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*Crl.A.No.43 of 2020*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2022

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

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1. Bhuvaneswaran
2. Manokaran
3. Punniyamurthi
4. SathishKumar (Deceased)
5. Arun @ Arunkumar
6. Rameshkumar
7. Balakrishnan
8. Kannan

... Appellants

Vs

Crime No.10 of 2008  
State represented by  
The Deputy Superintendent of Police,  
Valangaiman Police Station.

...Respondent

**PRAYER :** This Criminal Appeal has been filed under Section 374(2) of Cr.P.C, to allow the appeal and set aside the conviction and sentence passed against the appellants on 12.12.2019 on the file of the Principal District and Sessions Court, Thiruvavur and made in sessions case number 143 of 2016 and acquit the appellants by allowing the appeal.

For Appellants : Mr.V.Sundarraju  
For Respondent : Mr.A.Gopinath  
Government Advocate (Crl. Side)



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### **JUDGMENT**

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This appeal is directed as against the Judgment passed in Sessions Case No.143 of 2016 dated 12.12.2019, on the file of the Principal District and Sessions Court, Thiruvarur, thereby convicting the appellants 1 to 3 and 5 to 8 for the offences punishable under Section 147 of IPC and Section 3(1) of TNPPDL Act, 1992.

2. The case of the prosecution is that on 17.01.2008, at about 05.30 p.m, when the victim was sitting in a culvert along with other friends, the first accused was passing through that place. At that juncture, one of the witnesses questioned A1 as to why did he teased his sister?; there was a wordy quarrel between them; thereafter, other accused also came there and had a quarrel. In the said incident, the accused pelted stones on the victim, due to which, he sustained an injury; the glass and door in the house of one of the witnesses also got damaged to the tune of Rs.450/-. Hence, the complaint.

3. On receipt of the complaint, the respondent registered an FIR in Crime No.10 of 2008 for the offences punishable under Sections 147, 148, 294(b), 336, 307 of IPC r/w Section 3(1) of TNPPDL Act as against the



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accused. After completion of investigation, the respondent filed a final report and the same has been taken cognizance, in Sessions Case No.143 of 2016 on the file of the Principal District and Sessions Court, Thiruvavarur.

4. On the side of the prosecution, they had examined P.W.1 to P.W.7 and marked Exs.P1 to P8. The prosecution had also produced M.O.1 and M.O.2. On the side of the accused, no one was examined and no document was marked. On a perusal of oral and documentary evidences, the Trial Court found the appellants 1 to 3 and 5 to 8 guilty for the offences punishable under Section 147 of IPC and sentenced them to undergo four months rigorous imprisonment, each. The appellants 1 to 3 and 5 to 8 were also found guilty for the offence under Section 3(1) of TNPPDL Act, 1992 and sentenced them to undergo one year rigorous imprisonment, each and imposed fine of Rs.500/- each, in default to undergo three months rigorous imprisonment, each. Aggrieved by the same, this present appeal.

5. The learned counsel for the appellants would submit that even according to the case of the prosecution, the private property was damaged during the occurrence and it had not happen due to any riot or any other reason



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mentioned under the provisions under Section 3(1) of TNPPDL Act and as such no charge is made out under the TNPPDL Act as against the appellants. The present complaint is a counter complaint. The first complaint was registered under Section SC/ST Act, as against the defacto complainant and others. However, the respondent without following the Police Standing Order 588A, filed a final report as against both the parties. Even thereafter, both the case were not tried by the same Court. In the other case, the complainant and others got acquitted. Whereas, the appellants were convicted in the counter complaint. Therefore, the conviction in the counter complaint cannot be sustained as against the appellants. According to the victim, there were fifty persons when he was attacked with stones. However, the victim sustained only one injury on his nose. If more than fifty persons attacked by stones, definitely he would have sustained more injuries. P.W.2 also deposed in his cross examination that during the quarrel, no one was injured on both sides.

