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CRL RC No. 2031 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 07-10-2025**

CORAM

**THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI**

**CRL RC No. 2031 of 2023**

1. THALAPATHI

S/O.Muniappan, Sundar Street,  
Kitchipalayam, Salem.

2. CHANDRU

S/O.Sakthivel, 122, Appar street,  
Kitchipalayam, Salem.

Petitioner(s)

Vs

1. The State Rep. By

The Inspector Of Police

Kitchipalayam Police Station, Salem.

Cr.No. 286/2021.

Respondent(s)

**CRL RC No. 2031 of 2023**

**PRAYER**

To set aside the judgement passed in Sc.No. 139/2022 dated 13.7.2023 by the Assistant Sessions Court Cum Chief Judicial Magistrate, Salem confirmed in CA.No. 140/2023 dated 8.11.2023 on the file of the 1st Additional Sessions Court, Salem.

**CRL RC No. 2031 of 2023**

For Petitioner(s): T.Muruganantham  
M.Rajkumar  
M.Praveen



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CRL RC No. 2031 of 2023



For Respondent(s): Dr.C.E. Pratap,  
Government Advocate (Crl.  
Side)

### **JUDGEMENT**

This Criminal Revision Case has been filed to set aside the judgement passed in Sc.No. 139/2022 dated 13.7.2023 by the Assistant Sessions Court Cum Chief Judicial Magistrate, Salem confirmed in CA.No. 140/2023 dated 8.11.2023 on the file of the 1st Additional Sessions Court, Salem.

#### **2. The brief facts of the case:**

The complainant lodged a complaint before the respondent police alleged that on 18.05.2021 at about 08.30 p.m., the complainant and his friend Jana were proceeding in a two wheeler belongs to the complainant bearing registration No. TN 54 B 8268 near Kalikavundarkadu, old bathroom. By that time, the first accused driven his two wheeler bearing registration No. TN 28 AA 2308 in the opposite direction with four accused and the juvenile in conflict with law Shanmugam @ Shanmugi and 2<sup>nd</sup> and 3<sup>rd</sup> accused were nearing to the place of occurrence and all of them were assembled unlawfully and restrained the complainant and his friend abused them by using filthy language and rounded the complainant and his friend, the second and third accused caught hold the complainant, when the first accused has attempted to cut the neck of the complainant, the complainant prohibited the assault of first accused by using his left hand, due to which he sustained injuries in his left hand. Based on the complaint, the respondent police registered FIR in crime No. 286 of 2021



under Sections 147, 148, 341, 294(b), 307, r/w 149 IPC. Upon completion of investigation, the respondent police filed final report and the same was taken on file by the Judicial Magistrate No.2, Salem, in P.R.C No. 34 of 2022. Thereafter the case has been committed to the Assistant Sessions Court Cum Chief Judicial Magistrate, Salem. Before the Trial Court, 10 witnesses were examined as marked Exhibits P1 to P8, Ex.C1, Ex.C2 and M.O.1 to 4 were marked. Upon hearing both sides and on perusal of the records, the Trial Court has convicted the 1st accused and sentenced to undergo Simple Imprisonment for one month and to pay a fine of Rs.500/- in default to undergo Simple Imprisonment for one week for the offence u/s.341 IPC and convicted and sentenced to undergo one year simple imprisonment and pay a fine of Rs.2,000/- in default one month simple imprisonment for the offence u/s 148 IPC and convicted and sentenced to undergo five years rigorous imprisonment and pay a fine of Rs.5,000/- each fine in default one month imprisonment for the offence u/s.307 IPC. The 2nd, 3rd and 4th accused were convicted and sentenced to undergo one month simple imprisonment and pay a fine of each Rs.500/- in default one week simple imprisonment for the offence u/s. 341 IPC and convicted and sentenced to undergo six months simple imprisonment and pay a fine of each Rs.1,000/- in default one month simple imprisonment for the offence u/s. 147 IPC and the accused were convicted to undergo five years rigorous imprisonment and each Rs. 5,000/- in default one month simple imprisonment for the offence u/s 307 r/w 149 IPC. The period of sentence already undergone by the accused are



ordered to be set off u/s.428 Cr.P.C. Challenging the same, the accused persons filed appeal before the I Additional District and Sessions Judge, Salem, in S.C No. 139 of 2022. On hearing both sides, the first appellate Court dismissed the appeal. Challenging the same, the petitioners/2<sup>nd</sup> and 3<sup>rd</sup> accused filed this Criminal Revision Case.

3. The learned counsel for the petitioners/2<sup>nd</sup> and 3<sup>rd</sup> accused submit that the petitioners have been falsely implicated in this case as if they have attacked the victim along with A1 on the date of alleged occurrence. Even as per prosecution, the first accused alone attempted to attack the victim/P.W.1 not by these petitioners. They were present at the time of occurrence but the Court below failed to appreciate the said evidence erroneously convicted the petitioners which was confirmed by the first appellate Court. Hence, he prays to set aside the findings of the Courts below since the case has not been proved beyond reasonable doubt.

4. The learned Government Advocate (Crl. Side) submits that first petitioner is having 5 previous cases and the second petitioner is having 2 previous cases and subsequent to the present case they were involved in two other cases. Further the prosecution proved the case beyond reasonable. Hence, he prays to dismiss this case.

5. Heard both sides.

6. According to the prosecution, on the date of alleged occurrence, A1



attacked the victim/P.w.1, while the petitioners/A2 and A3 were locked the hands of the victim/P.W.1. Although the prosecution alleged that the petitioners attacked the victim with deadly weapon resulting in cut injuries to his left hand and subsequent hospitalization it failed to prove that these petitioners actually carried out the attack at the time of the incident. Further, eye witnesses are interested witnesses, who are friend of victim/P.w.1. Apart from that there is no other individual eye witness was examined to prove the alleged occurrence. When the occurrence was taken place victim/P.W.1 travelling along with one jana, who was riding a two wheeler. Therefore, while travelling occurrence was said to be happened but no eyewitness from the public was examined on the side of the prosecution. P.W.3/Kaliappan deposed that he came to know about the incident but he was not a direct eye witness. As discussed above, there in no eye witness from the public was examined to prove the case. The prosecution has failed to prove the case beyond reasonable doubt. Therefore, the conviction and sentence imposed on the petitioners are set aside. The petitioners are acquitted from all the charges. The Bail bond if any executed by the by petitioners, shall stand cancelled. The fine amount, if any, paid by the petitioners is directed to be refunded. This Criminal Revision Case is allowed accordingly.

**07-10-2025**

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Index: Yes/No

Speaking/Non-speaking order



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Internet: Yes

Neutral Citation: Yes/No

To

1. The Inspector of Police,  
Kitchipalayam Police Station, Salem.
2. The Public Prosecutor, High Court madras.



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**T.V.THAMILSELVI J.**  
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