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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 05.08.2025

CORAM:

THE HONOURABLE Dr.JUSTICE R.N.MANJULA

Crl.A.(MD)No.559 of 2018

P.Kumar

... Appellant

VS.

State Represented by
The Inspector of Police,
Veeravanallur Police Station,
Tirunelveli District.
Crime No.235/2010

...Respondent

PRAYER : This Criminal Appeal has been filed under Section 374(2) of Criminal Procedure Code against the Judgement of the learned III Additional Sessions Judge, Tirunelveli District dated 13.12.2018 in S.C.No.364/2014.

For Appellant : Mr.V.Kathirvelu, Senior Counsel
for Mr.K.Prabhu

For Respondent : Mr.K.Gnanasekaran,
Government Advocate (Crl. Side)

J U D G E M E N T

This appeal has been filed challenging the Judgement of the learned III Additional Sessions Judge, Tirunelveli District dated 13.12.2018 in S.C.No.364/2014.



2. The appellant is the sole accused, who has been convicted and sentenced by the learned Judge as under.

Accused	Offences under Sections	Punishment	Fine	In default Sentence
Sole Accused	454 IPC	2 years RI	Rs.1,000/-	6 months RI
	429 IPC	4 years RI	Rs.20,000/-	1 year RI
	3 of TNPPDL Act	1 year RI	Rs.5,000/-	6 months RI

3. The case of the prosecution as per the records is that the defacto complainant (PW1) and the accused are neighbours. PW3 is a person living in a house opposite to that of the accused with his family. Before one week from the date of occurrence, the children of the accused defecated on the eastern side of the house of PW3. PW3 noticed the same and shouted at the children. In view of that, the accused had previous motive with PW3. On 07.12.2010, at about 04.00 p.m., when PW1 and PW2 were sitting in bullock cart on the eastern side of PW3's house and were conversing and PW3 was standing in front of his house, the accused came to the house of PW3 and picked up quarrel with him. PW1 and PW2 went and pacified the accused and rescued PW3. But the accused went inside his house and took a sickle and iron rod and broke the lock of PW3's house, trespassed into his house illegally and damaged his steel



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bureau, plastic chair, Television and other household articles. On seeing this, PW1 to PW3 came there running and shouting. The accused threatened PW1 to PW3, abused them in filthy language and damaged the asbestos sheet and tube light belonging to PW3, killed four goats and caused injury to two goats and one calf which were tied in the goat shed and threatened that no one should come near him and if they dared, he would kill them. After saying so, the accused ran towards west and damaged the asbestos sheet and roof tiles in the house of PW1 also. By doing the above acts, the accused had caused damaged to the tune of Rs. 35,000/- to PW1 and PW3.

4. On the complaint given by the defacto complainant (PW1), a case has been registered in Crime No.235/2010 on the file of the Veeravanallur Police Station, Tirunelveli. After conclusion of the investigation, charge sheet has been filed against the accused and after completing the legal mandate of furnishing copies and all other legal formalities, charges have been framed against the accused for the offences under Sections 454, 429, 294(b) and 506(2) IPC and Section 3 of TNPPDL Act, 1992. When the accused was questioned, he denied his involvement and claimed to be tried.



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5. Before the Trial Court, on the side of the prosecution PW1 to PW15 have been examined and Exs.P1 to P17 have been marked. M.O.1 to M.O.3 have been marked. On the side of the accused, no oral or documentary evidence has been marked.

6. After the conclusion of trial, the learned Judge found the accused guilty for the offence under Sections 454 and 429 IPC and Section 3 of TNPPDL Act, 1992 and convicted and sentenced him as mentioned *supra*. Aggrieved over that, the appellant / accused has preferred this appeal.

7. Mr.V.Kathirvelu, learned senior counsel for Mr.K.Prabhu, learned counsel for the appellant submitted that as per the FIR, the occurrence is said to have taken place at 04.00 p.m., on 07.12.2010, but it was reported at 10.30 p.m. i.e., after a delay of six hours; there was delay in sending it to Court as well; though in the charge sheet it is stated that the motive for the occurrence is due to the incident that has taken place one week prior to the occurrence, in the evidence of PW1, he has stated that the occurrence has taken place in the same day morning; the police has arrived at the scene of occurrence at 06.00 p.m. and obtained the signatures of PW1 to PW3 in blank papers and this is revealed through



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the evidence of PW1, PW2 and PW3; PW3 has stated in his evidence that at the time of occurrence, he was waiting in the police station and the occurrence was informed to him only through PW1 and PW2, but in the charge sheet, PW1 to PW3 have been shown as eye witnesses; PW4 has stated that he was along with PW3 at the Police Station at the time of occurrence; however, the learned trial Judge has totally believed the evidence of PW3 and convicted the accused without considering the contradictions.

8. Mr.K.Gnanasekaran, learned Government Advocate (Crl. Side) appearing for the respondent submitted that PW10 Veterinary Doctor who has done Post Mortem to the four goats which died and treated two goats and one calf which were injured has stated in his evidence that the injuries on the body of the deceased goats and the injured goats and calf could have been inflicted by attacking with sickle; there is nothing to suspect the evidence of the PW13 Investigation Officer though the confession witness had turned hostile; the Investigation Officer has stated in his cross examination that he has not stated that PW1 and PW2 were standing in front of PW3's house at the time of occurrence; hence, the finding of the guilt and conviction and sentence imposed by the trial Court is only based on the due appreciation of the evidence.



