

Crl. A.(MD)No.195 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATE : 03.07.2025

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THE HONOURABLE DR. JUSTICE R.N.MANJULA

Crl. A.(MD)No.195 of 2017

Santhanam @ Santhana Murugan

... Appellant/A1

Vs.

State Rep. by the
Deputy Superintendent of Police,
Usilampatti,
Madurai District.
(Elumalai Police Station
in Crime No.163 of 2013)

... Respondent/
Complainant

Prayer : This Criminal Appeal is filed under Section 374(2) of Code of Criminal Procedure, to admit the appeal and call for the records pertaining to Spl.S.C.No.63 of 2014 dated 29.05.2017 on the file of the learned 3rd Additional Sessions Judge (PCR Court), Madurai and set aside the conviction and sentence and acquit the appellant.

For Appellant : Mr.B.Murugan

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



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JUDGMENT

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This Criminal Appeal has been preferred challenging the judgment of the learned III Additional District and Sessions Judge (PCR), Madurai District, made in Spl.S.C.No.63 of 2014, dated 29.05.2017.

2. Totally, there are two accused in this case. The appellant is the first accused, who has been charged for the offences under Sections 294(b) and 323 IPC read with Section 3(1)(x) of scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'SC/ST Act' for brevity) and convicted and sentenced by the learned III Additional Sessions Judge, Madurai, as under:

Accused	Offence under Section	Punishment	Fine	In default Sentence
First Accused	323 IPC	Rigorous Imprisonment for 6 months	Rs.1,000/-	Simple Imprisonment for one week

3.1.The case of the prosecution is that the de facto complainant (P.W.1) belonged Scheduled Caste community. On 12.10.2013, at about 08.30 a.m., when the de facto complainant and other witnesses were taking bath, the accused came there and abused them in filthy language by making caste



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remarks also and the first accused slapped P.W.1 on his left ear and caused simple injury.

3.2. On the complaint given by PW1, a case has been registered in Crime No.163 of 2013 on the file of the respondent police. After conclusion of the investigation, charge sheet has been filed against the accused for the offences punishable under Sections 294(b) and 323 IPC read with Section 3(1)(x) of SC/ST Act.

3.3. 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 294(b) and 323 IPC read with Section 3(1)(x) of SC/ST Act. When the accused was questioned, he denied his involvement and claimed to be tried.

3.4. Before the Trial Court, on the side of the prosecution, eleven witnesses have been examined as P.W.1 to P.W.11 and eight documents were marked as Ex.P1 to Ex.P8. On the side of the accused, no oral or documentary evidence has been marked.



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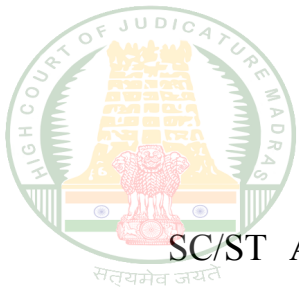
3.5. After the conclusion of trial, the learned III Additional Sessions

WEB COPY Judge, Madurai, acquitted the accused from the charges under Sections 294(b) IPC and Section 3(1)(x) of SC/ST Act and found the first accused guilty for the offence under Section 323 IPC and convicted and sentenced him as mentioned supra. Aggrieved over that, the appellant / first accused has preferred this appeal.

4. The learned counsel for the appellant submitted that the Doctor's Report does not show any external and internal injury on the body of P.W.1, but the trial Court did not consider the same. From the evidence of P.W.1, it can be known that there was some previous enmity between the two communities and the said motive was also ignored by the learned trial Judge.

5. The learned Government Advocate (crl.side) appearing for the respondent submitted that even if there is no external injury, there can be simple injury, without any external or internal marks. So, conviction of the accused under Section 323 IPC does not suffer from any infirmity.

6. Despite the appellant/first accused has been charged for the offences under Sections 294(b) and 323 IPC read with Section 3(1)(x) of



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SC/ST Act, he has been acquitted from the charges under Section 294(b) IPC

and Section 3(1)(x) of SC/ST Act. The only charge for which the first accused was found guilty is that he has caused simple injury on the body of the de facto complainant. The de facto complainant, who was examined as P.W.1, has stated that during the occurrence, the first accused had slapped him on his left ear. P.W.2, who is also said to be present at the time of occurrence, has stated in his evidence that the first accused has slapped P.W.1 with hand, but he did not mention whether the first accused had slapped P.W.1 on his left ear. However, P.W.3 has stated in his evidence that the first accused has slapped P.W.1 with hand on his left cheek. The Accident Register has been registered on 12.10.2013 at about 03.30 p.m., and the doctor, who registered the Accident Register, has been examined as P.W.7. She has issued the Wound Certificate by stating that the injury caused to P.W.1 was simple in nature. On perusal of the evidence of P.W.7, it is seen that the doctor has simply recorded what was stated by P.W.1 about the slap caused on his left ear.

7. Even in the evidence of the eye witnesses, there is a contradiction as to how P.W.1 was assaulted by the first accused. While, P.W.3 has stated that the accused has assaulted P.W.1 on his left cheek, P.W.4 has stated that the first accused had assaulted P.W.1 on his left ear. P.W.1 has stated



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consistently in his evidence and to the doctor that the first accused has assaulted him on his left ear. The doctor, who examined P.W1, has stated in her evidence that there was no external or internal injury and that P.W.1 was treated as an outpatient and was discharged on the same day.

8.The learned Government Advocate appearing for the respondent submitted that there can be simple injury without showing any external or internal marks on the body. But, there should be atleast some pain on the part, where the assault is said to have been made. In the evidence, the doctor has not stated whether she had noticed any pain suffered by P.W1. Even P.W.1 has not stated to the doctor that he had pain on his left ear. Without even having any pain symptoms, the doctor cannot conclude that there was a simple injury. Since the doctor's evidence is not helpful to the case of the prosecution and due to the insufficient evidence of P.W.1, the learned trial Judge ought to have given benefit of doubt to the first accused in respect of the charge against him under Section 323 IPC also.

9.In view of the above said reasons, the finding of the guilt for the charge under Section 323 IPC against the first accused by the Trial Court is liable to be set aside. The first accused is given with benefit of doubt and he is



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found not guilty of the offence under Section 323 IPC and acquitted.

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10. In the result,

(i) This Criminal Appeal is allowed,

(ii) The conviction and sentence imposed on the appellant/first accused by the judgment of the learned III Additional Sessions Judge (PCR Court), Madurai, in Spl.S.C.No.63 of 2014 dated 29.05.2017, are set aside.

iii) The bail bond executed by the appellant, if any, shall stand terminated and the fine amount, if any, paid by the appellant shall be refunded to him.

03.07.2025

NCC : Yes/No

Index : Yes/No

Internet : Yes/No

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To

1. The III Additional Sessions Judge (PCR Court),
Madurai.

2. The Deputy Superintendent of Police,
Usilampatti,
Madurai District.



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Dr.R.N.MANJULA, J.

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

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