

State Rep By Vs. 1.Arumugam

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Court : Chennai

Decided On : Aug-17-2015

Judge : S.Nagamuthu

Appellant : State Rep By

Respondent : 1.Arumugam

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED:

17. 08.2015 CORAM THE HONOURABLE MR.JUSTICE S.NAGAMUTHU AND THE HONOURABLE MR.JUSTICE V.S.RAVI CRL.A.No.85 of 2004 and CRL.RC.No.1638 of 2003 CRL.A.No.85 of 2004:- State rep by Inspector of Police, Veeravanallur, Madurai District, Crime No.53 of 2001. : Appellant Vs. 1.Arumugam 2.Arunachalam @ Kumar 3.Iyyappan 4.Murugan 5.Puthiyavan 6.Esakki 7.Subramaniam 8.Murugan 9.Annamalairaja @ Annamalai @ Annaraj 10.Nagaraj 11.Gopal @ Gopalakrishnan 12.Kutti @ Iyyamperumal 13.Pappathi @ Marippan 14.Sudalaikannu 15.Mari 16.Kumar 17.Raj @ Nambirajan 18.Madan @ Madasamy 19.Santhanam 20.Subramanian 21.Mani @ Subramanian 22.Gandhi : Respondents PRAYER: Appeal is filed under Section 374 of the Code of Criminal Procedure against the Judgment and conviction dated 19.09.2003 made in S.C.No.7 of 2002, on the file of the District Sessions Judge, Communal Clash Court, Madurai. !For Appellant : Mr.A.Ramar Additional Public Prosecutor ^For Respondent Nos.1,2,4,5& 6 : Mr.P.Andiraj For Respondent Nos.7, 9 to 11, 13, 16,

18, 21 & 22 : Mr.V.Kathirvel For Mr.G.Mathavan For Respondent Nos.8,12,15,17,19&20 : Mr.V.Kathirvel Senior Counsel Mr.J.Jayakumaran CRL.RC.No.1638 of 2003:- Selvam @ Chinna Ulagu [died]. : Petitioner Muthulakshmi : Petitioner [Amended as per the order of this Court dated 14.11.2013 in Crl.MP.No.10952 of 2003].. Vs 1.State rep by Inspector of Police, Veeravanallur, Madurai Distric. 2.Arumugam 3.Arunachalam @ Kumar 4.Iyyappan 5.Murugan 6.Puthiyavan 7.Esakki 8.Subramaniam 9.Murugan 10.Annamalairaja @ Annamalai @ Annaraj 11.Nagaraj 12.Gopal @ Gopalakrishnan 13.Kutti @ Iyyamperumal 14.Pappathi @ Marippan 15.Sudalaikannu 16.Mari 17.Kumar 18.Raj @ Nambirajan 19.Madan @ Madasamy 20.Santhanam 21.Subramanian 22.Mani @ Subramanian 23.Gandhi PRAYER:- Criminal Revision Case is filed under Sections 397 & 401 of the Code of Criminal Procedure, to call for the records in S.C.No.7 of 2002, on the file of the learned District and Sessions Judge for Communal Clash Cases, Madurai, to set aside the Judgment dated 19.09.2003 and thus render justice. For Petitioner : Mr.V.Arun For Respondent No.1 : Mr.A.Ramar Additional Public Prosecutor For Respondent Nos.2, 3, 4, 5, 6 & 7 : Mr.P.Andiraj For Respondent Nos.9 13, 14, 16, 18, 20 & 21 : Mr.V.Kathirvel Senior Counsel For Mr.G.Mathavan For Respondent Nos.8,10,11,12,19,22&23 : Mr.V.Kathirvel Senior Counsel For Mr.J.Jayakumaran :COMMON

