



CRL A(MD). Nos.133 and 237 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 31/01/2025

CORAM

THE HONOURABLE MR. JUSTICE K.K. RAMAKRISHNAN

CRL.A(MD). Nos.133 & 237 of 2020

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M.Raja

... Petitioner/Accused No.2

Vs

The Inspector of Police
Keelakarai Police Station
Ramanathapuram District.
Cr No.47/2018.

... Respondent/Complainant

PRAYER :-

This petition is filed under Section 374 of Cr.P.C., to call for the records in judgment rendered by the Principal District & Sessions Court, Ramanathapuram, Ramanathapuram District, in S.C.No.52 of 2019 dated on 19.02.2020 by convicting the appellant under Section 147 of IPC by imposing fine a sum of Rs.500/-, failing which 15 days simple imprisonment and under Section 294(b) r/w 149 IPC by imposing fine a sum of Rs.500/-, failing which 15 days simple imprisonment and under Section 324 r/w 149 by imposing 2 years rigorous imprisonment and fine a sum of Rs.2000/-, failing which one month simple imprisonment and



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under Section 323 r/w 149 IPC by imposing fine a sum of Rs.500/-, failing which 15 days simple imprisonment and under Section 451 r/w 149 of IPC by imposing fine one year rigorous imprisonment and fine a sum of Rs.500/-, failing which 15 days simple imprisonment and conviction under Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 192 by imposing one year rigorous imprisonment and fine a sum of Rs.1000/- failing which one month simple imprisonment and set aside the same and acquit the appellant/accused No.2.

For Petitioner : M/s.D.Balamurugapandi,
Advocate.

For Respondent : M.Sakthi Kumar,
Government Advocate (Crl.Side)

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Velavan ... Petitioner/Accused No.1

Vs

The Inspector of Police
Keelakarai Police Station
Ramanathapuram District
Cr No.47/2018.

... Respondent/Complainant

PRAYER :-

This petition is filed under Section 374 of Cr.P.C., to call for the records connected with the judgment rendered by the learned Principal District and Sessions Judge, Ramanathapuram, in S.C.No.52 of 2019



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dated 19.02.2020 and set aside the same and consequently, acquit the appellant.

For Petitioner : Mr.R.Praksh,
Advocate.

For Respondent : M.Sakthi Kumar,
Government Advocate (Crl.Side)

COMMON ORDER

These appeals have been filed to set aside the judgment passed in S.C.No.52 of 2019 on the file of the learned Principal District and Sessions Judge, Ramanathapuram, dated 19.02.2020.

2. Since the appellants in both the appeals were arrayed as accused in the same crime number, these appeals are taken up together for hearing and disposed by way of this common judgment.

3.The accused in S.C.No.52 of 2019, on the file of the learned Principal District and Sessions Judge, Ramanathapuram, have filed these Criminal Appeals challenging the following conviction and sentence imposed on them by the impugned judgment 19.02.2020, in S.C.No.52 of



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2019 :

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Sl. No	Accused No.	Offence Punishable under Section	Sentence of Imprisonment and fine
1	A2	147 of IPC	to pay a fine of Rs.500/-, in default, to undergo 15 days Simple imprisonment.
		294(b) r/w 149 of IPC	to pay a fine of Rs.500/-, in default, to undergo 15 days Simple imprisonment.
		324 r/w 149 of IPC	2 years of Rigorous Imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo 1 month Simple imprisonment.
		323 r/w 149 of IPC	to pay a fine of Rs.500/-, in default, to undergo 15 days Simple imprisonment.
		451 r/w 149 of IPC	1 year of Rigorous Imprisonment and to pay a fine of Rs.500/-, in default, to undergo 15 days Simple imprisonment.
		3(1) of the TNPPDL Act, 1992	1 year of Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo 1 month Simple imprisonment.



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2.	A1	148 of IPC	to pay a fine of Rs.1,000/-, in default, to undergo 1 month Simple imprisonment.
		294(b) r/w 149 of IPC	to pay a fine of Rs.500/-, in default, to undergo 15 days Simple imprisonment.
		451 r/w 149 of IPC	1 year of Rigorous Imprisonment and to pay a fine of Rs.500/-, in default, to undergo 15 days Simple imprisonment.
		324 r/w 149 of IPC	2 years of Rigorous Imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo 1 month Simple imprisonment.
		323 r/w 149 of IPC	to pay a fine of Rs.500/-, in default, to undergo 15 days Simple imprisonment.
		3(1) of the TNPPDL Act, 1992	1 year of Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo 1 month Simple imprisonment.

