



CrL.A.No.685 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2025

CORAM :

THE HON'BLE MR. JUSTICE SUNDER MOHAN

CrL.A.No.685 of 2017

Balakrishnan

...

Appellant/Accused

v.

The State Rep. by its,
The Inspector of Police,
Dhali Police Station,
Tiruppur.
(Crime No.4/2012)

...

Respondent/Complainant

Criminal Appeal filed under Section 374(2) of Code of Criminal Procedure, 1973, against the conviction of the appellant/accused and sentence in S.C.No.112 of 2015 dated 23.10.2017 on the file of the learned Sessions Judge, Magalir Neethimandram (FT Mahila Court), Tiruppur District, and set aside the conviction and sentence and allow this appeal.

For Appellant : Mr.T.R.Sivaram
for M/S.S.Saravanan

For Respondent : Mr.L.Baskaran



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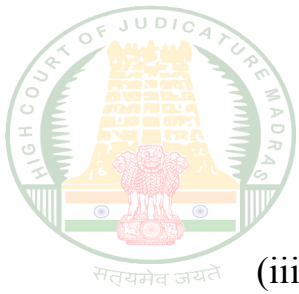
Government Advocate (Crl.Side)
Assisted by Mr.S.Arunpandi.

JUDGMENT

This Criminal Appeal has been filed by the accused, challenging the conviction and sentence imposed upon him, vide judgement dated 23.10.2017 in S.C.No.112 of 2015, on the file of the learned Sessions Judge, Magalir Neethimandram, Fast Track Mahila Court, Tiruppur.

2. (i) It is the case of the prosecution that that the appellant and victim were neighbours; that the appellant constructed a wall near the victim's house which was not to the liking of the victim; that he had plastered the wall and then whitewashed it; that when the victim questioned the appellant, a wordy quarrel ensued between them; and that the appellant had attacked the victim in her left thigh with a spear and caused injuries.

(ii) The victim was taking treatment at the hospital and on information, the Sub Inspector of Police, PW.8, went to the hospital and recorded the complaint of the victim and marked as Ex.P1. The complaint was registered as an F.I.R. in [Cr.No.4/2012](#) by PW.8 and marked as Ex.P6.



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(iii) P.W.10 took up the investigation, examined the witnesses and handed over the investigation to P.W.11, who in turn filed the final report for the offences under Sections 307 and 294(b) I.P.C., before the Judicial Magistrate No.I, Udumalpet.

(iv) On the appearance of the appellant, the provisions of Section 207 Cr.P.C., were complied with, and was committed to the Sessions Court, Tiruppur, and was made over to the Magalir Neethimandram (Fast Track Mahila Court), Tiruppur, and tried in [S.C.No.112/2015](#). The trial Court framed charges against the appellant/accused for the offences under Sections 294(b) and 307 of the IPC and when questioned, the accused pleaded 'not guilty'.

(v) To prove the case, the prosecution examined 11 witnesses as P.W.1 to P.W.11 and marked 10 exhibits as Exs.P1 to Ex.P10. When the accused was questioned, u/s.313 Cr.P.C., on the incriminating circumstances appearing against him, he denied the same. The accused neither examined any witness nor marked any document on his side.

(vi) The trial Court found that the prosecution had established its case beyond reasonable doubt and held the appellant/accused guilty of the offence under Section 307 of the IPC and sentenced him as follows:



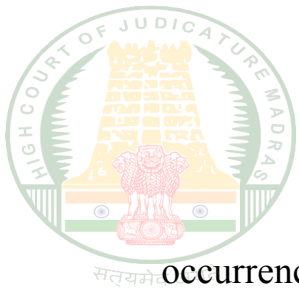
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Offence under Section	Sentence imposed
307 IPC	To undergo RI for seven years and to pay a fine of Rs.1,000/- in default to undergo further RI for two years.

The trial Court found the accused not guilty of the offence under Sections 294(b) of the IPC and acquitted him of the said offence. Hence, the accused has preferred the appeal challenging the said conviction and sentence.

3. Heard, Mr.T.R.Sivaram, learned senior counsel appearing for the appellant, and Mr.L.Baskaran, learned Government Advocate (CrL.Side), appearing for the respondent/State.

4. Mr T.R. Sivaram, learned counsel for the appellant, submitted that the victim, who had been examined as PW.1, cannot be believed; that she had given a false version, as she had prior enmity with the appellant on account of the dispute with regard to the construction of the wall; that the injuries said to have been sustained by her has not been established by the prosecution, as the doctor who had examined and treated the victim was not examined; that the evidence of the investigating officer would reveal that there was a wordy quarrel before the



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occurrence and the accused himself was injured in the occurrence which was suppressed by the prosecution, and therefore, the occurrence did not take place in the manner alleged by the prosecution and prayed for acquittal.

