Sugumar vs The Inspector Of Police on 18 April, 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 20.12.2023
Pronounced On : 18.04.2024 &
24.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.A(MD)No.236 of 2022

Sugumar .. Appellant / P.W.8 /
Injured witness

Vs.

1.The Inspector of Police,
Vangal Police Station,
Karur District.

2.Gunasekaran @ Velusamy
3.Dinesh @ Periyasamy
4.Vignesh
5.Sathish @ Murugan
6.Muthamilselvan
7.Saravanan .. Respondents 2 to 7/
Accused Nos.1 to 6

PRAYER: Criminal Appeal filed under Section 372 of Criminal Procedur
Code, to call for the records of the judgment dated 21.02.2022 in S.
63 of 2019 on the file of the learned Additional Sessions Judge (Fas

Track Mahila Court), Karur and to set aside the same.

For Appellant : Mr.G.Karuppasamy Pandiyan

For Respondents : Mr.M.Muthumanikkam

Government Advocate(Criminal side)
For R1

: Mr.R.Gandhi
Senior Counsel
for Mr.L.Prabakaran
for R2 to R7

JUDGMENT

This Criminal Appeal has been preferred by the appellant/(P.W8)- injured witness in S.C.No.63 of 2019, on the file of the learned Sessions Judge (Fast Track Mahila Court), Karur, calling into question of legality and validity of the judgment and order dated 21.02.2022, in and by which, the accused viz., the respondents 2 to 7 herein, were acquitted of all the charges framed against them.

2. For better appreciation of the facts, the rank of the parties before the trial Court is denoted here. The respondent Nos. 2 to 7 are herein after referred as accused and the appellant is referred as P.W.8. https://www.mhc.tn.gov.in/judis

3.Brief facts of the case:

> The respondents/accused were administering the office of the Kongalamman Temple in Achampuram and maintaining the accounts with regard to the income and expenditure of the said Temple. After conducting the Kumbabishekam in the said temple, the villagers asked the accused to furnish the accounts. The accused and other persons told that they have lost the account books and refused to show the accounts book. Therefore, the villagers thought that the accused had misappropriated the temple funds. Hence, the villagers including the appellant and other injured witnesses made a complaint to the District Collector, Karur. Thereafter, the District Collector intervened with administration of temple and handed over the administration of the temple to P.W8-Sukumar. This enraged the accused and they became hostile with P.W.8 and other villagers for removing them from the Administration of temple.
>
> 3.1. In the above circumstances, on 17.01.2019, P.W1's Aunt died.

After of the cremation was over around 7.30 p.m, when the witnesses were proceeding in front of the Murugan Temple situated near P.W1‘s house, A1 https://www.mhc.tn.gov.in/judis to A6 unlawfully assembled with deadly weapons and attacked the witnesses and criminally intimidated them more particularly, they caused injuries to P.W.1, P.W8-Sukumar with intention of murdering them for the reason that P.W.8 took over the administration of temple succeeding the said respondent party and the same was intervened by P.W.2, P.W.3, P.W.4 and they were also assaulted by the respondent Nos.2 to 7 and in the result, P.W.1, P.W.2, P.W.3, P.W.4 and P.W.8 and P.W.1's mother maniammai sustained injuries and they were admitted in various hospitals. P.W16, on receipt of information from the hospital, obtained statement from P.W1 and registered the case in Crime No.19 of 2019 for

the offences under Sections 147, 148, 294(b), 323, 324, 427 and 506(ii) IPC and Section 4 of the Tamilnadu Prohibition of Harassment of Women Act, 2002. Thereafter, P.W16 commenced the investigation by preparing the observation mahazar, sketch and also recorded the statements of the witnesses. In continuation, he arrested the accused on 18.01.2019 at 2.00 p.m. Thereafter, he recovered the material objects near the house of A2-Dinesh and he sent the material objects to the Court. In the meantime, A1 got anticipatory bail from this Court. After that P.W16 recorded the statement of P.W8. At this stage, he was transferred to some other station. Hence, the succeeding investigation officer P.W17 continued the investigation by examining the https://www.mhc.tn.gov.in/judis remaining witnesses and also recorded the further statements from the injured witnesses. Thereafter, he altered the offence under Section 307 and 109 IPC. After completion of the investigation, P.W17 filed the final report before the learned Additional Sessions Judge, Karur for the offence under Sections 147, 148, 294(b), 323, 324, 326, 427, 442, 354, 506(ii), 307 and 109 IPC & Section 4 of TNPHW Act and section 3 of TNPP(DL) Act.

3.2.The same was taken on file in S.C.No.63 of 2009. Then, the learned trial Judge framed the "following charges" and questioned the accused. All the accused pleaded not guilty and they stood for trial.

Accused Rank	Charge
A1 to A6	u/s 147, 148, 294(b), 506(ii), 442, 427 IPC
A1 to A3	u/s 326, 324, 307 IPC
A4 to A6	u/s 324 and 109 IPC
A1 & A2	u/s 324(2 counts), 354 IPC and Section 4 of TNPHW Act

3.3. Subsequently, prosecution witnesses were examined from 05.01.2021 onwards and thereafter, on 21.01.2022, the succeeding Presiding Officer altered the charges which reads as follows:

> https://www.mhc.tn.gov.in/judis Accused Alteration of Charges Rank A1 to A6 u/s 147, 148, 294(b), 506(ii), 448, 427 IPC Section 3 TNPPDL Act A1 to A3 u/s 324 & 307 IPC A4 to A6 u/s 324 and 307 r/w 149 IPC A1 & A2 u/s 324, 323 IPC and Section 4 of TNPHW Act 3.4. After the alteration of charges, the proper questioning was done.

The accused denied their complicity and stood for trial. Thereafter, the learned trial Judge, on the basis of the altered charges, examined the prosecution witnesses P.W1 to P.W17 and exhibited Ex.P1 to Ex.P21 and material objects, viz., M.O1 to M.O3. Thereafter, the learned trial Judge questioned the accused under Section 313 Cr.P.C by putting the incriminating circumstances available against them. The accused denied the same as false and hence, the case was posted for the defence side witness. On the side of the defence, D.W1 and D.W2 were examined and Ex.D1 to Ex.D9 were marked.

https://www.mhc.tn.gov.in/judis 3.5. After considering the above documents and evidence, the learned trial Judge acquitted all the accused finding that the prosecution failed to prove the charged offences beyond reasonable doubt.

3.6. The learned trial Judge held that non-production of the X-ray and CT scan report creates doubt over the injury sustained by the witnesses. The learned trial Judge considering the discrepancies in the accident register copy, held that the prosecution had not proved the case beyond reasonable doubt. He further held that when both parties were injured, the investigating officer did not conduct the investigation under Order 588A of the Madras Police Standing Orders. According to the learned trial Judge, charge under Section 307 of IPC is not made out, since there was no grievous injury sustained by the witnesses in order to cause death and held that the prosecution intentionally suppressed the genesis of the occurrence by not investigating the counter case. The learned trial Judge also considered Ex.D2 and held that P.W8 sustained only simple injuries and hence the prosecution miserably failed to establish the main ingredients of Section 307 IPC. Aggrieved over the said impugned acquittal Judgement, P.W8/injured witness preferred this appeal. https://www.mhc.tn.gov.in/judis

4. Submission of the learned counsel for the appellant 4.1. The learned counsel for the appellant submitted that the appellant and the other injured witnesses gave a complaint against the accused to the collector about their act of misappropriation of the funds of the temple. Therefore, P.W8 was appointed to manage the accounts of the temple in the place of accused. Therefore, the respondents got infuriated over the act of the appellant and other witnesses and also the villagers. Due to the enrangement the accused formed an unlawful assembly with deadly weapons and assaulted the witnesses by criminally intimidating them and also caused injuries to the witnesses. The said assault was clearly proved through the medical evidence. Each injured witness has clearly deposed that they were attacked by the respondents with the sole intention to murder them with three deadly weapons by forming unlawful assembly. The same was established through the undisputed documents. In the said circumstances, the prosecution has proved the case. P.W1 and other injured witnesses cogently deposed without any infirmities about the manner of occurrence and the injuries sustained by them at the hands of the respondents. But the learned trial Judge, without taking into consideration the relevant materials, acted on irrelevant materials and minor contradictions and discrepancies and acquitted all the accused. Hence, he https://www.mhc.tn.gov.in/judis seeks for the interference of this Court.

4.2. The learned counsel for the appellant further submitted that the finding of the learned trial Judge that the non-production of the CT scan and X-ray report would not cause any impact on the credentials of the injured witnesses and hence he seeks for setting aside the judgment of the trial Court.

4.3. The learned counsel for the appellant further submitted that the evidence of the injured witnesses should be placed on higher pedestal even though it is not corroborated with the medical evidence. It is well settled principle that in the case of any difference between the ocular evidence and medical evidence, ocular evidence would have primacy over the medical evidence. Therefore, the learned counsel for the appellant submitted that the prosecution clearly proved the case.

4.4. The learned counsel for the appellant further submitted that so far as the offence under Section 448 IPC is concerned, P.W1 clearly stated that after the assault on the injured witnesses, the respondents ransacked the house of P.W1. Further, they not only ransacked the house but also https://www.mhc.tn.gov.in/judis caused damage to the house and household properties. Therefore, the offence under Section 448 IPC and Section 3(1) of the TNPPDL Act is clearly made out. All the witnesses were assaulted, criminally intimidated and hence, the offence under Section 506(ii) IPC also is made out. According to the appellant, the learned trial Judge failed to appreciate the above fact in the proper manner. Insofar as offence under Section 307 IPC is concerned, injury is not necessary when the ingredients of Section 307 IPC is available. It is the specific case of the appellant that the respondents formed unlawful assembly with deadly weapons and assaulted with intention to murder and they were infuriated on the score of deprivation of the administration of the temple from their custody and caused injuries to number of witnesses. The manner of the incident and the injury sustained by them had clearly proved the offence under Section 307 IPC.

4.5. The learned trial Judge acquitted all the accused on the ground that Order 588A of the Madras Police Standing Orders was not followed. The learned counsel for the appellant submitted that no FIR was registered for the injuries said to have been suffered by the accused and in the said circumstances, without registration of FIR, the applicability of Order 588A of the Madras Police Standing Orders will not arise. Therefore, the https://www.mhc.tn.gov.in/judis prosecution, in all aspects proved the ingredients of Section 307 IPC and all the charged offences. In the said circumstances, he prays to allow this appeal and he placed the following precedents.

(i) 2017 (11) SCC 120 [Rajagopal v. Muthupandi @ Thavakkalai and others]

(ii) 2022 (1) Cri 353 SC [Rajesh Yadav v.State of U.P].

5. Submission of the learned Senior counsel for the respondents 5.1. This is the case of appeal against acquittal. The learned trial Judge, after considering the infirmities and the material contradictions and overall assessment of the evidence of the prosecution witnesses, acquitted the respondents/accused. The said well considered judgement need not be set aside holding that there is no perversity in the finding of the learned trial Judge. The learned Senior counsel submitted that according to the prosecution, the complaint was preferred on 08.01.2019 at 08.00 am. Before the registration of the case, according to the evidence, the police officers visited the occurrence place and investigation was commenced by P.W15. Therefore, when the foundation of the case itself is doubtful the edifice has to collapse. Hence, the prosecution suppressed the earlier version regarding the registration of the case. https://www.mhc.tn.gov.in/judis 5.2. The learned Senior counsel further submitted that in the Accident Register copy, each injured witnesses gave different versions and hence as per the earliest information, there was no consistency between the versions of the injured witnesses. The prosecution case is doubtful as per the earlier version. The learned Senior counsel further submitted that as per the evidence of the prosecution witnesses, more particularly, the investigation officer the accused also sustained injury. Even prosecution documents were marked to that effect. Hence, the genesis of the occurrence was suppressed by the eyewitnesses and also the investigation was not conducted in a fair manner. The investigating officer has not conducted the investigation properly to find out who were the aggressors. In the said circumstances,

the acquittal order passed by the learned trial Judge should not be disturbed.

5.3.The learned Senior counsel further submitted that there are lot of discrepancies in the recovery of weapons. Hence, the same creates doubt over the manner of the investigation conducted by the investigating agency. Further, the learned Senior counsel submitted that it is the admitted case of P.W15 that the complaint was orally made as per the version of D.W2. Hence, as per Order 588A of the Madras Police Standing Orders, https://www.mhc.tn.gov.in/judis the investigating officer ought to have registered the counter case and conducted the investigation. The learned Senior counsel further submitted that a strong motive existed between the appellant as well as the respondent parties. Hence, the respondents were falsely implicated in the above crime. The same was proved from the above inconsistency in the Accident Register copy and the other circumstances as stated above. Hence, the evidence of the witnesses is not trustworthy and the same has to be eschewed. The learned Senior counsel further submitted that there was some material contradictions regarding the arrest of the accused and the same was material. In the above circumstances the weapons were not seized in accordance with law. According to the learned Senior counsel for the respondents, when the recovery creates some doubt, arrest also is suspicious and it is clear that the investigating officer created the records to suit the prosecution case.

5.4.In this case, the recovery was not made on the basis of the confession of the accused. The recovery was made in the open place on the spot inspection. In the said process, there are number of contradictions. The same was material in this case because the alleged offence said to have been committed by the respondents are under Sections 307 and 324 IPC. https://www.mhc.tn.gov.in/judis 5.5. The learned Senior counsel, further submitted that the delay in registering the case in the above particular circumstances creates doubt over the prosecution case. The contradictions elicited by the respondents during the cross-examination of the eyewitnesses was also confirmed with the investigating officer and the said contradictions are material one and hence the learned trial Judge had rightly acquitted the accused. Even though the learned trial Judge has not considered the number of infirmities and contradictions, this Court, as an Appellate Court, may re-appreciate the evidence and has to confirm the acquittal Judgement. The learned Senior Counsel also elaborated the principles laid down by the Hon'ble Supreme Court relating to the appeal against acquittal and stated that there is no circumstance to interfere with the judgment of acquittal. The learned Senior counsel further submitted that in the above case, when there is a possibility of two views and this Court ought not to interfere in the acquittal judgement passed by the learned trial Judge. The learned Senior counsel submitted that the injured witness-P.W8 deposed before the doctor that when he was in his house, five known persons came and attacked him with wooden log and stones. Immediately after the occurrence, he was admitted in the Government Hospital, Karur and thereafter, he was taken to the Amaravati Hospital and then he had taken treatment in Ramakrishna https://www.mhc.tn.gov.in/judis Hospital, Coimbatore. Therefore, the said version of the injured witness- P.W8 is not corroborated with the statements made by the remaining injured witnesses. The same is material in this type of serious allegation when the parties are in a strained relationship. Hence, the learned Senior counsel seeks for dismissal of this appeal and relied the following precedents in support of this submissions:

i.2011 (3) Crimes 421 (Mds) [B.Balraj v. Arun @ Arunkanth & Others] ii.2018 (2) Cri 94 (SC)[Bannareddy & Ors.v.State of Karnataka] iii.2023 Live Law SC 186[Nand Lal and others v. The State of Chhattisgarh] iv. 2017 (8) SCC 125[Subbulaxmi v. Kumarasamy and Others].

6. The learned Additional Public Prosecutor also reiterated the stand taken by the learned Senior counsel for the respondents and seeks for dismissal of the appeal.

7. This Court considered the rival submissions made by both parties and also perused the records and the precedents relied upon by them. https://www.mhc.tn.gov.in/judis

8. This Court decides the case by framing the following questions:

8.1.Whether there is any perversity in the judgment of the Court below in acquitting the respondents so as to interfere in the judgment of the Court below? If so, whether the prosecution proved the charges offence beyond reasonable doubt on the basis of the available evidence?

