

Crl.A.(MD).No.492 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	:	20.04.2026
Pronounced On	:	02.06.2026

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CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
and
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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1. Rajesh
2. Mahadevan
3. Anand

... Appellants/Accused Nos.1, 2 & 6

Vs.

1. The State rep by its,
 The Deputy Superintendent of Police,
 Muthupettai Sub Division,
 Edaiyur Police Station,
 Thiruvarur District.
 (Crime No.358 of 2021)

2. VTK. Vinoth

... Respondents

PRAYER : Criminal Appeal is filed under Section 374(2) of the Criminal Procedure Code, to call for the records relating to the judgement dated 19.01.2023 made in Spl.SC.No.32 of 2021 on the file of I Additional and Sessions Judge (PCR), Thanjavur District and set aside the conviction and sentence imposed against the appellants/accused and allow the baove appeal.



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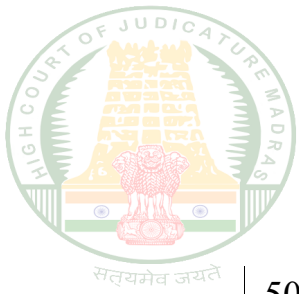
For Appellants : Mr.G.Bhagavath Singh
For R1 : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor
For R2 : Mr.J.Alaguram Jothi,
Legal Aid Counsel

J U D G M E N T

(Judgment of the Court was made by K.K.RAMAKRISHNAN,J.)

The appellant/Accused Nos.1, 2 & 6 in Spl.S.C.No.32 of 2021 on the file of the learned I Additional and Sessions Judge (PCR), Thanjavur has filed this appeal challenging the following conviction and sentence imposed against him in the impugned judgment dated 19.01.2023.

Sentence of law	Sentence of imprisonment	Fine
120(b) of IPC r/w.sections 3(2) (va) of SC/ST (POA) Act	To undergo one year rigorous imprisonment	Rs.1,000/- each i/d to undergo three months simple imprisonment
341 of IPC r/w.Section 3(2) (ca) of SC/ST Act	To undergo one month rigorous imprisonment	Rs.500/- each i/d to under to one 7 days simple imprisonment
294(b) of IPC	To undergo one month rigorous imprisonment	Rs.1,000/- i/d to under to 15 days simple imprisonment



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506(ii) of IPC r/w. Section 3(2) (va) of SC/ST Act	To undergo one year rigorous imprisonment	Rs.1,000/- i/d to undergo three months imprisonment
302 of IPC	To undergo life imprisonment	Rs.10,000/- i/d to undergo one year simple imprisonment

2. Brief facts of the case:

2.1. The prosecution case, in brief, is that the deceased, Rajini, was the brother of P.W.1 and belonged to a Scheduled Caste community. All the accused persons, including A1, A2 and A6, belong to a non-Scheduled Caste community.

2.2. It is alleged that on 09.07.2021 at about 10.00 a.m., A6 abused one Yogeswaran by uttering his caste name and also criminally intimidated him. Aggrieved by the said incident, Yogeswaran approached the deceased Rajini, who was a political party functionary. The deceased advised him to lodge a complaint before the jurisdictional police station at Edaiyur. However, when the deceased refused to compromise the issue, the accused persons, being aggrieved, entered into a criminal conspiracy to commit his murder.



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2.3. In furtherance of the said conspiracy, on the same day at about 6.30 p.m., all the accused unlawfully assembled near Vadassandai Cross Road, in the vicinity of the graveyard, armed with deadly weapons. When the deceased was proceeding on a two-wheeler, the accused intercepted him. A1 and A2 attacked the deceased with billhooks. Thereafter, A3 severed the right forearm and elbow of the deceased, while A4 cut the left elbow. A5 further inflicted cuts on the right thigh and knee, and A6 continued the assault by cutting the left leg of the deceased repeatedly. As a result of the brutal attack, the deceased fell down in a pool of blood and succumbed to multiple grievous injuries.

2.4. The occurrence was witnessed by P.W.1 (brother of the deceased) and P.W.2, who were following the deceased on another two-wheeler. Despite their attempts to intervene, the accused continued the assault and also criminally intimidated them before fleeing from the scene. P.Ws.1 and 2 immediately took the injured to the Government Hospital, Tiruchirappalli, where the doctors declared him dead. Thereafter, P.W.1 lodged a complaint before the respondent police, which was registered as an FIR.



