



BAIL SLIP IN CRL.A.No.364 OF 2016

The Appellants / Accused namely,

- 1) A.Vathiyar Rajendran @ Rajendran, S/o.Annakaraipillai, Male, aged 41 years,
 - 2) C.Ramesh, S/o.Chellapillai, Male, aged 22 years,
 - 3) R.Vidya, W/o.Rajendiran, Female, aged 32 years,
 - 4) A.Periyammal, W/o.Annakaraipillai, Female, aged 65 years,
 - 5) A.Pachaiyammal, D/o.Annakaraipillai, Female, aged 43 years,
 - 6) C.Ponithi @ Sangeetha, D/o.Chellapillai, Female, aged 20 years
- were released on bail by Order of this Court dated 12.05.2016 made in Crl.M.P.No.5561 of 2016 in Crl.A.No.364 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.364 OF 2016

- 1.A.Vathiyar Rajendran @ Rajendran
- 2.C.Ramesh
- 3.R.Vidya
- 4.A.Periyammal
- 5.A.Pachaiyammal
- 6.C.Ponithi @ Sangeetha

...Appellants / Accused

Vs

- 1.State by: Deputy Superintendent of Police,
Keezhkuppam Police Station,
Villupuram District.
(Crime No.94 of 2010).

...1st Respondent / Complainant

- 2.P.Paramasivam

...2nd Respondent

[R2 Suo Motu impleaded as per order
of this Court, dated 11.02.2022 in
Crl.A.No.363 & 364 of 2016]

PRAYER : Criminal Appeal filed under Section 374(2) of Code of Criminal Procedure, to allow this appeal by setting aside the judgment in Spl.S.C.No.19 of 2015 on the file of the Sessions Judge, Special Court for exclusive trial of cases registered under the SC/ST (Prevention of Atrocities) Act, 1989, Villupuram by judgment, dated 28.4.2016.



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For Appellants : Mr.B.Vasudevan
For R1 : Mr.R.Kishore Kumar,
Government Advocate (Crl. Side)
For R2 : Mr.P.Saravanan

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 S.C.No.19 of 2015, dated 28.04.2016.

2.The conviction and sentence imposed by the trial Court, against the appellants/A1 to A6, are as follows:-

Petitioner /Accused	Conviction	Sentence
A1, A2 to A4 and A6	For offence under Section 323 of IPC.	To undergo Simple Imprisonment for a period of six months each and to pay a fine of Rs.500/- each, in default to undergo Simple Imprisonment for 1 ½ months each.
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.
A2	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.
A1	For offence under Section 326 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.
A1 to A6	For offence under Section 294(b) of IPC.	To undergo Simple Imprisonment for a period of two months each and to pay a fine of Rs.2,000/- each, in default to undergo Simple Imprisonment for 15 days each.



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Petitioner /Accused	Conviction	Sentence
A1 to A6	For offence under Section 3(1)(x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.	To undergo Simple Imprisonment for a period of one year and to pay a fine of Rs.3,000/-, in default to undergo Simple Imprisonment for three months.

3.The gist of the case is that PW1/defacto complainant lodged a complaint (Ex.P1) on 04.07.2010 while taking treatment in the Government Hospital, Kallakurichi. PW9/the Sub Inspector of Police received the complaint (Ex.P1) and registered the FIR in Crime No.94 of 2010 (Ex.P8). The complaint is that the appellants are adjacent land owner of PW1 and they have some dispute over the boundaries of the land and there were civil and criminal cases pending between them. On 03.07.2010, at about 06.00 p.m., when PW1's father-in-law/PW2 had gone to watch over the field, the 1st appellant, his sister's son/2nd appellant, his wife/3rd appellant, his mother/4th appellant, his sister/5th appellant and his sister's daughter/6th appellant were removing the boundary stone, which was installed by the land surveyor, and put up the same in PW1's land. When PW2 questioned the same with the appellants, the 1st appellant scolded PW2. On hearing the same, PW1, his mother-in-law/PW3 and his wife/PW4 reached the scene, at that time, the appellants, who all armed with weapons (MO1 to MO4), assaulted PW1 to PW4. Due to which, they sustained injuries and went to the Government Hospital, Kallakurichi, where PW10/Doctor gave treatment and referred some of the injured persons to the private hospital for further treatment and issued Accident Registers (Exs.P9 to P12). The appellants while attacking PW1 to PW4 used abusive words uttering their caste name which attracts the provisions of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. PW11/Deputy Superintendent of Police, Kallakurichi Sub Division after getting appropriate order (Ex.P13) from the Superintendent of Police, Kallakurichi took up the investigation, visited the scene of occurrence, prepared Observation Mahazar and Rough Sketch (Exs.P14 & P15), enquired the witnesses, recorded their statements, collected Material Objects (MO1 to MO6). On PW11's transfer, PW12/Deputy Superintendent of Police, Kallakurichi Sub Division conducted further investigation, enquired the Doctor, who treated PW1 to PW4 and obtained Accident Registers (Exs.P9 to P12) and on completion of investigation, filed charge sheet before the learned Judicial Magistrate, Kallakurichi, which was taken on file as P.R.C.No.61 of 2010. On committal, 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 S.C.No.19 of 2015.