9. P.W1 in his evidence clearly deposed about the incident that on 17.01.2019, around 07.30p.m., when he and P.W.8 were standing near his house in front of Murugan Temple, A1 to A6 came to the said place with deadly weapons and scolded P.W.1 and P.W.8 with filthy words and attacked them over their head with the exhortation and caused bleeding injuries on their head ie., eP'f ; s; vy;yhk; vd;d bghpa MSg;g[z;ilahlh. eh';f br";Rl;LUe;j eph;thf bghWg;g Rjhfhplk; th';fp bfhLj;JO';f. ,g;gona tpl;lh eP';f kWgoa[k;. kWgoa[k; gpur;rid br";Rf;fpl;nl ,Ug;gP';fd;D brhy;yp. mth;fs; bfhz;L te;j fk;gp. fl;il Mfpatw;iwf; bfhz;L vd;ida[k;. RFkhiua[k;

ghh;j;J ,j;njhL brj;J xHp";R ngh';flh vd;W brhy;yp vd; jiyapYk;. RFkhh; jiyapYk; ,uj;jf;fhak; Vw;gLk; mst[f;F moj;Jtpl;ldh;/ On hearing the noise, the other witnesses https://www.mhc.tn.gov.in/judis P.W.4 and mother of P.W.8, P.W.2, P.W.3 tried to intervene and, at that time they were also assaulted by the accused. P.W4-mother of P.W8 was assaulted by the accused and her saree and blouse were torn by the accused. In continuance of the said occurrence, they criminally trespassed into the house of P.W.1 and caused damage to the properties and assaulted and caused injuries to him. Immediately, the same was questioned by the villagers. After that the accused fled from the place of the occurrence and they dropped the weapons in the house of A2. P.W.1 cogently deposed and the same was corroborated with the testimonies of the injured witnesses P.W.8, P.W.2, P.W.3 and P.W.4 and eye witnesses P.W.5, P.W.6 and P.W.7. The doctors P.W.9, P.W.11 and P.W.14 also deposed about the injuries sustained by the injured witnesses. The corresponding wound certificates were also marked. Therefore, he prosecution has clearly proved the case beyond reasonable doubt but, the learned trial Judge acquitted the respondents 2 to 7 from all the charges. Hence, P.W.8 seeks to interfere with the impugned acquittal judgment.

10. Summary of the reasoning of the learned trial Judge The learned trial Judge in Paragraph No.44, has held that the prosecution has miserably failed to establish the intention under Section 307

https://www.mhc.tn.gov.in/judis of IPC on the ground that P.W.1 and P.W.8 have not sustained grievous injuries. The learned trial Judge, in Paragraph Nos/.45, 46, 47 and 48 made a discussion relating to the injuries sustained by P.W.1 and the contradiction and discrepancy and exaggeration made by P.W.1 before the Government Hospital and the Private Hospital relating to the number of persons and the weapons and finally concluded that there was reasonable doubt over the place of occurrence and P.W.1 has come forward with exaggerated version. In paragraph No.49 and 50, the learned trial Judge, found that there was a reasonable doubt whether P.W.2 and P.W.3 have actually sustained injuries in the said occurrence on the ground that P.W.9/treatment doctor has not produced the CT scan report to the investigating officer and hence, there is a doubt over the injuries noted in the wound certificate. Therefore, there was a reasonable doubt, whether P.W.2 has actually sustained injury in the said occurrence. In paragraph No.51, the learned trial Judge observed about the non examination of one of the injured witness and another injured witness P.W.4 has not taken any treatment as she did not sustain any injury in the said occurrence. The learned trial Judge, further in paragraph No.51, rejected the evidence of doctor/P.W.9, on the ground that he has given a stereo type of evidence before the Court below by stating that P.W.1 to P.W.3 were admitted in the Amaravathy Hospital, Karur and CT scan was taken and the report was https://www.mhc.tn.gov.in/judis only annexed in the case sheet and has not handed over the CT scan report to the investigating officer. Therefore, his evidence was rejected. The learned trial Judge, in paragraph No.52, stated that P.W.8 has sustained head injuries and he has taken treatment in the Ramakrishna Hospital, Coimbatore and doctors of the said hospital were examined as P.W.11, P.W.14 and they failed to take either MRI or CT Scan and their evidence that the injuries was cured by medication clearly shows that P.W.8 never sustained grievous injuries. Therefore, their evidence cannot be relied upon for convicting the respondents for the alleged charged offences. In paragraph Nos.54 and 55, the learned trial Judge, stated that even though the accused sustained injuries, the prosecution failed to explain the same. Therefore, there is doubt over the prosecution case. In paragraph Nos.56 and 58, the learned trial Judge has held that the investigating officer failed to follow the police standing order 588-A of the Madras Police Standing Order and the same created a doubt over the prosecution case. Further, even though the investigating agency received the intimation about the said injury sustained by the accused, they did not register any case and investigated the same as per the police standing order 588-A of the Madras Police Standing Order. The learned trial judge in paragraph No.57, stated that the injured witness are not consistent in stating either place of occurrence or kind of weapon used by the offenders. In https://www.mhc.tn.gov.in/judis paragraph No.60, once again, made the reference about the difference of place of occurrence made in the AR copy. In paragraph No.61, it is found that P.W.1 has stated before P.W.13 in the Government Hospital that he was assaulted by the wooden log and in the Amaravathy Hospital, he stated that he was assaulted by wooden log, stone and iron rod. Therefore, there was an improvement relating to the weapons and hence, the accused is entitled to acquittal under Sections 147 and 148 of IPC. In paragraph No.62, the learned trial Judge stated that the witnesses have never deposed about the annoyance to the public as required under Section 294(b) of IPC. Similarly, in paragraph No.63, the learned trial Judge stated that the offence under Section 3 of the TNPPDL Act, has not been proved on the ground that the investigating agency failed to mark the damage valuation report and only marked the photographs of the damaged articles. Therefore, P.W.1 is a compulsive liar and hence, the accused could not be punished under Section 3 of the TNPPDL Act. The learned trial Judge, in paragraph No.64 stated that P.W.3 in his former

statement stated that A1 and A2 pulled the saree and blouse of P.W.3. But, in the evidence, she stated that A4 to A6 pulled her blouse. Therefore, the evidence of P.W.3 and P.W.4 could not be taken into consideration for convicting the accused under Section 4 of TNPHW Act as their versions are entirely different from their former statements. In paragraph No.65, the https://www.mhc.tn.gov.in/judis learned trial Judge stated that the prosecution witnesses have failed to establish the criminal trespass under Sections 448 of IPC and also 506(ii) of IPC. In paragraph No.66, the learned trial Judge stated that there are lot of loopholes in the case of prosecution. The prosecution witnesses, have not placed any reliable evidence to bring the accused under the charges.

11.Discussion over the finding of the learned trial Judge for the offence under Section 307 of IPC:

> 11.1. Finding of the learned trial Judge that P.W.1 and P.W.8 sustained simple injury and hence, the offence under section 307 of IPC is not made out is perverse for the following reasons:
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> 11.1.1.P.W.8/Sugumar sustained grievous injuries on his head. P.W. 11/doctor deposed that among the number of injuries, he sustained the following grievous injury;
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> (a),lJ bgiuly; kw;Wk; fghy vYk;g[fs;
>
> cile;J ,Ue;jJ. me;j fhak; nfhLq;fhak;. He also deposed that he issued the wound certificate/Ex.P10, mentioning the above grievous injury and also affirmed that the said injuries could be caused by the marked weapons in M.O.1 series.

https://www.mhc.tn.gov.in/judis 11.1.2.Similarly, P.W.9/doctor deposed that P.W.1 sustained three injuries and the third injury ie., “contusion of 1 X 1 cm at the right parietal region” is grievous injury. He also deposed that he issued the wound certificate/Ex.P3, mentioning the above grievous injuries and also affirmed that the said injuries could be caused by the marked weapons in M.O.1 series.

11.1.3.Therefore, the learned trial Judge's finding that P.W.1 and P.W.8 sustained only simple injuries is against the above records and hence, the said finding is perverse.

11.1.4.The learned trial Judge to arrive at the finding that P.W.8 sustained only simple injury he relied on Ex.D2, a photograph allegedly taken in the hospital where P.W.8 was admitted and taken treatment. The learned trial Judge, from the perusal of Ex.D2 found that P.W.8 sustained only simple injuries. Ex.D2 is the photograph in which P.W.8 and his relative is seen with stichered injury on head, the same was marked during his cross examination with objection to the admissibility during his cross examination. There was no evidence, to prove that the same was taken in the hospital. Further, the said photograph is inadmissible and the same ought not to have been relied by the learned trial Judge. It is well settled law that the photograph https://www.mhc.tn.gov.in/judis is to be marked with negative before Digital era and in case and if it is digital photograph, it should be marked along with CD with 65B certificate as required under

the Indian Evidence Act and then only it is admissible. None of the above procedures were followed by the defence. Therefore, reliance placed by the learned trial judge under Ex.D2 is misconceived one. On the basis of above Ex.D2, the learned judge erroneously assumed that there was only simple injury and the learned trial Judge has held that in the absence of grievous injury, intention to cause 307 of IPC cannot be conceived.The said finding is contrary to Section 307 of IPC and also the interpretation given by the Hon'ble Supreme Court in various judgments.

11.1.6.While considering the same, it is relevant to extract Section 307 of IPC hereunder:

> "Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if "hurt" is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned." https://www.mhc.tn.gov.in/judis 11.2.Section 307 of IPC, only states "hurt" i.e., if any person caused hurt with an intention or knowledge to cause death, offence under Section 307 of IPC is made out. For proving the offence under Section 307 IPC, it is not necessary that grievous injury is to be present.
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> 11.3.The said principles of interpretation has been given by the Hon'ble Supreme Court in the following pronouncements:
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> State of M.P. v. Saleem reported in (2005) 5 SCC
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> 16. Whether there was intention to kill or knowledge that death will be caused is a question of fact and would depend on the facts of a given case. The circumstances that the injury inflicted by the accused was simple or minor will not by itself rule out application of Section 307 IPC. The determinative question is the intention or knowledge, as the case may be, and not the nature of the injury.' In State of M.P. v. Kashiram (2009) 4 SCC 26 "13... Therefore, an accused charged under Section 307 IPC cannot be acquitted merely because the injuries inflicted on the victim were in the nature of a simple hurt.

https://www.mhc.tn.gov.in/judis Jage Ram v. State of Haryana, (2015) 11 SCC 366 at page 370

12... To justify a conviction under Section 307 IPC, it is not essential that fatal injury capable of causing death should have been caused.

State of M.P. v. Kanha, (2019) 3 SCC 605 at page

18... It must be noted that Section 307 IPC provides for imprisonment for life if the act causes "hurt". It does not require that the hurt should be grievous or of any particular degree.

State of M.P. v. Harjeet Singh, (2019) 20 SCC 524 at page 530 5.6. Section 307 uses the term “hurt” which has been explained in Section 319 IPC; and not “grievous hurt” within the meaning of Section 320 IPC.

If a person causes hurt with the intention or knowledge that he may cause death, it would attract Section 307.

11.5. In all the above judgments, the Hon'ble Supreme Court directed the Courts below to see if there is an intention and attribution of some overtact in execution thereof. The said act should have been done either with knowledge or intention to commit murder. Whether the intention to kill or knowledge that death will be caused is a question of fact https://www.mhc.tn.gov.in/judis and will depend on the facts of each case. The determinative question is the intention or knowledge, as the case may be, and not the nature of injury. The intention of the accused is to be gathered from the circumstances, like nature of the weapon used, words used by the accused at the time of incident, motive of the accused etc. What the Court has to see is whether the act, irrespective of its result was done with the intention or knowledge.

11.6. The seat of the injury being the head, shows that the said assault was committed with necessary intention. The testimonies of the injured witness is trustworthy and there is no ground to disbelieve their version when their injury is corroborated with the medical evidence. Therefore, all the ingredients are established. Merely because the injury was simple in nature as held by the learned trial Judge it should not have come to the conclusion that Section 307 IPC was not made out. As per the judgement of the Hon'ble Supreme Court reported in 2011 (9) SCC 257 even as per Section 307 IPC, grievous injury is not necessary when the ingredients of Section 307 IPC is established by the prosecution, ie., the intention to cause death.

12. Discussion over the finding of the learned trial Judge on https://www.mhc.tn.gov.in/judis Non-production of the CT-Scan report:

> 12.1. In this case, the learned trial Judge acquitted all the accused on the ground that as per the doctor's version, the doctor is said to have taken the CT scan, but the same has not been produced. P.W.1, P.W.2, P.W.3 and P.W.8 sustained head injuries. Initially, they took treatment in the Government Hospital, Karur. Thereafter, P.W.1, P.W.2, P.W.3 were admitted in Amaravathy Private Hospital, Karur. In Amaravathy Hospital, due to the head injuries sustained by them, the doctors of Amaravathy Hospital advised to take CT-Scan. The same was also taken to verify whether there was any further complication. The said CT-Scan report was not marked. But, the treatment doctor/P.W.9 was examined and he specifically deposed that P.W.1, P.W.2 and P.W.3 sustained head injuries by producing the wound certificates and AR copies entries are enumerated herein:

Sl.No.	Rank of injured witness	the Wound certificate	Injuries
1	P.W.1	Ex.P.3	1) Laceration of 0.5 cm at mid

2) Contusion of 2
parietal regio
3) Contusion of 1
Parietal regi

2 P.W.2 Ex.P.5 1. Laceration of size (2x2x1cm and 3x1x1cm over (L) parietal region.

2. Tenderress over (L) shoulder 3 P.W.3 Ex.P.7 Contusion of size 3x3 cm over(L) parietal region He as an Medical Expert also opined that the injuries could be caused by the material objects shown in the Court. In the said circumstances, the injury was clearly proved through the wound certificate and examination of the doctor. Similarly, P.W.8 sustained grievous injuries on his head and hence, he was admitted in Ramakrishna Hospital, Coimbatore. In the said Hospital, CT-Scan was taken. But, the same was not produced to the investigating officer. The said omission was seriously considered by the learned trial Judge to disbelieve the version of the prosecution that P.W.8 sustained grievous injury. Doctors from the Ramakrishna Hospital, namely P.W.11 and P.W.14 were examined and they specifically deposed about the injuries sustained by P.W.8 in his head and its complication extended to his ear. Therefore, ENT surgeon also gave the treatment to him. All the treatment particulars have been marked before the Court below, namely, the discharge summary, would certificate under Ex.P.15 and Ex.P.10 respectively. They have also opined that injuries could be caused by the material objects marked before the Court. Further, P.W.8 in his deposition, https://www.mhc.tn.gov.in/judis deposed that even on the date of examination, the pain due to the injuries sustained by the occurrence has been persisting and the said material portion is as follows: vjphpfs; jhf;fpajhy; vdf;F jw;nghJ tiu ,lJ fhJ rhptu nfl;fhky; nghdJ/ mjw;F ehd; brd;id kUj;Jtkidapy; rpfpr;ir bgw;W tUfpnwd;/ jw;nghJ tiu ehd;

nfhit. uhkfpUc&;zh kUj;Jtkidapy; vdf;F Vw;gl;l fhaj;Jf;F rpfpr;ir bgw;W tUfpnwd;/ In Ex.P.15, there is a clear reference about the taking of the CT Scan on 19.01.2019 and the contents of the report are as follows:

Rpt. CT Brain (done on 19.01.2019):

Acute thin subdural hemorrhage in left fronto temporal region.

Haemorrhagic contusion in left anterior temporal region.

Fracture of left parietal bone extending to the squama of left temporal and to right parietal bone.

