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Crl.A.(MD)No.51 of 2020 &
Crl.R.C.(MD)No.218 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Judgment	Date of Pronouncing the Judgment
28.02.2024	13.03.2024

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

Crl.A.(MD)No.51 of 2020
and
Crl.R.C.(MD)No.218 of 2024

Crl.A.(MD)No.51 of 2020:-

- 1.Chinnadurai, S/o.Lakshmanan
- 2.Periyarasu, S/o.Shanmugam
- 3.Krishnamoorthi @ Moorthi, S/o.Annavu
- 4.Kandavel, S/o.Ayyavu

... Appellants / A1 to A4

vs.

The State,
Rep. by the Inspector of Police,
Udayalipatti Police Station,
Pudukkottai District.
(Crime No.82 / 2016)

... Respondent / Complainant



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Crl.A.(MD)No.51 of 2020 &
Crl.R.C.(MD)No.218 of 2024

PRAYER : Criminal Appeal filed under Section 374(2) of Cr.P.C., to set aside the judgment and conviction dated 13.12.2019, by the learned Sessions Judge (FAC), Mahila Court, Pudukkottai, in S.C.No.96 of 2017.

For Appellant No.1 : Mr.G.Bhagavath Singh

For Appellant No.2 : Mr.G.Karuppasamy Pandian

For Appellant Nos.3 & 4: Mr.T.Kumar

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

Crl.R.C.(MD)No.218 of 2024:-

Arunkumar ... Appellant / De-facto complainant / P.W.1

vs.

1.The State rep. by
The Inspector of Police,
Udayalipatti Police Station,
Pudukkottai District.
(Crime No.82 / 2016)

... 1st Respondent / Complainant

2.Chinnadurai, S/o.Lakshmanan

3.Periyarasu, S/o.Shanmugam

4.Krishnamoorthy @ Moorthi, S/o.Annavu

5.Kandavel, S/o.Ayyavu

... Respondents 2 to 5 / A1 to A4

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PRAYER : Criminal Revision filed under Section 397 read with Section 401 of Cr.P.C., to call for the records connected with S.C.No.96 of 2017, dated 13.12.2019, on the file of the learned Sessions Judge (Full Additional Charge), Mahila Court, Pudukkottai, and enhance the sentences imposed against the respondents 2 to 5 / A1 to A4 in accordance with law.

For Petitioner : Mr.R.Alagumani

For Respondent No.1 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

For Respondent No.2 : Mr.G.Bhagavath Singh

For Respondent No.3 : Mr.G.Karuppasamy Pandian

For Appellant Nos.4 & 5 : Mr.T.Kumar

COMMON JUDGMENT

DR.G.JAYACHANDRAN, J.
and
C.KUMARAPPAN, J.

The appeal is directed against the conviction and sentence passed by the trial Court in S.C.No.96 of 2017, dated 13.12.2019.

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2. On 29.10.2016 at about 03.00 p.m. in the wine shop at Killukottai Village, the first accused Chinnadurai and the deceased Karthikeyan had a quarrel. The deceased called his friend Arunkumar (P.W.1) over phone and informed him about the quarrel. P.W.1 along with his other friends Veeramani (P.W.2), Ajeethkumar (P.W.3) and Aravind (not examined) all belong to Sengalur Village, came to the wine shop and questioned A1 why he attacked Karthikeyan. On seeing this, Periyarasu (A2), Krishnamorthi @ Moorthi (A3) and Kandavel (A4) all relatives of A1 and residents of Killukottai Village came in support of A1. Thus, the wordy quarrel soon turned into a fist fight. On realising the fight turning to worst, the elders nearby advised them not to fight on the Deepavali day and told them to disperse. When P.W.1 and others left the place, A1 threatened them how dare they come to his Village and quarrel. He swear not to allow them to leave the Village. Karthikeyan and his friends went to nearby shandy rested for 10 minutes and then, proceeded to their Village in their two wheelers. The accused A1 to A4 armed with swords and aruval stopped them near Nondi Muniswaran Temple and prevented them from proceeding further. A1 attacked Karthikeyan with the sword on the head. When Veeramani (P.W.2) tried to stop the assault, A1 gave him two blows with the sword, one on the right forearm and



