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Cr1.A(MD)No.123 of 2022



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	10.07.2025
Pronounced on	29.08.2025

CORAM

**THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MS.JUSTICE R.POORNIMA**

Cr1.A(MD)No.123 of 2022

John Joseph

... Appellant/A1

Vs.

The Inspector of Police,
V.K.Puram Police Station,
V.K.Puram, Tirunelveli District
Crime No.56 of 2015

... Respondent

Prayer:- This Criminal Appeal is filed under Section 374(2) of Criminal Procedure Code, to call for the records and allow the above appeal by setting aside the judgment dated 04.02.2022 passed in S.C.No.639 of 2015 on the file of the learned III Additional Sessions Judge, Tirunelveli.

For Appellant : Mr.V.Kathirevelu, Senior Counsel
for Mr.K.Prabhu

For Respondent : Mr.A.Nambiselvan
Additional Public Prosecutor



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This Criminal Appeal is filed against the judgment of conviction and sentence passed by the learned III Additional Sessions Judge, Tirunelveli, in S.C.No.639 of 2015, dated 04.02.2022.

2. By judgment dated 04.02.2022 the trial Court had convicted the accused and sentenced him, as detailed below:

Penal Provisions	Sentence of Imprisonment	Fine Amount
324 of IPC	One year rigorous imprisonment	Rs.1000/- i/d to under go one month rigorous imprisonment
302 of IPC	Life Imprisonment	Rs.1000/- i/d to under go one month rigorous imprisonment
The sentences shall run concurrently		

3.The case of the prosecution in brief:-

On 30.03.2015, when P.W.17 was working as a Head constable in V.K. Puram police station, he received an information from Ambasamudram Government Hospital that Murugan son of Maninaicker and his wife Savithiri were assaulted by some body and injured. When he had gone there they were shifted to Tirunelveli Medical College Hospital (TVMCH) for better treatment and he visited them on 31.03.2015 at TVMCH 14.30 hrs and obtained a statement/Ex.P.1 from P.W.1/Murugan and he had come back to the



police station and he registered a F.I.R (Ex.P.14) in Crime No.56 of 2015 against A1/John Joseph and five other named persons under Section 147,148,323, 324,506(2) of IPC and Section 4 of TNPHW Act.

As per the statement, P.W.1 was engaged in rearing cows and was living with his wife Savithiri/the deceased and daughter Jothi/P.W.2 and grandsons Balavignesh/P.W.3 and Muthu venkatesh/P.W.8 as a joint family. In the month of January during pongal time a cow belonging to him had trespassed and grazed into neighboring land owned by the A1/John Joseph due to which there was a quarrel between his grandson and the staff of John Joseph/A1 and that they have assaulted him and later they have damaged the house of P.W.1 and set fire to the household articles and in respect of which two cases have been registered against them in V.K.Puram Police Station. Following that enmity on 30.03.2015 at 11.00pm when he along with his wife, daughter and grand sons were sleeping in his house said A1/ John Joseph along with his four named staff and his uncle Alphonse had come to his house and asked for water. During that time, the light of his house in the front side was switched off. All of a sudden the said persons have indiscriminately assaulted and inflicted injuries on him and his wife with aruval and wooden logs due to which he and his wife sustained injuries and fracture and on seeing that his daughter ran away out of fear and her two sons had hidden inside the house.

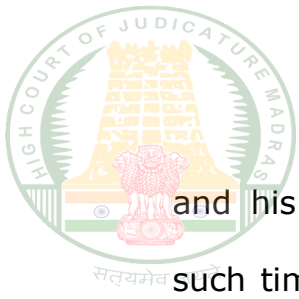
Immediately after the occurrence, his daughter Jothi had called the



