



Crl.A.(MD)Nos.243 to 246 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 19.01.2026

Pronounced on : 12.02.2026

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.A.(MD)Nos.243 to 246 of 2023

1.Santhanasamy

2.Sahaya Xavier

3.Jayarani

...Appellants in Crl.A.
(MD)No.243 of 2023

Santhanasamy

...Appellant in Crl.A.
(MD)No.244 of 2023

Sahaya Xavier

...Appellant in Crl.A.
(MD)No.245 of 2023

Jayarani

...Appellants in Crl.A.
(MD)No.246 of 2023

Vs.

1.Felix Adaikalaraj

2.Jenner

1/54



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3.Arun @ Arul

4.Leo Kannan

5.Veno @ Noel @ Edward Noel

6.Joseph Stephen

7.Michael Dass

8.Jennifer Saghaya Beula

9.State rep. by
The Inspector of Police,
Lalgudi Police Station,
Trichy District.
(Crime No.967 of 2005)

... Respondents in all the
appeals

Common Prayer : These Criminal Appeals filed under Section 372 Cr.P.C., to call for the records of the learned III Additional District Judge, Tiruchirappalli in Crl.A.Nos.92 of 2012, 108 of 2012, 109 of 2012 and 110 of 2012 by judgment dated 18.01.2013 and set aside the judgment and convict the respondents 1 to 8 herein.

(in all the cases)

For Appellants : Mr.M.Karunanithi

For Respondents : Mr.R.Anand
for M/s.T.J.Ebenezer Charles for R1 to R8

Mr.B.Thanga Aravindh,
Government Advocate (Criminal Side) for R9



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COMMON JUDGMENT

These Criminal Appeals are directed against the common judgment of acquittal made in Crl.A.Nos.92 of 2012, 108 of 2012, 109 of 2012 and 110 of 2012 dated 18.01.2013 on the file of the III Additional District Court, Tiruchirappalli, reversing the judgment of conviction and sentence passed in S.C.No.121 of 2006 dated 28.09.2012 on the file of the Court of Chief Judicial Magistrate, Tiruchirappalli.

2. The appellants are the victims / injured in the occurrence allegedly held on 22.12.2005 in S.C.No.121 of 2006 on the file of the Court of Chief Judicial Magistrate, Tiruchirappalli.

3. The Inspector of Police, Lalgudi Police Station, Trichy District laid a final report against the respondents 1 to 8 / accused alleging that on 22.12.2005 at about 08.00 p.m., when the appellants / victims / injured were chatting outside their house, all the accused formed an unlawful assembly with deadly weapons with a common intention to kill the witnesses Santhana Samy and his wife Jayarani, that the first accused assaulted the witness Santhana Samy with iron pad and caused simple



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injuries on his left ear portion, that the second accused attacked the witness Sahaya Xavier with casuarina log and caused grievous injuries on his left forehead, that the third accused attacked the witness Santhana Samy with casuarina log and caused simple injuries on his left shoulder, that the fourth accused attacked the witness Jayarani with iron pad and caused grievous injuries on her head and left eye brow, that the fifth accused attacked the witness Sahaya Xavier with iron pad and caused injuries on his head, that the sixth accused assaulted the witness Santhana Samy with casuarina log and caused simple injuries on his left wrist, that the seventh accused attacked the witness Sahaya Xavier with casuarina log and caused grievous injuries on his left shoulder, that the eighth accused caught hold the hair of the witness Jayarani and assaulted her with hands, that the fifth accused, by showing iron pad, threatened the witnesses that they would kill them and that thereby the accused had committed the offences punishable under Sections 147, 148, 324, 326, 307, 506(2) IPC r/w 149 IPC.

4. The learned Judicial Magistrate, Lalgudi, took the charge sheet on file in P.R.C.No.7 of 2006 and furnished the copies of records under



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Section 207 Cr.P.C. on free of costs. The learned Judicial Magistrate, finding that the offence under Section 307 IPC is exclusively triable by the Court of Sessions, after compliance under Sections 208 and 209 Cr.P.C., had committed the case to the file of the Principal Sessions Court, Tiruchirappalli and the same was taken on file in S.C.No.121 of 2006 and thereafter, the case was made over to the Court of Chief Judicial Magistrate, Tiruchirappalli.

5. After appearance of the accused, the learned Chief Judicial Magistrate / Assistant Sessions Judge, Tiruchirappalli, on hearing both the sides and on perusal of the records, being satisfied that there existed a *prima facie* case against the accused, framed charges under Sections 147, 148, 324, 326, 307, 506(2) IPC and the same were read over and explained to them and on being questioned, all the accused denied the charges and pleaded not guilty.

6. The prosecution, to prove its case, examined 16 witnesses as P.W.1 to P.W.16, exhibited 28 documents as Ex.P.1 to Ex.P.28 and marked 2 material objects as M.O.1 and M.O.2 series.



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7. The learned Chief Judicial Magistrate, Tiruchirappalli, after conclusion of trial, passed a judgment dated 28.09.2012 convicting the accused 1 to 7 under Section 148 IPC and sentenced them to undergo 2 months simple imprisonment and to pay a fine of Rs.1,000/- each, in default to undergo 2 months simple imprisonment; the accused 1, 3 and 6 under Section 324 IPC and sentenced them to undergo 3 months simple imprisonment and to pay a fine of Rs.2,000/- each, in default to undergo 3 months simple imprisonment; and the accused 2, 4, 5 and 7 under Section 326 IPC and sentenced them to undergo 6 months simple imprisonment and to pay a fine of Rs.3,000/- each, in default to undergo 3 months simple imprisonment and convicted the 8th accused for the offences under Sections 147 and 323 IPC and sentenced him to pay a fine of Rs.500/-, in default to undergo 1 month simple imprisonment for the offence under Section 147 IPC and to pay a fine of Rs.1,000/-, in default to undergo 1 month simple imprisonment for the offence under Section 323 IPC.

8. Aggrieved by the said judgment of conviction and sentence, all the accused filed a criminal appeal in Crl.A.No.92 of 2012. The injured witnesses P.W.1 Santhana Samy, P.W.2 Sahaya Xavier and P.W.3 Jayarani



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filed criminal appeals in Crl.A.Nos.108 of 2012, 109 of 2012 and 110 of 2012, challenging the acquittal of the accused for the offences under Sections 307 and 506(2) IPC. The learned III Additional District Judge, Tiruchirappalli, upon considering the materials available on record and on hearing the arguments of both the sides, passed a common judgment in all the four appeals dated 18.01.2013 allowing the appeal in Crl.A.No.92 of 2012 and thereby setting aside the judgment of conviction and sentence imposed on the accused 1 to 8 in S.C.No.121 of 2006 dated 28.09.2012 by the Court of Chief Judicial Magistrate, Tiruchirappalli and thereby acquitted all the accused. The learned first appellate Judge dismissed the other three appeals filed by the injured witnesses and thereby confirmed the judgment of acquittal for the offences under Sections 307 and 506(2) IPC passed by the trial Court.