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9. On perusal of Ex.P1 complaint given by PW1, it is seen that on 07.12.2010, at about 04.00 p.m., while PW1 and PW2 were standing beside the house of PW3 and PW3 was standing in front of his house, the appellant came there, shouted at PW3 and quarreled with him. PW1 and PW2 went there and rescued PW3. At that time, the appellant went inside his house, took sickle and iron rod and damaged the household articles of PW3 and also attacked the cattle of PW3, abused him in filthy language and damaged the asbestos sheet and tube light. On seeing this, neighbours gathered at the spot. The accused threatened them also and ran towards west side, to the house of PW1 and damaged the asbestos sheet and roof tiles belonging to PW1 also.

10. In the evidence of PW1, he has stated about the occurrence in a similar manner as how he has stated it in his complaint. But, with regard to the motive, he has stated in his chief examination that it is because of the children of the accused defecated in front of the house of PW3 and PW3 scolded them on the previous day. In his cross examination, he has stated that the incident leading to the motive had occurred only on the morning of the day of occurrence. Though PW1 has given contradictory statements as to the date on which the incident of defecation of the children of the accused in front of the house of PW3, the fact remains



that only because of the alleged nuisance caused, the occurrence happened on 07.12.2010. In the cross examination, PW1 has stated that immediately after the occurrence they had gone to the police station, but the police had obtained signature in blank papers. He has further stated that he has seen the blood oozing out from the head of the accused, but he has not stated anything about the injuries suffered by the accused.

11. When it was suggested to PW13 Investigation Officer that the accused had given a complaint stating that he was attacked by PW3, he denied the same. He has stated in his cross examination that there was no previous motive between PW1 and the accused. PW1 has identified the sickle used by the appellant and recovered by the Investigation Officer on the information given by the appellant.

12. PW2 in his evidence has stated the same facts as spoken by PW1 in his chief examination. But, in the cross examination, he has stated that the appellant has taken away the sickle with him. So, it is possible to recover the sickle on the confession and information given by the appellant as stated by the Investigation Officer.

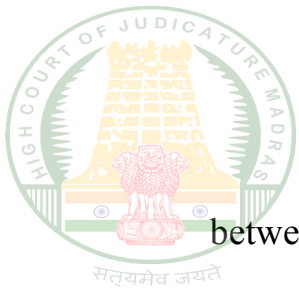


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13. PW3 is an important witness in whose house the occurrence had taken place. He has stated in his evidence that the motive for the occurrence is due to the children of the accused defecated in front of his house in the morning and there was already a quarrel in the morning. He had asserted in his cross examination that himself, PW1 and PW2 were conversing near the buffalo cart. However, his subsequent statement is that he was in the police station at the time of occurrence and that he came to the place of occurrence on hearing the information from PW1 and PW2. He has also stated that the Police has obtained signature in blank paper. Almost all the important witnesses have stated that the police obtained signatures in blank paper and PW2 has stated that the police asked them to come after two weeks. Strangely, PW2 has stated that after the occurrence he did not go to the police station.

14. From the evidence of PW1, it is understood that the distance between the police station and the occurrence place is just 10 minutes walk away distance. So, it could be possible for PW3 to arrive at the place of occurrence immediately.

15. PW4 is the brother of the PW3. In the evidence of PW4, he has stated that on the morning of 07.12.2010, there was a quarrel



between PW3 and the accused, over which, they had been to the police station for giving a complaint. After giving the complaint, when they returned back to the house, they saw that the house of PW3 was damaged and his cattle were killed and injured. Though PW1 to PW3 have been shown as eye witnesses, the evidence of the prosecution witnesses would show that they came to the place of occurrence only on hearing about the occurrence.

16. The occurrence that had happened in the morning was the motive for damaging the household articles and attacking the cattle on the house of PW3. Even if PW1 to PW3 are not eye witnesses, the circumstances would show that there was a motive between PW3 and the accused and the occurrence was a retaliatory act. Even PW4 has witnessed immediately after the occurrence that the house of PW3 was damaged.

17. PW10 Veterinary Doctor who had conducted Post Mortem on 08.12.2010 at 12.45 p.m., has stated that from the *rigor mortis* found on the body of the goats, the occurrence could be presumed to be taken place before 12.00 hours. So, that also tallies with the time of occurrence. Even if the confession witness PW8 had turned hostile,



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other witness PW9 had stated in his evidence about weapons recovered namely sickle and iron rod on his confession on 09.12.2010 at about 04.00 p.m.

18. The learned counsel for the appellant submitted that according to the evidence of PW1, those weapons were in the place of occurrence and the police has recovered the same when they visited the place of occurrence. The evidence of PW1 with regard to the weapons could be due to tension and fear. PW1 could not have noticed whether the appellant had taken the weapons or left them behind and he could be just presumptive. The above contradiction will not contradict the confession witness and seizure witness PW9 in whose presence, the appellant was arrested and sickle and iron rod were recovered. The admitted part of the confession and the athatchi prepared for recovery of weapons have been marked as Exs.P6 and P7 through PW9 and his cross examination does not demolish his chief examination and hence it is reliable.