4. During trial, on the side of the prosecution, as many as, 12 witnesses were examined as PW1 to PW12, 17 documents were marked as Exs.P1 to P17 and 6 Material Objects were marked as MO1 to MO6. On the side of the defence, 2 witnesses were examined as DW1 & DW2, 2 documents were marked as Exs.D1 & D2. After full-fledged trial, the trial Court convicted and sentenced the appellants as stated above.

5. The learned counsel for the appellants submitted that in this case, it is admitted that there was land dispute between the appellants' group and PW1's group over the boundary of the land, due to which, civil cases were pending. Admittedly, they are adjacent land owners carrying on agriculture works. Prior to the occurrence, PW1 and his family were taking steps to plough the field to plant coconut trees, which was objected by the appellants, hence, PW1 and his family members armed with deadly weapons and attacked the appellants. Due to which, the appellants sustained injuries and they got admitted in the Government Hospital, Attur, thereafter, the 1st appellant lodged a complaint against PW1 and his family members and a case in Crime No.95 of 2010 was registered against nine persons. PW1 to PW4 herein are accused Nos.1 to 4 in Crime No.95 of 2010. After completion of investigation in Crime No.95 of 2010, charge sheet was filed before the learned Judicial Magistrate, Kallakurichi, which was taken on file as C.C.No.391 of 2012. Thereafter, 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. After completion of trial, the learned Sessions Judge, Special Court for Exclusive Trial of Cases Registered under SC/ST (POA) Act, Villupuram convicted and sentenced the said nine persons, against which, they have preferred an appeal before this Court in C.A.No.363 of 2016 and the same is pending.

6. He further submitted that now the issues between the appellants' group and PW1's group resolved and they have filed compromise memo before this Court. Hence, he prayed for acquittal of the appellants herein.

7. The learned Government Advocate (Crl. Side) appearing on behalf of the 1st respondent Police submitted that for quite sometime, there was some land dispute between the appellants and PW1's family members, due to which, civil cases were pending between them. In this case, PW1 to PW4 belong to Scheduled Caste community. The appellants, who are adjacent land owners of PW1, knowing very well about the social status of PW1, have

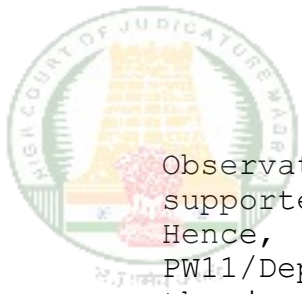


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picked up quarrel, assaulted them and also abused them uttering their caste name. Prior to the occurrence, there was boundary dispute between the appellants and PW1's family members, hence, the service of surveyor sought for, who surveyed the land and earmarked the boundaries. On 03.07.2010, the appellants attempted to remove the boundary stones, when the same was questioned by PW1 and his family members, fight arose between them and both the groups attacked each other with deadly weapons. Hence, the appellants lodged a complaint against PW1's group and a case in Crime No.95 of 2010 was registered. PW1 to PW4 categorically stated that they were attacked with deadly weapons and the appellants abused them by uttering their caste name. In this case, PW10 is the Doctor, who examined PW1 to PW4 immediately after the occurrence and also sent some of the injured to private hospital for further treatment and produced Accident Registers (Exs.P9 to P12) opining that the injuries sustained by PW1 to PW4 are grievous in nature.