9. Aggrieved by the said common judgment of the learned III Additional District Judge, Tiruchirappalli, in acquitting all the accused and dismissing the appeals, the injured witnesses P.W.1 to P.W.3 filed four criminal revisions in Crl.R.C.(MD)Nos.323 to 326 of 2013 before this Court and a learned Judge of this Court passed a common order dated



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14.05.2020 partly allowing the criminal revisions in Crl.R.C.(MD)Nos. 324 to 326 of 2013 and dismissing the criminal revision in Crl.R.C. (MD)No.323 of 2013 and thereby setting aside the judgment of acquittal passed by the first appellate Court and confirmed the conviction of all the accused except for the offences under Sections 307 and 506(2) IPC and restored the sentence imposed on the accused except the accused 2 and 3 and modified the sentence imposed on them.

10. Challenging the common order passed in Crl.R.C.(MD)Nos.323 to 326 of 2013, the accused 6 to 8 filed criminal appeals in Crl.A.Nos.90 to 93 of 2022 before the Hon'ble Supreme Court and the Hon'ble Supreme Court passed a judgment dated 25.01.2022 by holding that the order of conviction by the High Court while exercising the revisional jurisdiction under Section 401 Cr.P.C. is unsustainable, quashed and set aside the common order passed by this Court reversing the acquittal and convicting the accused and remitted the matters back to the High Court directing this Court to treat the revision applications as appeals under Section 372 Cr.P.C. and thereafter to decide and dispose of the same in accordance with law on their own merits. In pursuance of the said direction of the



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Hon'ble Apex Court, criminal revisions in Crl.R.C.(MD)Nos.323 to 326 of 2013 were converted as appeals in Crl.A.(MD)Nos.243 to 246 of 2023.

11. The case of the prosecution emerging from the evidence adduced by the prosecution in brief as follows;

(a) P.W.1 Thiru.Santhana Samy / defacto complainant is residing at West Street, Periyavarseeli with his family and is doing agricultural work. P.W.2 Sahaya Xavier is his son and P.W.3 Jayarani is his wife. The sixth accused Joseph Stephen is neighbor of P.W.1 and other accused are residing in the neighboring street. There existed previous enmity between P.W.1's family and the sixth accused in respect of a lane that existed between their properties. P.W.1 filed a civil case and obtained interim orders in his favour. On 22.12.2005 at about 08.00 p.m., when P.W.1 to P.W.3 were chatting outside their house, the accused 1 to 8, by forming an unlawful assembly with deadly weapons, came to that place and questioned P.W.1's action. All the accused attacked P.W.1 to P.W.3 with iron pad and casuarina log and caused simple injuries to P.W.1 and grievous injuries to P.W.2 and P.W.3. P.W.1's brother Antony Raj took the injured in an auto and admitted them in Government Hospital, Lalgudi.



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(b) P.W.8, Dr. Rajkumar, was on duty at the Government Hospital, Lalgudi, on the night of 22.12.2005. At about 08.35 p.m., P.W.1 was brought to the hospital by his brother, alleging that he had been attacked by nine known persons and others. P.W.8 examined P.W.1 and noticed four injuries on the left ear, left earlobe, left forearm and left shoulder. P.W.8 also attended on P.W.3, Jayarani, who stated that she had been attacked by nine known persons and others with an iron rod and a sickle. On examination, P.W.8 noticed three injuries on her left forehead, left eye and left eyelid. P.W.8 further examined P.W.2, Sahaya Xavier, and noticed eight injuries on the centre of the forehead, below the head, forehead, above the left eyebrow, left forehead, near the left eye, left shoulder and left leg. P.W.8 referred P.W.1 to P.W.3 to the Government Headquarters Hospital, Tiruchirappalli, for further treatment. P.W.8 issued wound certificates to P.W.1 to P.W.3, which were marked as Ex.P.6 to Ex.P.8 respectively.

(c) While P.W.1 was taking treatment at Government Hospital, Lalgudi, P.W.14 the then Sub Inspector of Police, Lalgudi, upon receipt of information, visited the Government Hospital, Lalgudi and received a complaint statement from P.W.1 under Ex.P.1 (Ex.P.19). On the basis of



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the said complaint, P.W.14 registered a case in Crime No.967 of 2005 under Sections 147, 148, 323, 324 and 506(2) IPC and prepared the First Information Report under Ex.P.20. He sent the original complaint and FIR to the Court of Judicial Magistrate, Lalgudi. P.W.14 took up the investigation and went to the Government Hospital, Lalgudi but he came to know that the injured were admitted at Kavery Medical Centre and Hospital, Trichy. He visited KMC Hospital and examined P.W.1 and recorded his statement. Since P.W.2 and P.W.3 were in Intensive Care Unit (ICU), he could not examine them.

(d) On 23.12.2005, P.W.14 visited the occurrence village at about 07.00 a.m. and inspected the scene of occurrence in the presence of P.W.4 Sankar and P.W.5 Karthi and prepared the observation mahazar under Ex.P.21 and drew a rough sketch under Ex.P.22. On getting secret information, he arrested the accused 1 and 5 at about 12.00 noon on 23.12.2005 at Paramasivapuram Railway Station and on enquiry, the fifth accused gave a voluntary confession statement and P.W.14 recorded the same in the presence of P.W.6 Nagendran and P.W.7 Sukumar. On the basis of the admitted portion of the confession statement under Ex.P.23, the fifth accused was taken to plantain farm at Abhishekapuram Village. The fifth



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accused had taken out two iron pads (M.O.1 series) of 1 feet length and two casuarina logs (M.O.2 series) of 3 feet length and the same were recovered in the presence of the same witnesses under the cover of seizure mahazar Ex.P.24. He sent the case properties to the concerned Court through Form 95 under Ex.P.25.

(e) P.W.14 visited KMC Hospital on 24.12.2005 morning and examined the witness P.W.2 Sahaya Xavier, who was taking inpatient treatment and recorded his statement. On the basis of the statement given by P.W.2, P.W.14 altered the case for the offence under Section 307 IPC and added the accused 6 to 8 and submitted a special report under Ex.P.26 to the Court of Chief Judicial Magistrate, Lalgudi. After alteration of the case, P.W.14 submitted the case file to the Inspector of Police, Siruganur for further investigation.