19. The Investigation Officer who has been examined as PW13 has stated in his evidence that the appellant was arrested at 04.00 p.m., on 09.12.2010 and his confession has been recorded in the presence of the witnesses and the weapons used during the occurrence were also



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recovered on the confession given by the appellant. So, the situation prevailed before the occurrence and the motive of the appellant against PW3 and the recovery of weapons from the appellant in the presence of PW9 and the evidence of PW9 on this aspect can very well connect the appellant to the crime, though there are contradictions in the evidence of PW1 to PW3. Though PW1 to PW3 are not eye witnesses and they have exaggerated the events, the fact that the occurrence had taken place is very much true. So, it cannot be bluntly denied that the appellant is not involved in the occurrence because of the contradictions in the evidence of PW1 to PW3 when they had stated in the chief examination that they were available near the house of PW3.

20. The learned counsel for the appellant submitted that the appellant / accused is a single person and the witnesses are three persons and if the appellant had made attempt to damage their property and cattle, they could have effectively saved them. Though the appellant came alone, it is to be noted that he was armed with deadly weapons.

21. The Wound Certificate and the evidence of PW10 confirms that the goats have died due to occurrence. The feasibility for the appellant to be available at the place of occurrence in view of his



residence situated in the place of occurrence and the motive established by the prosecution and the evidence of other witnesses also could get connected without any doubt that it was the appellant who had trespassed into the house of PW3, damaged his household articles, killed his four goats and caused injury to two goats and one calf.

22. The learned counsel for the appellant submitted that the appellant / accused is the first offender and he has committed the offence in the fist of anger as he was attacked by PW3 on the same day morning. The appellant / accused has been in prison for a period of 28 days and that can be treated as the punishment imposed on him. Considering the circumstances leading to the occurrence and the absence of precedents against the appellant, I feel some indulgence may be shown in the matter of substantive sentence alone.

23. **Section 454 IPC:** The finding of guilty is confirmed by reducing the substantive sentence imposed and by treating the period of incarceration undergone by the appellant as the punishment for the offence and enhancing the fine amount to Rs.25,000/-, in default to undergo 6 months RI.



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24. Section 429 IPC: The finding of guilty is confirmed by reducing the substantive sentence imposed and by treating the period of incarceration undergone by the appellant as the punishment. As the four goats of PW3 have been killed and two goats and one calf have been injured, I feel the imposition of fine by the learned trial Judge can be enhanced to Rs.30,000/- and in default the appellant shall undergo 6 months RI.

25. Section 3 of TNPPDL Act: The finding of guilty is confirmed by reducing the substantive sentence imposed and by treating the period of incarceration undergone by the appellant as the punishment and enhancing the fine amount to Rs.10,000/-, in default to undergo 6 months RI.

26. In view of the above discussions,

i) This Criminal Appeal is **partly allowed**, by modifying the Judgement of the learned III Additional Sessions Judge, Tirunelveli District dated 13.12.2018 in S.C.No.364/2014 in respect of the punishment imposed against this appellant / sole accused as below.



Findings and Punishment imposed by the Trial Court	Modification Now Made
<u>Section 454 IPC</u> Found guilty, convicted and sentenced to undergo 2 years RI, fine of Rs.1,000/-, in default to undergo 6 months RI	Found guilty, substantive sentence is reduced to the period of incarceration already undergone by him, fine Rs.25,000/-, in default to under 6 months RI
<u>Section 429 IPC</u> Found guilty, convicted and sentenced to undergo 4 years RI, fine of Rs.20,000/-, in default to undergo 1 year RI	Found guilty, substantive sentence is reduced to the period of incarceration already undergone by him, fine Rs.30,000/-, in default to under 6 months RI
<u>Section 3 of TNPPDL Act</u> Found guilty, convicted and sentenced to undergo 1 year RI, fine Rs.5,000/-, in default to undergo 6 months RI	Found guilty, substantive sentence is reduced to the period of incarceration already undergone by him, fine Rs.10,000/-, in default to under 6 months RI

ii) The total fine amount comes to Rs.65,000/-, out of which, the fine amount already paid by the appellant / accused, if any, is set off.

iii) Out of the total fine amount to be paid by the appellant, Rs. 50,000/- shall be paid to PW3 as compensation within a period of one week from the date on which this Judgement is uploaded in the official website. Failure on the part of the appellant to pay the fine amount shall



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cause him to loss the benefit of modification of punishment awarded as aforesaid.

(iv) PW3 viz., Murugesan is permitted to withdraw the compensation by filing appropriate application.

(v) The bail bond, if any, shall stand cancelled and sureties, if any, shall be discharged.

05.08.2025

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To

1.The III Additional Sessions Judge,
Tirunelveli District.

2.The Inspector of Police,
Veeravanallur Police Station,
Tirunelveli District.

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



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Dr.R.N.MANJULA, J.

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