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another on the left hand. A1 further incited the other accused 2 to 4 not to leave anyone alive. As a consequence, A2 hit Karthikeyan with aruval on the right side of the head repeatedly. A3 hit Karthikeyan on the right ear with the sword. A4 attacked Ajeethkumar (P.W.3) with the sword. The Arunkumar (P.W.1) sustained injury on his left shoulder, forehead, right back and left forearm when A4 swing the sword at him. A1 also attacked one Mathi (not examined) with the sword on his back.

3. In the incident, Karthikeyan died. Veeramani (P.W.2) and Mathi (not examined) sustained simple injuries. Arunkumar (P.W.1) sustained grievous injury. Based on the evidence of the injured witnesses to the recovery of material objects based on the confession of the accused persons, recovery witnesses and the medical reports and other evidence, the trial Court held the prosecution has proved the charges and sentenced the accused persons as under:-

A1	Section 341 I.P.C. : One month simple imprisonment. Section 324 I.P.C. (1 count): One year rigorous imprisonment. Section 302 I.P.C.: Life imprisonment with Rs.1,000/- fine. In default, to undergo one month simple imprisonment.
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A2	Section 341 I.P.C.: One month simple imprisonment. Section 302 I.P.C.: Life imprisonment with Rs.1,000/- fine. In default, to undergo one month simple imprisonment.
A3	Section 341 I.P.C.: One month simple imprisonment. Section 302 I.P.C.: Life imprisonment with Rs.1,000/- fine. In default, to undergo one month simple imprisonment.
A4	Section 341 I.P.C.: One month simple imprisonment. Section 326 @ 324 I.P.C.: One year rigorous imprisonment. Section 302 r/w. 34 I.P.C.: Life imprisonment with Rs.1,000/- fine. In default, to undergo one month simple imprisonment.

4. Challenging the judgment of conviction and sentence, A1 to A4 had preferred the Crl.A.(MD)No.51 of 2020. The de-facto complainant Arunkumar (P.W.1) not satisfied with the sentence imposed for causing a grievous injury to him, had filed Crl.R.C.(MD)No.218 of 2024.

5. The trial Court has relied on the evidence of P.W.1 to P.W.3, who are the witnesses to the occurrence and also injured in the occurrence. They had deposed about the overt act of each of the accused persons and the nature of injuries



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caused by them. The weapons were recovered in the course of investigation based on the confession statement of the respective accused and identified by P.W.1. The medical records and the accident registers/postmortem report tally with the weapon and the oral evidence, hence, the trial Court held the prosecution has proved its case beyond all reasonable doubt.

6. The learned counsels for the appellants submitted that, before the trial Court, the prosecution has examined 17 witnesses, marked 21 exhibits and 7 material objects. However, the evidence of prosecution could not sufficiently explain the delay in registering the F.I.R., and delay in forwarding the F.I.R. to the Court. The trial is the outcome of unfair investigation which has suppressed the real incident, but fabricated a false case on the instruction of P.W.4 the brother of the deceased, who is a lawyer by profession.

7. It was further contended that, the trial Court failed to appreciate the fact that one Aravind, who came along with P.W.1, was not examined. The further case of the prosecution is that, one Mathi, who along with P.W.1 to P.W.3, sustained injury, was not examined. P.W.1 to P.W.3 claim that A1 to A4 attacked

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them and they sustained injuries. The medical record shows that they did not get any treatment, but for record sake, went to the hospital and then left the hospital without intimation. The trial Court failed to take note of the fact that the prosecution witnesses P.W.1 to P.W.3 and the deceased Karthikeyan are the real aggressors and culprits. They belong to nearby Village, which is 4 Kms. away from the scene of occurrence. As per the prosecution case, the deceased, who picked quarrel in the liquor shop been questioned by A1. To attack A1, the deceased called his friends P.W.1 to P.W.3 and others to the wine shop. On their arrival, they all picked quarrel with A1 and created a riotous situation. The Villagers, who were near the shop, had chased them out. It is the case of the appellant that there is no independent witness to incriminate the appellants with the death of Karthikeyan. The evidence of P.W.1 to P.W.3 is wholly unreliable though they claim to have been present in the scene and sustained injuries. The trial Court ought to have taken note of the contradiction about the place of occurrence to disbelieve the prosecution evidence.

