



Crl.A.No.192 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.02.2026

DELIVERED ON : 23.02.2026

CORAM :

THE HON'BLE MR. JUSTICE P.VELMURUGAN
and
THE HON'BLE MR. JUSTICE M.JOTHIRAMAN

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Dillibabu

... Appellant

Vs.

1.The Inspector of Police,
K-11 CMBT Police Station,
Chennai – 600 107.

2.Srinu @ Srinivasan

3.Muthu Kumar @ Mari

4.Suresh

... Respondents

PRAYER: Criminal Appeal filed under Section 372 Criminal Procedure Code, praying to set aside the judgment and order dated 06.10.2018 made in S.C.No.189/2017 on the file of the XV Additional Sessions Court, Chennai.

For Appellant : Mr.R.C.Paul Kanagaraj

For R1 : Mr.A.Damodaran
Additional Public Prosecutor
Assisted by Ms.M.Arifa Thasneem

For R2 to R4 : Mr.A.R.Suresh



JUDGMENT

M.JOTHIRAMAN, J.

The defacto complainant has preferred this Criminal Appeal as against the judgment of acquittal dated 06.10.2018 made in S.C.No.189/2017 passed by the learned XV Additional Sessions Court, Chennai, in and by which the Trial Court has acquitted the respondents 2 to 4 / A1 to A3 from the charges under Sections 341 r/w. 34 IPC, 323 r/w. 34 IPC and 302 r/w. 34 IPC.

2. Brief case of the prosecution is as follows:

2.1. PW1 is the father of the deceased Gopinath. He deposed that on 29.08.2016 at about 06.15 p.m. PW1 and the deceased were proceeding from the house to their shop. On the way, the accused waylaid them in front of their house bearing Door No.13/41, abused them in filthy language and attacked repeatedly with wooden logs – MO1 and stones – MO2. PW1 sustained injuries on his shoulder and leg. The deceased fell down. While so, A1 took big stone and thrown on the deceased head, saying that he should die now itself.



2.2. PW2 is the wife of PW1. PW5 is the younger son of PW1. PW3

is the PW1's brother's son. The deceased was unconscious with blood injuries. PW4 to PW8 took PW1 to KMC Hospital for treatment. Thereafter, PW1 was referred to Rajiv Gandhi Government General Hospital for further treatment. The Doctors conducted surgery to the deceased at 10.45 PM in the night and subsequently the deceased died on 31.09.2016 without responding to the treatment.

2.3. PW20 – Mr.V.Murali, Sub Inspector of Police, on information, rushed to the hospital and examined PW1. PW1 was admitted as inpatient at Ward No.201 and the deceased was in ICU. PW20 recorded statement (Ex.P1) from PW1. PW1 identified M.O.1 -wooden log.

2.4. PW20, on receipt of the complaint under Ex.P1 from PW1, he registered a case in Crime No.743 of 2016 for the offences under Sections 341, 294(b), 323, 324 and 506(ii) IPC. Ex.P12 is the FIR. He forwarded a copy of the FIR to the Inspector of Police. Thereafter, PW20 went to the occurrence place and prepared Observation Mahazar – Ex.P13 and Rough Sketch – Ex.P14 in the presence of PW11 – Tr.Suresh and PW12 – Tr.Arumugam. On 30.08.2016, at about 12.45 hours, on receiving the



information, he arrested A2 near Rohini theater. On enquiry, A2 voluntarily gave confession statement and the same has been recorded in the presence of PW11 and PW12. The admissible portion of confession statement of A2 is Ex.P15. In pursuance to the confession statement, A2 took them to his house and handed over M.O.1 – wooden log from his house and the same has been recovered under seizure mahazar – Ex.P16. Then PW20 took A2 to the police station and subjected A2 to judicial custody and thereafter, he has handed over the case records to PW21 – Tr.Krishnakumar for further investigation.

2.5. PW21 deposed that on 31.08.2016 at about 23.35 hours, he received death message of the deceased Gopinath from the hospital and altered the Sections to 341, 294(b), 323, 324, 506(ii) and 302 IPC. The Alteration Report is Ex.P17. On 01.09.2016, PW21 had conducted inquest over the dead body of the deceased at 06.00 a.m. to 08.00 a.m. in the mortuary in the presence of panchayatdhars and witnesses. The Inquest Report is Ex.P18. He handed over the body of the deceased through PW15- Tr.Selvamani for conducting postmortem.



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2.6. In continuation of his investigation, on the same day at about 09.00 a.m. PW21 received information that A1 and A3 were indulged in robbery, caught hold by the public and handed over to PW21 at the police station. PW21 arrested A1 and A3 and on enquiry A1 voluntarily gave confession statement and the same has been recorded. The admissible portion of the confession statement of A1 is ExP19 and in pursuance to the confession statement of A1, he took them near to his house and at about 13.45 hours, he recovered blood stained stone – MO2 under Seizure mahazar Ex.P20. He sent the seized case properties to the court. He examined the witnesses and recorded their statements.

2.7. PW17 / Dr.Gopinath deposed that while he was working on 29.08.2016, PW1 and the deceased were brought for treatment and on enquiry they stated that on 29.08.2016 at 06.00 p.m., known male persons assaulted them by using wooden logs and stones. On examination of the deceased, PW17 found that there is swelling in the front side of his leg and left side of his head and there is abrasion over forehead and cheek. He could not able to speak anything and also noticed that blood oozing from nose and mouth. They admitted the deceased as inpatient and he has issued Accident Register / Ex.P6. On the same day and at the same time,



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PW1 was brought by his wife Ranjitham - PW2 and informed that he was assaulted by known male persons with wooden logs. On examination of PW1, he noticed blood clot injury in his left cheek 5 x 5 cm and also contusion on his back side of his head. He has issued the Accident Register copy in respect of PW1 under Ex.P7.

