm and (ii)lacerated injury 7 x 2 x 1 cm on the left hand thumb finger left. PW9 also found injuries on PW3 viz., (i)cut injury 6 x 2 x 1 cm on the right ear and he also found injuries on PW4 viz., (i)cut injury 1 x 1 cm on the left hand shoulder and a contusion on the left hand 1 x ½ cm. PW9 further found contusion on the body of PW5 and also found injury on the left side hip of PW1.

14.PW1 deposed that A2 with wooden log caused injury on her hip and PW2 deposed that A1 with Aruval caused injury on his right forearm and left hand thumb finger and PW3 stated during his evidence that A1 with Aruval caused injury on his right ear and PW4 deposed that A1 with Aruval caused injury on his left shoulder. PW5 stated that A1 with wooden log caused injury on his left shoulder. PW9 Doctor also found injury on the left side hip of PW1.

15.The learned counsel appearing for the appellant/A1 argued that PW2 has not identified the weapon and all the injured were not assaulted by A1 and hence, the benefit of doubt has to be given to the accused.

16.In this case, PW2 deposed that only with Aruval, A1 assaulted him, PW3 and PW4 and caused injuries. Further, PW1, PW3 to PW5 identified MO1 the weapon used by A1 to cause injury on PW2 to PW5. Hence, non-identification of Aruval shown to PW2 before the court will not in anyway affect the case of the prosecution.

17.For all the reasons stated above, this court is of the considered view that the trial court after carefully analysing the evidence on record, both oral and documentary has passed the



judgment, which do not call for any interference by this court.

18. In the result, the criminal appeal fails and the same is **dismissed.**

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Assistant Registrar (Crl side)

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Sub Assistant Registrar (CS)

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To

1. The Sessions Judge,
Mahalir Fast Track Court,
Theni.

2. The Chief Judicial Magistrate, Theni.

3. The Judicial Magistrate,
Periyakulam,
Thro The Chief Judicial Magistrate, Theni.

4. The Inspector of Police, Thenkarai Police Station,,
Periyakulam, Theni District.

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

Copy to:
The Section Officer,
Criminal (Records)
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.V.SASI KUMAR, Advocate (SR-97560[F] dated 12/11/2019)

Crl.A(MD)No.222 of 2014
08.11.2019

KK/SAR/08.01.2020/5P-8C/