

Crl.A(MD)No.146 of 2020

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	:	29.11.2024
Pronounced On	:	30.04.2025

CORAM

THE HONOURABLE MR.JUSTICE **K.K.RAMAKRISHNAN**

CRL.A.(MD)No.146 of 2020

1.Veerasekar

2.Muniyandi

3.Karnan @ Karunanithi

... Appellants

vs.

1.State Rep by

The Inspector of Police,
Salaigramam Police Station,
Sivagangai District.
(Crime No.97 of 2016)

...Respondent

PRAYER: Criminal Appeal filed under Section 374(2) of Criminal Procedure Code to set aside the judgment and conviction dated 10.03.2020, by the learned Sessions Judge (FAC),Mahila Fast Track Court, Sivagangai in S.C.No.23 of 2016 and acquit the appellants.



Crl.A(MD)No.146 of 2020

WEB COPY

For Appellants :Mr.N.Anandakumar

For Respondent :Mr.M.Sakthikumar
Government Advocate (Crl.Side)

JUDGMENT

This Criminal Appeal has been filed against the conviction and sentence imposed against the appellants in S.C.No.23 of 2016 dated 10.03.2020, by the learned Sessions Judge (FAC), Mahila Fast Track Court, Sivagangai.

2.The accused in S.C.No.23 of 2016, on the file learned Sessions Judge, Mahila Fast Track Court, Sivagangai District have filed this Criminal Appeal challenging the following conviction and sentence imposed on them by the impugned judgment dated 10.03.2020 in S.C.No.23 of 2016, by the learned Sessions Judge, Mahila Fast Track Court, Sivagangai District.



Crl.A(MD)No.146 of 2020

Sl. No	Accused No.	Offence Punishable under Section	Sentence of Imprisonment and fine
1	A1	341 of IPC	To undergo 1 month of Simple Imprisonment
2	A1	294(b) of IPC	To undergo 3 months of simple imprisonment.
3	A1	324 of IPC	To undergo 3 years of simple imprisonment.
4	A1	506(ii) of IPC	To undergo 2 years of simple Imprisonment.
5	A1	3(1) of TNPPDL Act	To undergo 4 years of Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo 6 months Rigorous imprisonment.
6	A2 & A3	341 of IPC	To undergo 1 month of simple imprisonment.
7	A2 & A3	294(b) of IPC	To undergo 3 months of simple imprisonment.
8	A2 & A3	323 of IPC	To undergo one year of simple imprisonment.
9	A2 & A3	506(ii) of IPC	To undergo 2 years of simple imprisonment.
10	A2 & A3	3 (1) of TNPPDL Act	To undergo 4 years of Rigorous Imprisonment and to pay a fine of Rs.1,000/- each in default to undergo 6 months of rigorous imprisonment.



Crl.A(MD)No.146 of 2020

WEB COPY

3. On 19.08.2014 at about 09.50 p.m., while P.W.1 was returning home in his TATA Maxic Car, near St.James Higher Secondary School, Salaigramam main road, the appellants stopped the car driver by PW1 and had broken the car windshield of the car by abusing filthy languages and initimidated to harm his life. When , P.W.1 was trying to escape from the said place, the appellants were attacked him with aruval and wooden logs and P.W.1 sustained injuries. Hence a case was registered in Crime No.97 of 2014 on the file of the respondent police for the alleged offences punishable under Sections 341, 294(b), 324 and 506(ii) of IPC and Section 3(1) of TNPPDL Act, against the first appellant and Section 341, 294(b), 323 and 506(ii) of IPC and Section 3(1) of TNPPDL Act, against the second and the third appellants. After investigation, the investigating officer filed a final report before the learned Sessions Judge (FAC), Mahila Fast Track Court, Sivagangai. The same was taken on file in S.C.No.23 of 2016.



Crl.A(MD)No.146 of 2020

WEB COPY

4. After appearance of the accused, copies of records were furnished to them under Section 207 Cr.P.C. The learned Special Judge, on perusal of records and on hearing both sides and being satisfied that there existed a *prima facie* case against the accused/appellants, framed charges under Sections 341, 294(b), 323, 324 and 506(ii) of IPC and Section 3(1) of TNPPDL Act, and the same were read over and explained to them and on being questioned, the accused/appellants denied the charges and pleaded not guilty and stood for trial.

