



Crl.A.(MD)No.439 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 27.10.2025

Pronounced on : 28.11.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.A.(MD)No.439 of 2018

Prabhakaran

... Appellant/
Accused

Vs.

The State rep. by
The Deputy Superintendent of Police,
Muthukulathur Sub Division,
Keelathooval Police Station,
Ramanathapuram District.
(Crime No.149 of 2016)

... Respondent/
Complainant

Prayer : This Criminal Appeal filed under Section 374(2) of Criminal Procedure Code, to admit the appeal and call for the records of the case in Special S.C.No.57 of 2017 on the file of the learned Principal District and Sessions Court, Ramanathapuram dated 29.08.2018 and set aside the conviction and sentence passed by the learned Principal District and Sessions Court, Ramanathapuram and acquit the appellant / accused.



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WEB COPY For Appellant : Mr.G.Vishnuram

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

Mr.G.Bhagavat Singh for P.W.2

JUDGMENT

The Criminal Appeal is directed against the judgment of conviction made in Spl.S.C.No.57 of 2017 dated 29.08.2018 on the file of the Principal District and Sessions Court, Ramanathapuram.

2. The appellant is the sole accused in Spl.S.C.No.57 of 2017 on the file of the Principal District and Sessions Court, Ramanathapuram.

3. The respondent police laid a final report against the appellant / accused (hereinafter referred as 'accused') alleging that the defacto complainant belongs to Hindu Pallar community, whereas, the accused belongs to Hindu Maravar community, that on 20.10.2016 around 05.45 p.m., the defacto complainant in a Government bus meant for Pokkanarendal to Vengalakurichi and as the defacto complainant got off at Vengalakurichi Pillaiyar Temple bus stop, three persons from Posukudi,



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who were standing on the foot steps, refused to move, that the defacto complainant questioned them and got down from the bus, that at about 07.10 p.m. on the same day, when the defacto complainant, his wife and daughter were watching TV in their house, the accused and one Muthuramalingam came in a Hero Honda Splender two wheeler bearing Registration No.TN-65-X-6409 with iron rod and wooden log and trespassed into the house of the defacto complainant, that the said Muthuramalingam abused the defacto complainant in filthy language using caste name and attacked him with iron rod and at that time, the accused had also attacked him with wooden log and caused injury on the left wrist of the defacto complainant and that thereby, the accused had committed the offences punishable under Sections 294(b), 448, 323 and 506(2) IPC and Section 3(l)(r)(s) of SC/ST (POA) Amendment Act, 2015.

4. The learned Judicial Magistrate, Muthukulathur, had taken the charge sheet on file in P.R.C.No.30 of 2016 and furnished the copies of records under Section 207 Cr.P.C. on free of costs. The learned Magistrate, finding that the offences under the provisions of SC/ST (POA) Act are exclusively triable by the Sessions Court, after compliance under Sections



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208 and 209 Cr.P.C., had committed the case to the file of the Principal District and Sessions Court, Ramanathapuram and the same was taken on file in Spl.S.C.No.57 of 2017.

5. After appearance of the accused, the learned Sessions Judge, on hearing both the sides and on perusal of the records, being satisfied that there existed a *prima facie* case against the accused, framed charges under Sections 294(b), 448, 323 and 506(2) IPC and Section 3(l)(r)(s) of SC/ST (POA) Amendment Act 2015 and the same were read over and explained to the accused. On being questioned, the accused denied the charges and pleaded not guilty and claimed to be tried.

6. The prosecution, to prove its case, examined 9 witnesses as P.W.1 to P.W.9, exhibited 10 documents as Ex.P.1 to Ex.P.10 and marked 1 material object as M.O.1.

