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Crl.A.No.186 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2024

CORAM :

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

Crl.A.No.186 of 2020 and
Crl.M.P.No.3298 of 2020

Dharmadurai

...Appellant / Accused

vs.

State by
Deputy Superintendent of Police,
Villupuram Sub Division,
Villupuram District.
(Kanai PS Cr. No.169/2015)

...Respondent / Complainant

PRAYER: Criminal Appeal filed under Section 374 (2) of Criminal Procedure Code, 1973, against the judgment and orders dated 19.02.2020 passed in Spl.S.C.No.31/2017 by the Sessions Judge, Special Court for Exclusive Trial of cases registered under SC/ST (POA) Act, Villupuram, Villupuram District.

For Appellant : Mr.K.Balu

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor
Mr.Naveen Infant
Legal Aid Counsel for
defacto complainant

JUDGMENT

This Criminal Appeal is filed against the judgment and orders dated 19.02.2020, passed by the Sessions Judge, Special Court for



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Exclusive Trial of cases registered under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (in short - SC/ST Act), Villupuram, in Spl.S.C.No.31/2017.

2. The appellant is the accused in Spl.S.C.No.31/2017 and is convicted and sentenced as detailed hereunder:

<i>Accused</i>	<i>Conviction</i>	<i>Sentence</i>
Dharmadurai	Section 506 (i) I.P.C	Fine of Rs.1000/-, in default to undergo Rigorous Imprisonment for three months.
	Section 3(1)(r) SC/ST (POA) Amendment Act, 2015.	Rigorous Imprisonment for two years and a fine of Rs.1000/-, in default to undergo Rigorous Imprisonment for three months.
	Section 3(1)(s) SC/ST (POA) Amendment Act, 2015	Rigorous Imprisonment for two years and a fine of Rs.1000/-, in default to undergo Rigorous Imprisonment for three months.
The aforesaid sentences shall run concurrently. The period of sentence already undergone shall be set off under Section 428 Cr.P.C.		

3. The case of the prosecution in a condensed form is as follows:

3.1. The appellant, Dharmadurai was working as a Scavenger in Primary Agricultural Cooperative Society, Kedaur Village and the



victim viz., Thiru.Parandhaman (P.W.1) was the erstwhile Panchayat President in Agaram, Chithamur Village. It is an admitted fact that P.W.1 belongs to Hindu Adidraavidar community and the appellant belongs to Hindu Vanniyar community. This is also evident from the Community Certificate (Ex.P3) issued by Thiru.Vetrivel (P.W.6), Tahsildar, Villupuram.

3.2. On 10.07.2015, at about 7.30 a.m when P.W.1 went for having tea near Chithamur - Vazhapattu Road, he saw 10 persons distributing pamphlets with regard to a temple festival. Thiru.Kaliyamoorthy (P.W.4) called one Manikandan (D.W.1) who was also distributing pamphlets and enquired him. The pamphlets showed a different date of festival and not as decided and claimed by the elders of the village and when it was questioned by P.W.1, the appellant abused him in filthy language by mentioning his caste name. He also threatened him with dire consequences. Thiru.Bala Ganapathy (P.W.2), Thiru.Shanmugam, (P.W.3) and Thiru.Kaliyamoorthy (P.W.4) witnessed the occurrence.

3.3. P.W.1 went to Kanai Police Station and lodged a written complaint with the sub Inspector of Police on the same day at about



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3.00p.m. Thiru. Poul Raj (Since deceased) the then Sub-Inspector of Police, Kanai Police Station, received the complaint (Ex.P1) from P.W.1 and registered an FIR in Crime No.169/2015 of Kaanai Police Station against the appellant for the alleged offences punishable under Sections 294(b), 506 (i) I.P.C., r/w. 3(1)(r) (s) SC/ST (POA) Amendment Act, 2015.

3.4. Thiru.Veemaraj, (P.W.7) the then Deputy Superintendent of Police after getting necessary orders from the Superintendent of Police, took up investigation in Crime No.169/2015, went to the scene of occurrence and prepared an Observation Mahazar (ExP6) and a Rough Sketch (Ex.P7) in the presence of the witnesses Iyappan (not examined) and Arul (P.W.5). He arrested the appellant on the same date near Draupadi Amman Temple, Chithamur, and produced him before the Judicial Magistrate I, Villupuram, and sent him for judicial custody. He also recorded the statements of the witnesses under Section 161 (3) Cr.P.C. Thereafter he obtained Community Certificates from the Tahsildar, Villupuram for both the appellant and the victim and submitted the records to Thiru.Shankar (P.W.8).



WEB COPY 3.5 Thiru.Shankar (P.W.8), the then Deputy Superintendent of Police, Villupuram District, took up further investigation and examined the witnesses. After completing investigation, he laid the final report against the appellant for the offences punishable under Sections 294(b), 506 (i) I.P.C., r/w. 3(1)(r) (s) SC/ST (POA) Amendment Act, 2015 before the Special Court for Exclusive Trial of cases under SC/ST (POA) Act, Villupuram.