6. Per contra, the learned Government Advocate (Crl.Side) submitted that the prosecution categorically proved its case beyond any doubt and as such the Trial Court rightly found the appellants guilty for the offences under Section 147 of IPC and Section 3(1) of TNPPDL Act. P.W.2 deposed that when



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he along with his friends and parents were sitting in the culvert, A1 was crossing the culvert by his bicycle. P.W.2 questioned him about eve-teasing his sister. Therefore, there was a wordy quarrel between them. Thereafter, P.W.2 went to his house. Again, all the accused had gone to the house of P.W.2 and quarreled with them. They also pelted stones and his house got damaged and P.W.1 also got injured on his nose. Therefore, the respondent filed a report in both the complaints and filed charge sheet. Hence, the Trial Court rightly convicted the appellants 1 to 3 and 5 to 8 and it does not warrant any interference by this Court. Therefore, he prayed for dismissal of the appeal.

7. Heard Mr.V.Sundarraju, learned counsel appearing for the appellants and Mr.A.Gopinath, learned Government Advocate (Crl. Side) appearing for the respondent.

8. There are totally eight accused. On 17.01.2008, at about 05.30 p.m, when P.W.2 and others were sitting the culvert, A1 was crossing the said culvert by his bicycle. P.W.2 questioned him about eve-teasing his sister. Therefore, there was a wordy quarrel and the same was informed to his friends. Thereafter, P.W.2 went to his house. Again, A1 along with his friends, went to the house of P.W.2 and attacked his house by pelting stones, due to which, his



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house was damaged and P.W.1 sustained injury on his nose. All the accused belongs to SC/ST community. Due to the very same incident, they lodged a complaint, in which P.W.3 and his co-brother were accused. However, both got acquitted. In the counter complaint, the respondent registered FIR as against the appellants in Crime No.10 of 2008 for the offences under Sections 147, 148, 294(b), 336, 307 of IPC r/w Section 3(1) of TNPPDL Act. The respondent found both the parties as aggressor and filed a final report. P.W.3 and his co-brother were charged under SC/ST Act and tried by the Special Court for SC/ST Act, Thanjavur. The respondent filed a final report and the same has been taken cognizance by the Principal District and Sessions Judge, Thiruvarur, since the appellants were charged under the TNPPDL Act. When the counter complaint is registered, the respondent ought to have followed the procedure laid down under the Police Standing order 588A. If the respondent found that both the parties are aggressor, then in both the cases, the charge sheet should have been filed and the Trial ought to have been proceeded with by the Trial Court simultaneously. In the case on hand, admittedly, the other complaint was tried by the Special Court for SC/ST Act, Thanjavur and the present case is tried by Principal District and Sessions Judge, Thiruvarur. The first case ended in acquittal and the present case ended in conviction for the offence under



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Section 147 of IPC and Section 3(1) of TNPPDL Act. Therefore, the conviction as against the appellants cannot be sustained and it is liable to be set aside.

9. That apart, admittedly, there was private dispute between family members of P.W.2 and the accused. During the occurrence, the glass and door of P.W.2 house got damaged to the tune of Rs.450/-. Therefore, the accused cannot be charged under the TNPPDL Act. It is relevant to extract the provision under Section 3(1) of TNPPDL Act, which is hereunder,

*3. Mischief causing damage to public property.—*

*(1) Whoever commits mischief by doing any act in respect of any public property, other than public property of the nature referred to in sub-section (2), shall be punished with imprisonment for a term which may extend to five years and with fine.*

The "Property" means any property, movable or immovable or machinery owned by or in possession of, or under the control of any person including

- (a) the Central Government; or,
- (b) the State Government; or,
- (c) any local authority; or,
- (d) the Tamil Nadu State Electricity Board; or,
- (e) any University in this State; or
- (f) any co-operative society including a land development bank registered or deemed to be registered under the Tamil Nadu Co - operative Societies Act, 1983; or
- (g) any corporate body constituted under any Act passed by Parliament or the Legislative Assembly of this State; or



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- (h) any other corporation owned or controlled by the Central Government or the State Government; or
- (i) any institution concern or undertaking; or
- (j) any company.