5. Mr.L.Baskaran, learned Government Advocate (CrL.Side) appearing for the prosecution, per contra, submitted that P.W.1, the injured witness, is trustworthy; that nothing has been elicited in the cross-examination to disbelieve her version; that the fact that she was injured in the occurrence has been established as could be seen from the deposition of PW.1 and also the accident register Ex.P4; that the accused has been named in Ex.P4; that the appellant had not proved the nature of injuries sustained by him, and therefore, the non-explanation of any alleged injury to the appellant would not be fatal to the prosecution.

6. As stated earlier, the prosecution had examined 11 witnesses. PW.1 is the victim and the complainant; PW.2 is her husband; PW.3 is her son; PW.4 is the resident who corroborated the versions of PW.1 to 3; PW.5 is the witness for observation mahazar [Ex.P2] and rough sketch[Ex.P9]; PW.6 is the doctor who had marked the accident register [Ex.P4] and treated the victim; PW.7 is the witness to the mahazar for seizure of the dress materials of the victim [Ex.P5];

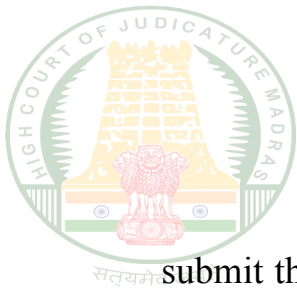


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PW.8 is the Sub Inspector of police who recorded the complaint of the victim and registered the F.I.R [Ex.P6].; PW.9 is the Assistant Director and Chemical Examiner of Forensic Science laboratory, Coimbatore speaks about the blood stain and the articles received and about the report given by him [Ex.P3]; PW.10 and PW.11 are the Investigation Officers.

7. The prosecution case, therefore, rests on the evidence of PW.1 and the evidence of PW.2 and 3, who came to the scene of occurrence on hearing the cry of the victim, PW.1. PW.1 in her deposition stated about the manner of occurrence and the injury caused by the appellant. On a careful perusal of the evidence, this Court finds nothing has been elicited in the cross examination to disbelieve her version. Further, PW.2 and PW.3, who had come to the scene of occurrence on hearing PW.1's cry, corroborated her version. There is also nothing on record to disbelieve their version.

8. In fact, in her cross-examination, she stated that the occurrence had taken place for nearly half an hour, and there was a quarrel prior to the occurrence between the appellant and herself. PW.10, the investigation officer in the cross-examination, admits that there was a prior quarrel between the attack made by the appellant on the victim. The learned counsel for the appellant therefore would



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submit that even assuming PW.1 is believed, the offence at best committed by the appellant would be under Section 334 I.P.C. since there is evidence on record to show that the hurt was caused pursuant to grave and sudden provocation. This Court is of the view that the evidence only reveals that there was a quarrel between the appellant and the victim and thus nothing to suggest there was grave and sudden provocation warranting an attack. Therefore, this Court is of the view that the act of the appellant in causing the injuries on the victim has been established by the prosecution.

9.The next question is as to what is the offence committed by the appellant. The doctor PW.6 had stated that the victim sustained simple injury on her left thigh. The fact that the attack was made on her leg and the nature of the injury would reveal that there was no intention to cause the death of the victim. As the doctor had opined that the victim had sustained a simple injury, this Court in the facts of the case is of the view that the act of the appellant would constitute the offence under Section 323 of the I.P.C., and not under Section 307 I.P.C.

10.Mr.L.Baskaran, learned Government Advocate (Crl.Side) for the prosecution, had produced the incarceration certificate of the appellant. It reveals that the appellant was in custody between 05.01.2012 and 02.02.2012 during



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investigation and between 23.10.2017 to 27.12.2017 pending appeal before his sentence was suspended by this Court. It is seen that the appellant has therefore been in custody for nearly 96 days.

11. Therefore taking into consideration the injury sustained by the victim, the fact that there was a wordy quarrel and there is an admission by PW.10 that the appellant also sustained a simple injury, this Court is of the view that interest of justice would be met if the appellant is sentenced to period of sentence already undergone for the offence under Section 323 I.P.C. The fine imposed by the trial Court is confirmed.

This appeal is **disposed of** accordingly.

30.06.2025

Index : yes/no

Speaking /Non-speaking order

Neutral citation : yes/no

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- To
1. The Sessions Judge,
Magalir Neethimandram,
Fast Track Mahila Court, Tiruppur.
 2. The Inspector of Police,
Dhali Police Station,
Tiruppur.
 3. The Superintendent,
Central Prison, Coimbatore.
 4. The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN,J.

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