

**IN THE SPECIAL COURT UNDER SCHEDULED CASTES AND
SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT, 1989
(PRINCIPAL SESSIONS COURT)
ERODE**

Present: Thiru.**B.MURUGESAN, B.A., B.L.**,
Special Judge
(Principal Sessions Judge, Erode)

Tamil Subakiruthu Varudam, Chithirai Month, 12th day
Monday, the 25th day of April, 2022

Spl SC No. 18/2020

(Crime No.357/2020 on the file of Malayampalayam Police Station)

Complainant	State by the Deputy Superintendent of Police, Perundurai Sub-Division, Erode District.
Name of the Accused	Dhamotharan, (M/45 Yrs) S/o Lakshminarayanan, 43, Melnilai Thotti Veethi, Vellottamparappu, Erode - 638 154.
Accused arrested on	25.08.2020
Accused bailed on	03.09.2020
<u>Charge framed</u>	
Charge No. 1	Intentional insult and/or intimidation with intent to humiliate the victim, a member of a Scheduled Caste, in any place within public view as under S.3(1)(r) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989
Charge No. 2	Abusing the victim, a member of a Scheduled Caste, by caste name in any place within public view as under S.3(1)(s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989
Charge No. 3	Criminal intimidation knowing that the victim is a member of a Scheduled Caste as under S.506(i) of IPC r/w S.3(2)(va) of

	Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989
Plea of the Accused	Not guilty
Counsel for Prosecution	Tmt.V.Poongothai, B.A., B.L., Special Public Prosecutor
Counsel for Accused	Thiru.P.P.Duraisamy, B.Sc., B.L.,
Finding of the Court	(a) that the accused is found not guilty under S.3(1)(r) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (b) that the accused is found not guilty under S.3(1)(s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (c) that the accused is found not guilty under S.506(i) of IPC r/w S.3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989
Sentence or Order	(a) that the accused is hereby acquitted of the charge punishable under S.3(1)(r) Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, (b) that the accused is hereby acquitted of the charge punishable under S.3(1)(s) Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, (c) that the accused is hereby acquitted of the charge punishable under S.506(i) IPC r/w S.3(2)(va) Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, (d) that the accused is hereby set at liberty, as u/s 354(1)(d) CrPC, (e) that the case property marked as MO1, a Maruthi Zen car bearing registration number TN 58 C 9546, (in PR No.8/2020) is hereby ordered to be returned to the person

	claiming to be entitled to possession thereof, subject to the production of appropriate documents, and also subject to S.452 CrPC, and if it is not claimed, it is hereby ordered to be confiscated after the time for appeal is over, and (f) that the bail bond executed, if any, by the accused shall stand cancelled.
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This Special Sessions Case coming on 23.04.2022 for final hearing before me in the presence of Tmt.V.Poongothai, B.A., B.L., Special Public Prosecutor, for the State, and of Thiru.P.P.Duraisamy, B.Sc., B.L., Counsel for the Accused, and upon considering all material records in this case and hearing the arguments on both sides, and having stood over till this day for consideration, and this court doth deliver the following

JUDGMENT

01. Case of the Prosecution

Defacto complainant, Periyasamy, a resident of Harijan Colony, Manakattupudhur, belonging to 'Arunthathiyar' community coming under Scheduled Castes, is the Branch In charge of a political party, Viduthalai Siruthaigal Katchi, and the accused belongs to 'Hindu Kongu Vellalar' community coming under Backward Classes. On 17.08.2020, being the birthday of the leader of his political party, the *defacto* complainant put up a flag post on Veeramathi kovil road, Manakattupudhur, and thereby hoisted the flag of his political party, and such birthday celebration caused an enmity between the *defacto* complainant and the accused. In pursuance thereof, on 22.08.2020 at about 15.30 hrs, when the *defacto* complainant was standing near the bus stop at Manakattupudhur, the accused, by a car bearing registration number TN58 C 9546 Maruthi Zen, came to the *defacto* complainant, and scolded him at the public place within public view

