



CrI.A.No.394 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 17.09.2025
PRONOUNCED ON : 07.10.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.A.No.394 of 2014 and
CrI.M.P.No.12877 of 2018

1.R.Elavarasan
2.E.Arumugam
3.S.Durairaj
4.R.Sengodi
5.M.Chakrapani
6.N.Selvam

... Appellants

Vs.

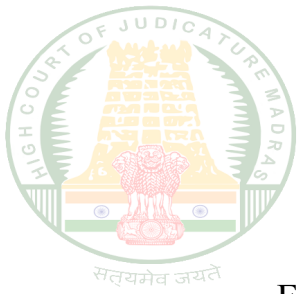
The State
Rep. by the Deputy Superintendent of Police,
Villupuram Sub Division,
Villupuram District.
[Crime No.77/2018 of Mailam Police Station].

... Respondent

PRAYER: Criminal Appeal is filed under Section 374 of Code of Criminal Procedure, to set aside the judgment and sentence passed in S.C.No.192 of 2010 dated 23.06.2014 by the Special Judge (Principal Sessions Judge), Villupuram Sessions Division, Villupuram.

For Appellant

: Mr.T.Saikrishnan



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For Respondent : Mr.L.Baskaran,
Government Advocate (Crl. Side)

For Defacto Complainant : Ms.J.Madhumitha,
Legal Aid Counsel

JUDGMENT

Challenging the impugned judgment dated 23.06.2014 in S.C.No.192 of 2010 passed by the learned Special Judge (Principal Sessions Judge), Villupuram Sessions Division, Villupuram (trial Court), this Criminal Appeal is filed by the appellants/A1, A5, A7, A15, A18 & A21.

2.For convenience and clarity, the appellants are referred to as accused, as per their rank, in the impugned judgment.

3.The conviction and sentence of the trial Court are as follows:

<i>Rank of the Accused</i>	<i>Offence</i>	<i>Conviction and Sentence</i>
A1	For offence under Sections 148 & 323 IPC and Section 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 r/w 149 IPC.	● Convicted and Sentenced to pay a fine of Rs.500/-, in default, to undergo Simple Imprisonment for three months for offence under Section 148 IPC. ● Convicted and Sentenced to

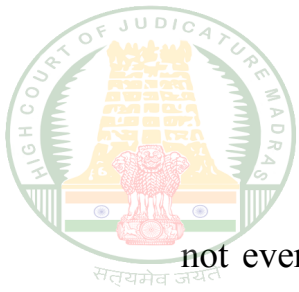


<i>Rank of the Accused</i>	<i>Offence</i>	<i>Conviction and Sentence</i>
		pay a fine of Rs.1,000/-, in default, to undergo Simple Imprisonment for three months for offence under Section 323 IPC. ● Convicted and Sentenced to undergo Rigorous Imprisonment for six months and to pay a fine of Rs.1,000/-, in default, to undergo Rigorous Imprisonment for two months for offence under Section 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 r/w 149 IPC.
A5, A7, A15, A18 & A21	For offence under Sections 148 & 323 r/w 149 of IPC.	● Convicted and Sentenced to pay a fine of Rs.500/- each, in default, to undergo Simple Imprisonment for three months each for offence under Section 148 IPC. ● Convicted and Sentenced to pay a fine of Rs.1,000/- each, in default, to undergo Simple Imprisonment for three months each for offence under Section 323 r/w 149 IPC.
A1, A3 to A10, A14 to A23, A25 and A26	For offence under Section 147 IPC	Found Not Guilty
A2 & A13	For offence under Section 148 IPC	Found Not Guilty
A3, A4, A6,	For offence under Section	Found Not Guilty



