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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 17/11/2022

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

**Cr1.RC(MD)No.145 of 2020**

**and**

**Cr1.MP(MD)No.1241 of 2020**

Murugesan : Revision Petitioner/R2/A2

Vs.

- 1.State rep. By  
The Inspector of Police,  
Thirukokarnam Police Station,  
Pudukkottai District. : R1/R5/Complainant
- 2.Mathiyass (Died) : R2/Appellant/De-facto  
Complainant
- 3.M.Kulandai Theras
- 4.M.Nirmala Nesamary
- 5.M.Iruthaya Jeyaseeli
- 6.Minor M.Bennedit
- 7.Minor M.Robin  
(R6 and R7 represented by  
Next friend and natural  
guardian/mother/R4)  
(R3 to R7 impleaded as  
per the order, dated 23/02/2021  
made in Cr1.MP(MD)No.1576 of 2021  
in Cr1.RC(MD)No.145 of 2022)  
: Respondents/Respondents/  
Complainant



**Prayer:-** This Criminal Revision has been filed under sections 397 and 401 of the Criminal Procedure Code against the judgment, dated 19/09/2019 passed in CA No.20 of 2017 on the file of the Sessions Judge, Mahila Court, Pudukkottai, reversing the Judgment, dated 18/05/2017 passed by the Judicial Magistrate, Pudukkottai in CC No. 196 of 2014.

For Petitioner : Mr.G.Mathavan

For 1<sup>st</sup> Respondent : Mr.RMS.Sethuraman  
Additional Public Prosecutor

For R3 to R7 : Mr.R.Saravanakumar

### **O R D E R**

This criminal revision has been filed against the judgment, dated 19/09/2019 passed in CA No.20 of 2017 by the Sessions Judge, Mahila Court, Pudukkottai, reversing the judgment, dated 18/05/2017 passed in CC No.196 of 2014 by the Judicial Magistrate, Pudukkottai.

### **2.The facts in brief:-**

This petitioner is arrayed as A2 in CC No.196 of 2014 on the file of the Judicial Magistrate, Pudukkottai. According to the prosecution, there was previous enmity between the de-facto complainant and the accused person



herein. In pursuance of the above said previous motive, on 25/01/2013 at about 5.40 pm, when the de-facto complainant came to the property with deadly weapons, abused him in filthy language and A1 caused assault with Aruval, A2 assaulted with wooden log, A3 and A4 assaulted him with stick. They also assaulted the witness No.2, who came to the place of occurrence to prevent the above said assault. They also criminally intimidated the de-facto complainant and the witnesses. Based upon the above said occurrence, the case was registered and final report was filed before the Judicial Magistrate, Pudukkottai.

3.On the side of the prosecution, 9 witnesses examined and 6 documents were marked. On the side of the accused, no oral or documentary evidence was adduced.

4.At the conclusion of the trial process, the trial court found that the charges framed against the accused persons were not proved and were acquitted. Against the above said judgment of acquittal, appeal was preferred by the de-facto complainant namely Mathiyaas. That was heard in CrI.A No.20 of 2017 by the Sessions Judge, Mahila Court, Pudukkottai.



5. During the course of the above said hearing, it was found by the first appellate court that no proper charge was framed against the accused. So finding that there was grievous injury, the charge was altered by including section 325 or 326 IPC and a direction was also issued to the trial court to give opportunity to recall and re-examine as well as cross examine the witnesses about the altering of charges. On that ground, the matter was remitted back to the trial court.

6. Challenging the above said remitted order, this criminal revision has been preferred.

7. Heard both sides.

8. The learned counsel appearing for the petitioner would submit that even PW1 admitted that no injury was caused to him, all the weapons that are allegedly to have used by the accused persons were not recovered and marked before the concerned court; and the evidence of medical expert also did not support the case of the prosecution; The trial court has correctly analyzed the facts with regard to the probability of the





appellate court of the view that the charge either under section 325 or 326 IPC must be framed. Finding that the evidence of PW1 corroborated by the medical evidence and documents, the above said remand order has been passed.

11. Further perusal of the records shows that the injury sustained by PW1 is grievous in nature.

12. As per the allegation made in the complaint, it has been stated that all the accused persons came to the occurrence place with deadly weapons and aruval, etc. A1 caused assault with aruval, A2 caused assault with wooden log. But however, against A1 charge under sections 324, 323, 294(b) and 506(ii) IPC alone was framed. There is clear evidence by PW1 with regard to the assault that was made by A2 by wooden log, who caused grievous injury.

13. In the facts and circumstances of case and the factual situation, the charge ought to have been framed either under section 325 or 326 IPC, as the case may be as stated by the first appellate court.



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14. In the facts and circumstances of the case, I am of the considered view that the impugned order does not suffer from any illegality or irregularity. It is for the trial court to frame proper charges against the accused persons and proceed the matter in accordance with law. So, I find no merit in this revision.

15. In the result, this criminal revision fails and the same is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

**17/11/2022**

Index:Yes/No  
Internet:Yes/No  
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To,

- 1.The Inspector of Police,  
Thirukokarnam Police Station,  
Pudukkottai District.
- 2.The Sessions Judge,  
Mahila Court,  
Pudukkottai.
- 3.The Judicial Magistrate,  
Pudukkottai.
- 4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**G . ILANGO VAN , J**

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**Cr1.RC (MD) No.145 of 2020**

17/11/2022