

**IN THE COURT OF THE JUDICIAL MAGISTRATE NO II,
RAMANATHAPURAM**

Present: Thiru. G.PRABHAKARAN, B.A.,B.L.,(HONS)

Judicial Magistrate No II, Ramanathapuram

Wednesday, the 26th day of July 2023

S.T.C. No.2646/2022

CNR NO: TNRM02-010560-2022

**State rep by its
Inspector of Police,
Ervadi Dharga Police station,
Ramanathapuram,
Crime No. 65/2022**

...Complainant

Vs.

**1. Muniyasamy (A1),
S/o. Alagumalai,
10/208, Mulai Nagar,
Thillaiyendhal,
Ramanathapuram.**

**2. Muniyaraj (A2),
S/o.Vijayakumar,
1/162, West Street,
Melamadaï,
Ramanathapuram.**

**3. Muniyaraj (A3),
S/o. Kasinadhan,
193, Melamadaï,
Komputhi,
Keelakarai Taluk,
Ramanathapuram.**

... Accused

1.	Serial Number	S.T.C.No. 2646 of 2022
2.	Name of the Police Station and Crime Number	Ervadi Dharga Police Station Crime No.65 of 2022
3.	Name of the Accused	A1 - Muniyasamy A2 - Muniyaraj A3 - Muniyaraj
4.	Father's name	A1 - Alagumalai A2 - Vijayakumar A3 - Kasinadhan

5.	Occupation	Daily wagers
6.	Residence	A1 - 10/208, Mulai Nagar, Thillaiyendhal. A2 - 1/162 West Street, Melamadai. A3 - 193, Melamadai, Komputhi, Keelakarai Taluk, Ramanathapuram
7.	Age	A1 - 45 years A2 - 29 years A3 - 28 years
8.	Occurrence date	03.04.2022
9.	Date of Complaint	04.04.2022
10.	Date of Apprehension	A1 to A3 - 17.04.2022
11.	Released on bail	A1 to A3 - 17.04.2022
12.	Commitment	Not Applicable
13.	Date of Commencement of Trial	24.07.2023
14.	Date of Closure of Trial	26.07.2023
15.	Sentence or Order	The Accused A1 to A3 are found not guilty of offences u/s. 294(b) and 323 IPC. Hence the accused A1 to A3 are acquitted of all charges in exercise of powers u/s. 255(1) Cr.P.C. by reason of benefit of doubt. The bail bond of the accused, if any shall stand cancelled after the appeal period or if any appeal is preferred till the appeal is over. No order as to property.
16.	Service of copy of judgment or finding on accused	Yes
17.	Explanation of delay	The Final report was filed by the police on 28.09.2022 The case was taken on file by this court on 03.11.2022 and the Judgment is pronounced on 26.07.2023. There is no unreasonable delay on the part of this court.

This case came up for final hearing before this court on 26.07.2023 in the presence of Learned Assistant Public Prosecutor Tmt.Sundari and Thiru.C.P.Selvaraj, Learned counsel for the accused. After having perused the records of the case, and hearing both sides and having stood over for consideration till this day, this court delivers the following:

Judgment

1. The officer in charge of the Ervadi dharga police station filed charge sheet pertaining to the accused persons in Crime No. 65/2022 stating that on 03.04.2022 at 05.00 P.M., when the defacto complainant was standing near pillaiyar temple, the accused A1 talked ill about the birth of defacto complainant's son. When the defacto complainant questioned the accused A1 about the same, the accused A1 abused him using obscene words. Then the accused A1 assaulted the defacto complainant and pushed him down by stating as "நீ என்ன ஒழுங்கா புள்ள பெத்தவனா". In the meantime, the accused A2 assaulted the defacto complainant on his head using pitcher whereas accused A3 assaulted him on his right hand using wooden stick. Thereafter all the accused persons abused the defacto complainant using obscene words. Thereby the accused persons had committed offences punishable u/s 294(b) and 323 IPC.

2. Cognizance:

On the receipt of the charge sheet, this court satisfied that prima facie case made out against all the accused. Therefore took cognizance of the offences u/s 294(b) and 323 IPC. After taking cognizance, this court issued summons to all the

accused. On the receipt of summons, all the accused appeared before this court. After their appearance, this court furnished copies of the case records u/s 207 Cr.P.C at free of cost to all the accused.

3. Substance of accusation

After furnishing copies, this court was satisfied that there is sufficient ground for proceeding with the case as against all the accused. Therefore the substance of accusation was read over and explained to the accused. Having understood the substance of accusation, all the accused pleaded not guilty and claimed to be tried. Hence this court ordered for trial of the case.

4. Prosecution Witnesses:-

In order to prove the prosecution case, PW1 to PW4 were examined and Ex.P1 to Ex.P6 were marked on the side of the prosecution.

5. Evidence of the prosecution in Brief:

5.1. PW1 deposed that he does not know the case details. He admitted his signature in the complaint. The signature of PW1 in the complaint was marked as Ex.P1. PW2 and PW3 deposed that they do not know anything about this case.

