

BAIL SLIP

The Petitioners namely 1)Kumaran 2)Sudhakaran (Accused 1 and 3 dated 18.08.2014 on the file of IV Additional District and Sessions Judge, Ponneri against in S.C.No.237 of 2000 on the file of the Assistant Sessions Judge, Ponneri dated 28.06.2011) were released on bail vide order of this Court, dated 19/11/2014 and made in Crl MP(MD)No.1 of 2014 in Crl RC No.1177 of 2014.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2021

CORAM:

THE HONOURABLE Mr.JUSTICE A.D.JAGADISH CHANDIRA
Crl.R.C.No.1177 of 2014

1.Kumaran,
Son of Late Ganesa Reddy

2.Sudhakaran,
Son of Late Ganesa Reddy

... Petitioners/A1 & A3/
Appellants

Vs.

State by:
The Inspector of Police,
Sipcot Police Station,
Tiruvallur District.
(Crime No.331 of 1998)

... Respondent/Complainant/
Respondents

PRAYER: Criminal Revision Case filed, under Section 397 r/w 401 Cr.P.C., against the conviction and sentence passed on them in S.C.No.237 of 2000, on the file of Assistant Sessions Judge, Ponneri viz., the petitioners each are convicted under Section 307 r/w Section 34 IPC and to undergo an imprisonment for 7 years R.I and a fine of Rs.500/- each and also the second petitioner to undergo an imprisonment for one month R.I for an offence under Section 323 IPC, by Judgment dated 28.06.2011 and confirmed by the Court of IV Additional District and Sessions Judge, Ponneri, by her Judgment dated 18.08.2014 in Criminal Appeal No.35 of 2011

For Petitioners : Mr.J.I.Rajkumar Roberts

For Respondent : Mr.T.Shunmugarajeswaran,
Government Advocate (Crl.Side)

O R D E R

This Criminal Revision Case has been preferred by the Revision Petitioners, seeking to set aside the Judgment of conviction and sentence passed by the learned IV Additional District and Sessions Judge, Ponneri, in C.A.No.35 of 2011, dated 18.08.2014, confirming the Judgment of conviction and sentence passed in S.C.No.237 of 2000, dated 28.06.2011, by the learned Assistant Sessions Judge, Ponneri.

2.The Petitioners/A1 & A3 were tried along with their father A2 in S.C.No.237 of 2000, by the learned Assistant Sessions Judge, Ponneri, for the offence under Section 307 IPC r/w 34 IPC. During the course of the trial, A2 who is the father of the petitioners/A1 & A3 passed away and the charge against A2 got abated.

3.The Trial Court found the petitioners/A1 & A3 guilty for the offence under Section 307 IPC r/w 34 IPC and convicted the Petitioners/A1 & A3 and sentenced them to undergo, seven years Rigorous Imprisonment each and to pay a fine of Rs.500/- each and in default of paying the fine amount, to undergo one month Rigorous Imprisonment. The 2nd Petitioner/A3 was found guilty for the offence under Section 323 IPC and he was convicted and sentenced to undergo one month Rigorous Imprisonment and both the sentences were ordered to run concurrently. Against the said conviction and sentence, the Petitioners/A1 & A3 filed an appeal and the Appellate Court dismissed the appeal and confirmed the judgment and order of conviction and sentence imposed by the Trial Court.

4.The case of the prosecution in brief:

P.W.1/ Munusamy and P.W.3/Arjunan are the younger and elder brother respectively, residing at Old Gummidipoondi Village. The Petitioners/A1 & A3 were having lands in Nangallam Village, which were adjacent to the lands of P.W.1 and P.W.3. On 20.08.1998, at about 8.00 a.m., P.W.1 and P.W.3 had gone to visit their land, situated at Nangallam village and at that time, the Petitioners/A1 & A3 along with their father/A2 were found cutting the ridges of the land belonging to P.W.1 and P.W.3. When P.W.1 and P.W.3 had questioned the same, there was quarrel between them and thereby, P.W.1 and P.W.3 gave a complaint to the Village Administrative Officer. Thereafter, when P.W.1 and P.W.3 were going towards G.N.T.Main Road, near Akash Hotel, the Petitioners/A1 & A3 along with their father/A2 followed them and told P.W.1 and P.W.3 that they were waiting for them and attacked P.W.3 on his head with a spade due to which P.W.3 fainted. When P.W.1 attempted to stop the accused from attacking P.W.3, they have also attacked P.W.1 with wooden logs. The spade used for attacking P.W.3 has been marked as

