



Crl.A.No.875 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2025

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CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYAN

Crl.A.No.875 of 2025

State of Tamil Nadu rep. by
The Inspector of Police,
Veppur Police Station,
Cuddalore District.

...Appellant

Vs.

Sivaganesan

...Respondent

Prayer: Criminal Appeal filed under 378 of Cr.P.C./419 of BNSS to set aside the order of acquittal rendered in Judgment dated 12.04.2024 made in S.C.No.116 of 2023 on the file of the III Additional District and Sessions Court, Cuddalore at Virudhachalam by allowing this Criminal Appeal and convict the accused as charged.

For Appellant : Mr.A.Damodaran,
Additional Public Prosecutor

For Respondent : Mrs.N.Premalatha
(Legal Aid Counsel)



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JUDGMENT

(Judgment of the Court was delivered by M.S.RAMESH,J.)

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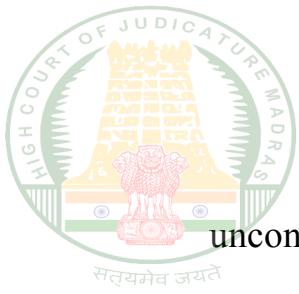
This is an appeal filed by the State against the judgment of acquittal passed in S.C.No.116 of 2023, dated 12.04.2024, on the file of the III Additional District and Sessions Court, Cuddalore at Virudhachalam.

2. For the sake of convenience, the parties in the appeal are addressed according to their ranks in the Trial Court.

3.1. The brief facts of the prosecution are as follows:-

3.2. On 17.12.2022 at about 02.00 P.M., the deceased Arumugam was on the way to his house riding a bicycle. When he approached the front of the accused's house, he lost his balance and his bicycle tread upon the ground nuts spread on the road by the accused's family and while falling down, his bicycle crashed on the mother of the accused, causing her simple injuries. In continuation of this incident, the accused had come to the house of the deceased and picked up a fight.

3.3. It is claimed by the prosecution that the accused had hit and punched the deceased on his chest, owing to which he became



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unconscious and fell down.

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3.4. When the deceased was taken to the Government Hospital, Veppur, the Doctors declared that he was brought dead.

3.5. A complaint (Ex.P.1) was given to the jurisdictional Police on the same day, i.e. on 17.12.2022 at 04.00 P.M., which was registered in Crime No.666 of 2022, for the offences under Sections 294(b), 449 and 302 of the Indian Penal Code (IPC).

3.6. Thereafter, the complaint came to be forwarded to the jurisdictional Magistrate-I, Virudhachalam, on the next day, i.e. on 18.12.2022 at 03.00 P.M.

3.7. On completion of the investigation, a charge sheet was filed by the Police before the learned Judicial Magistrate. After committal proceedings, the Sessions Court had taken the case on file in S.C.No.116 of 2023.

4. In order to substantiate the charges levelled against the accused, the prosecution had examined 13 witnesses (P.W.1 to P.W.13) and marked 11 documents (Ex.P.1 to Ex.P.11). On the side of the accused, no oral or documentary evidences were marked.



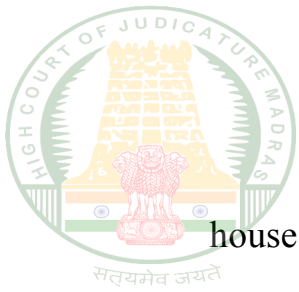
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5. Before the Trial Court, the prosecution had examined P.W.1-

Manjamuthu, son of the deceased; P.W.2-Iyyammal, wife of the deceased; P.W.3-Vijay, grandson of the deceased and P.W.6-Athilakshmi, granddaughter of the deceased, as eye witnesses to the occurrence. P.W.11-Ravichandran, Sub-Inspector of Police, had registered the F.I.R. (Ex.P.6) and P.W.13-Ramachandran, Inspector of Police, had conducted the investigation and filed the final report (Ex.P.11). P.W.9-Dr.Divya is the Medical Officer, before whom the deceased was initially brought dead and she had recorded the accident register (Ex.P.5).