saying 'இங்கு வாடா சக்கிலி தாயோழி யாரைக் கேட்டுடா கொடி கம்பம் போட்ட இன்னைக்கு பொழுதுக்குள் கொடிக்கம்பத்தை புடுங்கலைன்னா உன்னை குடும்பத்தோடு கொன்னுப்படுவேன் சக்கிலி கேனபுன்டை மவனே உனக்கு கட்சி ஒரு கேடா' . Therefore, the accused has thus abused the *defacto* complainant, a member of Scheduled Caste, within public view, and intentionally insulted and intimidated with him intent to humiliate him within public view and the accused, knowing that the *defacto* complainant is a member of Scheduled Caste, also criminally intimidated him. Therefore, on the complaint given by the *defacto* complainant, the complainant, after due investigation, has laid down a charge sheet against the accused for the offences punishable under S.3(1)(r), S.3(1)(s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and S.506(i) IPC r/w S.3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

02. On appearance of the accused, the accused was furnished free of cost with the copies of the documents relied on by the prosecution, as required under S.207 CrPC.

03. Thereupon, the learned Special Public Prosecutor opened the case as under S.226 CrPC, and the learned counsel for the accused was also heard. On due consideration thereof, charges under S.3(1)(r), S.3(1)(s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and S.506(i) IPC r/w S.3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, were framed, and the same were read over and explained to the accused, as under S.228 CrPC.

04. Accordingly, the accused was questioned as to the charges framed against him, and the accused denied the charges as not true, pleaded not guilty and

claimed to be tried.

05. Pursuant thereto, trial was ordered, and the prosecution has produced evidence in support its case, and therefore, the prosecution has examined PW1 to PW8, and marked Ex.P1 to Ex.P11 and MO1 through the witnesses concerned.

06. Evidence on the side of the Prosecution

(1) PW1, Periyasamy, the *defacto* complainant, states in his chief examination *inter alia* that he is a resident of Manakattupudhur, that he belongs to hindu sakkiliyar community, that he is the Branch In charge of Viduthalai Siruthaigal Katchi, that on one 17th day, some two years ago, he along with others hoisted a flag on the birthday of his party leader, that on 22nd day, when he along with one Kannan was standing in Alamara bus stop at Manakattupudhur, the accused, by a yellow colour car, came to him, called him saying his caste 'ஏண்டா சக்கிலி தாயோழி இங்கே வாடா' and threatened/abused him saying his caste 'யாரை கேட்டுடா சக்கிலி தாயோழி கொடிக்கம்பம் ஏற்றினாய் பொழுதுக்குள் சக்கிலி தாயோழி கொடிக்கம்பத்தை பிடுங்கி எறியவேண்டும் சக்கிலி தாயோழிகளுக்கு கொடிக்கம்பம் தேவையா', that on account of mental agony caused by such threat/occurrence, he was constrained to retain in his house for three days, that thereafter, he contacted the district head office of his party at Erode, that on instructions therefrom, he went to the head office and explained the occurrence, that at about 10.00 hrs, he wrote a complaint and lodged it with Malayampalayam Police Station, that the complaint is Ex.P1, that the police enquired him and that during such enquiry, Kannan and Mohanraj were with him. During his cross examination by the defence, he states *inter alia* that he had been a lessee of the lands in Manakattupudhur, that he sustained a huge loss in agriculture, that the birthday celebration at Manakattupudhur was decided at the head office in Erode with Rajangam, Palanisamy, Prathaban and Anandan, the persons holding higher posts,

that lockdown was in existence during August, 2020, that lockdown was in existence on 22.08.2020, that therefore, there was no transportation of whatsoever, that Kannan is the resident of Periyur, 3 kms away from Manakattupudhur, that Kannan is a bus driver belonging to his community, that he did not state either in his complaint or during police enquiry that on account of mental agony caused by such threat/occurrence, he was constrained to retain in his house for three days, that before lodging the complaint, there was a discussion in his head office, Erode, with the persons holding higher posts, that on his instruction, one Palanisamy wrote the complaint, that he did not state either in his complaint or during police enquiry that Mohanraj was along with him during occurrence and that it is false to suggest he has made a false complaint against the accused because the accused demanded him to pay the outstanding lease amount payable by him.

