



CRL A(MD).No.366 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.03.2026

CORAM

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

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Velmurugan

... Appellant

Vs

The State rep. by
Deputy Superintendent of Police,
Usilampatti Division,
Madurai District.

... Respondent

Prayer: Appeal filed under Section 374 (2) of Cr.P.C. to call for the records relating to S.C.No.81 of 2016, dated 19.08.2017 on the file of the III Additional District and Sessions Court for PCR Cases, Madurai and set aside the conviction portion of the same.

For Appellant : Mr.R.Gowrishankar

For Respondent : Mr.A.S.Abul Kalaam Azad,
Government Advocate (Crl. Side)

ORDER

The appellant is the sole accused in Crime No.168 of 2015, on the file of Ezhumalai Police Station. He was tried before the III Additional



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and District Sessions Court for PCR Act Cases, Madurai in S.C.No.81 of 2016, for the offences punishable under Sections 341, 324, 427, 506(2) of IPC and Section 3(1)(x) of SC/ST (PoA) Act. The appellant was found guilty by the Trial Court and was convicted and sentenced as under:-

Sl.No	Sections	Punishment	Fine amount	Default
1	341 IPC		Rs.300/-	7 days SI
2	323 IPC	3 months RI	Rs.500/-	15 days SI
3	3 (1) of TNPPDL Act	1 year SI	Rs.1,000/-	1 month SI

The sentences were ordered to run concurrently. Since the appellant was found guilty for the offence punishable under Section 3(1) of TNPPDL Act, the charge against him under Section 427 IPC was dropped. The appellant was acquitted from the offences punishable under Sections 324, 506(2) IPC and Section 3(1)(x) of SC/ST (PoA) Act.



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2. The brief facts of the case are as follows:-

2.1. There was a temple festival at Ezhumalai Village on 21.10.2015. On that day, at about 06.30 p.m., when the defacto complainant was travelling in his motorcycle bearing Registration No.TN 58 AY 8377 along with PW2 from E.Kottaipatti to Seelnayakkanpatti, along Kallupatti Main Road, near Ezhumalai Old Police Station, he was waylaid by this appellant and two others. The appellant attacked the defacto complainant with a brick on his head, left cheek, back of the head and also damaged his motorcycle bearing Registration No.TN 58 AY 8377. Hence, PW1 / defacto complainant lodged a complaint before the Ezhumalai Police Station on 21.10.2015 at about 07.00 p.m. and the same was registered in Crime No.168 of 2015 as against this appellant and two unknown persons for the offences punishable under Sections 294(b), 341, 324, 427, 506(ii) IPC and Section 3(1)(x) of SC/ST (PoA) Act.

2.2. Since the case was registered under the provisions of the SC/ST (PoA) Act, the Superintendent of Police by his proceedings dated



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21.10.2015, directed PW7 / Deputy Superintendent of Police, Usilampatti Sub Division, Madurai District to conduct investigation in the aforesaid Crime Number. Accordingly, PW7 went to the place of occurrence, prepared a magazar and recovered the damaged motorcycle in the presence of PW3 and another person. He examined LW1 to LW9, recorded the statements, filed alteration report before the learned Judicial Magistrate No.II, Usilampatti that the appellant alone is involved in the commission of offence. He produced the damaged motorcycle before the Motor Vehicle Inspector and recorded his statement. He obtained a Damage Certificate from Barani Motors PW4 and also obtained a Certificate from the Tahsildar with regard to the community of the appellant and filed the final report before the learned Judicial Magistrate No.II, Usilampatti on 06.01.2016.

2.3. During trial, the defacto complainant was examined as PW1; the defacto complainant's friend - a Constable in Ezhumalai Police Station, who is said to have accompanied PW1 on the date of occurrence was examined as PW2; the Village Assistant was examined as PW3; the vehicle dealer who issued Damage Certificate was examined as PW4; the



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Tahsildar, who issued Community Certificate was examined as PW5; the Sub Inspector of Police, who registered the FIR was examined as PW6; and the Deputy Superintendent of Police / Investigation Officer was examined as PW7. The prosecution marked 13 documents in support of their case and the bricks and photographs of the damaged vehicle were marked as material objects.

2.4. Incriminating materials were put to the appellant under Section 313 of Cr.P.C. and the appellant denied those materials. Though he has averred that there was a witness on his side, he has not examined any such witness. The Trial Court by considering the evidence, has found this appellant guilty, convicted and sentenced him as stated *supra*. Aggrieved by the same, the present appeal is filed.

3. The learned counsel appearing for the appellant by referring to the contradictions in the evidence, statement and FIR submits that the defacto complainant has stated in his complaint, statement under Section 161(3) of Cr.P.C. that he was assaulted by the appellant on his left cheek,



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whereas, in his evidence he has stated that he was assaulted on his right cheek. Similarly, the evidence of PW2 is also contrary. He also points out the contradictions with regard to the damage of motorcycle in the evidence of PW1 and PW4. According to the learned counsel, the valuation of damage as projected by the private agency - PW4 differs from the Report of the Motor Vehicle Inspector, marked as Ex.P13.

