



CRL A NO.156 OF 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-02-2026

CORAM

THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL A.No.156 OF 2018

1.Suresh,
S/o.Mr.Elumalai,
No.62, Bajanai Koil Street,
Prayampathu Village,
Thirumazhisai.

2. Ramesh @ Lakshmanan,
S/o.Mr.Palani
Prayampathu Village,
Thirumazhisai.

Appellants/A1 & A2

Vs

State through,
The Inspector of Police,
Vellavedu Police Station,
Tiruvallur District.
(Crime No.318 of 2012)

Respondent(s)

Prayer: The Criminal Appeal filed under Section 374(2) of Cr.P.C. praying to call for the records in S.C.No.102 of 2014 on the file of the learned Sessions Judge, (Fast Track Mahila Court) at Tiruvallur and allow the appeal, set aside



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the judgment and order of conviction dated 14.02.2018 and acquit the appellants.

For Appellants : Mr.R.Ganesh Kumar

For Respondent : Mr.S.Udayakumar
Government Advocate (Crl. Side)
Assisted by
Ms.Harshana.T

J U D G M E N T

The appellants/A1 & A2 both convicted by the trial Court in S.C.No.102 of 2014 by judgment dated 14.02.2018. The appellants were found guilty for offence under Section 294(b) of I.P.C. and sentenced to undergo rigorous imprisonment for three months. The first appellant/A1 found guilty for offence under Section 307 r/w 34 of I.P.C. and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.3,000/-, in default, to undergo simple imprisonment for three months. The second appellant/A2 found guilty for offence under Section 307 of I.P.C. and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.3,000/-, in default, to undergo simple imprisonment for three months. Aggrieved against the said conviction, the present appeal is filed.



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2.(i)The case of the prosecution is that the defacto complainant/PW1/Parameswari was running a road side platform tiffin stall at South Mada Street, Thirumazhisai, assisted by her son in the said business. On 14.06.2012 at about 8.30 p.m., the appellants/A1 & A2 had take tiffin in the defacto complainant's tiffin stall, later refused to pay the bill amount. When the defacto complainant demanded for payment of bill, the appellants abused and scolded her using filthy language. The second appellant at the instigation of first appellant with an intention to murder her, threw burning kerosene lamp on her face and escaped from the scene. The defacto complainant sustained burn injuries on her face, left hand, neck and stomach.

(ii) The victim/defacto complainant admitted in Surya Hospital by her son/PW2.

(iii)The Sub-Inspector of Police, Vellavedu Police Station/PW9 on getting information recorded the statement from PW1 and registered a case in Crime No.318/2012 for offence under Sections 294(b) and 307 of I.P.C.

(iv)Thereafter, the Inspector of Police/PW10 took up investigation, went to the scene of occurrence, prepared observation mahazar, rough sketch and seized the kerosene lamp/MO1 found in the scene of occurrence.



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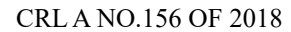
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(v)The first appellant was arrested on 16.06.2012 and his confession statement recorded in presence of witnesses.

(vi)The injured Parameswari initially admitted in Ramachandra Medical College Hospital on 15.06.2012 and the Doctor issued Accident Register/Ex.P9, recording victim suffered second grade superficial partial burn injuries of 15%.

(vii)The Doctor/PW8 at Surya Hospital issued Accident Register and Wound Certificate/Exs.P6 & P7, the statement of Doctors recorded, documents collected and on conclusion of investigation sections altered by alteration report/Ex.P11 for offence under Sections 294(b), 384 and 307 r/w 34 of I.P.C. filed. On completion of investigation, charge sheet filed.

3.During trial, on the side of the prosecution, PW1 to PW11 examined and Exs.P1 to P11 marked and M.O.1 produced. On the side of the defence, no witnesses examined and no documents marked. On conclusion of trial, the trial Court convicted the appellants as stated above.



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known and no investigation conducted in this regard.

5.The learned counsel further submitted that merely on suspicion, the first appellant arrested in this case, later second appellant added. On the evidence of PW1, the appellants were convicted by the trial Court. The evidence of PW1 is contradictory with exaggeration and improvements. PW1 for the first time identifying the appellant in the dock after four years. Hence, the identification becomes highly doubtful. It was suggested to the Doctor that burn injury sustained might be due to accident fall of the kerosene lamp and Doctor admit the same but prosecution projected as though appellants threw the burning kerosene lamp, without any evidence and materials. He further submitted that on the evidence and materials produced, the conviction of the appellants for offence under Sections 294(b), 307 and 307 r/w 34 of I.P.C. is not sustainable. He further submitted that now at the intervention of elders and others, the issue between appellants and victim/PW1 amicably settled between them. The appellants paid compensation of Rs.1,80,000/- for her medical treatment, though the appellants are not the cause for the injuries.



