



Crl.A.No.222 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.06.2023

PRONOUNCED ON : 05.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

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1. Ravi
2. Iyappan

... Appellants/A1 & A2

-Vs-

State by
Inspector of Police,
T-9, Pattabiram Police Station,
Pattabiram,
Chennai.

... Respondent / Complainant

PRAYER: Criminal Appeal is filed under Section 374(2) of Criminal Procedure Code, praying to set aside the judgment of conviction and sentence imposed by the learned Principal District and Sessions Judge, Thiruvallur, made in Special Case No.4 of 2015, dated 24.03.2017, and acquit the appellants / accused 1 and 2 from the charges.

For Appellants : Mr.P.Prince Premkumar

For Respondent : Mr.L.Baskaran
Government Advocate (Crl.Side).



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JUDGMENT

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Convicted accused 1 and 2 are the appellants herein. The Criminal Appeal has been filed against the judgment dated 24.03.2017 passed by the learned Principal District and Sessions Judge, Thiruvallur in Spl.Case No.4 of 2015, convicting the appellants for offence under Section 3 of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992 and sentencing each of them to undergo rigorous imprisonment for one year and to pay a fine of Rs.3000/-, in default to undergo rigorous imprisonment for three months for the said offence.

2. The case of the prosecution is that on 20.08.2009 at about 4.30pm without obtaining necessary permission from the Government, these appellants along with one Sambandam (died) were jointly cutting trees, which belongs to National Highways Department situated at Amudhur Medu Main road, Near Valliammal Matriculation School and caused Rs.18,000/- loss to the Government.



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3. To prove the prosecution case, the prosecution examined 8 witnesses on its side and marked 5 exhibits and 2 material objects, out of which, PW1 to PW3, are government servants, who are supporting to prosecution case, whereas PW4, PW5, PW6, are public witnesses, who were not supporting to prosecution case and PW7 and PW8 are the investigating officers to the said complaint.

4. The defense case is that the accused are working as agricultural coolies and for statistical purpose, this case has been foisted against them.

5. After hearing the arguments made by the learned counsel on either side and on perusal of the oral and documentary evidence, the learned Principal District and Sessions Judge, came to the conclusion that charge under Section 3 of the TNPPDL Act, is made out and accordingly, convicted and sentenced the accused/appellants, as stated supra. Hence, the appeal.



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6. Heard the learned counsel for the appellants/accused 1 and 2 and the learned Government Advocate (Crl. Side), appearing for the respondent-State.

7. Learned counsel for the appellants/accused 1 and 2 would contend that the prosecution failed to prove that the trees belong to Highways department; the register maintained about the trees on the National Highways are not produced; the photographs of the cut down trees are not produced by the prosecution; and the numbers of the trees that were cut down by the appellants are not elicited by the prosecution, neither in oral nor documentary evidence and hence, he prayed to set aside the conviction and sentence imposed by the trial Court upon the appellants/accused 1 and 2.

8. Learned Government Advocate (Crl.Side) made submissions in support of the judgement of the learned Principal District and Sessions Judge.

9. Submissions of both the parties are taken into consideration and the



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documentary evidences, have been perused.

10. PW1-S.Suresh, Assistant Engineer (Highways Department), is the defacto complainant. PW2-M.Raj Prabhu and PW3-M.Devaraj, are the officials in the Highways Department. PW4-R.Ramesh, is an independent witness. PW5-M.Loganathan, is also an independent witness, but he turned hostile. PW6-Sivanesan, is the attester of the Observation Mahazar [Ex.P3] and Rough Sketch (Ex.P5). PW7-Hari Krishnan, is the Inspector of Police, who had received the complaint [Ex.P1] from PW1 and registered the FIR [Ex.P4]. PW8-Sathyan, is the Inspector of Police, who laid the charge sheet, after investigation.

11. The defacto complainant-PW1 has categorically stated both in his chief and cross examination that on 20.08.2009, while he was on official duty and on inspection, he found that three persons (appellants/accused 1 and 2 and the deceased accused Sambandam), were cutting Tamarind trees and Kodukapuli [Manila Tamarind] trees and on questioning, they have



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stated that they are cutting the trees on their own. The trees are on the National Highways and they are ten years old and assessed the damage as Rs.12,000/-. The cut down trees have been taken into custody and handed over to police by lodging Ex.P1-complaint. The Statement of Assessment of the Damage was marked as Ex.P2 and the material objects viz., M.O.1-Saw and M.O.2 series - Knives were seized. So, is the evidence of PW2 and PW3.

12. The independent witness-PW4 has categorically stated that he is engaged in brick business and on the date of occurrence, when he was proceeding from Pattabiram via Amudurmedu brick kiln, at that time, the Highways authorities viz., PW1 to PW3 were enquiring three persons for illegally cutting the highways trees and the accused were present.

