



Crl.R.C.No.19 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 19.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

Crl.R.C.No.19 of 2024

1. Annamalai
2. Palanisamy
3. Muthusamy

... Petitioners

Vs.

State rep. by,
The Inspector of Police,
Mangalapuram Police Station,
Namakkal District.
Crime No.101/2013

... Respondent

PRAYER: Criminal Revision Case has been filed under Section 397 & 401 of Code of Criminal Procedure, to set aside the judgement dated 22.11.2023 made in Criminal Appeal No.108 of 2022 on the file of the Additional Sessions Court, Namakkal dated 18.11.2022 confirming the judgement made in C.C.No.68 of 2016 on the file of the Judicial Magistrate Court, Rasipuram.

For Petitioners : Ms.N.Prasanthi
Legal Aid Counsel for P1 & P3
Mr.Suresh for P2

For Respondent : Mr.J.Subbiah
Government Advocate (Crl.Side)



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ORDER

WEB COPY This Criminal Revision is filed against the judgment of the learned Additional Sessions Judge, Namakkal, dated 22.11.2023 in Crl.A.No.108 of 2022. By the said judgment, the learned appellate Judge confirmed the conviction and sentence imposed by the trial Court. By a judgment dated 18.11.2022, the trial Court – the Judicial Magistrate, Rasipuram, in C.C.No. 68 of 2016 found the petitioners/accused Nos.1 to 3 guilty of an offence punishable under Section 25(1)(B)(a) read with Section 3 of the Arms Act, 1959 and imposed punishment of two years' simple imprisonment and a fine of Rs.1000/-, and in default of payment of fine, to undergo one week's simple imprisonment.

2. The case of the prosecution is that on 02.07.2013, at about 4:00 a.m., when P.W.1 and P.W.2, being constables attached to the Mangalapuram Police Station, went on rounds near Thandagoundampalayam, Perumal kovil on Nagapattinam Road, a Hero Honda CD 100 motorcycle bearing registration number TN 09 Y 5406 was going in front of them, in which all the three accused were travelling, and one person was holding a country-made SBML Gun. Therefore, the accused were rounded up and brought to the police station. Since it was found that the gun was without any license whatsoever, a case in



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Crime No.101 of 2013 was registered by P.W.6 *Pichamuthu*. Thereafter,

P.W.6 and P.W.7 took up further investigation and a final report was filed, proposing that the accused were guilty of the offences. The same was taken on file as C.C.No. 68 of 2016.

3. Upon issue of summons, furnishing of copies, and questioning, the accused denied the allegations and stood trial. In order to bring home the offences, the constables *Arul Kumar* and *Chandrababu*, who went on rounds and caught hold of the accused persons, were examined as P.W.1 and P.W.2. *Brinda*, the Village Administrative Officer, who was the witness to the confession statement given by all the three accused, was examined as P.W.3. Another witness by name Kannaiyan (P.W.4), who was sought to be examined as an eyewitness to the apprehension of the accused by P.W.1 and P.W.2, also turned hostile. The witness to the observation mahazar, one *Gunasekharan*, examined as P.W.5, also turned hostile. One *Pichamuthu*, the Special SI who registered the First Information Report, was examined as P.W.6. One *Gulasekaran*, who took up further investigation, was examined as P.W.7, and the Investigating Officer who completed the investigation and filed the final report was examined as P.W.8.

4. The complaint given by P.W.1 was marked as Ex.P1. The signatures

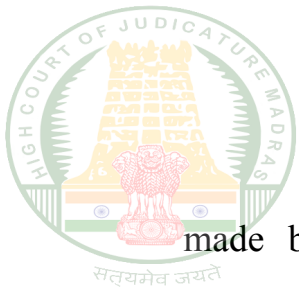


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in the confession statements given by accused Nos.1 to 3 were marked as Exs.P2 to P4 respectively, and the signature in the observation mahazar was marked as Ex.P5. The FIR was marked as Ex.P6. Form 91 was marked as Ex.P7. The observation mahazar and the rough sketch were marked as Exs.P8 and P9. The ballistic report was marked as Ex.P10. The alteration report altering the provisions of the FIR was marked as Ex.P11. The country-made gun was also produced as M.O.1 and the motorcycle in which the accused were travelling was produced as M.O.2.

5. Upon being questioned about the incriminating evidence and the material circumstances on record, the accused denied the same as false. Thereafter, no evidence was let in on behalf of the accused. The trial Court, after appreciation of evidence, found the accused guilty of the offence and sentenced them as aforesaid. The appellate Court also confirmed the same after re-appreciation of the evidence. Aggrieved thereby, the present revision is filed.

6. The learned counsel appearing on behalf of the second petitioner, by taking this Court through the evidence, would contend that this case is a bundle of contradictions; the FIR itself was altered. None of the statements



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made by P.W.1, P.W.2, P.W.6, P.W.7, and P.W.8, who are all police personnel, can be true. The variance in the time mentioned by each of the witnesses would disprove the entire case of the prosecution. The only independent witness, namely P.W.4, turned hostile. Even the observation mahazar witness, P.W.5, turned hostile.