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2.5. The investigation was taken up by the Deputy Superintendent of Police (P.W.23), who, upon receipt of the FIR, visited the scene of occurrence in the early hours of 10.07.2021. He prepared the observation mahazar and rough sketch, examined witnesses, and conducted inquest over the body in the presence of panchayatdars. The body was thereafter sent for post-mortem examination.

2.6. During the course of investigation, based on secret information, the accused nos.1 to 5 and 7 were arrested on 10.07.2021. Pursuant to the admissible portion of the confession given by A2 in the presence of the Village Administrative Officer, material objects were recovered. A6 was subsequently arrested on 11.07.2021.

2.7. The Investigating Officer continued the investigation by sending the seized material objects for forensic analysis and, upon receipt of the reports, altered the offences to include Section 120-B IPC through an alteration report. He also collected relevant records, including electricity supply details to establish the lighting conditions at the scene of occurrence.

2.8. Upon completion of investigation, a final report was filed on 30.08.2021 before the learned Special Judge, who took cognizance in



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Sessions Case No. 32 of 2021. Copies were furnished to the accused under Section 207 Cr.P.C., and charges were framed. The accused denied the charges and claimed to be tried.

2.9. On the side of the prosecution, evidence was thereafter adduced.

2.10. On the side of the prosecution, P.Ws.1 to 23 were examined, Exhibits P.1 to P.30 were marked, and Material Objects M.O.1 to M.O.6 were produced. Upon completion of the prosecution evidence, the accused were examined under Section 313 of the Code of Criminal Procedure with reference to the incriminating circumstances appearing against them in the evidence on record. The accused denied all such incriminating circumstances as false and pleaded innocence.

2.11. On the side of the defence, one witness was examined as D.W.1, and Exhibits D.1 to D.8 were marked.

2.12. The learned trial Judge, upon appreciation of the entire oral and documentary evidence, acquitted Accused Nos. 3, 4, 5 and 7 on the ground that there was no sufficient material to establish their involvement in the occurrence. In that process, the trial Court disbelieved the eyewitness



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account of P.Ws.1 and 2 insofar as it related to the said acquitted accused.

However, the trial Court found the evidence on record sufficient to convict the present appellants (A1, A2 and A6) for the offences under the Indian Penal Code.

3. Aggrieved by the said conviction and sentence, the appellants have preferred the present appeal before this Court. It is pertinent to note that no appeal has been filed either by the defacto complainant or by the prosecution challenging the acquittal of Accused Nos. 3, 4, 5 and 7, and thus, the said acquittal has attained finality.

4. Submission of the learned counsel appearing on behalf of the appellants:

4.1. The learned counsel for the appellants contended that the conviction recorded by the trial Court is legally unsustainable in view of the manner in which the evidence of the eyewitnesses, P.Ws.1 and 2, has been selectively relied upon.



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4.2. It is submitted that the testimony of P.Ws.1 and 2 is intrinsically intermingled, inseparable, and indivisible insofar as all the accused are concerned. The said witnesses have attributed specific overt acts to each of the accused, particularly A1 to A6. However, the learned trial Judge, while disbelieving their evidence in respect of Accused Nos. 3, 4, 5 and 7 and acquitting them, has nevertheless relied upon the very same testimony to convict the present appellants. Such selective acceptance and rejection of evidence, according to the learned counsel, is impermissible in law when the evidence forms a single, indivisible narrative.

4.3. It is further contended that when the prosecution case rests upon eyewitnesses who assign specific overt acts to all the accused, and when such evidence is disbelieved in substantial part, the residue cannot be relied upon in isolation to sustain conviction against a few accused, particularly in the absence of any independent corroboration.

