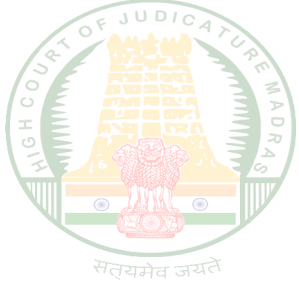




IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-07-2025

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THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL.R.C.No.1214 of 2012

M.Shanmugam

Petitioner

Vs

1. Krishnan

2. Duraisamy

3. Boopathy

4. Sathyaraj

5. Prakash alias Kallan

6. Vijayan



7. Balamurugan

8. Manickam

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9. Arthanari

10. Chinnaiyan alias Rangasamy

11. State by: Inspector of Police

Vennandhur Police Station,
Namakkal District.
(Crime No.47 of 2005)

Respondents

PRAYER: Criminal Revision Petition filed under Sections 397 & 401 of Criminal Procedure Code, to call for the records and set aside the Judgment passed in C.A.No.76 of 2010 on the file of the Additional District Sessions Judge, Namakkal by Judgment dated 10.07.2012 reversing the Judgment passed in S.C.No.40 of 2006 on the file of the Chief Judicial Magistrate, Namakkal dated 28.07.2010

For Petitioner : Mr.B.Vasudevan

For Respondents : Mr.M.Elango,

For R1 to R10.



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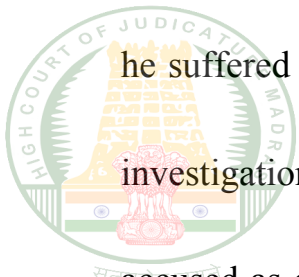
Ms.J.R.Archana,
Government Advocate,
for R11.



ORDER

By a judgment dated 20.05.2025 made in CrI.A.No.2706 of 2025, the Hon'ble Supreme Court of India set aside the earlier order passed in this Criminal Revision case and remanded the matter back. Since, originally in the revision that is filed by the P.W.1/victim, this Court had upturned the finding of acquittal into one as conviction, Hon'ble Supreme Court of India set aside the judgment and remanded the matter back again for fresh consideration on merits in accordance with law. Under the said circumstances, this Criminal Revision Case is taken up for final hearing.

2.The case of the prosecution is that the ten accused who are prosecuted in the case as well as P.W.1 the injured witness/first informant were all relatives and a land dispute was there between the parties. While so, on 17.02.2025 at about 11.30 p.m. on account of the previous enmity, the accused 1 to 5 assembled in front of the house of the P.W.1 Shanmugam armed with iron rods and other deadly weapons. The cement shed in front of the accused house was damaged and destroyed and the other five accused also joined them and the accused also injured the witness P.W.2 Ramasamy by hitting him on his hands causing grievous injuries as

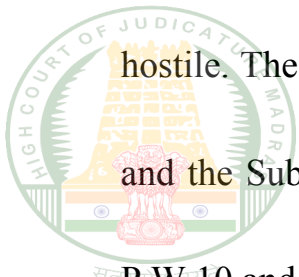


he suffered fracture. In view of the same a case was registered in Cr.No.47 of the investigation was completed by P.W.11 and final report was filed proposing all the ten accused as guilty of the offence punishable under Section 147, 148, 149 read with Section 3

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(1) of the Tamil Nadu Prevention of Damage to Public Property Act, 324 and 506 (ii) of the Indian Penal Code and for the offence under Section 326 I.P.C. The case was taken on file as P.R.C.No.12 of 2005 by the learned Judicial Magistrate, Rasipuram, and upon appearance of the accused and furnishing of copies, the case was committed and was taken on file as S.C.No.40 of 2006. Ten charges were framed against the accused depending on their overt act for the alleged offences under Section 147, 148, 149, 326, 324, 506 (ii) of Indian Penal Code and Section 3 (i) of the TNPPD Act. All the accused denied the charges and stood trial.