8.He further submitted that PW11/Deputy Superintendent of Police, Kallakurichi Sub Division after getting appropriate order (Ex.P13) from the Superintendent of Police, Kallakurichi visited the scene of occurrence, prepared Observation Mahazar and Rough Sketch (Exs.P14 & P15), enquired the witnesses, recorded their statements and collected community certificates (Ex.P17) of PW1 to PW4 and the appellants from the Tahsildar, Kallakurichi to prove the fact that PW1 to PW4 belong to Scheduled Caste community and the appellants belong to Backward Class community. In this case, PW5 to PW8 have not supported the case of the prosecution. The 1st appellant examined himself as DW1 and confirmed the occurrence, which had taken place and also the complaint lodged by him in Crime No.95 of 2010. In view of the cogent evidence of PW1 to PW4 and the medical evidence, the trial Court had convicted the appellants. Simultaneously, the trial Court convicted the defacto complainant's group on the complaint of the appellants' group in Special C.C.No.2 of 2015, against which, an appeal in Crl.A.No.363 of 2016 has been filed and the same is pending before this Court.

9.The learned Government Advocate (Crl. Side) further submitted that apart from Accident Registers (Exs.P9 to P12) of PW1 to PW4, no wound certificate or X-Ray or any other medical document have been produced. PW10/Doctor attached to the Government Hospital, Kallakurichi admitted that he only issued Accident Registers (Exs.P9 to P12) to PW1 to PW4 and the other medical records pertain to Sanjeevi Private Hospital. No Doctor from Sanjeevi Private Hospital was examined and no medical records of PW1 to PW1 were collected. In this case, only after forty days from the date of occurrence, the Material Objects said to have been seized. PW7 and PW8, the witnesses for



Observation Mahazar and Seizure Mahazar (Exs.P14 & P16) have not supported the case of the prosecution and they turned hostile. Hence, the seizure of Material Objects is not proved. PW11/Deputy Superintendent of Police admitted that he took up the investigation on 06.08.2010 for the alleged offence is said to have taken place on 03.07.2010. PW1's group assaulted the appellants.

10.The learned Government Advocate (Crl. Side) fairly submitted that now the issue had been 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 before this Court, filed compromise memo and good will prevailing between both the groups.

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

12.It is seen that the appellants and PW1 to PW4 are adjacent land owners and there was dispute over the boundaries of the property for quite sometime. Earlier, the service of surveyor sought for surveying the land, thereafter, the boundary stones were installed. According to PW1, the boundary stones were removed by the appellants. On the other hand, the case of the appellants is that while they were ploughing the field for planting coconut trees, PW1 and his family members questioned and objected them. Due to which, both the groups attacked each other and exchanged blows and sustained injuries. In this case, there is no dispute with regard to the incident taken place between two groups. It is only to be seen, who is the aggressor and who had exceeded the right of private defence and whether any prohibitory words calling the caste name was used consciously or it was due to heat of passion. There was also civil dispute between the appellants and PW1 and his family members, which now resolved.

13.Now, the issues between both the groups have been resolved and they have filed the compromise memo before this Court along with their identify proof to compromise the offence between them. Both the groups appeared before the 1st respondent Police along with the identify proof and confirmed the compromise and also appeared before this Court and once again confirmed the compromise. They submitted that now they are doing on agriculture works, side by side, without any issues. Further submitted that after the above case, no issues or any case pending between them and they are living in harmony and peace.



14. In the 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 issue 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 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."



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15. 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 Appellant and the Complainant lived in adjoining houses. Therefore, keeping in mind the socioeconomic 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.



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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."

16.As per the compromise, the civil cases pending between the parties were withdrawn and now, they are agreed to withdraw the criminal cases pending against each other. Both the groups are living happily. Subsequent to the above case, no commotion or any dispute between them. In view of the compromise and following the guidelines of the Hon'ble Apex Court, as referred above, and on the facts of the case, this Court finds no reason to sustain the conviction and sentence.

17.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 S.C.No.19 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.

Sd/-
Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

vv2



To

1.The Special Court for exclusive trial of cases
registered under the SC/ST
(Prevention of Atrocities) Act, 1989,
Villupuram.

2.The Judicial Magistrate,
Kallakurichi.

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

4.The Public Prosecutor,
High Court, Madras.

Copy To

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

+1cc to Mr.P.Saravanan, Advocate Sr.No.37103

Crl.A.No.364 of 2016

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