



*Crl. A.(MD)No.525 of 2017*

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATE : 03.07.2025**

**CORAM**

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

**Crl. A.(MD)No.525 of 2017**

Alagu @ Alagarsamy

... Appellant/sole Accused

Vs.

1.The State represented by its,  
The Deputy Superintendent of Police,  
Paramakudi,  
Ramanathapuram District.

2.The Inspector of Police,  
Emaneswarm Police Station,  
Ramanathapuram District.  
(Crime No.42 of 2012)

... Respondents/Complainants

**Prayer :** This Criminal Appeal is filed under Section 374(2) of Code of Criminal Procedure, to call for the entire records relating to the conviction order dated 25.07.2017 passed by the Principal Sessions Court, Ramanathapuram, made in Spl.S.C.No.104 of 2013 and to set aside the conviction and sentence imposed upon the appellant and to acquit the appellant herein.

For Appellant : Mr.M.S.Jeyakarthish

For R1 & R2 : Mr.K.Gnanasekaran  
Government Advocate (Criminal Side)



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## **JUDGMENT**

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This Criminal Appeal has been preferred challenging the judgment of the learned Principal Sessions Judge, Ramanathapuram, made in Spl.S.C.No.104 of 2013, dated 25.07.2017.

2. The appellant is the sole accused, who has been charged for the offence under Sections 294(b), 353, 506(i) IPC and Section 3(1)(x) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'SC/ST Act' for brevity). The learned Principal Sessions Judge, Ramanathapuram, acquitted the accused from the charges under Section 353 and 506(i) IPC and found the accused guilty for the offences under Sections 294(b) IPC and Section 3(1)(x) of SC/ST Act and convicted and sentenced him, as under:

| Accused      | Offences under Sections | Imprisonment                      | Fine        | Default Sentence                     |
|--------------|-------------------------|-----------------------------------|-------------|--------------------------------------|
| Sole Accused | 3(1)(x) of SC/ST Act    | Rigorous Imprisonment for 5 years | Rs.20,000/- | Simple Imprisonment for three months |
|              | 294(b) IPC              | Nil                               | Rs.500/-    | Simple Imprisonment for on month     |



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**3.1.**The case of the prosecution as per the records is that on 18.03.2012 at about 04.00 p.m., while PW1 was doing some sanitary work, the accused was having tea at the tea shop of one Moorthy. During that time, the accused asked P.W.1 to lend him a match box. When P.W.1 replied that he did not have the match box, the accused abused him in filthy language by using caste remarks and assaulted him by holding shirt and intimidated him by pushing down. He also prevented him from discharging his duties as sanitary worker.

**3.2.** On a complaint given by PW1, a case has been registered in Crime No.42 of 2012 on the file of the respondent police. After conclusion of the investigation, charge sheet has been filed against the accused for the offences punishable under Sections 294(b), 353, 506(i) IPC and Section 3(1)(x) of SC/ST Act.

**3.3.** After completing the legal mandate of furnishing copies and all other legal formalities, charges have been framed against the accused for the offences under Sections 294(b), 353, 506(i) IPC and Section 3(1)(x) of SC/ST Act. When the accused was questioned, he denied his involvement and claimed to be tried.



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**3.4.** Before the Trial Court, on the side of the prosecution PW1 to PW15 have been examined and Exs.P1 to P12 have been marked. On the side of the accused, no oral or documentary evidence has been marked.

**3.5.** After the conclusion of trial, the learned Sessions Judge acquitted the accused from the charges under Section 353 and 506(i) IPC and found the accused guilty for the offences under Sections 294(b) IPC and Section 3(1)(x) of SC/ST Act and convicted and sentenced him as mentioned supra. Aggrieved over that, the appellant / accused has preferred this appeal.

**4.** The learned counsel appearing for the appellant submitted that the alleged occurrence is said to have been taken place on 18.03.2012, but the FIR was registered only on 28.03.2012. The delay in registering the FIR was not properly explained by the prosecution. P.W.5 and P.W.6 were said to have been eye witnesses, but they turned hostile. The eye witnesses are none other than the friends and relatives of P.W.1. No concrete reason and motive was established for committing the alleged offence by the appellant. The complaint, witnesses and other materials were created in order to falsely implicate the appellant in the case.



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5.The learned Government Advocate appearing for the respondents

submitted that the Trial Court has rightly convicted the accused on the basis of the evidence adduced by the prosecution during trial and the same needs no interference.

6.On perusal of the complaint given by P.W.1, it is seen that on 18.03.2012, while he was doing sanitary work, he went to the tea shop of P.W.5 in order to drink tea. At that time, the accused came there and asked him to give a match box. P.W.1 told that he did not have the match box and the accused then shouted at him by saying that he should not be dare enough to tell an answer by sitting and without making proper salutation and also made caste remarks. The accused has pulled the shirt of PW1 and threw a brick on his chest and asked him to go and die. But in the evidence of P.W.1, he has stated that 18.03.2012 is a Sunday and he was given with the special duty. Further he stated that at about 04.00 p.m., when he came to drink tea at P.W5 Moorthy's tea shop, the accused came there and asked him a match box. At that time, he was drinking tea and told him that he did not have match box. Accused scolded P.W.1 that they should not sit and answer and he also abused him with caste remarks and thereafter, he grabbed him, pulled him by his shirt and pushed him down.



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7.P.W.1 has informed the society by going there in person.