JUDGMENT

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JUDGMENT

of the Court was delivered by S.NAGAMUTHU, J]. The State is the appellant in Crl.A.No.85 of 2004. The respondents 1 to 22 are the accused in S.C.No.7 of 2002, on the file of the learned District Sessions Judge, Communal Clash Court, Madurai. There were as many as six charges framed against the accused as detailed below:- Charge No Charges Accused 1. 147 IPC6 7, 9 to 11, 13, 14, 16 and 18 2. 148 IPC1to 5, 8 to 12, 15, 17, & 20 3. 341 IPC1to 22 4. 302 r/w 149 IPC1to 5, 8 to 12, 15, 17, 19 & 20 5. 302 r/w 149 IPC1to 5, 6 to 12, 13 to 17, 19 & 20 6. 302 r/w 114 IPC [two counts]. 21 and 22 2. By Judgment dated 19.09.2003, the Trial Court acquitted all the accused. As against the said conviction and sentence, the State has come up with Crl.A.No.85 of 2004. Similarly, challenging

the acquittal, the de facto complainant has come up with CrI.RC.No.1638 of 2003. Since the Revision Petitioner passed away, PW-5, namely, the wife of the deceased, is prosecuting the Criminal Revision Case. Since both the Criminal Appeal and the Criminal Revision Case have arisen out of the same Judgment, we have heard both the matters together and dispose of the same by means of this Common Judgment.

3. The case of the prosecution, in brief, is as follows:- All the twenty two accused belong to Veeravanallur Village. They belong to Yadhavar [Konar]. Community. One Mr.Santhanam and Mr.Ramaiah also belonged to Yadhavar Community. They also belonged to Veeravanallur Village. Eight months prior to this occurrence, Mr.Santhanam and Mr.Ramaiah were murdered by a group of people belonging to Thevar Community of the same village. Thus, the entire village was virtually divided on communal lines. There was no cordiality between these two groups of people belonging to Yadhavar Community and Thevar Community. 3.1. It is alleged that to retaliate the murder of the said Mr.Santhanam and Mr.Ramaiah, the accused belonging to Yadhavar Community, conspired to take revenge by killing two persons belonging to Thevar Community, who were responsible for the murder of the said Mr.Santhanam and Mr.Ramaiah. On 13.05.2001, when PW-7, Mr.Marimuthu, belonging to Yadhavar Community, along with one Sudailaikannu, was returning from Bazaar to their house, it is alleged that they noticed the accused Nos.1, 3, 5, 7, 8, 9, 19 and 21, sitting on the backyard of the house of Mr.Santhanam, [A-19].. At that time, A-22 and A-21 told the others that before the end of May 2001, Mr.Athimoolam, [hereinafter referred to as "D-1"]. belonging to Thevar Community should be murdered. They further told the others that such murder should take place on the pathway leading to the field. They further stated that since they were employed, they cannot come to the spot to participate in the occurrence. Thus, according to the case of the prosecution, on 13.05.2001, the above stated accused developed a plan to do away with D-1. 3.2. It is further alleged that on 27.05.2001, PW-1 belonging to the Thevar Community, claims to have gone to Meenakshi Clinic to take treatment for his son. When he was waiting for the doctor, he heard the sound of a Bullet Motorcycle. When he came out of the clinic, he found the Bullet Motorcycle proceeding, driven by D-1. One Mr.Natarajan [hereinafter referred to as "D-2"]., belonging to Thevar

