



BAIL SLIP IN CRL.A.No.363 OF 2016

The Appellants / Accused namely,

- 1) P.Paramasivam, S/o.Pazhamalai, Male, aged 49 years,
- 2) C.Arunachalam, S/o.Chellamuthu, Male, aged 78 years,
- 3) A.Karuppaye, W/o.Arunachalam, Female, aged 66 years,
- 4) P.Lakshmi, W/o.Paramasivam, Female, aged 45 years,
- 5) P.Karunanithi, S/o.Pachaiyan, Male, aged 49 years,
- 6) A.Shanmugam, S/o.Ayyamperumal, Male, aged 36 years,
- 7) A.Dharmalingam, S/o.Ayyamperumal, Male, aged 51 years,
- 8) S.Karunanithi, S/o.Sangili, Male, aged 49 years,
- 9) A.Arangasamy, S/o.Arunachalam, Male, aged 43 years

were released on bail by Order of this Court dated 12.05.2016 made in Crl.M.P.No.5548 of 2016 in Crl.A.No.363 of 2016.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.04.2022
PRONOUNCED ON : 17.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.A.NO.363 OF 2016
AND
CRL.M.P.NO.8819 OF 2019

1. P.Paramasivam
2. C.Arunachalam
3. A.Karuppaye
4. P.Lakshmi
5. P.Karunanithi
6. A.Shanmugam
7. A.Dharmalingam
8. S.Karunanithi
9. A.Arangasamy

...Appellants / Accused

Vs

The State Rep. by,
The Deputy Superintendent of Police,
Keelkuppam Police Station,
Villupuram District.

...Respondent / Complainant

PRAYER : Criminal Appeal filed under Section 374 of Code of Criminal Procedure, to set aside the conviction and sentence



imposed against the appellants in Special C.C.No.2 of 2015, on 28th Day of April 2016 by the Sessions Judge, Special Court for SC/ST cases, Villupuram District and acquit the appellants.

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For Appellants : Mr.P.Saravanan
For Respondent : Mr.R.Kishore Kumar,
Government Advocate (Crl. Side)

JUDGMENT

This Criminal Appeal arises out of judgment of conviction and sentence passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases Registered under SC/ST (POA) Act, Villupuram/trial Court in Special C.C.No.2 of 2015, dated 28.04.2016.

2.The conviction and sentence imposed by the trial Court, against the appellants/A1 to A9, are as follows:-

Petitioner /Accused	Conviction	Sentence
A1	For offence under Section 324 of IPC.	To undergo Simple Imprisonment for a period of one year and to pay a fine of Rs.2,000/-, in default to undergo Simple Imprisonment for three months each.
A1	For offence under Section 325 of IPC.	To undergo Simple Imprisonment for a period of one year and to pay a fine of Rs.5,000/-, in default to undergo Simple Imprisonment for three months.
A2 to A9	For offence under Section 506(ii) of IPC.	To undergo Simple Imprisonment for a period of two years and to pay a fine of Rs.5,000/-, in default to undergo Simple Imprisonment for six months.

3.The gist of the case is that on 02.07.2010, at about 05.00 p.m., when PW1/defacto complainant and her husband/PW2 were ploughing their land with JCB vehicle for planting coconut trees, the 1st appellant came there and threatened them not to plough the land. At about, 06.00 p.m., again all the appellants came to the land of PW1, started attacking PW1 and her husband/PW2 with deadly weapons (MO1 to MO4). When PW3 and PW4 attempted to rescue PW1 and PW2, they were also assaulted by the appellants. Due to which, they sustained injuries and took



treatment at Government Hospital, Attur. On the next day of occurrence i.e., on 03.07.2010, PW1 lodged a complaint before PW10/Sub Inspector of Police, Keelkuppam Police Station, Villupuram District. On receipt of the complaint, PW11 assigned C.S.R.No.67 of 2010 and on 04.07.2010, registered an FIR (Ex.P5) in Crime No.95 of 2010. Thereafter, PW13/Deputy Superintendent of Police, Kallakurichi Sub Division took up the investigation, visited the scene of occurrence, prepared Observation Mahazar, Rough Sketch (Exs.P2 & P7), seized the Material Objects (MO1 to MO6), examined the witnesses, recorded their statements, received the Accident Register of PW2 (Ex.P6) and on completion of investigation, filed the charge sheet before the learned Judicial Magistrate, Kallakurichi, which was taken on file as C.C.No.391 of 2012. The case was transferred to the file of the Special Court for Exclusive Trial of Cases Registered under SC/ST (POA) Act, Villupuram/trial Court and renumbered as Special C.C.No.2 of 2015.

