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Crl.A.No.119 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2022

CORAM:

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

Crl.A.No.119 of 2018

State represented by:  
The Public Prosecutor,  
High Court, Madras – 104,  
(Crime No.439 of 2016)

...Appellant

-Vs-

1.Murugan  
2.Velayutham

... Respondents

**Prayer:** Criminal Appeal filed under Section 378 (1)(b) of Code of Criminal Procedure, to set aside the judgment of acquittal of the respondents/A1 and A2 passed by the Principal District and Sessions Court, Krishnagiri, in S.C.No.62 of 2017, dated 05.07.2017.

For Petitioner : Mr.A.Gopinath  
Government Advocate (Crl. Side)

For Respondents : Mr.T.R.Sathiyamohan

**ORDER**

This criminal appeal is directed as against the judgment passed in S.C.No.62 of 2017 dated 05.07.2017 on the file of the Principal District and



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Sessions Court, Krishnagiri, thereby acquitted the respondents for the offences punishable under Sections 294(b), 323 and 324 IPC, and Sections 3(1) (r) and 3(1) (s) of SC/ST (Prevention of Atrocities) Act, 1989.

2. The case of the prosecution is that the defacto complainant belongs to a Hindu Kuravar, a Scheduled Caste community and A-1 and A2 namely the respondents herein, belong to Hindu Vanniyar Community, a Backward Class community. Due to previous enmity, the respondents, on 12.10.2016 at about 07.30 a.m., near Gengapirampatti Bus Stop, knowing very well that the defacto complainant belongs to the Scheduled Caste community, the first respondent indulged in an altercation with the defacto complainant demanding to pay the chit amount and the first respondent, in the public place and in public view, insulted the defacto complainant by calling him by his caste name and scolding him with obscene language to the annoyance of the public and also intimidated him by beating with hands and the first respondent beat him with an axe on the right side of his head. Hence the complaint.

3. Thereafter, the appellant registered FIR in Crime No.439 of 2016 for the offence under Sections 294(b), 323, 324, 3(1) (x) of SC/ST (Prevention of Atrocities) Act, 1989. After completion of investigation, charge sheet has been



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filed for the offence under Sections 294(b), 323, 324, 3(1) (r) and 3(1) (s) of SC/ST (Prevention of Atrocities) Act, 1989, before the Judicial Magistrate Court, Uthangarai, and the same has been taken cognizance in P.R.C.No.3 of 2017. Subsequently, the case was committed to the Principal District and Sessions Court, Krishnagiri, in S.C.No.62 of 2017.

4. In order to bring home the charges, the prosecution examined PWs1 to 12 and marked Exs.P1 to 16 and also M.O.1 to 4 were marked as material objects.

5. On perusal of oral and documentary evidence, the trial Court found the respondents not guilty for the offences punishable under Sections 294(b), 323, 324, 3(1) (r) and 3(1) (s) of SC/ST (Prevention of Atrocities) Act, 1989, and acquitted the respondents. Aggrieved by same the present appeal.

6. The learned Government Advocate (Crl. Side) for the appellant submitted that the prosecution proved its case beyond all the reasonable doubts as against the respondents herein. The prosecution examined PW1, who was the injured, and his evidence is corroborated with the evidence of PW2 and PW10, who treated the defacto complainant. The trial Court, though recorded that the



prosecution has proved its case beyond the reasonable doubt, acquitted the accused on the ground that the appellant failed to file final report within a period of sixty days as contemplated under Section 7(1) of SC/ST (POA) Act. He further submit that on 11.11.2016, the appellant filed a petition for extension of time for thirty days to file final report. It was allowed and the learned Judicial Magistrate, extended the time for filing final report within a period of thirty days. Again, the Investigating Officer filed a petition for extension of time by another thirty days on 10.12.2016, which was also allowed. Thereafter, final report was filed on 21.02.2017 before the Judicial Magistrate/Committal Court. Further, Rule 7(1) of SC/ST (POA) Act, is not a mandatory provision and hence the Court cannot fix any period of limitation when the original Act did not mention about limitation. Therefore, according to the prosecution, it cannot be stated as violation of Rule 7(1) of SC/ST Act.

7. That apart, the learned Magistrate, extended the time for filing final report and as such, he erroneously held that the respondent filed final report beyond the limitation. He further submitted that the original Act did not mention about the limitation under Section 468 Cr.P.C has to be invoked and when the IPC offences joined along with SC/ST Act, then the limitation for sections will also influence the other conjoining sections from the Special Act.



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8. In the case on hand, the offence under Section 324 IPC has also been charged along with SC/ST Act and the punishment for the said section is three years or with fine or with both. Therefore, if the provision is punishable for three years, the period of limitation is three years as per Section 468 of Cr.P.C to file final report.

9. On perusal of records revealed that even according to PWs1 and 2, the prosecution failed to prove the charges under Sections 323 and 324 IPC as against the respondents herein. In so far as the the limitation is concerned, admittedly, the appellant failed to file final report within a period of 60 days from the date of registration of FIR. The date of alleged occurrence is on 12.10.2016 and on the same day FIR was registered in Crime No.439 of 2016 for the offences punishable under Sections 294(b), 323, 324 IPC and Section 3(1)(x) of SC/ST (Prevention of Atrocities) Act, 1989. After completion of investigation the Investigating Officer filed final report on 21.02.2017. Though, the appellant filed petition for extension of time and the same was allowed thereby, extended the time for 30 days to file final report on 11.11.2016. Again the appellant filed a petition for extension of time to file final report and the same was also allowed and the appellant was directed to file final report within



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the time fixed by the Judicial Magistrate and accordingly, the appellant completed the investigation and filed final report on 21.02.2017.

10. It is relevant to look at the Rule 7(2) of SC/ST Act. It mandates that the appellant shall file final report within a period of 60 days from the date of registration of FIR. However, the delay if any in filing final report, is condoned as per Rule 7(2) of SC/ST Act shall be explained by the Investigating Officer.

11. In the case on hand already the appellant filed extension petition on two occasions to extend the time to complete the investigation and file final report. Though, on the said two occasions, the trial Court, extended the time to complete the investigation and file final report, the appellant failed to file final report within the time fixed by the learned Magistrate. Therefore, admittedly final report was not filed within the period stipulated by the Court below. Hence, the trial Court rightly acquitted the respondents and this Court finds no infirmity or illegality in the judgment passed by the Court below.

12. Accordingly, the criminal appeal stands dismissed.



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Index : Yes/No  
Speaking/Non Speaking order  
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To

- 1.The Principal District and Sessions Court,  
Krishnagiri.
- 2.The Public Prosecutor,  
High Court, Madras – 104.

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

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