



Crl.A.No.82 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2025

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THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.A.No.82 of 2022

Kannan

... Appellant

Vs.

The State Represented by
The Inspector of Police,
Veeraganur Police Station,
Salem District - 636 116.
(Crime No.171 of 2016)

... Respondent

PRAYER : Criminal Appeal filed under Section 374 (2) of Code of Criminal Procedure, pleased to call for the records and set aside the order passed in S.C.No.327 of 2017 on the file of the learned Sessions Judge, Magalir Neethimandram (Mahila Court),Salem, dated 06.12.2021.

For Appellant : Mr.R.Sankara Subbu

For Respondent : M/s.Archana J.R
Government Advocate
(Criminal side)



Crl.A.No.82 of 2022

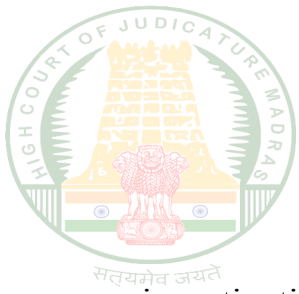
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JUDGMENT

This appeal is directed against the conviction and sentence imposed on the appellant by judgment dated 06.12.2021 in S.C.No.327 of 2017 on the file of the learned Sessions Judge, Magalir Neethimandram (Mahila Court), Salem.

2.By the said judgment, the appellant was found guilty of the offences under Section 324 and 307 of Indian Penal Code and was sentenced to undergo rigorous imprisonment for a period of three years for the offence under Section 324 Indian Penal Code and for ten years with reference to offence under Section 307 Indian Penal Code and to pay a fine of Rs.2000/- and in default to undergo additional rigorous imprisonment for a period of one year. At the outset, it is stated that the accused had undergone imprisonment for more than five years and fine amount of Rs.2000/- is also paid.

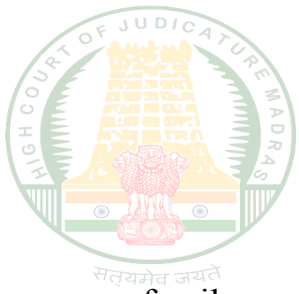
3.On 08.11.2016, P.W.1, Kala who was admitted in the hospital and was undergoing treatment gave a statement to P.W.13, the Sub Inspector of Police, Veeraganur Police Station. Based on which a case in Cr.No.171 of 2016 was registered under Section 436 and 307 of Indian Penal Code. Thereafter, the



Crl.A.No.82 of 2022

investigation was completed and final report was laid for the offences under Section 436, 324 and 307 of Indian Penal Code. In order to substantiate the case the prosecution examined P.W.1 to P.W.13 and marked Ex.P1 to P15 and M.O.1. Thereafter, the accused was questioned under Section 313 of Cr.P.C, he denied the guilt and no evidence was let in on behalf of the defence. Thereafter, the trial Court considered the evidence on record and concluded that the offence under Section 436 was not proved and acquitted the accused in respect of the said charge. On the basis of the evidence of P.W.1, the injured witness and the corroborating evidence, the trial Court found the accused guilty of the offence under Section 324 and convicted him to undergo a sentence of three years rigorous imprisonment. On the basis of the injuries that were inflicted on P.W.3 Kaliyan, the trial Court convicted the appellant for the offence under Section 307 of Indian Penal Code and imposed a sentence of rigorous imprisonment for a period of ten years along with a fine of Rs.2000/-. Aggrieved by the same, the present appeal is filed.

4.Mr.R.Sankara Subbu, the learned counsel appearing on behalf of the appellant would submit that from the very nature of occurrence it can be seen that there is a wordy quarrel between the grand son and the grand father and the other

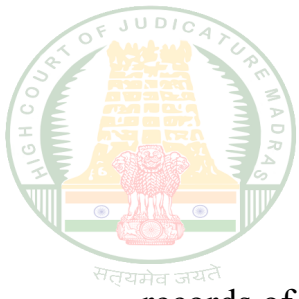


Crl.A.No.82 of 2022

family members. Only because the grand father refused to get the appellant married and in turn admonished him to go for some work, enraged in the fury, it is stated that the petitioner attacked P.W.1 as well as P.W.2 and P.W.3. It can also be seen that there was no injury at all to P.W.2. On overall consideration of the evidence, it can be seen that at no point of time there was any intention to do away with P.W.1, P.W.2 or P.W.3. Even the injuries was not of such nature, further more serious injuries are said to have happened on the person of P.W.3, who turned hostile. Therefore, the trial Court erred in convicting the appellant for the offence under Section 307 of the Indian Penal Code and accordingly this Court should interfere.

5.Per contra, the learned Government Advocate (Criminal Side) would submit that in this case, the accused had attacked with MO1 knife and therefore, the injuries are serious in nature. Considering the grievous nature of injuries the accused has rightly been charged under Section 307 also and he also uttered the words that he will kill P.W.3 upon coming out and therefore would submit that there is nothing for this Court to interfere in the matter.

6.I considered the rival submissions on either side and perused the material

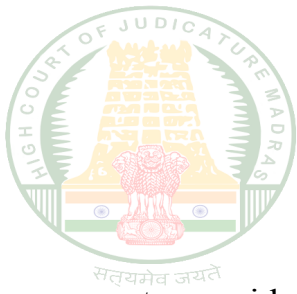


Crl.A.No.82 of 2022

records of the case.

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7.Firstly, since the appellant has undergone sentence for about more than five years, the learned counsel for the appellant would mainly focus his argument on the findings relating to the offence under Section 307 of the Indian Penal Code. In this case it can be seen that the offence is charged based on the deadly attack that is said to have been committed on the person of P.W.3. P.W.3 in this case had turned hostile. More so, it can be seen that the parties are related to each other. The motive as per the prosecution case, is that, on an earlier occasion and for sometime the appellant has been insisting the P.W.3 that he should get the appellant married. However, considering the fact that the appellant did not have any regular work and proper job to do, the same was being refused by P.W.3. It is in that context that the occurrence had taken place. Therefore, certainly it can be held that there cannot be any premeditated intention for the appellant to do away with P.W.3 or for that matter P.W1 and P.W.2 who were injured only because they came to the scene of occurrence during the altercation. Even with reference to the nature of injuries and the manner of attack when P.W.3 has become hostile and the prosecution has not proved beyond doubt that the attack was deadly so as



Crl.A.No.82 of 2022

to consider it only as a case of attempt murder.

8.In view thereof I hold that the said offence can at best be again an offence under Section 324 of Indian Penal Code and since the accused had undergone imprisonment for a period of more than five years, I impose a sentence of the period already undergone, accordingly modifying the judgment of the trial Court, this Crl.A.No.82 of 2022 is allowed in part on the following terms:-

i)The conviction and sentence imposed on the appellant in respect of the offence under Section 324 is upheld.

ii)The conviction of the accused under Section 307 I.P.C is also modified as to one under Section 324 of the Indian Penal Code and the accused is imposed with the sentence of imprisonment of period already undergone and fine amount of Rs.2000/- which is already paid.

05.06.2025

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Neutral citation : Yes/No



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Crl.A.No.82 of 2022

To

- 1.The Inspector of Police,
Veeraganur Police Station,
Salem District - 636 116.
- 2.The Sessions Judge,
Magalir Neethimandram (Mahila Court),
Salem.



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Crl.A.No.82 of 2022

D.BHARATHA CHAKRAVARTHY, J.

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Crl.A.No.82 of 2022



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Crl.A.No.82 of 2022

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