7. The case of the prosecution emerging from the evidence adduced by the prosecution in brief as follows;

(a) P.W.1 Veluchamy (defacto complainant) along with his wife



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Tmt.Nagavalli (P.W.2), son Malaikannan (P.W.5) and daughter are residing at Vengalakurichi village and is doing agricultural work. He was the President of Muthukulathur Devendra Vellalar Sangam. P.W.1 belongs to Hindu Pallar community and the accused belongs to Hindu Maravar community. On 20.10.2016, P.W.1 was in a Government bus to Pokkanarendal and as the bus stopped at Vengalakurichi Pillaiyar Temple bus stop, an elderly person was getting off slowly and blocked by three persons belonging to Posukudi village. P.W.1 asked them to move, they did not, so, he pushed them aside and got off. On the same day at about 07.00 p.m., the accused and his brother Muthuramalingam came in a two wheeler and trespassed into the house of P.W.1 and when P.W.1, his wife and daughter were watching TV, the said Muthuramalingam holding an iron rod abused him in filthy language using caste name and attacked with the iron rod and when resisted, P.W.1 got a blow on his left wrist. The accused abused P.W.1 with obscene words and attacked with wooden log. P.W.1 along with his wife and daughter caught the accused and Muthuramalingam. P.W.1's daughter immediately contacted her brother (P.W.5), who in turn, informed the incident to the office of the Superintendent of Police, Ramanathapuram. The police, who were on duty



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for gurupooja, came to P.W.1's house. Both the accused were handed over to the police.

(b) P.W.1 went to Keelathoval police station and gave a written complaint under Ex.P.1. P.W.7 - the then Sub Inspector of Police, Keelathoval police station, who was on duty at about 20.00 hours on 20.10.2016, received the complaint given by P.W.1 and on that basis, registered a case in Crime No.149 of 2016 under Sections 294(b), 324, 323 and 506(2) IPC r/w Section 3(l)(r)(s) of SC/ST (POA) Act and prepared the First Information Report under Ex.P.7. P.W.1, after lodging the complaint, went to the Government Hospital, Muthukulathur. P.W.8 - medical officer, who was on duty at about 10.00 p.m. on 20.10.2016, attended P.W.1. He noticed a small abrasion on his left wrist and he complained pain on his chest and left wrist. After giving treatment, P.W.8 issued a certificate under Ex.P.8 stating that injury is of simple in nature.

(c) P.W.9 - the then Deputy Superintendent of Police, Muthukulathur Sub Division received the proceedings of the District Superintendent of Police, Ramanathapuram dated 20.10.2016 under Ex.P.9 appointing him as the investigating officer. After receipt of the copy of the FIR, took up the investigation and went to the occurrence place and



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prepared observation mahazar under Ex.P.4 in the presence of P.W.5 and one Urangapuli and also drew a rough sketch under Ex.P.10. He examined the witnesses and recorded their statements. On 21.10.2016, he arrested the accused and the said Muthuramalingam, who were available at Karungalakurichi bus stop and recovered the Hero Honda Splender two wheeler bearing Registration No.TN-65-X-6409 (M.O.1) from the accused in the presence of P.W.3 Kodangi and P.W.4 Thangaraj under the cover of seizure mahazar Ex.P.11. After bringing the accused to the police station sent them to remand. P.W.9 applied and obtained community certificates for P.W.1 and the accused from P.W.6 - the then Tahsildhar of Muthukulathur under Ex.P.5 and Ex.P.6 respectively, examined him and recorded his statement. He examined P.W.7 - Sub Inspector of Police, who registered the FIR and P.W.8 - medical officer, who treated P.W.1 and recorded their statements. After completing the investigation, P.W.9 filed the final report on 07.11.2016 against the present accused for the offences under Sections 294(b), 448, 323 and 506(2) IPC r/w Section 3(l)(r)(s) of SC/ST (POA) Act and another final report against the second accused Muthuramalingam before the Juvenile Justice Board, Ramanathapuram for the offences under Sections 294(b), 448, 324 and 506(2) IPC r/w Section



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3(l)(r)(s) of SC/ST (POA) Act. With the examination of P.W.9, the prosecution has closed their side evidence.

