



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 11.01.2019

Delivered on : 05.06.2020

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Cr1.A.(MD)No.550 of 2018

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Maria Alex

.. Appellant/PW2

Vs.

- 1.Paulraj @ Gnanaprakasam
- 2.Inbaraj
- 3.Edwinraja @ Edwin
- 4.Antony Arockiam
- 5.Malaiappa Nadar
- 6.Panimarian
- 7.Eppin @ Edward
- 8.Arulraj
- 9.Santhiyagau Raja
- 10.Ruban
- 11.Rajan
- 12.Mariappau
- 13.Kani
- 14.Lisiya
- 15.Selavarani
- 16.Soundarapandi

.. Respondents/A1 to A16

- 17.State represented by
Inspector of Police
Sathankulam,
Cr.No.291/2007,
Tirunelveli District.

.. Respondent / Complainant

Criminal appeal filed under Section 378 of Cr.P.C. against the Judgment dated 31.01.2011 passed in Sessions Case No.159 of 2010 by the Additional Sessions Judge/Fast Track Court, I, Tuticorin, Tuticorin District.

For Appellant : Mr.K.Prabhu
For R1 to R16 : Mr.J.Ashok for Jeyapaul Associates
For R17 : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Cr1.Side)

JUDGMENT

The appellant herein, one of the victims in the Sessions Case No.159 of 2010, has filed this appeal challenging the judgment of acquittal passed by the Additional Sessions Judge/Fast Track Court No.1, Tuticorin.

2.The respondents 1 to 16 herein are the accused in the above said Sessions Case. The 17th respondent is the complainant. Based on the complaint given by one Gnanaraj/P.W.1, the Sub Inspector of Police, Sathankulam Police Station registered a case in Crime No.291 of 2007, for the offence punishable under Sections 147, 148, 341, 294(b), 323, 324, 307 r/w 109 IPC altered to sections 147, 148, 149, 341, 323, 324 and 326 IPC. The Investigating Officer after completing the investigation laid charge sheet in C.C.No.78 of 2009 on the file of the Judicial Magistrate Court, Sathankulam. Thereafter, the said case was converted into P.R.C.No.18 of 2010 as per the order passed in Cr.M.P.No.1662/2010, dated 20.04.2010. The Judicial Magistrate Court, Sathankulam, had come to the conclusion that the offences alleged to have been committed by the accused are triable only by the Sessions Court and committed the case to the Principal District and Sessions Judge, Thoothukudi, and the same was taken on file in Sessions Case No.159 of 2010. Subsequently, the case was made over to the Additional Sessions Judge/Fast Track Court No.I, Thoothukudi, for disposal.

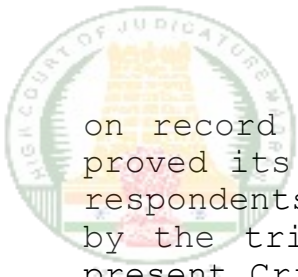
3.The learned Additional Sessions Judge/Fast Track Court No.I, Thoothukudi after hearing both sides and upon perusing the relevant records, has framed charges against the accused as stated below:

A1	U/s.148, 341, 307, 307 r/w 109, 307 r/w 149 IPC.
A2	U/s.148, 341, 324, 307 r/w 149 (2 counts) IPC
A3	U/s.148, 341, 307, 307 r/w 149 (2counts) IPC
A4	U/s.147, 341, 323, 307 r/w 149 (3counts) IPC
A5, A6 & A7	U/s.148, 341, 307 r/w 149 (2counts) 324 IPC
A8	U/s.148, 341, 307 r/w 149 (2counts) 307 IPC
A9 to A15	U/s.147, 341, 307 r/w 149 (3counts) IPC
A16	U/s.147, 341, 307 r/w 149 (2counts) 307 IPC

4.In order to prove the case of the prosecution, the prosecution examined 14 witnesses as P.Ws.1 to 14 and marked 11 documents as Exs.P1 to P11, besides M.Os.1 and 2, two material objects.

5.When the accused/respondents 1 to 16 were questioned under Section 313 of the Code of Criminal Procedure, 1973 with respect to the incriminating materials available in evidence against them, they denied the same as false. On the side of the respondents 1 to 16 though they had stated that they have witnesses on their side to examine, but, they did not examine any witness. However, they marked four documents on their side as Exs.D1 to D4.

6.The trial Court after contemplating the available evidence

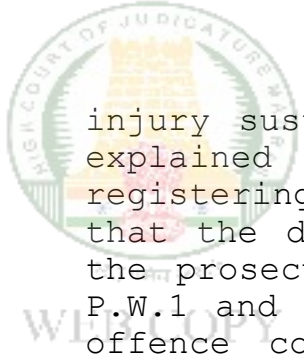


on record has come to the conclusion that the prosecution has not proved its case beyond reasonable doubt and ultimately acquitted the respondents 1 to 16 herein. Against the Judgment of acquittal passed by the trial Court, one of the victims viz., P.W.2 has filed the present Criminal Appeal.