2.8. PW18 / Dr.R.Narendar deposed that while he was on duty on 01.09.2016 at 11.00 a.m., he has received a requisition through Head Constable / PW15 from PW21 to conduct autopsy over the dead body of the deceased. He noticed the following injuries in the postmortem certificate:

1. *Irregular reddish brown abrasions : a) 1 x 0.2 cm on the right temporal region of the scalp ; b) 3.5 x 2 cm on the back of lower third of right forearm ; c) 1 x 0.5 cm with intervening normal skin on the back of right hand ; d) 3 x 2 cm on the back of middle third of left forearm ; e) 3 x 2 cm, 1 x 1 cm on the back of left elbow ; f) 2 x 1 cm on the left side of chin ; g) 5 x 3 cm on the left cheek ; h) 9 x 5 cm on the left frontal region of the scalp and onto the adjoining left cheek .*
2. *Diffuse dark red periorbital bruising around upper and lower eyelids of both the eyes.*
3. *Curvilinear sutured surgical incised wound 37 cm on the left fronto temporo parietal regions of the scalp ; On removal of sutures, the wound was 37 x 0.5 cm x scalp deep and the margin were regular and gaping ; On reflection of scalp, Diffuse Dark red scalp deep bruising all over the scalp ; Surgical bony and Duramater deficiency 17 x 10 cm on the left fronto temporo parietal regions with protions of burr holes along with margins of the deficiency ; Fissure fracture 8 cm on the left frontal bone ; Comminuted fracture*



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10 x 7 cm on the left parietal bone and onto the adjoining right parietal bone ; On removal of calvarium, Dark red Extradural hematoma 10 grams on the right parieto temporal regions of the brain ; Dark red Subdural hematoma 5 grams on the right parietal region of the brain ; Dark red subdural hemorrhage on the surfaces and the undersurface of both the cerebral and both the cerebellar hemispheres of the brain ; Dark red subarachnoid hemorrhage on the surfaces and the undersurface of both the cerebral and both the cerebellar hemispheres of the brain ; Brain ; Edematous and soft cut section ; Normal Base of skull : Intact

Heart : Normal in size ; cut section ; All chambers contained fluid and clotted blood ; Valves Normal ; Coronaries : Patent ; Great vessels : Normal

Lungs : Normal in size ; cut section : Normal

Larynx and Trachea : Empty ; Hyoid bone and other laryngeal cartilages : Intact

Stomach : Empty with no definite smell ; mucosa : Normal

Liver, Spleen and Both the Kidneys : Normal in size ; cut section : Normal

Bladder: Empty

Ribs, Pelvis and Spinal column : Intact

Viscera preserved for chemical analysis.

Opinion as to cause of death ----

Reserved pending the reports of chemical analysis of viscera”

PW18 issued postmortem certificate - Ex.P8 opining that the deceased would appear to have died on due to effect of head injuries and as per Ex.P9 / Toxicology Report, there is no detection of alcohol or poison in the deceased body.

2.9. PW2 – Tmt.Ranjitham who is the wife of PW1, deposed that on 29.08.2016 when PW1 and the deceased attended the funeral and after



taking bath, went to the shop. PW2 was told that some persons assaulting her husband. She rushed to the occurrence place and saw that PW1 and her son sustained blood injuries. At the time A1 took big stone and thrown on the deceased by saying that he should die now itself and blood was oozing out. PW2 further deposed that they took them to KMC Hospital and thereafter they took them to Ranjiv Gandhi Government Hospital for further treatment.

2.10. PW3 / Mohan deposed that there is a dispute between A2 and A3 with regard to performing Annadhanam in the Temple at Koyambedu during the month of Aadi and A2 & A3 assaulted him with their hands. He did not lodge any complaint after attending the funeral of one subramani's father. PW1 and the deceased gone to the shop while the accused waylaid and assaulted them. Upon hearing information from person who lives in the same street, PW2, PW3 and PW4 rushed to the occurrence place. The accused have assaulted PW1 and the deceased. A2 and A3 assaulted PW1 by using wooden log. The deceased fell down. At the time, A1 took a stone from the place of occurrence and thrown it on the head of the deceased by saying "he should die now itself" and after the occurrence, they took PW1 and deceased to the hospital.



2.11. PW4- Tr.Jeevarathinam, father of PW3 deposed that PW3

informed that the accused were involved in a quarrel with A2 and A3 when he attended the funeral procession. Upon hearing the information, he along with PWs 2 and 3 went to the occurrence place and saw that A2 and A3 assaulting the deceased with wooden logs and the deceased was lying down with injuries. At that time, A1 took a big stone and thrown on the head of the deceased saying that he should die. PW1 and the deceased were unconscious and they were taken to KMC Hospital for treatment and then referred to Rajiv Gandhi Government General Hospital for further treatment.

2.12. PW5 – Tr.Harikrishnan, brother of the deceased deposed that on 29.08.2016 evening at 6.15 p.m., he along with PWs 1 and 2 and deceased attended the funeral of one person who died in the street where he lives. There was a quarrel in the funeral and afterwards they returned home. Later, PW1 and deceased went to shop. After some time, neighbors told them that there is some issues going on and when PW5 went to the occurrence place along with the PW2 and saw that A1 assaulted the brother of PW5 / younger son of PW1 by using wooden logs and the deceased fell down and thereafter, A1 took a big stone and thrown on the head and therefore, he died.