Community, was travelling as a pillion rider. D-1 and D-2 proceeded in the Motorcycle towards Santhana Mariamman Temple. At that time, about 10 persons belonging to Yadhavar Community were standing near a shop, known as "Hindu Agency" situated by the side of Santhana Mariamman Temple. Similarly, on the eastern side of the said temple, ten more persons were standing. When D-1 and D-2 were proceeding in the Motorcycle, the first accused, who was in the crowd, suddenly, threw a cycle across the road just in front of the Motorcycle driven by D-1. D-1, therefore, stopped the Motorcycle. D-1 and D-2 were still sitting on the Motorcycle. At that time, all the 22 accused surrounded the Motorcycle. The accused Nos.7, 9, 11, 13, 14, 16 and 18 had sticks in their hands. The accused Nos.1 to 5, 8 to 12, 15, 17, 19 and 20 were all armed with one aruval each. The ninth accused was holding a knife. By surrounding the Motorcycle, the accused started mounting attack on D-1. The accused Nos.1 to 5 attacked D-1 indiscriminately, on the instigation made by the accused Nos.6 to 8. D-2 attempted to rescue D-1. At that time, the accused Nos.8, 12, 15, 17, 19 and 20 cut D-1 indiscriminately with aruvals. The accused Nos.21 and 22 instigated the other accused to commit the murders. Both the deceased died on the spot. 3.3. Immediately, PW-1 proceeded to the Police Station and made a complaint to PW-19, at 05.30 PM, on 27.05.2001. PW-19 registered a case in Crime No.53 of 2001 under Sections 147, 148, 341 and 302 of the Indian Penal Code. EX-P1 is the complaint and EX-P30 is the First Information Report. Then, he forwarded both the documents to the Court through a constable. These two documents were received by the jurisdictional Magistrate at Cheranmahadevi, at 06.50 PM, on 27.05.2001. Then, PW-19 handed over the case diary to PW-20 for investigation. 3.4. Taking up the case for investigation, PW-20 proceeded to the place of occurrence, prepared an Observation Mahazer and a Rough Sketch, showing the place, where the dead body of D-1 was lying. Then, he prepared an Observation Mahazer and a Rough Sketch, showing the place, where the dead body of D-2 was lying. He conducted inquest on the body of D-1 in the presence of the witnesses, followed by inquest on the body of D-2. He recovered bloodstained earth and sample earth from the place of occurrence in the presence of the witnesses. From the place of occurrence, he recovered the Bullet Motorcycle, in which the deceased had travelled, a Hercules Cycle, two pairs of chappels, bloodstained earth, sample

earth and four aruvals, in the presence of PW-8 and another witness. Then, he examined many witnesses on the spot. He forwarded the dead bodies for postmortem. 3.5. PW-18, Dr.D.Rajasekar Ramesh, conducted autopsy on the dead body of D-1, at 06.45 PM, on 27.05.2001. He found the following injuries:- "1.A cut injury measuring 15 X3X2CM on the right side proceeding from the right eye to the backside of head, on the upper side of ear. 2.A cut injury measuring 10 X2X3CM on the lower portion of the first injury on the right cheek proceeding from eye to ear. 3.A cut injury measuring 5 X3X2CM was found on the mastoid bone of the left ear. 4.A cut injury measuring 5 X3X2CM on the left hand shoulder. 5.A cut injury measuring 7 X5X3CM on the right hand shoulder. 6.A cut injury measuring 3 X2X1CM on the right chest. 7.Skin peeled both legs, both hands and buttocks.

8. A cut injury measuring 7 X5X5CM on the lower side of the both injuries on the right side.

9. An injury measuring 5 X2X3CM on the left hand shoulder in the upper portion of the fourth injury". EX-P28 is the postmortem certificate. Then, On the same day, at 08.00 PM, he conducted autopsy on the body of D-2. He found the following injuries:- "1.A cut injury measuring 20 X7X5CM from left ear to nose. Blood vessels proceeding towards brain and muscles were also cut.

2. A cut measuring 10 X5X5CM injury on the lower jaw.

3. A cut injury measuring 3 X2X1CM from right side mouth to neck. Jaw bone also fractured.

4. Cut injuries measuring 10 X5X5CM on the front side of middle three fingers of left hand.

5. A cut injury measuring 10 X5X4CM in the rear portion of left arm.

6. A cut injury measuring 12 X7X4CM on the lower portion.

7. Skin peeled off from left leg". EX-P29 is the postmortem certificate. According to him, the death was due to shock and hemorrhage due to the cumulative effect of all the injuries. 3.6. Continuing the investigation, PW-20 arrested the accused

