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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	:	24.01.2025
Pronounced on	:	15.05.2025

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CRL.A(MD).No.243 of 2020

1.Muniyandi

2. Ilaiyaraja

3.Alagu

-- Appellants

Vs

The State Rep by

1. The Deputy Superintendent of Police,
Devakottai Taluk Police Station,
Devakottai, Sivagangai District.
(Crime No.51 of 2014)

-- 1st Respondent/Complainant

2. Maheswari

-- 2nd Respondent/Defacto
Complainant

PRAYER: Criminal Appeal has been filed under Section 374 (2) of Criminal Procedure Code, to call for the entire records and set aside the judgment passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST Act, Sivagangai in S.C.No.112 of 2014, dated 13.07.2020, and allow this appeal and acquit the appellants/accused.



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For appellant : Mr. S.Pugalendhi

For respondent : Mr.M.Sakthi Kumar,
Government Advocate (Crl.Side)
(For 1st Respondent)

JUDGMENT

The appellants/Accused in S.C.No.112 of 2014 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST Act, Sivagangai convicted by judgment dated 13.07.2020 have filed this appeal, challenging the conviction and following sentence of imprisonment imposed against them on 13.07.2020:

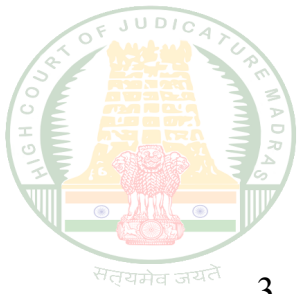
Offence	Sentence of imprisonment	Fine with default sentence
323	Two months Rigorous Imprisonment each	-
Section 4 of Tamilnadu Prohibition of Harassment of Women Act, 1998	Two years Rigorous Imprisonment	Rs.10000/- with default sentence of 6 months simple imprisonment
Section 3(1)(xi) of SC/ST (PoA) Act	Four years Rigorous Imprisonment	Rs.5000/- with default sentence of 6 months simple imprisonment



2. The brief facts of the case as follows:

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P.W.1 is running a medical shop in the name and style of 'Sri Maha Medical' in Muppaiyur village. On 12.12.2014, at 13.45 hrs, when she was attending on P.W.3 to give some medicine, the appellants came there with some injuries and asked her to give bandage and since P.W.1 attending to give medicine to P.W.3 without giving priority to the appellants, the appellants scolded her in abusive language and also used her caste name and pulled her out from the shop and assaulted her and caused injuries. Therefore, she made a complaint to the first respondent police and P.W.3 registered a case in Crime No. 51 of 2014 and P.W.16 conducted the investigation and filed the final report against the appellants by examining the witnesses and produced the relevant documents before the learned Judicial Magistrate, Devakkottai and the learned Judicial Magistrate took the same on file in P.R.C.No.15 of 2014. After complying the procedure, he committed the case to the Special Court and the Special Court took it on file in S.C.No.112 of 2014 and summoned the accused and framed the necessary charges and explained the charges to the appellants and the appellants pleaded not guilty and they stood for trial.



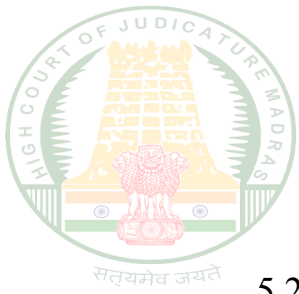
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3. The prosecution to prove the case examined P.W.1 to P.W.16 and marked Ex.P1 to Ex.P11. The learned Trial Judge after recording the evidence of prosecution, examined the accused under section 313 Cr.P.C. by putting incriminating material available against them and they denied as false and neither witness was examined on their side nor document was marked. The learned trial Judge convicted the appellants under section 323 of IPC and Section 4 of Tamilnadu Prohibition of Harassment of Women Act, 1998 and Section 3(1) (xi) of SC/ST (PoA) Act and acquitted them from the offence under section 294 (b) of IPC vide impugned judgment and imposed sentence as stated above.

