

Crl A(MD)No.185 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30 .04.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl A(MD)No.185 of 2025

Ramesh

... appellant /
de facto complainant

Vs.

1.The State Through
The Deputy Superintendent of Police,
Oddanchatram Sub-Division,
Ambilikkai Police Station,
Dindigul District.

2.Valliyammal

3.Mayilathal

4.Vanjimuthu

5.Vijayprabhakaran

6.Chinnasamy

... Respondents/ Accused

PRAYER: Appeal filed under Section 413(2) of BNSS to call for the records and set aside the judgment dated 12.07.2024 Spl.SC.No.6 of 2021 (on the file of the Special Court for SC/ST (POA) Act, Dindigul acquitting the accused and allow this appeal.



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Crl A(MD)No.185 of 2025

For Appellant : Mr.Lakshmi Shankar.H
For Respondent : Mr.T.Senthil Kumar
No.1 Additional Public Prosecutor

JUDGMENT

This appeal is filed by the appellant / defacto complainant in SplSC.No.6 of 2021 on the file of the Special Court for Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, Dindigul as against the judgment of acquittal passed by the trial Court dated 12.07.2024.

2.On the complaint of this appellant a case was registered on the file of the Ambilikkai Police Station in Crime No.1008 of 2020 as against the respondents 2 to 6 and as against one Chellam / A1. The 1st respondent who conducted the investigation filed a final report as against the private respondents for the offence punishable under Sections 147, 294(b) and 341 IPC r/w 3(1)(r)(s) and 3(2)(va) of SC / ST (POA) Act, 2015. Pending the trial A1 died and as against A1 charges were abated. In conclusion, the trial Court found A2 to A6 not guilty for the charges framed as against them and acquitted them under Section 235(1) CrPC. As against the judgment dated 12.07.2024, the appellant / defacto complainant has filed this appeal.



Crl A(MD)No.185 of 2025

3.The case of the appellant is that he was employed in the agricultural

land of PW8 and PW9 and he was looking after the lands for 2 months.

On 20.09.2020 when he was in the house situated in the land, the deceased A1 along with 11 others came to the land, abused the appellant and his family members by referring to their caste and also intimidated them. A1 is said to have kicked PW5 and the entire incident was witnessed by PW1 to PW5 and also by PW8 to PW11. Therefore PW1 lodged a complaint before the Ambilikkai Police Station. The 1st respondent conducted investigation and filed the final report as stated supra. During the trial 15 witnesses were examined on the side of the prosecution and 9 documents were marked. The accused have also marked 10 documents in support of their defence.

4.The learned Counsel for the appellant submits that nearly 7 persons were examined as eye witnesses, apart from that the relevant documents have also been placed before the Court, however without appreciating the evidence in a proper manner the trial Court has acquitted the accused. As per the complaint Ex.P1, there were three incidents one after the other, on various dates. The FIR is not an encyclopedia and therefore, it need not contain all the details and therefore, the incriminating details or particulars can be brought to light in



Crl A(MD)No.185 of 2025

the evidence, if it is not mentioned in the complaint. Merely because the complaint does not contain certain particulars, the accused are not entitled for acquittal. The case of the prosecution has been consistently spoken by the victims PW1 to PW5 and their evidence has not been disproved during the cross examination. Further PW4 and PW5 have spoken about the previous incident occurred on the different date.

5.He further submits that merely because few witnesses have exaggerated the incident, the entire case cannot be rejected in toto and the evidence of the other witnesses have to be taken into consideration. The trial Court ought to have drawn the presumption in favour of the prosecution under Section 8 of the SC / ST (POA) Act, 1985 and thus the burden is shifted on the accused and it is for the accused to rebut the same. However the trial Court has erred in concluding that PW8 to PW11 have not supported the version of PW1 to PW5. Further the trial Court has also taken note of the civil litigation in respect of the suit property, but failed to note that the litigation is between the accused party and the complainant's employer.



Crl A(MD)No.185 of 2025

6.The learned Additional Public Prosecutor appearing for the State submits that the occurrence is said to have taken place in an agricultural land, purchased by PW8 and PW9 from PW10. PW10 is none other than the son of A1. PW10 in his evidence has admitted that his mother A1 filed a suit as against him in OS.No.4 of 2013 before the District Munisif, Oddanchathiram, to declare the settlement said to have been executed by her as forged and void one. The said suit was decreed in favour of A1. A1 has also lodged a complaint as against her son PW10 that he has created forged settlement deed and by using the same he has sold the property. The complaint of this appellant was also registered by the District Crime Branch, Dindigul in Crime No.120 of 2013 on 06.12.2023. It appears that A1 has obtained decree as against PW10 on the suit property and the appellant claims that he is looking after the subject land at the instance of PW8 and PW9 that they have purchased this land from PW10.

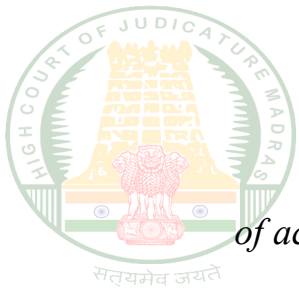
7. He further submits that PW1 to PW5 are all from same family. PW1 is the *de facto* complainant, PW2 is his wife, PW3 is the mother of PW2, PW4 is the daughter of PW1 and PW2 and PW5 is the mother of PW1 and the other witnesses PW 8 and PW9 are the brothers, said to have purchased the subject property, where the occurrence had taken place, from PW10 and PW11.