12.2.In the said peculiar circumstances, non-mentioning of the CT-

Scan number in the discharge summary and non-production of the CT-Scan of P.W.8 have no way affected the prosecution case and his evidence. Similarly, the non-production of the CT scan report of P.W.1, P.W.2 and P.W.3 have no way affected the prosecution case and their evidence. When https://www.mhc.tn.gov.in/judis the injured witnesses clearly deposed about the assault and injuries were also corroborated by the testimony of the remaining eye witness to the occurrence and the medical evidence, the learned trial Judge should have accepted the evidence of the injured witnesses. Therefore, the finding of the learned trial Judge that the said non-production of the CT scan is the base for the reasonable doubt whether the said injury was sustained in the said occurrence is not acceptable. Merely on the basis of the non production of the C.T.scan report by the doctor and investigating agency, testimonies of the injured witnesses and the eye witnesses cannot be brushed aside without making any discussion on the deposition of the injured witnesses and eye witnesses relating to the manner of the assault made by the accused and injuries sustained by them. P.W.8 was appointed for the management of the temple by the District Collector in the place of the accused party. Therefore, the accused parties formed unlawful assembly and assaulted P.W.8 on his head with M.O.1 and M.O.2. He cogently deposed about the occurrence and the injuries sustained by him. The remaining injured witnesses and other eyewitness to the occurrence corroborated the same. The doctor’s evidence also clearly corroborated the injuries and wound certificate has also been marked. In the said circumstances, the learned trial Judge erroneously disbelieved his evidence https://www.mhc.tn.gov.in/judis and doctor’s evidence taking into consideration irrelevant aspects namely non-marking of the CT scan, failure to take MRI scan and Ex.D2 photographs showing the stitched wounds only. The said grounds are not the grounds to disbelieve the evidence of the injured witnesses and doctor's evidence. The Hon'ble Supreme Court has held that the testimony of the injures witnesses should be relied upon and his presence at the time and place of the occurrence cannot be doubted unless there are material contradiction in his deposition. The learned trial Judge has not found any material contradiction in the deposition of P.W.8 and the doctors. Therefore, the learned trial Judge, failed to follow the principle laid down by the Hon'ble Supreme Court to appreciate the evidence of the injured witnesses that if any exaggeration and the immaterial embellishment is found in the testimony of the injured witnesses, the said immaterial thing should be discarded from the evidence of injured but not the whole evidence. But the learned trial Judge adopted a different exercise. In this aspect it is the duty of this Court to rely the following guidelines issued by the latest Hon'ble Three Judges Bench of the Supreme Court to appreciate the evidence of injured witnesses and eyewitness reported in 2023 SCC Online SC 355. The said judgments as follows:

“26.When the evidence of an injured eye-witness is to be https://www.mhc.tn.gov.in/judis 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 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 https://www.mhc.tn.gov.in/judis 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, 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.

https://www.mhc.tn.gov.in/judis In this case, P.W.8, P.W.1, P.W.2 and P.W.3 are the injured witnesses. They clearly deposed the occurrence in cogent manner and their evidence are trustworthy. Apart from that, the other eyewitnesses P.W.4, P.W.5, P.W.6 and P.W.7 also corroborated their version. Therefore, the acquittal judgment passed by the learned trial Judge is perverse. The Hon'ble Supreme Court has repeatedly held that convincing and strong evidence is required to discredit the injured witnesses and the same was reiterated by the Hon'ble Three Bench of the Supreme Court in the following case.:

Bhajan Singh v. State of Haryana, (2011) 7 SCC 421 : at page 433

> 36. .. The testimony of an injured witness has its own relevancy and efficacy as he has sustained injuries at the time and place of occurrence and this lends support to his testimony that he was present at the time of occurrence. Thus, the testimony of an injured witness is accorded a special status in law. Such a witness comes with a built-in guarantee of his presence at the scene of the crime and is unlikely to spare his actual assailant(s) in order to falsely implicate someone. "Convincing evidence is required to discredit an injured witness." Thus, the evidence of an injured witness should be relied upon unless there are grounds for the rejection of his evidence on the basis of major contradictions and https://www.mhc.tn.gov.in/judis discrepancies therein.
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> 12.2.The learned trial Judge in paragraph No.47 has held that in the wound certificate of P.W1 issued by the Government Hospital and in the wound certificate issued by the Amaravati Hospital, there are two divergent versions regarding the injuries sustained and the said discrepancy affected the prosecution version. The learned trial Judge held that the X-ray and CT Scan report were not produced by the prosecution and also the Accident Register copy of the P.W1 was not produced and the said factual aspects affected the prosecution case. This reasoning of the learned trial Judge is not correct when the evidence adduced shows that injury sustained by P.W1 is grievous injury, but in the Accident Register, the doctor opined that he sustained a simple injury over the parietal region.

According to P.W1, he was assaulted with wooden log and iron rod. The said injury noted by the doctor in the Government Hospital is at the time of the admission. Subsequently, P.W1 was admitted in Amravati Private Hospital where X-ray and CT scan was taken. During the further examination, three injuries were noted. It is not the case that there was no head injury. The injury over parietal region would have extended and also the impact is further found in the CT scan report. Therefore, the discrepancy noted by the learned trial Judge is not correct, in the view of https://www.mhc.tn.gov.in/judis this court. Even assuming one injury is there, according to P.W1, same was caused by the accused. The said injury is over the left parietal region. Therefore, the prosecution case ought to have been accepted by the learned trial Judge. Hence, the finding of the learned trial Judge in this aspect is also perverse.

12.3. In paragraph No.48, the learned trial Judge stated that the doctor in his evidence admitted that CT scan was taken for P.W1. The wound certificate also stated the said fact. In the Accident Register issued by the Government Hospital, Karur, it is stated that the patient was conscious and oriented and the breath smelt alcohol. His pulse rate is normal and BP is also normal, but in the Accident Register issued in the Amaravati Hospital, the Doctor has not stated about the smell of alcohol and failure to state the smell of alcohol is not put against the appellant. The smell of alcohol noted in the Accident Register copy issued by the Government Hospital can not be taken negatively. When the evidence of the prosecution as well as the defence is not that after taking alcohol, the assault had taken place. It is not the case of the accused that there was no such occurrence. Even as per the version of the accused, they also sustained injuries in the said occurrence. In the said circumstances, the finding of the learned trial Judge that P.W2 had not sustained injury in the

https://www.mhc.tn.gov.in/judis said occurrence is totally against the record. Therefore, the said discrepancy is not material in this case to reject the evidence of the injured witnesses and the doctors. Hence, the said finding of the learned trial Judge in this aspect is perverse.

13.Discussion on the finding of the learned trial Judge upon the difference of place of occurrence and the number of persons and weapons mentioned in the Accident Registered Copy:

13.1.The learned trial Judge has given a finding that P.W1 stated during recording the Accident Register that he was assaulted by four known persons with wooden log “at his house”. But, before the Court he deposed that the occurrence took place “near Murugan Temple” at 7.30 p.m. From the above observation, the learned trial Judge gave a finding that P.W1 has made contradictory statements and hence he was not clear relating to the place of occurrence. Similarly in paragraph No.60 also the learned Judge doubted the place of the occurrence on the ground that in AR Copy (Ex.P.11) issued to P.W.1, the place of occurrence is shown as P.W.1’s house. The learned trial Judge has not appreciated the said fact in a proper manner. It is the specific case of the prosecution that the accused first assembled unlawfully in front of the temple and assaulted the injured witnesses and thereafter criminally trespassed into the house of P.W.1 and https://www.mhc.tn.gov.in/judis caused damages. All the injured witnesses deposed cogently without any infirmity. From the appreciation of the specific evidence of injured witness, other eye witnesses and Ex.P7/Wound certificate, it is clear that the accused after assaulting the injured witnesses in front of the temple, also criminally trespassed into the house of P.W.1, and caused damages and also assaulted him. The temple and the house of P.W.1 are situated in the same locality and the same was clear from Ex.P.17. The said discrepancy is not material one when the evidence of injured and other evidence are clear and cogent and trustworthy. The similar contention raised before the Hon'ble Division Bench of this Court in 2021 5 CTC 305, wherein, the Hon'ble Division Bench of this Court after considering the judgments of the Hon'ble Supreme Court declined to accept the discrepancy between the AR copy and the evidence and has held as follows:

“38. The trial Court has given a finding that the prosecution has not proved the place of occurrence properly, in that, the witnesses have stated that the incident took place in front of Viswanathan's shop, whereas, in the copies of the Accident Registers (Exs.P.14 and P.15), it is stated that the incident had taken place in the house. In our opinion, this is not a discrepancy which is so fatal, because, Viswanathan's shop is located just opposite his house and the incident had taken place in https://www.mhc.tn.gov.in/judis the corner.

13.2. In paragraph No.46 of the impugned judgment, the learned trial Judge held that in the Accident Register copy and in the evidence of the Doctor, it is stated that five known persons assaulted them with wooden logs and iron rod and in another hospital, it is stated that they were assaulted by wooden log and the said improvement affected the prosecution version as exaggerated version. According to

the evidence of injured witnesses, they were attacked by different accused with the different weapons. Therefore, there was disclosure of the different number of person and type of weapon in the AR copy. PW1,2, 3,4 and PW8 disposed that all the accused A1 to A6 formed an unlawful assembly with deadly weapons and scolded with filthy words and A1 to A6 attacked. The same cannot be treated as contradiction and improvement.

13.3.The Madras Medical Code (Vol.I) Section 10 Paragraph -622 gives guidelines or instructions to the doctor as to how the columns in wound certificate are to be filled up. Paragraph 622 (vi)reads:

"Medical Officer should ascertain and incorporate in the certificate only the alleged cause as to the manner in which the injuries were https://www.mhc.tn.gov.in/judis inflicted, the weapon used and the time". Therefore, it is settled principle that an entry in AR copy is only confined as to how he received injury and the evidence of doctor who recorded the statement in the accident registered copy can neither be used for contradiction or nor for any other purpose.

13.4.The purpose of the Accident Register copy is clearly stated by the Hon'ble Supreme Court in the following cases:

P. Babu v. State of A.P., (1994) 1 SCC 388 B. Bhadriah v. State of A.P., 1995 Supp (1) SCC

6. .. It is a matter of common knowledge that such entry in the 5. .. The casual way of injury certificate does not necessarily amount to a statement. At filling up the column in that stage the doctor was required to fill up that column in a the medical certificate normal manner and it was not the duty of the doctor to enquire does not in any manner from the injured patient about the actual assailants and that the amount to recording a inquiry would be confined as to how he received the injuries statement of the injured namely the weapons used etc witness.

14.Discussion on the finding of the learned trial Judge on Non- examination of one of the injured witness 14.1. Further, the learned trial Judge, in paragraph No.51, stated that according to the prosecution, one Maniyammal is one of the injured https://www.mhc.tn.gov.in/judis witnesses, but she has not been examined. Non-examination of one of the other injured witnesses is not a ground to disbelieve the evidence of other injured witness and other eyewitness. When the prosecution examined the material witnesses and exhibited the material documents to prove the unlawlful assembly and assault made by the member of the said unlawful assembly, the non-examination of one of the injured witnesses is not fatal.

15.Discussion on the finding of the learned trial Judge on the application under Order 588 A of the Madras Police Standing Orders 15.1.Insofar as the finding of the learned trial Judge in paragraphs 56, 57 and 58 that the investigating officer failed to investigate the case under Order 588 A of the

Madras Police Standing Orders is concerned, as per the above said Order, the investigating officer has to take the “case and the counter case” together and conduct the investigation in both cases simultaneously. In this case no counter case was registered on the complaint of the accused. To appreciate the same, it is relevant to extract the order 588A of the Madras Police Standing Order which reads as follows:

> 588 A. Charge sheets in cases and counter cases: In a complaint and counter complaint obviously arising https://www.mhc.tn.gov.in/judis out of the same transaction the investigating officer should enquire into both of them and adopt one or the other of the two courses, viz, (1) to charge the case where the accused were the aggressors or (2) to refer both the cases if he should find them untrue. 15.2.In this case, neither counter complaint has been preferred by the accused nor was any counter case registered by the investigating agency. There was no material available in the said aspect. Therefore, Order 588A of the Madras Police Standing Orders is not applicable to the present case. It is not the case of the respondents that their counter case was not registered and hence they took steps to register the counter complaint.
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> 15.3.The finding of the learned trial Judge that the investigating officer has not followed the Order 588A of the Madras Police Standing Orders, which requires the investigation to be conducted in the case and counter case simultaneously, but in this case, no counter case was registered on the complaint of the accused party, even no complaint was given. The same was not also established by the accused party. There is no clear evidence that they sustained injury in the course of occurrence at the https://www.mhc.tn.gov.in/judis instance of the injured witnesses. From the following version which is heavily relied by the learned Senior counsel for the respondents/accused, ,e;j rk;gtk; eilbgw;w md;W ,unt ,t;tHf;F 1 3 4 vjphpfs; kw;Wk; xU uhn$e;jpud; Mfpnahh; fUh; muR kUj;Jtkidapy; cs;nehahspahf mDkjpf;fg;gl;Ls;sdh; vd;why; rhpjhd;. This Court is unable to find that the accused sustained grievous injury at the hands of the injured witnesses. It is the admitted case that while returning from cremation, the villagers assembled and according to the accused, all the villagers were inimical on account of the misappropriation committed by the accused in temple affairs. In the said circumstances without any clear evidence, the case of the accused/respondents that the accused sustained injury at the hands of the injured witnesses in the “same transaction” cannot be accepted.

Therefore, Order 588A of the Madras Police Standing Orders is not applicable. This is the second erroneous finding rendered by the learned trial Judge. In the said circumstances, the finding of the learned trial Judge is erroneous.

16.Discussion on the finding of the learned trial Judge on the specific overtact of the individual accused:

> 16.1. The findings of the learned trial Judge in paragraph 59 that the https://www.mhc.tn.gov.in/judis prosecution witnesses have failed to state the

specific overtact attributed to each accused at the time of occurrence affected the prosecution case, is not acceptable. In the case of unlawful assembly, it is unreasonable to expect the testimony of the injured witnesses to accurately describe the part played by each one of the assailants. The said principle was reiterated by the Hon'ble Supreme Court right from the Hon'ble Four Judges Bench Supreme Court Judgement reported in AIR 1965 SC 202 Masalti Vs. State of UP. In the said case of Masalti v. State of U.P., AIR 1965 SC 202 (AIR p. 210, para 15), it has been held as follows:

'15. ... Where a crowd of assailants who are members of an unlawful assembly proceed to commit an offence of murder in pursuance of the common object of the unlawful assembly, it is often not possible for witnesses to describe accurately the part played by each one of the assailants.

in law, it would not be correct to say that before a person is held to be a member of an unlawful assembly, it must be shown that he had committed some illegal overt act or had been guilty of some illegal omission in pursuance of the common object of the assembly.

16.2. Further in the case of Bhagwan Jagannath Markad v. State https://www.mhc.tn.gov.in/judis of Maharashtra, (2016) 10 SCC 537 at page 553 the Hon'ble Supreme Court has held as follows:

When a crowd of assailants are members of an unlawful assembly, it may not be possible for witnesses to accurately describe the part played by each one of the assailants.

16.3. In this type of indiscriminate assault by the member of unlawful assembly, it is not possible for injured to give blow by blow account of the scene of the crime. The said requirement has been deprecated by the Hon'ble Supreme Court in 2019 (8) SCC 371. Therefore, the learned trial Judge has not properly considered the evidence of the injured witnesses and the eye witnesses. Hence, this Court finds substantial reasons to interfere with the acquittal judgment passed by the learned trial Judge which is permissible as per the law laid down by the Hon'ble Supreme Court in various judgments.

17. Discussion on the finding of the learned trial Judge on the absence of five more persons to constitute the unlawful assembly:

17.1. The learned trial Judge also gave the finding in this case that the prosecution failed to prove that 5 or more persons assembled with deadly weapons and hence there was no unlawful assembly and acquitted https://www.mhc.tn.gov.in/judis the accused under Section 147, 148 of IPC. The said finding is against the evidence on record. All the witnesses clearly deposed that all the six accused formed unalwful assembly with deadly weapons and assaulted the injured witnesses

indiscriminately and caused injuries. They also criminally trespassed into the house of P.W.1 and caused damages. Each injured witness and other eyewitnesses identified the accused before the Court. Therefore, the learned trial Judge gave an erroneous finding that the prosecution failed to prove that five or more persons assembled with deadly weapons and hence the acquittal passed by the learned trial Judge under Sections 147 and 148 IPC is not correct.