<i>Rank of the Accused</i>	<i>Offence</i>	<i>Conviction and Sentence</i>
A8 to A10, A14, A16, A17, A19 & A20	323 IPC	
A2 & A13	For offence under Section 324 IPC	Found Not Guilty
A22, A23, A25 & A26	For offence under Section 427 IPC	Found Not Guilty
A3 & A9	For offence under Section 427 r/w 149 IPC	Found Not Guilty
A1	For offence under Section 506(ii) IPC	Found Not Guilty
A2, A12 & A13	Charges Abated	Charges Abated

4. Earlier, this appeal came to be dismissed by this Court *vide* judgment dated 02.11.2018, against which, the appellants herein preferred an appeal before the Hon'ble Apex Court in S.L.P(Crl.)No.2578 of 2020. The grievances of the appellants therein was that this Court dismissed this appeal in the absence of the appellants without hearing them or their counsel. In view of above said submission and on perusal of the impugned judgment of this Court dated 02.11.2018, the Hon'ble Apex Court found that the appeal was dismissed in the absence of the appellants without hearing them or their counsel and the appellants were not given opportunity to appear or to engage another counsel,



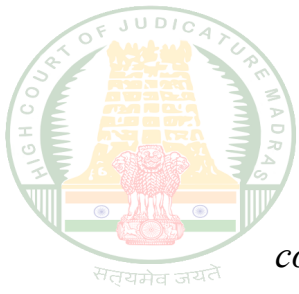
not even the next date fixed was intimated to the appellants. In view of the facts and circumstances, the Hon'ble Apex Court held that the judgment passed by this Court on 02.11.2018 cannot be sustained in law, hence, set aside the judgment and the appeal is remitted back to the file of this Court for fresh consideration.

5.This Court on 17.03.2025 had passed the following order:

“Pursuant to the orders passed by this Court on 03.03.2025, the respondent Police ensured the presence of E.Arumugam/A5, S.Durairaj/A7, M.Chakrapani/A18 and Selvam/A21. As far as R.Elavarasan/A1 and R.Sengodi/A15, Mr.V.S.Gopu, learned counsel submits that he is representing A1 and A15 along with other accused.

2.The learned Government Advocate (Crl. Side) produced the notice served to the defacto complainant/Sathyanathan and a letter given by the defacto complainant informing that he is presently taking treatment at Mothercare Foundation, a De-addiction Centre and he is unable to walk or undertake travel, hence he requested the Court to appoint a legal aid counsel to represent him.

3.In view of the same, this Court appoints Ms.J.Madhumitha, Enrollment No.MS 2363/2017, Cell No.9791711963 as Legal Aid Counsel on behalf of the defacto



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complainant.

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4.The Registry is directed to print the name of Ms.J.Madhumitha as Legal Aid Counsel for the defacto complainant in the cause-list.

5.The learned counsel for the appellant is directed to serve copy of the appeal papers to the learned Legal Aid counsel appearing for the respondent.”

6.After hearing the submissions of the appellants (A1, A5, A7, A15, A18 & A21) herein and learned Government Advocate (Crl. Side) appearing for the respondent Police and the Legal Aid Counsel for the defacto complainant/victim, the following judgment is passed by this Court.

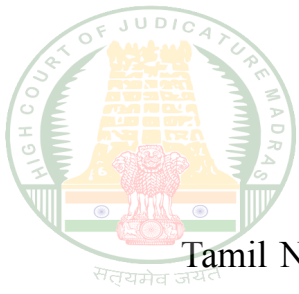
7.Gist of the case is that during the weekend on 11.02.2006 at about 05.30 p.m., PW2 went to his brother Doss's house along with his wife/PW3 to see the construction of the house, at that time, A1 driving a tractor bearing Registration No.TN-32-Y-6135 with trailer came in a rash and negligent manner and ran over the right foot of PW3, wife of PW2. Not stopping with that, A1 stopped the tractor, got down, abused PW2, PW3 and others calling them by their caste name and asked how dare colony people can question him,



