



Crl.A.No.945 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2022

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.A.No.945 of 2022

T.Raj Barath @ Kulla ... Appellant/Defacto Complainant

Versus

1. Muthamil @ Muthamilan
2. Murugan
3. Ethiraj
4. Manja Gopi @ Gopinathan
5. Perumal
6. Logu @ Loganathan
7. Apun @ Danasekar
8. Selvakumar
9. Silambarasan
10. Kumaravel
11. Praveen



Crl.A.No.945 of 2022

12. Murali

13. Chandiran

... Respondents/Accused

14. The State Rep by
Inspector of Police,
Vellavedu Police Station,
(Crime No.24/2013)

... Respondent/Complainant

PRAYER: Criminal Appeal is filed under Section 378 of Cr.P.C, to set aside the Judgment dated 11.11.2019 passed by the learned Magalir Needhimandram, Fast Track Mahila Court at Tiruvallur in Sessions Case No.87 of 2016 and convict the Respondents/Accused.

For Appellant : Mr.Leelesh Sundaram. B
for M/s. Nathan and Associates

For Respondents :Mr.A.Arasu Ganesan for R1 to R13

:Mr.S.Sugendran
Additional Public Prosecutor for R14

ORDER

This Criminal Appeal is preferred by the appellant/defacto complainant against the judgment passed by the Magalir Needhimandram, Fast Track Mahila Court at Tiruvallur in Sessions Case No.87 of 2016 dated 11.11.2019.



WEB COPY



Crl.A.No.945 of 2022



Crl.A.No.945 of 2022

2. The case of the prosecution is that on 16.01.2013 at about 9.00 a.m, due to previous enmity, the accused persons attacked the appellant/complainant with deadly weapons. When Arumugam, Senthilkumar and Padmanaban attempted to save the appellant, they were assaulted by A9 to A13. The accused persons also attacked one Kalyani. Therefore, the complainant lodged a complaint before the respondent police.

3. The respondent-Police registered a case in Crime No.24 of 2013 dated 16.01.2013 against the respondents/accused for the offences under Sections 147, 148, 324 and 307 IPC read with Section 4 of Women Harassment Act, 2012. After completion of the investigation, the respondent Police filed a final report before the learned Judicial Magistrate – II, Poonamallee, in P.R.C.No.09 of 2015. The accused entered appearance and after furnishing copies under Section 207 Cr.P.C, the learned Magistrate committed the case to the trial Court. The learned Principal Sessions Judge, Tiruvallur took the case on file in S.C.No.87 of 2016 and made over the case to the file of learned Sessions Judge, Fast Track Mahila Court, Tiruvallur, since the offence is against woman. When questioned, the accused denied the



Crl.A.No.945 of 2022

offences and thereby, based on the materials, the Mahila Court framed charges for the offences under Sections 147 and 148 of IPC against the accused 1 to 13; Sections 506(ii), 324 r/w. 34 of IPC against the accused 1 to 8; Section 324 r/w. 34 of IPC (3 counts) against the accused 9 to 13; Sections 307 r/w. 34 IPC and Section 4 of Women Harassment Act against the accused 1 to 13. Therefore, the Mahila Court found that the accused/respondents 1 to 13 are guilty for the offences under Sections 147, 148, 506(ii), 324 r/w. 34 of IPC, 307 r/w. 34 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act.

4. In order to prove the case of the prosecution before the trial Court, on the side of the prosecution as many as 14 witnesses were examined as P.W.1 to P.W.14 and marked 12 documents as Exs.P1 to P12 and three material objects were marked as M.O-1 to M.O-3. On the side of the defence, no one was examined and no oral and documentary evidence was produced. After examining the prosecution witnesses, the incriminating circumstances culled out from the evidence of the prosecution witnesses were put before the respondents 1 to 13/accused and questioned under Section 313 of Cr.P.C.,



Crl.A.No.945 of 2022

wherein they denied all the incriminating circumstances as false and pleaded not guilty.

5. The Court below, after hearing the arguments advanced on either side and also considering the materials available on record, found that the Accused 1 to 8 are not guilty for the offences under Sections 147, 148, 324, 307 & 506(ii) r/w. 34 of IPC and Section 4 of Tamilnadu Prohibition of Harassment of Woman Act and A9 to A13 are found not guilty for the offences under Sections 147, 148, 324 (3 counts) & 307 r/w. 34 of IPC and Section 4 of Tamilnadu Prohibition of Harassment of Woman Act. The trial Court had acquitted all the accused by extending the benefit of doubts in favour of the accused and also found that the prosecution has not proved beyond all reasonable doubts.

6. Challenging the said acquittal order of the learned Sessions Judge, Fast Track Mahila Court, the defacto complainant is before this Court with this appeal.

7. Mr.B.Leelesh Sundaram, learned counsel for the appellant would



Crl.A.No.945 of 2022

submit that the deposition of P.W-1, who has filed a complaint under Ex.P-1, states that due to previous enmity, all the accused persons came with deadly weapons namely iron rod, knife and also wooden log and attacked P.W-1 to P.W-5, severely. Due to that, they sustained grievous injuries and subsequently, they were admitted in the Hospital. P.W-1 to P.W-5 are the injured witnesses, they have clearly deposed that all the accused came and attacked with deadly weapon and they threatened with dire consequences. Therefore, the trial Court had framed the charges against all the accused as stated above and unfortunately, the trial Court failed to appreciate the evidence of injured witnesses, who are eye witnesses in this case whereby they specifically stated that all the accused came with deadly weapon and assaulted them. Due to which, P.W-1 to P.W-5 have sustained injuries and the same was corroborated with the medical certificate. The trial Court failed to appreciate the evidence in the right prospects and simply dismissed the case and acquitted the accused on the ground that the witnesses are not specifically identified the accused and also not specifically identified the weapons which are against the proposition of law. When injured witnesses have specifically stated that the respondents committed the offence as



Crl.A.No.945 of 2022

charged above, the Mahila Court would have convicted the accused.

