



CRL.A(MD).No.49 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 20.11.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CRL.A(MD).No.49 of 2019

Durairaj

... Appellant/Sole Accused

Vs.

The State rep by,
The Inspector of Police,
S.S.Colony Police Station,
Madurai District.
(In Crime No.596 of 2016)

... Respondent/Complainant

Prayer : This Criminal Appeal is filed under Section 374(2) of Cr.P.C., to call for the judgement dated 31.01.2019 made in S.C.No.26 of 2018 on the file of the I Additional District and Sessions Judge, Madurai, and set aside the same.

For Appellant	: Mr.S.Karthick Subramanian
For R1 & R2	: Mr.M.Sakthi Kumar, Government Advocate (Crl.Side)



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JUDGMENT

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This appeal has been filed to set aside the judgment and conviction passed by the learned I Additional District and Sessions Judge, Madurai, in S.C.No.26 of 2018, dated 31.01.2019.

2.The appellant, who is the sole accused in S.C.No.26 of 2018 on the file of the learned I Additional District and Sessions Judge, Madurai, has filed this appeal, challenging the conviction and sentence imposed on him for the offence under Section 3(1) of TNPPDL Act, by the impugned order dated 31.01.2019.

3. Prosecution Case:-

According to the prosecution, on 29.05.2016, at around 10.20 p.m, the appellant threw a stone on the front glass of the government bus, which was driven by P.W.1, the driver of the bus and caused damaged to the front glass. P.W.1 & P.W.2 conductor of the bus and the other villagers caught the accused red-handed and produced him before the respondent police. P.W.2 gave a complaint to P.W.7 and P.W.7 registered a case for the offences under Section 3(1) of TNP(PDL) Act. Thereafter, he conducted investigation by examining a number of witnesses and also prepared the



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observation mahazar and sketch. Thereafter, he produced the accused before the learned Judicial Magistrate and continued the investigation. After completion of investigation by obtaining the Damage Certificate and other examination of the witnesses filed the final report before the learned I Additional District and Sessions Judge, Madurai, for the offence under Section 3(1) of TNPPDL Act. The learned trial Judge took the final report on file in S.C.No.38 of 2013..

4.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.

5.To prove the case, the prosecution examined P.W.1 to P.W.7 and marked Exs.P.1 to P.8 and produced the material objects MO.1 & MO.2. Thereafter, the appellant was questioned under Section 313 Cr.P.C., proceedings putting the incriminating materials available on record in the prosecution evidence and documents, against him and he denied the same as false and on the side of the defence no witness was examined and no document was produced.



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6. The learned trial Judge considering the evidence convicted the appellant under Section 3(1) of the TNPPDL Act and sentenced him to undergo 1 year Rigorous Imprisonment and imposed the fine of Rs.5,000/- with default sentence of 3 months Simple Imprisonment by the impugned judgment dated 31.01.2019.

7. Challenging the above said conviction and sentence, the petitioner has preferred this present criminal appeal.

8. The learned counsel for the appellant submitted that the appellant is not involved in this occurrence and no motive is attributed as against him. In every case, the motive and the execution of offence ought to be proved by the prosecution. But, in this case, the prosecution has not proved the same. In Ex.P.2, there is reference about some antisocial elements and hence, the appellant was wrongly implicated in this case. The independent witnesses were treated as hostile witnesses and only on the basis of interested testimony of P.W.1 and P.W.2, conviction was recorded. He also high lighted the variations in the complaint and also stated that the accused has no previous antecedents and only on the provocation since P.W.1 drove the bus continuously honking the horn, the incident happened. Therefore, he seeks reduction of sentence in the event of this Court not inclining to accept the above argument on merits.



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9. The learned Additional Public Prosecutor on instructions and upon perusal of the records has submitted that P.W.1 and P.W.2 are the competent witnesses to speak about the damages caused to the bus as conductor and driver of the bus. The said evidence corroborated with the Damage Certificate issued by the Competent Authority under Ex.P.2. The learned trial Judge considered all the evidence and rightly convicted the appellant and the contradictions projected by the learned counsel for the appellant is not a material and hence, he seeks to confirm the conviction and sentence of imprisonment imposed against him.

10. This Court perused the records and the impugned judgment passed by the learned trial Judge.

11. From the evidence of P.W.1 and P.W.2, it is clear that the appellant caused damages to the front glass of the government Corporation Bus on 29.05.2015 at 10.30 p.m, near the Mapalayam, Archana Hotel, Madurai, and attempted to escape from the scene of the occurrence. P.W.1 and P.W.2 and other public nabbed him and P.W.7 registered a case and arrested him. P.W.7 conducted investigation and recovered a stone, which was marked as MO.1 and also obtained the Damage Certificate and



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produced the same before the Court, which was marked as Ex.P.2. The broken glasses also was marked as material object MO.2. P.W.1 and P.W.2 have no motive against the appellant and they are the government servants. Their evidence are cogent and trustworthy and there is no reason to disbelieve their version and nothing was elicited to reject their testimony. Their evidence also corroborated with the other materials. Even though some contradiction was projected by the learned counsel for the appellant, this Court finds that there is no contradiction at all. According to P.W.1, he subscribed his signature to the complaint and he has not deposed about the writing of complaint. P.W.1 alone wrote the complaint and P.W.2 has subscribed his signature. In this aspects, this Court finds no contradiction at all. The involvement of the accused/appellant is proved through P.W.1 and P.W.2 and he also was immediately nabbed by P.W.1 and P.W.2. Therefore, the prosecution clearly proved the charged offence under Section 4(1) of TNPPDL Act. Hence, the learned trial Judge correctly convicted the appellant for the offence under Section 4(1) of TNPPDL Act.

12.Considering the facts that the appellant got irritated due to the honking of the horn continuously by P.W.1 while driving the bus, threw a stone and caused damages and the petitioner has no previous antecedent,



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this Court is inclined to partly allow this appeal. Accordingly, this Criminal

Appeal is partly allowed on the following terms:-

i) The conviction passed by the trial Court for the offence under Section 4(1) of TNPPDL Act, is confirmed.

ii) The sentence of 1 year Rigorous Imprisonment for the offence under Section 4(1) of TNPPDL Act, is reduced to the period, which was already undergone by the appellant.

iii) The fine amount is enhanced from Rs.5,000/- to Rs.15,000/- with default sentence of 3 months Simple Imprisonment. Since, the appellant has already paid the fine amount of Rs.5,000/-, he is directed to pay remaining amount of Rs.10,000/- on or before 13.12.2024 and if the appellant fails to pay the enhanced fine amount, the learned trial Judge is directed to secure him for undergoing the default sentence of 3 months simple imprisonment.

20.11.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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K.K.RAMAKRISHNAN,J.

dss

To

1. The I Additional District and Sessions Judge,
Madurai,
2. The Inspector of Police,
S.S.Colony Police Station, Madurai 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.

Order made in
CRL.A(MD).No.49 of 2019

20.11.2024