

Bail slip

1.MuthuKannan, S/o.Balakrishnan, Male, aged about 22 years/2016 (A1)
2.Moolakarai @ Chandrasekar, S/o.Chinnadurai, Male aged about 26 years / 2016 were released on bail vide Court order dated 10.03.2016 made in CRL MP (MD).No.2012 of 2016 in CRL A(MD)No.78 of 2016.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 22.06.2021

DELIVERED ON : 29.07.2021

CORAM

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.A. (MD)No.78 of 2016

1.Muthukannan
2.Moolakarai @ Chandrasekar : Appellants/Accused Nos.1 & 2

Vs.

The State of Tamil Nadu,
represented by the Inspector of Police,
Theppakulam (L&O) Police Station,
Madurai District.

(Cr.No.1362 of 2011) : Respondent/Complainant

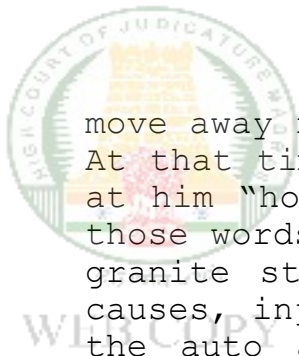
PRAYER: Criminal Appeal filed under Section 378 of Criminal Procedure Code, to set aside the judgment and conviction passed by the learned V Additional District and Sessions Judge, Madurai, in S.C.No.168 of 2012, dated 06.02.2016 and acquit the appellants herein.

For Appellants : Mr.M.S.Jeyakarthik
For Respondent : Mr.T.Senthil Kumar
Government Advocate (Crl.side)

JUDGMENT

This appeal is filed as against the judgment and order of conviction passed by the learned V Additional District and Sessions Judge, Madurai, in S.C.No.128 of 2012. The appellants are the accused 1 and 2 and the charges framed against them were under Sections 341, 323, 324 and 307 IPC.

2.As per the case of the prosecution, PW-1, Gnanavel, is an auto rikshaw driver. On the date of occurrence, (22.10.2011), PW-1 was riding his auto rikshaw with passengers. On the way, his brother, PW-2, Dharmar Ganesh, has also entered into the auto rikshaw. After dropping the passengers at Anupanadi Bus terminus, they were returning. At that time, the accused 1 and 2 were standing on the path of the auto rikshaw and were obstructing. Therefore, PW-1, Gnanavel, requested the accused 1 and 2 to kindly



move away from the path of the auto rikshaw, so that he can proceed. At that time, accused 1 and 2 restrained PW-1, Gnanavel and shouted at him "how dare you are questioning us in our area". By uttering those words, the Accused 1, Muthukannan, son of Balakrishnan, took a granite stone and hit on the face of PW-2, Dharmar Ganesh, which causes injury on his nose. On seeing this, PW-1, Gnanavel, stopped the auto and got down from the auto rikshaw and questioned the accused 1 and 2, why they hit PW-2, Dharmar Ganesh and cause injury. On this, the 2nd accused, Moolakarai @ Chandrasekar, son of Chinnadurai took an iron rod and hit on the head of the PW-1, Gnanavel. At that time, PW-1, Gnanavel, turned his face. Therefore, the iron rod hit on his left eye causing injury. On seeing this, other auto rikshaw drivers, PW-3, Meyyappan, PW-4, Kannan and PW-7, Thriukumaran, came to rescue of PW-1, Gnanavel and PW-2, Dharmar Ganesh. On seeing the other auto riskshaw drivers, A1, Muthukannan and A2, Moolakarai @ Chandrasekar, ran way from the place of occurrence. PW-3, Meyyappan, PW-4, Kannan and PW-7, Thriukumaran, took the injured PW-1, Gnanavel and PW-2, Dharmar Ganesh, to the Government Rajaji Hospital, Madurai.

3. Based on the complaint preferred by PW-1, Gnanavel, Alagupandian, Sub Inspector of Police, Teppakulam Police Station, had registered a case under Cr.No.1362 of 2011, under Ex-P7, for the offence under Sections 341, 323, 324 and 307 IPC and sent the copy of the FIR to the Court of the learned Judicial Magistrate through special messenger and copy of the same was placed before the Inspector of Police, Teppakulam Police Station. PW-9.