(2) PW2, Kannan, states in his chief examination *inter alia* that he is a resident of athidraavidar colony, Periyur, that he is a private bus driver, that he knows the accused, that he belongs to hindu athidraavidar community, that the accused belongs to gounder community, that on 22.08.2020 at about 15.30 hrs, he and one Mohanraj were standing and taking in the bus stop at Manakattupudhur, that a car came from north to south, that the registration number of the car is TN 58 C 9546, that the car was driven by the accused, the accused halted the car on eastern side and called PW1 saying his caste 'இங்கே வாடா சக்கிலி தாயோழி' and threatened/abused him saying his caste 'உங்களுக்கு கொடிக் கம்பம் ஒரு கேடா, யாரை கேட்டு கொடிக் கம்பம் நடடாய், மாலைக்குள் கொடி கம்பத்தை பிடுங்கவில்லை என்றால் குடும்பத்தோடு கொன்று விடுவேன் கேணபுண்டை மவனே', that as and when he raised his voice, the accused left by the car and that DSP enquired him on 25.08.2020 and recorded his statement. During his cross examination by the defence, he states *inter alia* that lockdown was in existence during August, 2020, and that therefore, there was no transportation of whatsoever on account of such lockdown.

(3) PW3, Mohanraj, states in his chief examination *inter alia* that he belongs to hindu athidraavidar community, that he knows the accused, that the accused belongs to gounder community, that on one 22nd day, some two years ago, when he was coming near banyan tree at Manakattupudhur, the accused came by a car and abused PW1 saying 'தேவடியா பையனே சக்கிலி நாயே', that at that time, PW2 came to him and enquired him for a job, that as and when PW2 raised his voice, the accused left the place and that the police enquired him. During his cross examination by the defence, he states *inter alia* that he, PW1 and PW2 belong to mathari community, that lockdown was in force on the day which he refers and that the police enquired him at the place of occurrence.

(4) PW4, Sridhar, Tahsildar, Kodumudi, states in his chief examination that the community certificate issued by him for PW1 is Ex.P2, that the community certificate issued by him for the accused is Ex.P3 and that the police enquired him. Nothing contrary/important has been elicited during his cross examination by defence.

(5) PW5, Subramani, who is stated to be a witness in observation mahazar, states in his chief examination that on 20.08.2000, the police visited the place of occurrence and prepared rough sketch and observation mahazar where he and one Vadivel were the witnesses, that the observation mahazar was read over to him, that the observation mahazar is Ex.P4 and the police enquired him. During his cross examination by the defence, he states that there was no lockdown on that day when he signed in Ex.P4.

(6) PW6, Murugesan, who is stated to be a witness in seizure mahazar, states in his chief examination that on 25.08.2020, DSP recovered a golden colour Maruthi Zen car under a seizure mahazar where he and one Kamalanathan were the witnesses, that the seizure mahazar is Ex.P5 and that the police enquired him.

During his cross examination by the defence, he states that he belongs to hindu arunthathiyar community.

(7) PW7, Varatharajan, Sub Inspector of Police, Malayampalayam Police Station, states that on 25.08.2020 at 10.00 hrs, he received the complaint from PW1 and registered a case in Cr No. 357/2020 on the file of Malayampalayam Police Station, that the FIR is Ex.P6, that he caused the service of the complaint, the FIR and other records on the jurisdictional Magistrate concerned and on his superiors and that the DSP enquired him. During his cross examination by the defence, he states that it is true the FIR has reached the jurisdictional Magistrate at 22.30 hrs and that the travel time between Malayampalayam Police Station and Kodumudi Police Station is 30 minutes.

(8) PW8, Rajkumar, former DSP, Erode Rural, states that he received the FIR on 25.08.2020, that the order of SP, Erode, appointing him as IO is Ex.P7, that he visited the place of occurrence on 25.08.2020 at about 13.00 hrs and prepared rough sketch and observation mahazar in the presence of the witnesses, Vadivel and Subramani, that the rough sketch is Ex.P8, that he enquired the witnesses, Mohanraj, Kathamuthu, Vadivel and Subramani and recorded their statements, that on 25.08.2020 at about 17.00 hrs, he arrested the accused, that he recovered the car under a seizure mahazar in the presence of the witnesses, Kamalanathan and Murugesan, that he sent the car so seized to the jurisdictional Magistrate under Form 91, that the Form 91 is Ex.P9, that the photographs of the car is Ex.P10 series (4), that the car is MO1, that on 26.08.2020, he sent a requisition to the Tahsildar for the issuance of community certificates, that he re enquired Periyasamy and recorded his further statement, that he enquired the witnesses, Palanisamy, Prathaban, Rajangam @ Arasangam and Anandan and recorded their statements, that on 31.08.2020, he received the community certificates from the Tahsildar, Sridhar, and recorded his statement, that on

