

Crl.A(MD)No.15 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	:	17.12.2024
Pronounced on	:	15.05.2025

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CRL.A.(MD)No.15 of 2018

1.Bentick Raja @ Raja

2.Arockiasamy

... Appellants

vs.

State rep by
The Deputy Superintendent of Police,
Nilakottai Sub-Division,
Nilakottai Police Station,
Dindigul District.
(Crime No.161 of 2016)

...Respondent

PRAYER: Criminal Appeal has been filed under Section 374 of Criminal Procedure Code to call for the records and set aside the conviction and sentence passed in Spl.S.C.No.96 of 2016 dated 18.12.2017 by the learned Principal District and Sessions Judge, Dindigul.

For Appellants :Mr.S.Sekar

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



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JUDGMENT

The accused in Spl.S.C.No.96 of 2016, on the file learned learned Principal District and Sessions Judge, Didigul have filed this Criminal Appeal challenging the following conviction and sentence imposed on them by the impugned judgment dated 18.12.2017 in Spl.S.C.No.96 of 2016, by the learned Principal District and Sessions Judge, Dindigul.

<i>Sl. No</i>	<i>Accused No.</i>	<i>Offence Punishable under Section</i>	<i>Sentence of Imprisonment and fine</i>
1	A1	324 of IPC	1 year of Rigorous Imprisonment and to pay a fine of Rs.15,000/-, in default, to undergo 6 months simple imprisonment. Out of the fine amount of Rs.15,000/- and Rs.10,000/- is ordered to be paid to P.W. 1/Alagupandi as compensation under Section 357(1) of Cr.P.C.
2	A2	323 of IPC	To pay a fine of Rs.1,000/-, in default, to undergo 3 months simple imprisonment.



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2. On 13.04.2016 at about 15.30 hours, P.W.1 to P.W.3 were travelling on a Hero Splendor Bike bearing registration [No.TN-57-AY-8365](#) to Poonangulam Reservoir and at that time, the appellants stopped and questioned them and abused them with filthy language by using their caste name. The second appellant asked the first appellant to bash up P.W.1, and therefore, the first appellant attacked P.W.1 with an aruval on his hand and head and caused injuries. The second appellant also attacked P.W.1 with sticks and ran away from the scene of the occurrence. P.W.2 and P.W.3 also for cover from the place of occurrence on seeing the attack on P.W.1. Thereafter, P.W.1 made a complaint before the respondent police. Pursuant to which, the respondent police registered a case for the offences under Sections 294(b), 324, 506(ii) of IPC r/w Section 3(1)(x) of the SC/ST (POA) Act, as against the first accused and for the offences under Section 294(b), 323 and 506(ii) of IPC r/w Section 3(1)(x) of SC/ST (POA) Act, 1989.



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3.After investigation, the investigating officer filed a final report before the Judicial Magistrate Nilakottai and the same was taken on file by the learned Judicial Magistrate in P.R.C.No.13 of 2016. After furnishing copies of records to the appellants under Section 207 of the Code of Criminal Procedure, the learned Judicial Magistrate, Nilakottai, committed the case to the Court of Sessions. The Principal Sessions Judge, Dindigul, took up the case in Spl.S.C.No.96 of 2017 and framed necessary charges and questioned the appellants under Section 235(2) Cr.P.C and they pleaded not guilty and denied the charges and their involvement in the offence and stood for trial.

4.The learned trial Judge conducted the trial by examining 10 witnesses on the side of the prosecution as P.W.1 to P.W.10 and marking 7 Exhibits as Ex.P.1 to Ex.P.7 and questioning the appellants under Section 313 of the Code of Criminal Procedure, and the appellants simply denied the allegations and neither examined any witness nor marked any document on their side.



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5.The learned Principal Sessions Judge, Dindigul, after analysing the oral and documentary evidence adduced on both sides, held that the prosecution had established the guilt of the appellants beyond reasonable doubt and convicted the first accused for the offence under Section 324 of IPC and the second accused for the offence under Section 323 of IPC and acquitted them for the offence under Sections 294 (b), 506(ii) of IPC and Section 3(1)(x) of SC/ST (POA) Act. Challenging the same, present appeal is filed by the appellants.