M.O.1. Wooden logs used for attacking P.W.1 has been marked as M.O.2 (series). The incident was witnessed by P.W.4/Suseela and P.W.5/Subramani, who were residing at Old Gummidipoondi Village. After the occurrence, P.W.1 had gone to the police station and had given a complaint/Ex.P1 and P.W.8/ Venkatesan/ the Sub Inspector of Police, who was on duty at the relevant point of time had received the complaint from P.W.1 on 20.08.1998, at 9.30 a.m.

5. Based on the complaint, the Sub Inspector of Police registered a case in Crime No.331 of 1998, for the offence under Sections 324, 307 IPC and then prepared First Information Report/Ex.P7 and sent the FIR to the Court and copies were sent to the higher authorities. Thereafter, P.W.8 / Venkatesan visited the place of occurrence and prepared Observation Mahazar/Ex.P4. Further, he prepared Rough Sketch/Ex.P8 at the place of occurrence and thereafter, seized the material objects viz., Spade / M.O.1, Wooden Log/M.O.2 (series). Ex.P4/Observation Mahazar, Ex.P5/Seizure Mahazar and Ex.P8/Rough Sketch were prepared by P.W.8/Sub Inspector of Police in the presence of witnesses viz., P.W.6/Seeyalan and one Ethiraj. Thereafter, P.W.8, admitted the injured / P.W.3 in the Stanley Government Medical College Hospital for treatment and thereafter arrested the accused and brought them to the police station, examined them and recorded their statements and remanded them to judicial custody. P.W.8, the Investigating Officer had examined the witnesses viz., P.W.1/Munusamy, P.W.2 / Dr.K.Manickam, P.W.4 / Suseela, P.W.5 / Subramani and on 23.08.1998, he handed over the investigation to P.W.9/M.Sivambiga Selvam, the Circle Inspector of Police, Gummidipoondi.

6. Thereafter, P.W.9 conducted further investigation in this case and he once again examined the witnesses who had already been examined by P.W.8. On 30.08.1998, P.W.9 visited Porur Ramachandra Hospital, where P.W.3/Arjunan was admitted and recorded his statements. Further, he recorded the statements of P.W.7/Dr.Ezhizharasi, the Doctor who treated P.W.3 in Porur Ramachandra Hospital. She had treated the injured and had given wound certificate for P.W.3, which has been marked as Ex.P6. As per Ex.P6, P.W.7/Dr.Ezhilarasi had noted six wounds on P.W.3 and she had opined that the injuries are simple in nature. P.W.9 thereafter visited Porur Ramachandra Government Hospital, examined and recorded the statements of P.W.2/ Dr.K.Manickam the doctor, who had treated P.W.1/Munusamy and recorded his statements and received Ex.P6 (Accident Register of P.W.3) and Ex.P2 (Wound Certificate of P.W.1). As per Ex.P2, P.W.2/ Dr.K.Manickam had found two injuries on P.W.1 and he had stated that P.W.1 had informed him about having pain in the abdomen. Based on which, he had given opinion, which was marked as Ex.P3. As per Ex.P3, the injuries stated to have been sustained by

P.W.1 were simple in nature. Copy of the Accident Register in respect of the injuries sustained by P.W.3. Ex.P2, is the Wound Certificate in respect of P.W.1. As per Ex.P2, P.W.1 was treated as inpatient in Stanely Government Medical College Hospital, Chennai. Thereafter, on 12.01.1999, P.W.9 had completed the investigation and filed the final report against the accused for offence under Sections 324, 307 read with 34 IPC .