3. The prosecution in order to bring home the charges, examined the petitioner herein namely Shanmugam who is the first informant as P.W.1. The injured witness Ramasamy was examined as P.W.2. The other injured witness Tirumurugan was examined as P.W.5. One Mani who was the eye witness to the incident was examined as P.W.3. The Doctor who treated the injured witnesses was examined as P.W.4. The witness to the seizure mahazar and observation mahazar namely one Ramesh was examined as P.W.6. The photographer who took pictures of the scene of occurrence namely one Varadarajan was examined as P.W.7. The other eye witness to the incident one Kandasamy was examined as P.W.8 who turned



hostile. The Head Constable who registered First Information Report was examined

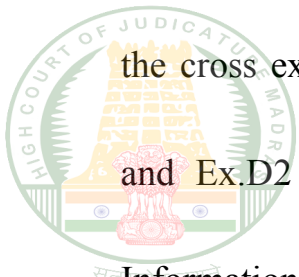
and the Sub-Inspector of Police who initially conducted part investigation was examined as

P.W.10 and the Inspector of Police was examined as P.W.11.

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4. On behalf of the prosecution the complaint was marked as Ex.P1. AR copies in respect of both the injured witnesses were marked as Ex.P2 and Ex.P3 respectively. Wound certificate issued to one of the injured witness Ramasamy and the x-ray were marked as Ex.P4 and Ex.P5. Observation Mahazar was marked as Ex.P6. Recovery mahazar was marked as Ex.P7. The First Information Report was marked as Ex.P8 and the rough sketch was marked as Ex.P9. The bamboo stick, wooden log, iron rods used were produced as MO1 to M.O.4. The destroyed parts and the cement sheds etc., were marked as M.O.5 and M.O.6. The other stones etc., that were used by the accused at the scene of occurrence were produced as M.O.7 to M.O.9. The fuse carriers, switch box, motor parts that were damaged were produced as M.O.10 to M.O.12. The X ray was produced as M.O.13. The photographs and the negatives were produced as M.O.14 and M.O.15.

5. Questioned about the incriminating evidence on record under Section 313 Code of Criminal Procedure, the accused denied the evidence as false. Thereafter, no witnesses were examined on behalf of the defence. However, during the course of trial Ex.D1 to Ex.D4 were marked in



the cross examination. Ex.D1 is the wound certificate given to one of the acc yan

and Ex.D2 is the wound certificate given to one of the accused Boopathy. The First

Information Report registered in the counter case in Cr.No.48 of 2005 was marked as Ex.D3

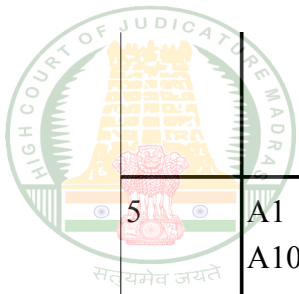
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and the complaint that was given by Boopathy in that case was marked as Ex.D4. The trial

Court considered the case of the parties and after hearing the learned counsels on either side

found all the accused guilty for the various charges and imposed the sentence as follows:-

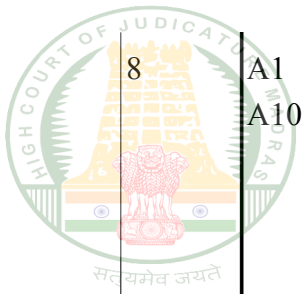
SI No.	Accused	Offence	Sentence
1	A1, A2, A5, A7 to A10	147 I.P.C.	Sentenced to undergo Rigorous imprisonment for a period of 6 months
2	A3, A4 and A6	148 I.P.C	Sentenced to undergo Rigorous Imprisonment for a period of one year
3	A3	324 I.P.C	Sentenced to undergo Rigorous Imprisonment for a period of two years
4	A1, A2, A4 to A10	324 I.P.C r/w 149 I.P.C.	Sentenced to undergo Rigorous Imprisonment



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			for a period of two years
5	A1 to A10	506 (ii) I.P.C.	Sentenced to undergo Rigorous imprisonment for a period of two years
6	A6	326 I.P.C.	Sentenced to undergo Rigorous Imprisonment for a period of three years and pay a fine of Rs.1000/- in default to undergo Simple Imprisonment for a period of three months
7	A1 to A3, A5, A7 to A10	326 r/w 149 I.P.C	Sentenced to undergo Rigorous Imprisonment for a period of three years and pay a fine of Rs.1000/- each in default to undergo Simple Imprisonment for three months



