



Crl.A(MD)No.284 of 2010

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 05.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.A.(MD)No.284 of 2010

1.Arumugam

2.Muthumurugan

... A1 and A2/ Appellants

vs.

The State, represented by
The Inspector of Police,
B12, Tallakulam Police Station,
Madurai Town.

...Respondent/Complainant

PRAYER : This Criminal Appeal has been filed under Section 374 Cr.P.C., to set aside the order passed in S.C.No.191 of 2008 on the file of the learned Principal Sessions Judge, Madurai, dated 04.08.2010.

For Appellants : Mr.T.R.Subramanian

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. side)

JUDGMENT

This Criminal Appeal is filed against the order S.C.No.191 of 2008, on the file of the learned Principal Sessions Judge, Madurai, dated 04.08.2010.

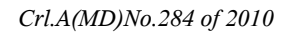


WEB COPY

2.The case of the prosecution is that on 30.11.2005 at about 07.00 p.m., when the injured along with his wife went for taking water in the street pipe at Madurai Tallakulam Kanmoi West Street, both the accused came there and the second accused caught hold the injured and the first accused attacked him with knife on both side of his head. Therefore, he sustained grievous injuries and immediately, his wife had taken him to the hospital. The same was intimated to the respondent and after recording the statement of the victim, the First Information Report has been registered in Crime No.1571 of 2005, for the offence under Section 307 IPC r/w 34 IPC. After completion of investigation, the respondent police has filed final report and the same has been take cognizance by the trial Court.

3.On the side of the respondent, 8 witnesses were examined as P.W.1 to P.W.8 and exhibited 10 documents as Ex.P.1 to Ex.P.10 and marked 2 material objects as M.O.1 to M.O.2. On the side of the accused, no one was examined and no documents were marked.

4.On perusal of the oral and documentary evidence, the trial Court found the first appellant was guilty for the offence punishable under Section 307 IPC and sentenced him to undergo Rigorous Imprisonment



5. The appellant has raised grounds that the prosecution has failed to prove its case beyond any doubt and as such, the benefit of doubt caused in favour of the appellants/accused. There are contradictions between the evidence of P.W.1 to P.W.3 and P.W.5 and as such, the trial Court ought not to have believed their evidence. In fact, P.W.2 had categorically admitted that she did not witness the occurrence. Therefore, the evidence of P.W.1 alone is not sufficient to convict the appellants.

6. The learned Government Advocate (Crl. side) for the respondent would submit that in order to prove the charges, the prosecution had examined P.W.1 to P.W.8 and marked Ex.P.1 to Ex.P.10. The prosecution has also produced two material objects as M.O.1 and M.O.2. P.W.1 is the injured person and his wife was examined as P.W.2, who is the eye-witness. The injuries also corroborated by the Doctor's deposition, who



WEB COPY

was examined as P.W.6. On information received from the hospital, P.W.7 recorded the statement from the victim and registered an FIR. P.W.7, after completion of investigation, filed a final report and the same has been taken cognizance by the trial Court. Therefore, the trial Court had proved its case beyond any doubt and it does not require any interference by this Court.

7. Heard the learned counsel appearing on either side and perused the materials available on record.

8. There was previous enmity between the injured and the accused family in respect of drawing water. While that being so, on 30.11.2005, when the injured and his wife were taking water from the street pipelines, both the accused came there and attacked him with knife on the head of the injured. Immediately, he was taken to the Government Hospital by his wife. Six injuries were noted and admitted as inpatient, the wound certificate issued by P.W.6, which was marked as Ex.P.5. Therefore, the prosecution has proved its case beyond any doubt. On perusal of deposition, P.W.1 revealed that because of the previous enmity between both the family members in respect of drawing water, both the accused persons, had intention to do away the life of P.W.1, attacked him with



Crl.A(MD)No.284 of 2010

knife on both side of his head. The injuries sustained by P.W.1 termed as grievous one. The second accused caught hold of P.W.1 and the first accused attacked him with knife on his head. It is also corroborated by P.W.2, who is the wife of the injured. The injuries also corroborated by P.W.6, who issued the wound certificate for the injuries sustained by P.W. 1. Therefore, the prosecution had proved its case beyond any doubt. In fact, another eye witness was examined as P.W.3, who also deposed that on the date of occurrence, at about 07.00 p.m., the accused persons assaulted P.W.1 and ran away from the place of crime. Hence, the trial Court has rightly convicted the appellants and this Court finds no infirmity or illegality in the order of conviction and sentence imposed by the trial Court and the appeal is liable to be dismissed.

9. Accordingly, the Criminal Appeal stands dismissed.

05.04.2023

sjj

NCC : Yes/No

Index: Yes/No

Internet: Yes/No



WEB COPY



Crl.A(MD)No.284 of 2010

G.K.ILANTHIRAIYAN , J.

sjj

To

- 1.The Principal Sessions Judge, Madurai.
- 2.The Inspector of Police,
B12, Tallakulam Police Station,
Madurai Town.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.A.(MD)No.284 of 2010

05.04.2023