5. The prosecution, in order to prove its case, had examined 11 witnesses as P.W.1 to P.W.11 and exhibited 10 documents as Ex.P.1 to Ex.P.10 and one material object was marked as M.O.1.

6. The learned Trial Judge after completion of the examination of the prosecution witnesses questioned the appellants under Section 313 of Cr.P.C., by putting incriminating materials available against them in the prosecution evidence and the appellants denied as false. The learned trial judge, after considering the same, convicted the appellants as stated above.



Crl.A(MD)No.146 of 2020

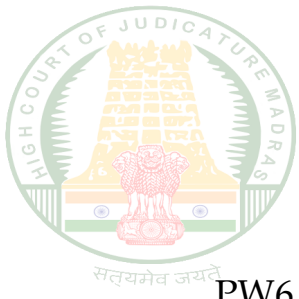
WEB COPY

7.The learned counsel for the appellants made the following submissions:

The court below failed to consider that specific plea that there was strained relationship between the PW1 and 1st Appellant , the false case was registered. PW1 is not a trustworthy witness and he said to have caused fire to the one textile shop and assaulted the Panchayat Shop with slipper. Even as per his case, Rs.85,000/- was extorted by the appellants, but the same was false. He also made the substantial improvement during the course of the chief examination about the weapons. The remaining eye witness PW1 to PW3 also have the number of previous cases. Apart from that PW4 to PW6 were declared hostile. Therefore he seeks acquittal.

8.The learned Additional Public Prosecutor made the following submissions:

PW1 to PW3 are the eye witness to the occurrence. They are clearly deposed about the occurrence in cogent manner. PW4 to



Crl.A(MD)No.146 of 2020

WEB COPY

PW6 were declared hostile and same is not to ground to disbelieve the PW1 to PW3 evidence. When the portion of evidence of PW1 is believable, the conviction could be passed. Therefore there was no infirmity in the judgment of the learned Trial Judge in convicting the appellants. Hence he seeks to confirm the judgment of the learned Trial Judge and confirm the conviction and sentence of imprisonment.

9. This Court considered the rival submissions made by the learned counsel appearing for the appellants and learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record and also the precedents relied upon by them.

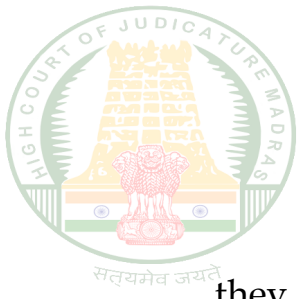
10. The question in this case is whether the prosecution has established the case beyond reasonable doubt against the appellant and the Learned trial judge's conviction and sentence is sustainable or not?



Crl.A(MD)No.146 of 2020

WEB COPY

11. According to the prosecution, the first appellant had illegally taken river sand from “Suranam Village” by using his tractor. Hence, P.W.1 gave a complaint against him. As a sequel, his tractor was seized. The first appellant had incurred a sum of Rs.40,000/- to recover his tractor. Hence, the first appellant complained the same to the Village President, namely, Karunanithi and convened a panchayat and advised P.W.1 to give Rs.40,000/- to the first appellant. But, P.W.1, did not make any payment. Ergo, the first appellant allegedly criminally intimidated him. Therefore, P.W.1 gave another complaint to the police department. Aggrieved by the act of PW1 repeatedly giving complaint, the first appellant along with the other appellants parked their tractor in front of his car with are intention to assault him. When PW1 without stopping proceeded further on the road and reached near St.James Higher Secondary School, they stopped the car and criminally intimidated him by uttering obscene words towards him and caused damages to his car and also caused injuries. When he tired to escape from the scene of the occurrence,



Crl.A(MD)No.146 of 2020

WEB COPY

they caused injuries and also took his amount of Rs.85,000/-. The villagers came to his rescue and brought him to the police station.