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8	A1 to A10	Under Section 3 (1) of TNPPD Act	Sentenced to undergo Rigorous Imprisonment for a period of 4 years and pay a fine of Rs.1000/- each in default to undergo Simple Imprisonment for six months
Ordered the above sentences imposed on the respondents/accused 1 to 10 are to run concurrently			

6.As against the said judgment the accused preferred Criminal Appeal No.76 of 2010 which was allowed and all the accused were acquitted of the offences. Since, no appeal was filed on behalf of the prosecution, P.W.1/defacto-complainant has preferred this revision.

7.The learned counsel appearing on behalf of the petitioner would submit that with reference to the offence under Section 3 (1) of the Tamil Nadu Public Property Damage Act, it can be seen that P.W.1 and also the injured witnesses P.W2 and P.W.5 and the eye witness to the incident P.W.3 have all deposed categorically about the deadly attack that was made by the



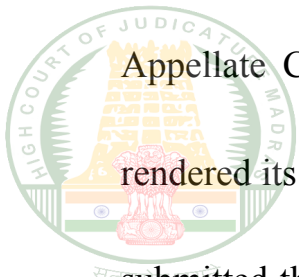
accused persons and the motor parts, switch board and the parts of the sh were damaged were all produced as M.O.'s. Therefore, it has been categorically proved that the

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accused all unlawfully assembled and has a mob damaged the property belonging to the petitioner. Therefore, the findings of the appellate Court that the accused is not guilty of the offence under Section 3 (1) of the TNPPD Act is absolutely perverse and therefore this Court should interfere in the matter.

8. Similarly, with reference to the offence under Sections 324 and 326 I.P.C. both the injured witnesses have been examined. The wound certificate were marked. The accident register copies were also marked. The Doctor who gave the treatment was also examined as P.W.4. The X-ray sheets were also produced and marked as Ex.P5 as well as M.O.13. The concerned witness withstood the cross examination and deposed about the attack and therefore the said offences were also proved by prosecution beyond any reasonable doubt. The threats that were made followed by the deadly attack were all vividly spoken to by the prosecution side witness and therefore in this case absolutely there is no justification at all for the appellate Court to have acquitted the accused and therefore would plead that this Court should set aside the judgment and remand the matter back for fresh consideration.

9. Per contra, the learned counsel appearing on behalf of the accused would submit that the



Appellate Court in exercise of its appellate jurisdiction has reappraised the and rendered its findings. The appellate Court had considered the fact that the prosecution has not submitted the damage verification report in respect of the offence under Section 3 (1) of the

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TNPPD Act. On that ground had granted the benefit of doubt. The appellate Court has taken into account the material contradictions in the oral evidence of the injured witnesses as well as the P.W.1/Shanmugam and taken the same into account for acquitting the accused in respect of the other offences. It can be seen that the prosecution did not explain the injury to the other accused also and there was flaw with reference to the investigation in the counter case. Therefore, when the appellate Court has appraised the evidence in detail and has rendered its finding, this Court need not exercise the revisionary jurisdiction at the instance of P.W.1 especially at this belated point of time.

10.The learned Government Advocate (Criminal side) would assist the Court by bringing into light as to the what are all the material evidences that are on record as against the appellant. Upon direction by this court, through the investigating officer, she had also produced the records relating to the fact as to which are all the accused were arrested and most of them were in prison for total number of thirteen days and some of them were in prison for about six days. The social background of the parties such that they are all belonging to the same



locality and there is a land dispute between the parties are mentioned in the report.

11. I have considered the rival submissions made on either side and perused the material

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records on case.

12. When the lower appellate Court in an appeal filed by the accused have rendered the finding of acquittal, the scope of jurisdiction for this Court in a criminal revision case filed at the behest of the defacto-complainant is now well settled. This Court will examine whether the findings of the appellate Court is perverse in nature and if it is only so perverse warranting the matter to be remanded back, the Court will exercise the jurisdiction.