5.2. PW4 is the present officer in charge of the Ervadi Dharga police station. He had deposed evidence based on documents as the Investigation officer of this case got transferred to some other district. PW4 had deposed that on 04.04.2022 at 10.00 A.M., when the Special Sub Inspector of police Mr.Chandrasekaran was discharging his duty at the Ervadi Dharga police station, based on the information received from the Government Hospital, Ramanathapuram, he proceeded there and received

complaint from PW1. Based on the said complaint, he registered FIR in Crime No.65/2022 u/s 294(b) and 323 IPC. The FIR was marked as Ex.P2 and the complaint was marked as Ex.P3. Then on the same day at 12.00 P.M., he proceeded to the scene of occurrence and prepared observation mahazar and rough sketch in presence of Mookkaiya and Saravanan. The rough sketch was marked as Ex.P4 and observation mahazar was marked as Ex.P5. Then he recorded the statements of the witnesses. Then on 17.04.2022 at 05.15 P.M., he arrested all the accused near melamadaï bus stop and released them on bail. Then he examined the doctor who gave treatment to PW1 and obtained accident register certificate which was marked as Ex.P6. After the completion of investigation, he laid charge sheet before this court.

6. 313 Proceedings:-

After the completion of prosecution evidence, the accused were questioned u/s 313 1(b) of Cr.P.C. The Incriminating circumstances were put forth to all the accused. The Accused denied the prosecution evidence and the incriminating circumstances put forth to them. The Defence side did not examine any witness on their side. No exhibits and material objects were marked. Hence the defence side evidence was closed.

7. Points for determination:

Upon hearing the arguments of both sides and perusing the connected documents and records, the question that arises for consideration of this court is

a) Whether the prosecution has proved the case beyond all reasonable doubt as against all the accused?

8. Appreciation of Evidence and Discussion:

8.1. In the instant case, the accused persons were charged for abusing the defacto complainant using filthy languages, assaulting him and thereby causing simple injuries to him. In order to bring home the guilt of the accused persons, PW1 to PW4 were examined and Ex.P1 to Ex.P6 were marked on the side of the prosecution.

8.2. PW1 is the defacto complainant and injured witness in this case. Therefore he is the best evidence for the prosecution to warrant conviction as against the accused persons as his presence on the scene of occurrence cannot be denied by anyone. PW1 was examined to prove the identity of the accused and offence alleged to have been committed by the accused. PW1 in his chief examination had categorically deposed that he does not know anything about this case and further deposed that the accused persons did not inflict any injury on him. Therefore he was treated as hostile witness with the permission of this court and cross examined by the prosecution. But to the dismay of prosecution, even in the cross examination, the prosecution could not able to elucidate any incriminating evidence as against the accused. Therefore this court holds that through the evidence of PW1, the prosecution has failed to establish the identity of the accused and offence alleged to have been committed by them.

8.3. Since PW1 who is the injured witness in this case turned hostile, the prosecution relied heavily on the testimony of the ocular witness that is PW2 to prove its case. PW2 was examined by the prosecution to prove the identity of the accused,

scene of occurrence and the injury caused to PW1. But to the dismay of the prosecution, PW2 also turned hostile and did not support the prosecution case. He had categorically deposed that he does not know anything about the case. Hence PW2 was cross examined by the prosecution with the permission of this court to extract incriminating evidences as against the accused. But all the valiant efforts of the prosecution went in vain as no incriminating evidences could be extracted against the accused. Therefore the evidence of PW2 is also totally disregarded by this court.

8.4. Next to strengthen the case, the prosecution examined PW3. He deposed in his chief examination that he knows the accused persons but he is not aware of the case details. In that way, he turned hostile and did not support the prosecution case. Hence this court concludes that the evidence of PW3 did not aid the prosecution case in any way.

8.5. PW4 had deposed only about the investigation procedures carried out in this case that is right from the registration of FIR to filing of charge sheet before this court. Therefore this court finds that the evidence of PW4 did not aid the prosecution in establishing the identity of the accused and offence alleged to have been committed by the accused.

Therefore from the above discussions, this court holds that the prosecution has failed to prove the identity of the accused which is the foremost fact to be proved by the prosecution in a criminal case. Further there is no piece of evidence implicating the accused persons in the commission of crime. Hence the prosecution has miserably failed to prove the case beyond all reasonable doubt.

Therefore the benefit of doubt ought to be reckoned in favor of the accused.

9. Decision:

In the result, the accused A1 to A3 are found not guilty of offences u/s. 294(b) and 323 IPC. Hence the accused A1 to A3 are acquitted of all charges in exercise of powers u/s. 255(1) Cr.P.C. by reason of benefit of doubt. The bail bond of the accused, if any shall stand cancelled after the appeal period or if any appeal is preferred till the appeal is over.

No order as to property since no property was remanded in this case.

Dictated to typist, typed by her, corrected and pronounced by me in the Open Court on this the 26th day of July, 2023.

**Judicial Magistrate No-II
Ramanathapuram**

Appendix – A

Prosecution side Witness:

S.No	Rank of Witness	Name of the Witness	Remarks
1.	PW1	Senbagapandian, S/o. Muthu Karungu	Defacto Complainant
2.	PW2	Muthukumar, S/o. Maduraiveeran	Eye Witness
3.	PW3	Mohan, S/o. Gopalramu	Hearsay Witness
4.	PW4	Muruganantham, S/o. Mayilraman	Sub Inspector of Police

Appendix – B**Prosecution side Exhibits:**

S.No	Exhibit	Description of document
1.	Ex.P1	Signature of PW1 in the complaint
2.	Ex.P2	First Information Report
3.	Ex.P3	Complaint
4.	Ex.P4	Rough Sketch
5.	Ex.P5	Observation Mahazar
6.	Ex.P6	Accident Register

Appendix – C

Material objects - NIL

Appendix – D

Defence side witnesses - NIL

Appendix – E

Defence side Exhibits - NIL

Note:

1. No witnesses detained more than three times.
2. Nature of disposal communicated to the concerned Police.
3. The Accused are on bail during the pronouncement of Judgment.

**Judicial Magistrate No-II,
Ramanathapuram.**