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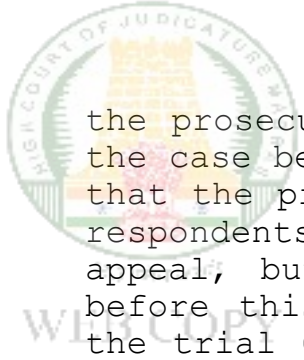
7.The case of the prosecution is that on 10.12.2007 at about 07.00 a.m., P.W.1/Gnanaraj and his father/the appellant herein (P.W.2) had gone to supply milk to the house of one Jeyarani. At that time, due to previous enmity, the respondents 1 to 16 herein formed an unlawful assembly, with an intention to cause injury to the victims and waylaid them. The first respondent/A1 cut P.W.1 with aruval on his chest and the second respondent/A2 cut him with aruval on his left hand index finger. The third respondent/A3 stabbed P.W.1 on his left chest. The fourth respondent/A4 beat P.W.1 with stick on his right knee. The first respondent/A1 also cut the appellant/P.W.2 with aruval on his left hand in between thumb finger and index finger. The sixth respondent/A6 cut on his right eye and the seventh respondent/A7 cut on his right cheek with aruval. The first respondent/A1 also cut him with aruval below his left chest. When P.W.4/Gnanaprakasi came there to save them, the 6th respondent/A6 cut on her left hand with aruval. The respondents 3, 11 to 15 wrongfully restrained P.W.s.1 and 2. Therefore, all the respondents have committed offences punishable under Sections 147, 148, 149, 341, 323, 324 and 326 IPC and a case was registered against them in Crime No.291 of 2007. After completing the investigation, the Investigating Officer has laid the charge sheet before the Judicial Magistrate Court, Sathankulam and the same was taken on file in C.C.No.78 of 2009. During the pendency of the said Calender Case, based on the order passed in Cr.M.P.No.1662/2010 dated 20.04.2010, the case was converted into P.R.C.No.18 of 2010. Thereafter, it was committed to the Principal District and Sessions Judge, Thoothukudi and the same was taken on file in Sessions Case No.159 of 2010 and the case was made over to the Additional Sessions Judge/Fast Track Court No.I, Thoothukudi for disposal. The trial Court, after trial, considering the available evidence on record, has acquitted the respondents 1 to 16. Challenging the judgment of acquittal, one of the victims is before this Court by filing the present Criminal Appeal.

8.The learned counsel for the appellant would submit that the learned trial Judge has failed to appreciate the evidence of the injured witnesses and has not given much importance to the oral evidence of the witnesses. The learned counsel contended that it is a well settled principle of law that the defect in investigation may not be the sole ground for acquitting the accused. Further, when the defacto complainant himself is an injured witness and he has clearly spoken about the occurrence and the other witnesses also corroborated the same including the medical evidence, the trial judge erred in acquitting the accused on the ground that there are contradictions between the eye witnesses viz., P.Ws.2, 4 and 6, who turned hostile. Further, the trial judge has also stated that the



injury sustained by the third respondent/A3 has not been properly explained by the prosecution. Further, there is a delay in registering the FIR. The learned counsel for the Appellant submitted that the defect in the investigation and the mistake committed by the prosecution need not be a ground to acquit the accused. Both P.W.1 and P.W.2/the appellant herein have clearly spoken about the offence committed by the accused. The doctor who attended the appellant and his son in the hospital has also spoken about the injuries sustained by the victims and has recorded the same in the Accident Register, Ex.P2 and the doctor had subsequently informed the same to the police. One of the police officials came to the hospital and recorded the statement from the victims P.Ws.1 and 2 and thereafter went to the police station and registered the case. Therefore, the witnesses have clearly spoken about the commission of the offence of the respondents 1 to 16 and the trial judge has failed to appreciate the evidence of the injured witnesses viz., P.Ws.1, 2 and 4 and has given much importance to the defective investigation done by the Investigating Officer with respect to the injury sustained by one of the accused viz., third respondent/A3. Under these circumstances, the judgment of acquittal passed by the trial Court warrants interference of this Court.

9.The learned counsel for the respondents 1 to 16 would submit that the prosecution has not proved its case beyond reasonable doubt. P.W.2 one of the victims is the appellant before this Court and he himself turned hostile and he has not supported the case of the prosecution and even P.W.4 one of the eye witnesses who had also sustained injury has also not supported the case of the prosecution and she has also turned hostile. P.W.11, the doctor who attended P.W.4 has clearly stated in her evidence that on 10.12.2007 at 09.00 am, the third respondent/A3 came for treatment. Ex.D2 is the copy of wound certificate of the third respondent/A3 and she sent him for further treatment to Tirunelveli hospital, which itself shows that one of the accused, viz., the third respondent, has also sustained injury. It is the duty of the prosecution to explain as to how the said accused sustained injury. The non-explanation of the same by the prosecution is fatal to the case of the prosecution. Further, the place of occurrence itself is different. As per the evidence of P.W.s.1 and 2, the place of occurrence is nearby Anthoni Kabi. But P.W.3-Doctor has stated in her evidence that she was informed that the occurrence has taken place nearby bus stand. Therefore, the place of occurrence itself is in doubtful. The prosecution has failed to clarify as to where the occurrence has taken place. Further, the witnesses P.Ws.1 & 2 have admitted during cross examination that at the time of attack, they had only sustained injuries and there was blood in the place of occurrence, which is also doubtful, since the prosecution has not collected any blood stained soil from the place of occurrence. Further, they have stated that while they were going for supplying milk, the milk can was also available in the cycle, but the prosecution has not recovered the can from the place of occurrence, which also creates doubt as to whether the occurrence has taken place as projected by



