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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2021

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.A.No.579 of 2018

M.Mohan,
S/o.Late Mani

...Appellant / de facto complainant

versus

1.State Rep. By;
Inspector of Police,
Vellore Taluk Police Station,
Vellore District.
(Crime No.372 of 2006) ...Respondent /Complainant

2.Councilor Arumugam

3.Babu

4.Prakash

5.Thirumal

6.Venkatesan

7.Balaji

8.Dasarathan (died)

9.Nattamai Settu

10.Baskar

11.Ravi (died)

12.Thanji @ Murugan

13.Vadivel

14.Udayan @ Udayakumar

15.Palani

16.Dhanapal

17.Krishnan (died)

18.Jayapal

19.Manikandan

20.Parthiban

21.Kumar

...Respondents /A-1 to A-20

Criminal Appeal filed under Section 372 of the Code of Criminal Procedure, to set aside the judgment and order of acquittal passed by the learned I Additional District and Sessions Judge, Vellore in S.C.No.232 of 2007 dated 15.04.2013.



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For Appellant : Mr.Manuraj
For Respondent No.1 : Mr.R.Muniyapparaj
Government Advocate [Crl. Side]
For Respondent
Nos.2 to 21 : No Appearance

J U D G M E N T

[Judgment of the Court was made by P.N.PRAKASH, J.]

This Criminal Appeal has been preferred against the judgment and order of acquittal dated 15.04.2013 passed by the learned I Additional District and Sessions Judge, Vellore in S.C.No.232 of 2007.

2. It is the case of the prosecution that the accused and the deceased are residents of Moonjurpet village; they had previous enmity; on 06.06.2006, there was a temple festival in Mechiyamman Temple in the village; at that time, a quarrel ensued between Babu / A-2 and the deceased Elangovan, which escalated into a violence resulting in the accused attacking the deceased and Mohan (P.W.1), Senthilkumar (P.W.2) and Krishnamurthy (P.W.3) also with deadly weapons.

3. On these allegations, on a complaint given by Mohan (P.W.1), the respondent Police registered a case in Vellore Taluk P.S. Crime No.372 of 2006 and after completing investigation, filed a final report against 20 accused, for the offences under Sections 147, 148, 149, 341, 323, 324, 326, 307 and 302 r/w 120-B IPC in P.R.C.No.16 of 2006 before the learned Judicial Magistrate No.I, Vellore, who committed the case to the Court of Session, Vellore in S.C.No.232 of 2007, for trial. The learned Sessions Judge, Vellore, made over the case to the learned I Additional District and Sessions Judge, Vellore, for trial.

4. The trial Court framed the aforesaid charges against respondents 2 to 21 / A-1 to A-20 and when they were questioned, they pleaded 'not guilty'.

5. To prove the charges, the prosecution examined 25 witnesses and marked 36 exhibits and 30 material objects. When the accused were questioned under Section 313 Cr.P.C. on the incriminating circumstances appearing against them, they denied the same.

6. After considering the evidence on record and hearing either side, the trial Court, by judgment and order dated 15.04.2013 in S.C.No.232 of 2007, acquitted all the accused,



13. As regards Senthilkumar (P.W.2), he had stated that he was assaulted by unknown persons, when examined by doctor. His ocular evidence is not corroborated by medical evidence. Therefore, his presence has been doubted by the trial Court.

14. The same is the case with Krishnamoorthy (P.W.3) also, whose evidence was not corroborated by any evidence.

15. The trial Court has had the opportunity to see the demeanour of these witnesses during trial and after a careful analysis and also by giving cogent reasons, when it has disbelieved them, it may not be proper for this Court to re-appreciate their evidence for reversing the judgment and order of acquittal.

16. Trite it is that when two views are possible, the view that favours the accused merits acceptance. We are of the view that it is not a fit case to upset the judgment and order of acquittal.

17. In the result, this Criminal Appeal is dismissed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

sri

To

1. The I Additional District and Sessions Judge,
Vellore .
2. The Inspector of Police,
Vellore Taluk Police Station,
Vellore District.
3. The Judicial Magistrate No.1
Vellore.
4. -do- Thro, The Chief Judicial Magistrate, Vellore.
5. The Session Judge,
Vellore.
6. The Public Prosecutor,
High Court, Madras.



Copy to:

The Section Officer,
(Crl.Section), Criminal Section,
High Court, Madras.

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+1 CC to Mr.S.Manuraj, Advocate, Sr 30370.

Crl.A.No.579 of 2018

JPL (CO)
LS (06/08/2021)