4. During trial, on the side of the prosecution, as many as, 13 witnesses were examined as PW1 to PW13, 7 documents were marked as Exs.P1 to P7 and 6 Material Objects were marked as MO1 to MO6. On the side of the defence, no witness was examined and no document was marked. After full-fledged trial, the trial Court convicted and sentenced the appellants as stated above.

5. The learned counsel for the appellants submitted that the appellants armed with deadly weapons assaulted PW1 and her husband/PW2, who got severely injured. When PW1 and her husband/PW2 were ploughing their land for planting coconut trees, the appellants came there, entered into their lands with deadly weapons and started attacking PW1 and PW2 and others. PW1 was pulled down and her dress was torn. PW3 was attacked with iron rod (MO3) and PW4 with stick (MO1). During the attack, the appellants' group and PW1's group exchanged blows and suffered grievous injuries. He further submitted that PW6 and PW7 are independent witnesses, but they have not supported the case of the prosecution. PW11/Sub Inspector of Police, Keelkuppam Police Station, Villupuram District received the complaint on 30.07.2010 and issued C.S.R.No.67 of 2010, registered FIR in Crime No.94 of 2010, on the complaint lodged by the 1st appellant and thereafter only registered the FIR (Ex.P5) in Crime No.95 of 2010, on the complaint of PW1. He further submitted that PW13/Deputy Superintendent of Police, Kallakurichi Sub Division, who took up further investigation, filed the charge sheet before the trial Court. The delay in filing charge sheet would clearly show counter case is projected by PW1's group to escape from the assault committed by them. PW12/Doctor clearly stated that the injuries sustained by PW1 could be due to fall. It is the case of the appellants that it is PW2 and others, who attacked the appellants herein, due to



which they sustained injuries later, PW1 & PW2 projected as though the appellants attacked them.

6. Be that as it, it is further submitted that now the issues between the appellants' group and PW1's group resolved, both groups filed compromise memo before this Court. Hence, he prayed for acquittal of the appellants herein.

7. The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that a complaint (Ex.P1) was received by PW11/Head Constable. Initially finding that the dispute is between the adjacent land owners, PW11 assigned C.S.R.No.67 of 2010 and on 04.07.2010, FIR (Ex.P5) in Crime No.95 of 2010 was registered by PW10/Sub Inspector of Police. Thereafter, PW13/Deputy Superintendent of Police took up the investigation, examined the injured witnesses in hospital, recorded their statements, examined the Doctor/PW12, who treated PW2 received the Accident Register (Ex.P6), recovered the Material Objects (MO1 to MO6).

8. The learned Government Advocate (Crl. Side) fairly submitted that now the issues resolved between the appellants and PW1's group, who are adjacent land owners. Pursuant to the compromise, the civil dispute between them in S.A.No.704 of 2021 was withdrawn. Further, both the appellants' group and PW1's group appeared before the 1st respondent Police along with their identity proof and confirmed the compromise entered between them. They have also appeared and filed compromise memo before this Court.

9. This Court considered the rival submissions and perused the materials available on record.

10. It is seen that the appellants and PW1 are adjacent land owners and there was dispute over the boundaries for quite sometime. Earlier, service of surveyor sought for surveying the land, thereafter, the boundary stones were placed. When PW1 and her husband/PW2 attempted to plough the land for planting coconut trees, the appellants attacked them with deadly weapons. On the other hand, the case of the appellants is that PW1's group removed the boundary stone, which was placed by the surveyor. Due to which, wordy quarrel arose and both the groups attacked each other, exchanged blows and sustained injuries. In this case, there is no dispute with regard to the incident taken place between two groups. The only question is that who is the aggressor and who had exceeded the right of private defence and whether any prohibitory words calling the caste name was consciously used or it was under heat of passion. There was also civil dispute between the appellants and PW1, which now resolved.



11. Now, the issues between both the groups resolved and they have filed the compromise memo before this Court along with their identify proof to compound the offence between them. Both the groups appeared before the respondent Police as well as before this Court along with the identify proof and confirmed the compromise.

12. In a similar situation, the Hon'ble Apex Court in the case of "Ramawatar Versus the State of Madhya Pradesh in Criminal Appeal No.1393 of 2011" held that non-compoundable offence even offences including SC/ST Act can be compounded in the interest of justice and further held that by invoking the power under Article 142 of the Constitution of India, the criminal proceedings can be quashed to do complete justice between the parties. In this case, admittedly, there is a land dispute, which extended into heated arguments and exchange of blows. Now, the issues between them resolved. It would be beneficial to extract the paragraph Nos.15 & 16 of the said judgment:-

"15. Ordinarily, when dealing with offences arising out of special statutes such as the SC/ST Act, the Court will be extremely circumspect in its approach. The SC/ST Act has been specifically enacted to deter acts of indignity, humiliation and harassment against members of Scheduled Castes and Scheduled Tribes. The Act is also a recognition of the depressing reality that despite undertaking several measures, the Scheduled Castes/Scheduled Tribes continue to be subjected to various atrocities at the hands of upper-castes. The Courts have to be mindful of the fact that the Act has been enacted keeping in view the express constitutional safeguards enumerated in Articles 15, 17 and 21 of the Constitution, with a twin-fold objective of Page | 10 protecting the members of these vulnerable communities as well as to provide relief and rehabilitation to the victims of caste-based atrocities.