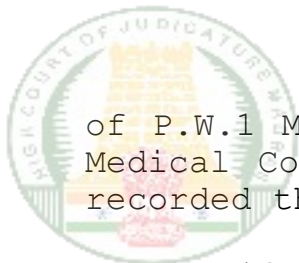
the prosecution. Therefore, the prosecution has failed to establish the case beyond all reasonable doubt. The trial Court has also found that the prosecution has failed to prove its case and acquitted the respondents 1 to 16. Further, the prosecution has not filed any appeal, but one of the victims/P.W.2 alone has filed this appeal before this Court. Therefore, the Judgment of acquittal passed by the trial Court is perfectly correct and the same does not require any interference.

10. Heard the learned counsel appearing on either side and perused the entire materials available on record.

11. On a perusal of records, it is seen that based on the charge sheet filed by the prosecution, the trial Court has framed necessary charges against respondents 1 to 16/A1 to A16 as stated above. Since the first appellate Court is the fact finding Court, it has to reappraise the entire evidence independently and arrive at the conclusion independently and it cannot simply do the exercise of testing the correctness of the judgment delivered by the trial Court.

12. In this case, on the side of the prosecution, 14 witnesses were examined before the trial court and 11 documents were marked, besides M.Os.1 and 2. On the side of the defence, no oral evidence was let in and four documents were marked.

13. One of the injured witnesses viz., Gnanaraj was examined as P.W.1. He has deposed that at the time of occurrence he was studying in the Thiruchendur Adithanar College. Only during vacation he used to go to his village viz., Pirandarkulam. Since his sister was teased by Soundarapandi, Inbaraj, Ruban, Jesu, Rajan and Thomas, she tried to commit suicide and due to that, there was enmity between the respondents 1 to 16/accused 1 to 16, and his family. Due to eve teasing, a complaint was also given. However, in that case, the accused were acquitted. On 10.12.2007 at 07.00 am, P.W.1 and his father went to the house of one Jeyarani (P.W.5) to supply milk. The house of Jeyarani is situated near St. Antony's Kebi. At that time, the respondents 1 to 16 came near the Kebi. The first respondent/A1 came with aruval and stated that 'P.W.1 filed a case against him through Antony Selvam and defamed him' and so by saying, cut P.W.1 on his chest. His son third respondent/A3 stabbed him with knife on his chest. The second respondent/A2 cut him on his left hand middle finger and index finger with palai aruval. The fourth respondent/A4 beat him with stick on his right knee. His father came there to rescue him. The first respondent/A1 stated that 'do not leave him also'. So, the fifth respondent/A5 cut the father of P.W.1 with aruval on his left hand index finger on its middle. The sixth respondent/A6 cut P.W.1's father on his right eye and the third accused/A3 cut his father on his left side eye. When Gnanaprakasi (P.W.4) came there to save P.W.1's father, the first respondent/A1 stated that 'kill her also'. The ninth respondent/A9 came towards P.W.1's father to beat Gnanaprakasi. The eighth respondent/A8 cut P.W.1's father on his left chest with aruval. Thereafter, the sister



of P.W.1 Mettilda (P.W.7) took P.W.1 and his father to Tirunelveli Medical College Hospital. The Sub Inspector of Police, Sathankulam recorded the statement of P.W.1 which was marked as Ex.P1.

14.The father of P.W.1/the appellant herein was examined as P.W.2. He deposed that there was enmity between the family of first respondent/A1 and his family. The first respondent/A1 and one Soundarapandi came to his house with a request to give his daughter Anthoni Selvam in marriage to their family. He refused it. So there was an enmity between both the families. On 10.12.2007 at 07.00 am, P.W.s.1 and 2 went to the house of Jeyarani to supply milk, which is situated near the Kebi. While going, the first and fourth respondents/A1 and A4 came there and beat P.W.1 with stick. The first respondent/A1 cut P.W.1 with aruval. The first respondent/A1 cut P.W.1. On seeing it, P.W.2 raised alarm and the fifth respondent/A5 cut him on his left hand finger with aruval. The sixth respondent/A6 cut him on his right eye with an aruval. The seventh respondent/A7 cut him on his left eye. The first respondent/A1 and his son Arul came there and cut him on his flank. He fell down at the scene of occurrence and what had happened thereafter was not known to him. P.W.s.1 and 2 were taken to Tirunelveli Medical College Hospital and only after seven days, he regained conscious. Since he has not given any complaint, his statement was not recorded by the police.

