



Crl.A.No.63 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2025

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THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

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P.Yuvaraj

... Appellant

Vs

State represented by
Inspector of Police,
J-6 Thiruvanmiyur Police Station,
Chennai.

...Respondent

PRAYER : Criminal Appeal has been filed under Section 374(2) of the Code of Criminal Procedure, to set aside the Conviction and Sentence imposed on the Appellant/Accused-2 by a Judgment dated 30.11.2022 in the above SC.No.349 of 2017 on the file of the VI Additional Sessions Judge, Chennai.

For Appellant : Mr.G.Ashok Kumar

For Respondent : Mr.S.Raja Kumar

Additional Public Prosecutor

JUDGMENT

This Criminal Appeal has been filed as against the order passed in SC.No.349 of 2017 dated 30.11.2022 by the VI Additional Sessions Judge, Chennai, thereby convicting the appellant for the offences punishable under Sections 452 and 307 of IPC.



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2. The case of the prosecution is that there are two accused, in which

the appellant is arrayed as A2. Both the accused are friends as well as relatives.

They are engaged in flower vending business at Mangaleri market, Thiruvannamiyur Chennai. The victim and his wife are also carrying on the same business. In the course of their respective flower vending businesses, enmity developed between them. With an intention to do away with the life of the victim, on 06.07.2017, at about 02.30 p.m, both the accused trespassed into the house of the victim and attacked him with a knife. The first accused also shouted that “if you are alive, you will not allow us to do flower vending business”. Therefore, the victim sustained injury on his left little finger. Hence, the complaint.

3. On receipt of the complaint, the respondent registered FIR in Crime No.2275 of 2017 for the offences punishable under Sections 452 and 307 of IPC. After completion of investigation, final report was filed and the same was taken cognizance by the Trial Court in SC.No.349 of 2017.

4. In order to bring home the charges, the prosecution had examined PWs.1 to 11 and marked Exs.P1 to 27. The prosecution had produced material



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objects which were marked as M.O.1 to M.O.4. On the side of the accused, no one was examined and no document was marked. On perusal of oral and documentary evidence, the Trial Court found the accused guilty for the offences punishable under Section 452 of IPC and sentenced him to undergo five year rigorous imprisonment and also imposed fine of Rs.1,000/-, in default, to undergo three months simple imprisonment. He was also convicted for the offence punishable under Section 307 of IPC and sentenced him to undergo five years rigorous imprisonment and also imposed fine of Rs.1,000/-, in default, to undergo three months rigorous imprisonment. Aggrieved by the same, the present appeal.

5. The learned counsel for the appellant would submit that the first accused had also filed an appeal and during the pendency of the appeal, he died. Insofar as the appellant is concerned, he was arrayed as second accused and even according to the case of the prosecution, he merely accompanied the first accused. The appellant did not assault the victim, he only accompanied A1. The victim died during course of the trial and as such, he was not examined by the prosecution. His wife was examined as an eye witness. Except PW1, there is no other witness to corroborate her evidence. In fact, PW.2 turned



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hostile and failed to support the case of the prosecution. The Doctor, who examined the victim was examined as PW.10 and opined that the injuries sustained by the victim are simple in nature. Even according to the case of the prosecution, the first accused assaulted the victim by two attacks, for which the victim sustained injuries on his head and left little finger. Both the injuries are declared to be simple in nature. Therefore, the prosecution failed to prove the charges beyond any reasonable doubt. Hence, the benefit of doubt goes in favour of the appellant.

6. Per contra, the learned Additional Public Prosecutor appearing for the respondent Police would submit that, though the victim was not examined, his wife was examined as PW.1, who is an eye witness to the occurrence. She categorically deposed that the accused attacked the victim and as such, he sustained injuries on his head and left little finger. The Doctor also deposed to that effect and as such, the prosecution had categorically proved the charges and the Trial Court had rightly convicted the appellant and it does not warrant any interference by this Court.



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7. Heard the learned counsel on either side and perused the materials

available on record.

8. There were two accused, in which the appellant is arrayed as A2.

The first accused died during the trial without giving any evidence. The first accused had enmity with the victim with regard to their flower vending business. On the date of occurrence, the first accused along with the appellant, trespassed into the house of the victim and attacked with a knife. PW.1 deposed that the first accused assaulted the victim twice with a knife, as a result of which the victim sustained injuries on his head and left little finger. As far as the appellant is concerned, he just accompanied the first accused and he had no previous enmity with the victim, though he was also one of the relatives of the victim.

9. Unfortunately, during trial, the victim died due to illness. The victim was taken to the hospital and the Accident Register was recorded by the Medical Officer. The Accident Register was marked as Ex.P13. It was the first document prepared immediately after the occurrence. In the Accident Register the victim had stated that he was attacked by four male known persons near



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Thiruvannmiyur Bus Depot. It is completely contradictory to the evidence of

PW.1. According to PW.1, both the accused trespassed into the house of the victim and attacked with a knife. Further, the Doctor, who examined the victim was examined as PW.10. However, the prosecution failed to produce and mark the wound certificate in order to prove the injuries sustained by the victim. Only an opinion form was marked as Ex.P14, which does not disclose the nature of injuries or the treatment given to the victim. According to the prosecution, the victim was admitted into the hospital as an in-patient and the next day, viz., 07.07.2017, he was discharged from the hospital. However, there is no medical record to prove the same. Therefore, the entire case of the prosecution is not at all believable one and the prosecution failed to bring the charges to home by any evidence. Without considering the facts and circumstances, the Trial Court had mechanically convicted the appellant.

10. In criminal jurisprudence, the burden is always on the prosecution to prove its case beyond reasonable doubt. When two views are possible and the one favourable to the accused is equally plausible, the benefit of doubt must necessarily go to the accused. In the present case, the prosecution has failed to discharge its burden convincingly, and the trial Court failed to properly



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appreciate the infirmities in the prosecution case. Therefore, the conviction and sentence awarded by the trial Court cannot be sustained and is liable to be set aside.

11. Accordingly, the Judgment passed in SC.No.349 of 2017 dated 30.11.2022 passed by the VI Additional Sessions Judge, Chennai, is hereby set aside. The appellant is acquitted from all charges in SC.No.349 of 2017 for the offences under Sections 452 and 307 of IPC. The appellant is directed to be set at liberty forthwith unless his custody is otherwise required in connection with any other case. The fine amount, if any, paid by the appellant shall be refunded. Bail bond, if any, executed by the appellant shall stand cancelled.

12. In the result, this Criminal Appeal is allowed.

14.08.2025

Speaking order/Non-speaking order
Index :Yes/No
Internet :Yes/No
mn



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G.K.ILANTHIRAIYAN, J.

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To

1. The VI Additional Sessions Judge, Chennai.
2. The Inspector of Police,
J-6 Thiruvanmiyur Police Station,
Chennai.
3. The Public Prosecutor,
High Court, Madras.

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