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6.The learned Government Advocate (Crl. Side) on the other hand strongly opposed the appellants' contention and submitted that on 14.06.2012, PW9/Sub-Inspector of Police when he was on duty, received information from Ramachandra Medical College Hospital about defacto complainant taking treatment. Thereafter he went to the hospital, recorded her statement, registered F.I.R. in Crime No.318 of 2012 for offence under Sections 294(b) and 307 of I.P.C. Thereafter PW10 took up investigation, visited the scene of occurrence, prepared observation mahazar, rough sketch in presence of PW4 and PW5, collected the kerosene lamp/MO1 from the scene of occurrence. On getting information about the accused in presence of PW6 and PW7, the first appellant arrested and Ex.P5/confession statement recorded. PW8 is the Doctor attached to Surya Hospital given treatment to the victim on 15.06.2012 at about 11.17 p.m. and issued Accident Register/Ex.P6 and Wound Certificate/Ex.P7. The wound certificate confirms, victim sustained burn injury on her face, left hand, neck and stomach and gave certificate that injury sustained is grievous in nature. PW2 and PW3 are the victim's son and relative, who confirm victim taken to hospital immediately for medical treatment. PW10 completed the investigation, on his transfer PW11 filed charge sheet in this case.

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7.He further submitted that during trial, on the side of the prosecution, PW1 to PW11 examined and Exs.P1 to P11 marked and M.O.1 produced. On the side of the defence, no witnesses examined and no documents marked. The trial Court on the evidence and materials had rightly convicted the appellants. He further submitted that today victim appeared and confirmed that a compromise was arrived between the appellants and the victim and the victim was compensated for her medical treatment.

8.Considering the submissions made on either side and upon perusal of the medical report, it is seen that the victim/defacto complainant suffered second grade superficial partial burn injuries of 15%. The defacto complainant was running a tiffin shop in a public place. In this case, except for the evidence of PW1, no other public witnesses examined. Admittedly, PW2 and PW3 had come to the scene after the occurrence. Other than PW1 none had seen the occurrence proper. In the Accident Register/Ex.P6, it is recorded that three unknown persons came to the tiffin centre and after having their food not paid the money and there was heated arguments and one of them had thrown kerosene lamp on the face of the victim. In



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Ex.P9/Accident Register issued by Ramachandra Medical College Hospital, it is recorded that the victim was assaulted by one unknown person by using kerosene lamp. Admittedly, the occurrence had taken place at night hours in a public road, no public witness examined and the injuries are superficial burn injuries, the Doctor admits that the burn injuries could have been due to accidental fall of the kerosene lamp.

9.Further in Ex.P7, there is no percentage of burn injuries and Ex.P9 not marked by the Doctor, who treated the victim or by any other Doctor from the Ramachandra Medical College Hospital but marked through the Investigating Officer. From the Doctor evidence and medical report it cannot be held, the offence under Section 307 of I.P.C. is made out, it can at best come under Section 324 of I.P.C. Further, in this case, the occurrence took place on 14.06.2012 and in both the accident registers it was recorded that unknown persons caused burn injuries but four years later, i.e., in the year 2016, PW1 identified the appellants for the first time in the dock, which is highly doubtful.



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10.Be that as it may. Now a compromise has been arrived between the appellants and defacto complainant. Today, the defacto complainant, Parameswari appeared before this Court in person and confirmed the compromise arrived between the appellants and defacto complainant. Further there is no permanent scar or marks found on her due to the burn injury. PW1 confirmed she felt some heat and pain alone.

11.In view of the same, the conviction of the appellants for offence under Sections 294(b), 307 and 307 r/w 34 of I.P.C. is not sustainable. Hence, the judgment of conviction passed by the learned Sessions Judge, Magalir Neethimandram, Tiruvallur in S.C.No.102 of 2014 dated 14.02.2018 is set aside and appellants are acquitted from the charges levelled against them. The fine amount paid, if any, shall be refunded. The bail bond executed, if any, shall stand cancelled.

12.Accordingly, the Criminal Appeal is allowed.

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Index : Yes/No
Internet : Yes/No
Neutral Citation: Yes/No
Speaking order/Non-speaking order
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To

- 1.The Sessions Judge,
Magalir Neethimandram,
Tiruvallur.
- 2.The Inspector of Police,
Vellavedu Police Station,
Tiruvallur District.
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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