15.P.W.3, Dr.Nagalakshmi, who treated P.Ws.1 and 2 deposed that on 10.12.2007 while she was in the Government hospital, Tirunelveli, at 9.45 am, the injured Gnanaraj (P.W.1) was brought by his sister Mettilda (P.W.7) and at that time he had stated that on 10.12.2007 at 07.00 am near bus stand, some known ten persons cut him with aruval and stabbed him with knife. He was conscious at that time. P.W.3 had seen a lacerated injury on his chest and another injury on his left flank. X-ray was taken and as per the X-ray, it was found that air was collected on the left side of the lung. The injuries sustained by him were grievous. The copy of Accident Register is Ex.P2. On the same day at about 09.55 am, she examined Maria Alex, who was brought to the hospital by P.W.7, Mettilda. He alleged that some 10 known persons near the bus stand cut him with aruval and stabbed him with knife on 10.12.2007 at 07.30 am. He was conscious at that time. P.W.3 had seen four injuries. X-Ray was taken and as per the report, air was collected on the left side lungs. Injury No.1 is grievous and other injuries are simple in nature.

16.P.W.4, Gnanaprakasi, one of the injured witnesses deposed that P.W.s.1 and 2 were known to her. She has not stated anything about the previous enmity between the family of first respondent/A1 and P.W.2. She has stated that on hearing noise, she went to the place of occurrence, where she found P.W.s.1 and 2 lying with injuries and the sixth respondent/A6 with aruval. She pleaded with A6 not to cut P.W.2. When she prevented him, she sustained injury on her left wrist.



17.P.W.5 has deposed that she is doing milk business and she knows P.Ws.1 and 2 and they used to supply milk to her. On 10.12.2007 at 07.00 am. P.W.1 came to her house for supplying milk and P.W.2 also followed him. At that time, the respondents 1 to 16 came there. The first respondent/A1 cut P.W.1. Since there was large crowd she was unable to say who caused injury to the witnesses. She also deposed that Gnanaprakasi was found lying unconscious.

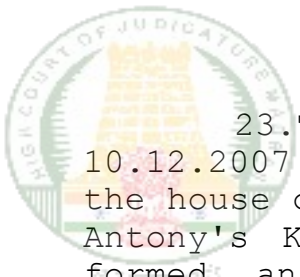
18.P.W.6 has given statement before the police. But he has not supported the case of the prosecution. Therefore, he was declared as hostile witness.

19.Mettilda, sister of P.W.1 was examined as P.W.7. She deposed that on 10.12.2007 at 07.00 am, she came near Kabi to fetch drinking water. At that time, P.Ws.1 and 2 came there with milk and all the accused came from western side and the first respondent/A1 cut P.W.1 with aruval. The third respondent/A3 stabbed P.W.1 with knife. The second respondent/A2 Inbaraj cut P.W.1 on his left hand index finger. She and P.W.2 raised noise, and the respondents 1 to 16 threatened that if anybody came near them, they would cut them also. The first respondent/A1 told his son "to kill P.W.2 also". Therefore, his son cut P.W.2 on his left flank. The sixth respondent/A6 cut P.W.2 on his left chest. P.W.2 had fallen down. One of the witnesses Gnanaprakasi prevented the 6th respondent and at that time she has also sustained injury. Thereafter, the respondents 1 to 16 ran away. P.Ws.1 and 2 were taken to Tirunelveli Medical College hospital.

20.Kala Roseline, the daughter of P.W.2 was examined as P.W.8. She deposed that P.W.1 is her brother. She has also spoken about the occurrence and corroborated the evidence of P.W.7, Mettilda.

21.P.W.9 is the mahazer witness. P.W.10, Dr.Nansi Dora deposed about the injury of P.Ws.1 and 2 and the X-Ray taken for them. PW11 is the doctor who has given treatment to the third respondent/A3.

22.P.W.12, Inspector of Police, on receiving FIR went to the place of occurrence, prepared observation mahazer and sketch. He questioned all the witnesses and recorded their statements. Further investigation was done by P.W.13. He also recorded the statement of P.W.1 and as per the statement given by PW1, he registered a case in Crime No.291 of 2007 for the offences stated supra. Thereafter, he forwarded the printed FIR to the Judicial Magistrate, Sathankulam. P.W.14 took up the case for further investigation. After completing investigation, he filed final report before the jurisdictional Magistrate.