(f) P.W.9 Dr.Gowri was the duty doctor on 22.12.2005 night at KMC Hospital, Trichy. P.W.1 to P.W.3 came to the said hospital for treatment. P.W.9 admitted them in their hospital and issued wound certificates under Ex.P.9 to P.W.1 certifying that the injuries suffered by him are simple in nature and under Ex.P.10 and Ex.P.11 to P.W.3 and P.W.2 respectively certifying that the injuries suffered by them are grievous in nature. P.W.11



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Dr.Senthil Velmurugan the then Radiologist attached to KMC Hospital had taken CT scan of brain for P.W.3 Jayarani and noticed haematoma and compression and issued a report (Ex.P.12) as "EDH left frontal region with mass effect". He also had taken CT scan of brain after surgery and issued a report (Ex.P.12) as "post-operative changes left fronto-parietal region". P.W.11 had taken CT scan of brain for P.W.2 Sahaya Xavier and noticed fractures and issued a report (Ex.P.14) as "EDH left fronto parietal region with mass effect, post-operative changes right temporo-parietal region with thin SDH and depressed fracture left temporal bone" and another report (Ex.P.14) after surgery as "post-operative changes right temporo-parietal region with thin SDH with drainage tube insitu and post-operative changes left fronto-parietal region". P.W.12 Dr.Senthilvel Kumar Plastic and Hand Surgeon performed a surgery for the injuries suffered on the left ear of P.W.1 and issued wound certificate under Ex.P.16 certifying that the injuries are simple in nature. P.W.13 Dr.Ramesh Neurologist performed a surgery for the blood clots on left brain to P.W.3 Jayarani and issued a wound certificate under Ex.P.17 stating that the injuries are grievous in nature. He also performed a surgery for P.W.2 and issued a wound certificate under Ex.P.18 stating that the injuries are grievous in nature.



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(g) P.W.15 the then Inspector of Siraganur received the case file from P.W.14 and took up for further investigation. He inspected the scene of occurrence and examined the injured witnesses at KMC Hospital and recorded their statements. He examined the medical officer at Lalgudi Government Hospital, who gave first aid treatment to P.W.1 to P.W.3 and received the accident register extract. He also examined the medical officers, who treated P.W.1 to P.W.3 at KMC Hospital, Trichy and received the medical records. Since P.W.16 was appointed as Inspector to Lalgudi Police Station, P.W.15 submitted the case file to him. P.W.16 took up the case for further investigation and since the previous Investigating Officer examined the witnesses, he did not examine them again. After completion of investigation, he filed the final report on 15.02.2006 against all the accused for the offences under Sections 147, 148, 324, 326, 307, 506(2) IPC r/w 149 IPC. With the examination of P.W.16, the prosecution closed their side evidence.

12. When the accused were examined under Section 313(1)(b) Cr.P.C. with regard to the incriminating aspects found against them in the evidence adduced by the prosecution, they denied the same as false and



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stated that a false case has been foisted against them. The defence examined one Sekar as D.W.1.

13. According to D.W.1, he is a resident of Periyavarseeli Village and is acquainted with the accused as well as P.Ws.1 to 3. On 22.12.2005, at about 09.00 a.m., while he was chatting with Madhalaimuthu in front of the house of P.W.1, P.Ws.1 to 3 were inside their house. At that time, five or six outstation persons, armed with iron rods and wooden logs, came to the spot and attacked P.Ws.1 to 3, and thereafter left the place. P.W.1 informed that he was proceeding to the police station and left the scene. D.W.1 was also present near the house of P.W.1 at about 08.00 p.m. on the same day, but no incident had occurred at that time. He was examined by the police on the next day and was cited as a witness in the case; however, he was not examined by the prosecution. According to D.W.1, none of the accused were among the outstation persons who attacked P.Ws.1 to 3.

14. The learned Chief Judicial Magistrate, Tiruchirappalli, upon considering the evidence both oral and documentary and after hearing the arguments on either side, passed the judgment of conviction and sentence, as referred to supra.



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15. Heard Mr.M.Karunanithi, learned counsel appearing for the appellants / P.W.1 to P.W.3, Mr.R.Anand, learned counsel appearing for the respondents 1 to 8 / accused 1 to 8 and Mr.B.Thanga Aravindh, learned Government Advocate (Criminal Side) appearing for the ninth respondent police.

16. The point for consideration is whether the judgment of acquittal recorded by the learned first appellate Judge reversing the judgment of conviction and sentence passed by the learned trial Judge is liable to be interfered with.

17. Before advertng to the merits of the case, it becomes necessary to consider a preliminary legal objection raised by the learned counsel appearing for P.W.1 to P.W.3, which, according to them, goes to the root of the matter and vitiates the entire proceedings.

18. The learned counsel appearing for P.W.1 to P.W.3 would submit that the offence under Section 307 IPC is punishable with imprisonment which may extend to ten years or with imprisonment for life if hurt is



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caused, in addition to fine. In view of Section 28 Cr.P.C., which prohibits an Assistant Sessions Judge from awarding imprisonment for life or imprisonment exceeding ten years, it is contended that the Assistant Sessions Judge, who framed the charges, conducted the trial, and passed the judgment of conviction, lacked the jurisdiction to try the offence under Section 307 IPC and, consequently, the entire proceedings are vitiated.

19. The learned counsel appearing for P.W.1 to P.W.3 would rely on a decision of Bombay High Court Division Bench in ***Prabhakar L. Pawar Vs. State of Maharashtra and another*** reported in **2012 Crl. L.J. 4726**, wherein, the Hon'ble Division Bench took a view that in view of the provisions of Section 28 Cr.P.C., which expressly bars the Assistant Sessions Judge from awarding sentence above 10 years, it would not be proper and legal for the Sessions Judge to assign such cases to the Assistant Sessions Judge and the relevant passage is extracted hereunder;

“14. We are, therefore, of the view that in cases where the sentence which has to be awarded is more than 10 years, the Sessions Judge is not authorized to assign such cases to Assistant Sessions Judge in view of section 28 of the Criminal Procedure Code which is a substantive provision in the Criminal Procedure Code and, therefore,



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section 28 will have to be construed as a provision which imposes a bar on the Sessions Judge in assigning cases to the Assistant Sessions Judge where the sentence above 10 years can be awarded.”

20. At this juncture, it is necessary to consider the relevant legal provisions. Section 6 Cr.P.C. provides that besides the High Courts and the Courts constituted under any law, other than this Code, there shall be, in every State, the following classes of Criminal Courts, namely:-

- i. Courts of Session;
- ii. Judicial Magistrates of the first class and, in any metropolitan area, Metropolitan Magistrate;
- iii. Judicial Magistrates of the second class; and
- iv. Executive Magistrates.

21. Section 9(1) and (2) Cr.P.C. contemplate that the State Government shall establish a Court of Session for every sessions division and every Court of Session shall be presided over by a Judge, to be appointed by the High Court. Section 9(3) Cr.P.C. provides that the High Court may also appoint Additional Sessions Judges and Assistant Sessions



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Judges to exercise jurisdiction in a Court of Session. Section 10 Cr.P.C. states that all Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction and the Sessions Judge may, from time to time, make rules consistent with this Code, as to the distribution of business among such Assistant Sessions Judges. Section 26 Cr.P.C. provides that subject to the other provisions of this Code any offence under the Indian Penal Code may be tried by

- i. the High Court, or
- ii. the Court of Session, or
- iii. any other Court by which such offence is shown in the First Schedule to be triable.

22. Section 28 Cr.P.C. deals with the sentences which High Courts and Sessions Judges may pass.

1. A High Court may pass any sentence authorised by law;
2. A Sessions Judge or Additional Sessions Judge may pass any sentence authorised by law; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court;



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3. An Assistant Sessions Judge may pass any sentence authorised by law except a sentence of death or of imprisonment for life or of imprisonment for a term exceeding ten years.

