



Crl.A(MD)No.445 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 01.07.2025

CORAM :

THE HONOURABLE Dr. JUSTICE R.N.MANJULA

Crl.A(MD)No.445 2017

Muthupandi ... Appellant/Sole Accused

Vs.

1.State rep. by
The Deputy Superintendent of Police,
Thirumangalam,
Madurai District.

2.State rep. By
The Inspector of Police,
Thirumangalam Town Police Station,
Madurai District
(Crime No.595 of 2013)

... Respondents/Complainants

PRAYER: Criminal Appeal filed under Section 374(2) of Criminal Procedure Code, to call for the records in S.S.C.No.99 of 2014 on the file of the III Additional District and Sessions Judge (PCR), Madurai and set aside the conviction passed by the judgment dated 02.08.2017.

For Appellant : Mr.Muthumalairaja

For Respondents : Mr.A.Albert James

Government Advocate (Crl.side)



Crl.A(MD)No.445 of 2017

WEB COPY

JUDGMENT

This Criminal Appeal has been filed by the sole accused challenging the judgment dated 02.08.2017 passed by the learned III Additional District and Sessions Judge (PCR), Madurai, in S.S.C.No.99 of 2014.

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

(i) The case of the prosecution is that the defacto complainant and the accused were living in the same village. The injured witnesses belong to Scheduled Tribe Community. The accused belong to the Backward Class community. The accused is residing nearby the resident of the defacto complainant's family. The defacto complainant used to keep pigs before his house and the accused disliked the pigs roaming near his street. In view of those previous motive on 26.10.2013, at about 1.30 p.m, the accused abused the mother-in-law of P.W.1 with filthy language and by making caste remarks. He also showed his private parts and shouting in a very obscene manner. When this was questioned by P.W.1, the accused took a knife from his dhoti and attacked P.W.1 on her head.



Crl.A(MD)No.445 of 2017

WEB COPY

When her sister-in-law came for her rescue, the accused pushed her down and attacked her with stick on her stomach. Due the above incident, P.W.1 suffered cut injuries and P.W.3 suffered simple injuries.

(ii) After completion of investigation, a charge sheet was filed against the accused for the offences under Sections 294(b), 323 and 324 IPC and Sections 3 and 4 of Tamil Nadu Prohibition of Harassment of Women Act and Section 3(1)(r) and 3(1)(s) of SC/ST Act. The case was taken cognizance by the trial court.

(iii) On appearance of the accused, the copies were served to the accused. On being satisfied that prima facie reasons exist for framing charges, charges were framed against the accused. On questioning upon the charges, the accused pleaded not guilty and therefore proceedings were issued for commencement of trial.

(v) In order to prove the charges, the prosecution examined 11 witnesses as P.W.1 to P.W. 11 and marked 15 documents as Ex.P1 to Ex.P.15. No oral and documentary evidence was produced on the side of the accused. The case was committed to the Sessions Court.



Crl.A(MD)No.445 of 2017

WEB COPY

(vi) Having considered the oral and documentary evidence, the Sessions Court found the sole accused not guilty for the offences under Sections 3 and 4 of Tamil Nadu Prohibition of Harassment of Women Act and Section 3(1)(r) and 3(1)(S) of SC/ST Act and found the sole accused guilty for the offences under Sections 294(b), 323 and 324 IPC and the accused was convicted and sentenced as follows:

Offences u/s	Punishment
294(b) IPC	To pay fine of Rs.500/- i/d to undergo one week(S.I)
324 IPC	to undergo 2 years (R.I) and to pay a fine of Rs.1000/- i/d to undergo one month (S.I)
323 IPC	to undergo 6 months (R.I) and to pay a fine of Rs.500/- i/d to undergo 15 days(S.I)

(viii) Aggrieved over that, the sole accused filed the present appeal.

3. The learned counsel for the appellant submitted that there are lot of investigation flaws and they were not properly appreciated by the Sessions Judge; the weapon used for the occurrence has been recovered



Crl.A(MD)No.445 of 2017

WEB COPY

and it did not have blood stains; during cross-examination, P.W.6, Doctor stated that there is possibility for the injuries suffered by P.W.2 could be caused even when sharp weapon fell on her head or when a sharp nail fitted on wall hit on her head; medical memo has not been given in a proper manner and Investigating Officer/Sub Inspector who has issued medical memo has not been examined.

4. Apart from the above submission, the learned counsel for the appellant mainly pointed out that there is no evidence to show that P.W.3 had suffered simple injuries as stated by the trial Judge in the judgment. Even when there is no evidence to show that she had taken treatment, the court presumed that P.W.3 could have suffered pain when she was attacked with wooden log. Even for that, entry would have been marked in the Accident Register. Without entry in the Accident Register, the trial court has found the accused guilty for the offence under Section 323 IPC only on presumption.



