



CrI.A.No.10 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.A.No.10 of 2023

1.Balaiyan
2.Karthick

... Appellants

Vs.

State represented by the
The Inspector of Police,
Perambur Police Station,
Nagapattinam District
(crime No.58 of 2014)

... Respondent

PRAYER: Criminal Appeal filed under Section 374(2) of Cr.P.C., praying to call for the records pertaining to the order made in SC.No.80 of 2016 dated 19.10.2022 on the file of the learned Additional District and Sessions Court, Mayiladuthurai and set aside the same by allowing above appeal.

For Appellants : Mr.O.S.Thilak Pasumbadiyar

For Respondent : Mr.S.Raja Kumar,
Additional Public Prosecutor

JUDGMENT

This criminal appeal has been preferred against the judgment dated 19.10.2022 passed in SC.No.80 of 2016 on the file of the learned



Crl.A.No.10 of 2023

Additional District and Sessions Court, Mayiladuthurai, thereby the appellants have been convicted and sentenced for the offences punishable under Sections 147, 452, 379, 436 of IPC and Section 3(1) of TNPPDL Act.

2. The case of the prosecution is that all the accused persons are relatives. A murder case had been registered against one, Vijay @ Krishna Kumar, who is the brother-in-law of one, Vimal Raj as they committed murder of the sisters husband of the first accused and burned the body. After registration of FIR, they are under judicial custody. Due to the same, the accused were having enmity with the family of one, Natarajan and his family members. Therefore all the accused persons joined together in an unlawful assembly on 20.02.2014 at about 2.45 p.m. and broke open the lock of the house that belongs to the said Natarajan and trespassed the house. They had stolen articles including two wheeler, gas cylinder and stove and set fire to the house. After registration of FIR in crime No.58 of 2014 for the offence punishable under Sections 147, 452, 379, 436 of IPC and Section 3(1) of TNPPDL Act, the respondent completed investigation and filed final report and the same was taken cognizance by the trial court in SC.No.80 of 2016.



Crl.A.No.10 of 2023

WEB COPY

3. In order to bring the charges to home, the prosecution had examined PW1 to PW10 and marked Ex.P1 to 12 The prosecution had produced material objects in MO.1 to MO.13. On the side of the accused, no one was examined and no exhibits were produced before the trial court. On perusal of the oral and documentary evidences, the trial court found all the accused persons guilty under Sections 147, 452, 379, 436 of IPC and Section 3(1) of TNPPDL Act and sentenced them with fine. Aggrieved by the same, A2 and A3 have preferred this criminal appeal.

4. The learned counsel for the appellants would submit that though the occurrence allegedly happened on 20.02.2014, there was a delay of 15 days in sending the FIR to the jurisdictional magistrate court i.e. Judicial Magistrate-II, Mayiladuthurai. No accused was named in the FIR. Complainant was examined as PW1, who is Village Administrative Officer and he did not identify the accused. Further, the owner of the house i.e. Natarajan was not examined as a witness. He further submitted that PW2 categorically deposed that in the scene of crime, there was 25 persons. However, the prosecution failed to examine anyone of them as an independent witness. PW4, 5 & 7 are hear-say witnesses and those



Crl.A.No.10 of 2023

witnesses cannot be considered for conviction. He further submitted that the first appellant is aged about 70 years.

5. The learned Additional Public Prosecutor submitted that in order to bring the charges to home, the prosecution had examined PW1 to PW10. The owner of the house i.e. one, Natarajan was examined as PW4. His wife and other family members were examined as prosecution witnesses. They deposed that the accused had stolen household articles and set fire to the house. Therefore, the prosecution proved the case beyond any doubt. He further submitted that the accused had committed the crime due to previous enmity. The first accused's sister's husband was murdered by the son of PW4. Therefore, they had previous enmity and had ransacked the entire house by stealing the household articles and they also set fire to the house of PW4. As such, the trial court rightly convicted the accused and the conviction does not warrant any interference by this Court.

6. Heard, the learned counsel appearing on either side and perused, all the materials placed before this Court.

7. On perusal of the records, it is revealed that there are totally



Crl.A.No.10 of 2023

seven accused, in which the appellants have been arrayed as A2 and A3.

WEB COPY

They were charged for the offence punishable under Sections 147, 452, 379, 436 of IPC and Section 3(1) of TNPPDL Act. On the complaint lodged by PW1, the respondent registered FIR. On perusal of the complaint, which was marked as Ex.P1 dated 20.02.2014, it is revealed that PW1 received information as the house of PW4 was set fire. Immediately, PW1 rushed to scene of crime and preferred the complaint. On the said complaint, the first respondent started investigation and recovered material objects in MO.1 to MO.13 from the custody of the accused. The accused also set fire to the house of PW4 and caused damage worth Rs.50,000/-. PW2 deposed that he has given all information to PW1 to lodge complaint. He also spoke about the recovery of motorcycle and other household articles under Ex.P4 Mahasar from the accused. PW4, the owner of the house, deposed that due to the murder of one, Vimal Raj, they had stayed far away from the village on 29.01.2014. Thereafter, they were informed that their house was burnt by the accused and immediately they rushed to the house. They heard that the accused had stolen the household articles and completely ransacked the entire house by setting fire to the house. All the household articles including motorcycle were recovered from the accused. All the household articles



Crl.A.No.10 of 2023

were identified by PW4 in the police station. However, he was not examined by the accused. In fact, no witness was cross examined by the accused. Though there was no witness to the occurrence, by way of recovery, all the witnesses corroborated the motive and intention of the accused person to commit the crime. The circumstances in which the crime was committed, had been clearly proved by the prosecution and the trial court rightly convicted the accused.

8. That apart, on perusal of the records, it is revealed that though there was a delay in sending the FIR to the court. There is no discrepancy in the circumstantial evidence of the prosecution to prove the case beyond any doubt. Therefore, no prejudice was caused to the accused by sending the FIR belatedly. Further, there is no question of putting up a false case against the appellants by sending the FIR belatedly to the jurisdictional magistrate Court. Vital witnesses were not even cross examined by the defence. There are enough material evidence and trustworthy testimonies which clearly support the case of the prosecution since the prosecution version is cogent and supported by the recovery of the household articles from the accused. In a case of circumstantial evidence, motive assumes greater importance than in the case of direct



Crl.A.No.10 of 2023

evidence. Therefore, the trial court rightly convicted the accused and this

Court finds no infirmity or illegality in the impugned judgment. As such,

this criminal appeal fails and the same is liable to be dismissed.

9. Accordingly, this criminal appeal is dismissed.

05.06.2025

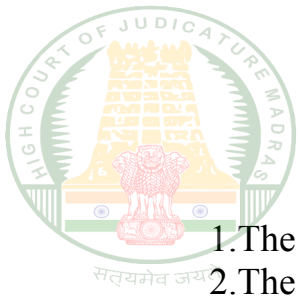
Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
lok

G.K.ILANTHIRAIYAN, J.

lok

To

Page 7 of 8



Crl.A.No.10 of 2023

- 1.The learned Additional District and Sessions Court, Mayiladuthurai
- 2.The Inspector of Police,
Perambur Police Station,
Nagapattinam District
- 3.The Public Prosecutor,
High Court of Madras

Crl.A.No.10 of 2023

05.06.2025