23. As per Section 29 Cr.P.C., the Court of a Chief Judicial Magistrate may pass any sentence authorised by law except a sentence of death or of imprisonment for life or of imprisonment for a term exceeding seven years. Section 194 Cr.P.C. contemplates that an Additional Sessions Judge or Assistant Sessions Judge shall try such cases as the Sessions Judge of the division may, by general or special order, make over to him for trial or as the High Court may, by special order, direct him to try.

24. It is necessary to refer a decision of Gujarat High Court Division Bench in *Narsing Raysing Rajput Vs. State of Gujarat* reported in (1997) 2 GLR 1586 (equivalent to CDJ 1996 GC 439), wherein, the Hon'ble Division Bench has held that the Assistant Sessions Judge has power and jurisdiction to try the Sessions Case for the offence under Section 307 IPC and the relevant portions are extracted hereunder;



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“8. Section 9 of the Code of Criminal Procedure provides that the State Government shall establish a Court of Session for every Sessions division. Sub-section (2) of Section 9 further provides that every Court of Session shall be presided over by a Judge, to be appointed by the High Court. Sub-section (3) of Section 9 provides that the High Court may also appoint Additional Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in a Court of Session. Thus, it is clear that the Assistant Sessions Judge, while dealing with the Sessions Case, has been exercising the jurisdiction as the Court of Session. In this connection, Section 194 of the Code of Criminal Procedure may be referred to. Section 194 provides that an Additional Sessions Judge or Assistant Sessions Judge shall try such cases as the Sessions Judge of the division may, by general or special order, make over to him for trial or as the High Court may, by special order, direct him to try. It is true that Section 28 of the Code provides that an Assistant Sessions Judge may pass any sentence authorized by law except a sentence of death or of imprisonment for life or of imprisonment for a term exceeding ten years. In the instant case, the learned Assistant Sessions Judge has sentenced the appellant to undergo rigorous imprisonment for eight years. It is not the sentence exceeding ten years. Thus, on conjoint reading of the provisions of Sections 9, 26, 28 and 194 of



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the Code of Criminal Procedure, it cannot be interpreted that the Assistant Sessions Judge trying the Sessions Case for the offence u/s 307 of the Indian Penal Code had no jurisdiction to try the said Sessions Case.

9. There is also other facet of the point. The offence u/s 409 of the Indian Penal Code in respect of criminal breach of trust by public servant, by banker, merchant or agent, provides imprisonment for life or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Such offence is cognizable, non-bailable offence triable by the Magistrate of First Class. It, therefore, does not stand to reason that the Assistant Sessions Judge, being superior and higher in category to that of the Magistrate cannot have jurisdiction to try the Sessions Case for the offence punishable u/s 307 of the Indian Penal Code. Apart that, in our view, on interpretation of Sections 9, 26, 28 and 194 of the Code of Criminal Procedure, the Assistant Sessions Judge has power and jurisdiction to try the Sessions Case for the offence u/s 307 of the Indian Penal Code. It may be mentioned that this point is raised for the first time at the hearing of this appeal. If it was raised in the trial Court, the authority of the learned Assistant Sessions Judge with regard to jurisdiction to try such cases could have been brought on record by the prosecution. We, therefore, see no



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substance in the submission of Mr. Budhbhatti that the learned Assistant Sessions Judge has no power and jurisdiction to try the Sessions Case and that the trial was without jurisdiction. The contention is thus devoid of merit and is rejected.”

25. In ***Jabber Kasamali Sheikh Vs. State of Maharashtra*** reported in **2010 Cri LJ 4223**, Bombay High Court has taken a similar view and the relevant portion is extracted hereunder;

“12. Taking into consideration the provisions of the Cr.P.C. and on scanning the Schedule, it would appear that there is no restriction on trial of a case under Sec.307 or any offence wherein alternative sentence of imprisonment for life or any other sentence of imprisonment is provided, by the Assistant Sessions Judge, but the Assistant sessions Judge cannot award the sentence of imprisonment for more than ten years. The jurisdiction to try the case is not dependent on the maximum sentence which may be awarded for a particular offence under the Indian Penal Code. Thereof, I find no substance in he contention of the learned Counsel for the applicant that the Assistant Sessions Judge does not have jurisdiction to try the case under Sec. 307, merely because the case is punishable with imprisonment for life or imprisonment upto ten years.”



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26. When the matter was referred to a Division Bench of the Gauhati High Court, the Hon'ble Division Bench, in ***In Re v. State of Assam***, reported in ***2016 SCC OnLine Gau 409***, formulated the question of law as to whether the restriction imposed on an Assistant Sessions Judge under Section 28(3) Cr.P.C. from awarding a sentence of imprisonment exceeding ten years would act as an impediment to the conduct of the trial, or would vitiate a trial so conducted by the Assistant Sessions Judge in respect of an offence punishable with imprisonment exceeding ten years. After considering the relevant statutory provisions and judicial precedents, the reference was answered as follows:

“17..... On a case being made over for trial by a Sessions Judge, in exercise of power under Section 194 of the Code to a Assistant Sessions Judge, the Assistant Sessions Judge is competent to try the same, irrespective of the fact whether the Assistant Sessions Judge is competent to impose the minimum sentence authorized by law or not. The Assistant Sessions Judge can also deliver judgment in such cases and in the event of conviction, if it is unable to impose the minimum sentence, the case record is to be placed before the Sessions Judge to conduct hearing on sentence and pass appropriate sentence in accordance with law.



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18. The Criminal Reference is accordingly answered.”

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27. No doubt, a Chief Judicial Magistrate is ordinarily empowered to award a sentence of imprisonment upto 7 years. However, in the State of Tamil Nadu, prior to the enactment of the BNSS, under the Code of Criminal Procedure, the powers of an Assistant Sessions Judge were conferred on Chief Judicial Magistrates, and when a Chief Judicial Magistrate tried a Sessions Case as an Assistant Sessions Judge, he was empowered to award a sentence of imprisonment upto 10 years.

28. It is pertinent to note that the quantum of punishment prescribed for an offence is not determinative of the jurisdiction of the Court competent to try such offence. By way of illustration, the offence under Section 326 IPC is punishable with imprisonment for life or with imprisonment which may extend to ten years, in addition to fine. However, Schedule I of the Code of Criminal Procedure classifies the said offence as triable by a Judicial Magistrate of the First Class. If, upon conclusion of the trial, the learned Magistrate forms the opinion that the accused deserves a punishment exceeding the sentencing power vested in him, he



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is empowered to invoke Section 325 Cr.P.C. and submit the proceedings to the Chief Judicial Magistrate. Section 325 Cr.P.C. contemplates a situation where the Magistrate, after recording his opinion, forwards the case together with the accused to the Chief Judicial Magistrate, who may then examine the parties or witnesses, if necessary, and pass an appropriate sentence commensurate with the gravity of the offence.