Inspector of Police, V.K. Puram Police Station/ P.W.21 and he had come there and arranged for an ambulance and sent them to Ambasamudram Government Hospital where first aid was given and later they were referred to TVMCH for further treatment and that on 31.03.2015 the statement was obtained from P.W.1 when he and wife were under treatment. Based on the statement a case in crime No. 56 Of 2015 /Ex.P.14 was registered for offences under Section 147, 148, 323, 324, 506(ii) IPC and Sec.4 of T.N.P.H.W.Act. P.W 17 had forwarded copy of the statement and FIR to the Court and forwarded the copies to the higher officials and placed the same before P.W.20 for investigation. Based on the same P.W.17 proceeded to the place of occurrence and at 18.00 hrs examined P.W.11 and P.W.12 and in their presence prepared Observation Mahazhar/ Ex.P.5 and Rough Sketch/Ex.P.15 and thereafter went to TVMCH and examined P.W.1, his wife Savithri, daughter Jothi/P.W.2 and one Selvan and P.W.8/Muthu Venkatesh and recorded their statements. Thereafter he examined P.W.7 one John Kennedy, Arul Selvi, Balu, Sahayam, Raj and Head constable Subramaniam and recorded their statements. On 01.4.2015 he proceeded to Muthaliyarpatti and examined P.W.12/Palraj, Anburaj, P.W 13/ Vaithagi, Malliga , Chellakuttynadar, Lenin and recorded their statements and after completing investigation handed over files to P.W. 21, the Inspector of Police, V.K.Puram Police station. P.W.7 Paldurai during his examination had informed that he resides in front of the



house of P.W.1 and later he came to know that P.W.2 Jothi passed through his farm to her house. On 4.5.2015, when P.W.21 was in V.K.Puram Police Station he was informed that one of the victim in Crime No.56 Of 2016 passed away while another one was under going treatment and thereby he took up the case for further investigation. P.W.21 thereby proceeded to Mortuary at TVMCH and in the presence of panchayatars conducted inquest at 11.30 am., and the inquest got over by 13.00 hrs and he prepared Ex.P.16 inquest report in the presence of panchayatars and obtained their signatures. In order to ascertain the reasons for the death of Savithiri he handed the body to Head Constable along with a request to conduct post mortem. After post mortem the body was handed over to P.W.1. On the same day he examined witnesses and obtained their further statements and later he obtained the statement of the Government doctor and based on the certificate issued by the doctor altered the case to one under Section 147, 148, 324, 506(ii), 302 IPC and Sec.4 of T.N.P.W.H Act and forwarded the alteration report/Ex.P.17 to the Court. On 01.08.2015 he examined the witnesses and on 03.08.2015 he examined some more witnesses and on 15.08.2015 and 30.08.2015 he examined the doctors and recorded their statements and on 29.02.15 on secret information arrested the appellant and his uncle alphonse at 9.45 a.m., at Irudhayakulam stone quarry. They were brought to the police station and in the presence of Village Administrative Officer /P.W.14



and his assistant/ Murugan the accused were examined and during such time they had given a voluntarily confession statement/Ex.P.6 in the presence of witnesses and the witnesses attested the same and he also obtained the signature of the accused. Similarly he obtained the confession of other accused Alphonse. A1/John Joseph had agreed to hand over the aruval concealed by him inside the farm under the sand and after recovering the aruval under form 91/Ex.P.18 brought back the accused to the station and forwarded the material objects under Form -91 and thereafter sent the accused for remand. On 25.09.2015 he arrested the third accused Sankar at 12.15 pm., near Success Mobile shop at Ambasamudrum and later the third accused identified the fourth accused and brought them to the station and recorded the confession statement. Along with other accused he had taken A1 and A1 had handed over another aruval which was kept beneath the sand and he came back to the police station and forwarded the aruval recovered from the fourth accused under Form 91/Ex.P.19 and on 02.10.15 he examined the police personnel who assisted him in the investigation and on the same day altered the case from 147,148,324,506(2),302 to 120(b),452,324,326,302 r/w.34 of IPC and forwarded the same to Court with alteration report/Ex.P.20. On 16.10.2015 he examined some more witnesses and finding that Innasi, Aravind and Anbu were not involved in the occurrence had deleted their names and filed a Special Report and after completing



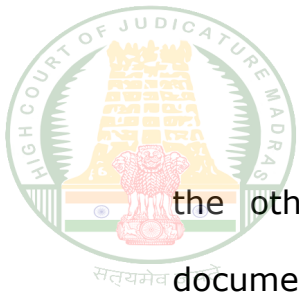
the investigation filed the final report on the same day against four accused including the Appellant/A1 John Joseph in P.R.C.No.96 of 2015 before the learned Judicial Magistrate, Ambasamudram.

