



Crl.A.(MD)No.303 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.07.2025

CORAM :

THE HONOURABLE **DR. JUSTICE R.N.MANJULA**

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1.Ananthavel
2.Mohanasundaram
3.Sethukannan

... Appellants/A1, A2 & A4

versus

The Inspector of Police,
Keelathuval Police Station,
Ramanathapuram District.
Crime No.128 of 2014

... Respondent/ Complainant

Prayer : Criminal Appeal filed under Section 374 of the Code of Criminal Procedure, to call for the records relating to the judgment in S.C.No.138 of 2014 dated 05.03.2018 on the file of the Additional District and Sessions Court, Paramakudi and set aside the same.

For Appellant : Mr.C.Susikumar
For Respondent : Mr.K.Gnanasekaran
Government Advocate (Crl.side)



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JUDGMENT

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This criminal appeal has been preferred against the judgment of conviction and sentence, dated 05.03.2018 made in S.C.No.138 of 2014 by the learned Additional District and Sessions Judge, Paramakudi, thereby convicted the appellants/A1, A2 and A4 for the offence under Section 3(1) of TNPPDL Act and sentenced them to undergo till rising of the Court with fine of Rs.2,000/-, in default of payment of fine amount, the appellants shall undergo two months of simple imprisonment.

2. The case of the prosecution is that on 26.09.2012, at about 09.00 pm., while P.W.2 to P.W.5 were conversing near the house of P.W.3, due to previous enmity in connection with Panchayat Election issue, the first accused allegedly pelted stones at P.W.2 causing simple injury on her head and further, it is alleged that the accused 1 to 4 pelted stones at the house of P.W.3 causing damage of the property, which was estimated to the tune of Rs.400/-. Hence, FIR in Crime No.128 of 2012 was registered against the accused persons for the offences under Sections 147, 148, 336 of IPC and Section 3 of TNPPDL Act.



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3. After the completion of investigation, charge sheet has been filed against the accused for the offences under Sections 326 of IPC and Section 3(1) of TNPPDL Act. The same was taken on file in P.R.C.No.32 of 2014 by the learned Judicial Magistrate, Mudukulathur. Since the offences are triable by the Sessions Court, the case was committed to the Sessions Court. Thereafter, the trial Judge had taken cognizance of the case in S.C.No.138 of 2014 and after completing the legal mandate of furnishing copies and all other legal formalities, the trial Judge framed charges against the accused as under:

Rank of the accused	Charges framed by the trial Judge
A1	Section 324 of IPC and Section 3(1) of TNPPDL Act
A2 to A4	Section 3(1) of TNPPDL Act

When the accused was questioned, they denied their involvement and claimed to be tried.

3.1 During trial, on the side of the prosecution, P.W.1 to P.W.9 were examined and Ex.P1 to Ex.P11 were marked. On the side of the defence, no oral and documentary evidence was let in.

3.2 After completion of trial, based on the oral and documentary evidence, the trial Judge acquitted the third accused for the offence under



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Section 3(1) of TNPPDL Act; the first accused for the offence under Section 324 of IPC; and has convicted and sentenced the appellants/A1, A2 & A3 as stated supra.

4. Aggrieved over the same, this appeal has been preferred.

5. Heard both sides.

6. The learned counsel for the appellants submitted that though the trial Judge has acquitted the first accused of the offence under Section 324 of IPC, it erroneously concluded that the charge under Section 3(1) of TNPPDL Act has been proved. He further contended that there was no damage certificate was obtained and produced before the Court to substantiate the alleged damage to the tune of Rs.400/-.

7. The trial Judge has come to a conclusion solely based on the testimonies of P.W.1 and P.W.3, despite both witnesses turned hostile. In their chief examination, they stated that the accused had pelted stones, caused injury to P.W.1's head and damage to the roof of P.W.3's house. P.W.3, Venkalamudaiyan, has stated in his evidence that on the day of occurrence, he was watching drama at the temple festival and upon hearing



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a commotion near his house, he rushed there and noticed that ten tiles of his house were damaged. P.W.3 is not an eyewitness to the act of stone-pelting by the accused. P.W.2, who is another eyewitness and the injured party, also turned hostile and did not support the case of the prosecution. Thus, the conviction under Section 3(1) of the TNPPDL Act is not sustainable in the absence of reliable, direct evidence and proper documentary proof of damage.

8. The learned Government Advocate (crl.side) submitted that the trial Judge has rightly appreciated the same and convicted the accused for the aforesaid offences, which does not require any interference.

9. P.W.1, in his chief examination, made general allegations against all the accused, stating that they had thrown stones. However, upon being cross-examined after a lapse of nearly one year, P.W.1 turned hostile, and his testimony during cross-examination was completely contradictory to his chief examination. The learned Trial Judge observed that the long delay in cross-examination may have provided an opportunity for the defence to influence the witness.



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10. It is also relevant to note that, even in his chief examination, P.W.

I did not specifically state which accused had thrown the stone that caused the head injury to her. As the evidence of P.W.3 was vague and general in nature, the trial Court rightly chose not to rely on his testimony for the purpose of convicting any of the accused under Section 324 of the Indian Penal Code.

11. While the alleged injury caused by the act of stone-pelting was not proved, the property damage arising from the same act was accepted as true. This inconsistency in the findings render the Trial Court's reasoning mutually contradictory and unsustainable.

12. Though the damage was estimated at Rs.400/-, no certificate or documentary evidence was produced to substantiate the same. Further, the recovery witness did not support the prosecution's case. As the above inadequacy in the case of the prosecution are sufficient to raise reasonable doubts and in such circumstances, the benefit of doubt ought to have been extended to the accused. Despite these material deficiencies, the learned trial Judge proceeded to convict the accused under Section 3(1) of the Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992. In view of the above, I am of the considered opinion that the judgment of the trial Court is liable to be set aside.



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13. In result,

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(i) This Criminal Appeal is allowed.

(ii) The conviction and sentence passed in S.C.No.138 of 2014 by the learned Additional District and Sessions Judge, Paramakudi, dated 05.03.2018, are set aside and the appellants are acquitted of all the charges levelled against them. The fine amount, if any, paid by the appellants shall be refunded to them. Bail bond, if any, executed shall stand cancelled and sureties, if any, shall be discharged.

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Index : Yes/No

NCC : Yes/No.

Rmk

To

1.The Additional District and Sessions Judge, Paramakudi.

2.The Inspector of Police,
Keelathuval Police Station,
Ramanathapuram District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

4.VR Section,
Madurai Bench of Madras High Court, Madurai.



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DR.R.N.MANJULA, J.,

Rmk

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