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Crl.A.No.599 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2025

CORAM :

THE HON'BLE MR. JUSTICE SUNDER MOHAN

Crl.A.No.599 of 2016

M.Ravi

... Appellant/Defacto Complainant

v.

1. State rep. by
The Inspector of Police,
Paramathi Police Station,
(Crime No.466 of 2012)

... 1st Respondent / Complainant

2. Saminathan

3. Ponnusamy

... Respondents 2 & 3/ A1 & A2

Criminal Appeal filed under Section 372 r/w 378 of Code of Criminal Procedure, against the acquittal made in S.C.No.58 of 2013 on the file of the learned Assistant Sessions Judge cum Chief Judicial Magistrate, Namakkal on 31.08.2015 by allowing the Criminal Appeal.

For Appellant : Mr.C.Gunasekaran
for Mr.I.Abrar Md Abdullah

For Respondents : Mr.L.Baskaran (for R1)



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Government Advocate (Crl. Side)
Mr. Deepan Uday (for R2 & R3)

JUDGMENT

This Criminal Appeal challenges the judgment of acquittal made in S.C.No.58 of 2013 on the file of the learned Assistant Sessions Judge cum Chief Judicial Magistrate, Namakkal on 31.08.2015.

2 (i) It is the case of the prosecution that the 2nd respondent herein/first accused (A1) is the uncle of the wife of the defacto complainant/appellant and 3rd respondent/second accused (A2) is the father-in-law of the defacto complainant; that there were property disputes between the defacto complainant and A2; and that on the date of occurrence, when the accused were doing agricultural work on their land, PW1 to PW5 questioned them; that the accused anticipating trouble by PW1 to PW5 on account of the civil dispute attacked PW1 and PW2.

(ii) It is the further case of the prosecution that A1 attacked PW1 with a spade, A2 attacked PW2 with a stick, caused simple injuries to PW2 and thus, committed the aforesaid offences.



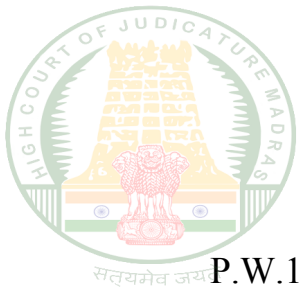
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(iii) On the complaint given by the appellant/PW1, who was taking treatment at the hospital, an FIR was registered for the offences under Sections 341, 323, 307 of the IPC in Cr.No.466 of 2012 by PW9, the Sub-Inspector of Police. PW10, the Inspector of Police, took up the investigation and filed a final report on 28.02.2013 against the accused for the offences under Sections 341, 323, 307 read with 109 of the IPC before the learned Judicial Magistrate, Paramathi.

(iv) On the appearance of the accused, the provisions of Section 207 Cr.P.C. were complied with, and the case was committed to the Court of Session in S.C.No.58 of 2013 and made over to the learned Assistant Sessions Judge cum Chief Judicial Magistrate, Namakkal, for trial. The trial Court framed charges against A1 for the offences under Sections 341 and 307 r/w 109 and against A2 for the offences under Section 307 and 323 IPC and when questioned, the accused pleaded 'not guilty.'

(v) To prove its case, the prosecution examined ten witnesses as



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P.W.1 to P.W.10, marked nine documents as Exs.P1 to P9 and six material objects as M.O.1 to M.O.6. When the accused were questioned, u/s.313 Cr.P.C., on the incriminating circumstances appearing against them, they denied the same. The accused neither examined any witness nor marked any document on their side.

(vi) The trial Court acquitted both the accused of all the offences, on the ground that the testimony of the witnesses does not inspire confidence; that there were several inherent contradictions in their depositions; that their version was contrary to the earliest version given to the Doctor [PW8], which was entered in the accident registers [Ex.P5 and Ex.P6]; and that the parties were closely related to each other and on account of a civil dispute, they had given exaggerated versions.

(vii) The defacto complainant / PW1 aggrieved by the said judgment has filed the instant appeal.

3. Mr.C.Gunasekaran, learned counsel for the appellant would submit



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that the judgment of acquittal by the trial Court is perverse; that the trial Court ought not to have disbelieved PW1 to PW5, merely because there were no independent witnesses examined on the side of the prosecution; that entries in the accident register ought not to have been taken into account for disbelieving the injured witnesses PW1 to PW5; and that in view of the perversity, the judgment has to be set aside. Learned counsel relied upon the judgments of the Hon'ble Supreme Court in *State of Uttar Pradesh v. Naresh and Others*¹ and *Rajesh Yadav and another v. State of Uttar Pradesh*², in support of his submission that related injured eyewitnesses cannot be disbelieved merely because there is no corroboration by independent witnesses.

