



CrL.A.No.734 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 18.09.2024

Pronounced on : 19.10.2024

CORAM : JUSTICE N.SESHASAYEE

CrL.A.No.734 of 2016

1.G.Deva Anand @ Devakumar
2.V.Parthiban
3.V.Pargunam

.... Appellants / Accused 1-3

Vs

State by
The Deputy Superintendent of Police
Kanai Police Station
Villupuram District.
Crime No.458 of 2012

.... Respondent / Complainant

Prayer : Criminal Appeal filed under Section 374 Cr.P.C., praying to call for the records pertaining to the judgment rendered by the Sessions Judge, Special Court for Exclusive Trial of cases registered under the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act 1989, Villupuram and District in Special Sessions Case No.169 of 2015, dated 07.10.2016 and set aside the same.



CrI.A.No.734 of 2016

WEB COPY

For Appellants : Mr.R.Sankarasubbu

For Respondent : Dr.C.E.Pratap
Govt Advocate [Criminal Side]
and Ms.J.R.Achana

For Defacto complainant : Mr.S.Arunprasath
Legal Aid counsel

JUDGMENT

A1 to A3 in Special Sessions Case No.169 of 2015 on the file of Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, Villupuram, have filed this appeal challenging their conviction for offences under Sections 323 IPC and Sec.3(1)(x) of SC/ST (POA) Act. The details of the sentence imposed by the trial court is as below:

<i>Accused</i>	<i>Sentences imposed</i>
A1	One year simple imprisonment and to pay a fine of Rs.1,000/- and in default, to undergo simple imprisonment for 3 months for offence under Section 323 of IPC., and one year simple imprisonment and to pay a fine of Rs.4,000/- and in default, to undergo simple imprisonment for 3 months for offence under Section 3(1)(x) of SC/ST (Prevention of Atrocities) Act.
A2	One year simple imprisonment and to pay a fine of Rs.1,000/- and in default, to undergo simple imprisonment for 3 months for offence under Section 323 of IPC., and one year simple imprisonment and to pay a fine of Rs.4,000/- and in default, to undergo simple imprisonment for 3 months for offence under Section 3(1)(x) of SC/ST (Prevention of Atrocities) Act.
A3	One year simple imprisonment and to pay a fine of Rs.1,000/- and in default, to undergo simple imprisonment for 3 months for offence under Section 323 of IPC., and one year simple imprisonment and to pay a fine of Rs.4,000/- and in default, to undergo simple



CrL.A.No.734 of 2016

<i>Accused</i>	<i>Sentences imposed</i>
	imprisonment for 3 months for offence under Section 3(1)(x) of SC/ST (Prevention of Atrocities) Act.

2. The case of the prosecution is as below :

- a) P.W.1 belonged to a scheduled caste community and was a school going student. He used to come to school by Government bus. A1 had some previous differences with P.W.1 with regard to occupying a seat in the bus.
- b) In this backdrop, on 09.11.2012 at around 6.00 p.m., all the three accused along with P.W.1 to P.W.5 were traveling in the same bus. While so P.W.3 alighted at Kappur Mariamman Koil bus stop. In the process, he stepped on the feet of A3 and A3 pushed him aside and abused him.
- c) P.W.1 would now intervene to pacify, but A1 would now abuse P.W.1, which included a reference to the community of P.W.1. He also punched on the left eyebrow of P.W.1. A2 beat P.W.1 both on his back and chest, while A3 beat him on the left chin with a stalk. A3 also bit P.W.2 about his right hip.
- d) The injured were taken to the hospital where P.W.8 and P.W.9 attended



CrL.A.No.734 of 2016

to P.W.1 and P.W.2, and issued Ext.P2 and Ext.P3, accident registers.

- e) A complaint came to be given on the following date and an FIR came to be registered in Crime No.458 of 2012.
- f) The case was taken over for investigation by P.W.11, who visited the scene of occurrence, prepared Ext.P7, observation mahazar and Ext.P8, rough sketch.
- g) In the course of investigation P.W.7 was transferred and the investigation was taken over by P.W.12. After completing the evidence, he laid the final report.