8. To sustain the appeal, the learned counsels appearing for the appellants list out the following material flaws and contradictions in the prosecution case:-

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(i) The incident alleged to have occurred on 29.10.2016 between 03.00 p.m. and 04.00 p.m. Whereas, the F.I.R. was registered on 29.10.2016 at 23.45 hours and same was forwarded to the learned Judicial Magistrate only on the next day i.e., 30.10.2016 at 04.30 p.m.

(ii) As per the F.I.R., the first incident was at 03.00 p.m. was near the wine shop, and the second incident was at 04.00 p.m. near the Nondi Muni Kovil on the Killukottai to Keeranur Road. Ex.P12 is the Accident Register given to one Mathi (not examined). This exhibit is recorded at 05.30 p.m. at Keeranur Government Hospital. In Ex.P12, the place of occurrence is mentioned as Killukottai. Ex.P15 is the Accident Register issued by Thiruvarumbur Government Hospital for Arunkumar (P.W.1). In his Accident Register, it is mentioned that the incident happened at 04.30 p.m. near Killukottai bus stop. Whereas, to fix the place of occurrence as Nondi Muni Kovil, the prosecution has obtained a letter Ex.P13 from one Homeopathy Doctor, by name H.Allauddin, Proprietor of Dr.Miller Hospital and produced the same before the Court on 21.03.2017.



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(iii) In the letter marked as Ex.P13, it is stated that Ajeethkumar (P.W.3) came to the hospital for treatment at about 06.00 p.m. on 29.10.2016. After providing first aid, he was referred to Government Hospital, Trichy. The said Ajeethkumar had not gone to Government Hospital, Trichy, to take further treatment. The other injured witness Arunkumar (P.W.1) had not continued the treatment, but left the hospital without intimation, while he was admitted as inpatient. For a patient, who had left the hospital without intimation, opinion cannot be given. However, contrary to the guidelines, P.W.13 had given his opinion that the injuries on Arunkumar (P.W.1) is grievous in nature. Contrarily, the doctor in Thiruverumbur Government Hospital, who first treated Arunkumar, in his Accident Register, marked as Ex.P15, had opined that the injuries on Arunkumar are simple in nature. Veeramani (P.W.2), who claims that he sustained injury in the melee, was treated as outpatient for the simple injuries and left the hospital within two hours. Therefore, these three witnesses cannot be considered as injured witnesses to be placed on the higher pedestal while appreciating their evidence.

(iv) The evidence of P.W.1, P.W.2 and P.W.3 projects that after they sustained injuries, they all fled from the scene of occurrence leaving Karthikeyan

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in pool of blood. From the Accident Register (Ex.P15), it is seen that Arunkumar (P.W.1) was taken to the hospital by his father Thangaraj. Whereas, in his complaint Arunkumar has stated that he was taken to the hospital by one Shagayam. The said Shagayam not examined. Veeramani (P.W.2) was brought to the hospital by his uncle Balasubramanian and Ajeethkumar (P.W.3) gone to Dr.Miller Hospital on his own and left the hospital after getting first aid. Ajeethkumar and Veeramani admit in their cross examination that they did not tell to anyone about the incident nor reported to the Police. The other two persons, by name Aravind and Mathi whom the prosecution claims to have present and witnesses to the occurrence were not examined. There is no explanation about the two wheelers in which they came to Killukottai to pick quarrel with A1. Above all, who brought injured Karthikeyan to the hospital is mysterious.