Crl.A(MD)No.445 of 2017

WEB COPY

5. The learned Government Advocate (Crl.side) submitted that the injured witnesses have given evidence as to how the occurrence had taken place and during cross-examination of these witnesses, they did not demolish what they have stated in the chief examination. The learned Government Advocate further submitted that the doctor's evidence and other evidences are suggestive of wounds that can be caused by using weapon like knife. The prosecution evidence proved the guilt of the accused beyond reasonable doubt and it is right for the trial court to find the accused guilty and convicted and sentenced for the offences as stated above. He prays for dismissal of this appeal.

6. I gave my anxious consideration to the submissions made on either side and carefully perused the materials available on record.

7. The fact that the accused is a neighbor of P.W.1 is not denied. Further fact that P.W.1 to P.W.3 belong to Scheduled Tribe community and the accused belongs to Most Backward Class community is not denied. On the date of occurrence, i.e on 26.10.2013 at about 1.00 p.m



CrI.A(MD)No.445 of 2017

WEB COPY

P.W.1 was conversing with P.W.2 at her house. The accused came in a drunken mood and he abused them in obscene language. When they came outside objecting the action of the accused, he abused P.W.1 also in a degrading and obscene manner and attacked her with knife over her head. When P.W.3 came for the rescue of P.W.1, he pushed her away and attacked her with the wooden log on her stomach. Even P.W.1 has been cross-examined exhaustively she was assertive the facts spoken by her in her cross examination and she has stated that she has been admitted as in-patient in the hospital for 10 days for treatment of her injuries suffered by her. P.W.2 who had witnessed the occurrence corroborated the evidence of P.W.1 in all aspects. P.W.3, who is neighbour of P.W.2 who came for the rescue, has stated in her evidence that when the accused attacked P.W.3, she was pushed up and was beaten up with a wooden log by the accused and her evidence on this aspect is clear and tallied with the evidence of P.W.1. P.W.4, the husband of P.W.1, came to the house after the occurrence and he came to the place of occurrence immediately and he had seen the accused run away. His evidence on material aspect is tallied with the evidence of P.W.1. None of the witnesses suggested that



Crl.A(MD)No.445 of 2017

WEB COPY

any other motive to foist a false case against the accused, The doctor who was examined as P.W.6 in his evidence stated that P.W.1 had cut injury on head and one lacerated injury on the side of her head. He has stated that injuries suffered by P.W.1 could have been inflicted with sharp weapon as P.W.1 stated she was attacked with knife. The evidence of the Doctor confirms the same.

8. The weapon was recovered from the accused when he was spotted by the Investigating Officer. During the course of evidence, P.W.7 has identified the weapon when it was shown to him.

9. So far as the finding of guilt of the accused for the offence under Section 323 IPC is concerned, there is no entry in the Accident Register regarding injuries suffered by P.W.3. Hence, I feel that the finding of guilt and conviction for the offence under Section 323 IPC can be set aside.



Crl.A(MD)No.445 of 2017

WEB COPY

10. Even though the learned counsel for the appellant submitted that there are some infirmities in preparing the medical memos and observing procedural aspects, that alone cannot defeat the case of the prosecution. The injured witnesses have given evidence in a clinching manner and medical evidence also confirms the same. The trial Judge rightly appreciated the evidence on record on these aspects and proceeded to find the accused guilty for the offences under Sections 294(b) and 324 IPC.

11. At this juncture, the learned counsel for the appellant submitted that the accused is a first offender and he does not have any criminal antecedents.

12. Considering the above submission and also taking into consideration of his family circumstances and his age, I feel that some indulgence can be shown with regard to sentence of imprisonment for the offence under Section 324 IPC. It is seen that the accused had already undergone 42 days. Though the finding of guilt and conviction for the



Crl.A(MD)No.445 of 2017

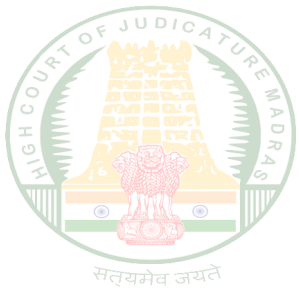
WEB COPY

offence under Sections 294(b) and 324 IPC is confirmed, the sentence of imprisonment is reduced from two years to the period of sentence already undergone by the accused during investigation. The fine amount is enhanced to **Rs.51,500/-** (Rupees Fifty One Thousand and Five Hundred Only) out of which Rs.50,000/- shall be paid to P.W.1 within a period of one week from the date of receipt of a copy of this judgment. If fine amount as imposed by the Sessions Court has already been paid, the same shall be adjusted with the fine amount now imposed.

13. In the result, this appeal is partly allowed and the judgment dated 02.08.2017 made in S.S.C.No.99 of 2014 on the file of the III Additional District and Sessions Court (PCR), Madurai, is modified as above. Bail bond shall stand cancelled.

01.07.2025

Index : Yes/No
Internet : Yes/No
CM



Crl.A(MD)No.445 of 2017

WEB COPY

To,
1. III Additional District and Sessions Judge (PCR),
Madurai

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



WEB COPY



Crl.A(MD)No.445 of 2017

DR.R.N.MANJULA, J

CM

Judgment made in
Crl.A(MD)No.445 2017

01.07.2025