3.6. The learned Sessions Judge took cognizance of the offence under Sections 506 (i) I.P.C., r/w. 3(1)(r)(s) SC/ST (POA) Amendment Act, 2015 and framed charges against the appellant for the offences under Sections 506 (i) I.P.C., r/w. 3(1)(r) (s) SC/ST (POA) Amendment Act, 2015. The appellant pleaded not guilty.

3.7. In order to bring home the guilt of the accused, the prosecution examined 8 Witnesses and marked 7 documents.

3.8 When the appellant was questioned with regard to the



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circumstances appearing in evidence against him under Section 313 of Cr.PC, he denied of having committed any offence. The appellant examined 2 witnesses on his side.

3.9. The evidence of Manikandan (D.W.1) and Veerabathiran (D.W.2) is that there was a difference of opinion between the appellant and the victim and others with regard to maintenance of temple amounts. Since the appellant requested P.W.1 to show proper accounts, P.W.1 gave a false complaint against the appellant.

3.10. The learned Sessions Judge, after analyzing the oral and documentary evidence on record, convicted and sentenced the accused as stated in paragraph No.2. Aggrieved over the same, the present Criminal Appeal has been filed.

4. Heard Mr.K.Balu, learned counsel for the appellant and Mr.S.Rajakumar, learned Additional Public Prosecutor for the respondent/state and Mr.Naveen Infant, learned legal aid counsel appearing for the defacto complainant.



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5. At the outset, it may be observed that Parandhaman (P.W.1) was previously holding the post of President of Agaram Panchayat. It is seen from his evidence that there was a difference of opinion between him and the appellant with regard to the village common funds. P.W.1 had infact requested the present Panchayat leaders to show the Accounts maintained by them. According to P.W.1, when he was doing cleaning work along with other workers in Draupadi Amman Temple premises on 10.07.2015 at about 7.30 a.m, he saw four or five persons distributing temple festival invitation cards to persons who were there. His further evidence is that Manikandan (D.W.1) was also seen distributing invitation cards. At that time, there was a wordy quarrel between Manikandan (D.W.1) and Shanmugam (P.W.3). When P.W.1 tried to pacify them, he was abused in filthy language by mentioning his caste name by the appellant. According to P.W.1, the occurrence took place near Draupadi Amman Temple, Chithamur. It was also mentioned that it had occurred when he went to drink tea on the Chithamur-Vazhapattu road. In his complaint (Ex.P1), however P.W.1 had specifically



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mentioned that the occurrence took place near an Auditorium. In the Rough Sketch (Ex.P7), the Investigation Officer has shown the place of occurrence near Auditorium and not near Draupadi Amman Temple, Chithamur. In fact the Auditorium is situated 200 feet away from the temple. P.W.1, during the course of cross examination, had clearly stated that the occurrence took place only near Draupadi Amman Temple, Chithamur. Thus the evidence of P.W.1 does not fit in with his own complaint.

6. Thiru.Bala Ganapathy (P.W.2), Thiru.Shanmugam, (P.W.3) and Thiru.Kaliyamoorthy (P.W.4) have all admitted that there was a difference of opinion between P.W.1 and the appellant with regard to maintenance of accounts of the temple. In fact, Thiru.Shanmugam, (P.W.3) during the course of cross examination admitted that there was a wordy quarrel between the appellant and P.W.1. According to P.W.3, the negotiations between both the parties escalated the ego issues.

7. The evidence of Manikandan (D.W.1) and Veerabathiran (D.W.2) clearly shows that already there was a difference of opinion between the two parties with regard to proper maintenance of temple



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funds. Moreover, when there is a contradictory statement regarding the place of occurrence, the credibility of P.W.1 is eroded and therefore, it has to be concluded that the prosecution has not established its case beyond reasonable doubts.

8. In the result,

- i. This Criminal Appeal is allowed.
- ii. The Judgment and Orders dated 19.02.2020 in Spl.S.C.No.31/2017 passed by the Sessions Judge, Special Court for Exclusive Trial of cases registered under SC/ST (POA) Act, Villupuram, Villupuram District is set aside.
- iii. The appellant / accused is acquitted from the offence punishable under Section 506 (i) I.P.C., r/w. 3(1)(r) and 3(1)(s) SC/ST (POA) Amendment Act, 2015. Bail bonds, if any, shall stand cancelled. Fine amount, if already paid, shall be refunded.
- iv. This Court places on record its appreciation to Mr.Naveen Infant, learned Legal Aid counsel, for his valuable assistance in deciding this case. The High Court Legal Services Committee shall pay a sum of Rs.10,000/- to the said counsel towards his fee.

03.06.2024



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vum

Index : yes/no

Speaking /Non speaking Order

Neutral Citation : Yes / No

R.HEMALATHA, J.

vum

To

1. The Deputy Superintendent of Police,
Villupuram Sub Division,
Villupuram District.
2. The Sessions Judge,
Special Court for Exclusive Trial
of cases registered under SC/ST (POA) Act,
Villupuram, Villupuram District.
3. The Public Prosecutor, High Court, Madras.
4. The Section Officer, Criminal Section, High Court, Madras.

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