



CrI.A.(MD)No.380 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CrI.A.(MD)No.380 of 2017

Raja

... Appellant

versus

1. State represented by its
Inspector of Police,
Seevalaperi Police Station,
Tirunelveli District.

2. Sudalai

3. Muruganantham

4. Balasubramani

5. Suresh

... Respondents

Criminal Appeal filed under Section 372 Cr.P.C. to call for records pertaining to the Judgment in S.C.No.66 of 2017 on the file of the Assistant Sessions Judge cum Chief Judicial Magistrate, Tirunelveli, dated 28.06.2017 and set aside the same.



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For Appellant : M/s.T.A.Ebenezer
For R1 : Mr.P.Kottaichamy,
Government Advocate (Crl. Side)
For R2 to R5 : No appearance

JUDGMENT

This Criminal Appeal is directed against the Judgment dated 28.06.2017 passed by the learned Assistant Sessions Judge cum Chief Judicial Magistrate, Tirunelveli, in S.C.No.66 of 2017.

2. This appellant has lodged a complaint before the respondent Police that he was assaulted by the private respondents 2 to 5 on 12.10.2013 at about 1.15 p.m. Based on that complaint, a case was registered on the file of the first respondent Police in Crime No.126 of 2013 for the offence under Sections 341 and 307 IPC and the same was tried before the learned Assistant Sessions Judge cum Chief Judicial Magistrate, Tirunelveli, in S.C.No.66 of 2017 for the offence under Sections 341, 307 r/w. 34 IPC. In conclusion of the trial, the trial Court, by its Judgment dated 28.06.2017, found that the prosecution has not proved its case beyond reasonable doubt and therefore, acquitted all the accused from the charges. As against the Judgment of acquittal, this Criminal Appeal has been preferred in the year



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2017.

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3. This appeal was admitted by this Court by order dated 21.09.2017 and it was taken up for final disposal on 03.02.2025. Though notice was served on the respondents 2 to 5/accused, there was no representation for the accused. Therefore, this Court, on 03.02.2025, ordered fresh notice to the respondents 2 to 5. This Court has also permitted the appellant to take private notice to the respondents 2 to 5.

4. When the appeal was taken up for hearing on 20.03.2025, the learned counsel appearing for the appellant submitted that the appellant died pending the appeal and he is not aware as to whether the appellant has any legal heirs to prosecute the appeal. Therefore, he sought for an adjournment. Today, the learned counsel for the appellant expressed that he is not in a position to contact the relatives of the appellant, if any. The private respondents 2 to 5 are also not available before this Court. The learned counsel for the appellant has also expressed his difficulty in taking steps to the respondents 2 to 5 and submitted that there is no one prosecuting the appeal from the appellant side.



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WEB COPY 5. This appeal is arising out of the Judgment of acquittal dated 28.06.2017. The scope of the appeal against the Judgment of acquittal is very limited. The accused were acquitted by considering the prosecution evidence that the prosecution has not proved the case beyond any reasonable doubt. As per the ratio laid down by the Hon'ble Supreme Court *in State of Gujarat vs. Jayrajbhai Punjabhai Varu*, reported in *AIR 2016 SC 3218*, if two views are available, the view, in favour of the accused, has to be given importance.

6. Considering the scope of the appeal and also considering the fact that the appellant died and there is no one to prosecute the appeal, this Criminal Appeal is closed with liberty to the legal heirs of the appellant to prosecute the appeal by filing necessary application to restore the appeal, if so advised.

24.04.2025

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

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To

1. The Assistant Sessions Judge cum
Chief Judicial Magistrate,
Tirunelveli.
2. The Inspector of Police,
Seevalaperi Police Station,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

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