



CRL A No. 577 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 09-04-2026

PRONOUNCED ON : 20-04-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

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1. N.Subramani @ Subramanian (died)
... 1st appellant/Defacto complainant

2. Maryrani

3. Selvaraj

4. Sheela

5. Anandaraj

6. Porkalai

... Appellants 2 to 6 / Legal
Heirs of 1st appellant

Vs.

1.Chakravarthi

2.Saravanan

3.Purushothaman

4.Kathirvel

5.Shanmugam

6.Anandaraj

7.Radhakrishnan

8.Janarthanan

9.Dayalan

10.Devaraj

11.Muthukrishnan

... Respondents 1-11/Accused 1-11

12.The State Rep by its,
The Inspector of Police,
Periyathatchur Police Station,
Villupuram District.
[Cr.No. of 233 of 2010]

... 12th Respondent/Complainant



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(Sole appellant died. Appellants 2 to 6, legal heirs of deceased sole appellant are substituted in place of deceased sole appellant as per the order of this court dated 23.02.2026 in Crl.MP.No.3272 of 2026 in Crl.A.No.577 of 2018)

Criminal Appeal filed under Section 378 of Code of Criminal Procedure, against the judgment of acquittal dated 27.09.2012 made in S.C.No.37 of 2012 by the learned II Additional District and Sessions Judge, Tindivanam and convict the accused/respondents 1 to 11.

For Appellant(s):	Mr. M.R. Jothimanian (for A2 to A6) A1 – Died
For Respondent(s):	R1 Died Ms. V. Vijayalakshmi, Legal Aid Counsel (for R2 to R11) Mr. S. Raja Kumar, Additional Public Prosecutor (for R12)

Judgment

(Judgment of the Court was delivered by Sunder Mohan J.)

An injured eyewitness to the occurrence had challenged the judgment of acquittal dated 27.09.2012 passed in S.C.No.37 of 2012 by the learned II Additional District and Sessions Judge, Tindivanam, in the above appeal.



2. (i) It is the case of the prosecution that on 08.07.2010 at about 3.00 p.m, on the instigation of A1, A2 to A11, armed with knives, iron rods, wooden logs and sickles, with an intention to cause the death of PW1 and the deceased, attacked them indiscriminately; that both PW1 and the deceased were admitted to the hospital; that they were unconscious for two days and the deceased succumbed to the injuries two months after the occurrence; and thus, all the accused were liable for the offences under Sections 147, 148, 341, 294(b), 323, 324, 427, 506(ii) and 307 of the IPC.

(ii) On the complaint [Ex. P1] given by PW1, an FIR [Ex. P10] in Cr.No.233 of 2010 was registered by PW15, Sub-Inspector of Police on 10.07.2010, for the major offence under Section 307 IPC and for the other allied offences. PW16 was deputed by the Superintendent of Police to conduct the investigation, as the jurisdictional Inspector of Police was on other duty. He conducted the inquest, handed over the dead body for postmortem, examined a few witnesses and thereafter handed over the investigation to PW17. PW17 took up the investigation, arrested a few accused, examined the remaining witnesses and filed the final report on



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14.01.2011 against all the accused for the major offence under Section 302 of the IPC and for other allied offences, before the learned Judicial Magistrate No.II, Tindivanam.

(iii) On the appearance of the accused, the provisions of Section 207 Cr.P.C. were complied with. The case was committed to the Court of Sessions and was made over to the learned II Additional District and Sessions Judge, Tindivanam, for trial, which was taken on file as S.C.No.37 of 2012. The Trial Court had framed the charges under Sections 148, 341, 294-b, 307 r/w 149 and 302 r/w 149 of the IPC against A2 to A11 and for the offence under Sections 307 and 302 r/w 149 of the IPC as against A1. The accused when questioned, pleaded 'not guilty'. The accused are respondents 1 to 11 in this appeal.