8. When the accused was examined under Section 313(1)(b) Cr.P.C. with regard to the incriminating aspects found against him in the evidence adduced by the prosecution, he denied the same as false and further stated that a false case has been foisted against him. The accused examined his brother Muthuramalingam as D.W.1 and exhibited 1 document as Ex.D.1 during the cross-examination of P.W.9 (investigating officer).

9. The evidence of D.W.1 in brief as follows;

On 20.10.2016 at about 05.45 p.m., after attending college, D.W.1 was returning in a Government bus meant for Pokkanarendal. When the bus reached Vengalapurichi bus stop by 06.15 p.m., passengers got down and at that time, he was standing in the foot steps. Since the conductor whistled, bus started to proceed and at that time, P.W.1, by pushing D.W.1 down, got down from the bus and as a result, D.W.1 fell on the road. P.W.1 abused D.W.1 in filthy language and dragged him down and slapped him on his mouth, neck with chappal. D.W.1 got into the bus and informed the



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incident to his mother and brother at about 07.00 p.m. When D.W.1 and his brother (accused) were proceeding to Keelathoval police station, P.W.1 along with some other person were found standing nearby and when the accused had questioned, they had driven them out. They went to police station but the Inspector of Police and the Sub Inspector of Police asked them to come on next day. When they went to police station again on next day, after receiving the complaint and their cell numbers, directed them to come to police station whenever directed. On 21.10.2016 at about 11.00 a.m., the police directed them to come to station and at that time, P.W.1 was found arguing Sub Inspector of Police and the police directed D.W.1 and his brother to wait outside. P.W.1 came out angry. By 12.00 noon, police informed the case registered and they will be arrested.

10. The learned Sessions Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, passed the impugned judgment dated 29.08.2018 convicting the accused for the offences under Sections 448 and 323 IPC and Section 3(l)(r)(s) of SC/ST (POA) Amendment Act 2015 and sentenced him to undergo one year simple imprisonment and to pay a fine of Rs.1,000/-, in default to



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undergo two weeks simple imprisonment for the offence under Section 448 IPC; sentenced to undergo one year simple imprisonment and to pay a fine of Rs.1,000/-, in default to undergo two weeks simple imprisonment for the offence under Section 323 IPC and sentenced to undergo five years rigorous imprisonment and to pay a fine of Rs.15,000/-, in default to undergo six months rigorous imprisonment for the offence under Section 3(l)(r)(s) of SC/ST (POA) Amendment Act 2015. The learned Sessions Judge, by holding that the prosecution failed to prove the charges under Sections 294(b) and 506(2) IPC, acquitted the accused under Section 235(1) Cr.P.C. Aggrieved by the impugned judgment of conviction and sentence, the accused has preferred the present appeal.

11. Whether the impugned judgment of conviction and sentence imposed on the appellant in Spl.S.C.No.57 of 2017 dated 29.08.2018 on the file of the Principal District and Sessions Court, Ramanathapuram, is liable to be set aside? is the point for consideration.

12. The learned counsel appearing for the accused would submit that the offence under Section 3(l)(r)(s) of SC/ST (POA) Act will be



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applicable only for the nature of the offence, which is committed in a public place and when the offence has been alleged to have occurred in the house of the defacto complainant, the question of any such occurrence in public place does not arise, that there is no eye witness or direct evidence to speak about the case of the prosecution, that the prosecution failed to recover the iron rod and wooden log with which P.W.1 was allegedly attacked and the prosecution's failure to recover the weapons is fatal to their case, that the accused has categorically demonstrated that himself and his brother are the actual victims, who have originally given a complaint before the police, for which, a case has been registered in Crime No.159 of 2016 for the offences under Sections 294(b), 355 and 506(1) IPC, that the arrest and recovery witnesses have not supported the case of the prosecution and turned hostile, that P.W.1 suffered injuries due to his fall in the bus and P.W.8 - Doctor stated that such injuries in the hand of the victim could have been caused by a fall in the bus, that the prosecution failed to prove the charges under Sections 448 and 323 IPC and that since the occurrence genesis is highly doubtful, the impugned conviction cannot be sustained.