4.4. The learned counsel also assailed the credibility of P.Ws.1 and 2 on the ground that they are closely related to the deceased and belong



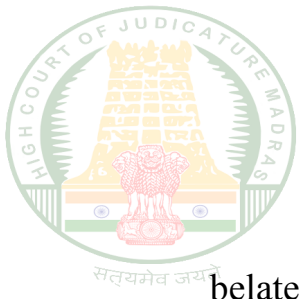
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to the same community, thereby being interested witnesses. Their conduct, as projected by the prosecution, is stated to be unnatural. According to them, despite witnessing a brutal attack, they neither intervened nor raised effective alarm, and their version regarding the manner in which the deceased was taken to the hospital is inconsistent and doubtful. Such conduct, it is argued, creates serious doubt about their presence at the scene of occurrence.

4.5. Further, it is contended that there is an unexplained delay in lodging the First Information Report. As per the prosecution, the deceased was admitted to the hospital by one Pattabhiraaman, who has not been examined. This omission, according to the defence, creates a serious dent in the prosecution case. Though the prosecution asserts that P.Ws.1 and 2 took the deceased to the hospital, the Accident Register entry reflects otherwise, thereby rendering their version doubtful.

4.6. It is also pointed out that the FIR is said to have been registered only after a considerable delay and was forwarded to the Court

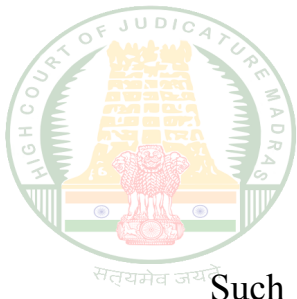


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belatedly, reaching the jurisdictional Magistrate only at about 12:30 p.m. on the following day. Even as per the evidence of the police officials, the FIR was not ready for dispatch until 6:00 a.m. the next day. This unexplained delay, it is argued, provides scope for embellishment and false implication of the accused. The learned counsel submits that when the genesis of the prosecution case, namely the FIR, becomes doubtful, the entire subsequent investigation is vitiated, in line with the settled principle that if the foundation fails, the superstructure must also fall.

4.7. With regard to the charge of criminal conspiracy, the learned counsel submits that the prosecution has relied upon the evidence of P.Ws. 12, 13 and 16. Among them, P.W.13 has turned hostile, while P.Ws.12 and 16 have supported the prosecution. However, their evidence is assailed as unreliable and artificial. It is argued that the alleged conspiracy is said to have taken place immediately prior to the occurrence, in a public place, which itself renders the prosecution version improbable. Further, P.Ws.12 and 16, despite allegedly having knowledge of the conspiracy, did not inform either the deceased or his relatives, nor did they alert the authorities.



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Such inaction is wholly unnatural and casts serious doubt on their credibility.

4.8. Additionally, there is a significant delay in recording their statements and forwarding the same to the Court. Though they were examined during investigation on 11.07.2021, their statements reached the Court only on 11.10.2021, after the filing of the final report on 30.08.2021. This delay, according to the learned counsel, indicates that they are planted witnesses to strengthen the prosecution case. In contrast, P.W.13, who has not supported the prosecution, has deposed in a manner that weakens the alleged theory of conspiracy.

4.9. On the cumulative assessment of these circumstances, the learned counsel for the appellants submits that the prosecution has failed to establish its case beyond reasonable doubt, and therefore, the appellants are entitled to acquittal.

4.10. The learned counsel for the appellants further contended that



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the alleged arrest and recovery are wholly doubtful and do not inspire confidence. It is submitted that P.Ws.1 and 2, who are projected as eyewitnesses, have not clearly deposed as to whether the accused fled from the scene carrying the weapons used in the commission of the offence. This omission assumes significance, particularly when the alleged recovery of weapons was effected from an open place in close proximity to the scene of occurrence. In such circumstances, the recovery loses its evidentiary value. It is further argued that the recovery of billhooks does not advance the prosecution case, inasmuch as the serological report does not establish that the bloodstains found on the weapons correspond to that of the deceased. In the absence of such scientific linkage, the alleged recovery cannot be relied upon to connect the accused with the crime.