6. The Trial Court, on the strength of the oral and documentary evidences before it, had acquitted the accused of all the charges, through the judgment passed in S.C.No.116 of 2023, dated 12.04.2024, which is assailed in the present appeal.

7. Mr.A.Damodaran, learned Additional Public Prosecutor appearing for the appellant-State strenuously argued that this is a case based on the four eye witnesses accounts. According to him, P.W.1 and P.W.2 are natural witnesses, who were present in the house on the fateful day along with the deceased, when the accused had barged inside the



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house and assaulted the deceased. He further stated that P.W.3 was also naturally present in the scene of crime and had witnessed the incident.

Even though P.W.6 did not support the case of the prosecution, the oral testimonies of P.W.1, P.W.2 and P.W.3, which cogently narrates the entire incident, inspires confidence and therefore, the Trial Court ought not to have acquitted the accused. He further placed reliance on the evidence of P.W.12-Dr.Shanmugam, the Doctor who conducted the postmortem, as well as the postmortem certificate (Ex.P.7) and submitted that the Doctor had categorically recorded the injury in the middle of the chest of the deceased and rendered his final opinion that the deceased would appear to have died due to rupture of aorta following blunt injury to chest. On a co-joint reading of the evidences of P.W.1 to P.W.3, along with the medical evidence, he submitted that it was a clear case of murder committed by the accused. This apart, he also pointed out to the motive attributed by the prosecution with regard to an earlier similar incident of the deceased falling down from his bicycle because of strewn ground nuts in front of the accused's house and the wordy quarrel which arose between them, leading to a grudge between the families and therefore, he sought for intervention in the impugned judgment.



8. Opposing the arguments of the learned Additional Public

Prosecutor, Mrs.N.Premalatha, learned Legal Aid Counsel, would state that P.W.1 to P.W.3 are all close relatives of the deceased and their oral testimonies are untrustworthy, which cannot be relied upon. According to her, both P.W.1 and P.W.2, who are the son and widow of the deceased respectively, had categorically stated that the deceased did not have the habit of consuming alcohol, whereas the evidence of the postmortem Doctor (P.W.12), as well as the postmortem certificate (Ex.P.7), clearly establishes that there was 230 mgs of ethyl alcohol in the stomach. She also pointed out to the facts put forth by the prosecution that when the accused entered the house of the deceased, he was having his lunch, at which point of time, he had smashed the food plate and then punched the deceased on his chest. However, neither P.W.12 nor Ex.P.7 refers to any food particle in the stomach of the deceased. With regard to the motive, it is her submission that not an iota of evidence was brought in by the prosecution to establish the earlier incident or the grudge between the two families. This apart, she submitted that the prosecution had suppressed an earlier complaint of the present incident, which was in one sheet, whereas Ex.P.1 contains three sheets, which fact was admitted by P.W.1 herself. This is further fortified by the fact that the complaint



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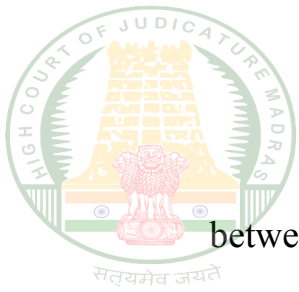
(Ex.P.1), though is claimed to have been given at 04.00 P.M. on

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17.12.2022, the F.I.R. (Ex.P.6) registered, on the basis of Ex.P.1, was transmitted to the Judicial Magistrate's Court only on 18.12.2022 at 03.00 P.M., after a delay of 23 hours. By drawing attention to the evidences let in before the Trial Court in general and the evidence of P.W.13 in particular, she submitted that the prosecution had failed to establish this inordinate delay of 23 hours and therefore, the subsequent complaint, which is claimed to be the first statement recorded, is not genuine and has falsely implicated the accused. In this background, she also drew our attention to the findings of the Trial Court and submitted that all the objections raised by her were properly appreciated by the Trial Court and a judgment of acquittal was recorded. Therefore, she sought for dismissal of the present appeal.