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13. The learned Government Advocate (Criminal Side) appearing for the respondent police would submit that P.W.1 and his wife (P.W.2), in their evidence, have categorically deposed about the occurrence, that there is ample evidence to show that the accused along with his brother had trespassed into the house of P.W.1, abused him in filthy language using caste name and attacked him with iron rod and wooden log and caused injuries, that the evidence of P.W.1 with regard to the injuries sustained was corroborated by the medical evidence, that though arrest and recovery witnesses had turned hostile, P.W.9 (investigating officer) has categorically deposed about the arrest and recovery of M.O.1 (two wheeler), that the learned Sessions Judge, appreciating the evidence available on record, has rightly convicted the accused for the offences under Sections 448 and 323 IPC and Section 3(l)(r)(s) of SC/ST (POA) Amendment Act 2015 and that the same does not warrant any interference.

14. The learned counsel appearing for P.W.2 (wife of the defacto complainant) would submit that P.W.1 and P.W.2 have deposed about the weapons used by the accused for attacking P.W.1, that the evidence of P.W.1 injured witness was corroborated by the medical evidence, that there



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is ample evidence to show that the accused and his brother were involved in the occurrence, that even assuming that there are some defects in the investigation, that will not vitiate the prosecution case and that since the prosecution has proved the charges under Sections 448 and 323 IPC and Section 3(l)(r)(s) of SC/ST (POA) Amendment Act, the impugned judgment is liable to be confirmed.

15. It is the specific case of P.W.1 as well as the prosecution that the incident at about 07.00 p.m. on 20.10.2016 was occurred inside the house of P.W.1. The prosecution has cited P.W.1's wife (P.W.2) and his daughter as eye witnesses for the occurrence along with injured P.W.1. P.W.1, in his evidence before the trial Court, has stated that in consequent to the wordy altercation occurred on the evening in Pokkanarendal Government bus, the accused and his brother Muthuramalingam came in a two wheeler, trespassed into the house of P.W.1, abused him in filthy language using caste name and attacked with iron rod and wooden log and caused injuries to P.W.1. P.W.1 would say that the accused had attacked him with wooden log, whereas, the said Muthuramalingam with iron rod but P.W.9 (investigating officer) in his evidence would admit that P.W.1 in his



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complaint as well as in his statement given before him has not stated as to which accused used which weapon. In the complaint under Ex.P.1, P.W.1 has stated that both the accused had attacked with iron rod and wooden log and caused injury on his left wrist and there was no reference that the accused had used wooden log and his brother iron rod.

16. It is pertinent to mention that according to the prosecution, both the accused and his brother were arrested on 21.10.2016 near Karungalakurichi bus stop and seized the M.O.1 (two wheeler) from them. But P.W.1 and P.W.2 in their evidence would say that at the time of occurrence itself, P.W.1 along with his wife and daughter caught hold of both the accused and his brother and that P.W.1's daughter contacted P.W. 5, who in turn, contacted the police and the police, who were on gurupooja duty, came to P.W.1's house and took the accused with them. P.W.1 and P.W.2 would say that the police had also taken M.O.1 (two wheeler) with them. But P.W.9 in his evidence would say that P.W.1 and P.W.2 did not say so while giving statement before him. Moreover, P.W.1 and P.W.2 would also say that they have handed over the iron rod and wooden log allegedly used by the accused to attack P.W.1 to the police, who came to