Therefore, the order of the learned Mahila Judge warrants interference of this Court and to set aside the order of the learned Mahila Judge and allow the appeal.

8. The learned Counsel for the respondents/accused would submit that the appellant/complainant has not specifically identified either the accused or the weapons used by the accused. Even, in chief examination, they have also stated that they are not aware about the unnamed accused persons. During the trial, they did not identify the accused and weapon and they have not aware about the specific overt acts attributed against any of the accused. The name of the accused and weapons used were not identified by the complainant. The medical evidence does not corroborate with the witnesses. The evidence of the witnesses are not sufficient and they commonly stated that all of the accused came with deadly weapon, which is not sufficient to convict the accused. The trial Court has rightly appreciated the evidence and found that the injured witnesses did not identify that which of the weapon was used by which of the accused and the prosecution failed to prove its charges levelled against the accused. Therefore, the benefits of doubt is



Crl.A.No.945 of 2022

extended in favour of the accused and there is no merit in the appeal and hence the appeal is liable to be dismissed.

9. Heard both side counsel. Perused the materials available on record.

10. Admittedly, the respondents 1 to 13 were arrayed as A1 to A13 in S.C.No.81 of 2016 on the file of the learned Mahila Judge, Fast Track Court, Tiruvallur. The appellant/defacto complainant also said to have been one of the injured witnesses and also eye witnesses in this case. On reading of the complaint as Ex.P-1 filed by the appellant, it is found that the law was set in motion by the complainant/appellant and based on the complaint, the 14th respondent registered the case and after completion of investigation, he filed a charge sheet. The trial court framed the charges against A1 to A8 for the offences under Sections 147, 148, 324, 307 & 506(ii) r/w. 34 of IPC and Section 4 of Tamilnadu Prohibition of Harassment of Woman Act and A9 to A13 for the offences under Sections 147, 148, 324 (3 counts) & 307 r/w. 34 of IPC and Section 4 of Tamilnadu Prohibition of Harassment of Woman Act. In order to substantiate the charges, on the side of the prosecution as many as



Crl.A.No.945 of 2022

14 witnesses were examined as P.W.1 to P.W.14 and marked 12 documents as Exs.P1 to P12 and three material objects were marked as M.O-1 to M.O-3.

On the side of the defence, no one was examined and no documentary evidence was produced. Due to which, Ex.P-1 is the Complaint and Ex.P-2 to Ex.P-6 are the copy of the Accident Register in Ex.P-2 it is stated as 20-30 known persons on 16.11.2013 at 8.30 am using iron pipe, wooden log and knife attacked them whereas P.W-1 to P.W-5 are eye witnesses, while deposing before the Court they have not specifically identified the accused with weapons and the injury caused by which of the accused by using which of the weapon. Therefore, the Prosecution has to establish that which of the accused has possessed with which of the weapon and attacked which of the witness. Therefore, the prosecution has not specifically substantiated the charges levelled against the respondents 1 to 13. Therefore, the trial Court extended the benefit of doubts in favour of the respondents 1 to 13/Accused and acquitted all of the accused/Respondents 1 to 13.

11. The Appellate Court is the fact finding Court while re-appreciating the entire evidence, the Appellate Court especially while dealing with the



Crl.A.No.945 of 2022

appeal against acquittal, the Court has to re-appreciate the entire evidence.

While re-appreciating the evidence, if the appellate Court finds that there is a perversity in appreciation of evidence by the trial Court or any compelling circumstances to reverse the finding of the trial Court, the appellate Court has to give the reason to reverse the appeal against the acquittal. On reading of the material, especially charges framed against Accused 1 to 13, this Court also finds that the prosecution has not specifically proved the charges levelled against the respondents and even charges have not specifically stated that which of the accused used which of the weapon and attacked on which of the injured witness and which of the accused committed which of the offence. Therefore, this Court finds that there is no specific overt acts against any of the Accused. Under those circumstances, this Court finds that the prosecution has not proved the charges framed against them and the prosecution has failed to prove the charges against them. Therefore, the trial Court has rightly appreciated the evidence and extended the benefits of doubts. The Prosecution has not proved his case beyond all reasonable doubts against the accused and also the judgment of trial Court is not perverse. This Court as final Court of fact finding finds that there is no



Crl.A.No.945 of 2022

reason to reverse the judgment of the trial Court. Under those circumstances, this court finds no merit in the appeal and hence the same is liable to be dismissed.

In the result, this Criminal Appeal is dismissed.

14.11.2022

dh

Index: Yes/No

Internet: Yes/No

To

1. The learned Magalir Needhimandram,
Fast Track Mahila Court, Tiruvallur
2. The Inspector of Police,
Vellavedu Police Station,
Tiruvallur.
3. The Public Prosecutor,
Madras High Court,
Madras.



WEB COPY



Crl.A.No.945 of 2022

P.VELMURUGAN, J.

dh

Crl.A.No.945 of 2022

14.11.2022