07.09.2020, he enquired Varatharajan, SI, Thiruvanantham, Inspector, and Sathishkumar, HC, and recorded their statements, that on 08.09.2020, he filed alteration report, that the alteration report is Ex.P11 and that after completing the investigation, he filed the police report against the accused. During his cross examination by the defence, he states *inter alia* that it is true Ex.P1, the complaint, does not indicate any other witnesses, that PW1 did not indicate during his enquiry any other witnesses/persons than Kannan, that PW3, Mohanraj, did not say during enquiry that the accused scolded PW1 saying 'தேவடியா பையனே சக்கிலி நாயே', that it is true all the private witnesses, except Vadivel and Subramani, the witnesses for observation mahazar, belong to hindu arunthathiyar community and that he did not enquire any of the residents or merchants near the place of occurrence because no one was there.

(9) Therefore, there are as many as 8 witnesses (PW1 to PW8), 11 exhibits (Ex.P1 to Ex.P11), and one material object (MO1) the side of the prosecution to sustain its case

08. While questioning under S.313 CrPC in respect of the incriminating materials appearing against him in the evidence of the prosecution, the accused denied his complicity to the crime and stated that this is a false case foisted against him.

09. *Per contra*, there is no evidence, either oral or documentary, on the side of the accused.

10. Heard the arguments advanced at length on either side.

11. Drawing the attention of this court to the evidence of PW1, and of PW2 and PW3, the learned Special Public Prosecutor has submitted that the evidence of

these three witnesses, one, the victim, and others, the occurrence witnesses, would prove the case of the prosecution by corroborating the evidence of each other. She has also submitted that the delay in lodging the complaint would not weaken the case of the prosecution for the reason that there is a plausible explanation given by the *defacto* complainant for such delay of 3 days. She has further submitted that even though there are minor discrepancies in the evidence of those witnesses, those discrepancies are only with regard to the words uttered by the accused and such discrepancies would not affect the case of the prosecution in any way. She has finally submitted that the prosecution has proved its case to the hilt beyond all reasonable doubt. Hence, she has prayed for a judgment convicting the accused of all the charges leveled against him.

12. Animadverting on the case of the prosecution, the learned counsel appearing for the accused has submitted that this is a false case foisted against the accused. He has further submitted that the case of the prosecution bristles with the material infirmities. He has also submitted that the delay of 3 days in lodging the complaint for the alleged occurrence would go to the root of the case of the prosecution. He has added that the evidence of PW1, PW2 and PW3 would not corroborate each other but contradict each other in all material particulars. He has further added that PW2 and PW3 have been planted by the prosecution in order to strengthen the false complaint given by PW1. He has submitted that all the private witnesses portrayed to have been enquired by the police belong to the same community to which the *defacto* complainant belongs. He has finally submitted that there are many lapses on the side of the prosecution even from the very inception. Hence, he has prayed for a judgment acquitting the accused of all the charges concerned.

13. On careful consideration of the case of the prosecution, the oral and documentary evidence, the materials available and the arguments advanced on either side, this court formulates the following points for determination:

- (1) Whether the prosecution has proved the charge against the accused punishable under S.3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, beyond all reasonable doubt?
- (2) Whether the prosecution has proved the charge against the accused punishable under S.3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, beyond all reasonable doubt?
- (3) Whether the prosecution has proved the charge against the accused punishable under S.506(i) of IPC r/w S.3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, beyond all reasonable doubt?

14. Point No.1 to 3

(1) Projecting this special sessions case against the accused as one based on direct evidence/eye witnesses, the prosecution has attempted to bring home the offences concerned, giving much reliance on the evidence of PW1 who is said to be the victim and of PW2 and PW3 who are said to have witnessed the occurrence. Therefore, it has come incumbent upon this court to give a meticulous attention to the evidence of PW1, PW2 and PW3.

