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Crl.RC.No.1841 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2026

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.RC.No.1841 of 2023

1. Arunagiri

2. Balu @ Balachandran

... Petitioners

Vs.

State represented by
The Inspector of Police,
Gingee Police Station,
Villupuram District.

(Crime No.714 of 2013)

... Respondent

Prayer: Criminal Revision Case is filed under Section 397 r/w 401 of Criminal Procedure Code, 1973, to set aside the judgment and conviction passed in C.A.No.63 of 2023 dated 29.09.2023 on the file of the I-Additional Sessions Judge, Tindivanam, confirming the conviction made in C.C.No.115 of 2014 on the file of the Judicial Magistrate, Gingee.

For Petitioners : Mr.V.K.Sathiamurthy

For Respondent : Mr.R.Vinothraja

Government Advocate (Crl. Side)

ORDER

This Criminal Revision Case challenges the judgment of



conviction and sentence imposed by the learned I-Additional Sessions Judge, Tindivanam in C.A.No.63 of 2023 dated 29.09.2023, confirming the

conviction and modifying the sentence imposed on the 2nd petitioner alone of the judgment dated 16.06.2023 passed in C.C.No.115 of 2014 by the learned Judicial Magistrate, Gingee.

2. The trial Court found that the petitioners were guilty of the offences under Sections 324 and 326 r/w 34 of IPC and sentenced them imprisonment as follows:

Accused Rank	Offence under Section	Sentence imposed
A1	326 r/w 34 IPC	To undergo SI for three years and to pay a fine of Rs.1,000/- in default to undergo SI for two months.
A2	326 IPC	To undergo SI for three years and to pay a fine of Rs.1,000/- in default to undergo SI for two months.
	324 IPC	To undergo SI for three years
Sentences were ordered to run concurrently.		

3. On appeal, the appellate Court while confirming the conviction rendered by the trial Court had modified the sentence imposed on



the 2nd petitioner alone as follows:

Accused Rank	Offence Section	under	Sentence imposed
A1	326 r/w 34 IPC		To undergo SI for three years and to pay a fine of Rs.1,000/- in default to undergo SI for two months.
A2	326 IPC		To undergo SI for three years and to pay a fine of Rs.1,000/- in default to undergo SI for two months.
	324 IPC		To undergo SI for one years

4. The case of the prosecution is that on account of prior enmity, the petitioners / Accused 1 and 2 attacked P.W.1 to P.W.4, who are closely related to them with hands, sticks and stones; that P.W.1 sustained grievous injuries, and P.W.2 to P.W.4 sustained simple injuries and thus the petitioner committed the offences.

5. The prosecution has examined eight witnesses to prove its case. P.W.1 to P.W.4 are the injured witnesses. P.W.5 Doctor, who had examined the victims and made entries in the Accident Register. P.W.6 is the Observation Mahazer witness. P.W.7 is the Sub-Inspector of Police, who registered the F.I.R and handed over the investigation to P.W.8, who is the Investigating Officer.



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6. The learned counsel for the petitioners would submit that the findings of the Courts below are perverse; that the complaint was lodged belatedly as an after thought; that the prosecution had suppressed the counterst complaint given by the 1st petitioner against P.W1 and others, which was registered in Crime No.715 of 2013 for the offences under Sections 147, 148, 294(b), 323, 324 and 506(ii) IPC; that the Investigating Officer had suppressed the said case and had filed the final report in the case against the petitioners in violation of Police Standing Order 566 (Old PSO 588).

7. The learned Government Advocate (Crl. Side) for the respondent would fairly submit that there was a case registered against the victims on the complaint given by the first petitioner in Crime No.715 of 2013. However, the said F.I.R was not brought on record and it was closed as 'mistake of fact'.

8. The evidence of P.W.1 to P.W.4 would suggest that on the intimation given by the hospital authorities when they were admitted to the hospital on the date of occurrence, i.e., on 11.11.2013, the Police came and



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enquired them at about 10.00 p.m., and thereafter recorded their statements on the next day morning. It is not known why no F.I.R. was registered on the same day when the Police had received the information. It is the specific case of the petitioners that the occurrence did not take place in the manner alleged by the prosecution and that they had also sustained injuries and the prosecution had suppressed the complaint lodged by the first petitioner, which was registered in Crime No.715 of 2013 as stated above. P.W.2 in her cross-examination would admit that on the complaint given by the first petitioner, a case was registered against her husband and others and that the Police had made enquiries. When the Investigating Officer was confronted with the fact that a case was registered against P.W.1 to P.W.4 in Crime No.715 of 2013, the Investigating Officer stated that he did not remember whether any such case was registered. The Investigating Officer had not denied the registration of the case. This is contrary to the evidence of P.W.2 that in fact, a case was registered. In fact, on instructions, the learned Government Advocate would submit that a case in Crime No.715 of 2013 was registered and closed as “mistake of fact” as the petitioners were the aggressors.



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9. It is well settled that, if there is a case and counter-complaint, the Police have to adhere to the Police Standing Orders and if they find that the accused in one case is the aggressor, they are entitled to close the F.I.R. in the other case. However, the Police ought to have brought the facts relating to the said complaint and the final report before the Court to enable it to evaluate the facts in the proper perspective. The conduct of the Investigating Officer in denying the registration of the F.I.R. suggests that the Police have violated PSO 566 (Old PSO 588) and a reasonable doubt arises as to whether the occurrence took place in the manner alleged by the prosecution. In fact, it is seen that the F.I.R. in Crime No.715 of 2013 was marked by the defence. The investigating officer had no explanation to offer.

10. Therefore, this Court is of the view that in the instant case, the F.I.R. has been brought into existence long after the occurrence and the first complaint given by the witnesses on the night of 11.11.2013 has been suppressed. It is well settled law that if the F.I.R. is held to be a fabricated or brought into existence long after the occurrence, then the entire case of the prosecution would collapse.



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11. The Hon'ble Supreme Court in ***Marudanal Augusti vs State***

Of Kerala reported in (1980) 4 SCC 425, held that if the genesis and origin of the occurrence are suppressed, the witnesses cannot be believed and a conviction cannot be based on the deposition of such witnesses. 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 F.I.R. is held to be fabricated or brought into existence long after the occurrence and any number of witnesses could be added without there being anything to check the authenticity of their evidence.”

12. Further, as stated above, the prosecution had suppressed the fact that a counter-complaint was filed and the Investigating Officer had no explanation when it was marked during cross-examination. For all the above reasons, this Court is of the view that the judgments of the Courts below are perverse and suffer from legal infirmity calling for interference.

13. In the result, the Criminal Revision Case is allowed. The conviction and sentence imposed upon the petitioners/Accused 1 and 2 in C.A.No.63 of 2023 dated 29.09.2023, on the file of the learned I-Additional



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Sessions Judge, Tindivanam, are set aside. The petitioners/Accused 1 and 2 are acquitted of the charges. The fine amount, if any, paid by the petitioners shall be refunded. Bail bond, if any, executed shall stand discharged.

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Index : Yes/No
Speaking Order/Non Speaking Order

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To

1. The I-Additional Sessions Court, Tindivanam.
2. The Judicial Magistrate, Gingee
2. The Inspector of Police,
Gingee Police Station,
Villupuram District.
3. The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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