

Crl.A.(MD)No.472 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 16.07.2025

CORAM :

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

Crl.A.(MD)No.472 of 2017

Mani

... Appellant/Sole Accused

versus

The Inspector of Police,
Karungal Police Station,
Kanyakumari District.
In Crime No.475 of 2004

... Respondent/Complainant

Prayer : Criminal Appeal filed under Section 374 of the Code of Criminal Procedure, to call for the records in S.C.No.127 of 2009 relating to the judgment dated 30.10.2017 passed by the Sessions (Fast Track Mahila Court) Kanyakumari District at Nagercoil, and to set aside the judgment of the conviction on the appellant accused.

For Appellant : Mr.S.Manoharan

For Respondent : Mr.A.Albert James
Government Advocate (Crl.side)



Crl.A.(MD)No.472 of 2017

WEB COPY

JUDGMENT

—

This criminal appeal has been preferred as against the judgment dated 30.10.2017 made in S.C.No.127 of 2009 by the learned Sessions Judge (Fast Track Mahila Court), Kanyaumari District at Nagercoil, thereby convicting and sentencing the appellant to undergo rigorous imprisonment for one year and to pay a fine of Rs.2,500/-, in default to undergo rigorous imprisonment for a further period of three months for the offence under Section 324 IPC; to undergo rigorous imprisonment for two years and to pay a fine of Rs.5,000/-, in default to undergo rigorous imprisonment for a further period of six months for the offence under Section 452 IPC. The sentences were ordered to run concurrently.

2. The appellant is the sole accused. The case of the prosecution in brief is that the accused is the brother's son of the injured witness, P.W.2, James. There is previous enmity between them with regard to a pathway dispute. On 04.09.2004, at about 12.30 pm., the accused started to dig a pit in the disputed area for constructing a wall. This was objected by the injured witness, James, and a quarrel arose between them. Thereafter, P.W. 2 came into house. But, the accused armed with a bill-hook and with the



Crl.A.(MD)No.472 of 2017

intention to commit the murder of P.W.2, criminally trespassed into the house of P.W.2 and assaulted P.W.2 with the bill-hook by aiming at his head, the said attack was blocked by P.W.2, as a result of which, he sustained an injury on the index finger of his right hand. Again, the accused assaulted the left upper arm of P.W.2 with the reverse side of the bill-hook. On seeing this, witnesses P.W.1 and P.W.3 attempted to snatch the bill-hook from the hands of the accused and in that melee, they also sustained injury. On the complaint given by P.W.1, an FIR has been registered in Crime No. 475 of 2004, Ex.P.7, at the Karungal Police Station, for the offences under Sections 452 and 324 IPC.

2.1 After the completion of investigation, charge sheet has been filed. Since the offence is triable by the Sessions Court, the case was committed to the Sessions Court. The learned trial Judge had taken cognizance in S.C.No.127 of 2009 and after completing the legal mandate of furnishing copies and all other legal formalities, the learned trial Judge framed charges against the appellant for the offences under Sections 452, 324(two counts) and 307 of IPC. When the accused was questioned, he denied the same and claimed to be tried.



Crl.A.(MD)No.472 of 2017

2.2 During trial, on the side of the prosecution, P.W.1 to P.W.10 were examined and Exs.P1 to ExP8 were marked. Besides, M.O.1 was marked. On the side of the defence, no oral and documentary evidence was let in.

2.3 After the conclusion of trial, based on the oral and documentary evidence, even though charges have been framed for the offences under Sections 452, 324(two counts) and 307 of IPC, the learned trial Judge got convinced to convict the accused only for the offence under Section 452 and 324 (one count) IPC. Aggrieved over the same, this appeal has been preferred.

3. Heard both sides.

4. The learned counsel for the appellant submitted that the motive for the occurrence has not been established by the prosecution, as the rough sketch, Ex.A8, does not show the pit as alleged by the prosecution. He further submitted that there was no bloodstain on the weapon and the weapon also does not correspond with the description given by the accused. The injured witness himself has not stated about all the injuries which were recorded by the doctor as present on his body. There were injuries on the body of the accused as well and that was admitted by the investigating



Crl.A.(MD)No.472 of 2017

officer during his evidence, but the reason for those injuries were not investigated.

5. The learned Government Advocate (Crl.side) submitted that the learned trial Judge has rightly analyzed the evidence of the doctor, the injured witness and also the evidence of other witnesses, who saw the occurrence and has correctly concluded that the accused caused injury on the body of P.W.2, by attacking with bill-hook.

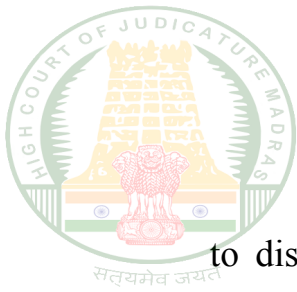
6. The fact that the accused was known to P.W.2 and that they were relatives is not in dispute. The motive for the occurrence, as alleged by the prosecution, is a pathway dispute between the accused and P.W.2. At the time of occurrence, the accused was digging a pit for the purpose of constructing a wall, which resulted in a quarrel. Though the rough sketch does not show the pit, the place of occurrence has been correctly identified as the house of P.W.2. Even during the cross-examination of P.W.1, it was suggested that P.W.2 had spoken in an inebriated state and that was the reason the accused had taken the bill-hook. This suggestion was accepted by P.W.1. The suggestion made to that effect and its acceptance by P.W.1 further corroborates the fact that the occurrence had taken place. Insofar as the injuries on the bodies of P.W.1 and 3 are concerned, the trial Court



Crl.A.(MD)No.472 of 2017

observed that the said injuries were sustained when they attempted to snatch the weapon from the hands of the accused. The evidence of P.W.1 also corroborates this version. The holistic reading of the evidence would clearly indicate that an occurrence, as described by the prosecution, did take place at the relevant time and date.

