



Crl.A.No.681 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2025

CORAM

THE HONOURABLE **MR.JUSTICE SUNDER MOHAN**

Crl.A.No.681 of 2016

Sarasu

W/o. Gopal

... Appellant/*De-facto* complainant

Vs.

1. The State rep. by

Sub Inspector of Police,

Poolampatty Police Station,

Salem District.

(Crime No.149/2011)

...1st respondent/complainant

2. Duraisamy

3. Chinnapillai

4. Raja @ Palaniappan

5. Mani

...Respondents 2 to 5/Accused 1 to 4

PRAYER: Criminal Appeal filed under Section 378 of Cr.P.C., to set aside the Judgment of the Judicial Magistrate No.1, Sankari, dated 23.12.2015 made in C.C.No.116 of 2011 by allowing the above appeal.

For Appellant : M/s.S.Sridevi
Legal Aid Counsel

For Respondents : Mr.L.Baskaran
assisted by Mr.S.Arun Pandi
for R1



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Mr.R.Marudhachalamurthy
for R2 to R5

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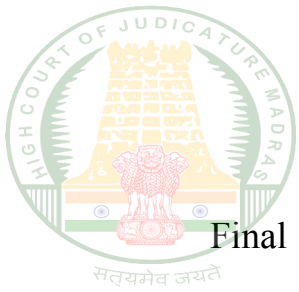
JUDGMENT

The above appeal challenges the Judgment of acquittal passed by the learned Judicial Magistrate No.1, Sankari, in C.C.116 of 2011 dated 23.12.2015.

2. It is the case of the prosecution that the respondents 2 to 5/A1 to A4, who are arraigned as accused before the trial Court had attacked the appellant/*de-facto* complainant and damaged the crops in her land on account of prior enmity and thus, committed the offences under Sections 427, 294(b), 323, 324 and 506(i) of the Indian Penal Code.

3. P.W.1/victim had lodged a complaint, which was registered by P.W.6 in Crime No. 149 of 2011 for the offences under Sections 447, 427, 294(b), 323, 324 and 506(ii) of the IPC against the respondents 2 to 4.

4. P.W.7 commenced the investigation and thereafter, handed over the investigation to P.W.8, who concluded the investigation and filed the



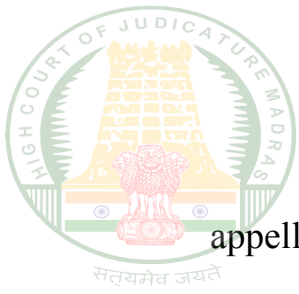
Final Report against the respondents 2 and 3/A1 and A2 (hereinafter referred to as “A1 and A2”) for the offences under Sections 427, 294(b), 323 and 324 of the IPC.

5. The respondents 4 and 5/A3 and A4 were deleted in the final report. Initially A1 and A2 were tried for the aforesaid offences. During the course of examination of witnesses, the trial Court thought it fit to summon A3 to A4 under Section 319 of the Criminal Procedure Code and framed charges under Sections 427 and 506(i) of the IPC against them.

6. The prosecution had examined 10 witnesses as P.W.1 to P.W.10 and marked eight documents as Exs.P1 to P8. The accused neither examined any witness nor marked any documents.

7. The trial Court found that the prosecution had not established its case beyond a reasonable doubt and hence, acquitted all the accused.

8. Since one Mr. C. Kulanthaivel, Advocate, who had originally filed the appeal, represented that he had no instructions from the



appellant/*de-facto* complainant, this Court by an order dated 05.02.2024 had directed the High Court Legal Services Committee to nominate a Legal Aid Counsel. Accordingly, Ms.Sridevi was appointed as Legal Aid Counsel.

9. Mr.R.Marudhachalamurthy, the learned counsel for the respondents 2 to 5/A1 to A4, submitted that A1 and A2/respondents 2 and 3 are no more and produced the copy of their death certificates.

10. Mr.L.Baskaran, the learned Government Advocate (Crl.Side), confirmed the aforesaid fact and also produced a certificate of the Village Administrative Officer, along with the death certificates of A1 and A2, to confirm the fact that A1 died on 06.10.2017 and A2 died on 29.01.2022. Therefore, the appeal is dismissed as abated as against A1 and A2/respondents 2 and 3.

11. Ms.S.Sridevi, the learned counsel for the appellant/*de-facto* complainant, submitted that A3 and A4 had also attacked the witnesses; that the accident register of the victim suggests that three persons attacked her; that the trial Court had rightly summoned A3 and A4 as



accused, though the first respondent had erroneously exonerated them in the final report; and pointed out to the deposition of the witnesses to substantiate her submission that A3 and A4 were also involved in the occurrence.

12. Mr.L.Baskaran, learned Government Advocate (Crl.Side) submitted that though the prosecution had not filed an appeal against acquittal, the Judgment of acquittal cannot be sustained and there is perversity in the Judgment.