29. Undoubtedly, there is no express provision akin to Section 325 Cr.P.C. enabling a Chief Judicial Magistrate or an Assistant Sessions Judge to forward a case to the Sessions Court solely on the ground that the sentence warranted exceeds their sentencing competence. Nevertheless, there is no statutory bar or prohibition preventing the Chief Judicial Magistrate or the Assistant Sessions Judge from submitting a report to the Sessions Judge. On the basis of such report, or even at the instance of any party to the proceedings, the Sessions Judge is empowered to withdraw the case from the file of the Chief Judicial Magistrate or the Assistant Sessions Judge. Such power of withdrawal, however, stands on an entirely different footing and does not, in any manner, impinge upon or curtail the jurisdiction of the Assistant Sessions Judge to try offences that are otherwise triable by him under law.



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30. It is pertinent to note that once a particular case is made over by the Sessions Judge to an Assistant Sessions Judge, the Assistant Sessions Judge derives the jurisdiction to try such case.

31. The territorial and subject-matter jurisdiction flows from the fact that the Assistant Sessions Judge functions as a Judge of the Court of Sessions, and the Sessions Judge is empowered to allocate and distribute judicial business. Such jurisdiction is not defeated merely because the Assistant Sessions Judge is not empowered to impose a sentence of imprisonment beyond the statutory limits prescribed. In other words, once a case is made over to an Assistant Sessions Judge by the Sessions Judge, or pursuant to a direction of the High Court, the Assistant Sessions Judge is competent to try offences triable by the Court of Sessions, including an offence under Section 307 IPC. Section 194 Cr.P.C., which governs the trial of cases made over to an Additional or Assistant Sessions Judge, does not place any restriction on the making over of a case based on the quantum of punishment prescribed for the offence. The restriction contained in Section 28(3) Cr.P.C. relates only to the extent of sentence that an Assistant Sessions Judge is competent to award and does not, by



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itself, operate as a bar to the trial of a Sessions-triable offence by such Court. Moreover, such a plea was never raised before the trial Court. Though the defacto complainant / injured and the other two injured witnesses were examined as P.W.1 to P.W.3, none of them questioned the jurisdiction of the trial Court to try the offence under Section 307 IPC. After the acquittal of the accused for the offences under Sections 307 and 506(2) IPC, the injured witnesses preferred three separate criminal appeals. Even in those appeals, no ground was raised challenging the jurisdiction of the trial Court, nor were any submissions advanced on that aspect before the learned Additional Sessions Judge. In view of the above, this Court has no hesitation in holding that the Assistant Sessions Judge possessed the necessary power and jurisdiction to try the offence under Section 307 IPC. Consequently, the objection raised by the appellants is devoid of merit and is liable to be rejected.

32. The main defence canvassed by the accused before the Courts below is that no incident was occurred at 08.00 p.m. on 22.12.2005 as alleged by the prosecution but there was an occurrence at about 09.00 a.m. on 22.12.2005, whereby, some unknown persons attacked P.W.1 to P.W.3



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and caused injuries, that P.W.1 as there was previous enmity between him and the sixth accused lodged a police complaint, as if, the accused 1 to 5 had attacked them at 08.00 p.m. on 22.12.2005 and that subsequently, gave a statement falsely implicating the other accused 6 to 8.

33. The learned counsel appearing for the accused would mainly rely on Ex.D.4 copy of the petition filed under Section 482 Cr.P.C. by P.W. 1 in Crl.O.P.No.168 of 2006 before this Court and Ex.D.5 copy of the order passed by this Court in Crl.O.P.No.168 of 2006 on 18.01.2006, wherein, P.W.1 has shown that the incident was occurred at 09.00 a.m. on 22.12.2005. No doubt, as rightly pointed out by the learned counsel appearing for the accused, P.W.1, in the direction petition filed under Section 482 Cr.P.C., has referred the incident allegedly occurred at 09.00 a.m. on 22.12.2005 and the relevant portion is extracted hereunder;

“1). The Petitioner submits that he is residing at above mentioned address. On 22.12.05 at about 9.00AM one Joseph Stephon, Anthoniraj, and Edward are came into his house and attacked him and his brothers by brutally and further threatened with dire consequences, for which 3 of the family members are seriously injured and two of them still in Intensive Care unit at K.M.C. Hospital,



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2) The Petitioner submit that immediately thereafter he preferred a complaint before the 1st respondent herein. After obtaining the same also he refused to proceed with further as he supported to the accused side. After intervention of higher police officials alone he formally registered a case in crime No.967 of 05 under sections 147, 148, 323 and 506(ii) IPC alone, instead of filing section 307 of IPC since the victims are already there in ICU at very injured condition.”

34. On such allegations, P.W.1 sought a direction to the Superintendent of Police, Tiruchirappalli, to transfer the investigation in Crime No.967 of 2005 from the file of the Lalgudi Police Station to any other competent police officer and to ensure completion of the investigation within such time as may be stipulated by this Court. A learned Judge of this Court, after considering the submissions of the learned Government Advocate (Criminal Side) that though the case was originally registered in Crime No.967 of 2005 for the offences punishable under Sections 147, 148, 323 and 506(ii) IPC and was subsequently altered to include the offence under Section 307 IPC, directed the



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Superintendent of Police, Tiruchirappalli, to look into the matter and consider the same in accordance with law, if the investigation was still pending before the Sub-Inspector of Police, Lalgudi Police Station.

35. In Ex.D.5, this Court, while referring to the occurrence as narrated by P.W.1 in his petition, mentioned that the incident had occurred at 09.00 a.m. on 22.12.2005. It is pertinent to clarify that this Court did not make any independent finding that the incident complained of by P.W.1 occurred at 09.00 a.m. on 22.12.2005, but merely reproduced the averments made by P.W.1 in the said petition. As rightly pointed out by the learned counsel appearing for P.W.1 to P.W.3, in the said petition, P.W.1 had specifically referred to Crime No.967 of 2005, which was registered on the basis of Ex.P.1 complaint (Ex.P.19) given by P.W.1 to P.W.14 while he was undergoing treatment at the Government Hospital, Lalgudi. In Ex.P.1 complaint (Ex.P.19) as well as in the FIR marked as Ex.P.20, there is a clear and specific reference that the occurrence took place at about 08.00 p.m. on 22.12.2005 and not at 09.00 a.m. on the said date.