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P.W.1's house. Considering the evidence of P.W.1 and P.W.2, it is their specific case that M.O.1 (two wheeler) used by the accused and his brother to come to the occurrence place and the weapons (iron rod and wooden log) allegedly used by the accused to attack P.W.1 were handed over to the police immediately after the occurrence and more importantly, at P.W.1's house. But it is not the case of the prosecution that the police after getting information from P.W.5 came to the occurrence place immediately after the occurrence, arrested the accused and his brother, recovered M.O.1 (two wheeler) and weapons. As already pointed out, according to P.W.9 (investigating officer), he arrested the accused and recovered M.O.1 (two wheeler) on the next day i.e., on 21.10.2016 near Karungalakurichi bus stop in the presence of P.W.3 and P.W.4. But as already pointed out, P.W.3 and P.W.4, while giving evidence before the trial Court, had not supported the case of the prosecution and hence, they were treated as hostile. Though P.W.3 and P.W.4 were subjected to cross-examination, nothing was elicited by the prosecution in their favour.

17. P.W.5 (son of P.W.1) in his evidence before the trial Court has nowhere whispered that his sister had informed about the incident through



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phone and he informed the incident to the police and on that basis, the police came to their house on that day itself.

18. It is pertinent to mention that on the basis of the complaint given by D.W.1 (brother of the accused), FIR came to be registered in Crime No. 159 of 2016 against P.W.1 for the offences under Sections 294(b), 355 and 506(1) IPC. According to D.W.1, himself and his brother (accused) went to the police station by 08.00 p.m. on the day of occurrence but the police directed them to come on the next day and after the receipt of the complaint, they were instructed to come to the police station whenever they direct but on 21.10.2016 at about 11.00 a.m., police called them again and when they reached station, they found P.W.1 arguing with the Sub Inspector of Police and after the return of P.W.1, the present case was registered and they were shown as arrested.

19. The learned counsel appearing for the accused would submit that P.W.1 admittedly was the President of a communal association and belonged to a police party and that P.W.1 influenced the concerned police to register D.W.1's complaint on the next day to show that P.W.1's



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complaint was earlier one and to escape from the complaint lodged by
D.W.1

20. Though P.W.1 and P.W.9 would admit that there were neighboring houses, no one was examined. As rightly pointed out by the learned counsel appearing for the accused, the prosecution has not even offered any reason or explanation for non-examination of P.W.1's daughter alleged to be the occurrence witness. Though P.W.9's chief continuation was postponed on the ground that eye witness was not examined, but for the reasons best to known them, P.W.9 examination was continued on another day without examining the so called eye witness.

21. On considering the entire evidence adduced by the prosecution, D.W.1's testimony and Ex.D.1 (FIR), the prosecution's case and occurrence genesis appear highly doubtful.

22. Now turning to the offence under Section 3(l)(r)(s) of SC/ST (POA) Act, it is necessary to refer the above provisions,

***“3. Punishments for offences of atrocities.—(1)
Whoever, not being a member of a Scheduled Caste or a***



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Scheduled Tribe,--

.....

(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;”

23. It is necessary to refer the decision of the Hon'ble Supreme Court in ***Karuppudayar Vs. State rep. by the Deputy Superintendent of Police, Lalgudi, Trichy and others*** reported in ***2025 INSC 132***, relied on by the learned counsel appearing for the accused, wherein, the Hon'ble Apex Court has specifically observed that if the alleged offence takes place within the four corners of the wall where members of the public are not present, then it cannot be said that it has taken place at a place within public view and the relevant passages are extracted hereunder;

“9. A perusal of Section 3(1)(r) of the SC-ST Act would reveal that for constituting an offence thereunder, it has to be established that the accused intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within



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public view. Similarly, for constituting an offence under Section 3(1)(s) of the SC-ST Act, it will be necessary that the accused abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view.

