



CrI.A.No.59 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:05.02.2025

Coram:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CrI.A.No.59 of 2022

V.Saravanan, aged 47
S/o Veerasami Gounder,
B.K.Nagar,
Kali theerthan Kuppam,
Mathakadipattu post,
Pondicherry.

.. Appellant/defacto complainant

/versus/

1.State rep.by its Inspector of Police,
Valavanur Police Station,
Villupuram District.

.. Respondent/Complainant

2.Moorthy, aged 56,
S/o Periyathambi

3.Santhosh, 31,
S/o Moorthy,
both residing at Mariamman Koil Street,
Poosaripalayam, Villupuram District. .. Respondents/Accused

Criminal Appeal has been filed under Section 378 of Cr.P.C., praying to allow this Criminal Appeal by setting aside the order of acquittal dated 02.03.2021 passed in S.C.No.158 of 2019 on the file of II Additional Assistant Sessions Judge, Villupuram.



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For Appellant :Mr.M.Santhanaraman
For R1 :Mr.L.Baskaran
Govt.Advocate (Crl.Side)
For R2 and R3 :Mr.K.Gandhikumar for
Mr.D.S.Thirumavalavan

JUDGMENT

The appellant, who is the victim/defacto complainant in S.C.No.158 of 2019, had filed this Criminal Appeal, challenging the judgment of acquittal rendered by the II Additional Assistant Sessions Judge, Villupuram dated 02.03.2021, whereby the respondents 2 and 3 were acquitted.

2. Gist of the prosecution case is as follows:-

The defacto complainant, Saravanan, who is the lessee, has been cultivating the land of about 5 acres belonging to one Kuppusamy, the father PW-2 and PW-3. There is a property dispute between Kuppusamy's elder brother Periyathambi's sons Murthy and Santhoh, who are the accused, with Kuppusamy's family and the defacto complainant. In the morning hours on 22.04.2018, when the witnesses Ravi, Guru, Ramu and Vasanth were



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cleaning the land and plucking the coconuts from his land, the accused came there and abused the witnesses in filthy language. Due to wordy quarrel, the accused attacked the defacto complainant with M.O.1 (Aruval) and caused cut injury on the shoulder of PW-1. Immediately, he was taken to the Government Hospital for taking treatment. On the information given by the Hospital authorities, a case registered against the accused and on completion of investigation, charge sheet filed against the accused persons under Sections 294(b), 323, 324, 506(ii) and 307 of IPC before the concerned Court.

3. During the trial, on the side of the prosecution, thirteen witnesses examined as PW-1 to PW-13 and thirteen documents were marked as Exs.P1 to P13 and one material object was marked as M.O.1. On the side of the defence, no witness was examined and no document was marked. The trial Court, after considering the oral and documentary evidence, acquitted the accused.

4. The learned counsel appearing for the appellant submitted that the



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first accused/2nd respondent herein has been charged with the offences under Sections 294(b), 323, 324, 506(ii) and 307 of IPC and the second accused/3rd respondent herein has been charged with the offences under Sections 294(b), 323 and 506(ii) of IPC. As regards the second accused charged with the offence under Section 323 of IPC, the eye witnesses PW-2[Mr.Ravi] and PW-3[Mr.Vasanth] who are present in the scene of occurrence, not deposed that the first accused attacked PW-1 by using M.O.1 Aruval on 22.04.2018. PW-1 is a lessee under one Kuppusamy. Though the eye witnesses Ravi (PW-2), Mr.Vasanth (PW-3), Guru (PW-4) and Ramu(PW-5) had gone to the coconut field to clean it, the accused 1 and 2 restrained to pluck the coconut, thereby a wordy quarrel arose between them. At that time, PW-1 questioned the accused, the accused abused PW-1 in filthy language and when the first accused attacked PW-1 with Aruval on his neck, which was evaded and fell on his left shoulder thereby caused cut injury. Thereafter, PW-1 was taken to Mundiampakkam Government Hospital and given treatment and on information sent to PW-12 (Tr.Balakrishnan, Inspector), he came to the hospital and registered complaint [Ex.P1] and thereafter, registered First Information Report in Crime No.382 of 2018, which was



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marked as Ex.P9. PW-13 [Tmt.A.Lakshmi, Inspector] had taken up the investigation and preferred Observation Mahazar and rough sketch and also recorded confession statements of the witnesses PW-1 to PW-8 and thereafter, recorded the statement of the accused and arrested the accused in the presence of PW-6 and PW-8 and recovered MO.1 and thereafter, filed final report before the concerned Court.

5. These facts are clearly spoken by the injured (PW-1) and the other eye witnesses PW-2 to PW-5. In the presence of the eye witnesses, Observation Mahazar was prepared and statements under Section 161 Cr.P.C. were recorded. The only defence taken by the respondents 2 and 3 is that M.O.1 had accidentally fell on PW-1 and he sustained injury which is contrary to the evidence given by the eye witnesses. If the defacto complainant (PW-1) had not timely avoided the attack by the first accused, the life of the defacto complainant could have been in danger. The trial Court though admitted the presence of the witnesses, gave benefit of doubt to the accused due to minor contradictions and acquitted them.