4. On appearance of the accused, and compliance of Section 207 of Cr.P.C., finding that the case was exclusively triable by the Court of Sessions the learned Magistrate had committed the case to the Court of Sessions and it was made over to the learned III Additional Sessions Judge, Tirunelveli in S.C.No.639 of 2015 for trial. The trial Court based on the final report on 24.06.2016 had framed charges against the accused as under:

S.No	Charges framed against the accused	Charges framed under Sections
1	A1 John Joseph	120(B), 302r/w.34 IPC
2	A2 Alphonse	120(B),147,324,302 IPC
3	A3 Shankar and A4 Ganesan	120(B),148,324,302 IPC

5. When questioned, the accused pleaded "not guilty". To prove the case, the prosecution examined 21 witnesses and marked 20 exhibits and 2 material objects.

6. When the appellant and the other accused were questioned under Section 313 of the Code of Criminal Procedure on the incriminating circumstances appearing against the appellant and



the other accused they denied the same, however, no oral and documentary evidence was adduced on the side of the defence. The trial Court after perusing the evidences and finding that originally the Investigation officer has filed the charge sheet as if A1/the Appellant was not present at the scene of crime and brought him under the charge of conspiracy and finding that the injured eye witnesses and other witnesses have spoken about the presence of A1 had altered the charges against A1 under Sections 120(B), 324 and 302 of IPC on 09.8.2021. After the charges were altered against A1, P.W.2, P.W.9 and P.W.21 were recalled and cross examined by the accused. The trial Court ultimately finding that the evidence of prosecution witnesses was confusing and not cogent and that the witnesses examined for proving the conspiracy theory have not supported the case of the prosecution and turned hostile, acquitted A2 to A4 giving benefit of doubt whereas found the Appellant/A1 guilty for the offences and convicted as detailed in Paragraph No.2. Challenging the above said conviction and sentence, the Appellant/A1 has filed the present appeal.

7.Mr.V.Kathirvelu, learned Senior Counsel appearing for the appellant made the following submissions:'

i) The case of the prosecution is bristled with material contradictions , embellishments and later improvements and several suspicious and unexplained loose ends have been left by the



prosecution creating grave suspicion and doubts with regard to the prosecution case.

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ii) The trial Court holding that the evidence of the witnesses regarding A2 to A4 are puzzled, confusing, not cogent and finding no satisfactory reason to believe the prosecution theory against A2 to A4 and having acquitted them giving benefit of doubt ought not to have convicted A1 on the same set of evidence.

iii) Admittedly there was existing enmity between the family of the accused and family of the deceased due to earlier quarrels and there is every chance of false implication of the appellant. The appellant and the family of the victim are known to each other. P.W.1 immediately after the occurrence is said to have met P.W.12 who is the village Head man and P.W.13, his sister. As per their evidence, P.W.1 has met them around 11-12 in the night on 30.03.2015 and informed them that 5 to 6 persons had assaulted him and when they had enquired about the identity of the assailants he had told them he does not know them and thereafter had asked them to arrange for an auto and since he was injured P.W.12 and P.W.13 had arranged for 108 Ambulance and they were sent to Ambasamudram Government Hospital. As per the evidence of P.W.12 and P.W.13 the Inspector P.W.21 had come to the spot and obtained a statements from P.W.1 at that time he obtained his signature and thereafter P.W.1 and his wife were sent to the hospital in 108 ambulance, whereas the FIR had



been registered based on the subsequent statement/complaint Ex.P1 said to have been recorded from P.W.1 on the next day at 14.30 hrs when he was in TVMCH hospital.

iv) The earlier statement/complaint had been suppressed and subsequent compliant with deliberation and later improvements have been made falsely implicating the appellant and five others on account of previous enmity. The prosecution later during enquiry finding that accused persons, Innasi, Aravind and Anbu were not involved in the offence had deleted them in the final report and instead added one Sankar as an accused in the final report

v) The trial Court having acquitted A4/Ganesan ought to have disbelieved the evidence of P.W.14 /VAO with regard to recovery of M.O.1 when especially it is a categorical evidence of PW.21/ Investigation Officer and that the appellant was arrested when he had come to the police station to comply with the conditions in the bail order.

vi) Though the prosecution has projected P.W.1 to P.W.8 as eye witnesses to the occurrence, excepting the interested witnesses P.W.1 to P.W.3 and P.W.8 all the other witnesses have turned hostile and they have not supported the case of prosecution. Admittedly as per P.W.2 daughter of P.W.1 and the deceased she had admitted that within ten minutes P.W.21/ Investigation Officer had arrived at the spot and recorded the statement and obtained the signature of her father