4. In response to the submissions of the learned counsel appearing for the appellant, the learned Government Advocate appearing for the respondent submits that PW2 says that the defacto complainant / victim was assaulted on his left cheek as well as on his right pidari (back of the head). According to him, PW1 and PW2 have consistently stated that petrol tank and the front side of the motorcycle have been damaged, which fact has been confirmed by the Motor Vehicle Inspector in his Report as well as by PW4. Though the appellant has been charged for the offence under Section 427 IPC, as the damage to the vehicle cost more than Rs.100/-, the appellant was rightly convicted for the offence under Section 3(1) of the TNPPDL Act. Though the defacto complainant was not referred to the Doctor, he has suffered pain and that was also



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expressed by him. Hence, the offence under Section 323 IPC is made out.

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5. This Court considered the rival submissions and also perused the materials available on record.

6. The appellant was charged based on the complaint registered in Crime No.168 of 2015 of Ezhumalai Police Station, that he has assaulted the defacto complainant / victim / PW1 on 21.10.2015 at about 06.30 p.m. with a brick (MO1). PW1 was accompanied by PW2 on the date of occurrence. The complaint was lodged at 07.00 p.m. i.e., immediately after the occurrence. In the complaint, PW1 and PW2 have stated that the occurrence was committed by the appellant along with two others. The Deputy Superintendent of Police, who conducted the investigation, has filed an alteration report on the same day, by deleting two other accused, that the allegations made by PW1 and PW2 that three persons were involved in the offence is not correct. However, the FIR said to have been registered on 21.10.2015 reached the Judicial Magistrate



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No.II, Usilampatti only on 22.10.2015, at about 10.00 p.m. without any alteration in the accused column.

7. Admittedly, there was a temple festival at Ezhumalai Village and there was a quarrel between two groups. Not less than five criminal cases have been registered on that day. There was a commotion and the parked vehicles and the Police Station were also damaged. PW1 claims that he was assaulted with a brick on his cheek. As pointed out by the learned counsel for the appellant, there are contradictions in the complaint and evidence as to the place of occurrence.

8. PW2 is a Constable working at Ezhumalai Police Station. He is said to have accompanied PW1 on the date of occurrence. Though he was present along with PW1 during the occurrence, he did not prevent the appellant from assaulting PW1 and damaging the motorcycle of PW1.

9. Moreover, the appellant was not referred to the Hospital by the Police, even when the complaint was lodged within half an hour from the



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time of occurrence and no physical injury was noted by the Police.

However, the Trial Court has found the appellant guilty for the offence under Section 323 IPC, merely based on the pain said to have been reported by PW1. The complaint of PW1 has been disbelieved by the prosecution officer on the same day that the complaint is a exaggerated one, that PW1 was assaulted by three persons. However, based on the evidence of PW1, the entire prosecution case has been relied and the appellant was also convicted.

10. The appellant was charged for the offence punishable under Section 3(1)(x) of SC/ST (PoA) Act also. However, he was acquitted for this charge by the Trial Court. Though appellant was charged for the offence under Section 427 IPC, he was found guilty, convicted and sentenced for the offence under Section 3(1) of TNPPDL Act without even framing charges for the same. The appellant was punished for the offence under Section 3(1) of TNPPDL Act based on the Damage Certificate issued by PW4, a private vehicle dealer. The investigation officer PW7 has produced the vehicle before the Motor Vehicle Inspector, Unit Officer, Usilampatti and has also obtained a Report from

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him and the same was marked as Ex.P13. However, without examining this Motor Vehicle Inspector, the prosecution has relied on the Damage Certificate issued by PW4, a private vehicle dealer and on the basis of his evidence, the Trial Court has convicted the appellant for the offence under Section 3(1) of TNPPDL Act.

11. Further, the vehicle number has been initially written in the complaint as TN 58 AY 8477 and subsequently, the same has been over written as TN 58 AY 8377. If the complaint was lodged immediate to the occurrence and that too by the victim - owner of the vehicle, it is not known how the vehicle number has been over written in the complaint Ex.P1. Moreover, the Motor Vehicle Inspector has stated that the Registration Certificate was not produced when he examined the said motorcycle. Considering the riot that took place on Ezhumalai Village on the date of occurrence and the manner in which the complaint has been lodged, this Court is inclined to allow the appeal and set aside the conviction and sentence imposed by the Trial Court.



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12. Accordingly,

- i. this Criminal Appeal is allowed;
- ii. the conviction and sentence imposed on the appellant / sole accused in S.C.No.81 of 2016, dated 19.08.2017, by the learned III Additional District and Sessions Court for PCR Cases, Madurai are set aside.
- iii. the appellant is acquitted of the charges framed against him and the fine amount, if any paid by him, shall be refunded.
- iv. Bail bond, if any executed by the appellant shall stand terminated.

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Index : Yes / No.

NCC : Yes / No.

To

1. The learned Judge,
III Additional District and Sessions Court for PCR Cases,
Madurai.

2. The Deputy Superintendent of Police,
Usilampatti Division,
Madurai District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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B.PUGALENDHI, J.

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