4.11. The learned counsel also pointed out material contradictions in the evidence relating to recovery. P.W.7, the Village Administrative Officer, who attested the confession and recovery mahazar, has given a version which is inconsistent with that of the Investigating Officer regarding the place and manner of arrest and recovery. These contradictions, it is



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contended, go to the root of the prosecution case and have not been properly appreciated by the trial Court. With regard to the medical evidence, it is submitted that the post-mortem report discloses as many as 18 injuries on the body of the deceased, whereas the eyewitnesses have spoken only about 11 injuries. The remaining injuries remain unexplained. This inconsistency between ocular and medical evidence, according to the learned counsel, creates a serious doubt as to the veracity of the prosecution case and indicates lack of corroboration.

4.12. The credibility of P.Ws.1 and 2 is further assailed on the ground of material contradictions in their version regarding the transportation of the deceased to the hospital. While P.W.1 claims that the deceased was taken in a 108 ambulance, P.W.2 deposes that they initially transported him in a car and thereafter shifted him to an ambulance. Contrary to both versions, the Accident Register reflects that the deceased was admitted by one Pattabhiraman, who has not been examined. This discrepancy, coupled with the non-examination of the car driver or ambulance personnel and the absence of any supporting documentary



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evidence, renders the prosecution version doubtful. It is also contended that although P.Ws.1 and 2 claimed that their clothes were stained with blood while transporting the deceased, the investigating agency failed to recover or produce such material objects. This omission deprives the prosecution of crucial corroborative evidence to establish their presence at the scene.

4.13. The learned counsel further submitted that the viscera and toxicology reports (Exs. P.19 and P.20) indicate that the deceased was under the influence of alcohol at the time of death. However, this aspect has not been spoken to by P.Ws.1 and 2 or other material witnesses, thereby suppressing a relevant circumstance which could have a bearing on the occurrence. It is also argued that the conduct of P.Ws.1 and 2 is unnatural inasmuch as, despite allegedly anticipating danger and following the deceased, they did not make any effective attempt to prevent the occurrence. This conduct, according to the defence, renders their presence doubtful. The defence has further brought on record that the deceased and his associates were involved in multiple prior criminal cases and had enmity with various groups. Documentary evidence has been produced to substantiate such prior

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involvements. It is therefore contended that there existed several other potential assailants, and the appellants have been falsely implicated.

4.14. With respect to motive, the learned counsel submits that the alleged earlier case involving A6 had culminated in acquittal in the year 2015, and therefore, there was no subsisting or immediate motive. The prosecution's reliance on the alleged incident of abuse on the morning of the occurrence is also questioned, as the said case was registered separately and has not been properly proved in the present proceedings. It is further contended that the trial Court has relied upon certain documents and prior incidents which were neither marked as exhibits nor put to the accused in accordance with law. Such reliance, without affording an opportunity to the accused to explain the same under Section 313 Cr.P.C., constitutes a serious procedural irregularity vitiating the trial.

4.15. Additionally, the learned counsel submitted that reliance placed on another Sessions Case (S.C. No. 33 of 2021) concerning the alleged offence by A6 is wholly improper, especially when the concerned



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witness, Yogeswaran, has not supported the prosecution version in the present case. The said material was neither duly proved nor put to the accused, thereby causing prejudice. On the cumulative assessment of the above infirmities—namely doubtful recovery, contradictions in prosecution evidence, lack of corroboration between ocular and medical evidence, unexplained delay, procedural lapses, and failure to establish motive—the learned counsel submits that the prosecution has failed to prove the case beyond reasonable doubt, and the appellants are entitled to acquittal.

4.16. The learned counsel for the appellants further submitted that the prosecution has failed to establish a clear and exclusive motive against the appellants. It is contended that the evidence on record, particularly elicited during cross-examination of prosecution witnesses, discloses that several persons had prior enmity with the deceased. In such circumstances, the implication of the appellants alone, without cogent connecting material, is unsafe and unsustainable in law. On the cumulative assessment of the infirmities in the prosecution case, it is therefore urged that the appellants are entitled to acquittal.



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5. Submission of the learned Additional Public Prosecutor:

5.1. Per contra, the learned Additional Public Prosecutor submitted that the prosecution has proved its case beyond reasonable doubt as against A1, A2 and A6. It is contended that there existed a strong and immediate motive for the occurrence. On the date of the incident, A6 is alleged to have abused one Yogeswaran by uttering his caste name and criminally intimidated him. The said incident, according to the prosecution, led to the involvement of the deceased, who advised the lodging of a complaint. The said case has culminated in conviction in Sessions Case No. 33 of 2021 on the very same day as the present judgment. The trial Court has, therefore, rightly relied upon the said circumstance to establish motive for the present offence.