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and further abused and threatened them in public that he would bring his people from the village to teach them a lesson. Soon around 30 persons armed with cricket bats, sticks, wooden logs, and knife entered the colony and started attacking PW2, PW3, and others who intervened. Further, as a mob, they began rioting running into the entire colony, attacking whoever was cited, damaged tiled roofs, vessels, two-wheelers, and whatever else they came across, disconnected the telephone wires and cable wires. This attack was for 15 minutes, thereafter, warning the colony people, all the accused left the place. Due the attack, several colony people got injured. Later, the attack informed to Mailam Police Station by mobile phone, and ambulance took the injured to Government Hospital, Tindivanam where the Casualty Doctors/PW20 & PW21 gave first aid treatment and also admitted some of the injured in the hospital.

8.Mr.Michael Durairaj, Sub Inspector of Police, Mailam Police Station received the information from the hospital, visited the hospital, received the complaint (Ex.P1) from PW2, registered FIR (Ex.P19) in Crime No.77 of 2006 for offence under Sections 147, 148, 323, 324 & 307 IPC and Section 3(1) of



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Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 and

Section 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 on 11.02.2006 at 23.50 hours. The Superintendent of Police, Villupuram nominated the Deputy Superintendent of Police, Villupuram as Investigating Officer in this case. Thereafter, PW22 took over investigation, visited the scene of occurrence, prepared Observation Mahazar, Rough Sketch (Exs.P20 & P21) in the presence of witnesses, collected materials available in the scene of occurrence, visited hospital, enquired injured, recorded their statements, arrested accused, on their confession, material objects (MO1 to MO9) seized, community certificates of the victim and accused collected. After collection of medical records (Exs.P3 to P18) and other materials, PW22 filed charge sheet before the Judicial Magistrate No.II, Tindivanam and P.R.C.No.1 of 2007 assigned. On committal, the case transferred to the file of the trial Court.

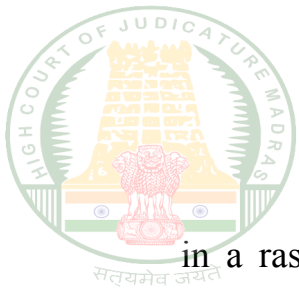
9.During trial, on the side of the prosecution, 22 witnesses examined as PW1 to PW22 and 30 documents marked as Exs.P1 to P30 and MO1 to MO9 produced. On the side of the defence, no witness examined and no document marked. On conclusion of trial, the trial Court convicted the appellants as stated above.



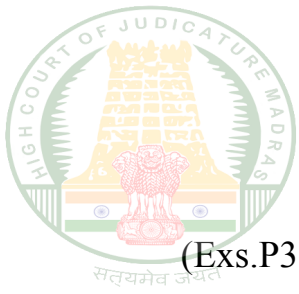
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10.The learned counsel for the appellants submitted that A1 is the son of A13/Rajendran, Panchayat President and there was dispute between the colony people and villagers with regard to right of worship of Kalamman Temple and a consecration ceremony held during the relevant point of time. The Tahsildar conducted a peace meeting and found colony people had no right, thereafter, colony people held protests, agitations and road roko. The Police used force to disperse the agitators, due to which, colony people got injured, which is now being projected against the appellants.

11.The learned counsel further submitted that there were two incidents projected against the accused herein. One is with regard to A1 driving the tractor in a rash and negligent manner and running over PW3's right foot, thereafter, A1 stopped the tractor, abused PW2, PW3 and others using their caste name. The second incident is that A1 went back to the village, brought around 30 persons armed with deadly weapons, formed a mob, attacked the colony people and damaged the tiled roofs, vessels, two wheelers and whatever else they came across. For the first incident, it is stated that PW1, PW2 & PW3 were present at the time of incident. PW1 is the friend of PW2 and PW2 is the husband of PW3. PW1 states that since the tractor of A1 came