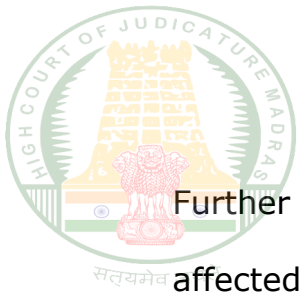


P.W.1 and she had also admitted in her cross examination that only after investigation by police she came to know the persons involved in the incident, thereby fortifying the claim of the appellant of false implication after deliberation on account of previous enmity.

vii) P.W.3 son of P.W.2 who is said to have witnessed the occurrence and he had admitted that he was not aware of the persons who had assaulted his grand father and grand mother, however in his cross examination he had admitted about the previous enmity on account of the appellant assaulting his elder brother/P.W.8.

viii) As per P.W.21/Investigation Officer the appellant is said to have not been present in the place of occurrence and this aspect when coupled along with the evidence of P.W.12 and P.W.13 independent witnesses that P.W.1 immediately after the occurrence had informed them that he was assaulted by unknown accused would belie and shatter the evidence of P.W.1 to P.W.3 and P.W.8 and strengthen the case of false implication on account of previous enmity.

8. Mr.V.Kathirvelu, the learned Senior Counsel in the alternative would submit that it is the admitted case that the occurrence had taken place on 30.03.2015 and the victim was admitted in the hospital and she died on 03.05.2015 and that the victim/deceased was suffering from diabetes and her right leg was amputated and later died of complication of right lower limb injury.



Further as per the P.W.16/doctor the lungs of the deceased was affected due to Ischemic Necrosis and the reason for death could not be conclusively proved and in such circumstances the prosecution has failed to conclusively prove that the death was on account of assault by the accused. In such circumstances he would seek to allow the appeal.

9. The learned Additional Public prosecutor would submit that the accused was indulging in offences of sand theft. P.W.2 who is a public spirited person had given information to the police due to which the accused was arrested. Further prior to the occurrence a cow belonging to the family of P.W.1 had trespassed into the farm of the accused and grazed there. The workmen of A1 had tied the cow in the farm. P.W.8 son of P.W.2 and grand son of P.W.1 had entered into the farm of A1 and untied the cow and brought it back home. Enraged by the same, A1 and his men had earlier in the month of January come to the house of P.W.1 set fire and caused damage to the household articles. Based on the complaint, cases were registered against the appellant and his men and thereby there was existing feud between the families of P.W. 1 and while so A1 due to which on the night of 30.03.2015 the accused have conspired to do away P.W.1 and on the same day at night hours at 11.00 p.m had gone to the house of P.W.1 and in the guise of asking for drinking water assaulted P.W.1 and his



wife with sickle and sticks resulting in P.W.1 and his wife deceased sustaining injuries and later they were taken to the hospital and wife of P.W.2 died on 04.05.2015 without responding to treatment. The prosecution by examining the witnesses and marking 20 exhibits and M.O 1 and M.O.2 proved the case. The trial Court had disbelieved the evidence of the prosecution witnesses relating to A2 to A4 and acquitted them. However believing the evidence of P.W.1 injured witness and P.W.2 his daughter and relying on the medical evidence had rightly found the accused guilty of the offence and convicted him. He would further submit that there is no infirmity in the order and thereby he would seek for dismissal of the appeal.

10. Heard the learned counsel appearing for the appellant and the learned Additional Public Prosecutor appearing for the State.

11. Now what is to be seen is that whether

i) The prosecution has proved its case against the appellant beyond all reasonable doubts ?

ii) The trial Court is right in appreciating the evidence of the witnesses who had enmity against the appellant on account of existing family feud ?

iii) The trial Court having disbelieved the evidence of the witnesses regarding the involvement of A2 to A4 and having acquitted



them is right in convicting the appellant on the same set of evidence ?

