

Crl.A.(MD).Nos.216 & 250 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On	:	09.12.2024
Pronounced On	:	07.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.A(MD)Nos.216 & 250 of 2018

Palani @ Palanikumar

.. Appellant/Accused No.1
(in Crl.A(MD)No.216 of 2018)

Sivaraman

.. Appellant/Accused No.3
(in Crl.A(MD)No.250 of 2018)

Vs.

The State through,
The Assistant Commissioner of Police, (Law & Order)
Tallakulam, Madurai Town,
D2 Sellur Police Station.
(In Crime No.329 of 2016)

.. Respondent/Complainant
(in both cases)

Common Prayer: Criminal Appeals have been filed under Section 374(3) of the Criminal Procedure Code, to call for the records of the case in Special Sessions Case No.82 of 2017 on the file of the III Additional District and Sessions Court (PCR), Madurai, dated 18.04.2018, and set aside the conviction and sentence passed by the III Additional District and Sessions Court (PCR), Madurai, and acquit the Appellants/Accused Nos.1 & 3.



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For Appellants : Mr.M.Kannan

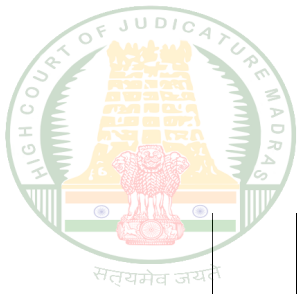
For Respondent : Mr.P.Meenakshi Sundaram,
Additional Public Prosecutor

COMMON JUDGMENT

Since these criminal appeals are arising out of the same Crime No.329 of 2016, these cases are taken up for hearing together and disposed of by way of this common judgment.

2.. The learned III Additional District and Sessions Court (PCR), Madurai, conducted a trial in Special Sessions Case No.82 of 2017 and passed the following conviction and sentence:

Sl.No	Crl.A. No.	Accused Name and Rank in Sp.S.C.No.82 of 2017	Conviction under Section	Sentence
1	216 of 2018	Palani @ Palanikumar (A1)	148 of IPC	To undergo rigorous imprisonment of one year and to pay a fine of Rs.500/- in default to undergo seven days of Simple imprisonment
			324 r/w 149 of IPC	To undergo rigorous imprisonment for one year and to pay a fine of Rs. 1,,000/- in default to undergo simple imprisonment for one month



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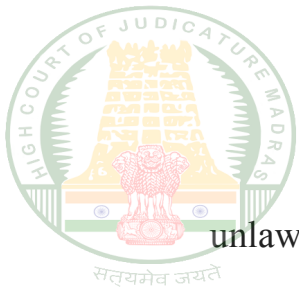


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			323 r/w 149 of IPC	To undergo rigorous imprisonment for six months and to pay a fine of Rs.250/- in default to undergo simple imprisonment for seven days .
2.	250 of 2018	Sivaraman (A3)	147 of IPC,	To undergo rigorous imprisonment of six months and to pay a fine of Rs.250/- in default to undergo seven days of Simple imprisonment
			324 r/w 149 of IPC,	To undergo rigorous imprisonment for one year and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for one month
			323 r/w 149 of IPC,	To undergo rigorous imprisonment for six months and to pay a fine of Rs.250/- in default to undergo simple imprisonment for seven days

3.The brief facts of the case:-

The brother of the defacto complainant was studying 12th standard at the time of occurrence. One week prior to the occurrence dated 18.02.2016, when the brother of the defacto complainant was getting into a bus for going to school, the appellants and the other accused have



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unlawfully assembled with deadly weapons and abused and assaulted the brother of the defacto complainant by using his caste name. On knowing the said occurrence, they lodged a complaint before the Sellur Police Station. Due to that motive, on 18.02.2016, at about 03.30, when the defacto complainant, his sister and the victim, who is the brother of the defacto complainant were standing near Shanthi Vidyalaya School, Nehru Nagar, Vilangudi, the accused persons came there and abused them by using their caste name and assaulted them with a wooden log and stones and caused injuries. Hence, P.W.10 made a complaint before the respondent police. P.W.8 registered the same in Crime No.329 of 2016 for the offences under Sections 147, 341, 323, 336, 294(b), 506(2) of IPC and Section 3(1)(10) SC/ST Act.

3.1 After the investigation, P.W.8 filed a final report before the III Additional District and Sessions Court (PCR), Madurai and the same was taken on file in Spl.S.C.No.32 of 2017.