4. Challenging the conviction and sentence, the appellants have preferred this appeal.

5. The learned counsel for the appellants made the following submissions:-

5.1. The prosecution to prove the occurrence, examined number of independent witnesses P.W.2, P.W.3, P.W.4, P.W.5, P.W.6 and P.W.10. Except P.W.3, other witnesses never supported the prosecution case.



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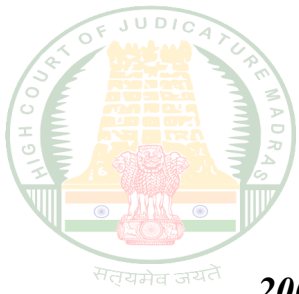
5.2. Presence of P.W.3 is highly doubtful and his evidence is not corroborated by the evidence of the victim. Therefore, the learned trial Judge committed error in convicting the appellants without any corroborative evidence.

5.3. The learned trial Judge failed to consider the delay in registering the FIR and the Investigating Agency has not obtained any signature of the victim in the FIR which creates doubt over the prosecution case.

5.4. The learned trial Judge failed to consider that there are a material discrepancies about the assault made by the appellants.

5.5. The learned trial judge failed to consider the material contradiction relating to the use of stick and therefore, her evidence has to be disbelieved. In all aspect the prosecution miserably failed to prove the case beyond reasonable doubt.

5.6. The occurrence has not happened in public view and hence, conviction under section 3(1)(xi) of SC/ST Act is not legally maintainable and he also placed the following precedents to substantiate his submissions:



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**2009 (9) SCC 719, 2020 (1) MLJ (Crl.) 413, 2022 (1) MLJ (Crl.) 460,
2024 (2) LW (Crl.) 61 and SLP (Crl) No.1608 of 2020.**

6. The learned Additional Public Prosecutor made the following submissions:-

P.W.1, victim is a injured witness. She clearly deposed about the abuse and assault made by the appellants and her evidence is cogent and trustworthy. The medical evidence also corroborated her version. The same is also further corroborated by the independent witness P.W.3. In the said circumstances, hostility of P.W.2, P.W.4, P.W.5, P.W.6 and P.W.10 has no significance and the trial court correctly acted on the basis of the evidence of P.W.1 and P.W.3 and rightly convicted and imposed the reasonable sentence of imprisonment. He also relied the judgment of the Hon'ble Supreme Court reported in ***Arumugam Servai Vs. State of Tamilnadu Reported in 2011 (6) SCC 405***. Therefore, he seeks to confirm the same.

7. This court considered the rival submissions and perused the records and the precedents relied upon by them.



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8.1. PW1/Victim deposed that she runs a medical shop in the name of Sri Maha Medical in Muppaiyur Bus Stand, Main Road and she belongs to Schedule Caste Community. Appellants are caste Hindus. On 12.02.2014 at 1.45 p.m. When she was attending on another customer/PW3, appellants came and quarrelled with her for not attending them by giving priority to them. They not only scolded her by abusing her caste name and also dragged her out of her shop and all the appellants assaulted her. She sustained injuries. Her evidence is cogent and trustworthy. She was objected to incisive cross examination and nothing was elicited to disbelieve her evidence. It is settled principle, that evidence of the injured witness is to be placed on higher pedestal and the Hon'ble Three Member Bench of Supreme Court in recent decision reported in 2023 SCC Online SC 355 issued the following guidelines to appreciate the evidence of the injured witness:

26. When the evidence of an injured eye-witness is to be appreciated, the under-noted legal principles enunciated by the Courts are required to be kept in mind:

(a) The presence of an injured eye-witness at the time and place of the occurrence cannot be doubted



unless there are material contradictions in his deposition.

(b) Unless, it is otherwise established by the evidence, it must be believed that an injured witness would not allow the real culprits to escape and falsely implicate the accused.

