



CRL RC(MD)No.1244 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 28.08.2025

PRONOUNCED ON : 20.11.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL RC(MD)No.1244 of 2022

Kalyanasundaram

... Petitioner

Vs.

State, Through
The Inspector of Police,
Watrap Police Station,
Watrap,
Virudhunagar District.

... Respondent

PRAYER: Criminal Revision Petition is filed under Sections 379 and 401 Cr.P.C, 1973, to call for the records and set aside the judgment passed in C.A.No.84 of 2022 by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur dated 28.11.2022 modified the conviction passed in S.C.No.118 of 2014 by the learned Assistant Session Judge, Srivilliputhur dated 29.07.2022 and allow the Criminal Revision Petition.

For Petitioner : Mr.G.Thalaimutharasu

For Respondent : Mr.M.Sakthi Kumar
Government Advocate (Crl.side)



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ORDER

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Prologue:

This Criminal Revision challenges the concurrent findings of guilt, eventually modified in appeal, arising out of an occurrence dated 05.11.2013 at about 7.30 p.m., in which the injured witness (P.W.1) sustained head and limb injuries allegedly at the hands of the present petitioner (1st accused) armed with an iron rod. The learned Trial Court had convicted Accused Nos.1 to 4 under Sections 326, 325, 324, read with Section 34 IPC, and acquitted Accused Nos.5 to 8. The learned Principal Sessions Judge, Virudhunagar, in C.A.No.84 of 2022, while disbelieving the prosecution insofar as the graver charges and the participation of Accused Nos.2 to 4, sustained the conviction against 1st Accused only under Section 324 IPC and modified the sentence. The petitioner who was the Appellant/1st Accused before the Lower Courts, now invokes the revisional jurisdiction of this Court.

2. Gist of the learned Trial Court Judgment in S.C. No. 118 of 2014:

2.1. The prosecution case was that, owing to prior rivalry in tractor earth-filling work, Accused Nos.1 to 8 formed an unlawful



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assembly and assaulted P.W.1 with iron rods and sticks near Maharajapuram Pandian Grama Bank at 7.30 p.m. on 05.11.2013. On the basis of the testimony of the injured and occurrence witnesses, P.W.Nos.1 and 2, medical evidence of P.W.Nos. 9 and 10 through whom Ex.P-6 accident register, Ex.P-7 x-ray series, were marked. The learned Trial Court came to a conclusion that the prosecution case narrated in Exhibit P-1 complaint is proved as against the Accused Nos.1 to 4. The scene-mahazar witnesses -P.W.Nos. 5 and 6, and recovery made by P.W.8 (VAO) and P.W.12 (I.O.) were also relied by the learned Trial Court to come to a conclusion that the occurrence has been duly proved.

2.2. However, disbelieving the case under Sections 148, 341, 294(b), 307, 323 and 506(ii)/149 IPC, the learned Trial Court acquitted the Accused Nos.5 to 8. The learned Trial Court found that only Accused Nos.1 to 4 participated and that the 1st accused caused two head blows with an iron rod, with fractures proved to the limbs. Thus, the learned Trial Court, acquitting Accused Nos.5 to 8, convicted Accused Nos.1 to 4, for the offences under Sections 326, 325, 324, each read with Section 34 IPC and sentences were imposed as follows: (i) five years rigorous imprisonment and Rs.3,000/- fine, in default, two



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months simple imprisonment each under Sec. 326 r/w 34 (ii) four years rigorous imprisonment and Rs.2,000/- in default, one month simple imprisonment each under Sec. 325 r/w 34 (iii) One year rigorous Imprisonment each under Sec. 324 r/w 34, with concurrency and set-off.

3. *Gist of the Judgment in Criminal Appeal in C.A.No. 84 of 2022:*

The learned Appellate Court re-assessed Ex.P-1 (complaint) and Ex.P-6 (accident register) noting that the earliest version mentioned four assailants and named only Accused No.1 and came to a decision that the later escalation to eight was not satisfactorily explained. Finding material contradictions vis-à-vis Accused Nos.2 to 4 and the lack of clear proof of common intention, the learned Assistant Session Judge, Srivilliputhur, acquitted Accused Nos.2 to 4 for offences under Sections 326, 325, 324, r/w 34 IPC. As regards the 1st Accused, the learned Sessions Court found consistent evidence that he delivered two iron-rod blows on the head. However, skull fracture or intracranial injury was not established and the fractures were to the limbs. Hence, the learned 1st Appellate Court modified the conviction to Section 324 IPC (simple hurt by dangerous weapon) against 1st Accused alone, confirming only



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that sentence; set-off under Section 428 Cr.P.C., 1973, was directed.