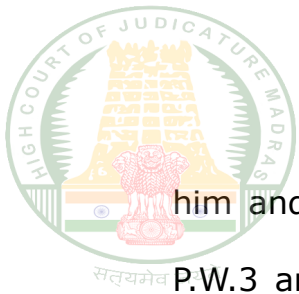
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12. The evidence of the witnesses as culled out from the deposition is under:

P.W.1 is a resident of Vadamalaisamuthiram and was engaged in rearing and grazing cows. The deceased is his wife and the accused are living near his house and known to him. His wife had passed away and that he had come to court to give evidence with regard to that. On 14.01.2015 next day after pongal at 10.00 pm., his cow was found missing and when they have gone in search of it, it was found tied in the farm of the A1/John Joseph. His grand son Vanaselvan had untied it and brought it back home. A1 John Joseph and his workers questioning why he had taken back the cow had assaulted his grand son, thereby he had sent his grand son and his daughter P.W.2 to hospital and advised them to give complaint at V.K.Puram police station on the way. They had given a complaint and gone to the hospital. On the early hours of 15.01.2015 at 4.00 a.m., A1/John Joseph and his men had come to his house and damaged it. Joseph, Alphonse, Ganesh, Shankar, Aravind and Innasi had accompanied him. They had also set fire to the household articles by pouring petrol. On seeing them he and his family members have hid themselves. While this incident was happening his daughter P.W.2 and second grand son Bala Vignesh/P.W.3 had come there. On seeing that

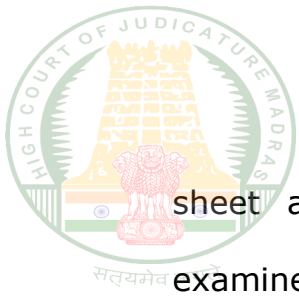


their house was damaged P.W.1 along with his wife daughter and grand son had again gone to V.K.Puram police station and informed them. Police had asked them to go back home saying that they would follow them and that they registered a case in respect of assault on his grand son and another case in respect of causing damage to the house and setting fire to the household articles. While the case was pending due to previous enmity on 30.03.15 at about 11.00pm while P.W.1 and his wife were sleeping outside the house and his daughter/P.W.2 and grandsons P.W.3 and P.W.8 were sleeping inside the house. At that time, A1/John Joseph along with Alphonse, Ganesan, Shankar,Aravind and Innasi had come there and Alphonse had asked for drinking water from his daughter/P.W.2. His daughter had questioned why they were asking for drinking water at this time, immediately the accused had pushed him and A1 armed with a sickle, Alphonse (Junior paternal uncle of the accused) armed with a wooden log came in and A1 had attempted to cut him on the neck with a sickle and since he warded off he did not receive an injury on the neck whereas due to sharp edge he sustained bleeding injury. Due to the assault by Alphonse he sustained injury in the left hand and injuries on the backside. His wife was lying down nearby and they have also attacked her indiscriminately and due to the repeated assault by John Joseph on the lower limb of his wife she sustained fracture and thereby she was unable to get up., The other accused Shankar, Ganesan had assaulted



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him and his wife. On seeing that his daughter/P.W.2 and grand sons P.W.3 and 8 ran out of the house. In order to save his wife, he had gone to Muthaliyarpatti and met the village president Palraj /P.W.12 and his son and six other persons from the village had come there and they came to the main road. At the same time PW 2 his daughter had called P.W.21 the I.O over mobile phone and he had come to Mudaliyarpatti and he had called 108 ambulance and they came to his house and taken him and his injured wife in the 108 Ambulance and that his daughter P.W2 accompanied them and they went to Ambasamudram hospital and from there after first aid they were referred to TVMCH where they were given treatment as inpatient. While they were in the hospital on 31.01.2015 at 12.00 noon P.W.17 Head Constable of V.K.Puram police station came there and they informed him about the incident and P.W.17 had written the complaint/Ex.P.1 and they have signed in the same and his wife had affixed her thumb impression . He had further deposed that both of them were under treatment and a plate was fixed for his and his wife underwent surgery for fracture and since her wound did not heal her left leg as amputated and after one week she passed away. He had identified M.O.1 and M.O.2 to be the weapons used by the accused. He had further deposed that they have switched off the front light of their house and he saw the accused in the moon light, He further deposed that he was not aware why Innasi and Aravind were left in the charge



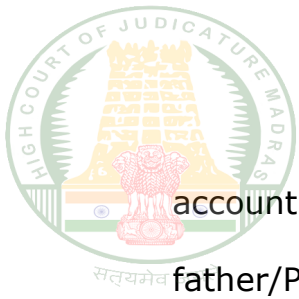
sheet and he also deposed that P.W.21 the Inspector of Police examined him before he was taken in the ambulance to the hospital and later he was examined during treatment and after the death of his wife.