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2.13. PW6- Tr.Vijayakumar deposed that on 29.08.2016 at about 6.00 p.m., while he was in his shop, he came to know that the deceased and PW1 were assaulted. He say that the deceased was lying down in the floor with blood oozing from the injuries on his head.

2.14. PW7- Tr.M.Nandhakumar deposed that on 29.08.2016 at 06.15 p.m. while returning after attending the funeral, there was a quarrel between PW3 with A2 and he pacified them. When he was crossing the house of the accused, he heard noise and saw that PW1 and the deceased were assaulted with wooden logs. The deceased fell down and at that time, A1 took a big stone and thrown on his head. The deceased sustained injuries and blood was oozing out and he became unconscious.

2.15. PW8- Tr.M.Rajeshkumar deposed that on 29.08.2016 while returning from work in the evening 5.00 p.m., he heard that one Subramanim's father died and in this regard he was talking with PWs 2, 3, 5 and 7 and 2 of his friends and at about 6.15 p.m., PW1 took the deceased and proceeded to the shop. While proceeding towards the shop, the accused persons waylaid and assaulted PW1 and the deceased. A1 assaulted the deceased by using wooden logs on his head. The deceased



fell down unconscious and thereafter, A1 took a big stone and thrown on the head of the deceased.

2.16. PW10- Tr.Prabhakaran deposed that he knew the accused. On 29.08.2016 at 6.00 p.m., while returning to his house from his private job, when nearing his house, he saw that PW1 and the deceased were assaulted by the accused using MO1, in which PW1 and the deceased fell down. A1 took a big stone and thrown on the head of the deceased by saying he should die. The deceased became unconscious and the injured were taken to the hospital.

2.17. PW11- Tr.Suresh deposed that he is auto driver and he did not know anything about the accused. PW13- Tr.Perumal deposed that he came to know that the police informed him that they have recovered 3 Casuarina wooden logs – M.O.1 and a stone – M.O.2 and the same has been seized under Seizure Mahazar (Ex.P16 and 20). He signed as a witness in the said seizure mahazar and his signature found in the confession statement of A1 is Ex.P3 and his signature found in the confession statement of A3 of Ex.P4 and his signature found in Seizure Mahazar is Ex.P5.



2.18. PW19 – Dr.Senthilkumar deposed that while he was working as Professor in the Neurology Department in the Rajiv Gandhi Government Hospital, on 29.08.2016, originally the deceased was taken to KMC hospital and since he was injured on his head, he was referred to Rajiv Gandhi Government Hospital for further statement and he was informed that the deceased was assaulted by four known persons and he was given treatment and found that he noted severe injuries on the head of the deceased and there is blood leakage in his brain and therefore, they conducted surgery. On 30.08.2016 in the early morning hours at 1.00 a.m. they removed the blood clot and thereafter, he was admitted in ICU. Despite treatment, the deceased died on 31.08.2016 at 11.35. p.m. and issued Death Report – Ex.P10. He also deposed that PW1 was admitted as Inpatient and taken CT Scan and found that there is fracture on his left side head. PW1 voluntarily came out and not continued the treatment and to that effect, he has issued the report – Ex.P11.

2.19. PW21 / I.O. in continuation of his investigation, has examined the witnesses and recorded their statements. Upon completion of investigation, he has laid the final report against the accused for the offences under Sections 341, 294(b) 323, 324, 506(ii), 302 r/w. 34 IPC.



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On 30.09.2016, PW20 handed over M.O.3 – Blue Colour Baniyan which was given by PW5 to the police station under Form 95 and sent to the Court. To prove the guilt of the accused, the prosecution examined 21 witnesses, marked 24 documents and produced 3 Material Objects. Upon completion of prosecution side witness, the accused were questioned under Section 313(1)(b) CrPC with regard to incriminating circumstances appearing against them, the accused denied the same as false. On the side of the defence, DW1 and DW2 were examined and no document was marked.

2.20. DW1 - Nandhakumar, deposed that on 29.08.2016, DW1, Suresh, Muthukumar, DW2 and Thurai went to attend the funeral of one Samanayakar. PW4's son PW3 scolded and attempted to attack Muthukumar. DW1 pacified them. On the same day at 5.30 p.m., while going home by crossing PW4's home, DW1 witnessed PW4, PW3, PW1 and the deceased assaulting Muthukumar and Muthukumar running towards his home from the occurrence place. At that time, PW4 and his son (PW3) picked up stones from the road and threw them towards Muthukumar, which hit him on his head, due to which he fell down. Subsequently, one Sheikthavuth brought a vehicle in which the said



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Muthukumar, along with DW2, went to the Koyambedu police station.

Later, PW4, PW3, PW1 and the deceased throw stones on one Vignesh.

Eventually, Mani, son of one Chanthiran, who resides in the same street as DW1, threw stones towards PW's 5, 3, 1 and deceased. From that, one of those stones hit the deceased causing him to faint and fell down. Deceased sustained injury in the left side of the forehead. Then PW1 and the deceased were taken to the hospital by car. DW2 - Rama Murthy, deposed the similar version of DW1 and he further deposed that the injured Muthukumar was taken to the Apollo First Aid Unit near C.M.D.A. bus stop where first aid was given then went to the Koyambedu Police station and was in station till 7 p.m., but has not chosen to give any complaint to the police regarding the incident happened.