3.2 After appearance of the accused, copies of records were furnished to them under Section 207 Cr.P.C. The learned Sessions Judge, on perusal of records and on hearing both sides and being satisfied that

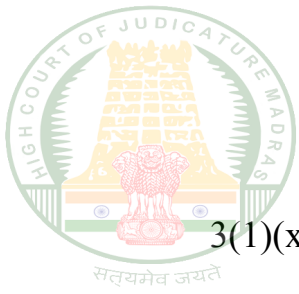


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there existed a *prima facie* case against the accused/appellants, framed charges for the offences under Sections 147, 341, 323, 294(b), 506(2) and Section 3(1)(x) of SC/ST Act against A1 and 147, 341, 323, 336, 294(b), 506(2) and Section 3(1)(x) of SC/ST Act, against A2 to A5, 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.

3.3. The prosecution, in order to prove its case, had examined 17 witnesses as P.W.1 to P.W.13 and exhibited 19 documents as Ex.P.1 to Ex.P.19 and 2 material objects were marked as MO.1 and MO.2. On the side of the appellants no witness was examined and no document was marked.

3.4. The learned trial Judge after considering the oral and documentary evidence, acquitted the appellants under Section 3(1)(r) & 3(1)(s) of SC/ST Act and 506(ii) r/w Section 3(2)(v)(a) of SC/ST Act, and convicted the appellant in Crl.A(MD)No.216 of 2018 for the offence under Sections 148, 324 r/w 149 of IPC, 323 r/w 149 of IPC and Section



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3(1)(x) SC/ST Act, and also convicted the appellant in Crl.A(MD)No.250 of 2018 for the offence under Sections 147, 324 r/w 149 of IPC, 323 r/w 149 of IPC and Section 3(1)(x) SC/ST Act, by the impugned order dated 18.04.2018 and sentenced them as stated above.

4. Aggrieved over the same, the appellants filed these appeals on the grounds stated in the memorandum of grounds of appeals.

5. The learned counsel for the appellants submitted that the learned trial Judge acquitted the accused under Section 3(1)(r) & 3(1)(s) of SC/ST Act and 506(ii) r/w Section 3(2)(v)(a) of SC/ST Act, ought not to have convicted the appellants under Section 324 of IPC on the basis of the evidence of P.W.1 and P.W.2 without any corroboration of the independent witness. Further, submitted no corresponding medical evidence is available to convict the appellants under Section 324 of IPC. He further submitted that there is no material to convict the appellants under the above said convicted offences. Hence, he prayed to allow these appeals by setting aside the conviction and sentence passed by the learned Sessions Judge.



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6. The learned Additional Public Prosecutor submitted that P.W.1 & P.W.2 clearly deposed about the unlawful assembly of the accused and injuries caused by them. Hence, the learned trial Judge correctly convicted the appellants.

6.1. He further submitted that the evidence of P.W.1 and P.W.2 are corroborated by the medical evidence of P.W.9. Therefore, the allegation against the appellants that they along with other accused assaulted P.W.1 and P.W.2 has been proved beyond reasonable doubt and hence, the conviction and sentence imposed by the Court below is liable to be confirmed.

7. This Court has considered the rival submission and also perused the entire records and the impugned judgment.

8. P.W.1 and P.W.2 clearly deposed that on 18.02.2016 at 03.30 p.m, when both were standing near Shanthi Vidyalaya School Nehru Nagar at Madurai to Vilankudi Road, the juvenile accused in Crl.A(MD)No.216 of 2018 namely, Palani @ Palanikumar and other 5 persons assaulted P.W.1, P.W.2 & P.W.10 with a wooden log and also



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threw stones on them. In that process, P.W.2 and P.W.10 sustained injuries and P.W.10/defacto complainant was taken to the hospital. P.W. 9, the Doctor deposed that P.W.10 was admitted in the hospital and he gave treatment to him and also produced Accident Register. In the Accident Register, it is stated that the injuries sustained by P.W.10 were simple injuries and the same was marked as Ex.P.10. From the evidence of P.W.1, P.W.2 and P.W.9, the prosecution clearly proved the injuries caused by the appellants. Even though P.W.1 and P.W.2 were subjected to cross examination, nothing was elicited to disbelieve their evidence. Even in the cross-examination, they reaffirmed the assault made by the appellants with a wooden log and stones.

9. In the said circumstances, this Court finds no reason to disbelieve the evidence of the injured witnesses. When the independent witness deposed about the injuries caused by the appellants and the same corroborated with the medical evidence of P.W.9, the prosecution clearly proved the charges beyond reasonable doubt. Hence, this Court finds no ground to interfere with the conviction and sentence passed by the learned trial Judge.



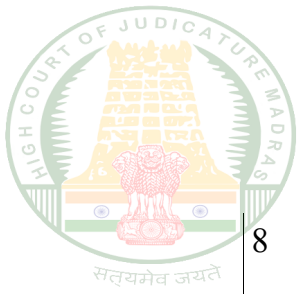
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10. The learned counsel for the appellants prayed to reduce the default sentence by considering the age of the appellants.