13. The learned counsel for the respondents 4 and 5/A3 and A4 *per contra*, submitted that the trial Court had appreciated the evidence in the correct perspective and acquitted the accused. He also submitted that the witnesses had made contrary statements and had made vital improvements in their deposition in Court, which is an afterthought. The learned counsel, therefore, submitted that the Judgment of the acquittal may be confirmed.

14. As stated earlier, the prosecution had examined ten witnesses. P.W.1 is a victim and the *de-facto* complainant. P.W.2 was examined as an eye witness. P.W.3 is the husband of P.W.1 and corroborates the



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version of the eye witnesses/P.W.1 and P.W.2. P.W.4 is the Doctor who had made entries in an accident register/Ex.P2. P.W.5 is an eye witness. P.W.6 is the Sub Inspector of Police who registered the FIR. P.W.7 and P.W.8 are the investigating officers. P.W.9 is an Observation Mahazar witness who turned hostile. P.W.10 is another Observation Mahazar witness.

15. The prosecution case therefore rests on the evidence of P.W.1, P.W.2 and P.W.5, who are the eye witnesses. Since the appeal against A1 and A2 has abated, we may examine the role played by A3 and A4 and the evidence adduced by the prosecution against them. Admittedly, A3 and A4 were deleted in the Final Report. They were summoned by the trial Court under Section 319 of Cr.P.C. P.W.8, the investigating officer, had stated that A3 and A4 were deleted in the Final Report since the victim/P.W.1/*de-facto* complainant had given a further statement stating that her earlier statement was exaggerated and only A1 and A2/respondents 2 and 3 were involved in the offence.

16. Further, P.W.2 and P.W.5 had not spoken about the involvement of the accused/A3 and A4 during the investigation. They



had implicated A3 and A4 in Court. The trial Court also relied upon the contradictions in the evidence of P.W.1/victim/*de-facto* complainant, with regard to the involvement of A3 and A4 to disbelieve P.W.1/victim.

17. The Trial Court summoned A3 and A4 and had framed two charges against them under Sections 427 and 506(i) of the IPC. The charge against A3 and A4 is that they were part of a group of about ten to fifteen people, who had caused damage to the crops in the field of P.W.1/victim. In fact, in the complaint, P.W.1/victim had stated that fifteen unknown persons had caused damage to the crops along with A1 to A4. There is no investigation as to who are those unknown persons.

18. P.W.1 had admitted in her cross-examination that P.W.1 was an accused in a complaint filed by A2 and she had also paid a fine, admitting the guilt, though she would state that she did so under compulsion.

19. This Court finds that in the accident register/Ex.P2, P.W.1 had stated that three known persons attacked her. On perusal of Ex.P2, it is seen that a correction had been made. The number “2” has been



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made to look like “3” by an alteration. The scanned copy of the said

WEB COPY accident register is reproduced for better understanding:



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HC 46

149/11 HC 46

DUPLICATE

ACCIDENT REGISTER

SI.No. 298

Hospital No. 1620 தேதியும் நேரமும் 21-6-2011 or
பெயர்..... வயது.....
ஆண் / பெண்..... செய் தொழில்.....
முகவரி.....
ஆள் அடையாளக் குறிகள் 1)
2)
கொண்டு வந்தவர்.....
காவல்துறைக்கு தெரிவிக்கப்பட்டதா? ஆம் / இல்லை.....
வாக்குழுவம்..... தேவை/வேண்டாம்.....
Nature of injury and treatment.....
(State simple, grievous or opinion reserved).....
3 Known Person's name & address.....
உடைய தாமதமான காலம்.....
பாதிப்பு.....
① 0.5 x 0.5 cm காயம்.....
② 9.0 cm x 3.0 cm.....
③ 6.0 cm x 3.0 cm..... P.T.O.



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20. Considering the fact that the witnesses and the accused had prior enmity and there was a dispute between them for a long time and the inherent contradictions and improvements by the witnesses pointed above, this Court is of the view that the trial Court was right in disbelieving the prosecution case and acquitting the accused/A3 and A4. The trial Court had given plausible reasons for acquittal. This Court has not expressed any opinion with regard to the finding of guilt as against A1 and A2, as the appeal is dismissed as abated against them.

21. Thus, this Court finds that the Judgment acquitting A3 and A4 does not suffer from any perversity warranting interference in an appeal against acquittal and hence, this Court is not inclined to interfere with the Judgment passed by the learned Judicial Magistrate No. 1, Sankari, dated 23.12.2015, made in C.C. No. 116 of 2011.

22. Accordingly, the Criminal Appeal is dismissed.

04.07.2025

Index: Yes/No
Speaking/Non-speaking order
Neutral citation: Yes/No.



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To

1. The Judicial Magistrate No.1,
Sankari.
2. The Sub Inspector of Police,
Poolampatty Police Station,
Salem District.



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SUNDER MOHAN, J.

dk

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