4. Heard Mr.L.Baskaran, learned Government Advocate (Crl. Side), who submitted that though the State has not filed an appeal, the prosecution had established its case beyond reasonable doubt and prayed for setting aside the judgment of the trial Court.

1 (2011) 4 SCC 324

2 (2022) 12 SCC 200



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5. Mr. Deepan Uday, learned counsel for respondents 2 and 3/A1 and A2 submitted that the 2nd respondent/A1 is no more. Mr. L. Baskaran, learned Government Advocate (Crl. Side) produced a copy of the death certificate of the 2nd respondent/A1 to confirm the said fact.

6. The learned counsel for the accused submitted that the view taken by the trial Court is a plausible view and no perversity has been shown by the appellant warranting interference in the above appeal. Pointing out to the entries made in the accident registers and to the evidence of witnesses, to show that those witnesses are unreliable, the learned counsel submitted that the judgment of acquittal may not be interfered with.

7. As stated earlier, the prosecution had examined 10 witnesses. PW1 to PW5 are eyewitnesses to the occurrence, of which PW1 and PW2 were injured; PW6 is known to PW1 to PW5 and had heard about the occurrence; PW7 had signed as a witness in the mahazars; PW8 is the Doctor who treated PW1 and PW2 at the hospital and had made entries in the accident registers [Ex.P5 and Ex.P6]; PW9 is the Sub Inspector of Police, who



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registered the FIR; and PW10 is the investigation officer.
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8. The prosecution case therefore rests on the evidence of PW1 to PW5. This Court has to examine if these witnesses inspire confidence. In the earliest version given to the Doctor, PW1 had stated that four known persons had attacked him with Bill Hook Machette [அருவாள்], Knife [வெட்டுகத்தி], Spade [மண்வெட்டி] and Shovel/Tramp-pic/Crowbar [கடப்பாறை] at 10.30a.m. Similarly, PW2, had stated that five known persons had attacked her at 10.30a.m., with stick [தடி], Shovel/Tramp-pic/Crowbar [கடப்பாறை] and Spade [மண்வெட்டி]. The Doctor was examined as PW8. The Doctor had confirmed that the entries made in the Accident Registers [Ex.P5 & Ex.P6] were on the information given by PW1 and PW2. He had also opined that the injuries sustained by the witnesses were simple injuries. It is not known as to how the number of accused got reduced to two by the time the complaint was lodged at 4.00p.m. on the same day when the witnesses were in the hospital. No explanation has been offered by the witnesses as to why they had stated that four to five people had attacked them with the aforesaid weapons.



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9. Be that as it may. The nature of the *overt act* attributed to the accused by the witnesses also is contrary to each other. PW1 had stated that A1 had attacked him with spade. However, PW2 to PW5 would state that A2 held the hands of PW1 and thereafter, A1 attacked him. It is also seen from PW1's evidence that about 12 persons, who were not related to the witnesses had witnessed the occurrence. The prosecution had not chosen to examine any of those witnesses. In fact, PW5 had stated that there were 50 persons, who had witnessed the alleged occurrence. It is also seen that all the accused are closely related to each other. A2 is the father-in-law of the defacto complainant and there are civil disputes between them with regard to the sharing of the property.

10. The trial Court had further on appreciation of facts held that all the witnesses have contradicted themselves as regards the place of the alleged occurrence and the number of weapons said to have been used by the accused.



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11. There cannot be any quarrel with the proposition that the Court need not always view the evidence of related injured eyewitnesses with suspicion and require corroboration in all cases. However, in the instant case, the witnesses were not disbelieved not only because they were related and they had civil disputes with the accused, but also because of the inherent contradictions which make their version improbable.

12. Considering the relationship between the parties, the fact that the independent persons who even according to the prosecution witnesses were available and not examined and the inherent contradictions which have been listed out by the trial Court, this Court is of the view that the judgment of the trial Court cannot be faulted with. In any case, the appellant was unable to point out as to why the reasons for acquittal are not plausible and this Court also finds that no perversity has been pointed out to warrant interference in the appeal.

13. Hence, the Criminal Appeal stands dismissed.



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Index : yes/no

Speaking /Non-speaking order

Neutral citation : yes/no

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SUNDER MOHAN, J.

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To

1. The Assistant Sessions Judge cum Chief Judicial Magistrate,
Namakkal

2. The Inspector of Police,
Paramathi Police Station

3. The Public Prosecutor,
High Court, Madras.

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