(iv) To prove its case, the prosecution had examined 17 witnesses as P.W.1 to P.W.17 and marked 17 documents as Ex.P1 to Ex.P17. When the accused were questioned, u/s.313 Cr.P.C., on the incriminating circumstances appearing against them, they denied the same. The accused neither examined any witness nor marked any document on their side.



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(v) On appreciation of oral and documentary evidence the trial Court found the accused not guilty of any of the offences charged against them and accordingly acquitted all the accused. It is against this judgment that the appeal is filed by the defacto complainant. Since the appellant/defacto complainant died pending appeal, his legal heirs were impleaded as appellants 2 to 6 and were permitted to prosecute the appeal.

3. The learned counsel for the appellants would submit that the judgment of the trial Court is perverse inasmuch as it ignored the evidence of PW2; that minor inconsistencies or contradictions would not render the prosecution case false; that even assuming that there is a flaw in the investigation, the same would not render the witnesses unreliable; and that therefore, the judgment is liable to be set aside. The learned counsel took us through the evidence of the witnesses to buttress his submissions.

4. The learned Additional Public Prosecutor reiterated the submissions made by the learned counsel appearing for the appellants and



submitted that the eyewitnesses ought not to have been disbelieved by the trial Court.

5.(i) Though notice had been served on the respondents 1 to 11, none had entered appearance and hence this Court had appointed Ms.V.Vijayalakshmi, as the legal aid counsel.

(ii) The learned legal aid counsel submitted that the judgment of the trial Court does not suffer from perversity; that the view taken by the trial Court is plausible and even assuming that a different view is possible, the judgment of acquittal, which had reiterated the presumption of innocence, cannot be interfered with; that PW1 and PW2 cannot be believed; that there is an inordinate delay in lodging of the complaint; that the doctor [PW13] had observed in the Wound Certificate [Ex.P5] that PW1 was conscious and had sustained only simple injuries, which is contrary to the evidence of PW1 that he was unconscious for two days; that the other witnesses who are stated to be eyewitnesses have admitted in their cross-examination that they had not witnessed the occurrence; and therefore, prayed for dismissal of the appeal.



6.(i) As stated above, the prosecution had examined 17 witnesses.

PW1 to PW3, PW5 and PW12 were examined as eyewitnesses by the prosecution. PW4 is the wife of the deceased and a hearsay witness. PW6 is a witness to the Observation Mahazar [Ex.P2] and Rough Sketch [Ex. P16]. PW7 is one of the sons of the deceased-Perumal and the brother of PW5. He had deposed regarding the enmity between the deceased and PW1 on the one hand and the accused on the other hand. PW8 went to the place of occurrence on hearing about the attack and had taken PW1 and the deceased to the hospital.

(ii) PW9 is the doctor who had treated the deceased at JIPMER Hospital. According to PW9, the deceased was brought to the hospital at 11.35 p.m. on 08.09.2010. PW10 is the doctor who treated the deceased at PIMS Hospital and had stated that the deceased was admitted to his hospital on 09.09.2010 at about 3.00 a.m. PW11 is the Constable who had handed over the body to the doctor for postmortem. PW13 is the doctor who was working in the Government Hospital, Chengalpattu, and had treated PW1 and the deceased on 08.07.2010 and had issued the wound certificates [Ex.P5 and Ex.P6]. PW14 is the postmortem doctor and had



issued the postmortem certificate [Ex.P9]. PW15 is the Sub-Inspector of Police who had registered the FIR. PW16 and PW17 are the investigating officers.

7. It is the case of the prosecution that PW1 and the deceased sustained injuries due to an attack made by the accused in an occurrence that took place on 08.07.2010 at about 3.00 p.m. According to the prosecution, PW1 and the deceased along with the eyewitnesses were proceeding in motorcycles after giving a complaint to the police regarding an incident that took place that morning and were attacked by the accused.