(2) PW1

PW1, who is said to be the victim and the *defacto* complainant as well, has not indicated in his complaint, Ex.P1, the very first version of PW1 as to the occurrence, the presence of PW2, Kannan, or PW3, Mohanraj. PW8, IO, has also admitted in his evidence that it is true Ex.P1, the complaint, does not indicate any other witnesses, as under:

PW8: Cross Examination:

வாதி கொடுத்த புகார் அ.த.சா.ஆ.1 ல் சாட்சிகளின் பெயர்கள் குறிப்பிடப்படவில்லையென்றால் சரிதான்.

PW2, Kannan, comes into the picture only during the enquiry by the police of PW1 who projects PW2 as an occurrence witness. PW8, IO, has also admitted in his evidence that during his enquiry on 25.08.2020, PW1 has indicated the name of PW2, as under:

PW8: Cross Examination:

25.08.2020 ம் தேதி நான் அ.சா.1 ஐ விசாரித்த போது அந்த விசாரணையில் அவர் சாட்சிகள் யாரையும் குறிப்பிட்டு சொல்லியிருக்கிறாரா என்றால் கண்ணன் என்பவரை குறிப்பிட்டிருக்கிறார்.

Therefore, PW1, portrayed to be the victim and the *defacto* complainant as well, has not indicated the name of PW2 in his very first version in the complaint, Ex.P1, but has brought PW2 into the picture subsequently during police enquiry, and given his evidence as if PW2 having been present during occurrence raised his voice against the accused that made the accused leave the place of occurrence, as under:

PW1: Chief Examination:

உடன் இருந்த கண்ணன் எதிரியை பார்த்து" ஏன் இப்படி ஜாதியை சொல்லி திட்டுகிறீர்கள் " என்று கேட்டார். பின்னர் எதிரி தன் காரை எடுத்துக் கொண்டு சென்று விட்டார்.

Of course, it is true that a complaint given to the police need not be encyclopedic but when it is given by the victim, not immediately after the occurrence with emotions, but after 3 days, that too, indicating the registration number of the car concerned, such omission of the name of PW2, portrayed to be a 'material eye witness', in the complaint being the very first version of the occurrence, would stir the mind of every man of ordinary prudence. Therefore, the evidence of PW1, in the considered view of this court, is not credible and reliable.

(3) PW2

As pointed out earlier, the name of PW2, Kannan, who is said to be a 'material eye witness', does not find place in the complaint being the very first version of the occurrence, and PW2, Kannan, comes into the picture for the first time only during the enquiry by the police of PW1 who projects PW2 as an occurrence witness and gives his evidence as if PW2, having been present during occurrence, raised his voice against the accused that made the accused leave the place of occurrence. Therefore, this, by itself, would create a suspicion as to the presence of PW2 during occurrence. Further, PW2 is not the resident of Manakattupudhur where the occurrence is said to have taken place but the resident of Periyur and therefore, he is a chance witness but his presence during occurrence, that too, during lockdown, has not been satisfactorily explained by the prosecution. Therefore, this court is of the considered view it would be unsafe to hold that PW2 is an occurrence witness.

(4) PW3

It is interesting to note how the prosecution has projected PW3 to be another occurrence witness when he has not been indicated in the complaint being the very first version of the occurrence, and when he has not been indicated during enquiry by the police of PW1, as admitted by PW8, IO, as under:

PW8: Cross Examination:

25.08.2020 ம் தேதி நான் அ.சா.1 ஐ விசாரித்த போது அந்த விசாரணையில் அவர் சாட்சிகள் யாரையும் குறிப்பிட்டு சொல்லியிருக்கிறாரா என்றால் கண்ணன் என்பவரை குறிப்பிட்டிருக்கிறார். 26.08.2020 ம் தேதிய விசாரணையில் அ.சா.1, கண்ணனை தவிர வேறு யாரையும் குறிப்பிட்டு தெரிவித்திருக்கிறாரா என்றால் இல்லை.

But, PW3, Mohanraj, comes into the picture for the first time only through PW2.

Therefore, this court is of the considered view it would also be unsafe to hold that PW3 is an occurrence witness.

