

Crl.A.(MD).No.564 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 09.12.2024

Pronounced on : 07.04.2025

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.A.(MD).No.564 of 2018

M.Ramanathan

... Appellant/Sole Accused

Vs.

1.The Deputy Superintendent of Police,
Devakottai,
Sivagangai District.

2.The Inspector of Police,
Thiruvekampathu Police Station,
Sivagangai District.
(Crime No.3 of 2007)

... Respondents / Complainants

3.Nagaraj

... Respondent /Defacto Complaint

(R3 is impleaded as per order of the Court dated 20.12.2022 in Crl.MP(MD)No.15677 of 2022 in Crl.A(MD)No.564 of 2018 by ADJCJ)

PRAYER : Criminal Appeal is filed under Section 374(2) of the Criminal Procedure Code, to admit the appeal on file and to call for the records from the learned Sessions Judge, (PCR Cases), Sivagangai, in S.C.No.142 of 2009 dated 19.11.2018, and set aside the same and acquitted the accused.



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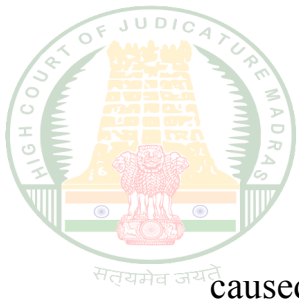
For Appellant : Mr.J.Jeyakumaran
For R1 & R2 : Mr.M.Sakthi Kumar,
Government Advocate (Crl.Side)
For R3 : Mr.C.Mayilvahana Rajendran

JUDGMENT

The appellant is the sole accused in S.C.No.142 of 2009, on the file of the learned Sessions Judge, (PCR Cases), Sivagangai, filed this appeal challenging the conviction and sentence imposed against him, in S.C.No.142 of 2009, dated 19.11.2018, by the learned Sessions Judge (PCR Cases), Sivagangai, and acquit the appellant.

2. The Brief facts of the prosecution case reads as follows:

Due to the land dispute between the appellant and the defacto complainant regarding the transfer the Puramboke land in the name of the defacto complainant, on 08.01.2007, at about 06.45 a.m., when the defacto complainant went to his farm near Pappakottai Road, the appellant waylaid the defacto complainant and the appellant is said to have abused him in filthy language by using his caste name and attacked him with Aruval and



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caused grievous injury on his body. Based on which, the defacto complainant gave a complaint before P.W.9. The same was registered in Crime No.3 of 2007, for the offences under Sections 341 and 324 of IPC and Sections 3(1)(x) of the Scheduled Caste and Scheduled Tribes, Act, 1989 (hereinafter, for the sake of brevity, referred to as “SC/ST Act”). Thereafter, P.W.14 conducted the investigation and filed the final report. The same was taken on the file in P.R.C.No.13 of 2007 by the learned Judicial Magistrate, Devakottai.

3.On appearance of the appellant, copies of documents relied by the prosecution were furnished to the accused under section 207 of Cr.P.C. The learned Judicial Magistrate, Devakottai, found that the offence under Section 3(1)(x) of SC/ST Act, is triable only by the Sessions Court and committed the case under Section 209(A) of Cr.P.C., to the learned District and Sessions Court, Madurai. Thereafter, the case was taken on file in special S.C.No.205 of 2007. Thereafter, the said case in Special S.C.No.205 of 2007 transferred from learned III Additional District and Sessions Court, Madurai, to the learned District and Sessions Court, Sivagangai. The said



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learned District and Sessions Court, Sivagangai, has taken on file in S.C.No. 142 of 2009. Then, he framed necessary charges and questioned the accused. The accused denied the charges and pleaded not guilty and stood for trial.

4.To prove the case, the prosecution examined P.W.1 to P.W.14 and exhibited 12 documents as Ex.P.1 to Ex.P.12 and produced 1 material object as M.O.1. Thereafter, the appellant was questioned under Section 313 Cr.P.C proceedings after disclosing the incriminating evidence against him and he denied the same as false and thereafter, the case was posted for defence evidence. The accused neither produced any documents nor examined any witnesses on their side.

5. After considering the material adduced by the prosecution and also hearing the argument of the appellant and other accused, the learned trial Judge has passed the impugned order, dated 19.11.2018 and found the appellant guilty, convicted and sentenced him as detailed below:-



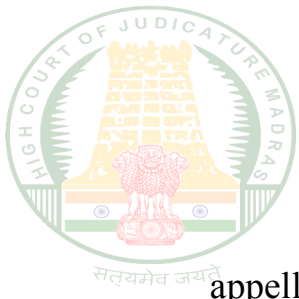
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Accused	Convicted under Section	Sentence of Imprisonment/ fine imposed
Sole Accused	341 of IPC	To pay a fine of Rs.500/- in default to undergo Rigorous Imprisonment for one month.
	324 of IPC	To pay a fine of Rs.2,000/- in default to undergo Rigorous Imprisonment for two months.
	3(1)(X) of SC/ST (POA), Act, 1989.	Rigorous Imprisonment for One Year and to pay a fine of Rs.1,000/- in default to undergo Rigorous Imprisonment for one month.