4. In the Government Rajaji Hospital, PW-8, Dr.Saravanan, had examined PW-1, Ganavel and PW-2, Dharmar Ganesh and issued the accident register under Ex-P5 regarding PW-1, Ganavel and Ex-P6 regarding PW-2, Dharmar Ganesh.

5. The then Inspector of Police, Teppakulam Police Station, Jeya Vetriselvan, had taken the file for investigation and proceeded with the investigation. On 23.10.2011, in early morning 03.00 am, he had visited the place of occurrence, Anupanadi railway gate in the presence of witnesses, Venkatesan and Shanmuganathan. He had prepared the observation mahazer, under Ex-P2 in the presence of Venkatesan and Shanmuganathan and rough sketch, under Ex-P8 and he had examined the injured PW-1, Ganavel and PW-2, Dharmar Ganesh and the auto rikshaw drivers, PW-3, Meyyappan, PW-4, Kannan and PW-7, Thirukumaran, who had taken the injured PW-1, Gnanavel and PW-2, Dharmar Ganesh to the hospital and he recorded their statements. He also examined other witnesses, Venkatesan and Shanmuganathan and recorded their statements.

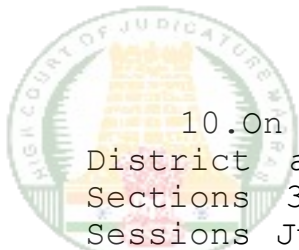


6. On the same day by around 06.00 am, near Mattuthavani Bus Terminus, Jeya Vetriselvan, then Inspector of Police, Teppakulam Police Station, had arrested, A1, Muthukannan. On arrest of A1, Muthukannan, in the presence of witness, Thirukumaran, he had given confession statement. Based on the confession of A1, Muthukannan, the then Inspector of Police, Jeya Vetriselvan, had seized the weapons, MO-1, granite stone and MO-2, iron rod used to attack PW-1, Gnanavel and PW-2, Dharmar Ganesh by A1 and A2, in the presence of witnesses, Pandi and Thirukumaran, under Ex-P4, seizure mahazer. The statement of witnesses, Pandi and Thirukumaran to the arrest and confession, was also recorded by Jeya Vetriselvan, then Inspector of Police, Teppakulam Police Station.

7. Jeya Vetriselvan, then Inspector of Police, Teppakulam Police Station, had forwarded A1, Muthukannan, with police escort to the Court of the learned Judicial Magistrate, Madurai along with Form-95, Ex-P9 and requested for remand. The learned Judicial Magistrate, Madurai, had remanded the Accused No.1. On transfer, Jeya Vetriselvan, then Inspector of Police, Teppakulam Police Station handed over the investigation file to the PW-9, Ramani, the new Inspector of Police, Teppakulam Police Station.

8. PW-9, the Inspector of Police had also examined witnesses, PW-1, Gnanavel and PW-2, Dharmar Ganesh, PW-3, Meyyappan, PW-4, Kannan, PW-5, Shanmuganathan, PW-6, Pandi, PW-7, Thirukumaran and PW-8, Dr. Saravanan, who had issued the accident register and admitted PW-1, Gnanavel and PW-2, Dharmar Ganesh at Government Hospital. The statement already given to Jeya Vetriselvan, then Inspector of Police, Teppakulam Police Station, was repeated by the witnesses. Therefore, PW-9, Ramani, Inspector of Police, Teppakulam Police Station, did not record their statements. He had completed the investigation and laid final report before the learned Judicial Magistrate, Madurai.

9. On taking the final report on file by the learned Judicial Magistrate-I, Madurai in P.R.C.No.5 of 2012, he had issued summons to the accused. On appearance of the accused, the learned Judicial Magistrate-I, Madurai, had furnished the copies under Section 207 Cr.P.C to Muthukannan, s/o Balakrishnan and Moolakarai @ Chandrasekar, s/o Chinnadurai, and committed the case to the Court of Principal Sessions Judge, Madurai. On receipt of P.R.C.No.5 of 2012 from the Court of the learned Judicial Magistrate-I, Madurai, the learned Principal Sessions Judge, Madurai, had taken the sessions case on file and numbered the case as S.C.No.128 of 2012 and made over the case to the Court of the learned V Additional District and Sessions Judge, Madurai.



