



Crl.A.No.46 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2026

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
and
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

Crl.A.No.46 of 2019 and
Crl.M.P.No.902 of 2019

1. Dinesh
2. Raja
3. Raja @ Udayavanan
4. Babu @ Raja @ Thennarasu

...Appellants

Vs.

State represented by
The Inspector of Police,
Melpatti Police Station,
Vellore.

...Respondent

Prayer: Criminal Appeal is filed under Section 374 Cr.P.C. to call for records and set aside the judgment dated 31.10.2018 passed in S.C.No.11 of 2016 by the learned Additional District Judge, Fast Track Court, Vellore.

For Appellants : Mr.N.R.Elango, Senior Advocate,
for Mrs.Aruna Elango
Mr.Agilesh Kumar
Mr.Aswin Prasanna



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For Respondent : Mr.A.Damodaran, Addl. Public Prosecutor
Assisted by Ms.M.Arifa Thasneem

JUDGMENT

(Judgment of the Court was made by P.Velmurugan J.)

This criminal appeal has been filed to set aside the judgment of conviction and sentence passed against the appellants in S.C.No.11 of 2016 by the learned Additional District Judge, Fast Track Court, Vellore, dated 31.10.2018.

2 The case of the prosecution is that P.W.1 is employed as a Warden in Puzhal Central Prison and he was suffering due to piles and also undergone a surgery and for dressing the wound, he used to go to Ambur Biswas Clinic twice daily, at morning as well as in the evening and he was also on medical leave. On 24.04.2014 at about 6.00 p.m., when P.W.1 was proceeding to Ambur Biswas Clinic from M.V.Kuppam via Azhinjikuppam by engaging the services of the auto of the deceased Charles, bearing registration No.TN-23-AH-2217 along with P.Ws.2 to 4, and when the auto was nearing Azhinjikuppam Bus Stand, it dashed against Babu @ Thennarasu [A4 herein] and there was a wordy altercation between the



deceased Charles and A4 and in that process, the deceased beat A4 and also pushed him down. A4 threatened Charles with grave consequences. P.W.1, after dressing the wound, was returning along with P.Ws.2 to 4 at about 8.30 p.m., in the auto driven by the deceased Charles and at that juncture, A1 to A3, armed with bamboo sticks [M.O.1 series], waylaid the auto and after altercation, pulled Charles out of the auto and A1 by using a bamboo stick, hit him on the head; A2 attacked him on the shoulder by using a bamboo stick and A3, by using a bamboo stick, hit Charles on the stomach. P.Ws.1 to 3 intervened and took Charles to the hospital through auto. P.W.1, on account of pain suffered due to the surgery undergone by him, took tablets and slept and on the next day morning, went to Melpatti Police Station and prepared a written complaint under Ex.P.1 and lodged the said complaint to P.W.12-Sub Inspector of Police, who upon receipt of the same, had registered a case in Cr.No.53 of 2014 and prepared the Printed FIR, marked as Ex.6.

3 The investigation was continued by P.Ws.18 and thereafter P.W.19 continued the investigation. After completion of the investigation and after obtaining opinion, P.W.19 has filed the Final Report, charging all the



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accused for the commission of the offences under Sections 120[b], 341, 294[b], 302 read with 109 and 120[b] IPC before the Court of Judicial Magistrate, Gudiyatham, who on receipt of the Final Report, took it on file in PRC No.5 of 2015, summoned the accused and furnished them with the copies of the documents under Section 207 Cr.P.C. and having found that the case is exclusively triable by the Court of Session, committed the same to the Court of Principal District and Sessions Judge, Vellore, who assigned number as SC.No.11 of 2016 and in turn, had made over the case to the Court of Additional Sessions Judge, Fast Track Court, Vellore, who took the case on file. All the accused were summoned and charges were framed and they denied the charges.

4 The prosecution, in order to sustain its case, examined P.Ws.1 to 19 and marked 13 documents as Exs.P.1 to 13 besides exhibiting M.O.1 series and M.O.2. All the appellants were questioned under Section 313[1] [b] Cr.P.C., with regard to the incriminating materials made out against them from the evidences rendered by the prosecution witnesses and they denied it as false. The accused neither filed any documents nor let in any oral evidence.



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5 The Trial Court, on consideration and appreciation of the oral and documentary evidences, vide judgment dated 31.10.2017, convicted and sentenced the appellants/accused as follows.

Rank of the accused	Conviction under section	Sentence imposed
A-1 to A3	294[B] IPC	Each of the accused was sentenced to undergo 3 months simple imprisonment and to pay a fine of Rs.500/- each, in default, to undergo one week simple imprisonment.
A-1	302 IPC	To undergo imprisonment for life and to pay a fine of Rs.2000/-, in default, to undergo 1 year rigorous imprisonment.
A2 & A3		Both the accused were sentenced to undergo imprisonment for life and to pay a fine of Rs.2000/- each, in default, to undergo 2 months rigorous imprisonment.
A1 & A2	341 IPC	Each of the accused was sentenced to undergo 1 month simple imprisonment and to pay a fine of Rs.500/- each, in default, to undergo 1 week simple imprisonment.
A-4	302 r/w 34 IPC	Sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs.2000/-, in default, to undergo 2 months rigorous imprisonment.