6. Challenging the above said conviction and sentence, the appellant has preferred the present Criminal Appeal.

7. This Court perused the records and the documents adduced by the prosecution and the grounds raised by the appellant and reply made by the learned Additional Public Prosecutor and the impugned judgment.

8. According to the appellant, due to the motive, a false complaint was foisted against him and the deposition of P.W.1 and P.W.2 that the



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appellant scolded him by using his caste name is a false one. He further submitted that the same was not in public view. To consider the said submission i.e., whether the offence under Section 3(1)(x) of SC/ST Act, is made out, this Court recapitulated the principle laid down by the Hon'ble Supreme Court of India in the case of ***Swaran Singh and Others Vs. State Through Sanding Counsel and Another*** reported in **2008 8 SCC 435** and the same is gave the following definition for '*Public View*':-

“Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view.”

8.1. The above said ratio, laid down by the Hon'ble two Judges Bench of the Hon'ble Supreme Court of India was confirmed by the Hon'ble three Judges Bench of the Hon'ble Supreme Court of India in the case of ***Hitesh Verma Vs. State of Uttarakhand And Another*** reported in **(2020) 10 SCC 710**. The relevant portion of the above said judgment is as follows:-

“what is to be regarded as “place in Public view” had come up for consideration before this Court in the judgment reported as Swaran Singh V. State. The Court



had drawn distinction between the expression “public place” and “in any place within public view”. It was held that if an offence is committed outside the building e.g in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view(sic).”

8.2. The same has reiterated in the case of ***Priti Agarwally and Others Vs. State of GNCT of Delhi and Others*** reported in **2024 SCC OnLine SC 973** and the learned Judge of this Court in Crl.A.234 of 2011 dated 02.08.2024 considered the entire case law has held as follows:-

Para No.33	Para No.30
<i>it is implicitly clear that the expression “within public view” should be construed to mean that the insult or humiliation must take place in the presence of or in the proximity of atleast one independent person</i>	<i>From the above ratio laid down by the Apex Court, it is manifest that it is not the place which has significance in the term “in any place within public view” and what is more material therein is “within public view”, which literally means that in the said place, excluding relatives or friends, there should be presence of other persons, who are independent of the occasion and who could be termed to be public who could witness the happenings in the said place</i>



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8.3. In this case, except the P.W.1's evidence that the appellant scolded him by using his caste name no corroborative evidence is available. Even as per the evidence of P.W.1, the appellant said to have scolded the P.W.1 in the garden while P.W.1 was grazing his cattle in the garden of the appellant. No independent witnesses have been examined to prove the allegation against the appellant that he scolded P.W.1 by calling his caste name in the public view and hence, the prosecution is not proved that the appellant has scolded the victim in the public view beyond reasonable doubt.

8.4. Apart from that, in view of the strange relationship, the case of the appellant that the defacto complainant falsely made a submission before the respondent police as if he scolded him by calling his caste name is acceptable. P.W.4 was examined as independent witnesses. He has not supported the case of the prosecution. Therefore, the offence under Section 3(1)(x) of the SC/ST Act would not attract as against the appellant. Hence, the same is liable to be set aside.



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9. According to the prosecution, on 08.01.2007 at 06.45 a.m, when the defacto complainant went to his garden for the purpose of grazing his cattle, the appellant waylaid him and scolded and assaulted him with aruval. The Doctor clearly about the injuries sustained by P.W.1. Therefore, the learned trial Judge correctly convicted the appellant under Sections 341 and 324 of IPC. Hence, this Court has no reason to set aside the conviction and sentence imposed against the appellant under Sections 341 and 324 of IPC.

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

(i) The conviction and sentence passed by the learned Sessions Judge, (PCR Cases), Sivagangai, in S.C.No.142 of 2009 dated 19.11.2018, for the offence under Section 3(1)(x) of SC/ST (POA) Act, 1989, is hereby set aside.

(ii) The conviction and sentence passed by the learned Sessions Judge, (PCR Cases), Sivagangai,



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in S.C.No.142 of 2009 dated 19.11.2018, for the offences under Sections 341 and 324 of IPC, is hereby confirmed.

(iii) Fine amount already paid by the appellant in respect of the offence under Section 3(1)(x) of SC/ST (POA) Act, 1989, shall be refunded to him forthwith.

07.04.2025

NCC :Yes/No
Index :Yes/No
Internet :Yes/No
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To:

- 1.The learned Sessions Judge,
(PCR Cases), Sivagangai.
- 2.The Deputy Superintendent of Police,
Sivagangai, Sivagangai District.
- 3.The Inspector of Police,
Sivagangai Taluk Police Station, Sivagangai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- 5.The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

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