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4. **Grounds in Revision:**

The petitioner urges, *inter alia* that the material evidence is overlooked, since the contradictions among Ex.P1, Ex.P6, Ex.P10 (alteration report) and oral testimonies, hostile witnesses (P.Ws.4 & 7) and the presence of P.W.2 is doubtful. In the earlier documents, there was mentioned four assailants and gave only name of the 1st accused. Later roping in of others unexplained, the appellant claims parity and benefit of doubt. Non-forwarding of weapons for chemical analysis and claimed arrest/recovery not proved in the manner known to law. No charge under Section 34 and in any event, common intention not made out. At the instance of 2013 incident, the petitioner has undergone about five months and the sentence under Section 324 is severe. Hence, the revision petitioner seeks further reduction/alteration.

5. **Points for Determination:**

(i) Whether the conviction of the petitioner under Section 324 IPC suffers from perversity, patent illegality, or material irregularity warranting interference in revision under Sections 397/401 Cr.P.C.,



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(ii) Whether the investigative/procedural lapses and contradictions undermine the finding as to the 1st Accused's authorship of the head blows proved through P.Ws.1 and 2 and supported by contemporaneous medical entries?

(iii) Assuming the conviction stands, whether sentence requires interference having regard to the nature of hurt, lapse of time, portion of sentence undergone, and equities under Section 357 Cr.P.C., 1973/probationary considerations?

Submissions:

6. The learned counsel appearing for the petitioner submitted that, earliest, closest-in-time documents (Ex.P1 at 9.10 p.m. and Ex.P6 at 8.32 p.m.) speak to four assailants, but only 1st Accused is named. He categorically contended that the later enlargement to eight is unexplained. Pointing out that P.W.2's presence is dubious and that P.Ws.4 and 7 have turned hostile, he further focused on the inconsistencies about the number of injuries and assailants.



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7. He further propounded that recovery is infirm and detailed the other lacunas in prosecution case, more particularly the absence of chemical analysis; vague nature of place of occurrence and insisted that confessional recoveries are also palpably unreliable. Pointing out that, when Accused Nos.2 to 4 have been acquitted in appeal on contradictions, similar contradictions *qua* 1st Accused (for example, head injury later stated to be simple) ought to enure to his benefit and sought for parity among the accused in sifting the evidence staring at them.

8. He further submitted to consider that the event is 12 years old and that the 1st accused already has undergone 5 months incarceration. Pointing that there were no antecedents, sought modification to period already undergone with fine/compensation.

9. Relying upon the concurrent core finding, the learned Government Advocate (Crl. side) submitted that, P.W.1 (injured) consistently attributes two iron-rod head blows by the 1st accused and that the testimony of P.W.2 has corroborated the same. Pointing that Ex.P1 promptly names 1st accused, further elaborated that Ex.P6



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contemporaneously notes assault by four persons known. He further submitted that the learned Appellate Court has already filtered the case giving the benefit of doubt to Accused Nos.2 to 4, further argued that Accused No.1 alone stands on distinct footing with clear, consistent attribution. In the event of Medical evidence proving hurt by a dangerous weapon, even if skull fracture was absent, he contended that Section 324 IPC is squarely attracted. Pointing out that sentence under Section 324 confirmed by the learned Appellate Court already reflects leniency, categorically contended that there is no scope for further interference.

10. Heard the learned counsels on either side and carefully perused the materials available on record.

Analysis:

11. Revisional power is supervisory and corrective, not a re-appreciation of evidence as in appeal. Interference lies where findings are perverse, illegal, or manifestly unjust. Where two reasonable views are possible and the Courts below have adopted one based on evidence, revisional interference is circumscribed.