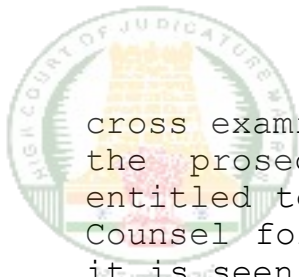
10. On appearance by the accused, the learned V Additional District and Sessions Judge, Madurai, had framed charges under Sections 341, 324 and 307 IPC against A1 and A2. The learned Sessions Judge had examined the PW-1 to PW7 and PW-8, Dr. Saravanan, who had treated the injured at Government Hospital and issued accident register under Ex-P5 regarding PW-1, Gananvel and Ex-P6 regarding PW-2, Dharmar Ganesh. PW-9, Ramani, the Inspector of Police, Teppakulam Police Station, had deposed regarding the registration of the FIR by Alagupandian, Sub Inspector of Police, Teppakulam Police Station and the investigation conducted by the then Inspector, Jeya Vetriselvan.

10.A. On closing of prosecution evidence, the accused was examined under Section 313(1) Cr.P.C., regarding the incriminating evidence against them. The accused denied the incriminating evidence against them.

11. On appreciation of evidence, the learned V Additional District and Sessions Judge, Madurai, had pronounced the judgment holding that A1 and A2 guilty of the charges under Sections 341, 324 and 307 IPC and sentencing the accused to undergo simple imprisonment for a period of one month and a fine of Rs.500/- each and in default of payment of fine to undergo 7 days simple imprisonment under Section 341 IPC and sentencing simple imprisonment for a period of three years and to pay a fine of Rs.2,000/- each and in default of payment of fine to undergo one month simple imprisonment under Section 324 IPC and the accused 1 and 2 are found not guilty for the offence under Section 307 and they were acquitted under Section 235(i) Cr.P.C. Aggrieved by the judgment of conviction and order of sentence against A1 and A2, they had filed this appeal before this Court.

12. The learned Counsel for the appellants submitted that except PW-1 and PW-2, the other witnesses had not supported the evidence of PW-1 and PW-2. Even in the cross examination, PW-1 and PW-2 had let in evidence, thereby, they had become hostile witnesses. They had not supported the case of the prosecution. The opinion of the Doctor, who had treated PW-1 and PW-2 had to be furnished. The Doctor, who treated PW-1 and PW-2 in the hospital was examined as PW-8. He had stated in his evidence that Ex-P5 and Ex-P6 alone were issued and PW-1, Gnanavel and PW-2, Dharmar Ganesh had absconded from the hospital. Therefore, they were unable to give opinion regarding the nature of injury, whether, it is simple or it is grievous.

13. The learned Counsel for the appellants had invited the attention of this Court to the evidence of PW-1 to PW-8 in their

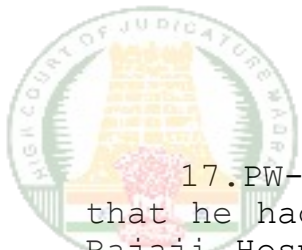


cross examination and stated that they had not supported the case of the prosecution. Therefore, the accused, as appellants, are entitled to acquittal and they may be acquitted. Also, the learned Counsel for the appellants submitted that in the accident register, it is seen that they were brought to hospital by PW-7, Thirukumaran. PW-1 and PW-2 narrated the injury to the Doctor, as they were attacked by ten persons. However, in the FIR, under Ex-P7, they had mentioned only the names of A1 and A2. Therefore, the case is a foisted case.

14.The date of occurrence is 22.10.2011 by 23.00 hours. The complaint was given by early morning 02.00 am on 23.10.2011. The FIR reaches the Court of the learned Judicial Magistrate, Madurai, on 25.01.2011. Therefore, the FIR is embellished. There is contradiction between the accident register and the FIR. The admitted portion of the confession statement leading to the recovery of MO-1 and MO-2 was marked as Ex-P3 through the evidence of PW-7, Thirukumaran. PW-7 in his cross examination had stated that he had affixed his signature in a plain white paper.