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

The learned counsel for the appellants would submit that when the learned trial Judge acquitted the accused under Sections 294(b) and 506(ii) of IPC r/w Section 3(1)(x) of SC/ST (POA) Act, on the basis of the same evidence, the conviction under Sections 323 and 324 of IPC is not legally sustainable. He also submitted



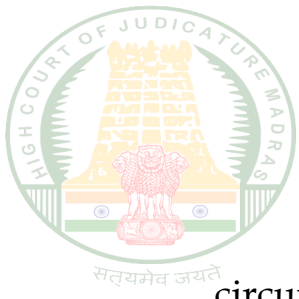
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that there was a delay in registering the case, and the same was not properly explained. According to the prosecution, P.W.4 videotaped the entire incident through his mobile phone, but the same was not produced. Hence, there is a doubt over the presence of witnesses P.W.1 to P.W.4 at the scene of occurrence.

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

The learned Additional Public Prosecutor would submit that the evidence of P.W.1 is corroborated by the material evidence and also corroborated by the witnesses P.W.2, P.W.3, and the independent witness P.W.4. The doctor also deposed about the injuries caused during the incident. Hence, the learned trial Judge correctly convicted the offence under Section 324 of the IPC and, by considering the nature of the injuries, awarded one year of rigorous imprisonment and also convicted the second appellant for the offence under Section 323 of the IPC and sentenced him to pay a fine of Rs.1,000/-. In the said



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circumstances, there is no need to interfere with the judgment.

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8.This Court considered the rival submissions made by the learned counsel appearing for the appellant and the learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record.

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?

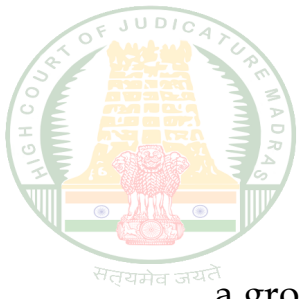


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11. P.W.1 clearly deposed about the injuries caused by the appellants; and the same is corroborated by the evidence of P.W.2, P.W.3, and P.W.4. P.W.4 clearly deposed about the injuries caused by the first appellant, and he specifically deposed about the assault made by A1 on P.W.1 with an aruval on his head and left hand. He also clearly deposed about the injuries caused to P.W.1 by the second appellant with a stick. In the said circumstances, the evidence of P.W.4 is cogent and also corroborated by the evidence of P.W.1. The medical evidence also corroborated the oral evidence. The doctor who was examined the side of the prosecution assuredly deposed about the injuries, and also stated that he was hospitalized from 13.04.2016 to 21.04.2016. In view of the said circumstances, this Court finds no merit to reject the evidence of P.W.1 to P.W.4.

12.It is true that the learned trial Judge acquitted the appellant for the offences under Sections 294(b) and 506(ii) of the IPC and Section 3(1)(x) of the SC/ST (POA) Act, 1989 but it is not



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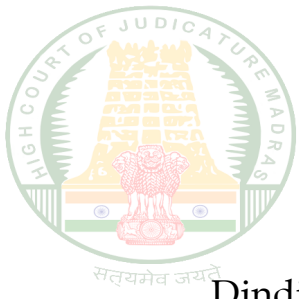
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a ground to acquit the appellant under Sections 323 and 324 of the IPC when the evidence of P.W.1 to P.W.4 is cogent and the same was corroborated by the medical evidence. There is no legal bar to convict the appellant for the proved offences, even though the accused were acquitted under other charges.

13.In view of that, this Court is inclined to confirm the conviction under Section 324 of IPC as against the first accused and under Section 323 of IPC as against the second accused. So far as the question of sentence is concerned, the occurrence had taken place in a spur of the moment, and hence, considering the age of the appellants, this Court is inclined to reduce the substantive sentence and inclined to enhance the fine amount.

14.Accordingly, this Criminal Appeal is partly allowed on the following terms:-

14.1.The conviction and sentence under Sections 323 and 324 of IPC passed by the learned Principal District and Sessions Judge,



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Dindigul, dated 18.12.2017, in Spl.S.C.No.96 of 2016, is hereby confirmed;

14.2.In respect of the conviction passed against the first accused in Spl.S.C.No.96 of 2016 by the learned Principal Sessions Judge, Dindigul District, dated 18.12.2017, for the offence *under Section 324 of IPC* the sentence of imprisonment to undergo *1 year of Rigorous Imprisonment* is hereby *reduced to one month of Rigorous Imprisonment*, with a direction to *pay compensation of Rs.50,000/- to P.W.1* within a period of one month from the date of receipt of a copy of this order, *otherwise*, the sentence of imprisonment imposed by the learned trial Judge *shall automatically be restored*.

14.3.In respect of the second accused, the conviction and sentence under Section 323 of IPC is hereby confirmed.

15.05.2025

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



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To

- 1.The Principal District and Sessions Court,
Dindigul.
- 2.The Deputy Superintendent of Police,
Nilakottai Sub-Division,
Nilakottai Police Station,
Dindigul 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.



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K.K.RAMAKRISHNAN, J.

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