



WEB COPY

Crl.A.(MD)No.196 of 2017



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 03.06.2025

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Crl.A.(MD)No.196 of 2017

Murugan

... Appellant

vs.

The Deputy Superintendent of Police,
Thiruparankundram Division,
Austinpatti Police Station,
Madurai District.

...Respondent

PRAYER : This Criminal Appeal has been filed under Section 374 of Criminal Procedure Code to call for the records in Special S.C.No.31 of 2015 on the file of the III Additional District and Sessions Judge (PCR Cases), Madurai and set aside the order of conviction and sentence dated 02.05.2017.

For Appellant : Mr.M.Vivekkumar

For Respondent : Mr.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 District and Sessions Judge (PCR Cases), Madurai dated 02.05.2017 in Special S.C.No.31 of 2015.



WEB COPY

2. The appellant is the accused, who has been convicted for the offence punishable under Section 324 (2 counts) and was sentenced to undergo 6 months rigorous imprisonment each along with a fine of Rs. 1,000/- each, in default to pay the fine amount, 7 days of simple imprisonment each.

3.1. The case of the prosecution is that, on 26.06.2012, at about 07.00 p.m., when the defacto complainant (PW1) and his son (PW2) were watering their land, the accused came and diverted the water to his lands. When this was questioned by the defacto complainant, there arose a dispute between the defacto complainant and the accused and during that time, the accused abused the defacto complainant and his son in filthy language by making caste calling, attacked them with shovel and caused injuries on the left hand of PW1 and on the head of PW2 and also threatened to kill them.

3.2. Based on the above allegations, the accused has been charged for the offences punishable under Section 3(1)(x) of the Scheduled Caste and the Schedules Tribes (PoA) Act, Sections 324 (2 counts) and 506(2) of IPC.



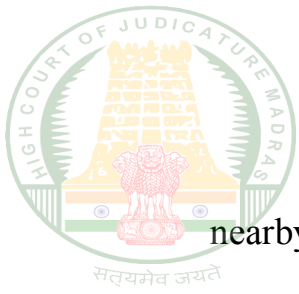
WEB COPY

3.3. Before the Trial Court, on the side of the prosecution PW1 to PW13 were examined and Exs.P1 to P9 were marked. On the side of the accused, the accused has been examined as DW1 and no document was marked.

3.4. After the conclusion of trial, the learned trial Judge found the accused guilty for the offences punishable under Section 324 (2 counts) and convicted and sentenced him to undergo 6 months rigorous imprisonment each along with a fine of Rs.1,000/- each, in default to undergo 7 days simple imprisonment each. Aggrieved over the same, the appellant has preferred this appeal.

4. The learned counsel appearing for the appellant submitted that the place of occurrence mentioned in the First Information Report and in the oral evidence of PW1 and PW2 are different and that fact was not properly dealt by the Trial Court. It is further submitted that the complaint has been lodged with a delay and the same was not properly appreciated by the Trial Court.

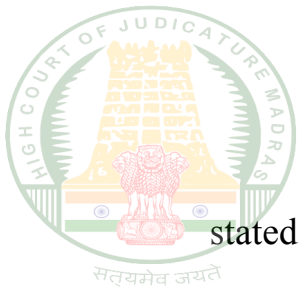
5. On perusal of the First Information Report, it is seen that while PW1 and PW2 were irrigating their lands by utilizing the water in a



nearby pond, the accused had stopped the same and diverted it to his land. PW1 walked through the channel to find out why the water stopped and later he came to know that the accused had stopped the water and diverted the same to his land.

6. According to the learned counsel for the appellant, diversion of water can be done only in Madai and in the evidence of PW1, he has stated that he went to Madai and questioned the accused as to why he stopped the water to his land. It is submitted that the distance between Madai and water channel is 1 km and hence, there is no clarity in describing the place of occurrence and that has been overlooked by the learned Trial Judge. Even in the First Information Report, it is stated that the petitioner has walked through the channel and found the accused diverting the water to his lands. During investigation, it was found that the occurrence had taken place at 'Madai', where water could be stopped and it has been shown in the Rough Sketch (Ex.P9) also. The evidence of PW1 also supports the Rough Sketch and he has stated that he went to 'Madai' in order to find out the reason for the stoppage of water and found out that it is the hand work of the accused.

7. In the First Information Report, place of occurrence has been



stated in a generalized manner. However, the evidence of PW1 and Rough Sketch would make it clear that the incidence had occurred at 'Madai'.