8. The deceased died two months after the occurrence. The doctor PW14 who had conducted the postmortem had deposed that the deceased died of an intra-cerebral haemorrhage due to hypertension. The above opinion coupled with the fact that the deceased died two months after the occurrence would make the prosecution case that the deceased died due to the attack made on him two months prior to his death doubtful. In the absence of conclusive proof that the deceased suffered a homicidal death, we have to examine whether the deceased was attacked by the accused.



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9. As stated above, PW1 to PW3, PW5 and PW12 were examined as eyewitnesses. PW12 turned hostile and is of no avail to the prosecution. PW2, PW3 and PW5 are said to have followed the deceased and PW1 in separate motorcycles before the occurrence. PW1 is the injured eyewitness and PW2 is his son. PW3 had admitted in the cross-examination that he had not witnessed the occurrence. PW5 is the son of the deceased. The question, therefore, is whether PW1, PW2, PW3 and PW5 can be believed.

10. According to PW5, he came along with PW3-Dhandapani in the same vehicle. It is PW3's evidence that he had gone to the occurrence place after all the accused had left. Therefore, the presence of PW5 at the time of occurrence is doubtful. That apart, if PW5 had really seen the accused, there was no reason why he had not lodged the complaint immediately. In fact, PW13, the doctor who had first treated the PW1 and deceased, had stated that both PW1 and the deceased were brought by the said Dhandapani [PW3]. There is no reference to the presence of PW5.



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11. Be that as it may, PW1 would state in his deposition that after he was attacked, he became unconscious till 10.07.2010 and thereafter he was examined by the police. His evidence is contrary to the evidence of PW13, the doctor who had recorded in the wound certificates [Ex.P5 and Ex.P6, respectively] that PW1 and the deceased were conscious. The doctor had further opined that PW1 and the deceased had sustained only simple injuries.

12. PW1 would further state that the police had received the complaint from the deceased on 08.07.2010. The police had suppressed the said complaint of the deceased. PW1 would also add in the cross-examination that after they were attacked, both were lying at the place of occurrence for 10 minutes and only thereafter PW2, his son, came to the occurrence place. His evidence therefore renders the prosecution case that PW2 witnessed the occurrence doubtful.

13. The complaint [Ex.P1] relating to the occurrence was lodged on 10.07.2010 at about 02.00 p.m. There is absolutely no explanation for the delay. It is needless to say that if a person injured in an attack is admitted



to the hospital, the hospital authorities are bound to inform the police.

The prosecution case that no information was received from the hospital and nobody lodged any complaint on 08.07.2010 is highly doubtful.

14. PW2, had deposed that even on 08.07.2010, the police had recorded the statements of both the deceased Perumal and PW1 Subramani. The prosecution therefore, had suppressed the first information and the complaint [Ex.P1] lodged on 10.07.2010 could not have been the first information. The witnesses had two days time to deliberate and lodge a complaint. It is seen from the complaint [Ex.P1] that the line spacing in the last seven lines is less than the line spacing in the preceding lines. When this was specifically put to the investigating officer, he denied that the line spacing is different, which is however, visible on a perusal. This also probabilises the defence case that the signature was obtained on a blank paper and the contents were filled later.

15. The express FIR was sent to the Court on 11.07.2010 at about 12.10p.m., which is with a further delay of 24 hours after the FIR was registered. It is well settled that if the FIR is brought into existence long



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after the occurrence or found to be fabricated, the entire fabric of the prosecution case would collapse and it is very difficult to check the authenticity of the witnesses. In *Marudanal Augusti vs State of Kerala* reported in (1980) 4 SCC 425, the Hon'ble Supreme Court had reiterated the above principle. The relevant portion reads as follows:

“The High Court seems to have overlooked the fact that the entire fabric of the prosecution case would collapse if the FIR is held to be fabricated or brought into existence long after the occurrence and any number of witness could be added without there being anything to check the authenticity of their evidence.”

16. The investigating officer had also admitted that statements of all witnesses were sent to the Magistrate one year after the occurrence. Thus, there is a doubt as to whether the witnesses were examined on the dates claimed by the investigating officer.