7.The final report was taken on file by the learned Judicial Magistrate No.I, Ponneri in PRC.No.18 of 1999 and summons were issued to the accused. On the appearance of the accused, they were furnished the copies under Section 207 Cr.P.C., and finding that the offences were triable by the Court of Sessions, learned Magistrate committed the case to the Principal District and Sessions Court, Thiruvallur and the case was taken on file in S.C.No.237 of 2000 and thereafter, the case was made over to the Assistant Sessions Court, Ponneri, for trial.

8.On the side of the prosecution, P.W.1 to P.W.9 were examined and Ex.P1 to Ex.P8 were marked and M.O.1 and M.O.2 (2 series) were marked. On the side of the defence no witnesses were examined, whereas, they have marked 3 documents as Ex.D1 to Ex.D3, during the pendency of trial, A2 died.

9.When the accused were questioned under Section 313(1) (b) Cr.P.C., on the incriminating circumstances appearing against them from the evidence they denied the charges.

10.After arguments, the trial Court found the Petitioners/A1 & A3 guilty and convicted them as stated above. Against which, the Petitioners/A1 & A3 have preferred C.A.No.35 of 2011, before the learned IV Additional District and Sessions Judge, Ponneri and the Appellate Court had also dismissed the appeal and confirmed the Judgment and order of conviction and sentence of imprisonment passed by the Trial Court. Against which, the present Criminal Revision Case has been filed.

11.Mr.J.I.Rajkumar Roberts, learned counsel appearing for the petitioners/A1 & A3 would submit that the Petitioners A1 & A3 and their father A2 (deceased) and P.W.1 and P.W.3 are the residents of the same village and they were holding the agricultural lands adjacent to each other. On the date of occurrence viz., 20.08.1998, at about 8.00 a.m., when the petitioners were working in their fields, P.W.1 and P.W.3 along with their henchmen have trespassed in to the fields and assaulted the petitioners and their father. Due to the assault, the petitioners and their aged father sustained injuries and that is the genesis of the occurrence and that P.W.1 and P.W.3 and their henchmen are the aggressors. The petitioners had given

a complaint to the respondent police immediately and the respondent police had registered a case based on their complaint and only based on the medical memo issued to the petitioners and their father, the petitioners were taken to the hospital and they were given medical treatment. The petitioners by letting in evidence on defence proved that the petitioners and their aged father sustained injuries and that P.W.1 and P.W.3 are the aggressors. It is an admitted case of the prosecution witnesses viz., P.W.2/ Doctor, that the Petitioner/A1 and his father were admitted by him in the hospital based on the medical memo issued by P.W.8/ Inspector of Police. P.W.2/ Doctor had specifically deposed about the medical memo and also the injuries suffered by the petitioner/A1. Further, the 2nd petitioner/A3 was assaulted by P.W.1 and P.W.3 and their men and he had sustained 3 injuries and had taken treatment on the same day at the Government Hospital. In order to prove that the 2nd petitioner/A3 had sustained injuries, the 2nd petitioner had marked Ex.D2 wherein there was reference that he was assaulted by 8 persons with sticks and stones at 8.00 a.m., on the same day. Though the petitioners were admitted in the hospital based on the medical memo issued by the respondent, the prosecution has blatantly suppressed the genesis and origin of the occurrence and thus have not presented the true version of the incident, which itself creates serious doubt in the prosecution case.

12.The learned counsel would further submit that the P.W.1 and P.W.3 have absolutely denied about the injuries sustained by the petitioners and their father in the said occurrence and thereby, they have totally lied about the incident and made their evidence totally false and unreliable. The petitioners, in defence have explained about the injuries sustained by them thereby, throwing doubt on the entire prosecution case. P.W.5/the independent witness had deposed and confirmed about the quarrel between the petitioners and P.W.1 and P.W.3 and their men which is duly supported by the issuance of medical memo to the petitioners by P.W.8/ the Inspector of Police. Whereas, the prosecution having registered a case and having issued medical memos to the petitioners have failed to conduct a fair investigation to find out who the actual aggressors are and the genesis of the occurrence. The learned counsel would further submit that as per PSO 588-A of the Madras Police Standing Orders, both the cases have to be treated as case and case in counter and a bounden duty is cast upon the respondent / prosecution to investigate both the complaints and file the final report to come to the conclusion who the real aggressors are and to prove the guilt of the aggressors in this case. The respondent for obvious reasons acted in a partisan manner and by suppressing the complaint given by the petitioners and suppressing the genesis of the occurrence have come out with a totally untrue version, thereby creating a doubt with regard to