The Trial Court had ordered the sentences to run concurrently and also granted set-off under Section 428 Cr.P.C.



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6 Aggrieved over the judgment of conviction and sentence passed by the trial Court, all the accused viz. A1 to A4 are before this Court with the present Criminal Appeal.

7 Mr.N.R.Elango, learned Senior Counsel assisted by Mrs.Aruna Elango, learned counsel appearing for the appellants/A1 to A4 would submit that as per the prosecution story only P.Ws.1 to 4 have accompanied the deceased at the time of occurrence and they were only cited as eye witnesses, but in the Accident Register Ex.P10, it has been stated that 7 known persons assaulted the deceased with wooden rod. Further the occurrence took place on 24.04.2014 at about 6.00 p.m., whereas, the complaint Ex.P1 was lodged by P.W.1, who in fact was working as Warden in the Central Prison, Puzhal, only on the next day of the occurrence i.e. 25.04.2014 and hence there is a considerable delay on the part of P.W.1 in lodging the complaint Ex.P.1 and the same has not been properly explained. After the occurrence, P.Ws.2 and 3 went along with the deceased to the Hospital and P.Ws.1 and 4 went to their house by Auto and it is to be noted that the police station is very nearer only 1.5 Kms and they can reach the



same within 15 minutes, but, instead of giving complaint immediately, they went to their home and on the next day P.W.1 preferred complaint. Therefore P.Ws.1 to 4 could not have witnessed the occurrence and their presence in the scene of occurrence is highly doubtful and their evidence cannot be relied upon.

7.1 The FIR came to be registered on the next day of the occurrence, i.e., 25.04.2014 and had reached jurisdictional Magistrate Court only about 30 hours later on 26.04.2014. Despite P.Ws.18 and 19 the Investigating Officers were specifically questioned as to the belated despatch of FIR, no explanation whatsoever has been offered. In Column No.6 of the FIR, marked as Ex.P.6, whitener was used and the name of P.W.1 with his father's name has been inserted, for which, no explanation has been offered, despite a specific question.

7.2 Admittedly, Charles, the deceased, who sustained injuries, was initially taken to the Government Hospital at Gudiyatham and thereafter, he was shifted to the Government Hospital, Vellore and from there, to the Government General Hospital, Chennai, and without responding to the



treatment, he died. But the prosecution, admittedly, did not examine the Casualty Medical Officer, who admitted the injured Charles in the Government Hospital, Gudiyatham and the connected medical records have not been seized. The doctor, who conducted autopsy, viz., P.W.13, would state that during the course of postmortem, she noted two sutured wounds in the skull and no explanation has been offered as to when the surgery was done on the skull of the deceased and in the absence of examining any doctors, who administered treatment to the injured in the Government Hospital at Vellore, the cause of death itself is doubtful.

7.3 On the alleged date of occurrence, Parliament election was conducted and nearby the place of occurrence, there was heavy police bundobust and P.Ws.8 also stated about the said fact and if the alleged occurrence, as projected by the prosecution, had taken place, then definitely police would have intervened and therefore, the origin and genesis of the occurrence as well as the complaint becomes highly doubtful.

7.4 Even though the deceased was initially admitted in the Government Hospital, Gudiyatham and thereafter shifted to the Government



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Hospital, Vellore and from there, to the Government General Hospital, Chennai, whether the Investigating Officer went to any of the above Hospitals and tried to record the statement of the deceased, remained silent and there is no valid explanation from the prosecution as to why they have not recorded the statement of the deceased even though from the date of occurrence i.e. 24.04.2014 to till 01.05.2014 the deceased was alive.

7.5 Further P.W.5 friend of the deceased, in his evidence deposed that mother and brother of the deceased came to the Hospital at Gudiyatham, but, prosecution has failed to examine those witnesses to prove the medical status of the deceased.

7.6 As per the evidence of the Investigating Officer P.W.18, the information about death of the deceased was given to him on 01.05.2014, whereas, postmortem was conducted only on 04.05.2014, for which, there is no explanation as to why the postmortem was conducted belatedly, which creates serious doubt in the case of the prosecution.



7.7 The statements of all the witnesses and the other materials have been sent to the jurisdictional Magistrate Court only at the time of filing of Final Report on 22.02.2015 and as to the belated despatch, no reasons whatsoever has been assigned by the prosecution.