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6. As regards the motive, there is a civil dispute between the accused and PW-2 and PW-3 regarding property and boundary. PW-1 is only the lessee under the father of PW-2 and PW-3 and therefore, the accused targeted PW-1 and attacked him. Hence, the finding of the trial Court is perverse and the same has to be reconsidered and the judgment of acquittal to be reversed.

7. The learned counsel appearing for the respondents 2 and 3 submitted that the trial Court rightly appreciated the evidence of the witnesses and rendered well considered judgment of acquittal. In this case, the respondents 2 and 3 and PW2 and PW3 are close relatives. With regard to the enjoyment of the land and boundary, there is a dispute between them and civil suit is also pending between them before the civil Court. PW-1 taking advantage of the injury sustained projected the case against the respondents 2 and 3 as if the first respondent assaulted PW-1 with M.O.1(Aruval). In this case, the evidence of PW-1 to PW-4 are contrary to each other and PW-3 and PW-4 deposed that they came to the scene of occurrence later. In respect of the property dispute that arose between the



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accused and PW-2 and PW-3, civil suit is pending before the trial Court.

PW-1 narrates that the first accused attacked on the right shoulder of PW-1 using M.O.1. It is seen from the accidental register (Ex.P8) that on the left shoulder, only one cut injury which would have been occurred due to accidental fall of M.O.1 and the arrest and recovery of M.O.1 is highly doubtful. PW6-Village Administrative Officer and PW-8 Village Assistant are the witnesses for arrest and recovery of material object M.O.1. PW-6 and PW-8 deposed that M.O.1 was recovered from the roof on disclosure made by the first respondent. On the other hand, the other eye witnesses deposed that MO1 was recovered from the scene of occurrence. The Doctor[PW-11] who treated the injured person, in his evidence admits that the defacto complainant came to the hospital with blood stained cloth, but in this case, no such material object recovered. The Doctor also admits that M.O.1 weapon was not shown to him. But, PW-13 had given an explanation that M.O.1 picture shown to the Doctor from his mobile phone, which is an improvised version. PW-1 states that his cloth was soaked with blood stain, but no material object was produced in this case. PW-9 and PW-10 have not supported the case of the prosecution. Hence, the trial Court had given a



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well considered judgment, which needs no interference.

8. This Court considered submissions made by the learned counsel appearing for the appellant and the learned Government Advocate (CrI.Side) appearing for the first respondent and the learned counsel appearing for the respondents 2 and 3, and perused the records available.

9. In this case, the defacto complainant PW-1[Saravaran] is the injured witness.The Doctor PW-11[Mr.Vadivel] examined the injured witness(PW1). From the accident register (Ex.P8) it is seen that except one cut injury, there is no other injury and the Doctor gave an opinion that the injury is simple in nature. The case involves a quarrel regarding property dispute between the accused and the father of PW-2 and PW-3. Due to exchange of words, the first accused said to have grabbed M.O.1 weapon from PW-1 and pushed PW-1 down and thereafter,attacked on the neck of the defacto complainant and there is no evidence to corroborate his contention and there is no clear intention to attack PW-1. Admittedly, civil suit regarding property and boundary already been pending between them.



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10. PW-4 and PW-5 the other eye witnesses clearly deposed that they came to the scene of occurrence later and PW-1 is lessee under PW-2 and PW-3, who are the sons of one Kuppusamy. In this case, the recovery of M.O.1 and arrest of the accused are doubtful since there is contradiction with regard to recovery of M.O.1(Aruval) between PW-6 and PW-8. The other witnesses PW-7, PW-8, PW-9 and PW-10 have not supported the case of the prosecution. In this case, admittedly, there is no wound certificate, X-ray or any other material records to sustain grievous injury. On the other hand, the Doctor gave the opinion that the injury is simple in nature.

11. This Court is aware of the fact that this is an appeal against acquittal. Finds, there is no serious perversity and erroneous finding. When two views are possible, the view in favour of the accused, as taken by the trial Court, should be considered.

12. In view of the above, this Court finds no reason to interfere with the judgment of the trial Court. **Hence, this Criminal Appeal stands**



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dismissed. The judgment of acquittal passed by the II Additional Assistant Sessions Judge, Villupuram in S.C.No.158 of 2019 dated 02.03.2021 is hereby confirmed.

05.02.2025

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Index:yes/no

Speaking order/non speaking order

Neutral citation:yes/no

To

- 1.The II Additional Assistant Sessions Judge, Villupuram.
- 2.The Inspector of Police, Valavanur Police Station, Villupuram District.
- 3.The Public Prosecutor, High Court, Madras.

M.NIRMAL KUMAR,J.



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