the entire prosecution case. The petitioners are entitled to benefit of doubt and thereby entitled to acquittal. Both the Courts below have failed to take into consideration the law laid down by various Courts in respect of case and case in counter cases in a proper perspective and have erred in convicting the petitioners/A1 & A3. It is a case of total denial by P.W.1 and P.W.3 with regard to the occurrence making their evidence highly doubtful and he would pray for allowing the revision.

13. In support of his contention learned counsel for the petitioners relied on the Judgment of the Hon'ble Apex Court in Babu Ram and Others vs. State of Punjab reported in (2008) 3 SCC 709 and the Judgment of this Court in Criminal Appeal No.891 of 2012 in Chandiran vs. State Represented by the Sub Inspector of Police, dated 12.02.2016.

14. Per Contra, learned Government Advocate (Crl.Side) would submit that the prosecution has proved its case beyond all reasonable doubt. He would submit that non explanation of the injuries suffered by the accused itself shall not be sufficient to discard the prosecution case outrightly in this case. The first incident had happened in the field and thereafter, the accused have followed the victims and attacked them near the hotel.

15. In reply, learned counsel for the Petitioners/Accused would submit that the incident had happened near the fields. Even as per Ex.P8, the fields, the hotel and the place where the occurrence is stated to have taken place is one and the same place and there was only one occurrence. He would further submit that P.W.1 and P.W.3 are the aggressors and that they along with their men have assaulted the Petitioners/Accused and their father and that is the genesis of the occurrence. Further he would submit that the burden on the accused is not so heavy and it is on the prosecution to prove the case beyond reasonable doubt.

16. Heard the counsels, perused the materials placed on record.

17. In this case, the accused by letting in cogent evidence and by marking exhibits Ex.D1 to D3 have proved that P.W.1 and P.W.3 and their henchmen are the aggressors and further it has been categorically spoken by P.W.5/Subramani that the father of the petitioners sustained injuries in the incident. Further, since the prosecution has not investigated the complaint given by the petitioners, the father of the petitioners filed a private complaint in C.C.No.424 of 1998, before the learned Judicial Magistrate No.I, Ponneri. While the private complaint and the sessions case were pending, the petitioners' father

viz., A2 died and C.C.No.424 of 1998 was closed and the charge in respect of him before the Trial Court got abated and at the appellate stage, the Petitioners/A1 & A3 have filed C.M.P.No.177 of 2014 in C.A.No.35 of 2011 seeking to call for the records relating to the complaint in C.C.No.424 of 1998. Whereas the Appellate Court, without giving opportunity of hearing them had closed their petition sealing their prospects and dismissed both C.M.P.No.177 of 2014 and C.A.No.35 of 2011 on the same day and confirmed the Judgment and order of conviction passed by the Lower Court, which is against law. Both the Courts below have failed to properly appreciate the evidence and have committed a grave error in convicting the petitioners.

18.This Court is aware of the legal position that a revisional Court cannot re-appreciate the evidence like that of a Second Appellate Court. But, when it is brought to the notice that there had been gross mis-appreciation of evidence by the Courts below and that there is infirmity in analysing the facts, in consonance with the legal principles laid down, the powers of this Court to re-appreciate and re-analyse the evidence has been protected by Section 397 & 401 (1) Cr.P.C.

19.Now, while analysing the evidence in this case, it is seen that the occurrence had taken place on 20.08.1998 at 8.00 a.m., near the fields of the petitioners. As per the petitioners, P.W.1, P.W.3, P.W.4 & P.W.5 are stated to be the witnesses who were present at the place during the occurrence. Admittedly, in this case, P.W.1/Munusamy, P.W.3/Arjunan & P.W.4/Suseela have not spoken anything about the injuries sustained by the petitioners/A1 & A3 and their father/A2. P.W.3 has stated that he was not aware of anything. P.W.4/Suseela has not spoken about the quarrel between P.W.1, P.W.3 and the petitioners/accused and the injuries sustained by the petitioners and their father/A2. She has also totally lied. P.W.5 /Subramani has not spoken anything about the presence of P.W.4, thereby making her presence doubtful.

