

Crl.A(MD)No.207 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 09.06.2025

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

Crl.A(MD)No.207 of 2017

Dinakaran

... Appellant / Accused No.1

Vs.

State through
The Deputy Superintendent of Police,
Thiruvadanai Sub Division,
R.S.Mangalam Police Station,
Ramanathapuram District.
(Crime No.160 of 2011).

... Respondent/Complainant

PRAYER :- This Criminal Appeal is filed under Section 374(2) of Cr.P.C., to allow this appeal by setting aside the judgment and conviction imposed by Principal District and Sessions Judge (Special Judge for PCR Cases) Ramanathapuram in Spl.S.C.No.52/2013 dated 29.06.2017 and may pleased to acquit to appellant / A1 on the charges levelled against him.

For Appellant : M/s.T.Lajapathi Roy
Senior Counsel
for Mr.S.Mariappan

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



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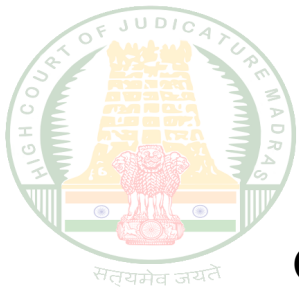
JUDGMENT

This Criminal Appeal is preferred by the first accused challenging the judgment of conviction and sentence, dated 29.06.2017, passed by the learned Principal District and Sessions Judge (Special Judge for PCR Cases), Ramanathapuram, in Spl.S.C.No.52 of 2013.

2.The brief facts of the case are as follows:

(i) On 03.12.2011, at about 7.30 p.m., when P.W.1 came with his wife Soundaravalli near Ashok Tea Shop near Sanaveli, the accused 1 and 2 restrained them and abused P.W.1 in filthy language by making caste remarks and started wordy altercation regarding contesting P.W.1's wife in election and assaulted him with hands and threatened them with dire consequences.

(ii) After completion of investigation, a charge sheet has been filed against the accused 1 and 2 for the offences under Sections 341, 323, 506(1) of IPC read with Section 3(1)(x) of SC/ST (POA) Act, The Judicial Magistrate, Thiruvadanai, has taken cognizance of the case in P.R.C. No.3 of 2013.



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(iii) After appearance of the accused, copies were served to the accused.

The case was committed to the Sessions Court, Ramanathapuram and was numbered in S.C.No.52 of 2013. After hearing both sides, charges were framed against the accused. When the accused were questioned, they denied their involvement and claimed to be tried.

(iv) In order to prove the charges, on the side of the prosecution ten witnesses were examined as P.W.1 to P.W.10 and twelve documents were marked as Ex.P1 to Ex.P12. No oral or documentary evidence was let in by the accused.

(v) When the accused have been questioned under Section 313 of the Code of Criminal Procedure, in respect of the incriminating circumstances appearing in evidence against them, they denied their complicity in the crimes. However, no oral and documentary evidence have been let in on the side of the accused.

(vi) Upon hearing the arguments of both sides and appreciating the materials available on record, the Sessions Court found the second accused not guilty for the charges against him and found the first accused / appellant guilty for the offence under Section 3(1)(x) of SC/ST (POA) Act alone and acquitted him in respect of the other charges and sentenced him to undergo 5



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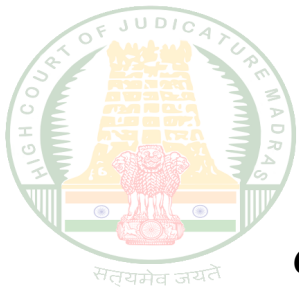
years rigorous imprisonment and to pay a fine of Rs.30,000/-, in default, to undergo 3 months simple imprisonment. The remand period already undergone is ordered to be set off under Section 428 of Cr.P.C.

(vii) Aggrieved over that, the first accused has preferred this appeal.

3. The learned counsel for the appellant/A1 submitted that the wife of the first accused Kanimozhi has contested in the Panchayat Election for the post of President of the Sanaveli Panchayat. P.W.1's wife Soundravalli also contested for the post of Member of Ward No.2 in the election in the opposite group. In view of the same, the first accused had developed motive against P.W.1.

4. The learned Government (Crl.side) submitted that the trial Judge has rightly convicted the first accused after evaluating the oral and documentary evidence in a right perspective and therefore, no interference of this Court is warranted.

5. I have given my anxious consideration to the submissions made on either side and carefully perused the materials available on record.



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6. Since the Sessions Court has found the first accused guilty for the offence under Section 3(1)(x) of SC/ST (POA) Act alone but acquitted for offences under Section 341, 323, and 506(ii) IPC, it is sufficient to deal with the materials in respect of the commission of that offence alone.

7. The entire background of the case is out of election motive. P.W.1, the defacto complainant has made allegations attracting Section 3(1)(x) of SC/ST (POA) Act. Initially, First Information Report has been registered against six persons. Even in the complaint- Ex.P.1, it is seen that P.W.1 has not referred the name of the appellant/first accused. Even during the statement given by P.W.1 to the investigation officer, he has only made reference to the name of the wife of the first accused as Kanimozhi Dinakaran and not the name of the first accused Dinakaran.