(v) The learned counsels for the appellants contented that the contradiction about the place of occurrence is due to the suppression of the earlier information received by the Police and the shifting of real place of occurrence with an intention to falsely implicate the appellants/accused. The appellants were not at all in the alleged scene of occurrence. Karthikeyan a notorious murder case accused had several enemies. Killukottai wine shop is the place where persons



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from surrounding Villages used to come to buy liquor. Prior to the date of incident, there was Panchayat in the Village, since Ajeethkumar [P.W.3] misbehaved with the girl, who belong to the accused Village. The deceased and other witnesses P.W.1 and P.W.2 were present in the Panchayat in support of Ajeethkumar (P.W.3). The Investigating Officer failed to investigate the case from these angles, though he was aware of the fact that the deceased had many enemies in that area.

(vi) The learned counsels for the appellants further submitted that the trial Court has convicted the appellants on the sole ground that P.W.1 to P.W.3 are injured witnesses and their testimony is highly reliable. The trial Court has failed to take note of the conduct of the witnesses both before the occurrence and after the occurrence. The injuries they alleged to have sustained are simple in nature and unlikely to have caused with weapons like, M.O.1 and M.O.2. The contradiction about the description of the weapon and the place of occurrence ought to have weighed by the trial Court while appreciating the creditworthy of these witnesses.

(v) The trial Court failed to take note of the facts that P.W.1 to P.W.3 could not have been the occurrence witnesses. Even according to their evidence, they

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ran for their life when the assailants started attacking them. However, they were able to distribute the injuries to all the four accused even though there was only two weapons M.O.1 (Aruval) and M.O.2 (Sword). The postmortem certificate and the wound certificates of the injured persons indicates there were 5 kinds of following injuries.

(a) cut injuries

(b) abrasion injuries.

(c) stab injury (in Ex.P15 the word 'stab' with typo error been scored and written in hand as 'stab injury' and the doctor (P.W.13) had also initialled the correction and deposed the 3rd injury found on Arunkumar [P.W.1] is a stab injury on the back of the shoulder)

(d) lacerated injuries.

(e) contusion.

(vi) The trial Court failed to appreciate the admission of the Investigating Officer (P.W.16) that he did not examine the doctor, who admitted Karthikeyan in the hospital. He did not verify whether he was brought dead or alive to the



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hospital. In his enquiry, he could not ascertain who and at what time Karthikeyan was lifted from the scene of crime to the hospital. In the confession statements of the accused, overwriting above the signatures and scoring off seen. The signatures of the maker and scribe not found in each page of the confession statement.

9. Per contra, the learned counsel for the de-facto complainant and petitioner in Crl.R.C.(MD)No.218 of 2024 submitted that, for the occurrence happened at 04.00 p.m., the F.I.R. was registered on at 23.45 hours. The delay is not due to the lapse of the Police, but due to the fact that the injured persons were shifting the hospitals and not available in the hospital from where the Police received the intimation. The learned Judicial Magistrate, Keeranur, was on leave on 30.10.2016, hence, the F.I.R. was submitted at the residence of the in-charge Magistrate. The delay being well explained, the trial Court has considered these aspects and rejected the plea citing decisions of the High Courts. In this case, four persons injured and one person murdered. All the four injured persons had scattered in different directions to save their life. At about 08.00 p.m., the Police received intimation from Trichy Hospital, where P.W.1 was admitted for

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treatment. They reached the Hospital at 10.30 p.m. and recorded the statement of P.W.1 at about 11.00 p.m. Came back to the Station and recorded it at 11.45 p.m. These facts were considered by the trial Court and extracted in the judgment and held that there is no delay in lodging the complaint.

10. The learned counsel further submitted that the trial Court in fact ought to have imposed the maximum punishment for the proved charges of offences under Section 341 I.P.C. and 324 of IPC. The trial Court ought not to have altered the charge of Section 326 I.P.C. as 324 I.P.C. to punish A4, because the X-ray not marked to prove the fracture on the right parietal region.