7.8 The learned Senior counsel, pointing out the above said infirmities would urge that since the case of the prosecution is bristled with so many infirmities and inconsistencies and when two views are possible, the Trial Court ought to have acquitted the appellants/accused. Therefore the learned Senior Counsel prays acquittal of the accused by setting aside the judgment of conviction and sentence of the trial Court.

8 Per contra, learned Additional Public Prosecutor appearing for the respondent would submit that on 24.04.2014 at about 6.00 p.m., when P.W.1 was proceeding to Ambur Biswas Clinic for treatment from M.V.Kuppam via Azhinjikuppam by engaging the services of the auto of the deceased Charles, bearing registration No.TN-23-AH-2217 along with P.Ws.2 to 4, and when the auto was nearing Azhinjikuppam Bus Stand, it dashed against Babu @ Thennarasu [A4 herein] and there was a wordy



altercation between the deceased Charles and A4 and in that process, the deceased beat A4 and also pushed him down. A4 threatened Charles with grave consequences. P.W.1, after dressing the wound, was returning along with P.Ws.2 to 4 at about 8.30 p.m., in the auto driven by the deceased Charles and at that juncture, A1 to A3, armed with wooden logs [M.O.1 series], blocked the auto and after altercation, pulled Charles out of the auto and A1 by using a wooden log, hit him on the head; A2 attacked him on the shoulder by using a wooden log and A3, by using a wooden log, hit Charles on the stomach. P.Ws.1 to 3 intervened and took Charles to the hospital. Therefore a case was registered in Cr.No.53 of 2014 for the offence under Sections 294(b), 341, 324 and 307 IPC. Thereafter, the deceased died on 01.05.2014 and hence after completion of investigation, final report was filed for the offence under Sections 120(b), 341, 294(b), 302 and 302 r/w 34 IPC.

8.1 Even though there was delay in lodging the complaint, the said delay has been clearly explained by P.W.1, that on account of pain suffered due to the surgery undergone by him, he took tablets and slept and on the next day morning, he went to Melpatti Police Station and prepared a written



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complaint under Ex.P.1 and lodged the said complaint to P.W.12-Sub Inspector of Police, who upon receipt of the same, has registered a case in Cr.No.53 of 2014 and prepared the Printed FIR, marked as Ex.6 and thereafter, proceeded with the investigation. Therefore for the delayed complaint, P.W.1 has given tenable and acceptable explanation/reason and P.Ws.1 to 4 knew all the accused and their testimonies corroborate with each other of all material particulars.

8.2 As far as conspiracy is concerned, P.W.6 has cogently given evidence and the Doctor P.W.13, who conducted postmortem, has also deposed that the deceased died on account of head injury and the testimonies of the eyewitnesses coupled with the scientific evidence has established the case of the prosecution beyond reasonable doubt. The trial Court has rightly appreciated the testimonies of prosecution witnesses and convicted the appellants, which does not call for any interference of this Court.

9 We have considered the rival submissions made by the learned Senior Counsel for the appellants and the learned Additional Public Prosecutor for the respondents and also perused the materials placed



including the impugned judgment.

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10 In this case in order to substantiate the case of the prosecution, P.Ws.1 to 19 were examined, out of which, P.Ws.1 to 4 were cited as eye witnesses and they have deposed that they have seen the occurrence and the appellants have assaulted the deceased with bamboo sticks. Even though the bamboo sticks were recovered based on the confession alleged to have given by the accused in the presence of P.W.9 the Village Administrative Officer, the evidence of Doctor, P.W.17, who treated the deceased at the first instance at Government Hospital, Gudiyatham, reveal that he found only one head injury and who caused that injury, which might be the reason for the death of the deceased, according to evidence of the Doctor P.W.13, who conducted autopsy on the body of the deceased, remains silent.

11 Even though P.Ws.1 to 4 were cited as eye witnesses and they have deposed that immediately after the occurrence P.Ws.2 and 3 took the deceased to the Hospital, whereas the Doctor, P.W.17 stated that P.W.5 only admitted the deceased in the Government Hospital, Gudiyatham, and he informed him that 7 persons attacked the deceased. In fact P.W.5 is not an



eye witness and he was only informed by P.W.2. Therefore whether P.Ws.2 and 3 accompanied the deceased while taking to the Hospital is also highly doubtful.

12 P.W.1, during the cross examination has admitted that he did not file the complaint immediately after the occurrence on 24.04.2014 and it is his evidence that after the occurrence P.Ws.2 and 3 took the deceased to Hospital and he along with P.W.4 went to the house by Auto. Further P.W.1 deposed that the distance between the police station and his house is only 1 to 2 Kms and therefore from his house he can easily reach the police station within 15 minutes, but he filed the complaint Ex.P1 only on the next day at 12.00 p.m., for which he offered his explanation that due to pain, he could not lodge the complaint on the same day, which is not at all acceptable, especially, when he was working as Warden at Central Prison, who definitely knows the basic procedures. Assuming that it is true that P.W.1 suffered with pain and he could not lodge the complaint on the same day, from the evidence of P.Ws.1 to 4, it is clear that P.Ws.2 and 3 took the deceased to the Hospital and P.Ws.1 and 4 went to the house, and hence P.W.4 could have lodged the complaint immediately through phone or in person, since



admittedly the distance to the police station is only 1 to 2 Kms. Therefore the act of P.W.1 viz. delay in filing complaint, creates doubt in the case of the prosecution.