in a rash and negligent manner, PW3 had to move fast, due to which, she sustained sprain, thereafter, wordy quarrel arose, at that time, A1 used abusive words. PW2's version is that the tyre of the tractor ran over PW3's foot. PW3's version is that the tractor dashed against her and she fell down and sustained injuries. Thus, running over on PW3's foot is an exaggeration. Further, the case is that PW2 and PW3 came to see PW2's brother Doss and his new construction of house, but the said Doss not examined as witness. PW6, wife of Doss, version is that PW3 cried with pain stating that tyre of the tractor ran over her foot. But PW3's version is otherwise. In this case, PW1, PW2 & PW3 spoke about both first and second incidents. PW4, PW5, PW6, PW7, PW8, PW9, PW10, PW11, PW13, PW14, PW15, PW16, PW17, PW18 & PW19 are all witnesses from the colony, out of whom, PW4, PW5, PW6, PW8, PW9, PW10, PW11, PW13, PW14, PW15, PW16, PW18 & PW19 spoke about second incident of rioting, of them, PW18 & PW19 state A1 was driving a tipper lorry. PW9, PW10 & PW16 not supported the case of the prosecution, turned hostile. All the colony witnesses claimed that they were injured and took treatment. The Doctors/PW20 & PW21 treated the injured records simple injury. Though these witnesses claimed that they were attacked, but they were unable to identify the accused by name. The Doctors/PW20 & PW21 issued Accident Registers and Wound Certificates



(Exs.P3 to P18) stating that the injured started coming to the hospital from 09.30 p.m onwards throughout the night, but the incident took place at about 05.00 p.m. Why four hours delay to reach the hospital, no explanation given and the complaint (Ex.P1) is almost five hours after the alleged attack. This shows a false case is concocted against the accused for the temple dispute, hence, the entire colony people ganged up together and falsely implicated the appellants.

12.The learned counsel further submitted that the Investigating Officer/PW22 admits that colony people made a representation to the District Collector, thereafter, higher officials intervened, action was taken and the crowd got dispersed. This would go to show that no independent investigation conducted and the case is due to the pressure exerted by a group of people from colony. To pacify colony people and to ease out the tension, the prosecution implicated around 30 villagers as accused in this case. Though the trial Court during trial charged 26 persons, out of which three persons died, two found absconding, case split up, 15 acquitted and six alone convicted. The entire case proceeded as though a mob had gathered, rioting took place. When the trial Court disbelieved the case against 15 accused and acquitted them, the same benefit ought to have extended to the appellants and they ought to have



acquitted, hence, the impugned judgment of the trial Court is not sustainable.

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13.The learned Government Advocate (Crl. Side) appearing for the respondent Police filed counter and submitted that PW21 who was authorized and nominated as Investigating Officer, received FIR (Ex.P19) from Mr.Michael Durairaj, Sub Inspector of Police, Mailam Police Station, took up investigation, visited scene of occurrence, prepared Observation Mahazar, Rough Sketch (Exs.P20 & P21), enquired the witnesses, recorded their statements, arrested the accused, on their confession, recovered material objects (MO1 to MO9). In this case, 16 persons got injured. PW20 & PW21/Casualty Doctors treated the injured and issued Accident Registers (Exs.P3 to P10) and Wound Certificates (Exs.P11 to P18). The eye witnesses for first incident are PW1 & PW2. The injured witnesses are PW1, PW2, PW3, PW4, PW5, PW7, PW8, PW9, PW10, PW11, PW13, PW14, PW15, PW17 & PW18. All these witnesses including other villagers deposed about the damage caused to the property of the colony people by the accused. He further submitted that the witnesses are rustic villagers with little or no education and it was a mob that was attacked the colony people. Though they could not put a name to the accused persons, but they identified the accused standing in the dock as the persons who attacked them. Though an attempt



was made to show there was temple dispute and the accused falsely implicated, the same cannot be accepted since the temple dispute was much before the attack, hence, nothing to do with the incident happened on 11.02.2006.