8. The evidence of PW1 and PW2 along with the evidence of PW11 Medical Officer shows that the injury on the head of PW2 was caused due to the attack made by the weapon 'shovel'. PW1 and PW2 made consistent statements before the Investigation Officer, before the Court as well as the Medical Officer. Even in the cross examination, PW1 has stated that there is no previous motive or enmity between him and the appellant and all had happened only on that particular day of occurrence. Hence, there is absolutely no necessity for the defacto complainant (PW1) to give a false complaint against the appellant / accused. The cross examination of PW1 and PW2 would only strengthen their chief examination, not otherwise.

9. As far as the delay in lodging the First Information Report is concerned, the occurrence had taken place at about 07.00 p.m. and the First Information Report has been lodged at 10.30 p.m. It is quite possible for the injured to go and attend their injuries first and then come to Police Station to lodge a complaint.



WEB COPY

10. According to the appellant, the defacto complainant (PW1) and his son (PW2) sustained injuries when PW1 was working and the shovel fell on the head of PW2. But this statement was stoutly denied by PW1. PW1's narration of the occurrence in his Chief Examination appears to be natural and his evidence is consistent. It is also corroborated by the evidence of PW2 and Medical Officer PW11, who had registered Accident Register and issued Medical Certificate.

11. The learned trial Judge had appreciated the evidence of PW1, PW2 along with evidence of Medical Officer PW11 in a holistic manner. He also considered the fact that the injured did not have any previous motive against the accused to lodge a false complaint. After taking into consideration of the material evidence on record and finding out the involvement of the accused, he found the accused guilty for the offences punishable under Section 324 (2 counts) IPC and convicted him for the same. The Judgement of the trial Court in my considered view is a fair one having reason justifying its conclusion and does not invite any inference by this Court.

12. At this juncture, the learned counsel appearing for the appellant submitted that the appellant is 52 years old and he had already undergone



WEB COPY

10 days of imprisonment while he was on remand. Considering his age and the absence of any previous case registered against him, some leniency may be shown in the matter of punishment. The wife of the accused is said to be bed ridden and she has been taken care of by the accused and the appellant is also ready and willing to pay any compensation to the injured.

13. For the reasons best known to the learned trial Judge, no compensation was awarded even though the appellant was sentenced to undergo 6 months Rigorous Imprisonment. Even the fine amount was very less. Considering the family circumstances of the appellant and also considering his age, I feel it is appropriate to partly allow the appeal to the extent of modifying the punishment alone.

14. Accordingly, this Criminal Appeal is partly allowed. The conviction ordered by the learned trial Judge for the offences punishable under Section 324 (2 counts) IPC is confirmed. The punishment ordered by the learned trial Judge is hereby modified and the appellant / accused is sentenced to undergo 2 weeks Rigorous Imprisonment each, along with a fine of Rs.1,000/- each, in default to pay the fine amount, to undergo 7 days Simple Imprisonment each. The appellant / accused is

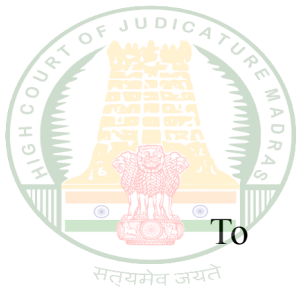


CrI.A.(MD)No.196 of 2017

further directed to deposit a sum of Rs.25,000/-, which is payable to the wife of PW1 (since PW1 deceased) and a sum of Rs.75,000/-, which is payable to PW2, as compensation to the credit of Special S.C.No.31 of 2015 on the file of the III Additional District and Sessions Judge (PCR Cases), Madurai, within a period of two weeks from the date of receipt of a copy of this order, failing which, the appellant / accused will lose the benefit of modification of punishment and the original punishment imposed by the learned trial Court would be restored automatically. PW1's wife and PW2 are permitted to withdraw the compensation, by following due process of law.

03.06.2025

mbi



Crl.A.(MD)No.196 of 2017



To

WEB COPY

- 1.The III Additional District and Sessions Judge (PCR Cases),
Madurai
- 2.The The Deputy Superintendent of Police,
Thiruparankundram Division,
Austinpatti Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CrI.A.(MD)No.196 of 2017

R.N.MANJULA, J.

mbi

CrI.A.(MD)No.196 of 2017

03.06.2025