13 It is to be noted that the deceased was initially taken to the Government hospital, Gudiyatham and he was treated by P.W.17 and thereafter, he was shifted to the Government Hospital at Vellore, for further treatment and it appears that he was given further treatment including suturing of the wounds and however, no doctor attached to the said hospital has been examined nor medical records have been seized and thereafter, he was shifted to the Government General Hospital at Chennai and there without responding to the treatment, he died subsequently.

14 Admittedly the deceased died on 01.05.2014, whereas, postmortem was conducted only on 04.05.2014, but there is no explanation offered by the investigating officer for the same. P.W.13 the Doctor, who conducted postmortem also deposed that the body was at decomposed state.



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15 The course or the manner of treatment given in the Government Hospital, Vellore, also assumes great importance and however, the prosecution did not examine anybody in connection with the treatment given to the injured in the said hospital at that point of time. It is also pertinent to point out at this juncture that A4 surrendered on 05.05.2014 and P.W.6, who was cited as witness for conspiracy, was examined subsequent to his surrender on 09.05.2014 and thereafter only, the conspiracy charge was added and as rightly pointed out by the learned Senior Counsel, the statements of all the material witnesses, viz., P.Ws.1 to 4 and all other documents had reached the jurisdictional Magistrate Court only on 22.02.2015 after much delay and no plausible explanation *prima facie* appears to have been given by the Investigating Officers.

16 Further a perusal of the evidence of P.W.17, the Doctor, who treated the deceased, would go to show that P.W.5 only admitted the deceased in the Hospital and P.W.17 informed the police on the same day, but there is no explanation from the Investigating officer as to why he waited till complaint is filed by P.W.1 on the next day. Even after filing of



complaint by P.W.1, the investigating Officer did not visit the Government Hospital, Gudiyatham or Government Hospital, Vellore or Government General Hospital at Chennai. Therefore this Court, as a final court of fact finding, while re-appreciating the entire evidence, finds that there are bundle of doubts in the case of the prosecution.

17 Even though defects in investigation should not stand in the way of administration of justice, in the present case, we observed that the origin of the case and the accusation attributed against the appellants are not proved in the manner known to law. There are bundle of doubts in the case of the prosecution and the manner in which the investigation was conducted, has highly disappointed this Court.

18 In the criminal jurisprudence, the burden of proof always rests on the prosecution and never shifts on the defence, except in specific, narrow circumstances. Further if the evidence is contradictory, inconsistent, or leaves multiple reasonable interpretations that one pointing to guilt and another to innocence, the court must adopt the view favoring the accused. While minor contradictions do not necessarily destroy the case of the



prosecution, a "bundle" of material contradictions, such as discrepancies between medical and ocular evidence or serious inconsistencies in witness testimonies, will create reasonable doubt. Further in this case, there are significant delays in filing complaint and registering the First Information Report (FIR) and sending the FIR to the Magistrate without any valid explanation and the prosecution miserably failed to establish its case beyond all reasonable doubts. Therefore the appellants/accused are entitled to benefits of doubts.

19 For the foregoing reasons and observations, the Criminal Appeal stands allowed. The appellants/accused are acquitted from the charges tried in S.C.No.11 of 2016 and the bail bond, if any executed by the appellants, shall stand cancelled. Consequently connected miscellaneous petition is closed.

20 Further since this Court highly disappointed with the manner in which the investigation conducted in the present case, which lead to acquittal of the appellants, extending benefits of doubts, has directed the Additional Public Prosecutor to give the names of the Investigating Officer



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during the relevant point of time, for which three Officers names were given.

Therefore the Director General of Police, is hereby directed to take action against the officials named in Sl.Nos.2 and 3 of the report viz. Ramesh, Inspector of Police and Irudayaraj, Inspector of Police.

[PVJ]

[MJRJ]

06.01.2026

Speaking Order/Non Speaking Order
Neutral Citation case: Yes/no
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To

1. The Additional District Judge, Fast Track Court, Vellore.
2. The Inspector of Police, Melpatti Police Station, Vellore.
3. The Public Prosecutor, High Court of Madras.

Copy to: The Director General of Police, Tamilnadu.
(with copy of communication of DSP, Vellore District, in letter
No.C.No.12/SDO-GDM/2026, dated 06.01.2026)



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