11. In addition to the above argument, the learned Additional Public Prosecutor for the State, submitted that there is no reason for the injured witnesses to falsely implicate the accused persons. They are not aggressors, but went to the wine shop to know why A1 attacked Kartikeyan. The six cut injuries found on the body of the deceased Karthikeyan, four around the occipital region of the scalp and two on parietal region of the scalp speak for itself. Minor contradictions in the testimony of the eyewitnesses or the mistake in mentioning



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the weapon as iron rod earlier and reconciling it later had to be given due credit that the witnesses were struck with panic and were run for their life. While three out of five eyewitnesses been examined, it is not the quantity of the witnesses, it is the quality of the witnesses to be assessed. Thus, the learned Additional Public Prosecutor contended that, the assessment of the evidence and appreciation of the witnesses by the trial Court is in accordance with law and no error in the conclusion could be noted.

12. Heard the learned counsels. Records perused.

13. The point for determination is whether the trial Court properly appreciated the prosecution evidence to arrive at the decision of guilty.

14. There cannot be any second opinion about the principle that the injured witnesses are to treated on a higher pedestal, provided their evidence does not bristle with any tinkering of fact or embellishment. In the instant case, P.W.1 to P.W.3 are the witnesses, who claim to have sustained injuries and also seen the attack on the deceased Karthikeyan, who was accompanying them while returning back to their Village after the altercation with A1 and other in the wine shop.

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15. As far as the first incident, the altercation between A1 and the deceased in the wine shop at about 03.00 p.m, there are ample material to accept the prosecution case. Regarding the second incident, P.W.1, who is also happen to be the first informant had deposed that, at about 04.00 p.m. while returning back through Keeranur Road, they were intercepted by the accused persons. Chinnadurai (A1) hit Karthikeyan on the head with a sword. When Veeramani (P.W.2) tried to stop, A1 cut the hand of P.W.2 repeatedly. Krishnamoorthi @ Moorthi (A3) and Periyarasu (A2) together cut the left side head of Karthikeyan. (nature of the weapon not mentioned). Kandavel (A4) stabbed Ajeethkumar (P.W.3) on his right chest with the sword. Then, Kandavel cut P.W.1 on the forehead, both side shoulders, back and left hand with the sword. Chinnadurai (A1) cut Mathi with the sword. (seat of injury not mentioned).

16. While testing the veracity of these injured witnesses, it should also be borne in mind that 4 weapons used by the assailants as per the prosecution case. They are, M.O.1 (Aruval 1 No.) and M.O.2 series (swords 3 Nos.). Now, with the attribution of the overt act to each of the accused by P.W.1, it is necessary to



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compare it with the injuries sustained by the persons mentioned by P.W.1 to confirm whether the ocular evidence corroborated with the medical evidence.

17. The following three injuries were noticed on P.W.1 as per the Accident Register (Ex.P15):-

"(i) A cut injury of size 8 x 5 c.m. on the right fronto-parietal region of forehead.

(ii) An abrasion of size 3 x 3 c.m. on the anterior aspect of right shoulder.

(iii) A stab injury of size 3 x 2 x 2 c.m. on the posterior aspect of right shoulder."

18. The injured P.W.1 had attributed all the injuries he sustained to Kandavel (A4) and had deposed that with a sword A4 cut him on the forehead, both side shoulders, back of the torso and left hand. Except the first injury, i.e., cut injury with sword, on the right fronto-pareital region, for the abrasion injury and stab injury, there is no corresponding weapon or as to how it was caused. The stab injury on the posterior aspect of the right shoulder could not have been caused with sword. P.W.1 also not identified which sword among the three marked as M.O 2 series was used by A4 to attack him.

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19. In respect of the injuries on the deceased, P.W.1 attributes it to A1, A2 and A3. Though he had mentioned A1 used a sword to attack Karthikeyan, the witness had not mentioned the weapon used by A2 and A3 nor he had identified the weapon which was specifically used by A1, A2 or A3. However, he had spoken about the seat of attack on the deceased by A1, which substantially tallies with the postmortem report of the deceased Karthikeyan.