18.Discussion on the finding of the learned trial Judge relating to the failure of establish the offence under Section 448 of IPC:

> 18.1.It is the case of the prosecution that the incident started near the Murugan Temple situated opposite to P.W1's house and the same was questioned by P.W1. Hence, the accused trespassed into his house and assaulted P.W1. In the said circumstances, Section 448 IPC is clearly made out. The learned trial Judge erroneously acquitted the accused when sufficient evidence have been adduced to prove the criminal trespass.

19.Discussion on the finding of the learned trial Judge relating to the failure of establish the offence under Section 294(b) of IPC 19.1.The learned trial Judge further gave a finding that the prosecution has not established the ingredients of Section 294(b) IPC on the basis of the evidence of P.W1 before the Doctor that the occurrence happened inside his house. Ex.P11-Accident Register copy is not to be used for the purpose as stated above, but only to note the injury. All the witnesses specifically deposed that the occurrence took place in front of Murugan Temple and culminated as criminal trespass into the house of P.W.1, causing damage to the house and assaulting with deadly weapons. The rough sketch (Ex.P17) and observation mahazar (Ex.P8) also clearly proved the same. Therefore, in the said circumstances, the same can not to be taken as a material one to disbelieve the evidence of the injured witnesses. When all the people were returning after attending the cremation of P.W1's Aunt, the occurrence took place in front of the house of P.W1 where the Murugan temple is situated and hence the finding of the learned trial Judge under Section 294(b) IPC, that the same did not happen in the public place is not correct.

20. Discussion on the finding of the learned trial Judge relating to the failure of establish the offence under Section 3 of the TNPPDL https://www.mhc.tn.gov.in/judis Act:

> 20.1. The learned trial Judge acquitted the accused under Section 3 of the TNPPDL Act on the ground that the valuation certificate was not marked and the broken chair and asbestos sheet were not recovered by the police. This is a too hyper-technical approach. When the evidence of damaged article is proved through P.W1 and other circumstances, non-

marking of the broken asbestos sheet and plastic chair is not fatal to the prosecution. The investigation also assessed the value of damage.

21. Discussion on the finding of the learned trial Judge relating to the failure of establish the offence under Section 4 of TNPHW Act:

> 21.1. The finding of the learned trial Judge that the evidence of P.W3-Idhayakani that A1, A2, A4, A5 and A6 pulled her blouse and saree has not been proved, is against the records, especially when P.W3 and other persons categorically stated that they pulled her blouse and saree and it was torn and the same is clearly revealed from the testimony of P.W1 to P.W3. Therefore, the finding of the learned trial Judge that the offence under Section 4 of TNPHW Act is not made out is also erroneous.
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> 22. Discussion on the finding of the learned trial Judge relating to the failure of establish the offence under Section 506(ii) of IPC https://www.mhc.tn.gov.in/judis The learned trial Judge, without considering whether the attack was made with criminal intimidation to murder the above witnesses, erroneously acquitted the accused under Section 506(ii)IPC, especially when the evidence on record clearly proved the criminal intimidation and assault on number of witnesses and consequently, they also sustained injuries.
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> 23.Discussion on the finding of the learned trial Judge relating to the loopholes in the prosecution case The learned trial Judge in paragraph 66 stated that there were lot of loopholes in the case of the prosecution. The loopholes assumed by the learned trial Judge is not at all a matter to be considered in these type of cases, more particularly, when the examination of witnesses took place after 3 ½ years from the date of occurrence. The loopholes indicated by the learned trial Judge is,
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> (i)the non-furnishing of the CT-Scan report to the investigation officers by the doctors to prove the grievous injury.

(ii)non-mentioning of the CT-Scan number in the wound certificate.

(iii)failure to follow the Order 588A of the Madras Police Standing Orders these are not at all material when P.W.1, 2, 3 and 6 clearly deposed https://www.mhc.tn.gov.in/judis about the assault made by the accused using the weapons and the same was corroborated by the evidence of the doctor. It is the duty of the Criminal Court to plug the said loopholes to ensure the criminal justice system is vibrant as held by the Hon'ble Supreme Court in Dinubhai Boghabhai Solanki v. State of Gujarat, (2018) 11 SCC 129 at page 154

36. That apart, it is in the larger interest of the society that actual perpetrator of the crime gets convicted and is suitably punished. Those persons who have committed the crime, if allowed to go unpunished, this also leads to weakening of the criminal justice system and the society starts losing faith therein. Therefore, the first part of the celebrated dictum “ten criminals may go unpunished but one innocent should not be convicted” has not to be taken routinely. No doubt, latter part of the aforesaid phrase i.e. “innocent person should not be convicted” remains still valid. However, that does not mean that in the process “ten persons may go unpunished” and law becomes a mute

spectator to this scenario, showing its helplessness. In order to ensure that criminal justice system is vibrant and effective, perpetrators of the crime should not go unpunished and all efforts are to be made to plug the loopholes which may give rise to the aforesaid situation.

Emphasis supplied https://www.mhc.tn.gov.in/judis

24.Discrepancy,exaggeration and embellishment noted by the learned trial Judge:

> 24.1.The learned trial Judge, gave undue importance to the immaterial discrepancy found in the AR copy regarding the place of occurrence, the number of assailants and the type of weapons and the evidence before the Court. The said discrepancy relied by the learned trial Judge, is not a material one to disbelieve the testimony of the injured witnesses, eyewitnesses and doctors. The learned trial Judge, miserably failed to consider that the said discrepancy was not touching the core of the prosecution case i.e., the cogent evidence of injured witnesses, eyewitnesses and doctors about formation of the unlawful assembly with deadly weapons, indiscriminate assault upon the injured witnesses by the accused and the corresponding injuries sustained by the injured witnesses and the treatment given by the doctors and their identification of the material objects before this Court that could have caused injuries. In this case, each injured witness was attacked by the different number of accused with the different weapons. Therefore, each witness disclose their own version before the doctors. In the said circumstances, there was a discrepancy relating to the number of persons and the weapons. Therefore, the approach of the learned trial Judge in appreciating the testimony of the https://www.mhc.tn.gov.in/judis injured witnesses is not correct. The law of discrepancy is well settled by the Hon'ble Supreme Court ie., only discrepancy touching the core of the prosecution case is to be considered in cumulative absence of any other corroborative materials. The learned trial Judge while appreciating the injured witness, eyewitnesses and doctors evidence totally failed to consider the law on discrepancy laid down by the Hon'ble Supreme Court in the following cases:
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> State of U.P. v. M.K. Anthony [State of U.P. v. M.K. Anthony, (1985) 1 SCC 505 : 1985 SCC (Cri) 105] , held that inconsistencies and discrepancies alone do not merit the rejection of the evidence as a whole. It stated as follows : (SCC p. 514-15, para 10) “10. While appreciating the evidence of a witness, the approach must be whether the evidence of the witness read as a whole appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the court to scrutinise the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief. Minor discrepancies on trivial matters not https://www.mhc.tn.gov.in/judis touching the core of the case, hyper-technical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical

> error committed by the investigating officer not going to the root of the matter would not ordinarily permit rejection of the evidence as a whole. If the court before whom the witness gives evidence had the opportunity to form the opinion about the general tenor of evidence given by the witness, the appellate court which had not this benefit will have to attach due weight to the appreciation of evidence by the trial court and unless there are reasons weighty and formidable it would not be proper to reject the evidence on the ground of minor variations or infirmities in the matter of trivial details. Even honest and truthful witnesses may differ in some details unrelated to the main incident because power of observation, retention and reproduction differ with individuals. Cross- examination is an unequal duel between a rustic and refined lawyer. Having examined the evidence of this witness, a friend and well-wisher of the family carefully giving due weight to the comments made by the learned counsel for the respondent and the reasons assigned to by the High Court for rejecting his evidence simultaneously keeping in view the https://www.mhc.tn.gov.in/judis appreciation of the evidence of this witness by the trial court, we have no hesitation in holding that the High Court was in error in rejecting the testimony of witness Nair whose evidence appears to us trustworthy and credible." Bhagwan Jagannath Markad v. State of Maharashtra, (2016) 10 SCC 537 at page 548
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> 19. While appreciating the evidence of a witness, the court has to assess whether read as a whole, it is truthful. In doing so, the court has to keep in mind the deficiencies, drawbacks and infirmities to find out whether such discrepancies shake the truthfulness.

Some discrepancies not touching the core of the case are not enough to reject the evidence as a whole. No true witness can escape from giving some discrepant details. Only when discrepancies are so incompatible as to affect the credibility of the version of a witness, the court may reject the evidence. Section 155 of the Evidence Act enables the doubt to impeach the credibility of the witness by proof of former inconsistent statement. Section 145 of the Evidence Act lays down the procedure for contradicting a witness by drawing his attention to the part of the previous statement which is to be used for contradiction. The former statement should have the effect of discrediting the present statement but merely https://www.mhc.tn.gov.in/judis because the latter statement is at variance to the former to some extent, it is not enough to be treated as a contradiction. It is not every discrepancy which affects the creditworthiness and the trustworthiness of a witness. There may at times be exaggeration or embellishment not affecting the credibility. The court has to sift the chaff from the grain and find out the truth. A statement may be partly rejected or partly accepted Discrepancies may arise due to error of observations, loss of memory due to lapse of time, mental disposition such as shock at the time of occurrence and as such the normal discrepancy does not affect the credibility of a witness.

Prabhu Dayal v. State of Rajasthan, (2018) 8 SCC 127 at page 135

18. It is a common phenomenon that the witnesses are rustic and can develop a tendency to exaggerate. This, however, does not mean that the entire testimony of such witnesses is falsehood.

Minor contradictions in the testimony of the witnesses are not fatal to the case of the prosecution.

“19. In State of U.P. v. Anil Singh [State of U.P. v. Anil Singh, 1988 Supp SCC 686 ,the Hon'ble Supreme Court observed that : (SCC p. 692, para 17) https://www.mhc.tn.gov.in/judis “17. ... invariably the witnesses add embroidery to prosecution story, perhaps for the fear of being disbelieved. But that is no ground to throw the case overboard, if true, in the main. If there is a ring of truth in the main, the case should not be rejected. It is the duty of the court to cull out the nuggets of truth from the evidence unless there is reason to believe that the inconsistencies or falsehood are so glaring as utterly to destroy confidence in the witnesses.” In Leela Ram v. State of Haryana (1999) 9 SCC 525 the Hon'ble Supreme Court has held as follows :

> (SCC p. 534, para 12) “12. It is indeed necessary to note that one hardly comes across a witness whose evidence does not contain some exaggeration or embellishment — sometimes there could even be a deliberate attempt to offer embellishment and sometimes in their overanxiety they may give a slightly exaggerated account. The court can sift the chaff from the grain and find out the truth from the testimony of the witnesses. Total repulsion of the evidence is unnecessary. The evidence is to be considered from the point of view of trustworthiness. If this element is satisfied, it ought to inspire confidence in the mind of the court to accept the stated evidence though not however in the absence of the same.” https://www.mhc.tn.gov.in/judis 24.2.Therefore, the learned trial Judge, gave undue importance to the immaterial discrepancy found in the AR copy relating to the place of occurrence and the number of assailants. Considering the above overall circumstances of the facts and law, this Court finds all the findings of the learned trial Judge are perverse and hence, a duty is cast upon this Court to interfere with the unmerited acquittal passed by the learned trial Judge.
>
> 25.The Principles relating to the Jurisdiction of this Court to interfere with the acquittal judgment passed by the Court below:
>
> 25.1.The learned trial Judge on the basis of the irrelevant material rejected the evidence of the doctor and erroneously eschewed the evidence of the injured witnesses and the eye witnesses, when their evidence are cogent and trustworthy. On the basis of the evidence, namely the injured witness and the eyewitness, corroborated by medical evidence, the only view is that the prosecution proved the charged offence beyond any reasonable doubt and hence, the view taken by the learned trial Judge is not a “possible view”. Further, from the perverse finding of the learned trial Judge in all aspect, this Court finds “substantial and compelling reasons” to interfere with the impugned acquittal Judgement. This Court, in view of the above discussion finds that the impugned judgment of the https://www.mhc.tn.gov.in/judis trial Court is perverse and there is every substantial and compelling reasons to interfere with the order of the learned trial Judge. Therefore, this Court has jurisdiction to appreciate the evidence, for which there is no legal impediment. Further, the Hon'ble Supreme Court has also held in the case of

the appeal against acquittal, this Court has jurisdiction to appreciate the evidence.

25.2.Earlier the “Hon'ble Constitution Bench of the Supreme Court”, in M.G. Agarwal v. State of Maharashtra, 1962 SCC OnLine SC 22 has held the same in the following paragraph:

16....But the true legal position is that however circumspect and cautious the approach of the High Court may be in dealing with appeals against acquittals, it is undoubtedly entitled to reach its own conclusions upon the evidence adduced by the prosecution in respect of the guilt or innocence of the accused.----------

17. In some of the earlier decisions of this Court, however, in emphasising the importance of adopting a cautious approach in dealing with appeals against acquittals, it was observed that the presumption of innocence is reinforced by the order of acquittal and so, “the findings of the trial court which had the https://www.mhc.tn.gov.in/judis advantage of seeing the witnesses and hearing their evidence can be reversed only for very substantial and compelling reasons” : vide Surajpal Singh v. State [1951 SCC 1207 : (1952) SCR 193 at p.

201] . Similarly in Ajmer Singh v. State of Punjab [(1952) 2 SCC 709 : (1953) SCR 418] it was observed that the interference of the High Court in an appeal against the order of acquittal would be justified only if there are “very substantial and compelling reasons to do so”. In some other decisions, it has been stated that an order of acquittal can be reversed only for “good and sufficiently cogent reasons” or for “strong reasons”. In appreciating the effect of these observations, it must be remembered that these observations were not intended to lay down a rigid or inflexible rule which should govern the decision of the High Court in appeals against acquittals. They were not intended, and should not be read to have intended to introduce an additional condition in clause (a) of Section 423(1) of the Code. All that the said observations are intended to emphasise is that the approach of the High Court in dealing with an appeal against acquittal ought to be cautious because as Lord Russell observed in the case of Sheo Swarup, the presumption of innocence in favour of the accused “is https://www.mhc.tn.gov.in/judis not certainly weakened by the fact that he has been acquitted at his trial”. Therefore, the test suggested by the expression “substantial and compelling reasons” should not be construed as a formula which has to be rigidly applied in every case. That is the effect of the recent decisions of this Court, for instance, in Sanwat Singh v. State of Rajasthan [AIR 1961 SC 715] and Harbans Singh v. State of Punjab [AIR 1962 SC 439] and so, it is not necessary that before reversing a judgment of acquittal, the High Court must necessarily characterise the findings recorded therein as perverse.

K. Gopal Reddy v. State of A.P., (1979) 1 SCC 355 :

at page 359

> 9. The principles are now well settled. At one time it was thought that an order of acquittal could be set aside for "substantial and compelling reasons" only and Courts used to launch on a search to discover those "substantial and compelling reasons".

However, the "formulae" of "substantial and compelling reasons", "good and sufficiently cogent reasons" and "strong reasons" and the search for them were abandoned as a result of the pronouncement of this Court in Sanwat Singh v. State of Rajasthan [AIR 1961 SC 715 :

> K. Ramakrishnan Unnithan v. State of Kerala, https://www.mhc.tn.gov.in/judis (1999) 3 SCC 309 at page 314
>
> 5. The plenitude of power available to the court hearing an appeal against acquittal is the same as that available to a court hearing an appeal against an order of conviction. But however the court will not interfere solely because a different plausible view may arise on the evidence. In a case of murder, if the reasons given by the trial court for discarding the testimony of the eyewitnesses are not sound, then there should be no hesitation on the part of the High Court in interfering with an order of acquittal. If the judgment of the trial Judge was absolutely perverse, legally erroneous and based on wrong testimony, it would be proper for the High Court to interfere and reverse an order of acquittal.