(c) The evidence of injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.

(d) The evidence of injured witness cannot be doubted on account of some embellishment in natural conduct or minor contradictions.

(e) If there be any exaggeration or immaterial embellishments in the evidence of an injured witness, then such contradiction, exaggeration or embellishment should be discarded from the evidence of injured, but not the whole evidence.

(f) The broad substratum of the prosecution version must be taken into consideration and discrepancies which normally creep due to loss of memory with passage of time should be discarded.

27. In assessing the value of the evidence of the eyewitnesses, two principal considerations are whether, in the circumstances of the case, it is possible to believe their presence at the scene of occurrence or in such



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situations as would make it possible for them to witness the facts deposed to by them and secondly, whether there is anything inherently improbable or unreliable in their evidence. In respect of both these considerations, circumstances either elicited from those witnesses themselves or established by other evidence tending to improbabilise their presence or to discredit the veracity of their statements, will have a bearing upon the value which a Court would attach to their evidence. Although in cases where the plea of the accused is a mere denial, the evidence of the prosecution witnesses has to be examined on its own merits, where the accused raise a definite plea or put forward a positive case which is inconsistent with that of the prosecution, the nature of such plea or case and the probabilities in respect of it will also have to be taken into account while assessing the value of the prosecution evidence.

8.2. The evidence of the victim satisfied the above guideline issued by the Hon'ble Supreme Court and her evidence was corroborated by the medical evidence. The doctor/PW9 clearly deposed about the injuries and also gave the wound certificate Ex.P3.



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8.3. The evidence of the victim also corroborated with the evidence of PW3 an independent witness who also clearly deposed about accused abusing her caste name and dragging her from her shop and assaulting her. He also belongs to the community of the appellants and he was subjected to Incisive cross examination and nothing was elicited to disbelieve his evidence and also he has no motive to depose against appellants and his presence is natural and this court finds no reason disbelieve his evidence. Therefore when the evidence of the PW1 and PW3 are cogent and trustworthy and the injuries also corroborated with medical evidence, this court has no reason to differ with the finding of the learned trial judge in accepting the case of the prosecution that PW1 was scolded by the appellants by using her caste name and dragged her from her shop and assaulted her and caused injuries.

8.4. The submission of the learned counsel for the appellants that there is a discrepancy relating to the stick is immaterial when the evidence of PW1 and PW3 are clear about the assault made by the appellants. The learned Counsel's further submission that there was delay in registering the case and this is also explained by the PW9. According to the prosecution, the occurrence took place around 1.45 p.m. She immediately went to the Devakottai Government hospital



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and got admitted and PW13 received information from the hospital and registered case. Therefore delay was properly explained. Apart from that as held by the Hon'ble Supreme Court the question for the delay should have been addressed either to PW13 or PW15. But it was not asked to PW13 and PW15. So the appellants can not claim any prejudice in this case because of the delay in FIR. Similarly not getting the signature of victim in the FIR column 14 is not material when her evidence is cogent about the complaint given by her. Therefore in all aspects the prosecution clearly proved case in all aspects beyond reasonable doubt.

9. The learned counsel for the appellant placed strong reliance on the judgment of the Hon'ble Supreme Court stated above.

9.1. Judgment reported in 2010 (6) SCC 673 has no application to the facts of the present case for the reason that in the judgment also Hon'ble Supreme Court observed that the testimony of the injured witness should be given more importance and the eye witness who has inimical terms with the accused has to be weighed pragmatically. Here no circumstances either were established or proved through the defence witness that PW1 and PW3 were inimical with the appellants.



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9.2. The judgment reported in 2009 (9) SCC 719 is also not applicable to present facts of the case when the presence of the PW3 is proved through his presence at the scene of the occurrence for buying some medicine in the medical shop of the victim.