17. It is further seen that both PW1 and the deceased-Perumal, had stated to the doctor that they were attacked by six known persons. However, in the complaint [Ex.P1], PW1 had mentioned the names of 11



persons and stated that those persons along with six unknown persons attacked him. There is an improvement in the version and in view of the delay in lodging the complaint, the possibility of deliberation and false implication cannot be ruled out. That apart 11 accused have been named in the final report filed by the police. Even assuming that the six persons mentioned before the doctor are included in this list, it is difficult to ascertain as to which of the six accused out of the 11 accused, are the actual offenders. It is impossible to separate the chaff from the grain.

18. Thus, it could be seen that the presence of PW2 and PW5 is highly doubtful for the reasons stated above. PW1 cannot be believed, as his version that he was unconscious for two days is a faint attempt to explain the delay, which is falsified by the other evidence on record. There is an improvement in his version in the complaint from his earliest version given to the doctor. The delay in lodging the FIR has not been explained. The delay in despatching the express FIR to the Court and the Section 161 Cr.P.C. statements of the witnesses has also not been explained. The prosecution case that the deceased suffered a homicidal death also appears to be highly doubtful, in view of the opinion of the



doctor who conducted the postmortem. The earliest version has been suppressed, as could be seen from the evidence of PW1 and the complaint [Ex.P1] could not have been the first information.

19. The law relating to the appeal against the acquittal is well settled. The Appellate Court shall not interfere with the Judgment of acquittal, unless the finding is perverse. If two views are possible and the Trial Court had taken a plausible view, the Appellate Court shall not interfere. The Hon'ble Supreme Court in ***Ghurey Lal v. State of Uttar Pradesh, reported in (2008) 10 SCC 450***, reiterated this position of law.

The relevant portion reads as follows:-

“70. In light of the above, the High Court and other appellate courts should follow the well-settled principles crystallised by number of judgments if it is going to overrule or otherwise disturb the trial court's acquittal:

1. The appellate court may only overrule or otherwise disturb the trial court's acquittal if it has “very substantial and compelling reasons” for doing so. A number of instances arise in which the appellate court would have “very substantial and compelling reasons” to discard the trial court's decision. “Very substantial and compelling reasons” exist when:

- (i) The trial court's conclusion with regard to the facts is palpably wrong;
- (ii) The trial court's decision was based on an erroneous view of law;



(iii) The trial court's judgment is likely to result in “grave miscarriage of justice”;

(iv) The entire approach of the trial court in dealing with the evidence was patently illegal;

(v) The trial court's judgment was manifestly unjust and unreasonable;

(vi) The trial court has ignored the evidence or misread the material evidence or has ignored material documents like dying declarations/report of the ballistic expert, etc.

(vii) This list is intended to be illustrative, not exhaustive.

2. The appellate court must always give proper weight and consideration to the findings of the trial court.

3. If two reasonable views can be reached—one that leads to acquittal, the other to conviction—the High Courts/appellate courts must rule in favour of the accused."

20. Therefore, the trial Court judgment acquitting the respondents 1 to 11 cannot be faulted and in any case, it is not perverse, warranting an interference in the appeal against acquittal. We may further observe that there cannot be any other reasonable view in the facts of the case and therefore, we are of the view that the impugned judgment deserves to be confirmed.



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21. In the result, the Criminal Appeal is dismissed. The acquittal of respondents 1 to 11, vide judgment dated 27.09.2012 in S.C.No.37 of 2025, on the file of the learned II Additional District and Sessions Judge, Tindivanam, is confirmed.

(A.S.M.,J.) (S.M.,J.)
20-04-2026

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

1. The II Additional District and Sessions Judge,
Tindivanam.

2. The Inspector of Police,
Periyathatchur Police Station,
Villupuram District.

3. The Public Prosecutor,
High Court, Madras.



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**DR.ANITA SUMANTH J.
AND
SUNDER MOHAN J.**

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**Pre-delivery judgment in
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