5.2. The learned Public Prosecutor further submitted that P.Ws.1 and 2 have cogently and consistently deposed regarding the overt acts committed by A1, A2 and A6. Their evidence is natural, trustworthy, and stands corroborated by the medical evidence. The nature, location, and multiplicity of injuries found on the body of the deceased are consistent with the manner of assault spoken to by the eyewitnesses.



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5.3. It is further contended that the prosecution has established all material circumstances, including the recovery of bloodstained weapons pursuant to the confession of the accused, the arrest of the accused, and the forensic reports. The evidence relating to conspiracy, as spoken to by P.Ws. 12 and 16, also lends assurance to the prosecution case. Addressing the argument of partial acquittal, the learned Public Prosecutor submitted that it is a well-settled principle of criminal jurisprudence that the Court is entitled to rely upon the credible portion of the evidence and convict some of the accused, even if other co-accused are acquitted, provided the evidence against the convicted accused is cogent, reliable, and sufficient. The principle that evidence can be “separated as grain from chaff” is firmly recognised, and the doctrine of falsus in uno, falsus in omnibus has no rigid application in Indian law.

5.4. It is therefore submitted that the acquittal of certain co-accused does not, by itself, render the conviction of the present appellants unsustainable, particularly when there exists clear and consistent evidence specifically implicating them. It is also brought to the notice of this Court that the defacto complainant, though served with notice, has not appeared.



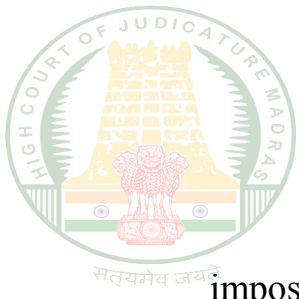
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In the circumstances, this Court appointed a learned legal aid counsel to represent the interests of the victim's side.

6. Submission of the learned counsel on behalf of the defacto complainant:

6.1. The learned legal aid counsel submitted that the prosecution has placed abundant material to demonstrate that the occurrence was rooted in caste-based animosity. There existed a continuing dispute between the accused and the deceased's family on account of caste considerations, and the deceased, being a prominent member of the Scheduled Caste community, was targeted in a premeditated manner. It is further submitted that the immediate provocation arising from the incident involving A6 and Yogeswaran provided the triggering point for the conspiracy and subsequent murder. The evidence of P.Ws.1 and 2, who are natural witnesses, remains unshaken, and no effective material has been brought on record by the defence to discredit their testimony. Accordingly, it is contended that the trial Court has properly appreciated the evidence in its correct perspective and has rightly convicted A1, A2 and A6. The conviction and sentence



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imposed are in accordance with law and do not warrant interference by this Court.

7. This Court has carefully considered the rival submissions advanced on either side and perused the entire materials available on record, including the oral and documentary evidence, as well as the relevant legal principles governing the field.

8. Discussion on the acquittal of co-accused A3, A4, A5, A7:

8.1. The primary question that arises for consideration is whether the conviction of Accused Nos. 1, 2 and 6 by the trial Court, while acquitting Accused Nos. 3, 4, 5 and 7 on the basis of the very same set of evidence, particularly the testimony of P.Ws.1 and 2, is legally sustainable. The learned counsel for the appellants assailed the presence and credibility of P.Ws.1 and 2 at the scene of occurrence, contending that their version is inherently improbable and unworthy of reliance. In order to appreciate this contention, this Court has carefully scrutinized their evidence.



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8.2. P.W.1 deposed that he, along with P.W.2, followed the deceased on a two-wheeler, apprehending danger to his life. According to them, upon reaching the place of occurrence, they initially witnessed the assault by A1 and A2 and thereafter attributed specific overt acts to A3, A4, A5 and A6 as well. However, the trial Court, while acquitting A3, A4, A5 and A7, disbelieved the testimony of P.Ws.1 and 2 insofar as it related to those accused, but chose to rely upon the same evidence to convict A1, A2 and A6. In the considered opinion of this Court, such selective acceptance of evidence is impermissible in the facts of the present case, where the testimony is indivisible and attributes specific overt acts to each of the accused in one continuous transaction.