No.6, on 28.05.2001, at 05.30 PM, near Subbulakshmi Hotel, Tiruenelveli Junction and forwarded him to the Court for judicial remand. On 29.05.2001, at 05.30 AM, near Kilakulam Sivankovil, PW-20 arrested the accused No.18 and sent him for judicial remand. On 07.06.2001, the accused Nos.3, 9, 10, 12, 17 and 19 surrendered before the Court. PW-20 took police custody of the above accused. While in custody, in the presence of PW-10 and another witness, the first accused gave a voluntary confession, in which he disclosed that he left an aruval at the place of occurrence. The accused No.9 gave a voluntary confession, in which he disclosed the place where he had hidden the stick. In pursuance of the same, he took PW-20 and the witnesses and produced the stick and the same was recovered by PW-20. Then, the accused No.10 gave a confession, in which he disclosed the place where he had hidden yet another stick. In pursuance of the same, he took PW-20 and another witness and produced Velukaruvai stick from the place, where he had hidden. PW-20 recovered the same under a mahazer. Then, the accused No.12 gave a confession, in which he disclosed that he would identify the place where he had hidden the aruval. In pursuance of the same, he took PW-20 and another witness and produced the aruval [MO-28].. Then, the accused No.17 gave a confession at 03.00 PM, but he did not make any disclosure statement. Then, the accused No.19 gave a voluntary confession, in which he disclosed the place where he had hidden the knife. Accordingly, he took PW-20 and another witness and produced the same, [MO-29].. PW-20 recovered the same under a mahazer. The accused No.6 had surrendered before the Court. On 18.06.2001, PW-20 took custody of the sixth accused on the orders of the learned Judicial Magistrate, at 04.10 PM. While in custody, he also gave voluntary confession, in which he disclosed the place where he had hidden the stick. In pursuance of the same, he took PW-20 to the place and produced the stick, [MO-13].. PW- 20 recovered the same, under a mahazer. On 08.06.2001, at 11.00 AM, PW-20 arrested the accused No.8 in the same village. On such arrest, he gave a voluntary confession, in which he disclosed the place where he had hidden an aruval. In pursuance of the same, he took PW-20 and another witness and produced the same, [MO-31].. PW-20 recovered the same under a mahazer. On returning to the Police Station, he forwarded the accused for judicial remand and handed over the material objects to the Court for chemical examination. On

completing the investigation, he laid charge sheet against all the accused. 3.7. Based on the above materials, the Trial Court framed appropriate charges, as detailed in the first paragraph of this Judgment. When the accused were questioned in respect of the charges, they pleaded innocence. In order to prove the charges, the prosecution examined as many as 20 witnesses, marked 43 documents, besides 33 Material Objects. Out of the said 20 witnesses, PW-1 to PW-4 claim to be the eye-witnesses to the occurrence. PW-1 is the brother of D-1; PW-2 is the close relative of D-1; PW-3 is the sister's son of D-1 and PW-4 is the yet another sister's son of D-1. According to PW-1, he had gone to Meenakshi Clinic and at that time, he witnessed the entire occurrence. He has clearly spoken about the each and every overt act of every accused and the role played by each accused. He has also spoken vividly about the weapons used by the accused and the injuries caused by each accused on the deceased. He has also spoken about the complaint made by him. He has further stated that the occurrence was witnessed by PW-2 to PW-4. 3.8. PW-2 has stated that he, along with PW-3 and PW-4, was waiting at the bus stop at Mormadam in Veeravanallur Village. He has further stated that while he was so standing, both the deceased came in a Bullet Motorcycle and then, they were killed by the these accused. He has also narrated the entire occurrence with even minute details, such as, overt acts of each accused, the details of the injuries caused on the deceased as well as the weapons used by each accused. 3.9. PW-3 has also stated that he was waiting along with PW-2 in the bus stop at Mormadam in Veeravanallur Village and witnessed the entire occurrence. He has also spoken about the overt acts of each accused. PW-4 has stated that on account of his private work, he had gone to the place of occurrence and witnessed the entire occurrence. He has also spoken vividly about the overt acts of each accused, the details of the injuries sustained by the deceased and the weapons used by the accused. PW-5 is the wife of D-1 and PW-6 is the wife of D-2. They are not eye-witnesses to the occurrence. But, they have stated that on hearing the occurrence, they rushed to the place of occurrence. PW-7 has spoken about the plan hatched by some of the accused on 13.05.2001, behind the house of the accused No.19 to do away with D-1. PW-8 is the Village Administrative Officer in whose presence, the Observation Mahazers were prepared, besides the Rough Sketches. PW-9 has spoken about the arrest of