36. The defence has also marked as Ex.D.3 the copy of the order



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passed in Crl.R.C.No.404 of 2008 dated 22.01.2009, filed by P.W.1 challenging the order in Crl.M.P.No.1356 of 2007 in S.C.No.121 of 2006 dated 31.03.2008, wherein a prayer for further investigation was made. Even in the said proceedings, the averments of P.W.1 clearly indicate that the incident occurred at about 08.00 p.m. on 22.12.2005. Further, the medical records conclusively support the said version. P.W.8, the Medical Officer who first attended the injured witnesses P.W.1 to P.W.3, has recorded in the Accident Registers marked as Ex.P.6 to Ex.P.8 that he examined P.W.2 at 08.20 p.m., P.W.3 at 08.35 p.m., and P.W.1 at 08.50 p.m. on 22.12.2005. P.W.8 has also noted that P.W.1 to P.W.3 informed him that they were assaulted at about 08.00 p.m. on the same day. After receiving first aid treatment, P.W.1 to P.W.3 were admitted to KMC Hospital, Tiruchirappalli. The wound certificates issued to them, marked as Ex.P.9 to Ex.P.11, further reveal that the Doctor who initially attended them recorded that the injuries were stated to have been caused on 22.12.2005 at about 08.00 p.m. due to assault.

37. No doubt, D.W.1, in his evidence, would depose that he had witnessed an attack allegedly made on P.W.1 to P.W.3 at about 09.00 a.m.



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on 22.12.2005 by some unknown persons and that no occurrence had taken place at about 08.00 p.m. on the said day. However, during the cross-examination of D.W.1, the prosecution elicited that he was involved in several criminal cases, that he had been imposed with a fine in a criminal complaint lodged by P.W.1 (Ex.P.27) and that there existed prior enmity between him and P.W.1. Though D.W.1, in his testimony, referred to one Madhalaimuthu as having allegedly witnessed the morning occurrence along with him, the defence for the reasons best known to them did not choose to examine the said Madhalaimuthu.

38. No doubt, P.W.1, in his complaint marked as Ex.P.1, had referred to a dispute that arose between himself and the sixth accused in the morning hours and stated that it was on account of the said dispute that the incident at about 08.00 p.m. had occurred. As rightly pointed out by the learned counsel appearing for the accused, P.W.1 to P.W.3, in their evidence, did admit that there was some incident in the morning. However, they did not state that they were assaulted by unknown persons unconnected with the present accused or that they had sustained the injuries in such an alleged morning occurrence. In view of the above, this



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Court has no hesitation in holding that the defence version that the incident occurred at about 09.00 a.m. on 22.12.2005 and that no occurrence took place at about 08.00 p.m. on the said date is wholly devoid of substance and is liable to be rejected.

39. It is not in dispute that there existed a land dispute between P.W.1 and the sixth accused, that P.W.1 had initiated civil proceedings in respect thereof and obtained interim orders and that as a consequence prior enmity existed between them.

40. P.W.1, in his evidence, has given a detailed and cogent account of the occurrence and the manner in which, he along with P.W.2 and P.W.3 was attacked by the accused.

41. P.W.1, in his evidence, would state that the first accused assaulted him with an iron rod on the left side of his head, resulting in injuries near his left ear; that the third accused attacked him with a casuarina log on his left shoulder; and that the sixth accused assaulted him with a casuarina log on his left forearm, causing contusions at the said



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places. P.W.1 would further depose that his son, P.W.2, was assaulted by the fifth accused with an iron rod, causing serious injuries, including bone injuries, on the left side of his head, and that the second accused attacked him with a casuarina log on his left forehead and left shoulder. He would also say that his wife, P.W.3, was assaulted on her head with an iron rod by the fourth accused, causing grievous injuries, and that the eighth accused pulled her hair and assaulted her with his hands. P.W.2 and P.W.3, in their respective testimonies, corroborated the version of P.W.1 with regard to the occurrence and the assaults committed by the accused.

42. P.W.1 to P.W.3, in their respective cross-examinations, categorically deposed that they were not assaulted by any unknown persons and that the injuries were caused only by the accused. Their evidence with regard to the injuries sustained by them stands duly corroborated by the medical records.

43. It is evident from the medical records and the evidence of P.W.9 and P.W.11 to P.W.13 that P.W.1 sustained four injuries, all of which are simple in nature. P.W.2 sustained eight injuries, including bone injuries, of



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which five are grievous in nature, and P.W.3 sustained three injuries, all of which are grievous in nature. As rightly pointed out by the learned counsel appearing for P.W.1 to P.W.3, the injuries suffered by P.W.2 and P.W.3 are undoubtedly serious in nature.

44. The learned counsel appearing for the accused would submit that P.W.1 to P.W.3 are closely related and interested witnesses, and that P.W.10, who is the brother of P.W.1, is also an interested witness who has deposed in an exaggerated manner. It is further contended that though the prosecution alleged that the occurrence was witnessed by another person, namely Jesu Amalraj, he was not examined. It is also submitted that despite several houses being situated in the vicinity of P.W.1's house, no independent witness was examined. On these grounds, it is argued that the uncorroborated evidence of P.W.1 to P.W.3 and the exaggerated testimony of P.W.10 cannot be safely relied upon to convict the accused.

45. It is well settled that the evidence of an injured witness can, by itself, be sufficient to sustain a conviction, even if other witnesses have turned hostile or in the absence of any other eyewitnesses. The testimony



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of an injured witness carries great evidentiary value and can form the sole basis for conviction, provided it is found to be credible and reliable. The presence of an injured witness at the scene of occurrence is beyond doubt, as the injuries sustained by such witness are a direct consequence of the incident. The Hon'ble Supreme Court of India has repeatedly held that the testimony of an injured witness carries a 'built-in guarantee' of his presence at the scene and that such a witness is ordinarily not expected to falsely implicate an innocent person while allowing the real assailant to go scot-free. At this juncture, it is necessary to refer the judgment of the Hon'ble Supreme Court in ***Balu Sudam Khalde and another Vs. The State of Maharashtra*** reported in ***2023 LiveLaw (SC) 279***, wherein, the Hon'ble Supreme Court had dealt with the appreciation of evidence of the injured eye witnesses and summarized the principles,

“26. When the evidence of an injured eye-witness is to be appreciated, the under- noted legal principles enunciated by the Courts are required to be kept in mind:

(a) The presence of an injured eye-witness at the time and place of the occurrence cannot be doubted unless there are material contradictions in his deposition.

(b) Unless, it is otherwise established by the evidence, it must be believed that an injured witness would



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not allow the real culprits to escape and falsely implicate the accused.

(c) The evidence of injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.

(d) The evidence of injured witness cannot be doubted on account of some embellishment in natural conduct or minor contradictions.

(e) If there be any exaggeration or immaterial embellishments in the evidence of an injured witness, then such contradiction, exaggeration or embellishment should be discarded from the evidence of injured, but not the whole evidence.

(f) The broad substratum of the prosecution version must be taken into consideration and discrepancies which normally creep due to loss of memory with passage of time should be discarded.

27. In assessing the value of the evidence of the eyewitnesses, two principal considerations are whether, in the circumstances of the case, it is possible to believe their presence at the scene of occurrence or in such situations as would make it possible for them to witness the facts deposed to by them and secondly, whether there is anything inherently improbable or unreliable in their evidence. In respect of both these considerations,



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circumstances either elicited from those witnesses themselves or established by other evidence tending to improbabilise their presence or to discredit the veracity of their statements, will have a bearing upon the value which a Court would attach to their evidence. Although in cases where the plea of the accused is a mere denial, the evidence of the prosecution witnesses has to be examined on its own merits, where the accused raise a definite plea or put forward a positive case which is inconsistent with that of the prosecution, the nature of such plea or case and the probabilities in respect of it will also have to be taken into account while assessing the value of the prosecution evidence.”