23. The consistent case of the prosecution is that on 10.12.2007 at 07.00 am, P.W.1, Gnanaraj and his father P.W.2 went to the house of one Jeyarani to supply milk, which is situated near St. Antony's Kabi. At that time, the respondents 1 to 16/A1 to A16 formed an unlawful assembly with deadly weapons. The first respondent/A1 cut P.W.1 with aruval on his chest and the second respondent/A2 cut him with aruval on his left hand index finger. The third respondent/A3 stabbed P.W.1 on his left chest. The fourth respondent/A4 beat P.W.1 with stick on his right knee. The first respondent/A1 also cut P.W.2 with aruval on his left hand in between thumb finger and index finger. The sixth respondent/A6 cut his right eye and seventh respondent/A7 cut on his right cheek with aruval. The first respondent/A1 also cut him with aruval below his left chest. When P.W.4/Gnanaprakasi came there to save P.W.2, the 6th respondent/A6 cut on her left hand with aruval. Under the said circumstances, the respondents 1 to 16 are said to have committed the offences as mentioned in the charge.

24. P.Ws.1, 2 and 4 are the injured witnesses. P.Ws.5, 7 and 8 are the other eye witnesses. In this case, the main defence taken by the respondents 1 to 16 is that the appellant/P.W.2 himself turned hostile and he has not supported the case of the prosecution. But, on a reading of the deposition of P.W.2, he has clearly stated about the enmity between the family of the respondents 1 to 16 and his family. He has clearly stated that he along with his son went to the house of one Jeyarani (P.W.5) to supply milk, which is situated near a Kebi and at that time the occurrence has taken place. The said Jeyarani was examined as PW5 and she also stated that P.Ws.1 and 2 came to her house to supply milk and at that time, the respondents 1 to 16 came to the place of occurrence and the first respondent cut P.W.1. She has stated that since there was large crowd she was unable to say who caused injury to the witnesses.

25. P.W.4 has also turned hostile. But she has clearly stated that on hearing the noise of P.Ws.1 and 2 she went to the place of occurrence. The sixth respondent/A6 tried to attack P.W.2 with an aruval and when she tried to prevent, she has also sustained injury.

26. P.W.7, Mettilda and P.W.8 Kala Rosline are the daughters of the appellant and sisters of P.W.1. P.W.7 has clearly stated about the place of occurrence, i.e., nearby Anthony's Kebi, which is near the house of Jeyarani. They have also stated that there was a quarrel between P.Ws.1 and 2 and respondents 1 to 16 and the respondents 1 to 16 surrounded P.Ws.1 and 2 and they caused injuries on them with deadly weapons.

27. P.W.3, Doctor who first admitted P.Ws.1 and 2 has clearly narrated about the injuries caused to them. The defence taken on the side of the accused is that the injuries sustained by P.Ws.1 and 2 are not grievous in nature. But on a reading of the entire evidence of P.Ws.1, 4, 7 and 8, P.W.7 has corroborated the evidence of P.W.1. Though P.W.2 has first narrated about the incident, after he

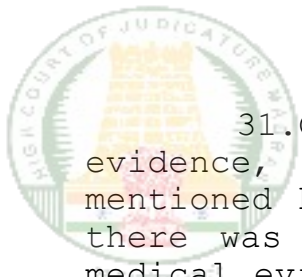


sustained injury and he fell down at the scene of occurrence, he has forgotten what had happened thereafter and he has not given any statement to the police and based on the complaint forwarded by the Doctor, the prosecution has investigated the case and recorded the statement and proceeded with other formalities. Further, P.W.2 has clearly narrated about the occurrence and also the fact that respondents 1 to 16/accused have caused injuries to him. Therefore, on a reading of the entire evidence, especially P.Ws.1, 2, 4, 5, 7 and 8 and also the evidence of doctor, PW3, Exs.P2, 3 and 8, Accident Registers and Exs.P6 and 7, X-Ray reports, it is clear that the respondents/accused caused injuries to the witnesses. Therefore, the prosecution has clearly established the guilt of the accused beyond any reasonable doubt.

28.The defence taken on the side of the respondents 1 to 16 is that the occurrence has taken place on 10.12.2007 at 07.00 am, but the case was registered belatedly. Further the place of occurrence and time of occurrence were also not established properly. The prosecution has suppressed the earlier complaint and also the statement recorded from the witnesses and subsequently they have falsely implicated 16 persons as accused. But on a reading of the oral evidence of witnesses P.W.s.1 to 5, 7, 8 and 9, Mahazer witness and also the doctors, it is clear that the accused have committed the offence as stated supra.

29.The trial Court has given much importance to the injury sustained by the third respondent/A3 and also observed that the prosecution has not explained the injury sustained by him. So far as the injury sustained by the third respondent/third accused is concerned, though the remand report mentioned about the injury of the third respondent/third accused, but, while questioning under Section 313 Cr.P.C. the third respondent/A3 has not stated anything about the injury sustained by him and as to who caused injuries to him and he has simply stated that a false case has been foisted against him. He has not gone to the witness box and examined himself as a witness. None of the witnesses, especially PWs.4 and 5, independent witnesses have not stated that PWs.1 and 2 have any weapon and attacked the third respondent. When 16 persons assembled with weapons and caused injuries to the victims, during that time, the third respondent might have sustained injury, for which, the respondents 1 to 16 cannot be escaped from the clutches of law.