9. We have given our anxious consideration to the submissions made and have perused the original records.

10. Before we delve into the merits of the matter, let us consider the power of the High Court, while considering an appeal against acquittal. It is well settled principle of law that, there is no difference



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between an appeal against acquittal and an appeal against conviction.

Even in the appeal against acquittal, the Appellate Court can review and reconsider the entire evidence and come to its own conclusion, by either accepting the evidence rejected by the Trial Court, or rejecting the evidence accepted by the Trial Court. However, if the High Court decides to depart from conclusions reached by the Trial Court, it should pay due attention to the grounds on which acquittal was rested, and must state the reason as to why the order leading to the acquittal is unacceptable. Furthermore, while re-appreciating or reviewing the evidences, the Appellate Court must keep in mind that the presumption of innocence in favour of the accused is further fortified by the finding of acquittal by the Trial Court, which had the advantage of looking at the demeanor of the witnesses. Thus, if the High Court has reasons to deviate from the order of acquittal, there is a duty cast upon the High Court to give clear reasons to dispel the doubts raised and reject the reason given by the Trial Court. For all these legal propositions, it is useful to refer to the judgment of the Hon'ble Supreme Court in the case of ***Pulicherla Nagaraju Vs. State of A.P.***, reported in ***(2006) 11 SCC 444***.



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11. In yet another judgment in ***Muralidhar Vs. State of Karnataka***, reported in (2014) 5 SCC 730, the Hon'ble Apex Court has enunciated the principles as to how the High Court should deal with an appeal against acquittal. The relevant paragraph is extracted hereunder:-

“12. The approach of the appellate court in the appeal against acquittal has been dealt with by this Court in Tulsiram Kanu [Tulsiram Kanu v. State, 1951 SCC 92:..... 2005 SCC (Cri) 1237], Sanjay Thakran [State of Goa v. Sanjay Thakran, (2007) 3 SCC 755 : (2007) 2 SCC (Cri) 162] and Chandrappa [Chandrappa v. State of Karnataka, (2007) 4 SCC 415 : (2007) 2 SCC (Cri) 325]. It is not necessary to deal with these cases individually. Suffice it to say that this Court has consistently held that in dealing with appeals against acquittal, the appellate court must bear in mind the following:

- (i) There is presumption of innocence in favour of an accused person and such presumption is strengthened by the order of acquittal passed in his favour by the trial court;*
- (ii) The accused person is entitled to the benefit of reasonable doubt when it deals with the merit of the appeal against acquittal;*
- (iii) Though, the powers of the appellate court*



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in considering the appeals against acquittal are as extensive as its powers in appeals against convictions but the appellate court is generally loath in disturbing the finding of fact recorded by the trial court. It is so because the trial court had an advantage of seeing the demeanour of the witnesses. If the trial court takes a reasonable view of the facts of the case, interference by the appellate court with the judgment of acquittal is not justified. Unless, the conclusions reached by the trial court are palpably wrong or based on erroneous view of the law or if such conclusions are allowed to stand, they are likely to result in grave injustice, the reluctance on the part of the appellate court in interfering with such conclusions is fully justified; and

(iv) Merely because the appellate court on reappreciation and re-evaluation of the evidence is inclined to take a different view, interference with the judgment of acquittal is not justified if the view taken by the trial court is a possible view. The evenly balanced views of the evidence must not result in the interference by the appellate court in the judgment of the trial court.”