20. The other injured witness Veeramani (P.W.2) while deposing how he sustained the injuries, had said that the four accused restrained him and others near Nondi Muni Kovil. A1, A3 and A4 were carrying sword in their hands. A2 was carrying Aruval. A1 first attacked Kartikeyan with the sword on the head. When he tried to intervene, A1 cut his right hand with the sword. A2 and A3 hit Karthikeyan on his head repeatedly. A4 stabbed Ajeethkumar (P.W.3) on his right side chest. A4 attacked P.W.1 on the head and hands. When Mathi came there, A1 cut him on the back of the torso.

21. The Accident Register (Ex.P16) issued by the Thiruverumbur Government Hospital says, Veeramani (P.W.2) had sustained the following

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injuries-

"(i) A cut injury of size 3 x 5 x 2 c.m. on the dorsal aspect of right forearm.

(ii) A cut injury of size 1 x 3 x 1 c.m. on the vertex aspect of right forearm.

(iii) A contusion of size 3 x 3 x 2 c.m. on the left forearm."

While the injured (P.W.2) had deposed that A1 attacked him with sword once, the medical record reveals P.W.2 had sustained three injuries. Two cut injuries and one contusion injury. The above injuries on P.W.2 and his ocular evidence does not tally. Except one injury attributed to A1, neither P.W.2, who is the injured nor P.W.1 and P.W.3, who claim themselves present at the scene, had spoken about the second and third injuries. Particularly, the injured P.W.2 could not explain how he sustained the third injury, which is a contusion injury on the left forearm.

22. Yet another injured witness Ajeethkumar (P.W.3) had deposed that at about 04.00 p.m., when they were returning, A1 to A4 intercepted them near Nondi Muni Kovil. A1, A3 and A4 were carrying sword. A2 was carrying an Aruval. Karthikeyan was attacked by A1 on the head with sword. When



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Karthikeyan fell down, A2 and A3 repeatedly attacked Karthikeyan with swords on the head. Kandavel (A4) attacked him with the sword on the right side chest.

23. Ex.P13 is the letter issued by P.W.11 Dr.Mohamed. This letter indicates Ajeethkumar, S/o.Bala Dhandayutham, aged 18 years, came for treatment for his injury near the right side shoulder collar bone. He gave first aid to Ajeethkumar. In his opinion, the injury was simple in nature. Except the seat of injury, P.W.11 had not mentioned the kind of injury. The Medical Certificate (Ex.P11) alleged to have issued on 29.10.2016 at 06.00 p.m. does not corroborate the ocular evidence of the injured (P.W.3). If really, P.W.3 was attacked by sword on his chest and got injured, he would have gone to a proper hospital to get treatment from a qualified medical professional to treat the injury and not to a Homeopathy Doctor. The letter (Ex.P13) is not a worth document for the purpose to decide the kind of the injury alleged to have been sustained by P.W.3. In the absence of any evidence, it is prudent to hold that P.W.3 had not sustained injury.

24. While all the three witnesses had uniformly deposed that when A1 to A4 restrained them near Nondi Muni Kovil, they saw A1, A3 and A4 holding

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swords in their hands and A2 holding Aruval. While attributing overt act to each of the accused, they had deposed that A2 along with A3 attacked the deceased with sword. The said contradiction creates doubt whether A2 had Aruval or Sword to attack the deceased. It also add some doubt whether these witnesses were really present and witnessed when Karthikeyan was attacked or fled soon after they were intercepted by a armed gang.

25. In the Accident Register of P.W.1 (Ex.P15), it is mentioned that the injured told that he was attacked by known persons with Aruval. In the Accident Register of P.W.3 (Ex.P13), it is mentioned that he was attacked by four known persons with Aruval and iron rod. In the Accident Register of Mathi [Ex.P12], who was one of the injured persons as per the prosecution, but not examined, it is recorded that it was informed that he was attacked by Aruval and stick. Though the discrepancies found in the Accident Register regarding the assault history are not substantial to test the veracity of the injured witnesses, it's reliability need to be considered. More so, when the prosecution has failed to examine the persons who brought P.W.1 and P.W.2 to the hospital and none of these witnesses could identify the exact weapon, which was used by the respective accused. To add

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more doubt the Recovery Mahazars (Ex.P6 and Ex.P7) for the Aruval and one of the swords, based on the confession statement of A2 and A4, respectively, there are material corrections about the description of the weapon's size. The alteration by overwriting apparently not done at the time of preparing the said Mahazars or in the presence of the witnesses. Who made those corrections regarding the size of the weapons stands unexplained.