3.1 The case was committed to the designated Special Court of Sessions and the Court framed the following charges against the accused persons :

<i>Accused</i>	<i>Charges framed</i>
A1	Sections 294B, 323 IPC and 3(1)(x) of SC/ST (POA) Act
A2	Sections 323 IPC and 3(1)(x) of SC/ST (POA) Act
A3	Sections 323 & 325 IPC and 3(1)(x) of SC/ST (POA) Act

3.2 During trial, the prosecution examined P.W.1 to P.W.12, and marked Ext.P1 to Ext.P9. Of all the five witnesses, who were examined as eye witnesses, P.W.4 and P.W.5 turned hostile. On its appreciation of evidence, the trial Court



CrL.A.No.734 of 2016

convicted all the three appellants as outlined in the opening paragraph of this judgment. This judgment is now under challenge.

3.3 The trial Court however found A3 not guilty of the offence punishable under Section 325 of IPC, as the same has not been proved by prosecution.

4. The learned counsel for the appellants made the following submissions :

- a) So far as allegation under Section 3(1)(x) of SC/ST (POA) Act is concerned, even as per prosecution case, A1 had abused P.W.1 with reference to his community. However, during trial neither P.W.1 nor P.W.3 ever made a statement that any of the accused had abused them with reference to their community. Only P.W.2 speaks to that, though all P.W.1 to P.W.3 were together. Inasmuch as P.W.1 and P.W.3 did not even level any accusation as regards the charge under Section 3(1)(x) of SC/ST (POA) Act, the solitary statement of P.W.2 alone cannot be considered.
- b) So far as the offence under Section 323 IPC is concerned, both sides have compounded the offence and a memo is also filed.



CrL.A.No.734 of 2016

5. Heard both sides. So far as compoundable part of the charge is concerned, this Court enquired P.W.1 to P.W.3, and was satisfied that the offence is compounded. After all, it is a compoundable offence, and the Court does not intend to interfere with that.

6. Turning to the offence under Section 3(1)(x) of SC/ST (POA) Act, the submissions of the counsel for the appellants are not without merit. There is one incident where A1 to A3 were on one side and P.W.1 to P.W.3 were on other side, and the accusation is that A1 makes such abusive statement with reference to the community to which P.W.1 belonged. When P.W.1 and P.W.3 were on the receiving end of the crime, then this allegation requires mutual corroboration as between them. Neither P.W.1 nor P.W.3 uttered a word implicating any of the accused persons vis-a-vis the allegation that any of the accused persons had abused any of them with reference to their community. Therefore, an uncorroborated testimony of P.W.2 cannot be countenanced. This apart, this Court also finds that the nature of injuries are simple, and the FIR has been registered only at 11.00 a.m., on 10.11.2012, some 18 hours after the incident. The facts to the extent shown do not inspire confidence that the appellants herein have committed the offence under Section 3(1)(x) of SC/ST (POA) Act.



CrL.A.No.734 of 2016

WEB COPY

7. In view of the same, this Court allows the appeal as there is no sufficient proof that an offence under Section 3(1)(x) of SC/ST (POA) Act, had been committed, and so far as the offence under Section 323 IPC is concerned, since the offence had been compounded the appellants are discharged of the charge. Accordingly, the judgment of the Special Court for Exclusive Trial of cases registered under the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act 1989, Villupuram in Special Sessions Case No. 169 of 2015, dated 07.10.2016 is hereby set aside.

19.10.2024

Index : Yes / No

Neutral Citation: Yes / No

Speaking order / Non-speaking order
ds

To:

1. The Sessions Judge
Special Court for Exclusive Trial of cases
registered under SC/ST (POA) Act
Villupuram & District.

2. The Deputy Superintendent of Police
Kanai Police Station
Villupuram District.



CrL.A.No.734 of 2016

3. The Public Prosecutor
High Court, Madras.



WEB COPY



CrI.A.No.734 of 2016

N.SESHASAYEE.J.,

ds

Pre-delivery Judgment in
CrI.A.No.734 of 2016

19.10.2024