14.It is further submitted that on 11.02.2006, A1, son of A13/Rajendran, Panchayat President was illegally mining river sand and transporting the same, for that reason, A1 drove the tractor in a rash and negligent manner with high speed and ran over right foot of PW3. When PW1 & PW2 questioned A1, he got infuriated. A1 who belongs to higher caste, abused the colony people calling their caste name. Thereafter, A1 came with 30 persons armed with deadly weapons in a tractor, attacked the colony people and damaged their properties. The rioting, damages and injuries sustained clearly spoken by the witnesses. The trial Court on careful analysis of evidence and materials acquitted some of the accused and convicted the appellants, against whom, specific overtact proved.

15.He further submitted that the three witnesses turned hostile is only with regard to non mentioning of names but they clearly spoken about rioting and injuries sustained. PW12/Tahsildar gave community certificate (Ex.P2)



confirming the victims belong to Scheduled Caste community and the accused belong to Intermediate community. The trial Court on the evidence and materials produced, rightly convicted the appellants, hence, prayed for dismissal of the appeal.

16.The Legal Aid Counsel for the defacto complainant/victim submitted that in this case, the defacto complainant is none other than a School Teacher and the injured/PW3 in the first incident is a School Headmistress. PW2 & PW3 were residing in Tindivanam town. Doss, brother of PW2 was residing in Chinnanerkunam village colony. During the weekend on 11.02.2006, PW2 & PW3 had come to visit Doss, who was constructing a house. A1, son of A13/Panchayat President, who was illegally transporting river sand in the tractor, was driving the tractor in a rash and negligent manner at high speed into the colony, causing danger to the lives of people there, and ran over PW3's right foot. PW1 & PW2 questioned A1, but A1 shown no remorse, instead, he abused and threatened PW1, PW2, PW3, and their family members and relatives who were standing there, calling them by their caste names. Not stopping with that, A1 went to the village, brought around 30 persons armed with deadly weapons like cricket bats, knives, sticks, and wooden logs, and attacked PW2, PW3, and all who came across for the only reason they all



belong to Scheduled Caste community colony people. Further, the accused damaged properties and valuables. As a result, around 18 people got injured went to the Government Hospital, Tindivanam, from there, information sent to Mailam Police Station. Mr. Michael Durairaj, Sub Inspector of Police received the information, visited the hospital, received the complaint (Ex.P1) from PW2, registered FIR (Ex.P19). Thereafter, PW22 took up investigation, arrested the accused, seized material objects (MO1 to MO9), collected the community certificate (Ex.P2), medical records (Exs.P3 to P18) and filed charge sheet before the trial Court. In this case, Doss, brother of PW2 could not be examined as witness since he was serving in Army. The raise and development of the colony people became an eye soar and jealousy to the village people, who for no reason formed a mob, attacked colony people and now take a defence that there was dispute over temple rights, which is nothing but an imaginary story for defence. Had the temple dispute is real and actually happened, definitely some question would have been put to PW12/Tahsildar. In this case, PW12 not even cross examined and no suggestions put to him in this regard. In view of the above, the impugned judgment of the trial Court not to be interfered with.

17. This Court considered the rival submissions and perused the



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materials available on record.

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18.In this case, PW2 is the defacto complainant and PW3 is his wife. Both PW2 and PW3 are Teachers and PW2's brother Doss was an Army man. PW1 is the cousin brother of PW2 and one Ezhumalai is the Uncle. Mr.Michael Durairaj, Sub Inspector of Police, Mailam Police Station received information from the Government Hospital, Tindivanam, visited the hospital, received the complaint (Ex.P1) from PW2 who was taking treatment. From the complaint (Ex.P1), it is seen that on 11.02.2006, PW2 and his wife/PW3 had gone to see Doss who was constructing a house. When they were near the on-going construction house, at about 05.30 p.m. A1 came driving the tractor with trailer bearing Registration No.TN-32-Y-6135 in a rash and negligent manner loaded with river sand and ran over PW3's right foot. When PW1 & PW2 questioned A1, he stopped the tractor, came down, abused, threatened and questioned them why they were standing on the road. A1 also abused them by calling their caste name and claimed that he would bring others from the village and teach them a lesson. Said so, A1 had gone and brought around 30 persons in his tractor armed with cricket bats, knife, wooden logs, sticks and started attacking indiscriminately all in the colony whoever was seen without any reason and caused injuries to them and damage to the properties.