15.Likewise, PW-8, Dr.Saravanan, had in his examination in-chief stated that when he was on duty at Government Rajaji Hospital, on 23.10.2011, early morning around 12.00 hours, the injured PW-2 Dharmar Ganesh, was brought by one Thirukumaran and on examination, it was found that his nose was injured. He had stated that he was attacked by name not known, but, identified ten persons. On 22.10.2011 by around 11.15 pm, near Anupanadi Bus Terminus, they had caused injury with the iron rod. He was admitted for his bleeding injury on his nose. On 27.10.2012, the injured Dharmar Ganesh had absconded from the hospital by around 08.00 am. Therefore, they were unable to give opinion regarding the injury. On the same day by 12.15 am, one Gnanvel was also brought to the hospital by Thirukumaran. He had also stated that ten known persons had caused injury on his head by stone and iron rod. He was also admitted in hospital, but, on the next day, ie., 23.12.2012, he left the hospital without informing the Doctors. In the cross examination, the suggestion of the learned Counsel for the accused that these injuries might have been caused by PW-2 falling on sharp edged ground, where, sharp particles was found, was admitted by PW-8.

16.The injured PW-1 and PW-2 even though had stated in their examination in-chief that A1 and A2 had attacked them resulting in injuries on the head of PW-1 and on the face of PW-2, in their cross examination, they stated that they are not acquainted with A1 and A2 and they had stoutly denied the case of the prosecution that A1 and A2 attacked the PW-1 and PW-2. They had accepted the suggestion that they had deposed evidence against A1 and A2 based on the instructions of the Police Officers of Teppakulam Police Station.



17.PW-3, Meyyappan, had also in his examination in-chief stated that he had accompanied the injured PW-1 and PW-2 to the Government Rajaji Hospital. In the cross examination, he had claimed that he does not know A1 and A2 and on the alleged date of occurrence, he had been away from his native place. He had admitted the suggestion that he had deposing examination in-chief based on the instruction by the police officers of Teppakulam Police Station.

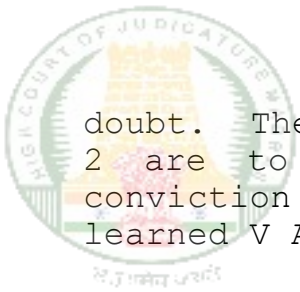
18.PW-4, Kannan, is an auto rikshaw driver, who had accompanied the injury to the Government Rajaji Hospital, Madurai. He had, in his examination in-chief, supported the case of the prosecution. In the cross examination, he had admitted the suggestion by the learned Counsel for the accused 1 and 2 that he is not acquainted with A1 and A2 and he has no knowledge about the alleged occurrence.

19.PW-5, Shanmuganathan, is a mahazer witness regarding observation mahazer and rough sketch prepared by the Inspector of Police, Teppakulam Police Station. He had, in his cross examination, stated that he had affixed his signature in the police station in a plain white paper. He had further admitted that he had deposed in the examination in-chief based on the instruction given by the police officers of Teppakulam Police Station.

20.PW-6 was the witness regarding seizure of the iron rod. He had in his cross examination stated that he had affixed his signature in the plain white paper in the police station.

21.PW-9, the Inspector of Police, Teppakulam Police Station, in his cross examination, admitted that he had no knowledge of the involvement of the accused and the injured PW-1 and PW-2 had not given any complaint before PW-9. He had denied the suggestion of the learned Counsel for the accused that he had not at all conducted any investigation, he had just filed final report.

22.On analyse of the evidence of PW-1 to PW-9, the learned Counsel for the appellants submitted that it is a foisted case. Therefore, the case of the prosecution is full of loop holes, that is why, PW1 and PW-2, the so called alleged injured witnesses, had not supported the case of the prosecution and had let in contrary evidence to what had been stated earlier in the examination in-chief. The other witnesses had remained hostile. PW-9, the person, who had laid the final report, had admitted in cross examination that he had no personal knowledge of the investigation. He had not conducted the investigation. Therefore, the prosecution had not proved the charges against the accused 1 and 2 beyond reasonable



doubt. Therefore, the appeal is to be allowed and the accused 1 and 2 are to be acquitted from the charges and the judgment of conviction and sentence of imprisonment and the fine imposed by the learned V Additional District and Sessions Judge is to be set aside.