13. Though the independent witness-PW5, has turned hostile, the evidence of PW6, with regard to preparation of the Observation Mahazar [Ex.P3] and the Rough Sketch [Ex.P5], assumes significance. PW7 and



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PW8 are police witnesses. On perusal of the evidence of PW1, PW2 and PW3, the learned Principal District and Sessions Judge, has categorically come to the conclusion that the appellants/accused 1 and 2, along with the deceased accused Sambandam were cutting the trees situated on the National Highways and the trees are 10 years old and the loss caused to the State is Rs.18,000/- and believed the evidence of PW1 to PW4.

14. It remains to be stated that the PW4-R.Ramesh, the independent witness has categorically stated about the presence of the accused along with the PWD officials and also about the cutting of the trees. PW6, has attested the Observation Mahazar and Rough Sketch.

15. A bare perusal of Rough Sketch [Ex.P5] would categorically denote that the trees on the highways are cut and it also demonstrates the illegal cutting and that the fallen trees are on the highways. Admittedly, PW1 to PW4 and police witnesses PW7 and PW8 have no grudge to grind against the accused herein, assumes significance and hence, this Court concurs with



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the finding rendered by the learned Principal District and Sessions Judge that these appellants/accused 1 and 2, alongwith the deceased accused Sambandam, have cut the trees on the highways, belonging to the highways department.

16. Though several points have been raised by the appellants' counsel, at the time of framing of charge, the accused have answered that they were cutting the tamarind trees only. As rightly pointed out by the learned Principal Sessions Judge that during charge framing, the answer/reply given by the accused 1 and 2 that they have been cutting the tamarind trees, duly corroborates the prosecution witnesses and I find that the points raised by the learned counsel for the appellants, was duly rejected by the learned Principal District and Sessions Judge for the reasons stated therein and hence, the charge under Section 3 of the TNPPDL Act is made out and the similar finding arrived at by the learned Principal District and Sessions Judge does not warrant any interference, as the same does not suffer from any irregularity or illegality. Accordingly, the conviction passed by the



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learned Principal District and Sessions Judge, is confirmed.

17. On the point of quantum of compensation, heard both the parties.

18. The cost of the two trees is Rs.18,000/- and the accused 1 and 2 are first-time offenders and hence, I am of the considered view that the sentence of one year RI, imposed by the learned Principal District and Sessions Judge is excessive and accordingly, the sentence imposed requires to be modified.

19. On a perusal of Ex.P2-Statement of Assessment of Damages, at the tune of Rs.18,000/-, this Court finds that the primary condition of causing damage of more than Rs.100/- as stated in Section 3(1) of the Act, is satisfied. Further, from the evidence of PW4-independent witness, the presence of the accused at the scene of crime along with the PWD officials, while enquiring as to how the accused could cut the trees belonging to the highways department, coupled with the evidence of PW6, attester of the



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Rough Sketch and Observation Mahazar, that the highways trees are cut and removed by the accused stands established and in view of the specific answers stated by the PW1 that as per PWD code, the seized materials have been sold in public auction and the auction amount has been remitted into the Treasury, this Court is of the view that the charge under Section 3 of the TNPPDL Act, stands proved.

20. However, taking into consideration, the age of the accused and that they are first-time offenders and also the quantum of the damage/loss, the sentence imposed upon accused 1 and 2, is modified and it is ordered as follows:

- i. The Criminal Appeal stands partly allowed.
- ii. The conviction passed by the learned Principal District and Sessions Judge, Thiruvallur, in Special Case No.4 of 2015, dated 24.03.2017, as against the appellants/accused 1 and 2, is confirmed.
- iii. The sentence imposed upon the appellants/accused 1 and



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2 to undergo rigorous imprisonment for one year, for the offence under Section 3 of the TNPPDL Act, is modified and each of the appellants/accused 1 and 2 are sentenced to undergo rigorous imprisonment for three months. Fine amount and the default clause imposed by the trial Court, remains unaltered.

iv. As the appellants/accused 1 and 2 are on bail, the trial Court shall take steps to secure the appellants/accused 1 and 2, to commit them in prison to serve out the remaining period of sentence. The period of sentence already undergone by the accused 1 and 2, shall be set off under Section 428 of the Code of Criminal Procedure.

05.06.2023

Index: Yes / No
Speaking/Non-Speaking order
Neutral Citation: Yes/No.
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RMT. TEEKAA RAMAN, J.

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To

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1. The Principal District and Sessions Judge,
Thiruvallur.
2. The Inspector of Police,
T-9, Pattabiram Police Station,
Pattabiram,
Chennai
3. The Public Prosecutor,
High Court, Madras.

Pre-delivery Judgment made in
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