30.It is a settled proposition of law that the accused need not come to the witness box to falsify the case of the prosecution. At the same time, the defence has taken a stand that the third respondent/third accused sustained injury. During the proceeding under Section 313 Cr.P.C., the third respondent has not stated anything about the injury sustained by him. Therefore, the statement given by him before the police and Magistrate was not subsequently substantiated on the side of the defence.



31. On a complete reading of the oral and documentary evidence, it is seen that some of the injuries has not been mentioned by the doctor. It is a settled principle of law that if there was any omission or contradictions between eye witness and medical evidence then the evidence of eye witnesses has to be taken into consideration. In this case, P.Ws.1, 2 and 4 are the injured witnesses who had clearly stated about the overt acts and also by whom they sustained injuries and by using which weapon they have been attacked. P.Ws.7 and 8 also corroborated the same and they have also stated about the presence of PWs.4 and 5. Therefore, the medical evidence also supported the case of the prosecution except minor contradictions.

32. The trial Court has taken a view that the prosecution has not explained as to how the third respondent/A3 sustained injury. But on a combined reading of the entire materials, oral and documentary evidence, this Court finds that the prosecution has clearly established its case beyond reasonable doubt. The trial Court has failed to consider the material aspects and it has gone only by the discrepancies found in the medical reports. Therefore, in these circumstances, this Court finds that all the respondents 1 to 16 have committed the offence.

33. P.W.1 has clearly stated the name of all the accused and also specifically mentioned the weapons used and also the attack made, except some of the injuries. Therefore, this Court does not find any reason to discard the evidence of PW1.

34. It is the further defence taken on the side of the contesting respondents that P.Ws.7 and 8 are related witnesses and therefore, their evidence cannot be taken into account. Though they are related witnesses, that does not mean that the Court can discard the evidence of related witnesses without any sound reason. Therefore, this Court does not find any reason to discard the evidence of P.Ws.7 and 8. The doctor also stated that PW7 brought the injured witness PWs.1 and 2 to the hospital for treatment.

35. P.W.4 is also one of the injured witnesses, who is not the family member of P.Ws.1 and 2. It is a settled proposition of law that in a case of acquittal, the accused has got double presumption in his favour, and unless the appellate Court finds sound reason to interfere with the finding of the trial Court and perversity in appreciation of evidence, the judgment of the acquittal cannot be reverted. In this case, on seeing the entire evidence, this Court finds sound reason to interfere with the judgment of the trial Court. The trial Court has failed to appreciate the evidence in this case, especially that of the injured witness P.W.1 and to some extent P.Ws.2 and 4 and the evidence of eye witness P.W.7 and also the evidence of doctor P.W.3. On a combined reading of the entire oral and documentary evidence in toto, the prosecution has clearly established the guilt of the contesting respondents punishable under Sections as stated supra. Under these circumstances, the judgment of

the trial Court is liable to be set aside and the respondents 1 to 16 are found guilty for the offence as stated below:

A1	U/s.148, 341, 307, 307 r/w 109, 307 r/w 149 IPC.
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A3	U/s.148, 341, 307 and 307 r/w 149 IPC (2counts)
A4	U/s.147, 341, 323 and 307 r/w 149 (2counts) IPC
A5 & A7	U/s.148, 341 and 307 r/w 149 (2counts) IPC
A6	U/s.148, 341, 324 and 307 r/w 149 (2counts) IPC
A8	U/s.148, 341 and 307 r/w 149 (2counts) IPC
A9 to A15	U/s.147, 341 and 307 r/w 149 (2counts) IPC
A16	U/s.147, 341 and 307 r/w 149 (2counts) IPC

Since the appeal is allowed and the accused have committed the offences and convicted for the abovesaid offences, before pronouncing sentence, the accused have to be questioned. Therefore, the respondents 1 to 16/A1 to A16 are directed to appear before the Court on 12.06.2020 for question of sentence to be imposed.

Sd/-
05/06/2020

It is submitted that the respondents 1, 6 and 14/A1, A6 and A14 died. A memo has been filed to that effect. Death Certificates have been produced. Recording the said memo, the charges against A1, A6 and A14 are abated.

2. Pursuant to the direction issued by this Court on 15.06.2020, the respondents 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 15 and 16/A2, A3, A4, A5, A7, A8, A9, A10, A11, A12, A13, A15 and A16 have appeared before this Court, through Video Conference, today. This Court questioned the accused with regard to sentence to be awarded to them. They have stated as follows:

3. On knowing the sentence proposed to be awarded, the respondent No.2/accused No.2 has stated before this Court that during the time of occurrence, he was a student of Law College and he has not known anything about the occurrence. He has not committed any offence.

4. On knowing the sentence proposed to be awarded, the respondent No.3/accused No.3 has stated before this Court that he was at the place of occurrence and he has not committed any offence. He pleads that lesser punishment may be given.



5. On knowing the sentence proposed to be awarded, the respondent No.4/accused No.4 has stated before this Court that he is doing agricultural work and he has not committed any offence.