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23.Mr.T.Senthil Kumar, learned Government Advocate vehemently objected to the submissions of the learned Counsel for the appellants. The learned Government Advocate had in his arguments invited the attention of this Court to the records in this case. Immediately, after occurrence, PW-3, Meyyappan, PW-4, Kannan and PW-7, Thirukumaran, had come to the rescue of the PW-1, Gnanavel and PW-2, Dharmar Ganesh. On seeing that, A1 and A2 ran away from the place of occurrence. Therefore, PW-3, Meyyappan, PW-4, Kannan and PW-7, Thirukumaran, had taken the injured PW-1, Gnanavel and PW-2, Dharmar Ganesh, to the hospital. PW-8, Dr.Saravanan, had examined PW-1, Gnanavel and PW-2, Dharmar Ganesh and issued Ex-P5 regarding the injury suffered by PW-2, Dharmar Ganesh and Ex-P6 regarding the injury suffered by PW-1, Gnanavel, against which, Muthukannan, was arrested next day from the date of occurrence near Mattuthavani Bus Terminus. On such arrest, he had voluntarily given confession statement. Based on the confession statement, the Inspector of Police had recovered MO-1, granite stone and MO-2, iron rod from the scene of occurrence in the presence of witness, PW-6, Pandi and PW-7, Thirukumaran.

24.Further, the learned Government Advocate invited the attention of this Court regarding conduct of the accused. As per the Code of Criminal Procedure and as per the chart, regarding the trial of session case and the procedure adopted in the criminal cases, the Trial Court shall examine the witnesses on the date, when the witnesses are appearing before the Court. When the witnesses are in the witness box, the Counsel for the accused shall cross examine the witnesses and the cross examination shall not be deferred. There are number of rulings by the Honourable Supreme Court that witness shall be examined only in the presence of the accused. When the witnesses had deposed evidence, then the Counsel for the accused is duty bound to cross examine the witnesses on the same day. In this case, all the witnesses had been examined. They were not cross examined on the date of the deposition of the evidence. But, only after the examination in chief, all the evidences had been recorded by the Trial Court, the witnesses were summoned by the Accused 1 and 2 and they were cross examined in the intervening time. They had given just opposite evidence. If the witnesses had not supported the prosecution case, they had to let in evidence voluntarily and remained hostile.

25.Here, it is not the case. All the witnesses, including mahazer witness, had supported the prosecution case. All the

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witnesses, PW-1 to PW-7 had under the threat held out by A1 and A2 herein had voluntarily reassailed from the earlier evidence incriminating the accused. Not only that, the learned Government Advocate submitted that even A1 and A2 has different cases in various police Stations in Madurai and neighbouring districts and he had furnished the details of crime numbers and Police Stations, in which cases had been recorded against A1 and A2. Therefore, under the threat of coercion, the witnesses had reassailed from the evidence let in by them on the earlier occasion. Therefore, this Court had to reject the cross examination, as the witnesses had spoken cohesively favouring the prosecution. Under such circumstances, this Court need not consider the evidence of cross examination of the witness.

26.Also, the learned Government Advocate invited the attention of this Court to paragraph 32 of the judgment of the learned Trial Judge stating that number of cases has been registered against A1 and A2. Even after this case, during the pendency of the case before the learned Trial Court. they had indulged in similar offence attracting grave punishment. Therefore, there is no merit in this appeal. Therefore, this Court has to dismiss the appeal.

Points for Consideration:-

27.Whether the judgment of conviction recorded by the learned V Additional District and Sessions Judge, Madurai, and the sentence imposed against A1 and A2 is to be set aside?

28.On consideration of the rival submissions and on perusal of the records, it is found that on the date of occurrence, 22.10.2011, at around 11.30 pm, PW-1, Gnanavel as auto rikshaw driver and PW-2, brother of PW-1, had dropped passengers at Anupanandi Bus terminus and on their returning, the accused 1 and 2 herein were stated to have been obstructed the path of the auto rikshaw. Therefore, PW-2, brother of PW-1, requested A1 and A2 to move away from the pathway of the auto rikshaw. On such request, A1 and A2 uttering the words, "how dare you are questioning us in our area" and hit PW-2 with the granite stone causing bleeding injury on his face. Also, A1 and A2 had attacked PW-1 with iron rod causing injury. On seeing the occurrence, the other auto rikshaw drivers, PW-3, Meyyappan, PW-4, Kannan and PW-7, Thirukumaran, had come to the rescue of PW-1, Gnanavel and PW-2, Dharmar Ganesh. On seeing PW-3, Meyyappan, PW-4, Kannan and PW-7, Thirukumaran, A1 and A2 ran away from the scene of occurrence. PW-3, Meyyappan, PW-4, Kannan and PW-7, Thirukumaran, had taken the injury to the Government Rajaji Hospital, where, PW-8, Dr.Saravanan had examined PW-1, Gnanavel and issued Ex-P6, accident register and examined PW-2, Dharmar Ganesh and issued Ex-P5, accident register. In the course of treatment, PW-1 and PW-2, out



