

**Ranganathan and Others Vs. State**

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**SooperKanoon Citation :** [sooperkanoon.com/789692](http://sooperkanoon.com/789692)

**Court :** Chennai

**Decided On :** Dec-06-1995

**Reported in :** 1996CriLJ2041

**Judge :** J. Kanakaraj and; Janarthanam, JJ.

**Acts :** [Constitution of India](#) - Articles 19(1), 21, 35, 37, 39, 40, 41, 51, 58, 107, 108, 128, 130, 160(1), 198 and 226; [Indian Penal Code \(IPC\), 1860](#) - Sections 37, 39, 40 and 196; [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 2, 9(1), 11, 19, 19(2), 22, 31, 33, 34, 35, 36, 37, 38, 39, 40, 41, 50, 51, 58, 101(1), 105, 111, 123, 132, 135, 147, 148, 165, 165(1), 195(1), 302, 307, 324, 326, 341, 448 and 452

**Appeal No. :** Referred Trial No. 5 of 1995

**Appellant :** Ranganathan and Others

**Respondent :** State

**Advocate for Def. :** Mr. R. Reghupathi, Addl. Public Prosecutor

**Advocate for Pet/Ap. :** Mr. R. Sanmughasundaram, ;Mr. M. Karthikeyanarayanan, ;Mr. N.R. Ilango and ;Mr. V. Suresh, Advs.

**Judgement :**

**Janarthanam, J.**

1. These actions arise out of the conviction and sentence of accused-fifteen in number - for various offences under the IPC in S.C. No. 25 of 1995 on the file of the Court of Session, South Arcot Vallalar Division, Cuddalore.

2. We shall now, in a bid to understand with ease and grace, the case of mass rioting-cum-murder, besides causing damages to the properties, as projected by the prosecution and the concomitant result that flowed therefrom endeavour to encompass all such details in a chart before ever to briefly narrate the occurrence, culminating in a final report under S. 173(2) of the Code of Criminal Procedure, 1973 (Act II of 1974) - for short 'CrI.P.C.'.

3. The overt acts relatable to various accused, as mentioned above in the chart were alleged to have been committed by them, in the village going by the name Arangamangalam, situate within the jurisdictional limits of Vadalur Police Station, five Kms. away on the south-east. All the accused, excepting accused 2, belonged to the scene village Arangamangalam, while accused 2 belongs to the village called Ulmaruvai and adjacent village, two Kms. away. Deceased 1 to 3 and witnesses, P.Ws. 1 to 7 belong to the scene village, Accused 1 and 2 are caste Hindus, while the rest of the accused, namely, accused 3 to 15 are harijans. Likewise, P.Ws. 1, 3 and deceased 2 are Caste Hindus, deceased 1 and 3 were Harijans.

4. P.Ws. 1, 2, 3, 5 to 11 and deceased 2 are related to each other. P.W. 1 is the father of P.W. 3 and also the younger brother of deceased 2. He is also the brother-in-law of P.W. 6. Besides, P.Ws. 2, 5, 7 and 11 are cousins, that is to say, Pangalis and among them, P.Ws. 5 and 7 are related to each other, as brothers, being the sons of P.W. 10. P.W. 8 is the mother-in-law of P.W. 7. P.W. 9 is the younger brother of deceased 1.

5. There are two Mariamman temples in the scene village, one located in the Caste Hindu Locality and the other in the Harijan Colony. A dispute as to the management and control over the hundial collections of the Mariamman temple located in the Harijan colony, it is said, came to prevail between the two groups of the colony people, sometime prior to the occurrence, which event happened on 8-9-1994. Two persons in the colony, namely, accused 3 and deceased 1 claiming

themselves to be the nattanmais of the colony, fought for the management and control over the hundial collections belonging to the said temple. The two nattanmais, namely, accused 3 and deceased 1, it is said, had their own groups of people in the colony.

6. Two months prior to the occurrence, P.W. 1, the Ex. President of the Panchayat of the said village, it is said, settled the dispute between the two warring, groups in the colony, as relatable to the management and control over the hundial collections belonging to the said temple. P.W. 1 settled the dispute, in such a way that the group headed by deceased 1 was entrusted with the management and control over the hundial collections of the said temple. This sort of a settlement irritated the group headed by accused 3. Consequently, accused 3 and his group became inimical towards P.W. 1.

7.a. Due to such animosity, all the accused, at about midnight on 16-8-1994 entered into the house of PW. 1 and caused damage to his house, besides beating his eldest sister, by name Thayarammal, resulting in the culmination of a preferring of a complaint before police.

b. On the following day, that is to say, on 17-8-1994, P.Ws. 4, 9 and three others were also stated to have been attacked by all the accused, which also resulted in the preferring of a complaint to the police.

c. Once again on 22-8-1994, all the accused were stated to have entered into the house of P.W. 1 and caused damages again, resulting in the preference of a complaint to the police.