As instructed by the society, P.W1 gave a complaint to the Commissioner of Municipality, Paramakudi. The Commissioner of Municipality, who was examined as P.W.11, has stated in his evidence that he received the complaint only on the next day i.e., on 19.03.2012. The FIR has been registered on 28.03.2012. P.W.13, who is the Special Sub Inspector of Police during the relevant point of time, has stated that he received the complaint on 19.03.2012 and registered the First Information Report. Even P.W12, who is the Head Constable, has also stated that the complaint was received at about 01.30 p.m., on 19.03.2012 from the Commissioner of Municipality, Paramakudi. Despite the same, the First Information Report has to be registered at least on 19.03.2012, on which date, the complaint is said to have received, but the First Information Report has been registered only on 28.03.2012 with an inordinate delay.

8.While P.W1 to P.W3 have stated in their evidences that on the alleged day, they had gone to the tea shop for drinking tea, the tea shop owner Moorthy, who is P.W5 has stated in his evidence that his tea shop was closed as it was a holiday. Even in the evidence of P.W1, he has stated that the day of occurrence is Sunday. P.W6, who also has a petty shop nearby to the tea



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shop, has stated in his evidence that his shop was also closed, as it was a

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holiday. But, P.W5 and P.W6 have been treated as hostile witnesses and even in the cross-examination, no admission has been obtained from the witnesses as to the fact that the tea shop was very much open even though it was a holiday. Since the evidence of P.W5 and P.W6 create a fundamental doubt as to the place of occurrence, which is said to be the running of tea shop, the learned Trial Judge ought to have evaluated the evidence with more sensitivity. The punishment for the offence under Section 3(1)(x) of SC/ST Act is imprisonment for a term which shall not be less than six months, but which may extend to 5 years with fine during the relevant point of time. The Trial Court got the higher responsibility for evaluating the evidence in a careful manner.

9. Since the object of the SC/ST Act is to improve the socio-economic conditions of the Scheduled Castes and Scheduled Tribes community and to protect their civil rights, as they are subjected to various indignities, humiliation and harassment. Several brutal incidents deprived their life and property. The special legislation was brought with severe punishment for those who commit such offences. Though the above primary object of the Act has to be considered, all offences reported under the Act



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must be dealt with due sensitivity. The Courts have also got the responsibilities that an innocent person should not be punished even on any false allegation about caste remark. In the case in hand, the trial Court has found the accused not guilty for the offences under Sections 353 and 506(1) IPC and found the accused guilty for the offences under Section 294(b) IPC and Section 3(1)(x) of SC/ST Act.

**10.** When the evidence of P.W5 and P.W6 creates the fundamental doubt as to the running of the tea shop on the day of occurrence as alleged by PW1, the trial Court appears to have relied on the evidence of P.W1 to P.W3, who belonged to same community. In view of the evidence of P.W5 and P.W6 about the closure of the shop, it would have been ideal for the trial Court to look out for any independent witness before proceeding to convict the accused for the offences above mentioned.

**11.** In the evidence of PW1, has stated that there are other shops in the place of occurrence. Despite that, no independent witness has been examined other than P.W5 and P.W6. P.W5 and P.W6 did not support the case of the prosecution. While in the complaint, P.W1 has stated that he was waiting in the tea shop to take tea, but in the evidence, P.W1 to P.W3 have



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stated that they were drinking tea at the time of occurrence. When there is no

evidence to confirm that the shop itself was open, it is difficult to believe the version of the prosecution P.W1 to P.W3 that they have been taking tea at the tea shop. During the cross examination of P.W5, who is the shop owner, a suggestion has not been made about his piety in favour of either of the parties. Hence, the evidence of P.W5 and P.W6, where they have stated that the shops were closed due to Sunday, cannot be totally disregarded. Even though, the prosecution has alleged that the occurrence was taken place inside the tea shop, it is not known as to whether any property of the tea shop was damaged and was recovered. It is quite natural that during holidays like Sundays, the shops will be closed. When P.W.1 has mentioned the tea shop by making reference to its owner and owner comes and says that tea shop was not opened, which is a material contradiction, could not be overlooked. As the very tea shop itself is not open, it will create doubt as to the occurrence in the manner stated by the prosecution.

**12.**The Trial Court did not appreciate the above contradiction in a proper perspective. Instead it relied on the evidence of P.W1 to P.W3 without any corroboration. Though more weightage has been given to the eye-witnesses and when their evidence creates doubts, it is always better to find



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out the support of corroborative evidence. In the instant case, such evidence is not available and there is an inordinate delay in registering the First Information Report even though the police had got the First Information Report on the next day of the occurrence i.e., on 19.03.2012 itself. The cumulative effect of all the above contradictions and infirmity in the case of the prosecution would enure the benefit of doubt in favour of the accused. The Trial Court has omitted to properly appreciate the evidence and grant the benefit of doubt to the accused. Though there are weaknesses in the evidence of the prosecution, I feel the judgment of the Trial Court is liable to be set aside.

**13.** In the result,

(i) This Criminal Appeal is allowed.

(ii) The Judgment of the learned Principal Sessions Judge, Ramanathapuram, in Spl.S.C.No.104 of 2013, dated 25.07.2017, is set aside and the appellant is found not guilty for the charges under Section 294(b) IPC and Section 3(1)(x) of SC/ST Act and acquitted.



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**WEB COPY**    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.

**03.07.2025**

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

- 1.The Principal Sessions Judge, Ramanathapuram.
- 2.The Deputy Superintendent of Police,  
Paramakudi,  
Ramanathapuram District.
- 3.The Inspector of Police,  
Emaneswarm Police Station,  
Ramanathapuram District.
- 4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**R.N.MANJULA, J.**

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