20.Even in the Chief examination, P.W.5 has stated that there was a quarrel with regard to the ridges and that the P.W.1 and P.W.3 have assaulted the father of the petitioners viz. Ganesa Reddiyar/A2. It is clear that P.W.1, P.W.3 and P.W.4 have totally lied about the incident and not stated anything with regard to the injuries sustained by the petitioners and their father. However, P.W.2/Dr.K.Manickam, who had treated the witnesses as well as the petitioners, had categorically stated that the 1st petitioner/A1 and his father/A2 came to the hospital along with the medical memo issued by the respondent police and that he had spoken about the Accident Register in A.R.No.1744 for having given treatment to A2/ father of the petitioners and A.R.No.1745 for having given treatment to the 1st petitioner and

A.R.No.1746 for having given treatment to the 2nd petitioner. He had further stated that the 2nd petitioner was treated as out patient and the 1st petitioner and his father/A2 were admitted as inpatient and further he had deposed that the petitioners and their father had sustained stab injuries.

21.Further, coming to the evidence of P.W.8/Investigating Officer, he had admitted that the petitioners had given a complaint to him against the defacto complainant, whereas, strangely he had deposed that he does not remember about how and in what manner the case was registered and closed. He had further admitted that the petitioners and his father were admitted in the hospital and that the learned Judicial Magistrate had gone to the hospital and remanded them to custody from the hospital. He had also admitted having issued medical memo to the petitioners and to their father/A2 for taking treatment in the hospital and he had admitted that he had recovered the Accident Register in respect of the petitioners and their father.

22.P.W.9/M.Sivambiga Selvam, Investigating Officer had admitted that on the complaint given by the petitioners a case was registered by Gummidipoondi SIPCOT Police Station for the offence under Sections 341 and 324 IPC. He had stated that the case was referred as mistake of fact. However, in this case, no documents were produced by the prosecution to prove the same. Whereas, on the side of the petitioners, the father of the petitioners had filed a private complaint. However, during the pendency of the private complaint, the petitioners' father died and it was closed. Further at the appeal stage, the petitioners had filed C.M.P.No.177 of 2014 for marking those documents as additional evidence whereas the Appellate Court without giving them opportunity to produce the documents had closed the petition and dismissed the Appeal on the same day.

23.Perusal of record shows that though suggestions have been put to P.W.4 and P.W.5 with regard to the injuries sustained by the petitioners and their father, a wrong finding has been rendered by the Appellate Court that no suggestions have been put to them. The Appellate Court had erred in dismissing the petition filed by the petitioners, seeking to produce additional evidence in C.M.P.No.177 of 2014 and delivering the Judgment on the same day.

24.After analyzing the above evidence and records, this Court comes to a conclusion that the prosecution has suppressed the genesis of the occurrence and the prosecution witnesses have also not come out with the true version. Further, the prosecution has also failed to explain the true version and the injuries sustained by the Petitioners/Accused. It is an admitted

fact as per the record, that the 1st and 2nd accused and their father were arrested while they were taking treatment in the hospital.

25. In the Judgment of the Hon'ble Apex Court in Babu Ram and Others vs. State of Punjab reported in (2008) 3 SCC 709; it has been held that

"18. It is a well-settled law that in a murder case, the non-explanation of the injuries sustained by the accused at about the time of occurrence or in the course of altercation is a very important circumstance from which the court can draw the following inferences:

"1. that the prosecution has suppressed the genesis and the origin of the occurrence and has thus not presented the true version;

2. that the witnesses who have denied the presence of the injuries on the person of the accused are lying on a most material point and therefore their evidence is unreliable;

3. that in case there is a defence version which explains the injuries on the person of the accused it is rendered probable so as to throw doubt on the prosecution case."