13. P.W.2 has corroborated the evidence of P.W.1 her father. She had deposed that Joseph and Alphonse were having sticks and sickles and that John Joseph had assaulted her mother in the lower legs and Alphonse had assaulted her father due to which he sustained fracture and all the other accused had surrounded them and attacked them and since the accused had threatened her she ran away and later she called the police through mobile phone and P.W.21 came there and when she called her father he informed that he was in Mudaliyarpatti and the police had called 108 Ambulance and he along with father, mother and son /P.W.3 had gone to Ambasamudram Hosptial and finding that there was fracture they were referred to TVMCH in the same ambulance an on the next day morning at 10 a.m., a police constable had come and her father gave a complain/Ex.P.1 and she signed in it. Her signature in the complaint is Ex.P.2. She further deposed that her mother was in the hospital for 35 days and underwent surgery and that on 3.5.15 her mother passed away. The police again inquired her and initially she had implicated Innasi, Aravind and Anbu in the case since they were also present in



the earlier case, however the police after enquiry have found that they have not involved in this case and thereby they were not included in the charge sheet. She had further deposed that she was again inquired by the police and she has told about the names of the accused. She had identified that M.O1 was used by P.W.2 and M.O.2 was used by Ganesan. In her cross examination she had deposed that she is the member of a Human Rights organization and she has also admitted that within 10 minutes of the occurrence the police had come to the spot and enquired her and the police have written a complaint and that she did not sign it there and he signed it in the hospital at night and that the police after inquiring her in the night had not inquired her thereafter. She had also deposed that only after police investigation she came to know about the persons who are involved in the house and that after running away when she had come back to the house her father was not there and she came to know that her father had gone to meet P.W.12 at Muthaliyarpatti seeking for help.

14. P.W.3 had deposed that on 14.01.2015 the cow belonging them was found missing and his elder brother Vanaselvan had taken their cow from the farm of John Joseph due to which there was quarrel and John Joseph had assaulted his brother and on the same day John Joseph and his men caused damage to his house and set fire to the house and there was previous enmity between them and on



account of the same, one day when he along with his grand father/P.W.1, grand mother,(deceased) mother(P.W.2) were sleeping in the house he heard the cries of his grand father and grand mother and he saw the accused assaulting him with sickle and sticks and the accused were not known. His grand daughter had sustained injuries in his left hand and that he and his mother and brother were gone out of the house and when they had come back his grand father and grand mother were lying down and he had taken his grand father to Mudaliyarpatti and met the Village President, Palraj/P.W.12 and requested him to arrange for an auto rickshaw to go to the hospital. In the meanwhile on the information given by his mother Inspector of police had come to Mudhaliyarpatti and he had arranged for 108 ambulance and they had taken their grandfather and grand mother and he along with his mother/P.W.3,brother/P.W.8 went to Ambasamudram hospital from there they were referred to TVMCH, since he was having exam he went to his relatives house and that his grand mother passed away after thirty days and only during enquiry by police he had given the names of the accused.

15. P.W.4, P.W.5,P.W.6 and P.W.7 independent witnesses and neighbors who have been examined to speak about the incident have not supported the case of prosecution and they were treated hostile.

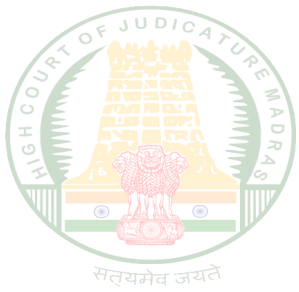


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16. P.W.8 is the grand son of P.W.1 and the son of P.W.2. He had deposed that there was previous enmity between their family and John Joseph and that he and A1 along with his relative Alphonse had assaulted his grand father and grand mother resulting in them sustaining injuries and that they have informed the Inspector of police and he come there with 108 ambulance and they were taken to hospital in the same ambulance.