46. It is well recognised that human observation is fallible and that minor contradictions, omissions, or trivial discrepancies do not render testimony unreliable or unworthy of acceptance. In the case on hand, as already pointed out, the testimonies of P.W.1 to P.W.3 are consistent with the medical evidence on record, and the defence has failed to elicit any material contradictions or discrepancies in their evidence. No doubt, as rightly pointed out by the learned counsel appearing for the accused, P.W. 10, the brother of P.W.1, has deposed as though he was present at the



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scene of occurrence from the very beginning. Even assuming, for the sake of argument, that the evidence of P.W.10 is eschewed from consideration, the testimonies of P.W.1 to P.W.3, by themselves, are more than sufficient to establish the occurrence and the injuries sustained by them.

47. According to P.W.1 to P.W.3, they were assaulted by the accused using iron rods and casuarina logs. It is the case of the prosecution that, pursuant to the admissible portion of the confession of the fifth accused, M.O.1 (iron rods) and M.O.2 (casuarina logs) were recovered. It is true that the witnesses to the confession and recovery did not support the prosecution case and were therefore treated as hostile. However, as rightly pointed out by the learned Government Advocate (Criminal Side), P.W.14, the Investigating Officer, has given clear and categorical evidence regarding the recording of the confession of the fifth accused and the consequent recovery of M.O.1 and M.O.2 in pursuance of the admissible portion of the confession marked as Ex.P.23. It is a settled principle of law that the evidence of the Investigating Officer can be relied upon to prove the recovery of weapons even when the mahazar witnesses turn hostile, provided such testimony is cogent, reliable, and supported by surrounding



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circumstances. Though the hostility of independent witnesses may weaken the prosecution case, it does not, by itself, render the recovery inadmissible or invalid. The testimony of an Investigating Officer cannot be discarded merely on the ground that he is an official witness.

48. It is pertinent to note that the fifth accused was arrested on 23.12.2005 and the weapons were recovered on the very same day, that is, on the next day after the date of occurrence. Therefore, there is no delay in effecting the recovery so as to cast any doubt on the nexus between the accused and the weapons. As rightly pointed out by the learned counsel appearing for P.W.1 to P.W.3, though P.W.14, the Investigating Officer, was subjected to lengthy cross-examination, nothing was elicited by the defence to discredit the recovery of the weapons or to support their case. Moreover, the Hon'ble Apex Court has reiterated the legal position that recovery of the weapon used by the accused in the commission of the offence is not a sine qua non for conviction and in the case of *State Vs. Laly @ Manikandan* reported in *2022 LiveLaw (SC) 851*, the Hon'ble Supreme Court regarding the contention raised by the accused for non-recovery of weapon, observed,



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“Similarly, assuming that the recovery of the weapon used is not established or proved also cannot be a ground to acquit the accused when there is a direct evidence of the eye witness. Recovery of the weapon used in the commission of the offence is not a sine qua non to convict the accused. If there is a direct evidence in the form of eye witness, even in the absence of recovery of weapon, the accused can be convicted. Similarly, even in the case of some contradictions with respect to timing of lodging the FIR/complaint cannot be a ground to acquit the accused when the prosecution case is based upon the deposition of eye witness.”

Even assuming that there was no recovery of the weapon or that such recovery has not been proved, the same would not be fatal to the prosecution case.

49. As rightly contended by the learned counsel appearing for the accused, P.W.1, in his complaint marked as Ex.P.1, had initially implicated only accused Nos.1 to 5. Subsequently, on the basis of the further statement given by P.W.1 and the statements recorded from the other injured witnesses, accused Nos.6 to 8 were arrayed as additional accused, and the offence under Section 307 IPC was added by way of a special



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report marked as Ex.P.26. At this juncture, it is necessary to refer the decision of the Hon'ble Supreme Court in ***Kirender Sarkar and others Vs. State of Assam*** reported in ***2010 1 SCC (Cri) 241***, relied on by the learned counsel appearing for P.W.1 to P.W.3 and referred by the learned first appellate Judge, wherein, it was observed,

“Importance of naming the accused persons cannot be ignored. But at the same time non-naming of one or few of the accused persons in the first information report is no reason to disbelieve the testimony of crucial witness.”

50. According to the prosecution, though the names of accused Nos. 6 to 8 were not mentioned in the complaint marked as Ex.P.1, all the injured witnesses, in their subsequent statements, have specifically spoken to the active involvement of accused Nos.6 to 8 in the occurrence. When P.W.1 to P.W.3 were taken to the hospital immediately after the incident, and particularly when P.W.2 and P.W.3 had sustained serious injuries, the non-mention of accused Nos.6 to 8 in the initial complaint by P.W.1 cannot, by itself, be a ground to disbelieve or discard the prosecution case. As already noted, P.W.1 to P.W.3 sustained injuries, especially P.W.2 and



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P.W.3 on vital parts of their bodies, and their evidence regarding the involvement of all the accused is cogent, consistent, and reliable.

51. The learned counsel appearing for the accused would submit that although the FIR was registered at 11.30 p.m. on 22.12.2005, it reached the Court only on 24.12.2005 at 11.45 a.m. It is contended that the inordinate delay of 36 hours has not been explained by the prosecution and that such unexplained delay go to show that Ex.P.1 complaint and the FIR were subsequently created.

52. As already pointed out, according to P.W.14, upon receiving the information, he went to the Government Hospital, Lalgudi, recorded the statement of P.W.1, and on that basis registered the case at 23.30 hours on 22.12.2005. The Hon'ble Supreme Court has reiterated the legal position that delay in lodging or forwarding the FIR is not, by itself, fatal to the prosecution. While dealing with a delay in sending the FIR to the Magistrate, the Court must examine the surrounding circumstances, and such delay would assume significance only if there are sufficient grounds to hold that the investigation was tainted or unjustified. In the case on



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hand, the defence has not placed any material to infer that the investigation was tainted or unjustified. Hence, the delay of 36 hours, by itself, is not a ground to undermine the prosecution case. It is pertinent to note that PSO 555 of the Tamil Nadu Police Standing Orders contemplates that, in respect of certain categories of offences, an express FIR is to be prepared and the same is required to be forwarded to the jurisdictional Court forthwith. Admittedly, in the case on hand, the FIR was registered only for the offences under Sections 147, 148, 323, 324 and 506(2) IPC and the said offences do not fall within the category of offences specified under PSO No.555 for the purpose of preparation of an express FIR and immediate despatch of the same to the concerned Court. Therefore, even assuming that there was some delay in forwarding the FIR, the same cannot have any material impact on the prosecution case.