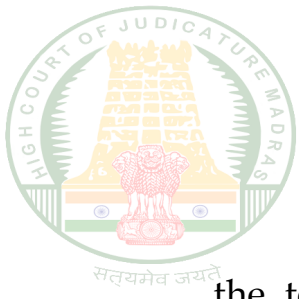
12. According to P.W.1, there was strained relationship on account of sending complaint against the first appellant. According to P.W.1, the first appellant was involved in illegal mining of river sand at "Suranam Village". But, the learned counsel would submit that there was no river in the said village and a copy of the complaint allegedly sent to the office of the Superintendent of Police, had not been marked and number of criminal cases are pending against P.W.1 including a case setting fire to a textile shop and assaulting a panchayat staff with slipper. Therefore, his evidence lacks credibility. Normally, criminal background is not a ground to disbelieve the evidence of witnesses. But the facts and circumstances of this case, attaches significance in the process of appreciation of his evidence. He allegedly stated that his amount of Rs.85,000/- was extorted by the appellants. The investigating agency found that the said



Crl.A(MD)No.146 of 2020

WEB COPY

allegation is false. During his examination before the Court, he further improved his version relating to the weapon used by the appellants. He introduced iron rod, aruval and also exaggerated his version relating to assault upon him. But the said improved version was not corroborated by the medical evidence. P.W.2 and another eye witness for the occurrence also had number of previous cases. P.W.3 is the wife of one of the accused in the above said textile fire case. P.W.4 to P.W.6 were declared hostile and deposed that they had not seen the occurrence. Even though, P.W.4 to P.W.6 deposed that A2 caused damages to the car of P.W. 1 they have not deposed about the assault on P.W.1. To prove the damages to the car, no evidence was produced. The investigating officer also admitted that he has not collected any broken glass pieces of the car. He never produced any records to show the ownership of the car. He never obtained the valuation certificate from the competent Government valuer. There was no investigation about the tractor. The investigating officer also admitted that P.W.2, P.W.7 and P.W.8 were also the co-accused in



Crl.A(MD)No.146 of 2020

WEB COPY

the textile shop fire case, which was registered against P.W.1.

Therefore, this Court finds there are serious infirmities in the prosecution case. P.W.1 consistently improved his version from stage by stage, namely, he intentionally made allegation of extortion of Rs.85,000/- and the weapons used by the appellants and damages to the car. This Court considered his criminal antecedents and the strained relationship between the appellant and holds that he lodged a motivated complaint against the appellant. Further, the remaining witnesses are also co-accused in the criminal case registered against P.W.1 and their evidence also suffers from serious infirmities relating to the use of weapons and the assault on P.W.1. Their evidence do not corroborate with each other. The medical evidence also has not supported the allegation of the assault made by the appellants. No material also was produced to prove the damages to the car. Hence, in all aspects, the prosecution miserably failed to establish its case against the appellants and the appellants are entitled to benefit of doubt.



Crl.A(MD)No.146 of 2020

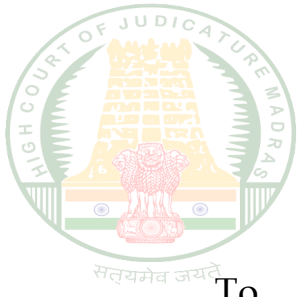
WEB COPY

13. Accordingly, this Criminal Appeal is allowed on the following terms:

(i) the conviction and sentence of imprisonment imposed against the first appellant for the offences punishable under Sections 341, 294(b), **324** and 506(ii) of IPC and Section 3(1) of TNPPDL Act, and against the appellants 2 & 3 for the offences punishable under Sections 341, 294(b), **323** and 506(ii) of IPC and Section 3(1) of TNPPDL Act, by the learned Sessions Judge, Mahila Fast Track Court, Sivagangai, vide judgment dated 10.03.2020, is hereby set aside and the appellants are acquitted from all the charges framed against them. The fine amount paid by the appellants shall be refunded to them forthwith. The appellants are directed to be set at liberty forthwith, unless they are required in some other case."

30.04.2025

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
sbn



Crl.A(MD)No.146 of 2020

To
WEB COPY

- 1.The learned Sessions Judge,
Mahila Fast Track Court,
Sivagangai.
- 2.The Inspector of Police,
Salaigramam Police Station,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Section Officer,
Record Section (Criminal)
Madurai Bench of Madras High Court, Madurai.



WEB COPY



Crl.A(MD)No.146 of 2020

K.K.RAMAKRISHNAN, J.

sbn

CRL.A.(MD)No.146 of 2020

30.04.2025