PW13 is the wife of PW11. All the witnesses are interested witnesses. When A1 has obtained decree as against PW10 / the vendor in OS.No.410 of 2014, the question of trespass would not arise. The criminal case was registered at the instance of A1 on the file of the District Crime Branch, as against PW10, PW11 and PW13. The documents based on which PW8 and PW9 purchased the property was already declared by the competent civil court as a forged one. The trial Court has considered the contradictions among PW1 to PW5 and the possibility of the presence of PW8 to PW11 in the occurrence place at the time of occurrence and therefore, acquitted the accused of the charges levelled against them.

8.Before dwelling upon the merits of the case, since the appeal is filed as against an order of acquittal, it is necessary to bear in mind the principles governing the appeal against acquittal, as laid down by the Hon'ble Supreme Court in ***V.Sejappa v. State [(2016) 12 SCC 150]***, wherein, the Hon'ble Supreme Court has followed its own decision in ***Muralidhar v. State of Karnataka [(2014) 5 SCC 730]***. The guidelines issued in the said decision are extracted hereunder:

“23. ... (i) There is presumption of innocence in favour of an accused person and such presumption is strengthened by the order



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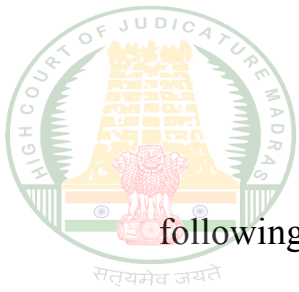
of acquittal passed in his favour by the trial court;

(ii) The accused person is entitled to the benefit of reasonable doubt when it deals with the merit of the appeal against acquittal;

(iii) Though, the powers of the appellate court in considering the appeals against acquittal are as extensive as its powers in appeals against convictions but the appellate court is generally loath in disturbing the finding of fact recorded by the trial court. It is so because the trial court had an advantage of seeing the demeanour of the witnesses. If the trial court takes a reasonable view of the facts of the case, interference by the appellate court with the judgment of acquittal is not justified. Unless, the conclusions reached by the trial court are palpably wrong or based on erroneous view of the law or if such conclusions are allowed to stand, they are likely to result in grave injustice, the reluctance on the part of the appellate court in interfering with such conclusions is fully justified; and

(iv) Merely because the appellate court on reappreciation and re-evaluation of the evidence is inclined to take a different view, interference with the judgment of acquittal is not justified if the view taken by the trial court is a possible view. The evenly balanced views of the evidence must not result in the interference by the appellate court in the judgment of the trial court."

9. In yet another decision in the case of **Chandrappa Vs State of Karnataka [(2007) 4 SCC 415]**, the Hon'ble Supreme Court has laid down the



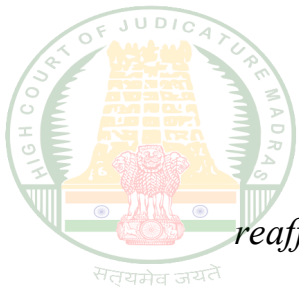
following general principles regarding powers of the appellate Court while dealing with an appeal against an order of acquittal:

“(1) An appellate Court has full power to review, re-appreciate and reconsider the evidence upon which the order of acquittal is founded.

(2) The Code of Criminal Procedure, 1973 puts on limitation restriction or condition on exercise of such power and an appellate Court on the evidence before it may reach its own conclusion, both on questions of fact and of law.

(3) Various expressions, such as, 'substantial and compelling reasons', 'good and sufficient grounds', 'very strong circumstances', 'distorted conclusions', 'glaring mistakes', etc are not intended to curtail extensive powers of an appellate Court in an appeal against acquittal. Such phraseologies are more in the nature of 'flourishes of language' to emphasise the reluctance of an appellate Court to interfere with acquittal than to curtail the power of the Court to review the evidence and to come to its own conclusion.

(4) An appellate Court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent Court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced,



Crl A(MD)No.185 of 2025

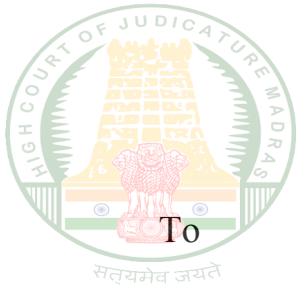
reaffirmed and strengthened by the trial Court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate Court should not disturb the finding of acquittal recorded by the trial Court.”

10. Perusal of the trial court judgment shows that the trial court has held that there are material contradictions among the witnesses and exaggeration with regard to the alleged occurrence. It has also considered the undue interest shown by the PW8 to PW11 in this case based on the disputes with accused persons. Considering the materials available and the ratio laid down by the Hon'ble Supreme Court in dealing with the appeals arising out of the acquittal cited supra, this Court is not inclined to entertain the appeal on the grounds raised by the appellant. Accordingly, this appeal is dismissed.

30.04.2025

Index: Yes/ No
NCC : Yes / No
DSK



Crl A(MD)No.185 of 2025

1. The Deputy Superintendent of Police,
Oddanchatram Sub-Division,
Ambilikkai Police Station,
Dindigul District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
3. The Sessions Judge,
Special Court for SC/ST (POA) Act,
Dindigul.



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Crl A(MD)No.185 of 2025

B.PUGALENDHI, J.,

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Crl.A(MD)No.185 of 2025

30 .04.2025