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12. In a recent judgment in ***Kalinga Vs. State of Karnataka***,

reported in (2024) 4 SCC 735, the Hon'ble Supreme Court had reiterated

the above principles, in the following manner:-

“26. This Court cannot lose sight of the fact that the trial court had appreciated the entire evidence in a comprehensive sense and the High Court reversed the view without arriving at any finding of perversity or illegality in the order of the trial court. The High Court took a cursory view of the matter and merely arrived at a different conclusion on a reappraisal of evidence. It is settled law that the High Court, in exercise of appellate powers, may reappraise the entire evidence. However, reversal of an order of acquittal is not to be based on mere existence of a different view or a mere difference of opinion. To permit so would be in violation of the two views theory, as reiterated by this Court from time to time in cases of this nature. In order to reverse an order of acquittal in appeal, it is essential to arrive at a finding that the order of the trial court was perverse or illegal; or that the trial court did not fully appreciate the evidence on record; or that the view of the trial court was not a possible view.”

27. At the cost of repetition, it is reiterated



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that the anomaly of having two reasonably possible views in a matter is to be resolved in favour of the accused. For, after acquittal, the presumption of innocence in favour of the accused gets reinforced. In Sanjeev v. State of H.P. [Sanjeev v. State of H.P., (2022) 6 SCC 294 : (2022) 2 SCC (Cri) 522] , this Court summarised the position in this regard and observed as follows : (SCC p. 297, para 7)

“7. It is well settled that:

7.1. While dealing with an appeal against acquittal, the reasons which had weighed with the trial court in acquitting the accused must be dealt with, in case the appellate court is of the view that the acquittal rendered by the trial court deserves to be upturned (see Vijay Mohan Singh v. State of Karnataka [Vijay Mohan Singh v. State of Karnataka, (2019) 5 SCC 436 : (2019) 2 SCC (Cri) 586] , Anwar Ali v. State of H.P. [Anwar Ali v. State of H.P., (2020) 10 SCC 166 : (2021) 1 SCC (Cri) 395]).

7.2. With an order of acquittal by the trial court, the normal presumption of innocence in a criminal matter gets reinforced (see Atley v. State of U.P. [Atley v. State of U.P., 1955 SCC OnLine SC 51 : AIR 1955 SC 807]).

7.3. If two views are possible from the evidence



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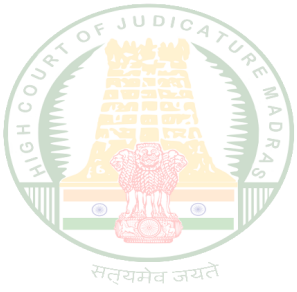


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on record, the appellate court must be extremely slow in interfering with the appeal against acquittal (see Sambasivan v. State of Kerala [Sambasivan v. State of Kerala, (1998) 5 SCC 412 : 1998 SCC (Cri) 1320]).”

13. With these legal propositions in mind, we shall now analyse the submissions made by both the counsels, in the light of the oral and documentary evidences let in before the Trial Court.

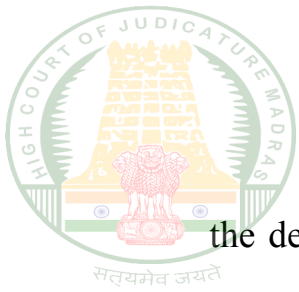
14. The main contention of the learned Additional Public Prosecutor before us is that P.W.1 and P.W.2, who were the son and wife of the deceased respectively, were naturally present in their house, along with the deceased, when the incident occurred and had witnessed the entire occurrence. He had also pointed out to an earlier similar cycle accident in front of the accused's house, which developed into a grudge between the two families and the subsequent incident that took place on 17.12.2022, wherein the cycle of the deceased crashed on the mother of the accused as a motive for the occurrence, which was clearly spoken to by these eye witnesses.