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Attacking colony people without any reason confirms nothing but communal hatred.

19.The first incident of rash and negligent driving of tractor by A1 and causing injuries to PW3 are spoken by PW1, PW2 and PW3. PW2's brother Doss not examined since he was serving in Army. PW4 to PW11 and PW13 to PW19 are all colony people who sustained injuries and witnessed the damage caused to the properties, took treatment at Government Hospital, Tindivanam. PW20 and PW21/Casualty Doctors treated the injured persons, issued Accident Registers and Wound Certificates (Exs.P3 to P18). All the injured rushed to the hospital on the same day of occurrence without any delay. The proximity of the incident, injuries sustained and treatment taken in the hospital confirms no exaggeration or implication in this case.

20.In this case, after the incident, the situation at the scene of occurrence got ignited and surcharged, hence, the District Collector and other higher officials had to intervene to give undertaking and confidence to the injured persons that their life and property will be safeguarded, thereafter normalcy restored. PW22/Investigating Officer narrated the sequence of investigation, collection of materials confirming the role played by each of the accused, and



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their specific overtact and filing of final report. The trial Court considering the evidence of injured witnesses and documents giving benefit of doubt, acquitted some of the accused.

21.The trial Court on the evidence of eye witnesses and injured witnesses PW1, PW2, PW3, PW4, PW5, PW7, PW8, PW9, PW10, PW11, PW13, PW14, PW15, PW16, PW17 & PW18 who all present in the scene of occurrence at the time of rioting and arson committed by the appellants coupled with the medical records, the evidence of Doctors/PW20 & PW21, Tahsildar/PW12, arrest and recovery of material objects/MO1 to MO9 all proved, had rightly convicted the appellants (A1, A5, A7, A15, A18 & A21) in this case. This Court finds the impugned judgment of the trial Court is correct and proper and no reason to interfere.

22.In the result, this Criminal Appeal stands dismissed confirming the impugned judgment dated 23.06.2014 in S.C.No.192 of 2010 passed by the learned Special Judge (Principal Sessions Judge), Villupuram Sessions Division, Villupuram.

23.The trial Court is directed to issue conviction warrant without any



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delay and the respondent Police to secure A1 to undergo rest of the sentence.

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24.This Court places its appreciation to the Legal Aid Counsel for thorough preparation and strenuous arguments putting forth the case of the defacto complainant/victim. The Legal Services Authority, Madras High Court is directed to pay the entitled remuneration to the learned counsel Ms.J.Madhumitha. Connected Criminal Miscellaneous Petition is closed.

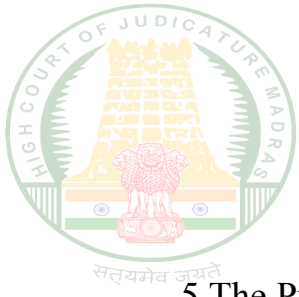
07.10.2025

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

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To

- 1.The Sessions Judge (Principal Sessions Judge),
Villupuram Sessions Division, Villupuram.
- 2.The Deputy Superintendent of Police,
Villupuram Sub Division,
Villupuram District.
- 3.The Legal Services Authority,
Madras High Court.
- 4.The Central Prison,
Cuddalore.



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5. The Public Prosecutor,
Madras High Court.



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M.NIRMAL KUMAR, J.

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PRE-DELIVERY JUDGMENT IN
CrI.A.No.394 of 2014

07.10.2025