the fourth accused by PW-20 and the other connected facts. PW-10 has spoken about the arrest of the accused Nos.6, 10 to 12, 17 and 19. He has also spoken about the recovery of the material objects, on the confession made by the accused No.10. PW-11 has spoken about the arrest of the eighth accused, his confession and the consequential recovery of the weapons. PW-12 has spoken about the arrest of the accused Nos.13 to 15, on 11.06.2001. He has also spoken about the confession made by the accused and the consequential recoveries. PW-13 has stated that on the day of occurrence, all the street lights were burning and there was no failure of the electricity supply. 3.10. PW-14 is the Constable, who carried the First Information Report from the Police Station to the jurisdictional Court. According to him, he received the cover containing the First Information Report and the complaint from the Sub-Inspector of Police, at 04.00 PM and handed over the same to the learned Judicial Magistrate, at 06.15 PM. PW-15 is the Head Clerk of the Court. He has stated that he forwarded the material objects for chemical examination. PW-16 is the Constable, who carried the dead body of D-1 for postmortem. PW-17 is yet another constable, who carried the dead body of D-2 for postmortem. PW-18, Dr.D.Rajasekar Ramesh, has spoken about the autopsy conducted by him on the dead bodies of both the deceased and his final opinion. PW-19 has spoken about the receipt of the complaint from PW-1 and the registration of the case. PW-20 has spoken about the investigation done by him. 3.11. When the Trial Court examined the accused under Section 313 of the Code of Criminal Procedure in respect of the incriminating evidences available against them, they denied the same as false. On their side, one Mr.M.Subramanian, the Deputy Tahsildar, Ambasamudram, was examined. He has stated that the accused No.21 - Mr.Mani @ Subramanian was working in the Taluk Office at Ambasamudram, during the year 2001. He has further stated that on 13.05.2001, he was on election duty at Tirunelveli Engineering College. He was actually involved in the counting of the votes in the Counting Centre. He has produced EX-D1, the order passed by the Revenue Divisional Officer, assigning the said work to the accused No.21. He has further stated that the counting of votes commenced at 08.00 AM at Tirunelveli Engineering College. Thus, according to this witness, the accused No.21 was on election duty. On the basis of the above, the accused No.21 has pleaded alibi. 3.12. Having considered all the above materials, the Trial

Court acquitted the accused. Aggrieved over the same, the State has come up with CrI.A.No.85 of 2004 and the de facto complainant has come up with CrI.Rc.No.1638 of 2003.

4. We have heard the learned counsel on either side and perused the records carefully.

5. The learned Additional Public Prosecutor appearing for the State and the learned counsel appearing for the de facto complainant would submit that the Trial Court, without assigning any valid reason, has simply rejected the evidences of PW-1 to PW-4, who are all eye-witnesses to the occurrence. They would further submit that there are no reasons to disbelieve their very presence at the time of occurrence. They would further submit that these four witnesses have vividly spoken about the participation of these 22 accused and their overt acts, weapons used and the number of injuries caused on the deceased by each accused. They would further submit that their evidences are duly corroborated by the medical evidence. They would further submit that though it is true that no independent witnesses were examined, on that score, the evidences of these eye-witnesses cannot be rejected. They would further submit that the Trial Court has not given any weightage for the arrest of the accused and the consequential recoveries of the material objects out of the disclosure statements made by the accused. They would further submit that in a case involving in communal clash, it is too difficult to expect the independent witnesses to come forward to give evidence. They would further submit that the Trial Court has erroneously held that from Mormadam bus stop, it would not have been possible for PW-2 to PW-4 to see the occurrence. Thus, the Trial Court has rejected the evidences of these witnesses on mere surmise. For these reasons, according to the learned counsel, the Judgment of the Trial Court is to be reversed and the accused are liable to be punished.

