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Crl.A.No.540 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.03.2023

CORAM

THE HONOURABLE DR. JUSTICE **G.JAYACHANDRAN**

Crl.A.No.540 of 2020

Loganathan
S/o.Muthusamy

... Appellant

Vs

The State represented by
The Inspector of Police,
Nallur Police Station,
Vellangoundampatty Circle,
Namakkal District.

... Respondent

Prayer:- Criminal Appeal filed under Section 374(2) of Criminal Procedure Code, to set aside the judgment made in S.C.No.148 of 2018 on the file of the learned Principal Sessions Judge, Namakkal, dated 14.12.2020 and acquit the accused.

For Appellant : Mr.S.N.Arunkumar

For Respondent : Mr.R.Kishore Kumar
Government Advocate (Crl.Side)



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JUDGMENT

This appeal is preferred by the sole accused who was found guilty by the Trial Court for the offence under Section 3(1) of TNPPDL Act, was sentenced to undergo four years rigorous imprisonment and to pay a fine of Rs.4,500/- in default to undergo one month simple imprisonment. The fine amount was ordered to be paid as compensation to the Managing Director of TNSTC, whose property damaged by the accused.

2. The case of the prosecution is that on 05.05.2016, when P.W.1 Mariappan was driving the transport corporation bus bearing registration No.TN30N0724 from Velur to Thiruchengode at about 18.50 hours near P.N.R.Mill, Goundipalayam village, an unknown person has pelted a stone on the front side wind screen and damaged it. Immediately, the driver of the bus stopped the bus. He along with conductor and passengers chased the miscreant and handed over him to the Police along with complaint Ex.P.1. After enquiry and got assessment of the damage, the police were filed final report against the appellant for the offence



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under Section 3(1) of TNPPDL Act for causing damage to the wind screen of the State Transport Corporation bus worth Rs.4,500/-.

3. To prove the case, the prosecution has examined nine witnesses. P.W.1 is the driver of the bus and he is the defacto complainant. He has spoken about the incident they pursued the miscreant and handed over the accused to the police for further action. P.W.2 is the conductor who was operating the bus which was damaged by the appellant. P.W.3 is the passenger in a two wheeler, who saw the incident. P.W.3 is also a driver working in the corporation. P.W.4 is one of the passengers who saw the occurrence. P.W.5 witness to the Magazar Ex.P.3 and Rough Sketch Ex.P.4. P.W.6 is another witness to the Magazar and Rough Sketch viz. Ex.P.3 & Ex.P.4.

4. P.W.7 is the motor vehicle inspector who inspected the damaged vehicle bearing registration No.TN30N0724. His inspection report is Ex.P.5. The Branch Manager of Edappadi Transport Corporation Workshop has assessed the damage as Rs.4,500/- and issued



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the certificate. The assessment certificate is marked as Ex.P.6. P.W.9, the Sub Inspector of Police attached to the Nallur Police Station, Namakkal District who received the complaint from P.W.1 and registered the FIR, has spoken about the investigation taken after registration of the complaint. The printed FIR is marked as Ex.P.7. On completion of investigation P.W.9 has filed final report.

5. Based on the material filed along with the final report, the trial Court framed charges under Section 3(1) of TNPPDL Act. The trial Court, after appreciation of witnesses and evidence, held the accused guilty for the offence under Section 3(1) of TNPPDL Act and sentenced him as stated above.

6. The learned counsel appearing for the appellant submitted that admittedly at the time of occurrence, the scene of crime was not pitch light and it is highly impossible for anyone to identify the person who pelted the stone. Unfortunately, the appellant who was in a inebriated state, was caught hold by the prosecution witnesses P.W.1 &



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P.W.2 and a case has been foisted against him so that they exonerated the responsibility for damaging the wind screen.

7. Further, the learned counsel appearing for the appellant submitted that to prove that P.W.4 was co-passenger in the bus, her passengers ticket has not been produced by the prosecution. Initially, the time of occurrence in the charge sheet was mentioned as 12.50 hours on 05.05.2016. Thereafter, the time in the charge sheet was altered to 18.50 hour and the said alteration has prejudiced the case of the accused. The manipulation in the trip sheet which would be falsify the testimony of P.W.1 that at 18.50 hours, the bus was crossing near P.N.T.Mill. While the prosecution witnesses deposed that after hearing the noise, the bus was stopped and the passengers got down from the bus and along with the public, the accused was caught hold, but none of the public in that area was examined by the prosecution to substantiate the case that the accused was the cause for the wind screen damage.