Charge Against otherwise	Offences Number	under I.P.C.	OVERTACT by	Testified the	Finding of Trial	Sentence or Court
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(1)	(2)	(3)	(4)	(5)	(6)	(7)
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Accused	Number	Section	P.W. Nos.	1	1 to 15	148	Rioting, armed with	1 to 7
		deadly Weapons, viz.,	Guilty	Each	to undergo	rigorous	A1 - Veecharuval (MO 2)	
		imprisonment for one	A3 - Veecharuval (MO 1)	year.	A4 - Stick	A5 - Knife	A6 -	

Sulukki A7 - Sulukki A8 - Spade handle (MO 3) A9 - Knife A10 - Stick (MO 5) A11 - Knife A12 - Knife A13 - Sulukki A14 - Stick (MO 6) A15 - Stick (MO 4) With the common object to commit an offence. 2. 1, 3, 8 & 13 302 Causing the death of 1 to 6 Guilty Accused 3 sentenced to Perumal (Deceased 1) by death A1 - on left thigh Each of accused 1, 8 & 13 A3 - Left car (sentenced) to imprison- A8 - bed head ment for (sic) A13 - Left thigh-----

(1) (2) (3) (4) (5) (6) (7)

3 2 302 read with Abetting the commission 1 to 6 Guilty Imprisonment for life 109 of the murder of deceased 1 (Perumal) by catching hold of him and instigating accused 1, 3, 8 & 13 to commit the offence of murder. 4 1 & 3 324 Voluntarily causing 1 to 3 Guilty Rigorous imprisonment hurt by dangerous 5 & 6 for six months each weapons to Ramalingam (PW 1) by A1 - on his right elbow A3 - on his left arm (Hand) 5 2 324 read with Abetting the commission 1 to 3 Guilty Rigorous imprisonment 109 of voluntarily causing 5 & 6 for six months. hurt by catching hold of Ramalingam (PW 1) and instigating accused 1 & 3 to commit the offence. 6 1, 3, 5, 9, 302 Causing the death of 1 to 3 Guilty Accused 3 sentenced to 10, 12 & 15 Sami Naidu (Deceased 2) 5 & 6 death. Each of accused by cutting him by 1, 5, 9, 10, 12 & 15 A1 - on his left thigh. to undergo imprisonment A3 - on his top of head for life. A9 - ' twice on chin A12 - ' left eye brow A5 - ' right eye-brow A10 - by beating him on his person & indiscriminately. A15 - -do- do. 7 2 302 read with Abetting the commission 1 to 3 Guilty to undergo imprisonment 109 of murder of deceased 2 5 & 6 for life. (Saminaidu) by catching hold of him and instigating accused 1, 3, 5, 9, 10, 12 & 15 to commit the offence of murder-----

(1) (2) (3) (4) (5) (6) (7)

8 5, 6, 11 324 Voluntarily causing hurt 1 to 3 Guilty Eachtounder rigorous & 15 by dangerous weapons to 5 & 6 imprisonment for six Sekar (PW 5) by months A5 - on his head A6 - on his head A11 - on his centre of the head A15 - on his left forearm (hand) 9 12 326 Voluntarily causing grievous 1 to 3 Guilty Rigorous imprisonment hurt by dangerous weapons & 5 for one year. to sekar (PW 5) on his

right arm (hand) 10 7, 8 & 14 324 Voluntarily causing hurt by 1 to 3 Guilty Each to undergo dangerous weapons to Kathir & 5 rigorous imprisonment Kaman (PW 2) by for six months. A7 - on his left thigh A8 - on his right forearm A14 - on his right wrist (hand) 11 12 324 Voluntarily causing hurt by 1 to 3 Guilty Rigorous imprisonment dangerous weapon to Jayakumar & 5 or six months (PW 3) on his forehead. 12 4, 8, 11 307 Attempting to commit murder 1 to 3 Not ACQUITTED & 13 of Jayakumar (PW 3) with such & 5 Guilty intention or knowledge, by Accused 4 & 8 beating him with sticks & Accused 11 & 13 cutting him with knives - but he escaped unhurt. 13 3, 6, 13 302 Causing the death of 1 to 3 Guilty Accused 3 - Sentenced & 15 Thalaiyari Raghavan (Deceased & 5 to 7 to death. 3) by Each of accused 6, 13 A3 - on his left forearm & 15 to undergo impri- (hand) sonment for life. A6 - on his backside of right ear. A13 - on his forehead. A15 - on his left-hand.

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(1) (2) (3) (4) (5) (6) (7)

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14 1 302 Instigating accused 3, 6, 13 1 to 3, Guilty To undergo imprisonment read with 109 & 15 by uttering the words 5 & 7 for life. (Vemacular Matter Omitted) and abetting the commission of murder of Deceased 3 (Thalaiyari Raghavan) 15 4, 8, 10 324 Voluntarily causing hurt by 4 Not Guilty ACQUITTED & 15 dangerous weapons to Kupousami (PW 4) by A4 - on his right leg by accused 8, 10 & 15 by beating him indiscriminately 16 2, 4 to 7, 302 Being members of unlawful 1 to 6 Accused 2, Each to undergo 9, to 12, read with 149 assembly along with accused 4, 7, 11 imprisonment for 14 & 15 1, 3, 8 & 13 and in Guilty life. prosecution of the common Accused 5, object of such assembly, 6, 9, 10, committed the murder of 12 & 15 deceased, 1 (Perumal) - Not ACQUITTED besides causing hurt and GUILTY damages to the household articles of his supporters. 17 2, 4, 6 302 Being members of unlawful 1 to 3, Accused 2, Each to undergo to 8, 11, read with 149 assembly along with accused 5 & 6 4, 7, 11 & imprisonment for 13 & 14 1, 3, 5, 9, 10, 12 & 15 and 14 Life in prosecution of the common GUILTY object of such assembly, committed the murder of Accused 6, Acquitted Deceased 2 (Sami Naidu), 8 & 13 besides causing hurt and Not Guilty damages to the household articles of the supporters of deceased 1 to 3

