



Crl.A.No.755 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 19.07.2022

Pronounced on : **25.07.2022**

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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S.Manikavel (Age-35)

... Appellant

Versus

State rep. by
Inspector of Police,
Pollachi Taluk Police Station,
Coimbatore.
(Crime No.61 of 2013)

... Respondent

Prayer: Criminal Appeal is filed under Section 374(2) of the Code of Criminal Procedure, to set aside the Judgment of S.C.No.169 of 2013, dated 18.10.2019 passed by the Principal District and Sessions Court, Coimbatore.

For Appellant : Mr.G.Karthikeyan

For Respondent : Mr.S.Vinoth Kumar,
Government Advocate (Crl.side)

JUDGMENT

This appeal is filed by the appellant, who is the first accused in this case, aggrieved by the Judgment of the learned Principal District and Sessions Judge, Coimbatore, dated 18.10.2019 in S.C.No.169 of 2013, in and



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by which, the appellant was convicted for the offense under Section 324 of IPC, and imposed with fine of Rs.2,000/-, in default of payment of a fine to undergo Simple Imprisonment for two months and also for the offense under Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992, convicted and sentenced to undergo six months of Simple Imprisonment and fine of Rs.1,000/-, in default of payment of fine to undergo Simple Imprisonment for the period of one month.

3.Heard *Mr.G.Karthikeyan*, learned counsel for the appellant and *Mr.S.Vinoth Kumar*, learned Government Advocate (Criminal side) appearing for the respondent.

4.The case arises out of the Crime No.61 of 2013, on the file of the Pollachi Taluk Police Station. Totally eight accused were charged and were tried before the Trial Court.

5.The gist of the allegations of the case of the prosecution is that all the eight accused belonging to an organization called "Hindu Munnani", which had announced *Bandh* on 19.04.2013. Therefore, all the accused



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belonging to the members of the said organization, had conspired on 18.04.2013 to damage the public property in order to successfully carry out the *Bandh* and as such committed the offense of Section 120B of IPC.

6.Persuant to the conspiracy, on 19.04.2013, the first accused drove the Hero Honda Splendor Motorcycle bearing Registration No.TN-41-AC-8862, in which, the second accused was the pillion rider and the second accused had thrown the stone against the window shield of the Bus, in which, the front window shield worth of Rs.3,500/- was damaged and on account of the same, the driver of the Bus got injured on the left side of the chest.

7.On the basis of the above allegations, three charges were framed by the Learned Trial Judge and all the accused stood trial, and denied the charges. The second accused, who was actually the pillion rider, who threw the stone on the Bus, since passed away, pending the trial and after appreciation of the evidence on record, relating to remaining seven accused, all the six accused were acquitted for the offense under Section 120B of IPC. The appellant, the first accused alone committed the offense punishable under Section 324 and Section 3 of the TNPPDL Act as above.



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8. On the face, it may be seen that when the offense under Section 120 B of IPC., is not proved and when the second accused, who actually hit the bus with stone, since passed away, pending the trial, therefore, in the absence of any charge along with the second accused either by way of conspiracy or under Section 34 of IPC, the only allegation against the appellant being riding the motorcycle cannot by its own stand in the absence of proving the charge as to the offense under Section 120B of IPC, and/or Section 34 of IPC. In that view of the matter, the conviction as such is unsustainable, on the face of it. Therefore, the finding of guilt and the sentence of the Trial Court is unsustainable.

9. Therefore, the Criminal Appeal is allowed on the following terms:-

(i) the conviction and sentence imposed by the Learned Principal and Sessions Judge, Coimbatore, by Judgment dated 18.10.2019, in S.C.No.169 of 2013 against the appellant is set aside.

(ii) The fine amount, if any, paid by the appellant before the Trial



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Court is ordered to be refunded.

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Index : Yes/No

Speaking / Non-Speaking order

klt

To

- 1.The Principal District and Sessions Court, Coimbatore.
- 2.The Public Prosecutor, High Court of Madras.
- 3.The Inspector of Police, Pollachi Taluk Police Station, Coimbatore.



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D.BHARATHA CHAKRAVARTHY. J.,

klt

Pre- Delivery Order in

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