25.3.The learned trial Judge, magnified the irrelevant omission, minor contradiction and discrepancy and has seen the testimony of the injured witness, eye witnesses and doctor evidence, with jaundiced eyes. In similar circumstances, the Hon'ble Supreme Court, in the case of State of Maharashtra v. Narsingrao Gangaram Pimple, reported in (1984) 1 SCC 446 at page 463 dealing the appeal against acquittal has held as follows:

> 36. .. It seems to us that the approach made by the learned Judge towards the prosecution has not been independent but one with a tainted eye and an innate https://www.mhc.tn.gov.in/judis prejudice. It is manifest that if one wears a pair of pale glasses, everything which he sees would appear to him to be pale. In fact, the learned Judge appears to have been so much prejudiced against the prosecution that he magnified every minor detail or omission to falsify or throw even a shadow of doubt on the prosecution evidence. This is the very antithesis of a correct judicial approach to the evidence of witnesses in a trap case.

Indeed, if such a harsh touchstone is prescribed to prove a case it will be difficult for the prosecution to establish any case at all.

25.4.The learned trial Judge allowed himself to be beset with fanciful doubts and rejected the creditworthy evidence of the injured witness for slender reasons and has misguided herself by chasing the bare possibilities of doubt and exalting them into sufficiently militating factors justifying acquittal. Therefore, there is an obvious duty on the part of this Court to interfere with the impugned order of the Court below, in the interest of justice, lest the administration of justice be

brought to ridicule and the same was emphasized by the Hon'ble Supreme Court in the following cases:

> 18.In Shivaji Sahabrao Bobade v. State of Maharashtra [Shivaji Sahabrao Bobade v. State of Maharashtra, (1973) 2 SCC 793, V.R. Krishna Iyer, J., https://www.mhc.tn.gov.in/judis stated thus : (SCC p. 799, para 6) "6. ... The cherished principles or golden thread of proof beyond reasonable doubt which runs through the web of our law should not be stretched morbidly to embrace every hunch, hesitancy and degree of doubt.

The excessive solicitude reflected in the attitude that a thousand guilty men may go but one innocent martyr shall not suffer is a false dilemma. Only reasonable doubts belong to the accused. Otherwise any practical system of justice will then break down and lose credibility with the community." In State of Punjab v. Jagir Singh [State of Punjab v. Jagir Singh, (1974) 3 SCC 277 : (SCC pp.

285-86, para 23) the Hon'ble Supreme Court has held as follows:

> "23. A criminal trial is not like a fairy tale wherein one is free to give flight to one's imagination and fantasy... Although the benefit of every reasonable doubt should be given to the accused, the courts should not at the same time reject evidence which is ex facie trustworthy, on grounds which are fanciful or in the nature of conjectures." 25.5. It is well settled that it is not every doubt, but only a reasonable doubt of which benefit is to be given to the accused. The function of the criminal Court is to find out the truth and it is not a correct approach to https://www.mhc.tn.gov.in/judis pick up the minor lapse of an investigation ("ie, in this case non recovery of the CT scan report etc.,)" irrelevant omission ("ie., in this case, the doctors did not produce the CT scan and did not take MRI scan while giving treatment to the injured witness") to acquit the accused when the ring of the truth is undisturbed from the cogent and trustworthy evidence of injured witness and eye witnesses and medical evidence. Therefore, the learned trial Judge has not properly addressed the issue of "reasonable doubt". The cherished principles of golden thread of proof of reasonable doubt which runs through web of our law should not be stretched morbidly to embrace every hunch, hesitancy and degree of doubts. The same has been explained by the Hon'ble Supreme Court in the following cases:
>
> 25.5.1.Suresh Chandra Jana v. State of W.B., (2017) 16 SCC 466 at page 476
>
> 16.. A doubt of a timid mind which is afraid of logical consequences, cannot be said to be reasonable doubt. The experienced, able and astute defence lawyers do raise doubts and uncertainties in respect of evidence adduced against the accused by marshalling the evidence, but what is to be borne in mind is—whether testimony of the witnesses before the court is natural, truthful in substance or not. The accused is entitled to get benefit of only reasonable https://www.mhc.tn.gov.in/judis doubt i.e. the doubt which a rational thinking man would reasonably, honestly and

conscientiously entertain and not the doubt of a vacillating mind that has no moral courage and prefers to take shelter itself in a vain and idle scepticism.

25.5.2. Rajesh Dhiman v. State of H.P., (2020) 10 SCC 740 at page 749

15... Reasonable doubt does not mean that proof be so clear that no possibility of error exists... 25.5.3 Bhim Singh Rup Singh Vs. State of Maharastra reported in 1974 3 SCC 762 “A reasonable doubt”, it has been remarked, “does not mean some light, airy, insubstantial doubt that may flit through the minds of any of us about almost anything at some time or other; it does not mean a doubt begotten by sympathy out of reluctance to convict; it means a real doubt, a doubt founded upon reasons 25.5.4.In State of U.P. Vs. Anil Singh (1988 Supp SCC 686 the Hon'ble Supreme Court has held as follow:

Doubts would be called reasonable if they are free from a zest for abstract speculation. Law cannot afford any favourite other than truth.

25.5.5. Inder Singh v. State (Delhi Admn.) reported in [(1978) 4 SCC 161 the Hon'ble Supreme Court has held as follows:

https://www.mhc.tn.gov.in/judis A reasonable doubt is not an imaginary, trivial or merely possible doubt, but a fair doubt based upon reason and common sense. It must grow out of the evidence in the case. If a case is proved perfectly, it is argued that it is artificial; if a case has some flaws inevitable because human beings are prone to err, it is argued that it is too imperfect. One wonders whether in the meticulous hypersensitivity to eliminate a rare innocent from being punished, many guilty persons must be allowed to escape. Proof beyond reasonable doubt is a guideline, not a fetish.

25.7.The Hon'ble Supreme Court on various occasions cautioned the Courts not to extend the arms of the rule of benefit of doubt to render unmerited acquittals by nurturing fanciful doubts or lingering suspicions causing miscarriage of justice. It is not only the duty of the Court to acquit an innocent and also it is paramount duty of the Court to see that a guilty man does not escape. The relevant precedents in this aspect is as follows:

The lord Viscount Simon in Stirland v. Director of Public Prosecution (1944) 2 All ER 13 (HL)] held as follows:

“[A] Judge does not preside over a criminal trial merely to see that no innocent man is punished. A Judge also presides to see that a guilty man does not escape. ... Both are public duties....” https://www.mhc.tn.gov.in/judis In Gurbachan Singh Vs. Satpal Singh reported in 1990 1 SCC 445 the Hon'ble Supreme Court has held as follows:

> 17.... Exaggerated devotion to the rule of benefit of doubt must not nurture fanciful doubts or lingering suspicion and thereby destroy social defence. Justice cannot be made sterile on the plea that it is better to let a hundred guilty escape than punish an innocent.

Letting the guilty escape is not doing justice according to law....

Sadhu Saran Singh v. State of U.P., (2016) 4 SCC 357 at page 365

20. ...we believe that the paramount consideration of the Court is to do substantial justice and avoid miscarriage of justice which can arise by acquitting the accused who is guilty of an offence. A miscarriage of justice that may occur by the acquittal of the guilty is no less than from the conviction of an innocent.

25.8.The learned trial Judge without adhering to the above principles, acquitted the accused by extending the principle of reasonable doubt on the basis of the irrelevant fact without making proper discussion over the testimony of injured witnesses and eyewitnesses and doctor evidence and other material circumstances, which leads to the only https://www.mhc.tn.gov.in/judis possible view of conviction of the accused for the charged offence.

26.Discussion on the charged offences against the respondent Nos.2 to 7:

> 26.1. Now the remaining question in this appeal is whether the prosecution proved the charged offence beyond reasonable doubt on the basis of the evidence adduced by the prosecution.
>
> 26.2.It is relevant to extract the following relevant portion of P.W.1:

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      fle;j          17/01/2019      md;W       vdJ       b
fkyk;       ,we;Jtpl;lhh;/            mtuJ         ,Wjprl'
Koj;Jtpl;L          ,ut[     Rkhh;     7/30     kzpastpy;
```

> tPl;lUfpYs;s KUfd; nfhtpy; iyl; btspr;rj;jpy;

ehDk;. RFkhh; vd;gtUk; epd;W bfhz;oUe;njhk;/ mg;nghJ M$h; vjphpfs; Fznrfud;. tpf;ndc&;.

jpndc&;. KUfd;. Kj;jkpH;r;bry;td;. rutzd;

Mfpnahh; m';F te;J eP';fs; vy;yhk; vd;d bghpa Msg;g[z;ilahlh. eh';f br";Rl;LUe;j eph;thf bghWg;g Rjhfhplk; th';fp bfhLj;JO';f. ,g;gona tpl;lh eP';f kWgoa[k;. kWgoa[k; gpur;rid br";Rf;fpl;nl ,Ug;gP'f ; d;D brhy;yp. mth;fs;

bfhz;L te;j fk;gp. fl;il Mfpatw;iwf;

bfhz;L vd;ida[k;. RFkhiua[k; ghh;j;J ,j;njhL brj;J xHp";R ngh';flh vd;W brhy;yp vd;

jiyapYk;. RFkhh; jiyapYk; ,uj;jf
Vw;gLk; mst[f;F moj;Jtpl;ldh;/

https://www.mhc.tn.gov.in/judis

ePjpkd;wj;jpy; fhl;lg;gLk; K:d;W fk;gpfs;
K:d;W fl;ilfshy; jhd; M$h; vjphpfs;
rkak; v';fis jhf;fpdhh;fs;/ nkw;go f

kw;Wk; fl;ilfs; Mfpait rh/bgh/1 thpir kw;Wk;

rh/bgh/2 thpir/ v';fis M$h; v
Fznrfud;. tpf;ndc&;. jpndc&; mo

bfhz;oUf;ifapy; kzptz;zd; vd;gth; mth;fis jLf;f te;jhh;/ kzptz;zida[k; vjphpfs;

Fznrfud;. tpf;ndc&;. jpndc&; Mfpnahh; j';fs;

ifapy; itj;jpUe;j fk;gpahy; brj;J xHp";Rnghlh vd;W Twp mtuJ jiyapy; moj;J uj;jk; fhak;

Vw;gLj;jpdhh;/ mjd; gpwF m';F
bfhz;oUe;j ,jaf;fdp vd;w bgz;iz. vjphpfs;
KUfd;. Kj;jkpH;r;bry;td;. rutzd; Mfpnahh;
jhnd md;W fbyf;lh; MgPrpy; v';fSf;F vjpuhf
ngl;o bfhLj;jha;. ePa[k; rht[o vd;W Twp

bgz;zpd; jiyapYk; uj;jk; tUk;tiu fl;ilahy;

jhf;fptpl;lhh;fs;/ mij jLf;f te;j RFkhhpd;

jhahh; khhpahap vd;gtiu vjphpfs; Fznrfud;.

jpndc&; Mfpa ,UtUk; j';fs;
itj;jpUe;j ,Uk;g[fk;gpahy; moj;Jtpl;lhh;
khhpahapd; nriy. $hf;bfl; Mfpatw;iw fpHpj;J

mtiu fPnH js;sptpl;lhh;fs;/ m';F mUfpy; epd;W bfhz;oUe;j vdJ mk;kh kzpak;khit vjphpfs;

Fznrfud;. jpndc&; Mfpnahh; ifapy; itj;jpUe;j fk;gpia itj;J vdJ jhahiu moj;J mtiu fPnH js;sptpl;lhh;fs;/ M$h; vjphpfs; MW ngUk;

https://www.mhc.tn.gov.in/judis vd; tPl;oDs; g[Fe;J tPl;oypUe;j gpsh!;of; nrh;

kw;Wk; vdJ tPl;oDs; ,Ue;j bghUl;fis
js;sp cilj;Jtpl;lhh;fs;/ vdJ tPl;oy;
bghUl;fspd; kjpg;g[U:/3500-- ,Uf;Fk;/

epd;W bfhz;oUe;j khatd;. Mde;j;. Mfpnahiu vjphpfsplk; Vz;lh ,g;go vd;W rj;jk; nghl;L te;jnghJ. Ch;kf;fs; m';F epiwa ngh; Totpl;lhh;fs;/ Ch; kf;fs; ghh;j;j vjphpfs; vd;idf;F ,Ue;jhYk; bfhy;yhky; tplkhl;nld; vd;W brhy;yp itj;jpUe;j fl;il. fk;gpfSld; ngha

jpndc&; tPl;od; gpd;g[wk; nkw;go fk;gp fl;ilfis vLj;Jr;brd;W nghl;Ltpl;L m';fpUe;J vjphpfs;

Xotpl;ldh;/ mjd; gpd; nghf;F tz;o K:ykhf eh';fs; fU:h; muR kUj;Jtkidf;F rpfpr;irf;F te;njhk;/ vdf;Fk;. kzptz;zd;. ,jaf;fdp.

RFkhh; Mfpnahh;fSf;F jiyapy; fha';fs; ,Ue;jjhy; eh';fs; fU:h;. kUj;Jtkidf;F rpfpr;irf;F brd;nwhk;/

The above testimony of P.W.1 is cogent and corroborates other injured witnesses P.W.2, P.W.3, P.W.4, P.W.8 and eye witnesses P.W.5, P.W.6 and P.W.7. Each injured witness and eyewitnesses identified the accused and cogently deposed about the occurrence and assault made by the accused. The injuries are corroborated by corresponding medical evidence. https://www.mhc.tn.gov.in/judis 26.3. First and second charges: [u/s147 and 148 of IPC] The charge under Section 147 IPC is framed against all the accused and according to the first charge, all the accused are said to have committed riot by unlawfully assembling with a common object to cause murder of P.W8 and other witnesses on account of the motive that the injured persons and other villagers made a complaint against the respondents that they committed misappropriation of the temple funds collected during the Kumbabishekam and therefore, they were removed from the administration of the affairs of the temple and P.W.8 was appointed to administer the temple. In continuation, all the accused assaulted the witnesses with deadly weapons. P.Ws.1 to 8 cogently and clearly deposed the events in trustworthy manner that the accused Nos.1 to 6 assembled with deadly weapons and committed riot by causing injury to the witnesses. Therefore, the ingredients of Section 147 and 148 of IPC is clearly proved as per the law laid down by the Hon'ble Supreme Court in the following judgment:

26.3.1.Mahadev Sharma v. State of Bihar, AIR 1966 SC 302

7. Section 146 then defines the offence of rioting. This offence is said to be committed when the unlawful assembly or any member thereof in prosecution of the https://www.mhc.tn.gov.in/judis common object of such assembly uses force or violence. It may be noticed here that every member of the unlawful assembly is guilty of the offence of rioting even though he may not have himself used force or violence. There is thus vicarious responsibility when force or violence is used in prosecution of the common object of the unlawful assembly. The next two sections prescribe punishment for the offence of rioting. Section 147 punishes simple rioting. Section 148 punishes more severely a person who commits the offence of rioting armed with a deadly weapon but the section makes only a person

who is so armed liable to higher punishment. Section 149 then creates vicarious responsibility for other offences besides rioting. --

...For the application of the section there must be an unlawful assembly. Then if an offence is committed in prosecution of the common object of that assembly or is such as the members of the unlawful assembly know to be likely to be committed then whoever is member of that assembly at the time the offence is committed is guilty.

From the testimony of the injured witnesses P.W.1, P.W.2, P.W.3 and P.W.8, and the eyewitnesses P.W.1 to P.W.7 it is clear that all the accused formed unlawful assembly with deadly weapons and committed riot by causing https://www.mhc.tn.gov.in/judis injuries to the witnesses. Therefore, the prosecution established the offences under Sections 147 and 148 IPC beyond reasonable doubt.

26.4. Third charge: [u/s 294(b) IPC] Eleventh Charge: [u/s 448 IPC] Twelfth Charge: [u/s 3 of TNPPDL Act.]Thirteenth charge: [u/s 506(ii) IPC] The accused Nos.1 to 6 formed unlawful assembly with deadly weapons near the murugan temple situated in front of P.W.1's house and scolded and abused and caused annoyance and after causing the injuries to P.W.1,2,3,4 and 8 they criminally trespassed into the house of the A1 and caused damage to the properties in the said house and criminally intimidated the injured witnesses and escaped from the scene of occurrence. Therefore, the above charges proved.

26.4.1. When P.W.1, P.W.8 and other witnesses were returning after the cremation of the P.W.1's aunt, A1 to A6 formed unlawful assembly with deadly weapons in the place near the Murugan temple, which is situated opposite to the P.W.1's house and abused P.W.1 and P.W.8 and made assault with M.Os. And caused injuries. On hearing the same, P.W.2, 3 and 4 came https://www.mhc.tn.gov.in/judis and intercepted and they were also assaulted by the accused. Thereafter, A1 and A2 illegally trespassed into the house of A1 and caused damages worth about RS.3,500/-. P.W.1 to 8 evidences are cogent and corroborated with each other and there is no serious infirmity and inconsistency between their material part of the evidence. The learned trial Judge held that P.W1 deposed before the treatment doctor that he was assaulted in his house. The learned trial Judge failed to see the topography of the occurrence as revealed from the evidence of P.Ws.1 to 4 and 6 and rough sketch and observation mahazar. It is clear that both are in the same locality and hence the incident spilled over to the place of the house of P.W1, ie., the incident of assault on P.W8-Sukumar culminated as criminal trespass into the house of P.W1 causing damages to the house of P.W.1.

26.4.2. According to the prosecution case, the incident initially started near Murugan Temple and culminated as trespass into the house of P.W1 which is situated near the temple. The said fact was clearly proved through the evidence of witnesses who have deposed that A1 to A6 trespassed into the house of the injured P.W1 and damaged his house and assaulted him. Hence, the offence under Section 448 IPC is proved. https://www.mhc.tn.gov.in/judis 26.4.3. According to the prosecution, in the said occurrence, A1 and A2 trespassed into the house of P.W.1 and assaulted him and caused damages to his plastic chairs and asbestos sheet worth about Rs.3,500/- and hence they committed the offence under Section 3 of the TNPPDL Act. Which reads as follows:

3. Punishment for committing mischief in respect of [property]. - Whoever,-

(i) Commits mischief by doing any act in respect of any [property] and thereby causes damage or loss to such [property] to the amount of one hundred rupees or upwards; or

(ii) commits mischief by doing any act which causes or which he knows to be likely to cause a diminution of the supply of water to the public or to any person for any purpose or an inundation of, or obstruction to, any public drainage, or

(iii) commits mischief by doing any act which renders any public road, bridge, navigable channel, natural or artificial impassable or less safe for traveling or conveying property, shall be punished with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine:

Provided that the Court may, for any adequate and special reason to be mentioned in the judgment, impose https://www.mhc.tn.gov.in/judis a sentence of imprisonment for a term of less than one year.

26.5.The accused caused damages to the house and properties of P.W.1 and the same was clearly deposed by the witnesses in cogent manner and the same was also proved through the observation mahazar and also the evidence for the investigating officer. Mere non-submitting of the valuation certificate of the damages and non-production of the photographs, as held by the learned trial Judge is not the only mode of proof of the offence under Section 3 of the TNPPDL Act. It is the evidence of P.W1 and other eyewitness that the accused caused damage to the house of P.W1. The said circumstances, the prosecution clearly proved the offence under Section 3 of the TNPPDL Act. Therefore, they are liable to be convicted for the offence under Section 3 of the TNPPDL Ac1997 .

26.6.In continuation of the occurrence of unlawful assembly with deadly weapons, assault upon the injured witnesses, causing damages to the house of P.W.1, P.W1 to P.W4 and P.W6 were criminally intimidated by the accused by using weapons to kill them and thereby, they committed https://www.mhc.tn.gov.in/judis the offence under Section 506(ii) of IPC. All the injured witnesses clearly deposed that the accused criminally intimidated them with the following words after making assault:

Cu;;kf;fs; TLtij ghh;j;j vjphpfs; vd;idf;F ,Ue;jhYk; cq;fis bfhy;yhky; tplkhl;nld; vd;W brhy;yp..

Their evidence also corroborated with the remaining eyewitnesses and hence, the prosecution proved the offence under Section 506(ii) IPC against the accused No.1 to 6 and therefore, they are liable to be convicted under Section 506(ii) of IPC. and it is clear that the offence under Section 294(b) IPC, is also made out.

26.7.Fourth Charge: [u/s307IPC] The accused party was in the management of the affairs of the Kongalamman Temple. In the said temple, Kumbabisegam was conducted by collecting the money from the various villagers. The said money was misappropriated by A1 and other accused. Therefore, P.W.1 and P.W.8 and other villagers gave a complaint to the District Collector, Karur. On enquiry, the District Collector found that there was a misappropriation and also mal-administration in the temple affairs. Therefore, the District Collector appointed P.W.8 in the place of the accused. Hence, the accused https://www.mhc.tn.gov.in/judis had a strong motive to eliminate P.W.8 and P.W.1. Consequently, the accused formed an unlawful assembly with deadly weapons on 17.01.2019, when the injured witnesses P.W.1, P.W.8 and other persons were returning after the cremation of P.W.1's aunt, and A1 to A3 attacked P.W.1 and P.W.8 with the material object marked before the trial Court indiscriminately in the body of P.W.1 and P.W.8. P.W.1 and P.W.8, cogently deposed about the motive and assault made by A1 to A3. The same was corroborated by the evidence of the remaining eye witnesses to the occurrence and also the other injured witness. The doctor also was examined and the doctor categorically stated that injury could be caused by the weapon shown in the Court, ie., material objects.

26.8.P.W.1 and P.W.8 categorically deposed before the Court in the line of the charge in the following words:

Rank of injured witnesses	Overact attributed by the accused	Doctor evidence

PW 1	mg;nghJ vjphpfs; Fznrfud;. tpf;ndc&;. KUfd;. Kj;jkpH;r;bry;td;. rutzd; m';F te;J eP';fs; xU rpije;j fhak; ,Ue;jJ/ vy;yhk; vd;d bghpa Msg;g[z;ilahlh.	M$h; jpndc&;. Mfpnahh; PW 9 stated that injuries; mtUf;F fPH;fz;l fha';fs; ,Ue;j 1) jiyapy; eLg;gFjp 2) jiyapd;

eh';f tPf;fk; ,Ue;jJ/
br";Rl;LUe;j
eph;thf bghWg;g
Rjhfhplk; th';fp 3) jiyapd; gf;fthl;
bfhLj;JO';f. ,g;g
ona tpl;lh eP';f tPf;fk; ,Ue;jJ/
kWgoa[k;. kWgoa[k;
gpur;rid

br";Rf;fpl;nl ,Ug; nkny brhd;d fha';fspy; fhak; vz;/3 bfhL';fhak; vd;Wk;. 1.2 gP';fd;D brhy;yp. fha';fs; rhjhuz fha';fs; vd;Wk;. K:is mWit rpfpr;ir mth;fs; bfhz;L te;j fk;gp. fl;il epg[z iua[k ; . mtuJ fUj; i ja[k ; nfl; L fUj; J f; Twp fhar; rhd;W Mfpatw;iwf; tH';fpndd;/ ehd; tH';fpa tpgj;J gjpntl;L efy; kw;Wk; fhar;rhd;W bfhz;L vd;ida[k;.

RFkhiua[k; ghh;j;J efy; m/rh/M/2 kw;Wk; 3/ jw;nghJ ePjpkd;wj;jpy; cs;s fl;il kw;Wk;

,j;njhL brj;J ,Uk;g[fk;gpahy; moj;jhy; nkw;br
xHp";R ngh';flh
vd;W brhy;yp vd; vd;why;. Vw;glyhk;/
jiyapYk;. RFkhh;
jiyapYk; ,uj;jf;
fhak; Vw;gLk; (P.W.11) deposed about the inju
mst[f;F mtiu ghpn
PW 8 moj;Jtpl;ldh;/
jw;nghJ fha'; fs; fhzg; g l; ld/
ePjpkd;wj;jpy; nkw;brhd;d 1tJ fhak
fhl;lg;gLk; K:d;W
fk;gpfs; kw;Wk; rhjhuz fhak; vd;W fUj;Jf;Twp f
K:d;W fl;ilfshy;
jhd; M$h; vjphpfs;
rk;gt rkak;
v';fis
jhf;fpdhh;fs;/
nkw;go fk;gpfs;
kw;Wk; fl;ilfs;
Mfpait rh/bgh/1
thpir kw;Wk;
rh/bgh/2 thpir/

26.9. The said version also corroborated with the evidence of the other injured witnesses and eyewitnesses. Therefore, from the above https://www.mhc.tn.gov.in/judis evidence, the prosecution clearly proved the motive, intention and the overtact and all other ingredients to constitute the offence under Section 307 IPC beyond reasonable doubt. Therefore, A1 to A3 are liable to be convicted for the offence under Section 307 of IPC.

26.10. Fifth charge:[u/s 307 r/w 149 IPC] As discussed above, A1, A2, A3, A4, A5, A6 formed unlawful assembly with deadly weapons and A1 to A3 attacked on the injured witnesses P.W.1 and P.W.8 and caused injuries with an intention to cause death. A4 to A6 are the members of the unlawful assembly and they participated in the occurrence with the knowledge and intention and aided the main accused A1 to A3. All the accused formed unlawful assembly to wreak vengeance against P.W.8 and other injured witnesses on account of their positive steps taken to change the management of the temple from the accused side by submitting the representation to the District Collector with allegation of mismanagement and misappropriation of the temple funds. Further, in their place, P.W.8 was appointed. Therefore, they formed unlawful assembly with deadly weapons and facilitated A1 to A3 to cause injuries to P.W.8 with murderous attack on him. They also assault the remaining witnesses. Therefore, they are liable to be convicted under Section 307 r/w 149 of IPC and the same is in consonance with the https://www.mhc.tn.gov.in/judis principle laid down by the Hon'ble Supreme Court in the following case:

> Vinubhai Ranchhodbhai Patel v. Rajivbhai Dudabhai Patel, (2018) 7 SCC 743 at page 761
>
> 34. For mulcting liability on the members of an unlawful assembly under Section 149, it is not necessary that every member of the unlawful assembly should commit the offence in prosecution of the common object of the assembly. Mere knowledge of the likelihood of commission of such an offence by the members of the assembly is sufficient. For example, if five or more members carrying AK 47 rifles collectively attack a victim and cause his death by gunshot injuries, the fact that one or two of the members of the assembly did not in fact fire their weapons does not mean that they did not have the knowledge of the fact that the offence of murder is likely to be committed.

Therefore, A4 to A6 are liable to be convicted for the offence punishable under Section 307 r/w 149 of IPC.

26.11. Sixth charge:[u/s 324 IPC] When the accused Nos.1 to 6 formed unlawful assembly with deadly weapons and abused P.W.1 and P.W.8 and A1 to A3 attacked P.W.1 https://www.mhc.tn.gov.in/judis and P.W.8 and when P.W.2 intervened, A1 to A3 assaulted P.W.2 on his head and P.W.2 sustained head injuries. Therefore, the charge was framed under Section 324 of IPC. P.W.2 cogently deposed about the assault made by the accused Nos.1 to 3 and the consequential injuries on his head and the same was corroborated by the testimonies of the remaining injured and eye witnesses and the doctor also corroborated the same in the following terms:

Rank of injured witnesses	Overact attributed by the accused
PW2	,g;gona v';fs nghd

,d;Dk;

Doctor Veluchamy (P.W.9) deposed about the injuries sustained by the PW2 bjhe;jut[br";Rl;L , mtUf;F fPH;fz;l fha';fs; ,Ue;jd/ Ug;gP';f. c';fis bfhy;yhky; tplkhl;nlhk;

vd;W Twp m/rh/1. 1) jiyapy; RFkhiu. vjphpfs; Fznrfud;. jpndc&;. mstpy; xU rpije;j fhak; , tpf;ndc&; Mfpnahh; ,Uk;g[fk;gpah 2) ,lJ njhs;gl;i y; kz;ilapy; moj;jdh;/

mij jLf;f te;j nkw;go 1. 2 fha';fs; rhjhuz fha';fs; vd;W fUj;Jf;Twp vd;id vjphpfs; ,Uk;g[fk;gpahy; vdJ fhar;rhd;W efy; tH';fpndd;/ ehd; tH';fpa tpgj;J gjpntl;L efy; kz;ilapy; moj;jdh;/ kw;Wk; fhar;rhd;W efy; m/rh/M/4 kw;Wk; 5/ jw;nghJ ePjpkd;wj;jpy; cs;s ,Uk;g[fk;gpahy; moj;jhy; nkw;brhd;d fha';fs; Vw;gl tha;gs [;sjh vd;why;. Vw;glyhk;/ In the said circumstances, necessary ingredients of Section 324 IPC are clearly established against A1 to A3.

26.12. Seventh charge:[u/s 324 IPC] According to this charge, accused Nos.4 to 6 assaulted P.W3-Idhayakani, who is a bystander, wife of a journalist, who gave the https://www.mhc.tn.gov.in/judis complaint against the respondents and also gave the statement in the press relating to the misappropriation by the accused. P.W3 had clearly spoken about the injury sustained by her and the same was corroborated by the evidence of the doctor. The relevant evidence is as follows:

Rank of injured witnesses	Overact attributed by the accused	
PW3	Vjphpfs; KUfd;. Kj;jkpH;r;bry;td;. rutzd; Mfpnahh; vd;dplk; ePjhz;o ngha; gj;jphpf;ifapy; ngl;o bfhLj;jha; vd;W Twp. VdJ $hf;bfl;. nriyia ,Gj;J. vd;id bghJ ,lj;jpy; mtkhdg;gLj;jp. kuf;fl;ilahy; vdJ jiyapy; moj;Jtpl;lhh;fs;/	Doctor Veluchamy (P.W.9) mtUf;F fPH;fz;l 1) jiyapd; tPf;fkpUe;jJ/ nkw;go fhak

fhar;rhd;W efy; tH';fpndd;/ ehd; tH';fpa tpgj;J gjpntl;L efy; kw;Wk; fhar;rhd;W efy; m/rh/M/6 kw;Wk; 7/ jw;nghJ ePjpkd;wj;jpy; cs;s fl;ilahy;; moj;jhy; nkw;brhd;d fha';fs; Vw;gl tha;gs [;sjh vd;why;. Vw;glyhk;/ The said evidence of P.W.3 is corroborated by the remaining injured and eyewitnesses and hence the offence under Section 324 IPC against A4 to A6 also is established.

26.13. Eight charge: [u/s 324 IPC] In continuation of the occurrence that happened on 17.01.2019 at about 07.30 p.m, in Achamapuram, the accused Nos.1 and 2 tore the saree and the blouse of the Mariyayee-P.W4 (mother of P.W8) and she also sustained simple injury on her hand and the evidence is as follows:

> https://www.mhc.tn.gov.in/judis vd;id fPny js;spajpy; vdf;F ,lJ ifapy; mogl;lJ ehd; fj;jpndd;. Even though she has not taken treatment, her evidence is cogent and the same is corroborated by the remaining injured and eyewitnesses. Therefore, charge No.8 for the offence under section 324 of IPC is also proved beyond reasonable doubt.
>
> 26.14.Tenth Charge : U/s 4 of THPHW Act 1998:
>
> In continuation of the occurrence that happened on 17.01.2019 at about 07.30 p.m, in Achamapuram, the accused Nos.1 and 2 tore the saree and the blouse of the Mariyayee-P.W4 (mother of P.W8) and P.W.4 Idhayakani and thereby, the charge under Section 4 of the TNPHW Act 1998 was framed. P.W.3 and P.W.4 clearly deposed that A1 and A2 tore the saree and blouse of P.W.3 and P.W.4 and the same is as follows:

P.W.3	P.W.4
Vjphpfs; KUfd;. Kj;jkpH;r;bry;td;. vjphpfs; rutzd; Mfpnahh; vd;dplk; ePjhz;o	Fznrfud;. vd;dplk; te;J cd; kfd; vd;
ngha; gj;jphpf;ifapy; ngl;o	
bfhLj;jha; vd;W Twp. VdJ bghpa MSg;gz $hf;bfl;. nriyia ,Gj;J. vd;id	[;ilah fzf;F
	nff;Fwhd; vd;W Twp
bghJ ,lj;jpy; mtkhdg;gLj;jp. kuf;fl;ilahy; vdJ jiyapy; moj;Jtpl;lhh;fs;/	moj;J. vdJ nriyia
	vd;id mtkhdg;gLj;jptpl;lhh

From the above evidence, it is clear that the prosecution proved the charge framed under Section 4 of Tamil Nadu Prohibition of Harassment https://www.mhc.tn.gov.in/judis of Women Act.1998, and the Section reads as follows:

> 4. Penalty for harassment of woman. - Whoever commits or participates in or abets harassment of woman in or within the precincts of any educational institution, temple or other place of worship, bus stop, road, railway station, cinema theater, park, beach, place of festival, public service vehicle or vessel or any other place shall be punished with imprisonment for a term which may extend to three years and with fine which shall not be less than ten thousand rupees.

> 2.(a) "harassment" means any indecent conduct or act by a man which causes or is likely to cause intimidation, fear, shame or embarrassment, including abusing or causing hurt or nuisance or assault or use of force.

From the above evidence, it is clear that A1, A2 tore the saree and blouse of P.W.3 and P.W.4 and also assaulted them. The evidence of P.W.3 and P.W.4 corroborated with the evidence of remaining injured and eyewitnesses. This Court finds no infirmities in their evidence and also finds no reason to disbelieve their evidence. Therefore, they are liable to be convicted for the offence punishable under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act,1998 and 324 of IPC. https://www.mhc.tn.gov.in/judis

27. Non-explanation of the injuries on the accused:

> The learned Senior Counsel for the accused submitted that the accused sustained injuries and the same was not explained by the prosecution. Injured witnesses and the eyewitnesses did not account the same. Therefore, he submitted that the testimony of the witnesses is to be disbelieved. He relied on the judgment of the Hon'ble Supreme Court reported in 1976 4 SCC 394 and 2023 10 SCC 470.
>
> 27.1.It is no longer res integra, that in each and every case, where the prosecution fails to explain the injuries found on some of the accused, the prosecution case should not automatically be rejected, without any further proof. Mere fact that injuries were not explained by the prosecution that by itself can not be the basis to reject the evidence and consequently the whole case.
>
> 27.2.Heavy reliance was placed by the learned Senior counsel on judgment of the Hon'ble Two member Bench of the Supreme Court in Lakshmi Singh case was reconsidered by the Hon'ble three Judges Bench of the Hon'ble Supreme Court in 1977 (4) SCC 396, 1990(3)SCC190 Vijayee Singh v. State of U.P., 1998 (7) SCC 365, 2000 (4) SCC 298 and https://www.mhc.tn.gov.in/judis 2001 (6) SCC 145. The submission of the learned Senior Counsel to reject the evidence of prosecution witnesses only on the ground of non-

explanation of the simple injury on the accused runs contra to the principles laid down by all the above Hon'ble Three Judges Bench of the Supreme Court which has reteriated the Hon'ble Three Judge Bench of the Supreme Court in 2001(6)SCC145 [Takhaji Hiraji v. Thakore Kubersing Chamansing] :

> “17. The first question which arises for consideration is what is the effect of non-explanation of injuries sustained by the accused persons. In Rajender Singh v. State of Bihar [(2000) 4 SCC 298 , Ram Sunder Yadav v. State of Bihar [(1998) 7 SCC 365 and Vijayee Singh v. State of U.P. [(1990) 3 SCC 190 , all three-Judge Bench decisions, the view taken consistently is that it cannot be held as a matter of law or invariably a rule that whenever the accused sustained an injury in the same

> occurrence, the prosecution is obliged to explain the injury and on the failure of the prosecution to do so the prosecution case should be disbelieved. Before non-explanation of the injuries on the persons of the accused persons by the prosecution witnesses may affect the prosecution case, the court has to be satisfied of the existence of two conditions: (i) that the injury on the person of the https://www.mhc.tn.gov.in/judis accused was of a serious nature; and (ii) that such injuries must have been caused at the time of the occurrence in question. Non-explanation of injuries assumes greater significance when the evidence consists of interested or partisan witnesses or where the defence gives a version which competes in probability with that of the prosecution. Where the evidence is clear, cogent and creditworthy and where the court can distinguish the truth from falsehood the mere fact that the injuries on the side of the accused persons are not explained by the prosecution cannot by itself be a sole basis to reject the testimony of the prosecution witnesses and consequently the whole of the prosecution case.
>
> 18. The High Court was therefore not right in overthrowing the entire prosecution case for non-

explanation of the injuries sustained by the accused persons. The High Court ought to have made an effort at searching out the truth on the material available on record as also to find out how much of the prosecution case was proved beyond reasonable doubt and was worthy of being accepted as truthful." 27.3. The said principle was reiterated by the Hon'ble Suprme Court in Gurwinder Singh v. State of Punjab, (2018) 16 SCC 525 at page 528, https://www.mhc.tn.gov.in/judis it has been held as follows:

> 11...it cannot be held as a rule that the prosecution is obliged to explain the injuries and on failure of the same, the prosecution case should be disbelieved. 27.4. Even in "Lakshmi Singh case", the Hon'ble Supreme Court clearly laid down the law that in case the injury is minor and superficial and where the evidence is so clear and cogent, so independent and disinterested, so probable, consistent and creditworthy, it would outweigh the effect of the omission on the part of the prosecution to explain the injuries. In the present case, the accused have not sustained serious injury and only sustained superficial injuries as per the documents marked as Ex.P8 and Ex.P7. The testimony of the injured witness and the eyewitnesses are cogent and trustworthy and corroborated by medical evidence. Therefore, the principles laid down in "Lakshmi Singh case" is not applicable. Similarly, the judgment reported in 2023 10 SCC 470 also is not applicable to the present case for the reason that in the case before the Hon'ble Supreme Court, the accused sustained grievous injuries and there was infirmity in the evidence of the witnesses and therefore, the Hon'ble Supreme Court acquitted the accused on facts by applying the https://www.mhc.tn.gov.in/judis above principle. Even in the said judgment the Hon'ble Supreme Court specifically held that in the case of minor or superficial injuries sustained by the accused, the evidence of injured witnesses and prosecution witnesses cannot be rejected. Hence, the non-explanation of the injuries sustained by

the accused in this case cannot dent the evidence of the injured witnesses, as false.

28.Motive The learned Senior counsel further submitted that there is enmity between the two groups. Hence they are falsely implicated in this case.

P.W.1 to P.W.4 P.W.6 and P.W.8 clearly deposed that in the Achamapuram Village, there is a Kongalamman temple. A1 committed misappropriation of the said temple funds. Therefore, injured witnesses and the villagers gave a complaint to the District Collector. The District Collector enquired and appointed P.W.8 to manage the temple in the place of A1(Gunasekaran). Therefore, A1 and other appellants got infuriated and unlawfully assembled with deadly weapons and assaulted the injured witnesses. The said motive is not denied by the accused and D.W.2 also admitted the said motive. Motive is a double edged weapon and due to the said motive, according to the specific circumstances of the present case, the accused could have assaulted the injured witnesses indiscriminately https://www.mhc.tn.gov.in/judis with the deadly weapons.

29.Consideration of explanation furnished by the accused under Section 313 Cr.P.C., and the defence side witness:

Even though, the accused gave an explanation and examined defence witnesses and marked the defence documents, the learned trial Judge in para 6 held as follows:

6.When the accused were questioned under Section 313(1)(b) of Cr.P.C., with regard to the incriminating materials and the facts available against them in the prosecution evidence, they have denied the complicity in the crime. On the side of defence, no witness was examined and no exhibit was marked. The arguments of both sides were heard.

Therefore, this Court considered the submissions made above and considered the defence of the accused. The learned trial Judge after the examination of the prosecution witnesses, has examined the accused under 313 Cr.P.C., by putting the incriminating material available against them. They denied the same and gave the following written explanation:

29.1.There was dispute relating to the management of their village https://www.mhc.tn.gov.in/judis temple. But, A1's fathers' family alone was doing poojariship in the said temple ie.guk;giu rhkpaho. A1's co-brothers are the remaining accused (gq;fhspfs;) and he stated that while returning after the cremation of 'Kamalam' relative of both the appellant and injured witness, P.W.1, 2 and 8 in an inebriated condition attacked the appellants A1, 3, 4 including A1's father namely Rajendran. A3, 4 and in order to safeguard their life, they tried to smatch the weapons from the possession P.Ws.1, 2, 3 and 8. At the time, P.W.3 and P.W.4 came and they were also attacked by them.

Thereafter, A1, his father Rajenthran, A3 and A4 were admitted in the hospital. The respondent Police, at the influence of ruling political party, foisted a false case against the accused and

conducted lopsided investigation and filed the final report only against them alone. To substantiate the same, D.W.2 father of the A1 was examined and materials documents Ex.D1, D2, D3, D7, D8 and D9 were marked. He admitted that after one year from the date of occurrence, he sought information under RTI Act from Superintendent of Police. Even in the said reply, the Superintendent of Police Office stated that they have not received any complaint from the accused. Therefore, this Court finds no reason to believe the evidence of D.W.2 and the document relied upon them. This Court already made a discussion in the paragraph No.20.2 the accused https://www.mhc.tn.gov.in/judis never gave a complaint to the investigation agency alleging that P.W.1 to P.W.8 attacked them. But, there is no evidence that the injury sustained by them happened in the said occurrence and the same was caused by the P.W. 1 to P.W.8. Therefore, this Court without any reservation hold that the accused has come forward with a false explanation in order to escape from the legitimate prosecution under the charges framed.

30.Discussion on the duality of views:

> 30.1. The learned Senior counsel further submitted that in the judgments reported in 2018(2) SCC Cri 94 and 2019(2)SCC513, where the Hon'ble Supreme Court reiterated the principles to be followed before interfering in the case of appeal against acquittal. In this case, as discussed earlier, the entire approach of the learned trial Judge is erroneous and the reasoning of the learned trial Judge in acquitting all the accused disbelieving the evidence of the injured witnesses when their evidence is corroborated by medical witnesses, is perverse. Hence, this Court is well within its jurisdiction to hold that the accused unlawfully assembled with common intention to commit murder of P.W6 and caused injuries to the witnesses with weapons marked as exhibits. Therefore, the only possible view available on record is that the accused formed unlawful assembly https://www.mhc.tn.gov.in/judis with deadly weapons and caused injuries to the injured witnesses and the same was corroborated by the medical evidence. The Hon'ble Supreme Court clearly explained in the following cases, the two views concept:
>
> K.Gopal Reddy v. State of A.P., (1979) 1 SCC 355 at page 359
>
> 9... To entitle an accused person to the benefit of a doubt arising from the possibility of a duality of views, the possible view in favour of the accused must be as nearly reasonably probable as that against him.

If the preponderance of probability is all one way, a bare possibility of another view will not entitle the accused to claim the benefit of any doubt.

In this case, the trial Court failed to see that the accused have miserably failed to make out a case where two reasonable conclusions can be reached on the basis of the evidence of the four injured witnesses and three eyewitnesses. The learned trial Judge decided the case completely contrary to the principles laid down by the Hon'ble Supreme Court in appreciating the evidence of injured witness, eye witness, minor contradiction, immaterial discrepancy, and passed the unmerited

acquittal. Hence, this Court is exercising its power under Section 378 Cr.P.C, re-appreciated the evidence and hereby record the finding that the decision of the learned trial Judge in acquitting all the accused is not in accordance with law. https://www.mhc.tn.gov.in/judis

31. Suppression of the earlier information:

> The learned Senior counsel submitted that before registration of the case, as admitted by the investigating officer, they visited the scene of occurrence and hence investigation commenced before the registration of the case. From the sequence of the events, the learned Senior counsel submitted that earlier version was suppressed and also they received information regarding the occurrence much earlier to the registration of the FIR.
>
> 35.1. Ramsinh Bavaji Jadeja v. State of Gujarat, (1994) 2 SCC 685 at page 688
>
> 7. From time to time, controversy has been raised, as to at what stage the investigation commences. That has to be considered and examined on the facts of each case, especially, when the information of a cognizable offence has been given on telephone. If the telephonic message is cryptic in nature and the officer in charge, proceeds to the place of occurrence on basis of that information to find out the details of the nature of the offence itself, then it cannot be said that the information, which had been received by him on telephone, shall be deemed to be first information report. The object and purpose of giving such telephonic message is not to lodge the first information report, but to request the officer in charge of https://www.mhc.tn.gov.in/judis the police station to reach the place of occurrence. On the other hand, if the information given on telephone is not cryptic and on the basis of that information, the officer in charge, is prima facie satisfied about the commission of a cognizable offence and he proceeds from the police station after recording such information, to investigate such offence then any statement made by any person in respect of the said offence including details about the participants, shall be deemed to be a statement made by a person to the police officer "in the course of an investigation", covered by Section 162 of the Code. That statement cannot be treated as first information report. But any telephonic information about commission of a cognizable offence irrespective of the nature and details of such information cannot be treated as first information report. This can be illustrated. In a busy market place, a murder is committed. Any person in the market, including one of the shop-owners, telephones to the nearest police station, informing the officer in charge, about the murder, without knowing the details of the murder, the accused or the victim. On the basis of that information, the officer in charge, reaches the place where the offence is alleged to have been committed. Can it be said that before leaving the police station, he has recorded the first information report? In some cases the information given may be that a person has been shot at or stabbed. It cannot be said that in such a situation, the moment the officer in charge https://www.mhc.tn.gov.in/judis leaves the police station, the investigation has

commenced. In normal course, he has first to find out the person who can give the details of the offence, before such officer is expected to collect the evidence in respect of the said offence. 31.2 Sambhu Das v. State of Assam, (2010) 10 SCC 374 at page 384