6. On knowing the sentence proposed to be awarded, the respondent No.5/accused No.5 has stated before this Court that he is aged 74 years and he has not committed any offence and he has not known anything about the occurrence and he was not present in the place of occurrence. He pleads that lesser punishment may be given.

7. On knowing the sentence proposed to be awarded, the respondent No.7/accused No.7 has stated before this Court that he has no knowledge about the occurrence and he was in the garden at the time of occurrence and false case has been foisted against him.

8. On knowing the sentence proposed to be awarded, the respondent No.8/accused No.8 has stated before this Court that his working place is 5 km away from the place of occurrence and he did not come to the place of occurrence and he has no knowledge about the occurrence. He pleads that lesser punishment may be awarded.

9. On knowing the sentence proposed to be awarded, the respondent No.9/accused No.9 has stated before this Court that he has not committed any offence and false case has been foisted against him.

10. On knowing the sentence proposed to be awarded, the respondent No.10/accused No.10 has stated before this Court that he has not committed any offence and he has no knowledge about the occurrence.

11. On knowing the sentence proposed to be awarded, the respondent No.11/accused No.11 has stated before this Court that he is working as Driver in Erode and he was not present at the time of occurrence and false case has been foisted against him.

12. On knowing the sentence proposed to be awarded, the respondent No.12/accused No.12 has stated before this Court that she did not know about the occurrence and false case has been foisted against her.

13. On knowing the sentence proposed to be awarded, the respondent No.13/accused No.13 has stated before this Court that she has not committed any offence and she has no knowledge about the occurrence.

14. On knowing the sentence proposed to be awarded, the respondent No.15/accused No.15 has stated before this Court that she has four children and she has not committed any offence. She pleads that lesser punishment may be given to her.



15. On knowing the sentence proposed to be awarded, the respondent No.16/accused No.16 has stated before this Court that the victim in this case is a relative and he has not committed any offence.

16. Heard the learned counsel appearing on behalf of the appellant, the learned counsel appearing on behalf of the respondents 1 to 16/accused 1 to 16 and the learned Additional Public Prosecutor appearing on behalf of the respondent No.17.

17. After questioning with regard to sentence and considering the same, the following sentences are imposed:

i) The respondent No.2/A2 shall undergo 4 years rigorous imprisonment for the offence under Section 307 r/w 149 IPC (2 counts) and shall pay a fine of Rs.1000/- each (2 counts), in default, the respondent No.2/A2 shall undergo six months simple imprisonment. Both sentences shall run concurrently. Further, the respondent No.2/A2 shall pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 148 IPC, pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 341 IPC and pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 324 IPC. Totally, the respondent No.2/accused No.2 shall pay a sum of **Rs.2600/-** as fine.

ii) The respondent No.3/A3 shall undergo 4 years rigorous imprisonment for the offence under Section 307 IPC and pay a fine of Rs.2000/- (Rupees two thousand only), in default, the respondent No.3/A3 shall undergo six months simple imprisonment. Further, he shall undergo 4 years rigorous imprisonment for the offence under Section 307 r/w 149 IPC (2 counts) and pay a fine of Rs.1000/- (Rupees one thousand only) each (2 counts), in default, the respondent No.3/A3 shall undergo six months simple imprisonment. Both sentences shall run concurrently. Further, the respondent No.3/A3 shall pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 148 IPC and pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 341 IPC. Totally, the respondent No.3/accused No.3 shall pay a sum of **Rs.4400/-** as fine.

iii) The respondent No.4/A4 shall undergo 4 years rigorous imprisonment for the offence under Section 307 r/w 149 IPC (2 counts) and pay a fine of Rs.1000/- (Rupees one thousand only), in default, the



respondent No.4/A4 shall undergo six months simple imprisonment Both sentences shall run concurrently. Further, the respondent No.4/A4 shall pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 147 IPC, pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 341 IPC and pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 323 IPC. Totally, the respondent No.4/accused No.4 shall pay a sum of **Rs.2600/-** as fine.

iv) The respondent No.5/A5 shall undergo 1 year rigorous imprisonment for the offence under Section 307 r/w 149 IPC (2 counts) and pay a fine of Rs.1000/- (Rupees one thousand only), each (2 counts) in default, the respondent No.5/A5 shall undergo three months simple imprisonment. Both sentences shall run concurrently. Further, the respondent No.5/A5 shall pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 148 IPC and pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 341 IPC. Totally, the respondent No.5/A5 shall pay a sum of **Rs.2400/-** as fine.

v) The respondent No.7/A7 shall undergo 4 years rigorous imprisonment for the offence under Section 307 r/w 149 IPC (2 counts) and pay a fine of Rs.1000/- (Rupees one thousand only), each (2 counts), in default, R7/A7 shall undergo six months simple imprisonment. Both sentences shall run concurrently. Further, the respondent No.7/A7 shall pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 148 IPC and pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 341 IPC. Totally, the respondent No.7/A7 shall pay a sum of **Rs.2400/-** as fine.

vi) The respondent No.8/A8 shall undergo 1 year rigorous imprisonment for the offence under Section 307 r/w 149 IPC (2 counts) and pay a fine of Rs.1000/- (Rupees one thousand only), each (2 counts) in default, the respondent No.8/A8 shall undergo three months simple imprisonment. Both sentences shall run concurrently. Further, the respondent No.8/A8 shall pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 148 IPC and pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 341 IPC.