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8. The learned counsel appearing for the appellant further submits that the case of the prosecution as against the appellant is highly improbable for the fact that the scene of crime was ill-lighted and none of the witnesses would have seen the real miscreant.

9. The learned counsel appearing for the State, per contra, would state that though the witnesses deposed that the area was poorly lighted, but uniformly P.W.1 to P.W.4 have identified the accused. More particularly, the accused was caught red handed soon after the occurrence. P.W.5 and P.W.6, who are the witnesses to the Mahazar and Rough Sketch, have spoken about the preparation of Ex.P.3 and Ex.P.4 between 8 to 8.30 p.m. While the Mahazar and Rough Sketch were prepared in the scene of crime between 8 to 8.30 p.m., it is not impossible to identify the accused at 6.30 pm., who had tried to flee from the scene of crime after throwing stone on the wind screen.

10. Regarding the alteration found in the trip sheet viz., Ex.P.2, the learned Government Pleader submitted that correction and over



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writing in the trip sheet will not mean that the prosecution has manipulated the said document. The case of the prosecution stands even without the trip sheet and therefore there is no necessity to alter the trip sheet. Whatever the correction made in the course of maintaining the trip sheet not intentional. Further he submits that the accused has been caught red handed immediately after causing damage to the bus of the wind screen.

11. Heard the learned counsel appearing on either sides and perused the documents available on record.

12. The deposition of the Motor Vehicle Inspector and P.W.8 the Assistant Engineer attached to Edappadi Transport Corporation Workshop, prove the fact that the wind screen of the transport bus bearing registration No.TN30N0724 got damaged and the value of the damage was fixed as Rs.4,500/- as per Ex.P.6. Regarding the cause for damage, P.W.1 to P.W.4 in universe have deposed that while the bus was passing through P.N.T.Mill in Velur to Tiruchengode near



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Goundanpalayam Village, the appellant threw stone and tried to run away from the place. The contact of the accused soon after the occurrence was bad and he was caught red handed soon after the occurrence by the passengers in the bus and by the public. No doubt, no public has come forward to give evidence. That doesn't mean that the occurrence never had occurred or the accused was the cause for the said damage.

13. P.W.2 in cross-examination has stated that soon after the accused threw the stone, the wind screen of the bus got damaged. The driver P.W.1 stopped the vehicle. Immediately, he and others chased the accused and caught hold red handed within the 500 meters from the place where they stopped the vehicle. Therefore, there is no reason to disbelieve the evidence of P.W.1 to P.W.4, who have identified the accused and caught hold of him immediately after the occurrence.

14. The learned counsel appearing for the appellant submitted that the Investigating Officer has failed to take photographs of the vehicle to confirm the damage caused. May be the Investigating Officer should have taken the photographs of the damaged vehicle but the



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omission to take photographs is not fatal to the case of the prosecution, since the vehicle has been inspected by the Motor Vehicle Inspector as well as the Engineer of the State Transport Corporation and value of the damage was assessed as Rs.4,500/- and no suggestion has been put to reverse contra to that evidence. For the said reasons this Court finds that the findings of the trial Court are correct and the trial Court has rightly appreciated the evidence and found the appellant guilty for the offence under Section 3(1) of the TNPPDL Act.

15. As far as the sentence is concerned, the learned counsel appearing for the appellant submits that the appellant was 29 years at the time of occurrence with no bad antecedent and some leniency may be shown. Query has been put to the Investigating Officer as to whether the appellant has any bad antecedent, for which the Investigating Officer answered in negative indicating that the appellant has no bad antecedent. Therefore, in exercise of the power provided under the proviso to Section 3(iii) of the TNPPDL Act, this Court is inclined to modify the sentence.



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16. Accordingly, the period of sentence of one year is modified as three months with fine of Rs.4,500/- which shall be payable as compensation to the State Transport Corporation, in respect of the offence under Section 3(1) of the TNPPDL Act. The period of imprisonment already undergone by the appellant shall be set off under Section 428 of Cr.P.C.

17. With the above modification, the Criminal Appeal stands partly allowed.

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Index:Yes/No

Internet:Yes/No

Speaking/Non-speaking order

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1. The Principal Sessions Judge,
Namakkal.
2. The Inspector of Police,
Nallur Police Station,
Vellangoundampatty Circle,
Namakkal District.
3. The Public Prosecutor,
Madras High Court,
Chennai.



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Dr.G.JAYACHANDRAN, J.,

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