2.21. As per the evidence of the defence witnesses, there was a quarrel between the accused persons and the victim persons in which both the parties have sustained injury and eventually the DW2 along with the injured Muthukumar and one Sheikthavuth went to the police station, but chosen not to give complaint about the occurrence. The defence witness also claims that during the said commotion, one Muthukumar was injured and the PW1, 3, 4 and the deceased threw stones on one Vignesh, but the



Defence counsel neither chosen to examine the injured person Muthukumar nor the Vignesh and there was no evidence produced and marked from the side of the Defence to prove the said incident. Thus, the evidence of DWs 1 and 2 does not support the case of the defence to disprove the prosecution case and the same could not be taken in to the account.

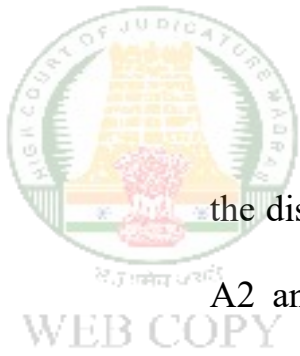
2.22. Upon appreciation of the oral and documentary evidence, the Court below found that the prosecution has miserably failed to prove the case beyond reasonable doubt and acquitted all the accused. Aggrieved over the same, the present criminal appeal has been filed by PW1/injured witness/defacto complainant against the judgment of acquittal passed by the trial court.

3. The learned counsel appearing for the appellant would submit that the Court below failed to appreciate the evidence of the eye witnesses PWs.1, 3, 5 and 9, who categorically deposed in their evidence narrated the occurrence and established the presence of the respondents 2 to 4 / accused 1 to 3 in the occurrence place and also specifically stated about their overt acts. PW1 / father of the deceased is the injured witness and he had sustained injuries in the same occurrence and there is no reason to



disbelieve the evidence. The Court below failed to believe the evidence of PW17, doctor who had mentioned the injuries sustained by the deceased on examination and the evidence of PW17 also corroborates the evidence of the eye witness. The Court below has failed to consider the evidence of PW9, PW11, PW12, PW14, who had turned hostile and acquitted the accused, as it is to be noted that those witnesses are only secondary witnesses. The Court below failed to state that as per the complaint, four persons had assaulted the deceased and whereas only 3 persons were arrayed as accused and there is no reason / explanation by the prosecution and that cannot be a reason for acquittal. The prosecution has proved the case beyond all reasonable doubt and the judgment of acquittal passed by the Trial Court is liable to be set aside and prayed for conviction of the respondents 2 to 4 as per the charges framed.

4. *Per contra*, learned counsel appearing for the respondents 2 to 4 / Accused 1 to 3 would submit that on 29.08.2016, there was a death of one Samu Naicken occurred in the South Mada Street, Koyambedu, Chennai where both the defacto complaint / PW1 and the accused 1 to 3 are residing. In the funeral procession, PW1's brother -in-law / PW4 participated. In the burial ground, PW4 picked up quarrel with regard to



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the distribution of Annadhanam in the temple festival held earlier between

A2 and PW3 and there was a commotion in the burial ground. While crossing the defacto complainant's house on returning home from the burial ground, at about 5.15 p.m., A2 along with DW1 and DW2 were intercepted by PW1, deceased, PW3 and PW4 and starting attacking A2 with wooden logs and stone in which A2 sustained injuries all over his body, particularly on the backside of the head and fell down. Immediately DW2 took A2 to the first respondent police at about 5.30 p.m. On noticing the injuries sustained by A2, he was directed to go to Appollo Hospital and after getting first aid, A2 made a complaint at about 6.00 p.m. as against PW1, deceased, PW3 and PW4. The first respondent police registered a case in Cr.No.742 / 2016 under Sections 341, 294(b), 323, 324 and 506(ii) IPC. In the meantime, on the complaint made by A2, PW4 was secured by police and brought to the police station for interrogation at about 6.30 to 7.00 p.m., Both PW3 and A2 were in the police station all through out the night and on the next day i.e., 30.08.2016, both of them were produced before the learned Metropolitan Magistrate and were remanded to judicial custody in the respective crime numbers, in which they are show as accused / PW4 in Crime No.742 and A2 in Crime No.743.



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5. The learned counsel for the respondents 2 to 4 / A1 to A3 would further submit that PW4, who was taken to police station at about 6.00 p.m. 7.00 p.m., would have stated so before the 1st respondent or given a counter complaint as against A2 on 30.08.2016 at about 12.30 p.m. near Rohini theatre and recorded confession statement in the presence of PW11 and PW12 and recovered M.O.1 – Series (wooden logs). PW11 and PW12 categorically deposed that they did not know anything about the case and the signature found in the confession statement and also in the Recovery Mahazar are not put by them and hence, the entire case of the prosecution regarding arrest, confession, seizure of material objects against A2 are concocted and falls to ground. The learned counsel for the accused would further submit that as per the prosecution case, A1 and A3 were secured by general public on 01.09.2016 at about 9.00 p.m. and handed over to the 1st respondent police and they were arrested and in police custody, confession statements were obtained from them in the presence of Pws.13 and 14 and recovered M.O.2 – Stone through A3. However, PW13 in his cross examination stated that M.O.1 and M.O.2 shown to him by the police is self contradictory to each other. Similarly, PW14 disowned his signature in the Mahazar as well as in the confession statements of A1 and A3 and therefore, arrest, confession and seizure of



material objects as against A1 and A3 are also concocted and falls to ground.