6. The learned counsel appearing for the accused would, however, oppose this Criminal Appeal as well as this Criminal Revision Case. According to them, the presence of PW-1 to PW-4, at the crucial time of occurrence, is highly doubtful. Though PW-1 to PW-4 have attempted to offer explanation that on account of some private work, they had gone to the place of occurrence and saw the

occurrence from Mormadam bus stop, the same cannot be believed. The learned counsel would further submit that though it is true that PW-1 to PW-4 have narrated the entire occurrence, their evidences are highly artificial, as they have narrated the entire occurrence in a dramatic fashion. The learned counsel would further submit that the occurrence would not have taken place in the manner, as it is alleged by PW-1 to PW-4. The learned counsel would further submit that it would not have been possible for PW-1 to PW-4 to speak about the minute details of the occurrence, such as, overt act of each accused, number of injuries caused by each accused on the deceased, as well as the weapons used by the assailants. Thus, according to the learned counsel, their evidences are highly unbelievable. The learned counsel would further submit that the confessions of the accused and the consequential discoveries of the material objects cannot be believed, for the simple reason that since the occurrence was during night hours, no witness would have been in a position to specifically notice the weapons used by the assailants.

7. The learned counsel would further submit that the Trial Court, after a thorough analysis, found that from the place, where PW-2 to PW-4 claimed to have been standing, the occurrence could not be noticed. The learned counsel would further submit that there are lot of contradictions in the evidence of PW-1 to PW-4. Thus, the Trial Court has acquitted the accused for sound reasons. The learned counsel would further submit that the First Information Report, in this case, is doubtful document, as the delay in preferring the complaint and forwarding the First Information Report to the Court has not been explained away. Thus, according to the learned counsel, the Trial Court was right in acquitting the accused, which does not require any interference at the hands of this Court.

8. We have considered the above submissions.

9. Admittedly, the deceased belonged to Yadhavar Community and the accused belonged to Thevar Community. The village was virtually divided on communal lines. There was no love-lost between the people belonging Yadhavar Community and the people belonging to Thevar Community and they were on enimical terms. On account of the said dispute, two persons belonging to Yadhavar Community, by name, Mr.Santhanam and Mr.Ramaiah were earlier allegedly murdered. This

happened, admittedly, eight months prior to this occurrence. From that time onwards, the motive between these two groups became very stronger. Thus, it is crystal clear that PW-1 to PW-4 are interested and enimical witnesses.

10. Now, the question is as to whether the evidences of PW-1 to PW-4 could be believed and based on their evidences, these 22 accused could be convicted.

11. After a thorough analysis of the rough sketch and the oral evidences of the witnesses, the Trial Court has found that from the place, where PW-2 to PW-4 were allegedly standing, the occurrence place could not be seen. To satisfy our judicial conscience, we have also gone through the said documents. We are fully satisfied that the Trial Court was right in holding that from Mormadam bus stop, the place of occurrence could not be seen by anybody. Thus, the Trial Court, in our considered view, was right in disbelieving the evidences of PW-2 to PW-4.

12. So far as the evidence of PW-1 is concerned, he has stated that he had come to the Meenakshi Clinic for giving treatment to his son. It was only at that time, according to him, he saw the occurrence. In our considered view, his presence is doubtful. Assuming that his presence was probable, even then, it is too difficult to believe him. As we have already pointed out, he is none other than the brother of D-1. He has also got enough motive against the accused party. He has narrated the entire occurrence with even minute details, such as overt acts of each accused, the weapons used and the injuries caused by each accused on each deceased. This, in our considered view, is highly a dramatic in nature. Apart from the above, the manner, in which, PW-1 has narrated the occurrence would also go to show that he would not have been present at the place of occurrence and he would not have witnessed the occurrence at all. First of all, PW-1 has explained each injury found on the deceased by attributing the injuries to each accused and the weapon also. Even the order of injuries and the order of attack have been vividly spoken to by him, which, in our considered view, is highly dramatic in nature.