4. Prosecution Case:-

According to the prosecution, the defacto complainant, P.W.1, was the owner of a cell phone shop and was also carrying on cell phone repair business. The appellants/accused and other accused persons visited the



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shop on 31.03.2018 and handed over a cell phone for the purpose of repair. Thereafter, on 02.04.2018 at about 7.00 p.m., they received the repaired cell phone. At that time, an altercation arose between the defacto complainant and the accused persons. Subsequently, on the same day, at about 7.00 p.m., the appellants/accused and other persons allegedly assaulted the defacto complainant with an iron rod, damaged the shop, caused damage to the tune of Rs.15,000/-, and also looted the cell phones from the shop. The injured was admitted in the hospital, and intimation was sent to the respondent police. P.W.6, after recording the statement of the defacto complainant, registered a case in Crime No.47 of 2018 for the alleged offences under Sections 147, 148, 450, 294(b), 323, 324, 307, 506(2), 379 of IPC and Section 3(1) of TNPPDL Act. Pursuant to the registration of the case, P.W.7 commenced the investigation, and the same was thereafter continued by P.W.8, who conducted the investigation and arrested the accused and collected the materials and filed the final report. The same was taken on the file in P.R.C.No.39 of 2018, by the learned Judicial Magistrate No.I, Ramanathapuram.



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5. On appearance of the appellants, copies of documents relied by the prosecution were furnished to the accused under section 207 of Cr.P.C. The learned Judicial Magistrate No.I, Ramanathapuram, committed the case to the Special Court and the case was taken on file in SC.No.52 of 2019 by the learned Principal Sessions Judge, Ramanathapuram. Then, he framed necessary charges and questioned the accused. The accused denied the charges and pleaded not guilty and stood for trial.

6.To prove the case, the prosecution examined P.W.1 to P.W.8 and exhibited 8 documents as Ex.P.1 to Ex.P.8 and produced 2 material objects as M.O.1 & M.O.2. Thereafter, the appellants were questioned under Section 313 Cr.P.C proceedings regarding the incriminating evidence against them and they denied the same as false and thereafter, the case was posted for evidence on the side of defence. The accused neither produced any documents nor examined any witnesses on his side.



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7. The learned trial Judge, upon considering the oral and documentary evidence available on record, convicted the accused for the various offences by the impugned judgment dated 19.02.2020. Challenging the same, the present criminal appeals have been filed before this Court.

8. When the matter is taken up for hearing, the learned counsel appearing for the appellants would submit that pending the appeals, the parties, namely, the defacto complainant and the accused persons, have entered into a compromise. On the basis of the said compromise, both the parties appeared before this Court.

9. This Court recorded the compromise and perused the memorandum of compromise filed by the defacto complainant, as well as the antecedents of the accused. It is seen that the accused have no criminal antecedents and that the occurrence had taken place due to a sudden outburst arising out of the earlier altercation between the parties. Now the parties have settled the issues and considering the above special circumstances, the cases come under the following ratio laid down by the



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Hon'ble Supreme Court in the cases of ***Gian Singh v. State of Punjab and Another*** reported in (2012) 10 SCC 303, ***Narinder Singh and Others v. State of Punjab and Another*** reported in (2014) 6 SCC 466, ***State of M.P. v. Laxmi Narayan*** reported in (2019) 5 SCC 688, ***Ramgopal v. State of M.P.***, reported in (2022) 14 SCC 531 and ***Murali v. State***, reported in (2021) 1 SCC 726.

10. Applying the above principle, this Court is inclined to allow to compound the offence and inclined to sentence the appellants to a sentence of imprisonment which they have already undergone.

11. Accordingly, these Criminal Appeals are allowed with the following directions:

11.1. The conviction and sentence passed by the learned Principal District and Sessions Judge, Ramanathapuram, in S.C.No.52 of 2019, dated 19.02.2020, is hereby confirmed. But the sentence of imprisonment alone is reduced to the period already undergone by the appellants.

11.2. Fine amount paid by the appellants shall be



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K.K. RAMAKRISHNAN,J

DSS

ORDER
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