6. The learned counsel for A1 to A3 would further submit that PW1 and the deceased at the time of admission in KMC Hospital for treatment had stated that 4 known persons attacked him and his son with wooden logs and stones as recorded in Accident Registers – Exs.P6 and P7 issued by PW17 and whereas PW20, stated that only 3 persons have assaulted them and hence, the evidence of PW1 is contradictory and unreliable. PW3, who is alleged to be an eye witness, categorically admits that he had not seen the occurrence as he had been to college and the entire case of PW1 is that Pws.3 and 4 were present in the scene of occurrence and tried to pacify them is highly imaginary and improbable. PW1 further stated that he sustained injury only in his little finger and there is no material record produced before the trial Court to show that he was grievously injured and hence the Trial Court has rightly ignored the evidence of PW1 regarding injuries and also the nature of alleged occurrence and neither PW1 nor PW17 has not mentioned anything about the injuries alleged to have been sustained by the deceased and hence, there is no question of any corroboration. PW1 has stated that the alleged occurrence took place in



front of the house at Door No.13/41, South Mada Street, whereas PW5 has stated that the alleged occurrence had taken place in front of his house at Door No.27, South Mada Street and hence, the evidence of PW5 is unreliable. The Trial Court, after taking note of the inconsistencies, improbabilities and circumstances regarding arrest, confession and seizure of material objects as against the accused and held that the prosecution has failed to prove the case beyond all reasonable doubt and hence acquitted the respondents / accused 1 to 3 of all the charges framed against them. To strengthen his contention, the learned counsel for the respondents / accused has relied upon the judgment of the Hon'ble Division Bench of this Court in *State Rep. By Inspector of Police,, Jeyamkondam Police Station, Ariyalur District and Others v. Kamaraj [(2016) 1 MLJ (Crl.) 691]* to show that there were contradiction in the evidence of the eye witnesses regarding the injuries sustained by PW1 and the deceased at the hands of the accused and therefore, held that the prosecution has failed to prove its case and the accused is entitled to benefit of doubt and accordingly, acquitted the accused of all charges.

7. *Per contra*, learned Additional Public Prosecutor appearing for the first respondent / State would submit that the prosecution has proved



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the case beyond all reasonable doubt through the evidence of the eye witnesses Pws.3, 4, 5 and 7, who have categorically deposed in their evidence about the occurrence and the overt acts attributed against the respondents / accused. The Court below failed to note the evidence of the eye witness as well as injured witness – PW1, who is the father of the deceased and he has sustained injury in the occurrence and there is no reason to disbelieve his evidence. The Court below acquitted the respondent/accused mainly on the ground that PW1 and the deceased were taken to the hospital and at the time of treatment, has admitted that 4 known persons have attacked them with wooden logs and stones, as recorded in Accident Registers – Exs.P6 and P7 issued by PW17, is unsustainable in law. He would further submit that the Medical Officer should ascertain the cause of injury, weapon used time etc., thereby showing no power is vested upon the medical officer, to ascertain from the injured or the person accompanied the injured, who is the cause of the assault, whether it is known or unknown even. To strengthen his contention, he has relied upon the Division Bench judgment of this Court dated **18.10.2006 in Crl.A.No.193 of 2004 [Ramaraj v. Inspector of Police, Padalur Police Station]** to show that the Medical Officer concerned, to ascertain and incorporate in the certificate, how the injuries



were inflicted and what is the weapon used, including the time, so as to find out, at later point of time, whether the injury would have been caused by the weapons produced on behalf of the prosecution.

8. We have considered the submissions made on either side and perused the entire materials available on record.

INTERFERENCE IN APPEAL AGAINST ACQUITTAL

9. On appreciation of oral and documentary evidence let in by the prosecution and the defence, the Trial Court acquitted the accused in respect of the charges levelled against them. The present appeal has been preferred by the injured witness / PW1 against the judgment of acquittal passed by the Court below. It is to be noted that the first appellate court even while dealing with an appeal against acquittal can re-appreciate the entire evidence and decide the case.

10. At this juncture, it is relevant to cite the judgment of the Hon'ble Supreme Court of India in the case of ***State of Rajasthan v. Sohan Lal [(2004) 5 SCC 573]***, wherein it was held as under:

“3.... as the first appellate court the High Court, even while dealing with an appeal against acquittal, was also



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entitled, and obliged as well, to scan through and if need be reappreciate the entire evidence, though while choosing to interfere only the court should find an absolute assurance of the guilt on the basis of the evidence on record and not merely because the High Court could take one more possible or a different view only. Except the above, where the matter of the extent and depth of consideration of the appeal is concerned, no distinctions or differences in approach are envisaged in dealing with an appeal as such merely because one was against conviction or the other against an acquittal.”