31. Assuming that some report was made on telephone and that was the real first information report, this by itself would not affect the appreciation of evidence made by the learned Sessions Judge and the conclusions of fact drawn by him. 31.3.State of A.P. v. V.V. Panduranga Rao, (2009) 15 SCC 211 at page 213

10. Certain facts have been rightly noted by the High Court.

Where the information is only one which required the police to move to the place of occurrence and as a matter of fact the detailed statement was recorded after going to the place of occurrence, the said statement is to be treated as FIR. 31.4. From the above law laid down by the Hon'ble Supreme Court when any information is received that some incident had taken place, it is the duty of the police officer to visit the place and the police officer after making the enquiry can receive written information and thereafter, register FIR based on such detailed statement. Therefore, there is no merit in the submission of the learned Senior counsel for the accused/respondents. https://www.mhc.tn.gov.in/judis

32.Demeanour of witnesses The learned Senior Counsel for the respondent/accused submitted that when the trial Court after noticing the demeanour of the witnesses has taken a possible and plausible view to acquit the accused, the appellate Court can not replace it by its own view. The said contention is not accepted in the present day working system of judiciary. In earlier days, trial was conducted by the either jury or trial Judge on day to-day basis and they recorded the evidence and they questioned the accused and they recorded the defence versions and heard the argument and passed the judgment. From the framing of charges onwards till the passing of judgment, only one judge would be holding the charge. But, in the present day judicial working system, almost in all cases, one trial Judge frames the charges, another judge record either portion of the evidence or entire evidence, another judge question the accused under Section 313 of Cr.P.C., and hear the argument. On the basis of the same, another judge finally once again hears the arguments alone and delivers the judgment. In almost all cases, the learned trial Judge, who recorded the evidence never passes the judgment. Therefore, the cardinal notion that the trial Court had the benefit of seeing the demeanour of witness does not continue to exist. In this case, https://www.mhc.tn.gov.in/judis P.W.1 to P.W.17, were examined by various presiding officers on various dates from 05.01.2021 to 16.11.2021. The present presiding officer only examined D.W.2. Therefore, the said submission of the learned Senior Counsel cannot be accepted. In this case, the learned trial Judge committed error in not properly appreciating the evidence of injured witness as per the guidelines of the Hon'ble Supreme Court. Without any legal reasoning, the learned trial Judge disbelieved their version. Therefore, this Court finds that there is perversity in the finding of the learned trial Judge.

33. Conclusion:

> As observed by the Hon'ble Supreme Court in the following judgment the learned trial Judge has missed the wood for the trees and the learned trial Judge has shown utter disregard to the nature of evidence and has come to a fanciful finding that the prosecution has not proved the case when the evidence is galore for convicting the accused;
>
> 33.1. In Bava Haji Hamsa v. State of Kerala, (1974) 4 SCC 479 at page 487, it has been held as follows:
>
> 30. We agree with the High Court that the very “scheme of approach” adopted by the trial Judge was faulty and misleading. It led to aberration and misdirection in https://www.mhc.tn.gov.in/judis appraising evidence, and vitiated his conclusions. The learned trial Judge started correctly when on a broad look of the evidence, he found the evidence of PWs 1, 8 and 9 prima facie acceptable. But after the second lap of discussion, he became sceptical; and reversed his mind at the end of the third round of circumgyratory discussion.

In such cases where large number of persons are involved and in the commotion some persons cause injuries to others and the evidence is of a partisan character, it is often safer for the Judge of fact to be guided by the compass of probabilities along the rock-ribbed contours of the case converging on the heart of the matter. Once the court goes astray from the basic features of the case, it is apt to lose itself in the labyrinths of immaterial details, desultory discussion and vacillation arising from unfounded suspicions. This is exactly what has happened in the instant case. Despite the pains taken and the conscentious effort put in to write an elaborate judgment, the trial Judge had, as it were, missed the wood for the trees. The learned Judges of the High Court were, therefore, right in discarding altogether the basically wrong “scheme of approach” adopted by the trial court, and in analysing the evidence in their own way.

10. That is what the High Court has done in this case. The appeal is dismissed.

https://www.mhc.tn.gov.in/judis 33.2. In this case, the prosecution proved the charged offences through the unimpeachable evidence of injured witnesses and also eye witnesses to the occurrence. P.W.1, P.W.2, P.W.3, P.W.4 and p.W.8 clearly deposed about the assault made by the accused and the injuries caused by the accused. The sustained injuries also were affirmed by the doctors. The Doctors also opined that the injuries sustained by the witnesses could have been caused by the weapons used by the accused. The injuries on the accused is superficial and the witnesses deposed that they never attacked the accused. The motive has also been proved. The learned trial Judge magnified every irrelevant and immaterial minor details or omissions as consequential contradictions and discrepancies to disbelieve the evidence of the injured witnesses without applying the guidelines and principles laid down by the Hon'ble Supreme Court to place reliance on the injured witnesses. The learned trial Judge erred in acquitting the accused under all charges. In view of the above discussion, this Court finds that only possible view, on the available evidence is that, all the accused unlawfully assembled with deadly weapons and picked up quarrel with the witnesses and assaulted the injured witnesses and caused both simple and grievous injuries to the

injured witnesses on the established motive that A1 committed misappropriation of the temple and hence, its management was https://www.mhc.tn.gov.in/judis entrusted with P.W.8 on the basis of the complaint made by the injured witnesses and other villagers to the District Collector. Four injured witnesses and three eye witnesses have cogently deposed about the unlawful assembly formed by the accused and the calculated assault made on the witnesses. The doctor's evidence also fully corroborated. Hence, this Court finds no reason for discarding the evidence of the injured witness, eyewitness and the medical evidence. Therefore, the trial Court was not justified in discarding the prosecution case. The Court below allowed itself to be beset with fanciful doubts, rejected creditworthy evidence for slender reasons and has taken a view of the evidence which is but barely possible. Therefore this Court, has no other option but to interfere with the impugned judgment in the interest of justice, lest the administration of justice be brought to ridicule. Therefore, this Court hereby sets aside the impugned acquittal judgment passed in S.C.No.63 of 2013, by the learned Additional Sessions Judge, (Fast Track Mahila Court), Karur and allows this appeal. Accordingly, this Court finds that the prosecution proved the case against all the accused beyond reasonable doubt and hence this Court convicts the accused for the following charged offences:

https://www.mhc.tn.gov.in/judis Sl. Charged offences Accused Conviction No under Sections 1 147 of IPC A1 to A6 All are convicted for the offence under Section 147 of IPC 2 148 of IPC A1 to A6 All are convicted for the offence under Section 148 of IPC 3 294(b) of IPC A1 to A6 All are convicted for the offence under Section 294(b) of IPC 4 307 of IPC A1 to A3 All are convicted for the offence under Section 307 of IPC 5 307 r/w 149 of IPC A4 to A6 All are convicted for the offence under Section 307 r/w 149 of IPC 6 324 of IPC A1 to A3 All are convicted for the offence under Section 324 of IPC 7 324 of IPC A4 to A6 All are convicted for the offence under Section 324 of IPC 8 324 of IPC A1 and A2 All are convicted for the offence under Section 324 of IPC 9 323 of IPC A1 and A2 All are convicted for the offence under Section 323 of IPC 10 4 of TNPHW Act A1 and A2 All are convicted for the offence 2012 (2Counts) under Section 4 of TNPHW Act 2012(2counts) 11 448 of IPC A1 to A6 All are convicted for the offence under Section 448 of IPC 12 3 of TNPPDL ACT A1 to A6 All are convicted for the offence under Section 3 of the TNPPDL Act 13 506(i) of IPC A1 to A6 All are convicted for the offence under Section 506(i) of IPC 33.3. A1 is found guilty u/s.147,148,294(b), 307, 324(2counts), 323, 448,506(ii) IPC ; A2 is found guilty u/s.147, 148, 294(b), 307, https://www.mhc.tn.gov.in/judis 324(2counts), 323, 448, 506(ii) IPC, Section 4 of TNPHW Act and Section 3 of TNPPDL Act;A3 is found guilty u/s.147, 148, 294(b), 307, 324, 448IPC Section 4 of TNPHW Act and Section 3 of TNPPDL Act and A4 to A6 are found guilty u/s. 147, 148, 294(b), 307 r/w. 149, 324, 448, 506(ii) IPC, Section 3 of TNPPDL Act.

34.Accordingly, this Criminal Appeal stands allowed by setting aside the judgment dated 21.02.2022 in S.C.No.63 of 2019 on the file of the learned Additional Sessions Judge (Fast Track Mahila Court), Karur, and convicting the respondents 2 to 7/accused1 to 6 as stated above.

35. List this case for appearance of the respondents 2 to 7 / Accused Nos.1 to 6 for questioning the sentence of imprisonment on 24.04.2024.

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PJL/sbn

As per the direction of this Court, dated 18.04.2024, all the accused appeared before this Court. When the accused questioned under Section 235 (2) of Cr.P.C., about the sentence of imprisonment to be passed, they have pleaded as follows:

Accused Nos.	Answers of the Accused
A1/Gunasekaran @ Velusamy	ehd; mbf;ftpy;iy ehd; ve;j jtWk; nra;atpy;iy
A2/Dinesh @ Periyasamy	ma;ah ehd; mbf;ftpy;iy nra;ahj jtWf;fhf Vw;fdNt ehd; 15 ehl;fs; rpiwjz;l mDgtpj;Js;Nsd;
A3/Vignesh	ehd; mbf;ftpy;iy
A4/Sathish @ Murugan	ehd; mbf;ftpy;iy
A5/Muthamilselvan	ehd; rk;gt ,lj;jpy; ,y;iy tPl;by; ,Ue;j vd;id rpd;d rpd;d kd\;jhgq;fs; fhuzkhf fhty;Jiwapdh; ,e;j tof; rk;ge;jkhf vd;id ifJ nra;J fUh; rpiwapy; 15 ehl;f itj;jpUe;jdh;
A6/Saravanan	rk;gt ,lj;jpy; ,y;iy 15 ehl;fs; nra;ahj jtWf;fhf rpiwapy; ,Ue;Njd;

36.Sentence of imprisonment:

> 36.1.In those days, what we call golden days, people used to contribute their own funds by selling their properties to construct temple and maintain them. They had a moral fear i.e., rptd; nrhj;J Fy ehrk;

https://www.mhc.tn.gov.in/judis Now, everything happens vice versa. It has become common to grab the temple funds and loot the ornaments of the temple, for their own benefit. One classic example is the present case. The accused party was in the administration of Kongalamman Temple. They committed misappropriation of temple fund which was collected for temple's renovation and Kumbabisegam. All the witnesses including the villagers made a complaint to the District Collector. The District Collector after enquiry, stripped the accused party from the temple administration and appointed P.W.8 as a new administrator. Infuriated by the same, the accused formed an unlawful assembly with deadly weapons and attacked the witnesses that too when the villagers and witnesses were returning from the cremation ground after attending P.W.1's aunt funeral. Further, initially A1 to A3 attacked P.W.1, P.W.8, P.W.3 and P.W.4, and when women intervened to pacify the same, their saree and blouse also were torn and they were also attacked by the accused. Therefore, imposition of the punishment should be commensurate with the crime committed, as held by the Hon'ble Supreme Court in 2005 5 SCC 554.

"..6. Undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law and society could not long endure under such serious threats. It is, therefore, https://www.mhc.tn.gov.in/judis the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed, etc. This position was illuminatingly stated by this Court in Sevaka Perumal v. State of T.N.

10.The Court will be failing in its duty if appropriatepunishmner is not awarded for a crime which has been committed not only against the individual victim but also against the society to which the criminal and victim belong. The punishment to be awarded for a crime must not be irrelevant but it should confirm to and be consistent with the atrocity and brutality with which the crime has been perpetrated, the enormity of the crime warranting public abhorrence and it should "respond to the society's cry for justice against the criminal".

The same has been reiterated in similar case of offence under Section 307 of IPC in paragraph No.14 of the Hon'ble Supreme Court in the case of State of Madhya Pradesh Vs. Mohan and others reported in 2013 14 SCC 116, which reads as follows:

> 14.... in order to attract Section 307, the injury need not be on the vital part of the body, may result in a lacerated wound, that itself is sufficient to attract Section 307. The High Court, is therefore, in error in reducing the sentence, holding that the injury was not on the vital part of the body. Period undergone by way https://www.mhc.tn.gov.in/judis of sentence also in our view is not commensurate with the guilty established.

36.2.Therefore, this Court is inclined to impose the following sentence of imprisonment with fine and all the sentence of imprisonment run concurrently. The period already undergone by the accused is ordered to be set off under Section 428 of Cr.P.C.

Sl. Under Accused Sentence of Fine Default sentence No. Sections Nos. imprisonment 1 147 of IPC A1 to A6 Two years of rigorous 2000 Two months imprisonment for each simple accused imprisonment 2 148 of IPC A1 to A6 Two years of rigorous 2000 Two months imprisonment for each simple accused imprisonment 3 294(b) of A1 to A6 Two months of rigorous No -

IPC	imprisonment for each	fine	
			accused
4	307 of IPC	A1 to A3	Seven years of rigorous imprisonment for each accused	5000	Thr sim imp
5	307 r/w 149 of IPC	A4 to A6	Five years of rigorous imprisonment for each accused	5000	Thre simp impr
6	324 of IPC	A1 to A3	Two years of rigorous imprisonment for each accused	2000	Two simpl impri
7	324 of IPC	A4 to A6	Two years of rigorous imprisonment for each accused	2000	Two simpl impri

8	324 of IPC	A1 and A2	Two years of rigorous imprisonment for each accused	2000	Two simple imprison
9	323 of IPC	A1 and A2	Six months of rigorous imprisonment for each accused	1000	One simple impriso
10	4 of TNPHW Act 2012 (2Counts)	A1 and A2	Two years of rigorous imprisonment for each accused for each count.	10,000	Six simple impris
11	448 of IPC	A1 to A6	Six months of rigorous imprisonment for each accused	1000	One simple impris
12	3 of TNPPDL ACT	A1 to A6	Two years of rigorous imprisonment for each accused	5,000	Three simple impris
13	506(ii) of IPC	A1 to A6	Five years of rigorous imprisonment for each	5000	Three simple

accused impris

https://www.mhc.tn.gov.in/judis

Sl. Nos.	Summary of Discussion
2	Submission of the learned counsel for the appellant
3	Submission of the learned Senior counsel for the respondents/accused
5	Summary of the reasoning of the learned trial Judge
6	Discussion over the finding of the learned trial Judge the offence under Section 307 IPC
7	Discussion over the finding of the learned trial Judge Non-production of the CT-Scan report
8	Discussion on the finding of the learned trial Judge u

the difference of place of occurrence and the number of persons and weapons mentioned in the Accident Registered Copy 9 Discussion on the finding of the learned trial Judge on Non-

examination of one of the injured witness 10 Discussion on the finding of the learned trial Judge on the application under Order 588A of the Madras Police 15 Standing Orders 11 Discussion on the finding of the learned trial Judge on the specific overtact of the individual accused 12 Discussion on the finding of the learned trial Judge on the absence of five more persons to constitute the unlawful 17 assembly 13 Discussion on the finding of the learned trial Judge relating to the failure of establish the offence under Section 448 of 18 IPC 14 Discussion on the finding of the learned trial Judge relating to the failure of establish the offence under Section 294(b) 19 of IPC 15 Discussion on the finding of the learned trial Judge relating to the failure of establish the offence under Section 3 of the 20 TNPPDL Act https://www.mhc.tn.gov.in/judis Sl. Paragraph Summary of Discussion Nos.

Nos.

16 Discussion on the finding of the learned trial Judge relating to the failure of establish the offence under Section 4 of 21 TNPHW Act 17 Discussion on the finding of the learned trial Judge relating to the failure of establish the offence under Section 506(ii) 22 of IPC 18 Discussion on the finding of the learned trial Judge relating to the loopholes in the prosecution case 19 Discrepancy, exaggeration and embellishment noted by the learned trial Judge 20 The Principles relating to the Jurisdiction of this Court to interfere with the acquittal judgment passed by the Court 25 below 21

Discussion on the charged offences against the respondent 22 Non-explanation of the injuries on the accused 27 24 Consideration of explanation furnished by the accused under Section 313 Cr.P.C., and the defence side witness 24.04.2024 NCC :Yes Index :Yes Internet :Yes https://www.mhc.tn.gov.in/judis sbn https://www.mhc.tn.gov.in/judis To

1. The Additional Sessions Judge (Fast Track Mahila Court), Karur.

2. The Inspector of Police, Vangal Police Station, Karur 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.

5.The Superintendent of Prison, Central Prison, Madurai.

https://www.mhc.tn.gov.in/judis K.K.RAMAKRISHNAN, J.

PJL/sbn Predelivery Judgment made in 18.04.2024 & 24.04.2024 https://www.mhc.tn.gov.in/judis