8.3. This Court is of the view that when the evidence of eyewitnesses forms a single, inseparable narrative, the Court cannot, in the absence of independent corroboration, accept one part and reject the other in a mechanical manner, particularly when the disbelieved portion goes to the root of the prosecution case.



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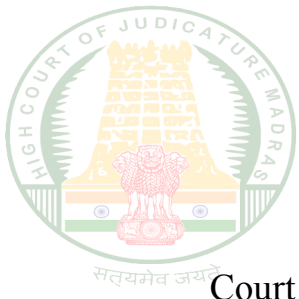
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9. Discussion on the motive and conspiracy:

9.1. At the outset, it is seen that the prosecution case rests upon an alleged background of caste-based enmity between the accused party and the deceased, who belonged to a Scheduled Caste community, whereas the accused belonged to a non-Scheduled Caste community. Though reference has been made to prior disputes, including an earlier case under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the same admittedly ended in acquittal, and no specific material has been placed on record to establish any subsisting or proximate motive as against A1, A2 and A6.

9.2. The immediate motive projected by the prosecution relates to the alleged incident dated 09.07.2021 in the morning, wherein A6 is said to have abused one Yogeswaran by uttering his caste name and criminally intimidated him, which led to the deceased intervening and advising the lodging of a complaint. This circumstance is relied upon as the genesis for the alleged conspiracy.

9.3. In order to establish the charge of conspiracy, the prosecution has examined P.Ws.12, 13 and 16. However, upon careful scrutiny, this



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Court finds that the evidence of these witnesses does not inspire confidence.

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9.4. P.W.13 has turned hostile. P.Ws.12 and 16, though supporting the prosecution version, have exhibited conduct which appears wholly unnatural. According to them, they overheard the accused conspiring in an open place, yet failed to take any steps to inform either the deceased or his relatives, including P.W.1, despite having the means to do so. Such inaction, in the face of an alleged imminent threat to life, renders their testimony doubtful.

9.5. More importantly, there is an unexplained and inordinate delay in forwarding their statements to the Court. Though their statements are stated to have been recorded on 11.07.2021, they reached the jurisdictional Court only on 11.10.2021, i.e., long after the filing of the final report. The Investigating Officer has not furnished any satisfactory explanation for this delay. This lapse assumes significance, as it raises a legitimate doubt regarding the authenticity and spontaneity of their statements.

9.6. Further, even in the chief examination, P.W.13 has stated that



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he and P.W.12 came to know about the occurrence only after hearing about the murder at a tea shop, which materially contradicts the prosecution theory that they had prior knowledge of the conspiracy. This aspect has not been effectively clarified. In such circumstances, this Court finds that the prosecution has failed to establish the charge of conspiracy beyond reasonable doubt. It is a settled principle of law that mere existence of motive cannot, by itself, give rise to an inference of conspiracy in the absence of cogent and reliable evidence. The Hon'ble Supreme Court has consistently held that conspiracy must be proved by clear and convincing evidence, and cannot be inferred on the basis of suspicion or conjecture.

9.7. In the present case, the evidence relating to conspiracy is not only weak but also suffers from serious infirmities, including unnatural conduct of witnesses and unexplained procedural delay. The learned trial Judge, without undertaking a proper analysis of these aspects, has accepted the prosecution case on conspiracy in a mechanical manner.

9.8. In view of the foregoing discussion, this Court is of the considered opinion that the finding of the trial Court holding the appellants guilty of the offence of criminal conspiracy is erroneous and unsustainable.



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Accordingly, the conviction and sentence imposed under Section 120-B IPC are liable to be set aside.

10. Discussion on the eyewitness namely PW1 and PW2:

10.1. Further, the conduct of P.Ws.1 and 2, as projected by the prosecution, appears unnatural. According to P.W.1, though they followed the deceased to safeguard him, upon witnessing the assault and being threatened by the accused, they fled from the scene. Such conduct does not align with the normal human behaviour expected in such circumstances, especially when they claim to have followed the deceased out of apprehension for his safety.