10. The TNPPDL Act originally protected the public property only. Subsequently it was amended, whereby, the private properties which were damaged in the course of agitation by the political parties or other such groups, either communal, religious, linguistic agitating against the State and in the course of the agitation, the vehicles and the properties, even though belonging to private parties, are also damaged, are included. But in the solitary incidents, the private properties whether, building or vehicle are not covered under the amendment. For those purpose, already provisions are available under the Indian Penal Code. The Investigating Officer mechanically invoked the provisions of the TNPPDL Act, which cannot be accepted by a Court of law, as it is against the legislation intended by the amendment brought by the State.

11. The object of the Act makes it very clear that only during such political party agitations or ethnic agitations, demonstration or other activities or communal clash if any private properties are damaged to fix the liability on such groups, the amendment has been brought in. The object itself is to



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compensate the loss of the private properties for the damage caused by the said groups. Therefore, this Court is of the view that ordinary mischief caused by any individual, in a fight, they cannot be brought under Section 3(1) of the TNPPDL Act. It is routine practice of the police to implicate even the individual, who allegedly causes damage of property worth about hundred rupees under Section 3(1) of TNPPDL Act. Such practice should be stopped herewith. The object of the Act has to be given preference. Not in every case, Section 3(1) of TNPPDL Act can be invoked.

12. Further, the Doctor who examined P.W.1 was examined as P.W.6. He deposed that P.W.1 came to his hospital and stated that he was attacked by fifty persons by stones, due to which, he sustained injury on his nose. P.W.6 recorded the Accident Register, which was marked as Ex.P6. It does not contain the name of the injured person, age, gender and injuries sustained.



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13. The scanned copy of Ex.P6 is extracted hereunder:-

HC-32  
Ex.P.6  
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GOVERNMENT HOSPITAL ..... Hospital Code No. ....

ACCIDENT REGISTER

Sl. No. .... OPD No. ....

Date: .... Time: ....

|                                    |         |      |
|------------------------------------|---------|------|
| Name & Address:                    | Age:    | Sex: |
| Occupation:                        | Income: |      |
| Identification Mark(s): (1)<br>(2) |         |      |

Brought By: .... Referred from: ....

Reference Attached: Yes / No

Whether informed to Police? Yes / No

Whether Dying Declaration necessary? Yes / No

Police Memo Details: ....

Nature of Injuries / Treatment: ....

Opinion: (Simple / Grievous / Reserved)

Medical Officer:  
(With Name in BLOCK letters and seal)

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S. G. Ram  
SHERISTADAR,  
Principal District Court,  
Tiruvannamalai.

14. It is very unfortunate to state that the Trial Court without even verifying Ex.P6, mechanically considered the deposition of P.W.6 and convicted the appellants. The evidence of P.W.6 did not corroborate with any of the material produced by the prosecution, Ex.P6 is empty and it does not contain any parts of the body of the patient to show that P.W.1 sustained injuries. It is a million dollar question as to how the Trial Court, without even seeing the Accident



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Register marked as Ex.P6, had convicted the appellants holding that P.W.1 had sustained injury.

15. Thus it is clear that the prosecution failed to prove its case beyond any doubt. Therefore, the conviction and sentence imposed on the appellants 1 to 3 and 5 to 8 cannot be sustained as against them. Accordingly, the Judgment passed by the Principal District and Sessions Court, Thiruvarur, made in S.C.No.143 of 2016 dated 12.12.2019, is hereby set aside. The appellants 1 to 3 and 5 to 8 are acquitted of all charges in Sessions Case No.143 of 2016 on the file of the Principal District and Sessions Court, Thiruvarur. The appellants 1 to 3 and 5 to 8 are directed to be set at liberty forthwith unless their custody is otherwise required in connection with any other case. The fine amount, if any, paid by the appellants 1 to 3 and 5 to 8 shall be refunded. Bail bond, if any, executed by the appellants 1 to 3 and 5 to 8 shall stand cancelled.

16. In the result, this Criminal Appeal stands allowed.

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Speaking order/Non-speaking order

Index :Yes/No

Internet :Yes/No

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**G.K.ILANTHIRAIYAN, J.**

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To

1. The Principal District and Sessions Court, Thiruvarur.
2. The Deputy Superintendent of Police,  
Valangaiman Police Station.
3. The Public Prosecutor,  
High Court, Madras.

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