8. The reference about the appellant /A1 has been made by P.W.1 only in his evidence. In the cross examination of P.W.1, P.W.1 has stated that he did not write the complaint and his wife got it written by someone else however P.W.1 has stated its contents. Meanwhile, P.W.1 has not denied that he has referred the name of the first accused only in the cross examination,



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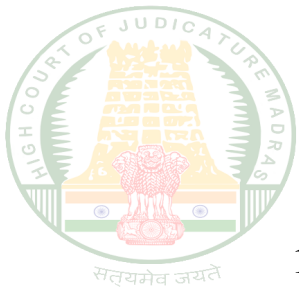
but he has not mentioned the involvement of the first accused in the complaint as well as in the statement given to the investigation officer. In fact, P.W.1 has stated in his evidence about the involvement of other persons whom he named in his complaint, but the investigation officer has filed a deletion report by deleting the other accused by names, Easwaran, Senthil, Poornam and Karuna. The trial Court has not found the second accused guilty for the same offence and had acquitted him by finding out that he did not abuse P.W.1.

9. The complaint has been given in the background of the heated election and on which the wife of the first accused Kanimozhi and the defacto complainant's wife Soundaravalli had contested in the opposite groups. But it is deposed by P.W.2 in the cross-examination that she had contested against Murugammal w/o Dharmaraj. When it was suggested to her that she had lost the election, against the wife of Dhinakaran, and that was the basis for lodging a false complaint, she denied it. The wife of the first accused won the election. So there is a confusion in every stage of the case right from the complaint to the charges framed by including the name of the first accused though his name is not found in the complaint and in 161 statement of P.W.2.



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10. The person, who was not mentioned in the complaint, has been made as the first accused in this case. In fact, P.W.2, who is the wife of P.W.1, has also stated in her evidence that the first accused had assaulted P.W.1 and abused him by mentioning his caste name. In such a case, the complaint ought to have been mentioned the name of the first accused. In fact, P.W.1 has stated in his cross examination that though he has given the details, the complaint was written by someone else. Even though, the complaint need not be an Encyclopaedia, it should contain the *prima facie* details as to the involvement of the accused and whom the prosecution considered as the prime accused. But no details against the involvement of the first accused has been seen in the complaint. It would probabilise the fact that the contents of the complaint would have been a spontaneous statement of P.W.1 and only for that reason he did not mention about the involvement of the first accused in the statement given by him during the investigation stage also. But strangely in the deletion report filed by P.W.10, he did not intend to delete the name of the first accused.



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11. When the involvement of the first accused is not mentioned in the complaint, as well as in the statement given under Section 161 Cr.P.C., it would have been appropriate for the investigation officer to include the name of the first accused also in his deletion report. But unfortunately, the charge sheet has been filed against the first accused and the charges have been framed in a confused manner by mentioning the name of Murugammal w/o Dharmaraj. But, there is no material to connect Murugammal w/o Dharmaraj with the first accused. As the wife of the first accused had won the election and the complaint has been given during the heated waves of the election, P.W.1 did not make any mention about the first accused in his complaint and 161 statement and the other accused, whose names have been mentioned in the FIR, have been deleted by the investigation officer by filing a deletion report, it appears to be a short sighted approach to rope in the first accused alone.

12. It appears that the learned Trial Judge has believed the evidence of P.W.1 given in his Chief examination alone, without giving due credence to other circumstances and materials which are contradictory to what was stated by P.W.1 in his chief examination. As the learned Trial Judge has omitted to



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appreciate all the evidence, the circumstances and other materials and convicted the first accused, it is appropriate to set aside the same.

13. In fact, even about the writing of the complaint, each of the witnesses have given different versions, P.W.1 has stated that his wife has got the complaint written by someone else but the contents of the complaint were told by him. But P.W.2 has stated that the police have reduced the statement given by P.W.1 and P.W.2 in writing. That would also create one more doubtful circumstances in respect of the allegations in the complaint.

14. P.W.1 has stated in his cross examination that he was working against the group for which the accused was supporting. So it is needless to infer that there is a background of a motive.

15. In fine,

(i) this Criminal Appeal stands allowed;

(ii) the conviction and sentence imposed on the appellant/ A1 by the judgment of the learned Principal District and Sessions Judge (Special Judge for PCR Cases) Ramanathapuram in Spl.S.C.No.52/2013 dated 29.06.2017 is



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set aside and the appellant/A1 is not guilty for the charges under Sections 341, 323, 506(1) of IPC read with Section 3(1)(x) of SC/ST (POA) Act and acquitted.

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.

09.06.2025

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

- 1.The Principal District and Sessions Judge (Special Judge for PCR Cases)
Ramanathapuram.
- 2.The Deputy Superintendent of Police,
Thiruvadanai Sub Division,
R.S.Mangalam Police Station,
Ramanathapuram District.
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R.N.MANJULA, J.

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