13. With this legal position in the background, it can be seen that in the instant case, the lower appellate court considered P.W.2 injured witness's evidence. It is the allegation of the prosecution that the fourth accused hit P.W.2 and caused grievous injuries in his hand. However, in his evidence he has stated that he has hit him on his back. The Doctor has not deposed that there was any injury on his back. The evidence of the investigating officer did not corroborate the allegation and therefore, the Lower appellate Court came to the conclusion that the said charge is not proved.

14. On perusal of the judgment of the lower appellate court, the lower appellate court rendered



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a finding that the injury to the accused is not explained by the prosecution and the case is suppressed. The said finding has to be termed as perverse because, the trial Court has

considered and the evidence is on record that the case in counter has been duly investigated

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by the investigating officer and after investigation even after considering the injuries on the presence of the accused, after determining the accused party as an aggressor the complaint that is given on behalf of the accused has been referred as mistake of fact while the complaint by the defacto-complainant / party was held to be in accordance with law and therefore the said finding of the lower appellate court cannot be subscribed to as the investigating officer has correctly followed the procedure that is laid down by the full bench of this Court while dealing with the case in counter.

15. However, with reference to the merits of the charges, in paragraph 10 to 15, the evidence of the prosecution witnesses and the various contradictions in respect thereof are taken into account. Even though it can be contended that the approach of the appellate court by forensic dissection of the evidence on behalf of the prosecution need not be resorted to and over all evidence have to be considered in toto, but in the background of the case that there was not only a land dispute but also the second accused is the brother-in-law of the defacto-complainant and matrimonial dispute was also pending and the sister of the defacto-complainant has come to his house and the proceedings were pending and in that background



if both parties said to have assembled at 11.00 p.m. in the night, whether the incident was the pre-determined notion as projected by the prosecution that the accused had come with an intention to attack and damage or whether both parties assembled for talks which escalated into violence, has to be considered by this Court.

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16. The argument on behalf of the accused that it is a case where the both parties could have committed excess and the talks which was held on behalf of large number of persons present on behalf of both sides which escalated into violence cannot be ruled out, especially it can be seen from the MO's itself that from iron rods to stones everything is said to have been used by the accused side and therefore there is an iota of doubt which arises even by overall reading of the evidence as to whether the entire incidence was with the premeditated intention or an escalated conflict which suddenly occurred in the meeting of these persons.

17. The time of the incident and the manner in which the independent witness namely PW.4 narrated the incident with a different perspective and the manner in which the interested/injured witness narrate the event, could only make the findings of the appellate Court a plausible view. I am not able to come to the conclusion that the entire appraisal of the evidence of the appellate Court in detail so as to bring out the contradictions to hold that the prosecution has not proved the charges beyond any doubt as a perverse finding or as a finding



which is not possible at all in the facts and circumstances of the case.

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18. In view thereof, though the learned counsel appearing on behalf of the petitioner may be right in contending that the mere efflux of time alone, that is, the occurrence happened in the year 2005 and now we are in 2025 cannot be the sole factor, the question is that when we are considering the revision that is filed by the P.W.1 so as to remand the matter back for retrial or reappraisal of the matter by the appellate Court, especially considering the background of the parties and the motive which is a land dispute and a marital conflict for which the parties may have assembled and the discussion may travel at 11.30 p.m. etc. I am of the view that the various conclusions of the appellate court is a possible view. This is not a fit case to set aside the judgment and remand the matter back in exercise of the revisional jurisdiction. Accordingly, even though I am with the learned counsel for the petitioner that some of the findings of the appellate court are perverse in nature warranting setting aside the judgment, the ultimate conclusion of the appellate court to acquit accused by giving them the benefit of doubt cannot be upturned as perverse in nature as the appellate Court has done the same after due appreciation of evidence especially considering the previous enmity and the background in which the offence have occurred.



19. For all the above reasons finding no merits, the Criminal Revision Case stand  d.

09-07-2025

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Neutral Citation: Yes/No

To

1. The Inspector of Police

Vennandhur Police Station,
Namakkal District.

2. The Additional District Sessions Judge,
Namakkal.

3. Chief Judicial Magistrate
Namakkal.

4. The Public Prosecutor
High Court of Madras.



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D.BHARATHA CHAKRAVARTHY. J,

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CRL.R.C No.  012

09.07.2025