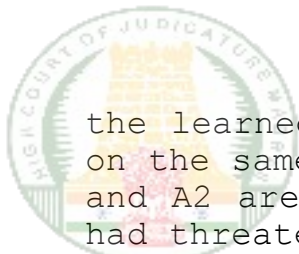
of threat against them by A1 and A2, had ran away from the hospital. Therefore, the opinion could not be given by the Doctor regarding the nature of injury, whether serious or simple.

29.Immediately, afterwards, PW-1 and PW-2 had preferred a complaint before the Teppakulam Police Station under Ex-P1. Alagupandian, Sub Inspector of Police, Teppakulam Police Station had registered the FIR under Ex-P7 and sent the copy to the Court as well as the higher officials. Jeya Vetriselvan, Inspector of Police, had conducted the investigation. He had visited the place of occurrence at earlier morning, 03.00 am and in the presence of witnesses, he had prepared mahazer and rough sketch. The FIR registered at around 10.30 pm on 23.10.2012. The copies were sent to the learned Judicial Magistrate, Madurai on the same day. Based on the investigation, they had filed final report. The witnesses PW-1 to PW-9 had spoken cogently. Therefore, as pointed out by the learned Government Advocate, A1 and A2 even though engaged Counsel had not cross examined the witnesses then and there, they had deferred the cross examination and the witnesses were recalled.

30.PW-1, Gnanavel, was examined on 10.10.2015. PW-2, Dharmar Ganesh, was examined on 10.10.2015. PW-3, Meyyappan, was examined on 10.10.2015. PW-4, Kannan, was examined on 10.10.2015. PW-5, Shanmuganathan, was examined on 17.11.2015. PW-6, Pandi, was examined on 17.11.2015. PW-7, Thirukumaran, was examined on 17.11.2015. PW-8, Dr.Saravanan, was examined on 05.11.2015. PW-9, Ramani, was examined on 14.12.2015. Except PW-8, Dr.Saravanan and PW-9, Ramani, Inspector of Police, the A1 and A2 had not cross examined other witnesses. PW-8 and PW-9 were cross examined by them. On the same day, they had deposed.

31.The witnesses of PW-1 to PW-7 were recalled and then cross examined. PW-1, Gnanavel and PW-2, Dharmar Ganesh were recalled for cross examination on 28.08.2015. After about ten months from the date of deposition of examination in-chief, PW-3, Meyyappan was cross examined on 28.08.2015. PW-4, Kannan, was cross examined on 09.09.2015. PW-5, Shanmuganathan, was cross examined on 09.09.2015. PW-6, Pandi, was cross examined on 09.09.2015. PW-7, Thirukumaran, was cross examined on 09.09.2015. Therefore, the fact that they had let in evidence in cross examination as though they had let in hostile evidence.

32.The submission of the learned Counsel for the appellants that PW-1 to PW-8 had not supported the case of the prosecution cannot at all be accepted. The submission of the learned Counsel for the appellants that the prosecution had miserably failed to prove the charges against A1 and A2 cannot at all be accepted. If

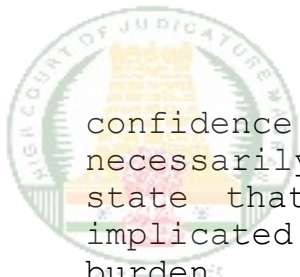


the learned Counsel for the accused had cross examined PW-1 to PW-7 on the same day and if they had been contradicts in the evidence, A1 and A2 are entitled to acquittal. Here, it is not the case. They had threatened the witnesses. That is why, the witnesses had clearly stated that PW-1 and PW-2 are injured witnesses and the other witnesses, who were in the place of occurrence and who knew the accused, had stated in their cross examination that they had no knowledge about the occurrence. They are not known to the accused 1 and 2. The accused are not known to them.