53. As rightly contended by the learned counsel appearing for P.Ws. 1 to 3, the learned first appellate Judge has accorded undue weightage and importance to Exs.D.4 and D.5. As already pointed out, the mere mention of the time as 9.00 a.m., by itself, is not sufficient to hold that the occurrence alleged by the prosecution is imaginary or concocted.



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54. The learned first appellate Judge, by referring to a situation narrated by P.W.1, has observed that the version of P.W.1 is unbelievable and that his conduct is suspicious and the relevant portion is extracted hereunder;

“This is because as per the version of P.W.1 he was assaulted at his left side of the head which by mistake fell on his left ear. When a person gives a force with iron pad in left ear the power and motion of the iron pad will not be stopped with respect to left ear alone and rather after the assault in the left ear the iron pad would have fallen in the shoulder subsequently. That is to say it cannot be imagined such that a person would stop his force or withdraw his power soon after injury in the ear alone. The another conduct would be that the iron pad would have extended to his left shoulder also by causing injury in the left shoulder. But PW.1 says that the injury in the left shoulder was caused by 3rd appellant by causerina log. Hence the conduct of PW.1 gives suspicion.”

55. This Court is at a loss to understand as to how such an observation could have been made by the learned first appellate Court in the absence of any evidence or material to infer such conduct on the part of P.W.1. The learned first appellate Judge has further commented that it is



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ironical that no other person from the locality had witnessed the occurrence. The learned first appellate Judge has also observed that although D.W.1 was cited as a prosecution witness, he was not examined. The learned first appellate Judge has further observed, on perusal of the confession statement of the fourth appellant, that the fourth appellant had stated therein that P.Ws.1 to 3 were the aggressors and that the prosecution failed to investigate the case from that angle. Notably, only the admissible portion of the confession statement of the fifth accused was marked as Ex.P.23. When only the admissible portion of the confession statement was exhibited, this Court is at a loss to understand as to how the learned first appellate Judge could have taken into consideration the entire confession statement and made such observations. Having regard to the above findings of the learned first appellate Judge, this Court is constrained to hold that the same are perverse and that no reasonable person could have arrived at such conclusions on the basis of the evidence on record. On the other hand, the learned trial Judge assigned cogent and convincing reasons for holding the accused guilty, whereas the learned first appellate Judge misread the evidence and thereby misdirected himself. In view of the foregoing discussion, the judgment of the first



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appellate Court acquitting all the accused is liable to be set aside and, consequently, the judgment of conviction passed by the trial Court is liable to be restored.

56. As rightly observed by both the trial Court and the first appellate Court, there are no materials on record to hold that the accused had the requisite intention to cause death or to commit the offence of criminal intimidation against P.Ws.1 to 3. Mere seriousness of the injuries sustained by P.Ws.1 to 3, by itself, is not sufficient to attract the offence under Section 307 IPC. P.Ws.1 to 3 have not placed any material sufficient to dislodge or disturb the concurrent findings of both the Courts below that the offences under Sections 307 and 506(2) IPC are not made out.

57. Now turning to the punishment imposed, no doubt, the punishment of six months imprisonment for the offence under Section 326 IPC passed by the trial Court appears to be minimal.

58. As rightly pointed out by the learned counsel appearing for the accused, the proviso to Section 372 Cr.P.C. makes it clear that the victim's



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right of appeal is confined to three eventualities, namely, acquittal of the accused, conviction of the accused for a lesser offence, or the imposition of inadequate compensation. Admittedly, there is no provision enabling a victim to file an appeal solely questioning the adequacy of the sentence imposed on the accused.

59. As already pointed out, Accused Nos.1 to 7 were sentenced to undergo simple imprisonment for two months for the offence under Section 148 IPC, and Accused Nos.1, 3 and 6 were sentenced to undergo simple imprisonment for three months for the offence under Section 324 IPC. Considering the fact that the occurrence took place about twenty years ago and taking note of the nature of the sentences imposed, this Court is inclined to modify the same. Accordingly, Accused Nos.1 to 7 are sentenced to pay a fine of Rs.3,000/- each for the offence under Section 148 IPC and, in default of payment of fine, to undergo simple imprisonment for three months. Accused Nos.1, 3 and 6 are sentenced to pay a fine of Rs.5,000/- each for the offence under Section 324 IPC and, in default of payment of fine, to undergo simple imprisonment for three months. The sentences of imprisonment and fine imposed on Accused



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Nos.2, 4, 5 and 7, and the sentence of fine imposed on Accused No.8 by the trial Court, are confirmed. Upon payment of the total fine amount of Rs.49,500/-, this Court, in exercise of its powers under Section 357(1) of the Code of Criminal Procedure, directs that P.W.1, P.W.2 and P.W.3 be paid compensation of Rs.9,500/-, Rs.25,000/- and Rs.15,000/- respectively. The trial Court is directed to disburse the said amounts to the respective witnesses, in accordance with law.

60. In the result,

(i) the Criminal Appeal in Crl.A.(MD)No.243 of 2023 is allowed and the judgment of acquittal passed in Crl.A.No.92 of 2012 dated 18.01.2013 is set aside and the judgment of conviction passed by the learned Chief Judicial Magistrate, Tiruchirappalli in S.C.No.121 of 2006 dated 28.09.2012 is restored. Accordingly, the sentences of imprisonment and fine imposed on the accused Nos.2, 4, 5 and 7 for the offence under Section 326 IPC and the sentence of fine imposed on the accused No.8 for the offences under Sections 147 and 323 IPC by the trial Court are confirmed. With regard to the offences under Sections 148 and 324 IPC, sentence imposed on the accused is modified as follows;



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Accused	Provision under which convicted	Sentence
Accused Nos. 1 to 7	under Section 148 IPC	to pay a fine of Rs.3,000/- each, in default, to undergo simple imprisonment for 3 months
Accused Nos. 1, 3 and 6	under Section 324 IPC	to pay a fine of Rs.5,000/- each, in default, to undergo simple imprisonment for 3 months

(ii) the Criminal Appeals in Crl.A.(MD)Nos.244 to 246 of 2023 are dismissed.

(iii) All the accused are directed to pay the fine amount, if not paid earlier, before the trial Court within a month from the date of receipt of a copy of this judgment, failing which the learned trial Judge is at liberty to proceed in accordance with law. Upon payment of the fine amount, the trial Court is directed to disburse Rs.49,500/- as compensation to P.W.1, P.W.2, and P.W.3 in the sum of Rs.9,500/-, Rs.25,000/-, and Rs.15,000/- respectively, under Section 357(1) Cr.P.C.



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(iv) the trial Court is directed to take necessary steps to secure the accused to undergo the remaining period of sentence, if any.

12.02.2026

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

- 1.The III Additional District Judge,
Tiruchirappalli.
- 2.The Chief Judicial Magistrate,
Tiruchirappalli.
- 3.The Inspector of Police,
Lalgudi Police Station,
Trichy District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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K.MURALI SHANKAR,J.

csn

Pre-Delivery Common Judgment made in
Crl.A.(MD)Nos.243 to 246 of 2023

Dated : 12.02.2026