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15. Among the objections raised by the learned Legal Aid Counsel, reliance was placed on the oral testimony of the postmortem Doctor (P.W.12) and the postmortem certificate (Ex.P.7), in which the food particles were absent, which is contrary to the claim of P.W.1 and P.W.2 that the deceased was consuming food when the incident occurred. Likewise, the presence of 230 mgs of ethyl alcohol in the stomach was also contrary to the claim made by P.W.1 and P.W.2 that the deceased was not in the habit of consuming alcohol. The specific case of the defence is that the deceased had consumed alcohol and under its influence, he had lost balance and fell down from his bicycle and sustained injuries on his chest, which was the cause for his death.

16. P.W.1, in his chief examination, has stated that after his father fell down from the cycle, he had come and told him about the incident, at which point of time, he had asked him to go and have lunch. He then has stated that his mother was serving lunch to the deceased, when the accused had come to the house and assaulted him. P.W.2 also speaks about the deceased narrating the incident to her, after which she had served him lunch and he had started to eat. When the accused had come inside their house and picked up a quarrel, she categorically stated that



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the deceased was eating his food and therefore asked the accused to go away. As stated earlier, the medical evidence does not record the presence of food in the stomach of the deceased in order to establish the claim of P.W.1 and P.W.2 that he was having lunch at the relevant point of time. In this background, it would be unsafe to rely on this portion of the oral testimonies of P.W.1 and P.W.2 as to the consumption of food by the deceased when the accused had entered the house.

17. Similarly, when the defence had put forth their theory that the deceased had fallen down from his bicycle under intoxication and hurt himself in his chest, which lead to his death, P.W.1 and P.W.2 categorically denied in their respective cross examinations and stated that the deceased did not have the habit of consuming alcohol. However, the medical evidence proves otherwise, establishing the contents of 230 mgs of ethyl alcohol in the stomach of the deceased. These two major contradictions raises a serious doubt as to whether the accused had really come to the house of the deceased, as well as assaulted him on the chest? Likewise, was the death of the deceased caused owing to the blow given by the accused on the chest of the deceased or was it because of the fall of the deceased from his bicycle owing to intoxication?

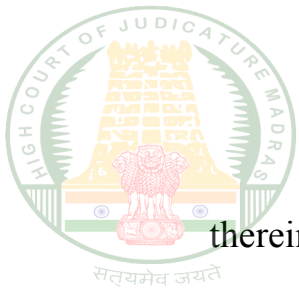


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WEB COPY 18. When P.W.3 was confronted with a similar question as to whether his grandfather was in the habit of consuming alcohol, he admitted that the deceased was an occasional drinker and that he did not remember whether the deceased was intoxicated on the day of occurrence. However, to the suggestion that his grandfather had fallen due to intoxication from the cycle and died, P.W.3 denied the same.

19. On an overall perusal of the evidences of P.W.1 to P.W.3 on these aforesaid facts put forth by the prosecution, it would be unsafe to rely on the statements of P.W.1 to P.W.3, touching upon the mental condition of the deceased that he was sober when he fell down from the bicycle or the claim that he was having food when the accused entered inside the house.

20. The learned Legal Aid Counsel raised a serious doubt with regard to the complaint (Ex.P.1) given by P.W.1 and suggested the possibility of an original complaint being suppressed by the prosecution. P.W.1, in his cross examination, claims that he has given the complaint (Ex.P.1) at 02.00 P.M. on 17.12.2022. It is his categorical statement



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therein that the contents of Ex.P.1 was written only in one page.