11. At that time, the learned Additional Public Prosecutor submitted that the appellant in Crl.A(MD)No.216 of 2018 namely, Palani @ Palanikumar is having 14 previous cases and the appellant in Crl.A(MD)No.280 of 2018 namely, Sivaraman is having 8 previous cases. Further, to that effect, he also produced the details of the same, which are as follows:-

Palani @ Palanikumar-A1:-

S.No	Crime Number	offences
1.	Crime No.472 of 2015 (Samayanallur Police Station)	307, 392, 394 @ 307, 34, 392, 394, 34 of IPC
2.	Crime No.595 of 2018 (Koodalpudur Police Station)	294(b), 323, 506(ii) of IPC
3	Crime No.295 of 2018 (Koodalpudur Police Station)	294(b), 323, 324, 506(ii) of IPC
4	Crime No.580 of 2017 (Koodalpudur Police Station)	387, 506(ii) of IPC
5	Crime No.533 of 2017 (Koodalpudur Police Station)	75 of TNCP Act
6	Crime No.64 of 2017 (Koodalpudur Police Station)	323, 506(ii) of IPC
7	Crime No.1371 of 2016 (Koodalpudur Police Station)	109 of Cr.P.C.,



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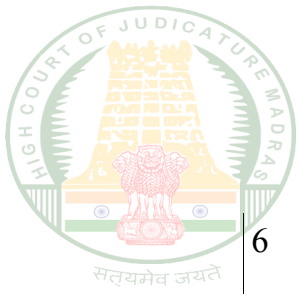


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8	Crime No.219 of 2016 (Koodaludur Police Station)	147, 148, 323, 324, 341, 392, 506(ii) of IPC 3(1)(x) SC/St Act @ 147, 148, 323, 324, 341, 379, 506(ii) of IPC & 3(2)(VI) SC/St Act
9	Crime No.624 of 2015 (Koodalpudur Police Station)	294(b), 324, 506(ii) of IPC @ 294(b), 324, 34, 506(ii) of IPC
10	Crime No.267 of 2015 (Koodalpudur Police Station)	109 of Cr.P.C.,
11	Crime No.599 of 2014 (Koodalpudur Police Station)	147, 148, 294(b), 324, 427, 447, 506(ii) IPC and 4 of TNPWH Act
12	Crime No.193 of 2024 (Madurai City Prohibition Police Station)	8(c) r/w 20(b) II(A) NDPS Act
13	Crime No.199 of 2016 (Subramaniyapuram Crime Branch Police Station)	379 of IPC
14	Crime No.282 of 2016 (Thilagar Thidal Crime Branch Police Station)	379 of IPC @ 34, 379, 392 IPC

Sivaraman-A3:-

S.No	Crime Number	offences
1.	Crime No.619 of 2024 (Koodalpudur Police Station)	75 of TNCP Act
2	Crime No.359 of 2024 (Koodalpudur Police Station)	310(4) BNS
3	Crime No.259 of 2024 (Koodalpudur Police Station)	75 of TNCP Act
4	Crime No.691 of 2020 (Koodalpudur Police Station)	188, 270 of IPC
5	Crime No.506 of 2019 (Koodalpudur Police Station)	75 of TNCP Act



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6	Crime No.295 of 2018 (Koodalpudur Police Station)	294(b), 323, 324, 506(ii) IPC @ 294(b), 323, 326, 34, 506(ii) IPC
7	Crime No.906 of 2017 (Koodalpudur Police Station)	147, 148, 294(b), 323, 324, 341, 506(ii)IPC
8	Crime No.219 of 2016 (Koodalpudur Police Station)	147, 148, 323, 324, 341, 392, 506(ii) IPC, 3(1)(x) SC/ST Act @ 147, 148, 323, 324, 341, 379, 506(ii) IPC, 3(2)(VI) SC/ST Act

12. In view of the above, this Court is unable to accept the argument of the learned counsel for the appellant for reducing the sentence.

13. Accordingly, the Criminal appeals are dismissed. The conviction and sentence passed by the III Additional District and Sessions Court (PCR), Madurai, in Spl.S.C.No.82 of 2017, dated 18.04.2018, is hereby confirmed. Bail bond executed by the appellant, shall stand cancelled. The learned trial Judge is directed to secure the appellant to undergo remaining period of the sentence of imprisonment.

07.04.2025

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

dss

To

1. The III Additional District and Sessions Court (PCR), Madurai.
2. The Assistant Commissioner of Police, (Law & Order)
Tallakulam, Madurai Town, D2 Sellur Police Station.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
4. The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai.

Judgment made in
Crl.A(MD)Nos.216 & 250 of 2018

07.04.2025