(5) Non Examination of Palanichamy

PW1, the *defacto* complainant, states in his evidence that the complaint was written by one Palanichamy, as under:

PW1: Cross Examination:

புகாரை பழனிச்சாமி என்பவர் நான் சொல்லச் சொல்ல அவர் எழுதினார்.

But, the prosecution has not chosen to examine Palanichamy in order to remove the cloud upon the complaint and thereby to strengthen its case. Therefore, non examination of Palanichamy, who is said to have written the complaint, Ex.P1, is in the opinion of this court, fatal to the case of the prosecution.

(6) Delay in lodging Complaint

Admittedly, there is a delay of 3 days in lodging the complaint, and PW1, the *defacto* complainant, would admit and give his explanation in such a way that on account of mental agony caused by such threat/occurrence, he was constrained to retain in his house for three days, as under:

PW1: Chief Examination:

எதிரி என்னை அவ்வாறு திட்டியதால் எனக்கு மிகுந்த மனவேதனை ஏற்பட்டு நான் மூன்று நாட்களாக வீட்டிற்குள்ளேயே இருந்துவிட்டேன்.

Of course, it is true that such delay in lodging the complaint is not always fatal to the case of the prosecution and such delay, if duly explained and substantiated, would become inconsequential. Here, the explanation is that on account of mental agony caused by such threat/occurrence, the *defacto* complainant was constrained to retain in his house for three days but such explanation has not been substantiated. What is available in this regard is only the *ipse dixit* of PW1, the *defacto* complainant. Therefore, such delay of 3 days in lodging the complaint,

Ex.P1, in the considered view of this court, would create a very strong suspicion on/against the complaint, the very first version of the occurrence.

(7) Intervention of Political Personnel

Besides the delay of 3 days in lodging the complaint, Ex.P1, it has come into existence on the discussion/intervention of the other political personnel of the political party of the *defacto* complainant, who, as PW1, would admit as under:

PW1: Chief Examination:

பின்னர் நான் இதுகுறித்து ஈரோட்டில் உள்ள என் கட்சி அலுவலகத்திற்கு போனில் தெரிவித்தேன். அவர்கள் என்னை கட்சி அலுவலகத்திற்கு வரச் சொன்னார்கள். நான் கட்சி அலுவலகத்திற்கு காலை 08.00 மணிக்கு சென்றேன். அங்கு நடந்த விவரத்தை தெரிவித்தேன்

PW1: Cross Examination:

புகார் கொடுப்பதற்கு முன்பு ஈரோட்டில் உள்ள எங்கள் கட்சி அலுவலகத்தில் பொறுப்பாளர் கூடி ஆலோசனை செய்தோம் என்றால் சரிதான்.

Therefore, such discussion with such political personnel and such intervention of such political personnel, for the complaint, Ex.P1, drive this court to hold that the complaint, Ex.P1, is not credible and reliable.

(8) At this juncture, this court would like to point out it is elementary in criminal jurisprudence that the burden of proof is proof beyond all reasonable doubts and that the accused is entitled to the *benefit of every reasonable doubt*. In this regard, this court would like to refer to the decision of our hon'ble Madras Court in **State represented by the Inspector of Police, CBCID, Madurai City, (SS Colony Police Station Cr.No.484 of 2006) V Rajamanickam and another, ((2015) 1 MLJ (Crl) 652)**, where our hon'ble Madras High Court has settled the legal propositions on the concept of 'beyond all reasonable doubts' as under:

‘43. It is well settled principle of law that in a case of this nature, the burden rests upon the prosecution to prove their case beyond all reasonable doubts.

44. The phrase “Beyond all reasonable Doubts”:

“1. Beyond Reasonable Doubt”, the well known principle of Common Law has acted like a saviour for the guilty. Anybody who is capable of hiring a witty lawyer can go scot-free just by raising a smallest possible doubt.

2. Man is a rational being. Due to this “Rationality” everyone differs drastically from others. It may be true that the reasonability of his thoughts and consequently his decisions cannot be measured as there is non-availability of standard scale. Maximum Criminal Justice Systems of the world follow the principle that the guilt of an accused should be proved beyond reasonable doubt. Indian Criminal Justice System also works on the same lines and it is for the prosecution to prove beyond reasonable doubt that the accused has committed an offence with requisite mens rea

3. There is no straight jacket formula on the basis of which the guilt of the accused is said to be proved beyond reasonable doubt. It is, therefore, depending solely on the Judge to say as to whether he is convinced by the arguments of the prosecution or that there still remains a degree of reasonable doubt, so as to impart the judgment in favour of the defence.”