7. Even though the Village Administrative Officer, who stood as a witness to the confession statement, was examined, her cross-examination would again falsify the case of the prosecution. Therefore, the learned counsel for the petitioner submitted that the findings of the trial Court as well as the first appellate Court are totally without considering these contradictions in the case of the prosecution and as such, this is a fit case for interference by this Court in exercise of its revisional jurisdiction. Since nobody appeared on behalf of accused Nos.1 & 3, *Ms.N.Prasanthi*, the learned legal aid counsel was appointed to argue on their behalf. The learned legal aid counsel also took this Court through the aforesaid records and adopted the arguments made on behalf of accused No.2. She also prayed that this is a fit case for exercise of the revisional jurisdiction by this Court.

8. Per contra, the learned Government Advocate (Crl. Side) appearing



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for the respondent would submit that the two police personnel who went on rounds were duly examined as P.W.1 and P.W.2. They have spoken about the prosecution case. The country-made gun was recovered and duly produced as M.O.1. The motorcycle in which the accused were travelling was also produced as M.O.2. They gave confession statements, and the independent witness, the Village Administrative Officer, was also examined. The ballistic report in respect of the gun was also marked as a document. After due investigation, the report was filed. The argument relating to minor discrepancies in the timings cannot in any manner absolve the accused of criminal liability. The fact remains that they were possessing a country-made gun without any licence and therefore are punishable for the offence under Section 25(1)(B)(a) of the Arms Act, 1959.

9. I have considered the rival submissions made on either side and perused the material records of the case.

10. Firstly, it is true that this Court will not take into consideration mere contradictions in timing, as after registration of the case, when the case comes up for trial, naturally there will be some minor contradictions with reference to timings. But such differences will normally be ignored by this Court if overall



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the case of the prosecution inspires the confidence of the Court and could have happened in the manner narrated by the prosecution. In this case, the recovery of the gun is the material fact. No recovery mahazar was drawn up to recover the gun from the accused. As per Form 91, it was produced by P.W.1 and P.W.2 at about 11:00 a.m., whereas it is the case of P.W.1 and P.W.2 that they handed over the accused as well as the gun in the early morning itself, though the timings differ between P.W.1 and P.W.2.

11. Each one of them gave different timings. The entire evidence of P.W.1 and P.W.2, and the FIR registering witness P.W.6 and the Investigating Officer P.W.7, differ with each other with reference to timings. More importantly, with reference to a very material fact, P.W.1 states that the three persons were travelling on the same motorcycle and it came in the opposite direction to them, whereas P.W.2 says that the three persons were travelling in front of them. Therefore, even with reference to how they were intercepted, P.W.1 and P.W.2 completely differ with each other. There are also corrections with reference to timings in the First Information Report. In this case, the witnesses are all police personnel working in the concerned police station. The only independent witnesses are the eyewitness and the other observation mahazar witness, who all turned hostile. As far as the Village Administrative



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Officer is concerned, firstly it can be seen that even in chief examination he admits that the examination of the accused started about 8:00 a.m. and, one after the other, they gave confession statements, whereas in the respective confession statements the time is mentioned as 7:30 a.m.

12. Secondly, in cross-examination, when P.W.3 was specifically questioned as to when he went to the police station, he stated about 8:00 a.m. Even though the timing can be ignored, when questioned whether he saw the accused when he went to the police station, he suddenly turned around and said that he does not remember. The other answers of P.W.3 as to his place of residence, from where he went to the police station and at what time etc., do not inspire the confidence of this Court. P.W.3 did not withstand cross-examination and gave contradictory answers.

13. Thus, this case is a complete bundle of contradictions with reference to each and every timing, and when the recovery of the gun has also not been proved beyond any doubt, I am unable to sustain the findings of the trial court as well as the lower appellate court. When the prosecution case is completely riddled with contradictions and controversies, it is unsafe to convict the accused, especially when the offence is serious in nature and punishable with a



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minimum imprisonment of two years.

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14. In view thereof, the Criminal Revision stands *allowed*. The conviction and sentence imposed on the petitioners by the judgments of the trial Court in C.C.No. 68 of 2016 dated 18.11.2022 and appellate Court in C.A.No.108 of 2022 dated 22.11.2023 stand set aside. The fine amount, if any, paid, shall be refunded. Since the country-made gun is without any licence, the same is ordered to be destroyed.

19.08.2025

Neutral Citation: Yes/No
nsl

To

1. The Inspector of Police,
Mangalapuram Police Station,
Namakkal District.
2. The Additional Sessions Court, Namakkal.
3. The Judicial Magistrate Court, Rasipuram.
4. The Public Prosecutor,
High Court of Madras.

D.BHARATHA CHAKRAVARTHY, J.



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