10.2. There are also material contradictions regarding the manner in which the deceased was taken to the hospital. P.W.1 stated that the deceased was taken in an ambulance, whereas P.W.2 deposed that he was initially taken in a car and thereafter shifted to a 108 ambulance. Contrary to both versions, the Accident Register (Ex.P.28) indicates that the deceased was admitted by one Pattabhiraaman, who has not been examined by the prosecution. This discrepancy remains unexplained.



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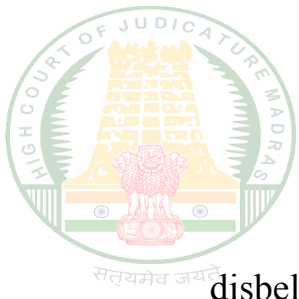
10.3. Additionally, though P.Ws.1 and 2 claimed that their clothes

were stained with blood while transporting the deceased, the investigating agency failed to recover or produce such material objects. This omission assumes significance, as such evidence would have provided vital corroboration regarding their presence at the scene.

10.4. The manner in which the complaint came to be lodged also raises suspicion. Despite the Accident Register reflecting intimation to the police, it is not the case of the prosecution that any statement was recorded at the hospital. Instead, P.W.1 is said to have travelled to the police station and lodged the complaint, which resulted in the registration of the FIR. The delay and the unusual manner in which the FIR was registered create scope for embellishment.

10.5. On a cumulative assessment of these circumstances—namely, the inconsistencies in the testimony of P.Ws.1 and 2, their unnatural conduct, lack of corroborative material evidence, contradictions with medical and documentary records, and the doubtful genesis of the FIR—this Court finds that their presence at the scene of occurrence is highly doubtful.

10.6. Moreover, it is pertinent to note that the trial Court itself



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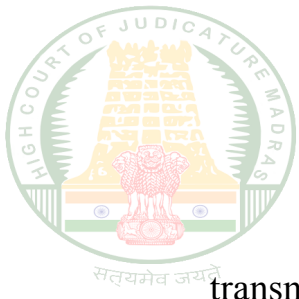
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disbelieved their evidence in respect of similarly placed co-accused who were attributed specific overt acts. In such circumstances, when the evidence is inseparable and indivisible, it would be unsafe to rely upon the same testimony to sustain conviction against the remaining accused. It is also significant that the medical evidence discloses 18 injuries on the body of the deceased, whereas the prosecution has accounted for only a lesser number of injuries through ocular testimony. The failure to reconcile this discrepancy further weakens the prosecution case.

10.7. In view of the above infirmities, this Court is unable to place reliance on the testimony of P.Ws.1 and 2 in its entirety. Consequently, the benefit of doubt must necessarily enure to the appellants. Accordingly, this Court holds that the prosecution has failed to prove the charges against A1, A2 and A6 beyond reasonable doubt, and they are entitled to acquittal.

11. Discussion on delay in registration of FIR and forwarding the same to the Court:

11.1. The learned counsel for the appellants contended that the delay in the registration of the First Information Report (FIR) and its



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transmission to the jurisdictional Court is fatal to the prosecution case. In order to consider the said submission, this Court has carefully perused the FIR and the evidence relating to its registration and dispatch.

11.2. According to P.W.1, after taking the deceased to the hospital and being informed of his death, he proceeded to the police station and lodged the complaint at about 10.00 p.m. on 09.07.2021. P.W.22, the Sub-Inspector of Police, deposed that he registered the FIR at about 10.00 p.m. (though there appears to be some inconsistency suggesting registration at a later point of time). The FIR was thereafter forwarded to the Court through a police constable.

11.3. However, the said constable has deposed that the FIR reached the jurisdictional Court only at about 12:30 p.m. on the next day. Further, it has come in evidence that the requisition for dispatch of the FIR was made only at about 6:00 a.m. on the following day. Thus, there exists a delay both in the registration of the FIR and in its transmission to the Court, for which no satisfactory explanation has been offered by the prosecution.

11.4. It is well settled that though delay in lodging the FIR is not per se fatal, unexplained delay assumes significance when it gives rise to the



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possibility of embellishment, fabrication, or false implication. In the present case, the delay gains importance in view of the admitted existence of prior enmity and multiple disputes involving the deceased and various other groups, as brought out through the defence evidence.