17. P.W.9 is the doctor who had given first aid to P.W.1 and his wife and issued Ex.P.3/Accident Register and that he had after giving referred P.W.1 and his wife to TVMCH and that she died and her death certificate was marked as Ex.P4 and further deposed that treatment details given to the deceased were not available.,

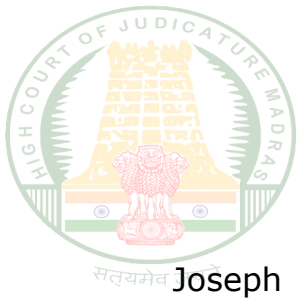
18. P.W.10 is the orthopedician at TVMCH. He had deposed that P.W.1's wife the deceased had sustained fracture he had sutured the wounds and fixed plaster of paris casting . Since she was anaemic and having diabetes, insulin injection and blood transfusion was done and that during treatment she had acquired infection and surgery was doen 20.04.15 and since the infection did not sustain the right leg was amputated after obtaining opinion of chief on 25.04.15 and that she died on 3.05.15. He had admitted that the victim had died on septicimia and other complications.



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19. P.W.11 is the witness for rough sketch and observation mahazhar /Ex.P.5. P.W.12 is the village head men Palraj and he had in his deposition in chief had stated that stating that he is resident of Muthaliyarpatti and P.W.1 to 4 are known to him and he is the village head man and that around 11.00 p.m. P.W.1 had come to his house and woke him and informed him that 5 to 6 persons had assaulted him and when he inquired whether he knows them he told that the accused are unknown and requested to give him to take in an autorickshaw to the hospital however finding injuries on him he had called 108 ambulance and VK police had come there and they had obtained certain signatures from a milkman and he along with his daughter had seen them . In his cross examination he had stated that inspector of police enquired Murugan ,P.W.1 and wrote a statement and obtained signature from Murugan/P.W.1 and he knows P.W.1 very well.

20. P.W.13 is the sister of P.W.12. He had corroborated the evidence of P.W.12 and she had also deposed that when they have enquired P.W.1 he had informed that the accused are unknown to him. In her cross examination she had deposed that the Inspector of Police Madasamy/P.W.21 had come there and obtained statement from P.W.1 and P.W. 1 had affixed his signature in the complaint.



21. P.W.14 is the witness for arrest, and recovery of A1 John Joseph and A4/Ganesh. He had deposed about the accused having confessed and the recovery of M.O.1 and M.O.2. The admitted portion of confession of A1/John Joseph was marked as Ex.P.6 and the athatchi./Ex.P.7. The admitted portion of confession of A4/ Ganesh is Ex.P.8 and athatchi/Ex.P.9.

22. P.W.15 is the court staff who has received the material objects through Form-95

23. P.W.16 is the doctor who had conducted postmortem. The requisition letter is Ex.P.11, post mortem certificate is Ex.P.12, final opinion is Ex.P.13.

24. P.W.17 is the Head Constable who is said to have inquired P.W.1 and his wife at the hospital and received Ex.P1 complaint based on which he had registered FIR/Ex.P.14 in Crime No.56 of 2015.

25. P.W.18 is the constable who had taken the body for post mortem and handed over the body to the relatives after post mortem.

26.P.W.19 is the head constable who had forwarded the FIR to the Court



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27. P.W.20 is the Sub Inspector who had conducted initial investigation. In his cross examination he had admitted that immediately after the occurrence P.W.1 had gone to the house of P.W. 12 Palraj and he had examined Palraj and in the enquiry Palraj had told him that P.W.1 had told him that six unknown persons had assaulted him

28. P.W.21 is the Inspector of police who had after the death of the wife of P.W.1 continued with the investigation and filed the final report. In his cross examination he had deposed that during his enquiry he came to know that the first accused was not directly involved in the occurrence. Further when he was examined by the Court he had deposed that during his enquiry he came to know that A1 was not directly involved in the offence.

29. Now scrutinizing the evidence on record the evidence of P.W.1, P.W.2 (daughter of P.W.1), P.W.3, and P.W.8 (sons of P.W.2 and grandsons of P.W.1), they rushed to Muthaliyarpatti immediately after the occurrence and met P.W.12/Palraj, the Village Headman, and his sister, P.W.13/Vaithagi, to arrange transport for the injured. Both P.W. 12 and P.W.13 categorically stated that, when they inquired, P.W.1 told them the assailants were unknown. Information was thereafter passed



to the police, and the Inspector of Police (P.W.21) reached the spot, arranged the ambulance, and recorded a complaint from P.W.1, which bore his signature and the thumb impression of his deceased wife. The fate of this complaint remains unexplained. However, on the following day, a fresh complaint (Ex.P.1) was lodged at TVMCH, wherein P.W.1 implicated six accused, including the appellant/A1, and attributed overt acts to them. Crime No.56 of 2015 was then registered. After investigation, some names were deleted and one was added, ultimately resulting in a final report against four accused, including the appellant. The trial Court, disbelieving the evidence against A2 to A4, acquitted them by extending the benefit of doubt.