However, when Ex.P.1 was shown to her and confronted, she admitted that the complaint ran to three pages and that she had signed in all the three pages. This again raises doubts with regard to the disappearance of the one page complaint given by him. To further brace this doubt, we find from the records that though the Express F.I.R. (Ex.P.6) was registered at 04.00 P.M. on 17.12.2022, it was transmitted to the Judicial Magistrate on the next day, i.e., on 18.12.2022 at 03.00 P.M. with an unexplained delay of 23 hours. P.W.11, who is the Sub-Inspector of Police and who registered the F.I.R. (Ex.P.6), had denied the suggestion put forth to him that he had transmitted the F.I.R. to the Judicial Magistrate on 18.12.2022 at 03.00 P.M. However, the original records before us clearly establish that P.W.1 was not telling the truth about the time of transmission. The Investigating Officer (P.W.13) also speaks about having received the Express F.I.R. (Ex.P.6) at 14.30 hours, pursuant to which he commenced the investigation. There is no explanation by either P.W.11 or P.W.13 as to why the F.I.R. was transmitted after a delay of 23 hours. In the absence of the same, the claim of the defence that the prosecution had suppressed the first one page written complaint, gains significance.



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WEB COPY 21. After having received the F.I.R., P.W.13 had commenced the investigation and had sent the body to P.W.12 for conducting the postmortem, through the Head Constable (P.W.10). P.W.12 had commenced the postmortem at 12.40 P.M. Incidentally, the learned Legal Aid Counsel also drew our attention to the statement of P.W.12 regarding the death to have occurred 12 hours prior to the commencement of the postmortem procedure. This statement of P.W.12 fixes the time of death during the midnight of 17.12.2022/18.12.2022. On this context, we find some force in the submission of the learned Legal Aid Counsel.

22. When P.W.12 had commenced the postmortem at 12.40 P.M., P.W.13 was in the process of conducting the investigation and the Express F.I.R. had not reached the jurisdictional Magistrate. The possibility of P.W.13 to have known about the possible cause of death, before the Express F.I.R. reached the jurisdictional Magistrate, also cannot be ruled out, since the F.I.R. had reached the Judicial Magistrate much after the postmortem had concluded. In this background, the statement of P.W.1 that she had given a complaint in one page at 03.00 P.M. on 17.12.2022, which is opposed to Ex.P.1 being recorded in three



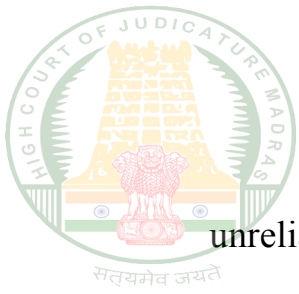
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pages, casts a serious doubt with the very first information to the Police, as well as the possible time of occurrence.

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23. P.W.1 to P.W.3 have come out with a clear case that there was previous enmity between the families of the accused and the deceased. A reference is being made to a similar cycle accident in front of the accused's house. However, no oral or documentary evidences were let in by the prosecution before the Trial Court to establish the same. In the absence of any such prior incident, we are also confronted with the claim of the prosecution that the accused barged into the house of the deceased and gave a deadly blow with the intention of causing death, after orally abusing him.

24. We have gone through the judgment of the Trial Court in its entirety. The Trial Court had also analysed the evidences of P.W.1 to P.W.3 threadbare and taken note of the serious contradictions therein, which we had dealt above. In our view, the evidences of P.W.1 to P.W.3, does not inspire confidence, so as to place reliance on their testimonies and arrive at a conclusion of guilt and thus, we are of the view that the Trial Court had rightly considered their ocular testimonies to be wholly



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unreliable and had rightly rejected the same. We do not find any reason to interfere with these well considered findings.

25. In the result, there are no merits in this appeal so as to entertain the same and thus, the Criminal Appeal stands dismissed. We hereby direct the Tamil Nadu State Legal Services Authority to pay a sum of Rs.10,000/- to Mrs.N.Premalatha, Legal Aid Counsel, towards the final hearing fees.

[M.S.R.,J] [V.L.N.,J]
15.07.2025

Index:Yes
Neutral Citation:Yes
Speaking order
hvk



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- 1.The III Additional District and Sessions Court,
Cuddalore at Virudhachalam.
- 2.The Inspector of Police,
Veppur Police Station,
Cuddalore District.
- 3.The Public Prosecutor,
High Court of Madras.



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and
V.LAKSHMINARAYANAN, J.

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