45. No doubt in a criminal case the burden of proof is always on the prosecution and the benefit of reasonable doubt is belonged to the accused.

46. In **Vijayee Singh v. State of U.P. AIR 1990 SC 1459 : (1990) 3 SCC190 : 1990 CrL.J. 1510 : (1990) 1 MLJ (CrI) 456**, it has been pointed out that “the phrase ‘burden of proof’ is not defined in the Act. In

respect of criminal cases, it is an accepted principle of criminal jurisprudence that the burden is always on the prosecution and never shifts. This flows from the cardinal principle that the accused is presumed to be innocent unless proved guilty by the prosecution and the accused is entitled to the *benefit of every reasonable doubt*. (italics supplied by this court)

(9) In this case on hand, the case of the prosecution bristles with such material infirmities as aforesaid, in terms of credibility of the evidence of ‘occurrence witnesses’ and of the complaint, Ex.P1, and the case of the prosecution is thus shrouded in mystery with reasonable doubts.

(10) Resultantly, this court holds that the prosecution has not proved the charge against the accused punishable under S.3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, beyond all reasonable doubt, that the prosecution has not proved the charge against the accused punishable under S.3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, beyond all reasonable doubt and that the prosecution has not proved the charge against the accused punishable under S.506(i) of IPC r/w S.3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, beyond all reasonable doubt, and these three points are answered accordingly, in favour of the accused.

In the result,

(a) that the accused is hereby acquitted of the charge punishable under S.3(1)(r) Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989,

- (b) that the accused is hereby acquitted of the charge punishable under S.3(1)(s) Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989,
- (c) that the accused is hereby acquitted of the charge punishable under S.506(i) IPC r/w S.3(2)(va) Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989,
- (d) that the accused is hereby set at liberty, as u/s 354(1)(d) CrPC,
- (e) that the case property marked as MO1, a Maruthi Zen car bearing registration number TN 58 C 9546, (in PR No.8/2020) is hereby ordered to be returned to the person claiming to be entitled to possession thereof, subject to the production of appropriate documents, and also subject to S.452 CrPC, and if it is not claimed, it is hereby ordered to be confiscated after the time for appeal is over, and
- (f) that the bail bond executed, if any, by the accused shall stand cancelled.

Dictated by me to the steno-typist, typed by him directly, corrected and pronounced by me in open court, on this 25th day of April, 2022.

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Special Judge
(under SC & ST (POA) Act)
(Principal Sessions Judge)
Erode

Prosecution Side Witnesses:

- PW1 : Periyasamy (*defacto* complainant)
 PW2 : Kannan
 PW3 : Mohanraj
 PW4 : Sridhar, Tahsildar, Kodumudi
 PW5 : Subramani
 PW6 : Murugesan
 PW7 : Varatharajan, SI, Malayampalayam PS
 PW8 : Rajkumar, DSP, Perundurai Sub-Division

Prosecution Side Exhibits:

Ex.P1	25.08.2020	Complaint	Original
Ex.P2	28.08.2020	Community Certificate of PW1	Original
Ex.P3	28.08.2020	Community Certificate of the accused	Original
Ex.P4	25.08.2020	Observation Mahazar	Original
Ex.P5	25.08.2020	Seizure Mahazar for MO1	Original
Ex.P6	25.08.2020	First Information Report	Original
Ex.P7	25.08.2020	Proceedings of the Superintendent of Police, Erode District, appointing IO	Original
Ex.P8	25.08.2020	Rough sketch of the place of occurrence	Original
Ex.P9	25.08.2020	Form 91	Original
Ex.P10 series	-	Photographs of the Maruthi Zen car bearing registration number TN 58 C 9546 (4)	Original
Ex.P11	08.09.2020	Section Alteration Report	Original

Defence Side Witnesses: Nil**Defence Side Exhibits:** Nil**Material Object:**

MO1 : Maruthi Zen car bearing registration number TN 58 C 9546

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Special Judge
(under SC & ST (POA) Act)
(Principal Sessions Judge)
Erode