30. On a scrutiny of the materials, certain aspects stand out:

(i) There existed prior enmity between the families of P.W.1 and the appellant arising out of an earlier incident dated 14.01.2015.

(ii) The earliest complaint, recorded at the spot by P.W.21, has been suppressed, while reliance has been placed only on Ex.P.1 given at the hospital the following day, which introduces named assailants for the first time.

(iii) Independent witnesses (P.Ws.4 to 7), cited as eye-witnesses, turned hostile.

(iv) There is a glaring inconsistency between P.W.1's immediate statement to P.W.12 and P.W.13 that the assailants were



unknown and his subsequent detailed accusation in Ex.P.1.

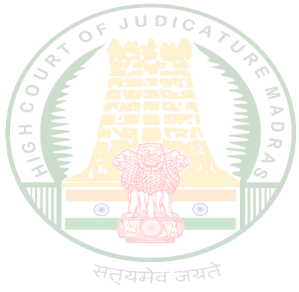
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31. These circumstances, when considered together, create a serious doubt about the prosecution version. The trial Court, having already acquitted the co-accused on similar grounds of inconsistency, ought to have extended the same benefit to the appellant/A1.

32. The Hon'ble Supreme Court, in Aslam @ Imran v. State of Madhya Pradesh [2025 LiveLaw (SC) 365], held:

"Enmity is a double-edged weapon. On one hand, it provides motive, but on the other, it does not rule out the possibility of false implication. From the nature of the evidence placed on record by the prosecution, the possibility of the present appellant being falsely implicated on account of previous enmity cannot be ruled out. In our opinion, therefore, the appellant is entitled to the benefit of doubt."

33. Applying the above principle, and in view of the suppression of the earliest complaint, the inconsistencies in the prosecution case, the hostile stance of independent witnesses, and the admitted background of enmity, the possibility of false implication of the appellant cannot be ruled out. Accordingly, the appellant is entitled to the benefit of doubt, and the conviction and sentence imposed on him are liable to be set aside.



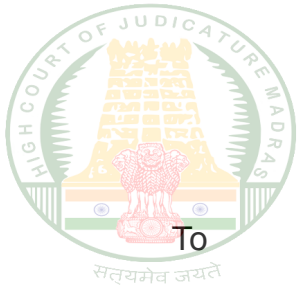
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34. In the light of the foregoing discussion, this Court is of the view that the prosecution has failed to prove the charges against the appellant/A1 beyond reasonable doubt. The suppression of the earliest complaint, the inconsistencies in the evidence of material witnesses, the hostility of independent witnesses, and the admitted prior enmity between the parties, cumulatively create a grave doubt about the prosecution version. In such circumstances, the appellant is entitled to the benefit of doubt.

35. In the result, the Criminal appeal stands allowed. The conviction and sentence passed in S.C.No.639 of 2015 dated 04.02.2022 by the III Additional Sessions Judge, Tirunelveli is set aside and the appellant is acquitted of all the charges. Bail bond executed, if any, shall stand cancelled. Fine amount paid, if any, shall be refunded to the appellant.

[A.D.J.C.,J.] [R.P.,J]
29.08.2025

Index : Yes/No
Internet : Yes/No
aav



Cr1.A(MD)No.123 of 2022

To

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1.The III Additional Sessions Court, Tirunelveli

2.The Inspector of Police,
V.K.Puram Police Station,
V.K.Puram,Tirunelveli District

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

4. The Section Officer
Criminal records
Madurai Bench of Madras High Court,
Madurai



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Cr1.A(MD)No.123 of 2022

A.D.JAGADISH CHANDIRA, J.
and
R.POORNIMA,J.

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P.D. JUDGMENT IN
Cr1.A.(MD) No.123 of 2022

29.08.2025