12. Discussion on other circumstances:

12.1. The defence has placed materials to show that the deceased was involved in several prior incidents, giving rise to hostility from different quarters. In such circumstances, the possibility of false implication of the appellants cannot be ruled out, particularly when the genesis of the prosecution case itself becomes doubtful due to the delay in FIR.

12.2. Further, the evidence on record, including the viscera report (Ex.P.19) and the medical testimony, indicates that the deceased had consumed alcohol prior to the occurrence. This circumstance, though not conclusive, adds another layer of doubt when considered along with the other infirmities in the prosecution case.

12.3. This Court also finds merit in the submission of the learned counsel regarding the doubtful nature of recovery. The alleged recovery of



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weapons pursuant to confession was effected from an open place near the scene of occurrence, namely a graveyard. In the absence of clear evidence that the accused had fled from the scene carrying the weapons, such recovery from an accessible public place loses much of its evidentiary value.

12.4. Moreover, the forensic report does not conclusively establish that the bloodstains found on the recovered weapons match that of the deceased. This absence of scientific corroboration further weakens the prosecution case.

12.5. The learned Trial Judge committed error in relying upon certain documents relating to the prior incidents which were neither marked as exhibits nor put to the accused during the course of the 313 Cr.P.C. In para 23, the learned Trial Judge placed the reliance on the judgment in S.C.No.33 of 2021 to convict the accused and also he strongly relied oral testimony of the number of witnesses in the said case to find guilty of the appellants in the present case. The said procedure is strange one and also the learned Trial Judge failed to put a question during the 313 Cr.P.C. also. It is



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well settled 313 Cr.P.C. is not on a empty formality and the purpose of the 313 Cr.P.C. is to bring the notice of the accused and be given an opportunity to the accused to explain the same. The said non-indication of the incriminating material during the 313 Cr.P.C. questioning would vitiate the conviction. Therefore, in this case the reliance based on the judgment and the material evidence in the S.C.No.33 of 2021 to hold the accused guilty under the charged offence is not legally correct.

13.Conclusion:

13.1. In criminal jurisprudence, the burden lies entirely on the prosecution to establish guilt, and any reasonable doubt must enure to the benefit of the accused. Once the foundational aspects of the prosecution case become doubtful, the entire edifice cannot be sustained.

13.2. On a cumulative consideration of the above circumstances namely, the unexplained delay in FIR, doubtful presence of eyewitnesses, unreliable evidence relating to conspiracy, inconsistencies between ocular and medical evidence, acquittal of co-accused without any indivisible nature of evidence over the conviction of the appellants and the weak nature of



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recovery, this Court is of the considered view that the prosecution has failed to prove the case beyond reasonable doubt.

13.3. Accordingly, this Court accepts the submissions made on behalf of the appellants and holds that they are entitled to the benefit of doubt.

13.4. The conviction and sentence imposed on Accused Nos. 1, 2 and 6 are hereby set aside, and they are acquitted of all charges.

14. Accordingly, this Criminal Appeal stands allowed in the following terms:

14.1. The judgment passed by the learned I Additional District and Sessions Judge (PCR), Thanjavur in Spl.S.C.No.32 of 2021 dated 19.01.2023 is hereby set aside.

14.2. The appellants are acquitted from all the charges in Spl.S.C.No.32 of 2021, by virtue of judgment dated 19.01.2023 passed by the learned I Additional and Sessions Judge, (PCR), Thanajvur.

14.3. Fine amount paid by the appellant shall be refunded to the appellant forthwith.



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14.4.Bail bond executed by the appellant shall stand terminated.

[N.A.V, J.] & [K.K.R.K,J.]
02.06.2026

NCC :Yes/No
Index :Yes/No
Internet :Yes/No
gvn

To:

- 1.The I Additional and Sessions Judge (PCR), Thanjavur.
- 2.The Deputy Superintendent of Police,
Muthupettai Sub Division,
Edaiyur Police Station,
Thiruvaur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH, J.
and
K.K.RAMAKRISHNAN, J.

gvn

Judgment made in
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02.06.2026