

Crl.A(MD)No.521 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 26.06.2025

CORAM

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

Crl.A(MD)No.521 of 2017

Kannan

... Appellant / 2nd Accused

Vs

The State
represented by
The Deputy Superintendent of Police,
Perungudi Police Station,
Madurai.

... Respondent / Complainant

PRAYER :-

This Criminal Appeal is filed under Section 374(2) of Cr.P.C., to call for the records relating to the order passed in Spl.S.C.No.54 of 2016 dated 29.11.2017 on the file of learned III Additional Sessions Court, Madurai and to set aside the same.

For Appellant : M/s.G.Thiruvartselvan

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

JUDGMENT

This Criminal Appeal has been filed by the appellant / 2nd accused, challenging the order dated 29.11.2017 passed by the learned III Additional Sessions Court, Madurai, in Spl.S.C.No.54 of 2016.



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2. The appellant is the second accused who has been convicted for the offences under Section 324 of IPC.

3. The case of the prosecution is that on 22.09.2015 at about 12.00 noon, the accused persons with an intention to insult P.W.1 who belongs to Schedule Caste, made caste remarks against him and in continuance there of, the second accused had stabbed P.W.1's head with an iron hook and caused simple injury. The first accused pushed P.W.1 on the floor and kicked him on his mouth and left knee ribs and caused simple injury on the left side of his head. A case was registered in Crime No.311 of 2015 by the respondent police and it was taken up for investigation. After completing the investigation, charge sheet has been filed. After taking cognizance in Spl.S.C.No.54 of 2016, charges have been framed for the offences under Sections 3(1)(x) of SC/ST (POA) Amendment Act read with Sections 323, 324 and 506(2) of IPC against the accused persons.

4. On the side of the prosecution, ten witnesses have been examined as P.W.1 to P.W.10 and fourteen documents were marked as Ex.P.1 to Ex.P.14.



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One material object has been marked as M.O.1. No oral or documentary evidence was let in by the accused, before the trial Court.

5. On completion of trial and hearing the arguments of both sides, after perusing the materials on record, the trial Judge found the appellant / second accused guilty for the following offences and imposed with the punishments as shown under:

Offences under Sections	Punishment	Fine	Default clause
Section 324 of IPC	to undergo one year rigorous imprisonment	Rs.1,000/-	to undergo one month simple imprisonment

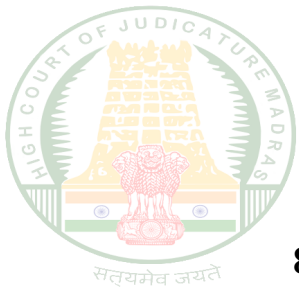
6. Aggrieved over the same, the appellant / second accused has preferred this appeal.

7. The learned counsel for the appellant / second accused submitted that the contradictions between the evidence of the eye witnesses and the injured witnesses, with regard to the incriminating facts about the second accused and the weapon recovered, also did not tally with its description. As per the



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doctor's evidence, the injuries found on the body of the victim could have been caused even by falling down but they were not properly appreciated by the trial Court. The injured witness was examined as P.W.1, who is the complainant, and he has stated in his complaint that on the date of occurrence, i.e., on 22.09.2015, at about 12.00 p.m., when he went to Perungudi Wine Shop to consume brandy and when he was returning after consuming brandy, the accused persons intercepted him and warned him that he should not come to bar and so saying, the second accused attacked him with iron hook on the back side of his head and the first accused kicked him with legs. Both the accused abused him by making caste remarks. They also threatened him that he should not tell this to any one and run away. Thereafter, the accused came to the hospital for treatment with the help of 108 Ambulance. The Doctor who had registered the accident register has been examined as P.W.10 and the accident register is marked as Ex.P7. The accused told the doctor that he was attacked by two known persons with iron hook at around 01.00 p.m., on 22.09.2015. He was found to be having lacerated injury measuring 4 x 1 x 0.5 cm on the left side of the *parieto occipital* region of the head. P.W.10, the doctor has also deposed in his evidence about the facts. He also stated that the accused smelt alcohol when he was examined.



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8. It is the argument of the learned counsel for the appellant that on the back side of Ex.P7, it has been described as simple injury based upon the opinion given by Dr.Jegathish, but the doctor who was examined as P.W.10 is Dr.Gowri Shankar and he is not related to this case. The seal affixed on the Accident Register Ex.A7 is very clear that it contains the seal of Dr.Gowri Shankar who had registered the same.

