



Crl.A.(MD)No.93 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2023

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THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.A.(MD)No.93 of 2016

Chandramohan

... Appellant

Vs.

1.State rep. by
Assistant Superintendent of Police,
Mayiladuthurai Sub-Division,
Nagapattinam District.

2.State rep by
The Inspector of Police,
Perambur Police Station,
Nagapattinam District.
(Cr.No.48/2014)

3.Roji @ Vadivelan

4.Subash

5.V.G.K.Manikandan

... Respondents

PRAYER : Criminal Appeal filed under Section 372 of the Code of Criminal Procedure, to set aside the judgment of acquittal passed by the learned I Additional District and Sessions Judge (PCR), Thanjavur in S.S.C.No.46 of 2015 dated 04.12.2015 and convict the accused persons.

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Crl.A.(MD)No.93 of 2016

For Appellant : Mr.S.Deenadhayalan
For R1 & R2 : Mr.K.Sanjai Gandhi,
Government Advocate (Crl. Side)
For R3, R4 & R5 : Mr.M.Suri
for Mr.M.Veilmuthu

JUDGMENT

This Criminal Appeal has been filed against the acquittal passed in S.S.C.No.46 of 2015 by the learned I Additional District and Sessions Judge (PCR), Thanjavur on 04.12.2015.

2.The case of the prosecution is that there are totally three accused and they were close friends. A1 and A2 are belonging to one community and A3 is belonging to other community. The defacto complainant and other injured persons are belonging to Hindu Athidraavidar community. The coconut grove of an extent of 11 acre owned by Neelaveli Church is in possession of the defacto complainant and his brother Chandramohan for the past six years. A1, who is the son of Radhakrishnan, the erstwhile clerk of the Neelaveli church also claimed that he is in



CrI.A.(MD)No.93 of 2016

possession of the said coconut grove and in this regard, there was civil dispute is pending between them before the District Munsif Court, Mayiladuthurai. Therefore, there was enmity between both parties. On 07.02.2014, at about 10.45 am., when the defacto complainant and other injured persons were working in the said coconut grove, the accused persons were attempted to trespass into the coconut grove and they were resisted by other witnesses at the gate. However, all the accused persons with a common intention to humiliate them in a public view, A1 with sickle, abused the defacto complainant and others and asked them to open the gate. When the defacto complainant came out, A1 attempted to cut him with sickle. Immediately, other witnesses came to the place of occurrence and prevented him. In the said occurrence, the defacto complainant sustained simple injury on his head and other witnesses also sustained simple injuries. A3 abused one of the victim and attacked him with hands repeatedly and caused simple injury. As far as A1 and A2 is concerned, they abused and attacked other persons, who came to rescue the victim and caused simple injuries. Therefore, on 07.02.2014, the injured persons were hospitalized in the Government Hospital, Mayiladuturai. Based on the complaint given by the defacto



CrI.A.(MD)No.93 of 2016

complainant, the second respondent police registered FIR in Cr.No.48 of 2014 for the offence punishable under Sections 147, 148, 341, 294(b), 323, 324, 506(ii) IPC r/w Section 3(1)(X) of SC/ST (POA) Act as against the accused persons. After completion of investigation, the second respondent police filed the final report and the same has been taken cognizance by the trial Court.

3. On the side of the prosecution, P.W.1 to P.W.15 were examined and marked Ex.P.1 to Ex.P.19. On the side of the accused, no one was examined and marked Ex.D1 and Ex.D2. On perusal of oral and documentary evidence, the trial Court found the appellants not guilty and discharged from all the charges. Aggrieved over the same, the present appeal has been filed.

4. The learned counsel appearing for the appellants would submit that P.W.1 to P.W.4 were injured persons and they have categorically deposed that the accused persons only attacked them with sickle and therefore, they sustained injuries and they were admitted in the hospital. The Doctor, who treated the injured persons, was examined as P.W.6 and



its clearly corroborated with the evidence of P.W1 to P.W.4. There is absolutely no contradiction between P.W.1 to P.W.4. In fact, they were injured witnesses and as such, their witnesses are best one. Without considering the same, the Court below acquitted the respondents 3 to 5 herein. There was absolutely no delay in lodging complaint. The occurrence was taken place on 07.02.2014 and on the same day itself the complaint was lodged and FIR had been registered. Next day it reached the concerned Court. Even without considering the same, the Court below concluded that there was delay in lodgment of complaint and there was delay in sending the same to the Court. P.W.6 categorically deposed that the defacto complainant and other witnesses were sustained injuries and declared as simple injuries. Therefore, he prayed to convict the respondents 3 to 5 herein.

5.Per contra, the learned counsel appearing for the respondents 3 to 5 would submit that there was inordinate delay in lodging complaint. Therefore, no occurrence was happened and a false complaint has been foisted as against the respondents 3 to 5. In fact, the defacto complainant and other witnesses failed to prove that they were in possession of the



CrI.A.(MD)No.93 of 2016

said property, at the time of alleged occurrence. That apart, FIR was not reached the Court in time. All the injured persons have gone to the hospital and accident register was relied by them. However, one person stated that 150 persons were trespassed the property and attack them. One person stated that 12 to 50 persons were trespassed. The accident register is a prime document and there was contradiction in the same. After lodgment of complaint, the second respondent registered the case only as against A1 to A3 for the reason best known to them. Therefore, the prosecution failed to prove its case beyond any doubt and the Court below rightly acquitted the accused persons and it does not warrant any interference by this Court.

6.Heard both sides and perused the material available in the record.

7.On perusal of the records revealed that as per the case of the prosecution on 07.02.2014 when P.W.1 to P.W.4 were working in their coconut grove of an extent 11 acres owned by Neelaveli Church, the accused persons entered into the property and scolded them in filthy



language and also attacked them. Further, they were in possession of the said property. However, the prosecution failed to produce any document to show that they were in possession of the said property, since the respondents 3 to 5 also claimed that they were also in possession of the property. Even at the time of investigation, the second respondent police failed to collect any material in order to prove the same. Further, the alleged occurrence was said to have occurred on 07.02.2014 at about 10.45 am. However, complaint was lodged and FIR was registered only at about 07.00 pm on 07.02.2014 and it was sent to the concerned Court only on 08.02.2014. The prosecution failed to explain the delay. Therefore, it creates serious doubt in the case of the prosecution.

8.On perusal of accident register revealed that P.W.4 stated that he was attacked by two unknown persons. P.W.3 stated that he was attacked by 150 persons. P.W.1 stated that he was attacked by 150 persons with sickle and other deadly weapons. P.W.2 stated that he was attacked by two unknown persons. The accident register is the first document, even before the registration of FIR. These contradiction would affect the case of the prosecution. Further, the second respondent



Crl.A.(MD)No.93 of 2016

registered the case only as against four persons and one person was left out, when they filed final report. Therefore, the Court below rightly acquitted the respondents 3 to 5 and this Court finds no illegality or infirmity in the order passed by the Court below. Accordingly, this criminal appeal is dismissed.

20.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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CrI.A.(MD)No.93 of 2016

To
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- 1.I Additional District and Sessions Judge (PCR),
Thanjavur.
- 2.The Assistant Superintendent of Police,
Mayiladuthurai Sub-Division,
Nagapattinam District.
- 3.The Inspector of Police,
Perambur Police Station,
Nagapattinam District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.A.(MD)No.93 of 2016

G.K.ILANTHIRAIYAN,J.

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Crl.A.(MD)No.93 of 2016

20.04.2023