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CRL.A.No.199 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2022

CORAM:

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

CRL.A.No.199 of 2018

Arumugam

... Appellant

Vs.

1.The State rep. by  
The Deputy Superintendent of Police,  
Kaikalathur Police Station,  
Veppanthattai Taluk,  
Perambalur District.  
(Crime No.140 of 2015)

2.Raja  
3.Neelavathy  
4.Murugesan  
5.Chinnasamy  
6.Devaki  
7.Poongavanam

... Respondents

**Prayer:** The Criminal Appeal filed under Section 374(2) of Cr.P.C. praying to set aside the judgment of acquittal passed by learned Special Judge, Perambalur, under SC/ST (Prevention of Atrocities) Act, Principal District and Special Sessions Judge, Perambalur, in S.C.No.03 of 2016 dated 06.01.2018 and convict the accused No.1 to 6.

For Appellant : Mr.T.Arul



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For Respondents

For R1 : Mr.A.Gopinath  
Government Advocate (Crl. Side)

For R2 to 7 : No appearance

### **ORDER**

This criminal appeal is directed as against the judgment passed in S.C.No.3 of 2016 dated 06.01.2018 on the file of the Special Sessions Judge, Perambalur, thereby acquitted the accused for the offence under Sections 147, 148, 294(b), 324, 354, ,341 and 506(ii) IPC and Section 3(1)(r) & (s) of SC/ST (PoA) Amendment Ordinance Act, 2014.

2. The case of the prosecution is that the defacto complainant's family and the accused family are adjacent land owners and already there was dispute in respect of land. While being so, on 15.06.2015 at about 8.30 p.m., when the defacto complainant and his wife were ploughing their land through a tractor, the accused came there and scolded them in filthy language and they also attacked them with aruval, iron rod and wooden log, due to which, they both sustained injuries. Hence the complaint.



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3. On receipt of said complaint, the first respondent registered FIR in Crime No.140 of 2015 for the offence under Sections 147, 148, 294(b), 324, 354 and 506(ii) IPC and Sections 3(1)(r) & (s) of SC/ST Act on the first accused, Sections 147, 294(b), 323 and 341 IPC and Sections 3(1)(r) & (s) of SC/ST Act on the second accused, Sections 147, 148, 294(b), 324, 354 and 341 IPC and Sections 3(1)(r) &(s) of SC/ST Act on the third and fourth accused and Sections 147, 294(b) and 323 IPC and Sections 3(1)(r & (s) of SC/ST Act on the fifth and sixth accused. After completion of investigation the first respondent filed final report and the same has been taken cognizance by the trial Court in S.C.No.03 of 2016.

4. In order to bring the charges to home, the prosecution examined PW1 to 10 and Exs.P1 to 10 and on the side of the accused no one was examined and Exs.D1 to 3 were marked and no material objects produced on either side.

5. On perusal of oral and documentary evidence the trial Court found the accused not guilty for the offence under Sections 147, 148, 294(b), 324, 354 and 506(ii) IPC and Sections 3(1)(r) & (s) of SC/ST Act on the first accused, Sections 147, 294(b), 323 and 341 IPC and Sections 3(1)(r) & (s) of SC/ST Act on the second accused, Sections 147, 148, 294(b), 324, 354 and 341 IPC



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and Sections 3(1)(r) &(s) of SC/ST Act on the third and fourth accused and Sections 147, 294(b) and 323 IPC and Sections 3(1)(r & (s) of SC/ST Act on the fifth and sixth accused and acquitted the accused. Aggrieved by the same the present appeal.

6. The learned counsel for the appellant would submit that PW1 sustained injuries due to attack of the accused persons. He categorically deposed that the accused persons attacked him/PW1 and when his wife intercepted them, she was also attacked by the accused persons and they had torn her blouse and outraged her modesty. The driver of the tractor was examined as PW3, he also corroborated the evidence of PWs1 and 2. Another independent witness was examined as PW5. He categorically deposed that the accused persons had attacked the victim. The defacto complainant was examined as PW1. He was admitted to the hospital and he had taken treatment as in-patient. His wife was examined as PW2, she was treated as out-patient. The Doctor, who examined PW1 and 2 was examined by the prosecution as PW8. The Doctor issued wound certificate which was marked as Exs.P6 and 7. There was absolutely no contradiction between them and as such the prosecution proved its case beyond any doubt. However, the trial Court acquitted the accused.



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7. Heard the learned counsel for the appellant and the learned Government Advocate (Crl. Side) for the first respondent and perused the materials available on record.

8. It is seen that there are totally six accused in this case. Admittedly, the accused and the appellant are adjacent land owners. While being so, on 15.06.2015 at about 8.30 p.m., when the defacto complainant was ploughing his land by engaging PW3 to plough his land, the accused came and scolded him in filthy language and attacked him. When it was questioned and intercepted by his wife namely PW2, the accused also scolded her in filthy language and attacked her and also torn her blouse and outraged her modesty.

9. On perusal of PW1 it revealed that he was attacked by six accused persons. The first accused attacked him with aruval on his head due to which he sustained injuries at his left side of his head. A2 and A4, kicked him by their legs. They also scolded them by using their caste name and abused them. The wife of PW1 was examined as PW2. She deposed that six persons attacked them while they were ploughing their land. Immediately, both were brought to hospital for treatment. PW1 was examined by the Doctor, who was examined



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as PW8. The wound certificate issued by him was marked as Ex.P6. It revealed that PW1 and 2 were attacked by four known persons, PW1 sustained only head injury at his left side of head below the ear whereas, PW2 stated before the Doctor that they were attacked by six persons by hands. These contradictions are fatal to the case of the prosecution.

10. That apart, PW5, who happened to be an independent witness for the occurrence, deposed that A4 attacked PW1 with iron rod whereas, PW1 and 2 stated that the accused attacked them only with aruval and not by iron rod. However, the prosecution also failed to produce any material object to prove the charges such as aruval, iron rod and wooden log. It is fatal to the case of the prosecution. Further, PW1 and 2 never whispered about the occurrence had occurred in the public view since even in cross examination, it is stated that the occurrence had occurred at about 8.30 p.m., on 15.06.2015. Further, the words used in the provision are in place within “public view” and not in a “public place”. Thus it is clear that there is clearly a distinction between an incident taking place within public view and incident taking place within public place. The alleged occurrence had occurred at about 8.30 p.m., on 15.06.2015 and as such, it would not happen within public view. In these circumstances, it cannot be said that all the ingredients of offence under SC/ST Act have been



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made out. Hence the trial Court rightly acquitted the respondents 2 to 7 herein

and this Court finds no infirmity or illegality in the judgment passed by the

Court below.

11. Accordingly, the criminal appeal stands dismissed.

23.11.2022

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Index : Yes / No

Speaking / Non Speaking order

To

1.The Special Sessions Judge, Perambalur

2.The Deputy Superintendent of Police,  
Kaikalathur Police Station,  
Veppanthattai Taluk,  
Perambalur District.



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