13. Apart from the above, it is also highly dramatic that each one accused would commence his attack after the previous attackar had completed his task. When a group of people with common object, that too, all armed with weapons, with strong

motive in their minds, to kill the deceased had gathered, quite naturally, attack would have been mounted by all the accused more or less simultaneously. It is not believable that the attack would have been made one after the other in a line by all the accused. In our considered view, the narration of the alleged attacks made by the accused, the order of attack made and the overt acts attributed would go to show that PW-1's evidence is highly artificial in nature. But, for tutoring, it would not have been possible for him to speak about every minute details of the occurrence. This also creates doubt in the case of the prosecution.

14. Assuming that PW-2 to PW-4 were also present, at the scene of occurrence and witnessed the occurrence, their evidences also suffer from the same artificiality, like that of PW-1 and so, they are also unbelievable.

15. Apart from the above, when there are multiple number of accused, when there are no independent witnesses examined by the prosecution and when the prosecution has chosen to examine the witnesses, who are closely related to the deceased, highly interested in the case of the prosecution and enimical towards the accused party, as a rule of caution, the evidence of such witnesses should pass the test of close scrutiny. In this case, the Trial Court found it very difficult to believe these four witnesses for sound reasons, more particularly, for the reason that their evidences are highly dramatic in nature. We do not find any reason to take a different view.

16. Above all, the accused No.21 by examining DW-1, has proved that he was on election duty at Tirunelveli Engineering College. He was actually involved in the counting of votes in the Counting Centre. He has produced EX- D1, the order passed by the Revenue Divisional Officer, assigning the said work to the accused No.21. But, according to PW-1 to PW-4, he was present at the scene of occurrence and he had also actively participated in the occurrence. We do not find any reason to reject the evidence of DW-1, which is supported by the public document, showing that the accused No.21 was actually engaged in election duty. When it has been clingingly proved that the accused No.21 was not at all present at the time of occurrence, it is not known as to how many people, like PW-21, have been implicated falsely in the case. Unless the prosecution is able to obviate these

reasonable doubts, it is too difficult to convict the accused accepting the plea of the prosecution.

17. Next, we have to state that the recoveries of weapons on the confession made by the accused, in our considered view, are also highly artificial. It is not as though all these 22 accused, one after the other in a line, gave confession and in pursuance of the same, the weapons used by them were recovered. The weapons recovered at the instance of the accused on their disclosure statements, have not been linked with the crime.

18. At this juncture, we have to state that it is too well settled that the presumption of innocence of the accused is one of the basic principles of criminal jurisprudence, which has been recognized as a part of a fair procedure enshrined in Article 21 of the Constitution of India as a fundamental right. Such presumption of innocence is further strengthened and even doubled, when the Trial Court has acquitted the accused on appreciating the evidences. In order to succeed in an appeal against acquittal, the prosecution should make out a very strong case, such as, perversity, illegality, etc., in the acquittal recorded by the Trial Court. Otherwise, the presumption of innocence, which gets doubled by the acquittal of the accused recorded by the Trial Court, will not get rebutted. In this case, the prosecution has failed to make out a case for interference. We hold that the prosecution has failed to prove the case beyond reasonable doubts and the Trial Court was right in acquitting the accused.

19. In view of all the above, the Criminal Appeal and the Criminal Revision Case are dismissed and the acquittal of the accused is confirmed. [S.N.J.], & [V.S.R.J]. 17.08.2015 Index : Yes/No Internet : Yes/No NB To 1.The District Sessions Judge, Communal Clash Court, Madurai. 2.The Inspector of Police, Veeravanallur, Madurai District. 3.The Public Prosecutor, Madurai Bench of Madras High Court, Madurai. S.NAGAMUTHU, J.

AND V.S.RAVI, J.

NB COMMON

JUDGMENT

MADE IN CRL.A.No.85 of 2014 and CRL.RC.No.1638 of 2003 17.08.2015 .

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