



Crl.A.(MD).No.25 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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1.Mallika

2.Manickam

... Appellants

Vs.

The Deputy Superintendent of Police,
Thiruppathur Sub Division,
Thirukostiyur Police Station,
Sivagangai District.

... Respondent

PRAYER : Criminal Appeals filed under Section 374(2) of the Criminal Procedure Code, to set aside the conviction and sentence imposed by the Sessions Judge, Special Court for Exclusive Trial of Cases Registered under SC/ST POA Act, Sivagangai, in S.C.No.38 of 2013, dated 12.12.2019 and acquit the appellants.

For Appellants	: Mr.V.Karuna
For Respondent	: Mr.R.Meenakshi Sundaram Additional Public Prosecutor



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JUDGMENT

The accused No.1 and 2 in S.C.No.38 of 2013 on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases Registered under SC/ST POA Act, Sivagangai, have filed this appeal challenging the conviction and sentence imposed against them under Section 3(1)(X) of SC/ST (POA) Act, 1989.

2.The brief facts of the case are that on 26.09.2012 at 08.00 a.m., the appellants wrongfully restrained P.W.1 and scolded her by abusing her caste name in the public place and hence, P.W.1 gave the complaint/Ex.P.1 to P.W.13 and he registered the case under Section 3(1)(X) of SC/ST (POA) Act, 1989, and the FIR/Ex.P.5 was forwarded to P.W.14/Deputy Superintendent of Police to investigate the case further. P.W.14 conducted the investigation by preparing the observation Mahazar, sketch and examining number of witnesses and obtaining the community certificate and filed the final report before the Sessions Judge, Special Court for Exclusive Trial of Cases under Registered SC/ST POA Act, Sivagangai, for the offence



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under Sections 341 and 506(ii) of IPC r/w Section 3(1)(X) of SC/ST (POA) Act, 1989. The learned trial Judge taken the final report on file in S.C.No.38 of 2013.

3.The learned trial Judge after appearance of the accused served the copies under Section 207 Cr.P.C.,. Then, he framed necessary charges and questioned the accused. The accused denied the charges and pleaded not guilty and stood for trial.

4.To prove the case, the prosecution examined P.W.1 to P.W.14 and marked Ex.P.1 to Ex.P.7. Thereafter, the appellants were questioned under Section 313 Cr.P.C., proceedings putting the incriminating materials available on record in the prosecution evidence and documents, against them and they denied the same as false and thereafter, the case was posted for defence evidence. On their side, A1 examined herself as D.W.1 and produced Ex.D.1 to D4. She specifically deposed about the pendency of the civil suit between the appellant and the defacto complainant and she also pleaded that the both accused were falsely implicated in this case.



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5.The learned trial Judge after considering the evidence adduced on the side of the prosecution and defence passed the impugned order, dated 12.12.2019 and found the appellants guilty, convicted and sentenced them as detailed below:-

Accused	Convicted under Section	Sentence of Imprisonment/fine Imposed
A1 and A2	Section 294(b) of IPC	To undergo simple imprisonment for one month
A1 and A2	Section 3(1)(x) of SC/ST (POA) Act, 1989.	To undergo simple imprisonment for six months and to pay a fine of Rs.1,000/- each in default to undergo rigorous imprisonment for one month.

Challenging the above said conviction and sentence, the petitioners have preferred this present criminal appeal.

6.The learned counsel appearing for the appellants submitted that the defacto complainant is their neighbour. There is a pathway dispute between them and civil suit is pending. In the said civil suit, they got the decree in their favour. P.W.1 acted contray to the said decree. Therefore,



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they made a complaint against P.W.1 and her family member. As a counter blast, the present complaint was made with false allegations. There is no truth in the allegation made in the complaint that they scolded P.W.1 by abusing their caste name. P.W.3 and P.W.6 never deposed about the uttering of the caste name. To substantiate their case, accused No.1 examined herself as D.W.1. The said evidence was not properly appreciated by the learned trial Judge. Therefore, he seeks to acquittal.

7.The learned Additional Public Prosecutor on instructions, and upon the perusal of the records, would submit that P.W.1 clearly deposed about the scolding of the caste name and the same was corroborated by the evidence of P.W.2 and P.W.4. Therefore, the learned trial Judge correctly appreciated the evidence and convicted the appellant for the charged offences under Section 294(b) of IPC r/w Section 3(1)(X) of SC/ST (POA) Act, 1989. Hence, he seeks to dismiss the same.

8.This Court considered the rival submissions made by the learned counsel appearing on either side and also perused the materials available on record.



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9. Admittedly, there was a civil dispute pending between P.W.1 and the appellants relating to the enjoyment of the property situated in S.No. 272/1 situated at Kantaramanickam Village, Thirupatthur Taluk, Sivagangai District. On the date of occurrence, ie., on 26.09.2012, P.W.1 and his family members illegally trespassed into the lands of the appellants and hence, a criminal case was registered against P.W.1 and his family members. P.W.1 was trying to put up a construction in the land of the appellants. Therefore, a dispute arose between the parties on the date of the occurrence. In view of the above strained relationship, this Court is duty bound to consider the reliability of the evidence of P.W.1. According to P.W.1, the appellants scolded abusing her caste name. The independent witness namely P.W.3 and P.W.6 never deposed that the appellants scolded P.W.1 by abusing her caste name. Therefore, this Court finds no corroboration. In view of the said motive, this Court inclines to accept the evidence of D.W.1 that the appellants were implicated in this case on the account of the pendency of the civil case and a complaint was given by D.W.1 for the alleged occurrence of criminal trespass committed by P.W.1 in the land of the



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appellants. The appellants pleaded that the case is false and A1 examined herself as defence witness and she deposed about the dispute between them and her evidence is cogent and there is no reason to disbelieve her evidence. Her specific case that P.W.1 trespassed into the land of the appellants and the appellants gave a complaint to the police officer was admitted by the P.W.1 in her cross examination. Some of the prosecution witnesses also admitted the same. In view of the same, this Court accepts the arguments of the learned counsel appearing for the appellant that the evidence of P.W.1 is not believable one and her version about abusing her caste name deserves to be rejected. Therefore, the conviction under Section 294(b) of IPC r/w Section 3(1)(X) of SC/ST (POA) Act, 1989 imposed by the learned trial Judge against the appellants is liable to be set aside. The learned trial Judge has not properly appreciated the evidence and documents of the defence and the evidence of P.W.3 and 6 in proper manner and erroneously convicted the appellant. Therefore, this Court inclines to interfere with the finding of the learned trial Judge.



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10. Accordingly, this criminal appeal is allowed by setting aside the conviction and sentence imposed by the Sessions Judge, Special Court for Exclusive Trial of Cases Registered under SC/ST POA Act, Sivagangai, in S.C.No.38 of 2013, dated 12.12.2019. Bail bond if any executed by them, shall stand cancelled. Fine amount if any paid by them shall be refunded forthwith.

.11.2024.

NCC :Yes/No

Index :Yes/No

Internet :Yes/No

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To:

- 1.The Sessions Judge,
Special Court for Exclusive Trial
of Cases under Registered SC/ST POA Act,
Sivagangai.
- 2.The Deputy Superintendent of Police,
Thiruppathur Sub Division,
Thirukostiyur Police Station,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

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