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12. Ex.P1, complaint recorded within roughly two hours, names the 1st accused and attributes two head blows with an iron rod. Ex.P6, accident register entered at 8.32 p.m., notes assault by four known persons, from which, though it does not list names, is not inconsistent with Ex.P1 *qua* 1st accused.

13. P.W.1 as injured witness is a star witness. His attribution to the 1st accused is constant across Ex.P1 and deposition. P.W.2 corroborates the specific act of the 1st accused delivering two head blows. Minor inconsistencies about the participation of others, or numerical variations in different documents, do not erode the core, specific allegation against the 1st accused.

14. P.W.9, the Government Hospital Doctor, records two lacerations to the head and limb injuries; P.W.10, the Private Hospital Doctor, notes limb fractures treated surgically. The absence of skull fracture merely negatives Section 326 IPC on the head injury; it does not detract from Section 324 IPC, which only requires voluntarily causing hurt by dangerous weapon/instrument. An iron rod has been consistently alleged and medically compatible with lacerations.



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15. Turning hostile by P.Ws.4 & 7 does not by itself demolish the prosecution where injured witness evidence is credible. The learned Appellate Court filtering that discarded the case against Accused Nos.2 to 4 precisely preserved the credible core against the 1st accused. Parity, therefore, is inapposite.

16. Non-forwarding of weapons for chemical analysis and the lack of granular detail in Ex.P10 (alteration report) are investigative lapses. Yet, the direct ocular evidence of an injured witness, promptly naming the 1st accused, supported by contemporaneous medical entries, suffices to sustain Section 324. The lapses do not introduce a reasonable doubt about the 1st accused's authorship of the head blows.

17. Post-appeal, the conviction is under Section 324 IPC simpliciter against Accused No.1 alone. The earlier grievance regarding Section 34 IPC charges has become academic for present purposes.

18. The occurrence is of 05.11.2013. The petitioner has undergone about five months incarceration. There are no shown antecedents. The learned 1st Appellate Court exercise already balanced



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equities by scaling down to Section 324 IPC. At the same time, the act of two iron-rod blows to the head is serious. In such circumstances, further incarceration at this temporal distance may serve little penological purpose. The ends of justice would be met by modulating the sentence to the period already undergone, coupled with enhanced fine and victim compensation under Section 357(1) Cr.P.C. (to be paid to P.W.1), thereby preserving censure while advancing restorative justice.

19. In fine, the finding of guilt of the revision petitioner under Section 324 IPC is affirmed. No perversity or patent illegality is made out warranting interference on conviction.

20. In the result, the Criminal Revision is partly allowed on the following conditions:

[a] The substantive sentence is modified to the period already undergone. In substitution, the fine is enhanced to Rs.15,000/- (Rupees Fifteen Thousand only), in default, the petitioner shall undergo Simple Imprisonment for 15 days.

[b] Out of the fine so realised, a sum of Rs.12,000/- (Rupees



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Twelve Thousand only) shall be paid by the petitioner to P.W.1 (injured Senthilkumar) as compensation under Section 357(1) Cr.P.C., 1973.

The learned Trial Court shall ensure disbursement after due identification.

[c] The petitioner shall deposit the enhanced fine within six weeks from the date of receipt of this order before the learned Trial Court, failing which, the default sentence shall ensue. Any fine already paid shall be given set-off while computing the balance.

[d] If any bond is subsisting, the same shall stand cancelled, subject to compliance with the above deposit condition.

21. *Epilogue:*

This Court, in revision, preserves the carefully sifted conviction under Section 324 IPC, but recalibrates the penal response to reflect the long lapse of time, partial incarceration, and the restorative imperative of compensating the injured. The rule of law is vindicated not only by punishment but equally by tempered proportionality and restitution.

22. In fine, this Criminal Revision case is partly allowed.

20.11.2025

NCC : Yes / No
Index : Yes / No



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Internet : Yes

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To

1.The Principal District and Sessions Judge,
Virudhunagar District at Srivilliputhur

2.The Assistant Session Judge,
Srivilliputhur.

3. The Inspector of Police,
Watrap Police Station,
Watrap, Virudhunagar District.

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



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L.VICTORIA GOWRI, J.,

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