11. The prosecution, in order to prove the guilt, has relied upon the following circumstances:

(i) Injured Witness

(ii) Eye Witnesses

(iii) Medical Evidence

INJURED WITNESS

12. PW1, who is the father of the deceased Gopinath, is the injured witness in this case. As per the evidence of PW1 on 29.08.2016 at about 06.15 p.m. PW1 and the deceased were proceeding from the house to their shop. On the way, the accused waylaid in front of their house bearing Door No.13/41, abused them in filthy language, attacked repeatedly with wooden logs – MO1 and stones – MO2. PW1 sustained injuries on his shoulder and leg. The deceased fell down. While so, A1 took big stone and



thrown on the deceased head saying that he should die now itself. PW1, in his chief examination deposed that he was taken to KMC hospital for treatment along with his son / deceased and thereafter, they were referred to Rajiv Gandhi Government Hospital for further treatment. PW1 further stated in the chief examination that since he sustained injuries on his hands and leg, he was admitted in Neurology Department and the police enquired him and obtained complaint / Ex.P1 in the hospital. PW1 also admits and identifies the wooden logs – M.O.1 series used by the accused to beat PW1 and the accused. PW20 Sub Inspector of Police, who examined PW1 at the hospital in his chief examination deposed that PW1 was admitted as inpatient at Ward No.201 and he recorded statement / complaint under (Ex.P1) from PW1. In pursuance of the same, PW20 registered the case in Crime no. 743/2016 and the registered the FIR in Ex.P12.

13. As per the evidence of PW17- Dr.Gopinath- who treated the deceased as well as PW1 deposed in his chief examination that on 29.08.2016, PW1 and the deceased was brought for treatment and on enquiry they have stated that known male persons assaulted by using wooden logs and stones. He further deposed that on the same day and at



the same time, PW1 was brought by his wife Ranjitham - PW2 and informed that he was assaulted by known male persons with wooden logs.

On examination, he noticed blood clot injury in his left cheek 5 x 5 cm and also contusion on his back side of his head. He has issued the Accident Register copy in respect of PW1 under Ex.P7.

14. At this juncture, it is relevant to cite the judgment of the Hon'ble Supreme Court of India in *State of Uttar Pradesh v. Naresh and Others [(2011) 4 SCC 324]*, wherein it was observed as under:

“27. The evidence of an injured witness must be given due weightage being a stamped witness, thus, his presence cannot be doubted. His statement is generally considered to be very reliable and it is unlikely that he has spared the actual assailant in order to falsify implicate someone else. The testimony of an injured witness has its own relevancy and efficacy as he has sustained injuries at the time and place of occurrence and this lends support to his testimony that he was present during the occurrence. Thus, the testimony of an injured witness is accorded a special status in law. The witness would not like or want to let his actual assailant go unpunished merely to implicate a third person falsely for the commission of an offence. Thus the evidence of the injured witness should be relied upon unless there are grounds for the rejection of his evidence on the basis of major contradictions and discrepancies therein.”

In the case on hand, the evidence of the injured witness / PW1 is amply corroborated by the evidence of PW20- Sub Inspector of Police as well as



the doctor / PW17 and therefore, the evidence of PW1 is cogent, convincing and reliable.

EYE WITNESSES

15. PWs.2, 3, 4, 5 and 7 are eye witnesses to the occurrence and they categorically deposed in their evidence narrating the occurrence and established the presence of the respondents 2 to 4 / accused 1 to 3 in the occurrence place and also specifically stated about their overt acts. PW1 / father of the deceased is the injured witness and he had sustained injuries in the same occurrence and there is no reason to disbelieve his evidence.

16. As per the evidence of PW2, on 29.08.2016 when PW1 and the deceased went to the shop after attending the funeral, she heard that some persons assaulting her husband, so she rushed to the occurrence place and saw that PW1 and her son sustained blood injuries. Thereafter, A1 took a big stone and thrown on the deceased by saying that he should die now itself. As a result, blood was oozing out form the deceased person. After the incident, they took them to KMC Hospital and thereafter referred to Ranjiv Gandhi Government Hospital for further treatment.



17. As per the evidence of PW3 / Mohan, who is the brother's son of PW1, there is a dispute between A2 and A3 with regard to performing Annadhanam in the Temple at Koyambedu during the month of Aadi and A1 & A2 assaulted him with their hands. He did not lodge any complaint. PW3 deposed that PW1 and the deceased gone to the shop, while so, the accused waylaid and assaulted them and upon hearing information from street people, PW2 and PW3 rushed to the occurrence place. The accused have assaulted PW1 and the deceased. A2 and A3 assaulted PW1 by using wooden log. The deceased fell down. At the time, A1 took a stone from the place of occurrence and thrown on the head of the deceased saying that he should die now itself and then they took them to the hospital.

18. PW4- Tr.Jeevarathinam, father of PW3 deposed that PW3 informed that the accused were involved in a quarrel with A2 and A3 when he attended the funeral procession. Upon hearing the information from PW2, he gone to the occurrence place along with his son PW3 and saw that A2 and A3 assaulting the deceased with wooden logs and the deceased was lying down with injuries and at that time, A1 took a big stone and thrown on the head of the deceased saying that he should die. PW1 and the deceased were unconscious and they were taken to KMC



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Hospital for treatment and then referred to Rajiv Gandhi Government

General Hospital for further treatment.

19. PW5 – Tr.Harikrishnan another eye witness and son of PW1, in his chief examination deposed that on 29.08.2016 evening at 6.15 p.m., he attended the funeral of one person who died in his street. There was a quarrel in the funeral and he heard a noise that the accused are assaulting PW1 and the deceased and he gone to the occurrence place and saw that A1 and A3 assaulted the brother of the deceased using wooden logs and the deceased fell down and thereafter, A1 took a big stone and thrown on the head and therefore, he died.

20. As per the evidence of PW7 on 29.08.2016 at 06.15 p.m. while returning after attending the funeral, there was a quarrel between PW3 with A1 and he pacified them. When he was crossing the house of the accused, he heard noise and saw that PW1 and the deceased were assaulted with wooden logs. The deceased fell down and at that time, A1 took a big stone and thrown on his head. The deceased sustained injuries and blood was oozing out and he became unconscious.