7. P.W.1 is the daughter-in-law of P.W.2 and was present in the house, when the occurrence took place. She stated in her evidence that after quarreling with the accused, P.W.2 returned to his house, but the accused trespassed into the house of P.W.2 and attacked him with a bill-hook. When P.W.2 obstructed the attack, he sustained an injury on his right index finger and subsequent attack caused an injury on his left index finger. The injured witness, examined as P.W.2, also stated that the accused attacked him after he had entered the house. The accused took a bill-hook from his house, entered into the house of P.W.2 and attacked him. P.W.1, the daughter-in-law of P.W.2 and P.W.3, the daughter of P.W.2, attempted to snatch the weapon from the hands of the accused and thereby, sustained injuries on their hands. The evidence of P.W.2 in all material aspects tallies with the evidence of P.W.1, who is the eyewitness. The daughter of P.W.2, examined as P.W.3, has also stated same facts in her evidence and the cross-examination of these witnesses did not reveal anything strange or unnatural



Crl.A.(MD)No.472 of 2017

to discredit their evidence given in their chief examination. In fact, the cross-examination of P.W.1 further clarified the details of the occurrence.

8. The doctor, examined as P.W.5, stated in his evidence that when he treated P.W.2, P.W.2 had stated that he was attacked by a known person with a bill-hook. Three injuries, which were noted to be present on the body of P.W.2, are detailed under:-

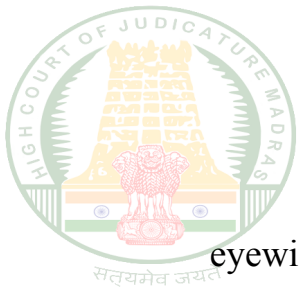
1.A lacerated wound on the right index finger measuring approximately 2cm in length.

2.A swelling measuring about 5cm x 5cm on the left forearm.

3.A lacerated wound on the left thumb measuring approximately 3 cm in length.

9. When the weapon was shown to the doctor, he opined that injuries on the body of the P.W.2 could have been caused by M.O.1. However, during cross-examination, the doctor has stated that he cannot give a concrete opinion as to whether the injuries could have been caused by the material object.

10. The evidence of the doctor, the evidence of P.W.2's relatives and the evidence relating to the weapon are all corroborative to strengthen the prosecution's case. Even in the absence of such evidence, if the evidence of



Crl.A.(MD)No.472 of 2017

eyewitnesses and the injured witness is found to be reliable, there is no reason for the trial Court to disbelieve the same.

11. The investigating officer stated in his evidence that the accused has also sustained injury over his head and was treated for the same. However, the doctor, who was said to have treated the accused, examined as P.W.7, denied having treated the accused as alleged by the prosecution.

12. The learned counsel for the appellant submitted that since the accused was allegedly surrounded by the informant and other witnesses and also sustained injuries during the occurrence, he is entitled to the benefit of doubt. In this regard, the learned counsel for the appellant relied upon the decision of the Patna High Court held in the case of ***Gayanand Yadav and others Vs., State of Bihar*** reported in ***2009 Crl.L.J. 1816***.

13. In the instant case, it was the accused who entered the house of P.W.2 and the witnesses did not surround the accused. Moreover, the accused had neither stated nor suggested to the investigating officer that he had given a complaint against the informant and the other witnesses and the same was not acted upon. Since the absence of any such allegation made by the accused against the defacto complainant and others and when the



Crl.A.(MD)No.472 of 2017

evidence of prosecution consistently prove the occurrence, the failure to explain the injury on the head of accused cannot be treated as a circumstance creating reasonable doubt. It is true that, in certain cases, the injuries sustained by the accused must be taken seriously and properly investigated to determine who the aggressor was. However, this is not a case where both parties started attacking each other simultaneously in a single occurrence. It was the accused, who entered the house of P.W.2, and attacked him with a bill-hook, which has been clearly established by the evidence of injured witness, eyewitnesses and the medical testimony.

14. The failure to mention whether bloodstains were found in the material object and to describe the same in Form-95 may be a defect on the part of the prosecution. However, this is not a case where the weapon was recovered from the accused at the place of the occurrence itself. According to the prosecution, the accused threw away the weapon and fled away from the scene of occurrence and later, he was arrested and the weapon was recovered. Since the weapon was not recovered immediately after the occurrence, the absence of bloodstains or the failure to mention the same, in case it was present, cannot be considered as fatal to the prosecution's case.



Crl.A.(MD)No.472 of 2017

15. The evidence of injured witness is highly reliable. As a person, who had sustained injury, would have no motive to falsely implicate the accused by ignoring the real accused. The learned trial Judge has rightly appreciated the evidence of injured witness and found the accused guilty for the offence under Section 452 and 324 of IPC. Hence, in my considered view, no interference is warranted.

16. In result,

(i) This Criminal Appeal is dismissed.

(ii) The judgment made in S.C.No.127 of 2009 dated 30.10.2017 passed by the learned Sessions Judge (Fast Track Mahila Court), Kanyakumari District at Nagercoil, is confirmed.

(iii) The trial Court is directed to secure the accused and commit him to prison to serve the remaining period of the sentence.

16.07.2025

Index : Yes/No

NCC : Yes/No.

Rmk



Crl.A.(MD)No.472 of 2017

WEB COPY

To

1.The Sessions Judge (Fast Track Mahila Court),
Kanyakumari District at Nagercoil,

2.The Inspector of Police,
Karungal Police Station,
Kanyakumari District.

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

4.VR Section.
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.A.(MD)No.472 of 2017

R.N.MANJULA, J.,

Rmk

Crl.A.(MD)No.472 of 2017

16.07.2025