9. P.W.10, doctor has opinioned that based upon the opinion of the doctor who had treated him in the ward, the injury was simple. From the backside of Ex.A7, Accident Register, it is clear that Dr.Jegadish, has concluded that the injury is simple. So there is no confusion or mistake on the part of the doctor - PW.10 to come and depose evidence. P.W.9 who is the Personal Assistant of District Revenue Officer, Madurai, has stated in his evidence that the P.W.1, belongs to Schedule Caste. Apart from stating so before the doctor that P.W.1 was attacked with the iron weapon by two known persons, P.W.1 has also deposed before the Court that how he has stated about the material part of the occurrence in his complaint. The cross examination of P.W.1 was also very clear as to how he went to the hospital, how he had given the complaint statement while he was taking treatment to the police.



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10. P.W.1 has stated that the second accused had attacked him with iron hook and the first accused had kicked him with legs. Though P.W.2 who is the wife of P.W.1 and P.W.3 who is the wife of P.W.1's brother, have stated in their evidence that the first accused had attacked P.W.1 with hook and the second accused had kicked him with his leg, it is the injured witness who alone can tell correctly about how he was attacked by each of the accused. As the injured witness would have suffered the pain and agony, there is no reason for him to wrongly refer the accused who had caused the injuries on him. P.W.1 was conscious enough to go to the hospital to take treatment and told the doctor what had happened, I find no reason to reject him statement made before the Court.

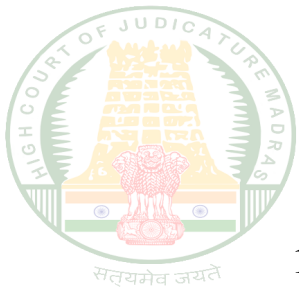
11. It is the assumption of the appellant that the iron hook which was recovered was necessarily have wooden handle and the hook part alone will be in iron. When the same was suggested to the investigation officer during his cross examination, it is denied and stated that he did not describe the weapon in the manner alleged by the learned counsel for the accused. Even in the Form -95 submitted before the Court, he has not described about the



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wooden part or the iron part of the weapon. This is only because both the handle and the hook was iron. If the weapon appears different from what is described, it would have been suggested to P.W.12, the Investigation Officer by showing the weapon and proving that the weapon did not tally with the description made in Form 95. But such a question was not asked to the Investigation Officer.

12. It is simply stated by the appellant that the iron hook had two parts one wooden handle and the other iron part, as this was denied by the investigation officer. There is no necessity for the trial Judge, to presume some other weapon that was produced before him by the investigation officer. The doctor has also deposed evidence stating that the lacerated injury found on the left side head of P.W.1 could have been inflicted due to the weapon recovered in this case. The Doctor has recorded that P.W.1 sustained injury on the *parieto occipital* region back side of the head. P.W.1 stated that he was attacked on the back side of his head and his wound certificate also states about the injury sustained by P.W.1 in the left back side of his head.



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13. When the evidence on record clearly connects the second accused to the occurrence and it is proved that he had attacked the accused with iron hook on the left back side of his head and caused injuries, it is rightly held by the trial Court to find the second accused guilty for the offence under Section 324 of IPC and convicted him.

14. Learned counsel for the appellant submitted that the accused is a first offender and he is not a habitual offender and therefore some lenience may be shown.

15. The second accused had been given with the punishment of one year rigorous imprisonment along with a fine of Rs.1000/- for the offence under Section 324 of IPC. By taking into account that the accused is the first offender and also considering the submissions made by the learned counsel for the appellant on this aspect, I feel that little indulgence be shown to modify the punishment imposed on the accused by the trial Court. To that limited aspect alone, this appeal can be partly allowed, by modifying the sentence imposed for the offence under Section 324 of IPC. All other aspects of the judgement of the trial Court is confirmed.



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16. In the result,

i) This Criminal Appeal is partly allowed, and the sentence imposed by the trial Court under Section 324 of IPC to undergo One year rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to undergo one month simple imprisonment, is modified to the effect that the appellant shall undergo three months simple imprisonment and ;

ii) other conditions remain unaltered ;

iii) The trial Court shall take steps to secure the accused to commit him to prison to serve out the remaining period of sentence.

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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R.N.MANJULA, J.

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To

- 1.The III Additional Sessions Judge, Madurai.
- 2.The Deputy Superintendent of Police,
Perungudi Police Station,
Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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