33. Accused 1 and 2, having engaged Counsel, had not cross examined the witnesses. After about a gap of more than ten months, the accused had recalled witnesses. The witnesses suffered depression, desperation and become nervous, when they are forced to recollect the pain full incident that they had suffered in the hands of the accused. After having deposed evidence incriminating the accused and they had not been cross examined, subsequently, recalling the witnesses and cross examining them, after about ten months, amounts to threat and coercion imposed on the witnesses.

34. Unless, the witness protection scheme available in European countries and in the United States, is available in India, it is painful to note that the trial judicial had ignored the guidelines by the Honourable Supreme Court in conduct of the trial by upholding majesty of law and by upholding criminal justice system. Whereas, invariably, the Trial Judge deferred the cross examination and recalled the witness at the instance of the accused after the accused had pleaded his or her role in yielding out threat to the witnesses. Thereby, the witnesses forget their earlier deposition. This conduct of the accused before the learned Trial Judge cannot at all be accepted, based on the such admitted arguments of the learned Counsel for the appellants/accused stating that the appeal is to be allowed and the judgment of the learned Trial Judge is to be set aside, amounts to miscarriage of justice. Not only that, as per the Ruling of the Honourable Supreme Court in Aniruth vs State of Gujarat, it had been stated that even in a case, when there is shoddy investigation, the injured witness had strict to the prosecution version. Even in the absence of corroborative evidence, the Trial Court has to necessarily convict the accused. Also, in the same judgment, it had been stated that in the present day of India, the persons, who are in connected to the injured persons, who are the victims of the crime, will not come forward to depose before the Court of law.

35. In such circumstances, those, who are related to the injured witness, even if they deposed evidence, the Court shall proceed on the part of the evidence with caution. If the injured victim had deposed evidence and the evidence of the injured victim inspires



confidence in the Trial Judge, then, the Trial Judge has to necessarily convict the accused. Also, it is for the accused to state that why inspite of the injury, the injured witness had implicated the accused. It is for the accused to disprove the burden.

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36.Under those circumstances, the evidence of PW-1 to PW-8 is supporting the prosecution case. Therefore, the arguments putforth on behalf of the learned Counsel for the accused is to be rejected and the point for consideration is answered in favour of the prosecution and against the accused 1 and 2.

In the result, this appeal is dismissed. The judgment of conviction and the findings given by learned V Additional Sessions Judge, Madurai, holding that the accused 1 and 2 are found guilty under Sections 324 and 341 of IPC is found acceptable and reasonable and the same is confirmed. The learned V Additional Sessions Judge, Madurai, is directed to issue warrant to the accused and secure the accused to undergo the remaining period of imprisonment.

The victims, who are PW-1 and PW-2, are to be compensated by the State under Victim Compensation Scheme. The District Collector, Madurai is directed to pay a sum of Rs.50,000/- to each of the victim through District Legal Services Authority, Madurai, for the pain and sufferings undergone by them.

Sd/-

Assistant Registrar(P & A)

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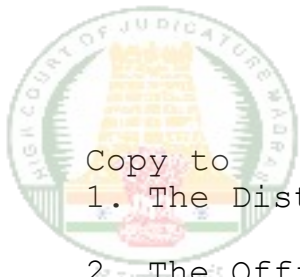
Sub Assistant Registrar(CS)

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To

1. The Principal Sessions Judge, Madurai.
- 2.The V Additional District and Sessions Judge, Madurai.
- 3.The Inspector of Police,
Theppakulam (L&O) Police Station,
Madurai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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Copy to

1. The District Collector, Madurai.

2. The Officer Incharge,
District Legal Services Authority, Madurai.

3. The Section Officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai. (2 copies)

+1 CC to M/s.M.S.JEYAKARTHICK, Advocate (SR-24341[F] dated
29/07/2021)

Judgment made in
CRL.A. (MD) No. 78 of 2016
29.07.2021

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TR(13.08.2021) 12P 10C