10. The term “any place within public view” initially came up for consideration before this Court in the case of Swaran Singh and others v. State through Standing Counsel and another (2008) 8 SCC 435. This Court in the case of Hitesh Verma v. State of Uttarakhand and another (2020) 10 SCC 710 referred to Swaran Singh (supra) and reiterated the legal position as under:

“14. Another key ingredient of the provision is insult or intimidation in “any place within public view”. What is to be regarded as “place in public view” had come up for consideration before this Court in the judgment reported as Swaran Singh vs. State [Swaran Singh v. State, (2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527] . The Court had drawn distinction between the expression “public place” and “in any place within public view”. It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives



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or friends) then it would not be an offence since it is not in the public view (sic) [Ed. : This sentence appears to be contrary to what is stated below in the extract from Swaran Singh, (2008) 8 SCC 435, at p. 736d-e, and in the application of this principle in para 15, below: “Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view.”] . The Court held as under : (SCC pp. 443-44, para 28)

“28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by Appellants 2 and 3 (by calling him a “chamar”) when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives



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or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression “place within public view” with the expression “public place”. A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies.” (emphasis in original)”

11. It could thus be seen that, to be a place ‘within public view’, the place should be open where the members of the public can witness or hear the utterance made by the accused to the victim. If the alleged offence takes place within the four corners of the wall where members of the public are not present, then it cannot be said that it has taken place at a place within public view.

12. If we take the averments/allegations in the FIR at its face value, what is alleged is as under:

That on 2nd September 2021, while the complainant was engaged in his office doing his duty, the accused came to the office in the morning in order to enquire about the petition given by him already to the Revenue Divisional Officer regarding entering the name of his father in the ‘patta’. On such enquiry being made, the complainant



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informed the accused that the said petition has been sent to the Taluk office, Lalgudi and that appropriate action would be taken after receipt of the reply from the Taluk Office, Lalgudi. It is alleged that at that stage, the accused asked the complainant as to what caste he belongs to and stated that the complainant belongs to 'Parayan' caste. Thereafter, the accused stated that, "if you people are appointed in Government service you all will do like this only...". Thereafter, he scolded the complainant calling his caste name and insulted him using vulgar words. The further allegation is that thereafter the colleagues of the complainant came there, pacified the accused and took him away.

13. Taking the allegations in the FIR at their face value, it would reveal that what is alleged is that when the complainant was in his office the accused came there; enquired with the complainant; not being satisfied, started abusing him in the name of his caste; and insulted him. Thereafter, three colleagues of the complainant came there, pacified the accused and took him away.

14. It is thus clear that even as per the FIR, the incident has taken place within the four corners of the chambers of the complainant. The other colleagues of the complainant arrived at the scene after the occurrence of the incident.



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15. We are, therefore, of the considered view that since the incident has not taken place at a place which can be termed to be a place within public view, the offence would not come under the provisions of either Section 3(l)(r) or Section 3(1)(s) of the SC-ST Act.”

24. In the case on hand also, as already pointed out, it is the admitted case of the prosecution that the incident was occurred inside the house of P.W.1 and according to P.W.1, at the time of occurrence, himself, his wife and daughter alone were present. Considering the above and taking note of the legal position referred above, the question of invoking Section 3(l)(r)(s) of SC/ST (POA) Act does not arise at all. The learned Sessions Judge overlooked material contradictions and the settled legal position, relying on irrelevant aspects, convicting mechanically and as such, the same is liable to be set aside.

25. In the result, the Criminal Appeal is allowed and the impugned judgment of conviction and sentence imposed by the learned Principal District Judge, Ramanathapuram in Spl.S.C.No.57 of 2017, dated 29.08.2018 is set aside. The appellant is not found guilty for the offences



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under Sections 448 and 323 IPC and Section 3(l)(r)(s) of SC/ST (POA) Amendment Act, 2015 and acquitted of the charges framed against him under Section 235(1) Cr.P.C. The bail bond, if any, shall stand cancelled and sureties, if any, shall be discharged. Fine amount if any paid, shall be refunded to the appellant.

28.11.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

1. The Principal District and Sessions Judge,
Ramanathapuram.
2. The Deputy Superintendent of Police,
Muthukulathur Sub Division,
Keelathooval Police Station,
Ramanathapuram District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

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**Pre-Delivery Judgment made in
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Dated : 28.11.2025