16. On the other hand, where it appears to the Court that the offence in question, although covered under the SC/ST Act, is primarily private or civil in nature, or where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar lines, when considering a prayer for quashing on the basis of a compromise/settlement, if the Court is satisfied that the underlying objective of the Act would not be contravened or diminished even if the



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felony in question goes unpunished, the mere fact that the offence is covered under a 'special statute' would not refrain this Court or the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482 Cr.P.C."

13. In paragraph No.19, certain factors have been given, which has to be considered while quashing the case of this nature and the same is extracted hereunder:-

"19. Having considered the peculiar facts and circumstances of the present case in light of the aforestated principles, as well as having meditated on the application for compromise, we are inclined to invoke the powers under Article 142 and quash the instant Criminal proceedings with the sole objective of doing complete justice between the parties before us. We say so for the reasons that: Firstly, the very purpose behind Section 3(1)(x) of the SC/ST is to deter castebased insults and intimidations when they are used with Page | 12 the intention of demeaning a victim on account of he/she belonging to the Scheduled Caste/ Scheduled Tribe community. In the present case, the record manifests that there was an undeniable pre-existing civil dispute between the parties. The case of the Appellant, from the very beginning, has been that the alleged abuses were uttered solely on account of frustration and anger over the pending dispute. Thus, the genesis of the deprecated incident was the aforestated civil/property dispute. Considering this aspect, we are of the opinion that it would not be incorrect to categorise the occurrence as one being overarchingly private in nature, having only subtle undertones of criminality, even though the provisions of a special statute have been attracted in the present case.

Secondly, the offence in question, for which the Appellant has been convicted, does not appear to exhibit his mental depravity. The aim of the SC/ST Act is to protect members of the downtrodden classes from atrocious acts of the upper strata of the society. It appears to us that although the Appellant may not belong to the same caste as the Complainant, he too belongs to the relatively weaker/backward section of the society and is certainly not in any better economic or social position when compared to the victim. Despite the rampant prevalence of segregation in Indian villages whereby members of the Scheduled Caste and Scheduled Tribe community are forced to restrict Page | 13 their quarters only to certain areas, it is seen that in the present case, the



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Appellant and the Complainant lived in adjoining houses. Therefore, keeping in mind the socio-economic status of the Appellant, we are of the opinion that the overriding objective of the SC/ST Act would not be overwhelmed if the present proceedings are quashed. Thirdly, the incident occurred way back in the year 1994. Nothing on record indicates that either before or after the purported compromise, any untoward incident had transpired between the parties. The State Counsel has also not brought to our attention any other occurrence that would lead us to believe that the Appellant is either a repeat offender or is unremorseful about what transpired. Fourthly, the Complainant has, on her own free will, without any compulsion, entered into a compromise and wishes to drop the present criminal proceedings against the accused. Fifthly, given the nature of the offence, it is immaterial that the trial against the Appellant had been concluded.

Sixthly, the Appellant and the Complainant parties are residents of the same village and live in very close proximity to each other. We have no reason to doubt that the parties themselves have voluntarily settled their differences. Therefore, in order to avoid the revival of healed wounds, and to advance peace and harmony, it will be prudent to effectuate the present settlement."

14.As per the compromise, the civil suit between them was withdrawn and they agreed to withdraw the criminal cases pending against each other. Both the groups are now living in peace and harmony. Subsequent to the above case, no commotion or any cases between them. In view of the compromise and on the above discussion and facts of the case, this Court finds no reason to sustain the conviction and sentence.

15.In the result, the judgment of conviction and sentence passed by the Sessions Judge, Special Court for Exclusive Trial of Cases Registered under SC/ST (POA) Act, Villupuram/trial Court in Special C.C.No.2 of 2015, dated 28.04.2016 is set aside. Bail bonds, if any, executed shall stand cancelled. Fine amount, if any, paid shall be refunded. This Criminal Appeal is allowed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

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To

1.The Sessions Judge,
Special Court for Exclusive Trial of Cases
registered under SC/ST (POA) Act,
Villupuram.

2.The Deputy Superintendent of Police,
Keelkuppam Police Station,
Villupuram District.

3.The Public Prosecutor,
High Court, Madras.

Copy To

The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.P.Saravanan, Advocate Sr.No.37102

Crl.A.No.363 of 2016

GPL (CO)
RVM(07/07/2022)