9.3. The judgment reported in 2020 (1) MLJ (Crl) 413 is also not applicable to the present facts of the case when there was a contradiction between the evidence of victim and the evidence of other independent witnesses in the reported case and the same was properly appreciated by this court on facts without any ratio decidendi.

9.4. Similarly the judgment of reported in 2022 (1) MLJ (Crl) 460 also is not applicable to the facts of the present case where in the reported case there was a material contradiction between the medical evidence and the evidence of victim about the injuries. Here there is no such material contradiction.

9.5. The learned counsel made strong reliance on the judgment reported in 2024 (2) LW (Crl)161 and the Judgment of the Hon'ble Supreme Court in SLP



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(Crl) No.1608 of 2020 and they are also not applicable to the facts of the present case where in the reported case the offence was committed under section 3(1)(x) of SC/ST Act and hence there was a requirement to prove public view. But in this case the charge and punishment was under section 3(1)(xi) of SC/ST Act. Apart from that P.W.3 an independent witness clearly deposed about the atrocity committed by the appellants against the schedule caste women.

10. Considering the various mitigating circumstances such as age of the appellants and they being the breadwinner of the family and the interest of their children and the appellants having no previous case and also following the guidelines issued by the Hon'ble Supreme Court in the Judgment of ***Sunita Devi Vs. State of Bihar and others reported in 2024 SCC OnLine SC 984***, this court is inclined to reduce the sentence of imprisonment in the following terms with a direction to each appellant to pay compensation of Rs.50,000/- to the victim within one month from the date of receipt of copy of this orders:

Offence	Sentence of imprisonment	Fine with default sentence	Sentence reduced by this court
323	Two months Rigorous Imprisonment each	-	Confirmed



Section 4 of Tamilnadu Prohibition of Harassment of Women Act, 1998	Two years Rigorous Imprisonment	Rs.10000/- with default sentence of 6 months simple imprisonment	One year Rigorous Imprisonment. There is no alteration of fine amount.
Section 3(1)(xi) of SC/ST (PoA) Act	Four years Rigorous Imprisonment	Rs.5000/- with default sentence of 6 months simple imprisonment	One year Rigorous Imprisonment. There is no alteration of fine amount.

11. Accordingly, this appeal is **partly allowed** with the following terms:

11.1. The conviction passed against the appellants by the judgment passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST Act, Sivagangai in S.C.No.112 of 2014, dated 13.07.2020 is confirmed.

*11.2. The sentence of imprisonment passed against the appellants is **reduced with condition to pay compensation of Rs.50,000/- (Rupees Fifty Thousand Only) payable by each appellant to the victim PW1** within one month from the date of receipt of copy of this order otherwise sentence imposed by the learned trial judge shall stand restored in the following terms:*

11.2.1. Sentence against them under section 323 of IPC is confirmed.

11.2.2. Sentence of Two years Rigorous



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Imprisonment under section 4 of Tamilnadu Prohibition of Harassment of Women Act, 1998 is reduced to One year Rigorous Imprisonment without reduction of fine amount imposed by the trial court.

11.2.3. Sentence of Four years Rigorous Imprisonment under section 3(1)(xi) of SC/ST Act is reduced to One year Rigorous Imprisonment without reduction of fine amount imposed by the trial court.

11.3. All substantive sentences shall run concurrently. Sentence already undergone is reduced under section 428 of Cr.P.C.

11.4. The bail bond executed by the appellants stands cancelled and the learned trial judge is directed to secure them to undergo remaining part of sentence.

15.05.2025

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Internet	:Yes/No
Index	:Yes/No
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K.K.RAMAKRISHNAN, J.,

dss

To:-

1. The Sessions Judge, Special Court for
Exclusive Trial of Cases under SC/ST Act, Sivagangai.
2. The Deputy Superintendent of Police,
Devakottai Taluk Police Station,
Devakottai, Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
4. The Record Keeper,
Criminal Section,
Madurai Bench of Madras High Court, Madurai.

CRL.A(MD).No.243 of 2020

15.05.2025