19. Further, it is important to point out that the omission on the part of the prosecution to explain the injuries on the person of the accused assumes much greater importance where the evidence consists of interested or inimical witnesses or where the defence gives a version which competes in probability with that of the prosecution one."

26. Further this Court in Criminal Appeal No.891 of 2012 in Chandiran vs. State Represented by the Sub Inspector of Police, dated 12.02.2016, has held

"4. The learned counsel for the appellants would submit that the prosecution has not come forward with the true version of the occurrence in as much as the counter case in Crime No.263 of 2009 was not investigated properly, the injury sustained by the 4th accused has not been properly explained by the prosecution. He would further submit that the records pertaining to Crime No.263 of 2009 have been completely suppressed. Thus, according to the learned counsel, the appellants are entitled for acquittal."

.....

7. Admittedly, the occurrence was on 11.10.2009, at 9.00 p.m. On the complaint made by P.W.1, the present case in Crime No.262 of 2009 was registered and the same was investigated initially by P.W.14, the then Sub-Inspector of Police. There is no controversy before this Court that in the very same occurrence, the 4th accused, by name, Radha, also sustained injuries. On the complaint of the 4th accused, a counter case was registered in Crime No.263 of 2009 by P.W.14 under Sections 294(b), 323 & 324 IPC. P.W.14 would state that the said case in Crime No.263 of 2009 was investigated properly and since the same was found to be false, a negative report was filed before the Magistrate Court, but, unfortunately, none of the documents, like the First Information Report, Wound Certificate of 4th accused, the Observation Mahazar etc., have neither been marked nor proved in evidence, through the present case. It is seen that the records pertaining to Crime No.263 of 2009 have been completely suppressed. Time and again, the Hon'ble Supreme Court has been reiterating the procedure to be followed in the matter of investigation of cases in counter. The Hon'ble Supreme Court has time and again held that both cases should be investigated simultaneously by one and the same Investigating Officer and on completing the investigation, he should file reports in both the cases. This has been reiterated in Tamil Nadu Police Standing Order No.5884A, issued by the Government of Tamil Nadu. But, in the instant case, P.W.15, the Inspector of Police, has stated that he did not investigate the case in Crime No.263 of 2009 at all. Curiously, the investigation in Crime No.263 of 2009 was conducted by P.W.14, the Sub Inspector of Police, whereas, the investigation of the present case in Crime No.262 of 2009 was investigated by the Inspector of Police. Thus, it is crystal clear that two different Investigating Officers were investigating the case and two different reports were stated to have been given by them."

27. It would be apposite to refer to another Judgment of the Hon'ble Apex Court in Kumar vs. State Represented by Inspector of Police reported in (2018) 7 SCC 356, wherein, in an identical

situation, the Hon'ble Supreme Court has held the following:

"29. Another point put forth by the learned counsel on behalf of the appellant-accused is that the prosecution has not explained the injuries suffered by the accused and hence the prosecution case should not be believed. At the outset, it would be relevant to note the settled principles of law on this aspect. Generally failure of the prosecution to offer any explanation in that regard shows that evidence of the prosecution witnesses relating to the incident is not true or at any rate not wholly true (see Mohar Rai v. State of Bihar)

30. In Lakshmi Singh v. State of Bihar this Court observed: (SCC p. 401, para 12)

12. where the prosecution fails to explain the injuries on the accused, two results follow:

(1) that the evidence of the prosecution witnesses is untrue; and

(2) that the injuries probabilities the plea taken by the appellants,"

It was further observed that : (SCC p. 401 para 12)

12. ... in a murder case, the non-explanation of the injuries sustained by the accused at about the time of the occurrence or in the course of altercation is a very important circumstance from which the court can draw the following inferences:

"(1) that the prosecution has suppressed the genesis and the origin of the occurrence and has thus not presented the true version;

(2) that the witnesses who have denied the presence of the injuries on the person of the accused are lying on a most material point and therefore their evidence is unreliable;

(3) that in case there is a defence version which explains the injuries on the person of the accused it is rendered probable so as to throw doubt on the prosecution case."