21. The eye-witnesses viz., PWs.2, 3, 4, 5 and 7 have categorically deposited about the manner of occurrence and the specific overt act against the accused.

22. The prosecution has relied upon the evidence of PW11-Tr.Suresh, auto driver, to prove the recovery of the marked object. PW11 deposed that he did not know anything about the case. He admitted his signature found in the confession statement of A2 in Ex.P2. PW13-Tr.Perumal, in his chief examination, deposed that he came to know that the police informed him that they have recovered 3 Casuarina wooden logs – M.O.1 and a stone – M.O.2 and the same has been seized under Mahazar. He signed as a witness in the said seizure mahazar and his signature found in the confession statement of A1 is Ex.P3 and his signature found in the confession statement of A3 of Ex.P4 and his signature found in Seizure Mahazar is Ex.P5.

23. PW20, Sub Inspector of Police deposed in his chief examination that he went to the occurrence place and prepared Observation Mahazar – Ex.P13 and Rough Sketch – Ex.P14 in the presence of PW11 – Tr.Suresh and PW12 – Tr.Arumugam and on 30.08.2016, at about 12.45 hours, on



receiving the information, he gone near Rohini Theatre and arrested A2.

On enquiry, A2 voluntarily gave confession statement and the same has been recorded in the presence of PW11 and PW12. The admissible portion of confession statement of A2 is Ex.P15. In pursuance to the confession statement, A2 took them to his house and handed over MO1 – wooden log from his house and the same has been recovered under seizure mahazar – Ex.P16.

MEDICAL EVIDENCE:

24. As per the evidence of the doctor / PW17 on 29.08.2016, PW1 and the deceased were brought for treatment and on enquiry they have stated that known male persons assaulted by using wooden logs and stones. On 29.08.2016 at 06.00 p.m., on examination of the deceased, PW17 found that there is swelling in the front side of his leg and left side of his head and there is laceration injury over forehead and cheek. The deceased could not able to speak anything and also noticed that blood oozing from nose and mouth. The deceased was admitted as inpatient and he has issued Accident Register / Ex.P6.

25. PW19 – Dr.Senthilkumar, in his chief examination, deposed that



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on 29.08.2016, the deceased was brought for further treatment in Rajiv

Gandhi Government Hospital, where he worked in Neurology Department and he was informed that the deceased was assaulted by four known persons. On examination, he noted severe injuries on the head of the deceased and there is blood leakage in his brain and therefore, they conducted surgery. On 30.08.2016 in the early morning hours at 1.00 a.m. they removed the blood clot and thereafter, he was admitted in ICU. Despite treatment, the deceased died on 31.08.2016 at 11.35. p.m. and issued Death Report – Ex.P10. In the meantime, PW1 was also admitted as Inpatient and taken CT Scan and found that there is fracture on his left side head. PW1 voluntarily came out and not continued the treatment and to that effect, he has issued the report – Ex.P11.

26. As per the evidence of the postmortem doctor / PW18, in his chief examination, deposed that while he was on duty on 01.09.2016 at 11.00 a.m., he has received a requisition through Head Constable / PW15 from PW21 to conduct autopsy over the dead body of the deceased. PW18 issued postmortem certificate - Ex.P8 opining that the deceased would appear to have died on due to effect of head injuries and as per Ex.P9 / Toxicology Report, there is no detection of alcohol or poison in the



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deceased body. Therefore, the evidence of the doctors who treated the victims viz., PW17 and PW19 and also the Postmortem doctor / PW18 coupled with Exs.P6 and P7 -Accident Registers respectively issued for the deceased and PW1, Ex.P8- Postmortem Report, Ex.P9 – Toxicology report, Ex.P10- Death Report and Ex.P11- Medical Certificate issued by PW19 for PW1 amply corroborates the nature of injuries sustained by the deceased and PW1, which also corroborates the evidence of injured as well as eye witnesses.

27. From the evidence of PW2 to PW5 and PW9, it revealed that the injured witness, who is the father of the deceased/PW1 established his presence beyond a reasonable doubt as he had sustained injury during the same offence. As discussed above, the evidence of the injured witness has a great evidentiary value and is considered reliable, unless a strong reason exists for its rejection. Even his testimony has remained unimpeachable during the cross-examination. PW1's evidence is also corroborated by the medical evidence and other independent eyewitnesses. Apart from PW1, the prosecution examined PWs 2, 3, 4, 5, and 9 as eyewitnesses to the occurrence. All these witnesses have categorically deposed that they were present near the place of the incident and had seen the accused persons



assaulting PW1 and the deceased with stones and wooden logs. The evidence of the eyewitnesses are consistent with each other on particulars such as the time, place, and manner of assault, as well as the weapons used. PWs 3 and 4, who are close relatives of PW1, rushed to the spot and tried to intervene when the attack took place, which further corroborates the testimony of PW1. The presence of these witnesses is natural, as they are residents of the same locality and came out upon hearing the commotion. The consistency of their depositions lends strong support to the prosecution's version and rules out any possibility of false implication as pleaded by the learned counsel for the respondents.