26. In this case, many injuries on the witnesses could not be explained through the ocular evidence of the respective injured. The weapon used to attack them not identified by them in the Court. For most of the injuries on their body the weapon mismatches. Failure to produce X-ray to prove that P.W.1 sustained fractured injury, the conduct of P.W.1 to P.W.3 not continuing treatment after creating record for the injuries and history of assault makes the case of the prosecution extremely unbelievable.

27. In the said background, the delay in forwarding the express F.I.R. to the Court gains significance. Though the learned Judicial Magistrate has written in the copy of the F.I.R. that it was produced at his residence on 30.10.2016 at 04.30

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p.m., the seal of the Judicial Magistrate Court is on 01.11.2016. The witnesses P.W.1 to P.W.3, who were able to say about the injuries caused to the deceased, but not able to say about the injuries they sustained. Therefore, P.W.1 to P.W.3 are to be classified as interested witnesses and cannot be placed on the higher pedestal as injured witnesses. If the evidence of P.W.1 to P.W.3 is not wholly reliable, then, the other evidence must lend adequate corroboration to the prosecution case. In the instant case, we find no sufficient corroboration to hold these appellants guilty of causing the death of Karthikeyan or causing the injuries that were noted on P.W.1 to P.W.3.

28. As argued by the learned counsels for the appellants, firstly Karthikeyan (the deceased), who was in the wine shop at Killukottai, had indulged in quarrel. Later, in support of the deceased, P.W.1 to P.W.3 had come to the wine shop. The quarrel had turned into group clash between the members of two Villages. As a consequence, Karthikeyan done to death. The nature of injuries and the seat of attack clearly indicates that multiple cut injuries were caused on the scalp with intention to cause his death. P.W.1 to P.W.3 had deposed they were present when A1 to A4 attacked the deceased. Further, they have deposed that

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with the same weapons they were also attacked. However, as discussed above, the injuries noted and the weapons to a large extent mismatches. These witnesses had not identify the weapons used to attack them, either earlier or before the Court when they deposed. Even P.W.1 through whom the weapons marked, had not identified which weapon carried by A4 to attack him. The witnesses to recovery of these weapons nor the Sub-Inspector of Police, who recovered the weapons had identified and correlated the weapons and the accused from whom it was recovered on disclosure of the fact while confessing.

29. In the light of the above reasons, there are many reasonable doubts in the prosecution case. Hence, this Court holds that the conviction cannot sustain based on surmises and the unreliable evidence of P.W.1 to P.W.3, which bristles with material contradiction.

30. In fine, the Criminal Appeal is allowed. The conviction and sentences imposed on the appellants/A1 to A4, by judgment dated 13.12.2019, in S.C.No.96 of 2017, by the learned Sessions Judge / Fast Track Mahila Court, Pudukottai, is set aside and they are acquitted from all the charges. Bail bonds stand cancelled.

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Fine amount already paid, if any, shall be refunded to them. Consequently,
Crl.R.C.(MD)No.218 of 2024 stands dismissed.

Index : Yes
NCC : Yes
smn2

[G.J., J.] & [C.K., J.]
13.03.2024

To

- 1.The Sessions Judge (FAC),
Mahila Court,
Pudukkottai.
- 2.The Inspector of Police,
Udayalipatti Police Station,
Pudukkottai District.
- 3.The Section Officer,
Criminal Records,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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DR.G.JAYACHANDRAN, J.
and
C.KUMARAPPAN, J.

smn2

PRE-DELIVERY COMMON JUDGMENT MADE IN
Crl.A.(MD)No.51 of 2020
and
Crl.R.C.(MD)No.218 of 2024

13.03.2024