The omission on the part of the prosecution to explain the injuries on the person of the accused assumes much greater importance where the evidence consists of interested or inimical witnesses or where the defence gives a version which completes in probability with that of the prosecution one."

31. In the case on hand, admittedly, the appellant-accused was also injured in the same occurrence and he too was admitted in the hospital. But, the prosecution did not produce his medical record, nor the doctor was examined on the nature of injuries sustained by the accused. The trial court, instead of seeking proper explanation from the prosecution for the injuries sustained by the accused, appears to have simply believed what prosecution witnesses deposed in one sentence that the accused had sustained simple injuries only.

33. Coming to the other aspect of the case, motive of the accused to commit the crime is ascribed to the previous quarrel occasioned between the accused and the deceased during a drama at a village festival. Generally, in the case prosecution desires to place motive of the accused as a circumstance, like are alive to the fact that if the genesis of the motive of the occurrence is not proved, the ocular testimony of the witnesses as to the occurrence could not be discarded only on the ground of absence of motive, if otherwise the evidence is worthy of reliance. But in the case on hand, as we have already discussed in the above paragraphs, the evidence of direct witnesses is not satisfactory and on the other hand, it is demonstrated that the deceased hit the accused on his head with the wooden log besides the testimony from the eyewitnesses that there was scuffle. In such a factual situation, certainly motive may act as a double-edged sword.

34. In the light of the settled law thus by this Court and also from what is clear from the evidence, there is absence of extreme cruelty, even if it is assumed that the accused hit the deceased with the log. Had there been a strong motive to do away with the life of the deceased, generally there would have been more fatal

injuries caused on the deceased not by a log but by utilizing more dangerous weapons. These circumstances would tell us that there is no reason to believe that motive was entertained by the accused in the backdrop of quarrel that took place during drama at the village festival, prior to the date of occurrence. In as much as the prosecution laid the foundation for the commission of crime by the accused in the said quarrel as an element of motive, in the absence of positive proof of such motive, the prosecution has to face the peril of failure in establishing that foundation.

28. Applying the ratio laid in the above citations to the facts of the present case, this Court holds that the prosecution has not given the true version of the occurrence. Further, the prosecution witnesses have suppressed the matter relating to the occurrence by not only failing to explain the injuries sustained by the petitioners and their father but also they have absolutely lied by denying in toto the injuries sustained by the petitioners/accused.

29. In view of the foregoing reasons, this Court arrives at a conclusion that the prosecution has failed to prove the case beyond all reasonable doubts and the Courts below without properly appreciating the evidence in consonance with the settled legal position applicable to the facts of the case have rendered erroneous findings and have wrongly convicted the petitioners / accused and thereby the petitioners/accused are entitled for acquittal.

30. In the result, this Criminal Revision Case stands allowed. The Judgment of conviction and sentence passed by the Trial Court and confirmed by the Appellate Court are hereby set aside. The Petitioners/A1 & A3 are acquitted from the charges levelled against them under Sections 341 and 324 IPC. The bail bond if any executed by them shall stand cancelled. The fine amount, if any, paid by the Petitioners/A1 & A3 shall be refunded to them. The Registry is directed to return the original records to the respective Courts below.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

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To

- 1.The Assistant Sessions Judge,
Ponneri.
2. The IV Additional District and Sessions Judge,
Ponneri.
- 3.The Principal District and Sessions Judge,
Thiruvallur.
- 4.The Judicial Magistrate,
Ponneri.
- 5.The Chief Judicial Magistrate,
Thiruvallur.
- 6.The Inspector of Police,
Gummidipoondi Sipcot Police Station,
Tiruvallur District.
- 7.The Public Prosecutor,
High Court of Madras,
Chennai.

Copy to:

The Deputy Registrar (Crl.Section),
Madras High Court,
Chennai - 600 104.

+2cc to Mr.J.I.Rajkumar Roberts,ADVOCATE, SR.NO. 8541

Crl.R.C.No.1177 of 2014
12.02.2021

GJ(CO)
KKN 15.04.2021

सत्यमेव जयते

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