28. The chain of events following the occurrence, as to the arrest and recovery, has also been clearly proved by the prosecution through their witnesses. On 30.08.2016, PW20 arrested A2 near Rohini Theatre and recorded his voluntary confession statement-Ex.P15 in the presence of witnesses. In pursuance of the said confession, the wooden log-MO1 used in the commission of the offence was recovered under seizure mahazar-Ex.P16. Subsequently, A1 and A3 were arrested, and their confessional statements-Ex.P19 were recorded. In pursuance of the same, a blood-stained stone -MO2 was recovered near A1's house under Ex.P20. The evidence of recovery witnesses PWs 13 and 20 corroborates the



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prosecution's case. The seized material objects were later sent for forensic examination, and the reports confirmed the presence of human blood of the same group as that of the deceased. This forensic evidence connects the prosecution's case and establishes a clear link between the accused and the crime.

29. Eventually, the medical evidence has also supported the case of the prosecution and has also been corroborated by the eyewitness/injured witness of PW1/ father of the deceased and the other eyewitness in this case. The medical evidence supports the ocular witnesses in this case. PW18-autopsy doctor who issued the Postmortem Report-Ex.P8 and Toxicology Report (Ex.P9) revealed multiple lacerated wounds on the head and face, consistent with the use of wooden logs and stones as weapons. PW18 has opined that the death of the deceased was due to the cumulative effect of head injuries, which were sufficient in the ordinary course of nature to cause death. Further, the injured witness /PW1 was medically examined by PW19 – Dr. Senthilkumar, who treated both PW1 and the deceased, issued Accident Register copies-Exs. P6 and P7 and the Medical Certificate -Ex.P11 confirms that PW1 sustained injuries during the same occurrence. The medical evidence, therefore, not only establishes the cause of death but also corroborates the testimonies of PW1 and other eyewitnesses, leaving no room for doubt regarding the participation of all the accused in the commission of the offence. Therefore, this Court finds



reasonable grounds to interfere with the judgment of acquittal passed by the Trial Court.

30. Accordingly, this Criminal Appeal No.192 of 2019, filed by the defacto complainant / PW1 is allowed and the judgment of acquittal dated 06.10.2018 in S.C.No.189 of 2020 passed by the learned XV Additional Sessions Judge, Chennai is set aside. ***Thereby, A1 to A3 are found guilty of the offence punishable under Section 341 r/w Section 34 IPC for wrongfully restraining the PW1 and the deceased, Section 323 r/w section 34 IPC for voluntarily causing hurt to PW1 and the deceased and section 302 r/w section 34 of IPC for causing death by murder of the deceased.***

31. Since this Court reversed the sentence of acquittal passed by the trial court, in the interest of justice, before pronouncing the sentence, this court is inclined to hear the accused on the question of sentence and to consider the mitigating circumstances involved in this case. Accordingly, while setting aside the judgment of the trial Court and convicting A1 to A3/respondents 2 to 4 for the charged offences, this Court directs the Registry to post the appeal on 26.02.2026 for hearing the accused on the question of sentence to be imposed against them.



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32. List this matter on 26.02.2026.

[P.V., J.] [M.J.R., J.]
23.02.2026

Index : Yes / No

Internet : Yes / No

Jvm

To

1.The Inspector of Police,
K-11 CMBT Police Station,
Chennai – 600 107.

2. XV Additional Sessions Court, Chennai.

3.The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J.
and
M. JOTHIRAMAN, J.

Jvm

Judgment in
Crl.A.No.192 of 2019

23.02.2026



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Crl.A.No.192 of 2019

P.VELMURUGAN, J.
and
M.JOTHIRAMAN, J.

(Order of the Court was made by M.JOTHIRAMAN, J.)

This is the appeal filed by the defacto complainant against the judgment of acquittal made by the trial Court. This Court, vide its judgment dated 23.02.2026, found A1 to A3, who are the respondents 2 to 4 herein guilty for the charged offences and hence the matter was directed to be listed today (26.02.2026) under the caption for “question of sentence”.

2. Today, all the three accused appeared before us. On questioning regarding sentence, all the accused A1 to A3/ respondents have stated that they have not committed any offence and a false case has been foisted against them.

3. Accused 1 to 3, who are the respondents 2 to 4 herein are hereby convicted and sentenced as under:

(i) A1 to A3 are found guilty of the offence punishable under Section 341 IPC and sentenced to undergo 1 month simple imprisonment.

(ii) A1 to A3 are found guilty of the offence under Section 323 IPC and sentenced to undergo 1 year simple imprisonment.

(iii) A1 to A3 are found guilty of the offence under section 302 r/w section 34 IPC and sentenced to undergo Life Imprisonment with a fine of Rs.1,000/- each, in default to undergo 3 months simple imprisonment.

The sentences are ordered to run concurrently.



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4. After questioning of sentence and imposing the sentence of punishment, the learned counsel appearing for the respondents/accused prays to suspend the sentence in order to prefer an appeal before the Hon'ble Supreme Court of India.

5. Considering the facts and circumstances of the case, submission made by the learned counsel for the respondents / accused and that it is a case of reversal of the judgment of acquittal passed by the trial Court, in order to provide an opportunity to the accused A1 to A3 to prefer an appeal before the Hon'ble Supreme Court, the sentence of imprisonment alone is suspended for all the accused till the appeal period is over. After the expiry of the appeal period, if no appeal is filed and no order of stay or any other fruitful order in favour of the accused by the Hon'ble Supreme Court, the trial Court is directed to secure all the accused to undergo the sentence awarded by this Court.

[PVJ]

[MJRJ]

26.02.2026

cgi/jvm

Note: IT on 26.02.2026



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P.VELMURUGAN, J.
and
M.JOTHIRAMAN, J.

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26.02.2026