

**SUPREME COURT OF INDIA**

Munusamy

Vs.

State of Tamil Nadu

Crl.A.No.1514 of 2008

(S.B. Sinha and Cyriac Joseph JJ.)

17.09.2008

**ORDER**

1. Delay condoned.

2. Leave granted.

3. Appellant was the first informant. He examined himself as P.W.-1 before the learned trial Judge. The First Information Report, in question, was lodged in relation to an incident which took place on 4.3.1998 alleging that the respondent Nos. 2 to 10 came to the house of younger brother of the deceased( P.W.2) and started quarrelling with him on the premise that the deceased(wife of P.W.1) had made their sister's life miserable.

4. A Panchayat was to be convened in respect of the said disputes between the parties. Panchayat, however, could not be held as its President( P.W.- 6) had not been feeling well on the date on which it was to be held.

5. At about 10 p.m., the respondent No.2 to 10 came to the place of occurrence. They abused the deceased saying:

“...you, whore, only because of you, our sister is separated and she will be in peace only if you die and you are the enemy.”

6. Cut injuries were caused in the front side of the head of the deceased with a sickle. Second Respondent allegedly assaulted the deceased with iron pipe on the back of her neck. The other two respondents were armed with sticks.

7. They also, allegedly, assaulted the deceased. P.W.2 having intervened was also assaulted. The respondent No. 9 threatened P.W.7 that he would throw away her minor child into the well and at that time P.W.7 snatched her minor son and while doing so, the third respondent inflicted cut on her minor son. Respondent Nos. 6 and 8 attacked P.W.7 with sticks. When P.W.13 intervened to stop the attack on the minor child of P.W.7, his ear was cut by the third

respondent with the sickle. In the said occurrence, allegedly, P.W.7 and P.W.13 were also assaulted.

8. The learned trial judge recorded a judgment of conviction and sentence finding the respondents guilty of commission of offence.

9. At the instance of the accused No.4, allegedly, the weapon of assault was also recovered.

10. The High Court, however, by reason of the impugned judgment set aside the said judgment of conviction and sentence and acquitted the respondents, inter-alia, holding; (i) presence of P.W.-1 at the place of occurrence cannot be believed as the prosecution has failed to establish the same; (ii) it is doubtful that Ex.P.1 is the real First Information Report; (iii) as P.W.-13 in his statement before the Doctor informed him that he had been attacked by two known persons and seven unknown persons, his statement before the Court that he knew all the persons from before, cannot be relied upon; (iv) the actual place of occurrence as also the genesis thereof has not been established by the prosecution.

11. The High Court, however, did not analyse the evidence adduced by the prosecution as noticed hereinbefore.

12. P.Ws.1,2,7,13 and 14 were examined as eye witnesses. The manner in which the occurrence has taken place, as has been noticed at some length by the High Court itself in paragraph 3 of the impugned judgment, deserved serious consideration.

13. We are, thus, of the opinion that it was obligatory on the part of the High Court to assign sufficient reasons for reversing the findings of the learned trial Judge. We are not considering the materials on record ourselves deeply at this stage as interest of justice would be subserved if the impugned judgment is set aside and the matter is remitted to the High Court for consideration of the appeal preferred by the respondents afresh on merits.

14. We make it clear that we have not gone into the merit of the matter and all contentions of parties shall remain open. The High Court is requested to consider the desirability of disposing of the matter as expeditiously as possible and preferably within a period of six months from the date of receipt of copy of this order.

The appeal is allowed.