Totally, the respondent No.8/A8 shall pay a sum of **Rs.2400/-**.

vii) The respondent No.9/A9 shall undergo 1 year rigorous imprisonment for the offence under Section 307 r/w 149 IPC (2 counts) and pay a fine of Rs.1000/- (Rupees one thousand only), each (2 counts) in default, the respondent No.9/A9 shall undergo three months simple imprisonment. Both sentences shall run concurrently.

Further, the respondent No.9/A9 shall pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 147 IPC and pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 341 IPC.

Totally, the respondent No.9/A9 shall pay a sum of **Rs.2400/-** as fine.

viii) The respondent No.10/A10 shall undergo 1 year rigorous imprisonment for the offence under Section 307 r/w 149 IPC (2 counts) and pay a fine of Rs.1000/- (Rupees one thousand only), each (2 counts) in default, the respondent No.10/A10 shall undergo three months simple imprisonment. Both sentences shall run concurrently.

Further, the respondent No.10/A10 shall pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 147 IPC and pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 341 IPC.

Totally, the respondent No.10/A10 shall pay a sum of **Rs.2400/-** as fine.

ix) The respondent No.11/A11 shall undergo 1 year rigorous imprisonment for the offence under Section 307 r/w 149 IPC (2 counts) and pay a fine of Rs.1000/- (Rupees one thousand only), each (2 counts) in default, the respondent No.11/A11 shall undergo three months simple imprisonment. Both sentences shall run concurrently.

Further, the respondent No.11/A11 shall pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 147 IPC and pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 341 IPC.

Totally, the respondent No.11/A11 shall pay a sum of **Rs.2400/-**.

x) The respondent No.12/A12 shall undergo 1 month rigorous imprisonment for the offence under Section 307 r/w 149 IPC (2 counts) and pay a fine of



Rs.1000/- (Rupees one thousand only), each (2 counts) in default, the respondent No.12/A12 shall undergo 10 days simple imprisonment. Both sentences shall run concurrently.

Further, the respondent No.12/A12 shall pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 147 IPC and pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 341 IPC.

Totally, the respondent No.12/accused No.12 shall pay a fine of **Rs.2400/-** as fine.

xi) The respondent No.13/A13 shall undergo 1 month rigorous imprisonment for the offence under Section 307 r/w 149 IPC (2 counts) and pay a fine of Rs.1000/- (Rupees one thousand only), each (2 counts), in default, the respondent No. 13/A13 shall undergo 10 days simple imprisonment. Both sentences shall run concurrently.

Further, the respondent No.13/A13 shall pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 147 IPC and pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 341 IPC.

Totally, the respondent No.13/A13 shall pay a sum of **Rs.2400/-** as fine.

xii) The respondent No.15/A15 shall undergo 1 month rigorous imprisonment for the offence 307 r/w 149 IPC (2 counts) and pay a fine of Rs.1000/- (Rupees one thousand only) each (2 counts), in default, the respondent No.15/A15 shall undergo 10 days simple imprisonment. Both sentences shall run concurrently.

Further, the respondent No.15/A15 shall pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 147 IPC and pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 341 IPC.

Totally, the respondent No.15/A15 shall pay a sum of **Rs.2400/-** as fine.

xiii) The respondent No.16/A16 shall undergo 1 year rigorous imprisonment for the offence 307 r/w 149 IPC (2 counts) and pay a fine of Rs.1000/- (Rupees one thousand only), in default, the respondent No.16/A16 shall undergo three months simple imprisonment. Both sentences shall run concurrently.

Further, the respondent No.16/A16 shall pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 147 IPC, pay a fine of Rs.200/- (Rupees two hundred only) for the offence under Section 341 IPC.



Totally, the respondent No.16/accused No.16 shall pay a sum of **Rs.2400/-** as fine.

18. The 17th respondent is directed to secure the aforesaid accused to undergo imprisonment and produce them before the Central Prison, Palayamkottai. The female accused shall be produced before the Prison allotted to the women prisoners.

19. The Registry is directed to issue necessary warrant.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

mj /cm

To

- 1.The Principal District and Sessions Judge, Tirunelveli.
- 2.The Additional Sessions Judge/Fast Track Court, I, Tuticorin.
- 3.The Inspector of Police Sathankulam, Tirunelveli District.
- 4.The Addl. Public Prosecutor, Madurai Bench of Madras High Court, Madurai.
- 5.The Superintendent of Prison, Central Prison, Palayamkottai, Tirunelveli. (2 copies)
- 6.The Superintendent of Prison, Special Prison for Women, Palayamkottai, Tirunelveli. (2 copies)

Judgment in

Crl.A.(MD)No.550 of 2018
05.06.2020 and 30/06/2020

SMA/30/06/2020/17P/9C