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(1) (2) (3) (4) (5) (6) (7)

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18 1, 2, 4, 302 Being members of unlawful 1 to 3 NOT ACQUITTED 5, 7 & read with 149 assembly, along with & 5 to GUILTY 12 & 14 accused 3, 6, 13 & 15 7 and in prosecution of the common object of such assembly, committed the murder of Deceased 3 (Thalaiyari Raghavan) besides causing hurt and damages to the household articles of the supporters of deceased 1 to 3. 19 1 to 4, 427 Committing mischief by None Guilty Each to undergo 6 to 13 causing damage to the rigorous, imprisonment & 15 bicycle of Deceased 3 for six months (Thalaiyari Raghavan) to an extent of more than Rs. 50/- 20 1 to 15 448 Committing house-trespass 10 Guilty Each to undergo by entering into the house rigorous imprisonment of Natesan (PW. 10), which for six months was used as a human dwelling in order to commit criminal intimidation and mischief by causing damage to his household articles 21 1 to 15 427 Committing mischief by 10 Guilty Each to undergo causing damage to the rigorous imprisonment wooden thompai, ever silver for six months. vessels, electric lights with shade and mudpots (MOs. 35 to 41) of PW 10 Natesan, by causing damages to the extent of Rs. 4,000/-

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(1) (2) (3) (4) (5) (6) (7)

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22 1 to 15 448 Committing house-trespass by 8 Guilty Each to undergo entering into the house of rigorous imprisonment Subbulakshmi (PW 8), used for six months as a human dwelling in order to commit criminal intimidation and mischief by causing damage to her household articles. 23 1 to 15 427 Committing mischief by 8 Guilty Each to undergo causing damages to windows, rigorous imprisonment almirahs, aluminium vessels, for six months eversilver vessels, chalk etc., of Subbulakshmi (PW 8) to the extent of Rs. 10,000/-. 24 1 to 15 448 Committing house trespass 11 Guilty Each to undergo by entering into the house rigorous imprisonment of one Vaithilingam (father for six months. of Sampathkumar (PW 11) used as human dwelling, in order to commit criminal intimidation and mischief by causing damages to his household articles. 25 1 to 15 427 Committing mischief by 11 Guilty Each to undergo, causing damage to the windows, rigorous imprisonment almirahs, boxes, aluminium for six months and eversilver vessels,

mudpots etc., (MOs 42 to 51) of Vaithilingam (father of P11 - sampathkumar), to the extent of Rs. 10,000/-

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
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26 1 to 15 448 Committing house-trespass 9 Guilty Each to undergo rigorous by entering into the house imprisonment for six of Chinnadurai (PW 9), months used as a human dwelling, in order to commit criminal intimidation and mischief by causing damage to his household articles. 27 1 to 15 427 Committing mischief by 9 Guilty Each to undergo rigorous causing damages to the imprisonment for six Mangalore (sic) tiles, months aluminium vessels etc., of Chinnadurai (PW 9) - (MOs. 32 to 34) to the extent of Rs. 500/-All the sentences imposed on accused 3 to merge with the sentence of death.All the sentence imposed on accused 1, 2 and 4 to 15 are to run concurrently.

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d. Some of the accused, namely, accused 1, 3, 4, 5, 9 and 15 and some others - not an accused in the present case - in respect of the commission of certain alleged non-bailable offences, anterior in point of time of the date of the occurrence in the present case, were, it is said, granted anticipatory bail by the Court of Session, South Arcot - Vallalar Division, Cuddalore, on condition that they should report before the Judicial Magistrate No. III, Cuddalore twice in a week, that is every Monday and Thursday, at 10 a.m. by order dated 1st of September, 1994 and the said accused and others were stated to have been reporting accordingly.e. The day of the occurrence, namely, 8-9-1994, being a Thursday, was the day, on which the above mentioned accused and others were required to report before the Judicial Magistrate No. III, Cuddalore at 10 a.m. The occurrence was stated to have happened at 3 p.m. on that day in which, all the accused 1 to 15 were stated to have participated.

8.(a) The order of attack in the said occurrence was stated to have proceeded in the following manner - deceased 1, PW. 1, deceased 2, P.W. 5, P.W. 2, P.W. 3 and deceased 3 and thereafter, all the accused were stated to have trespassed into the house of P.Ws. 8 to 11 and caused damage and wreckage to the

household articles.(b) In the occurrence, some of the accused, namely, accused 1, 3, 5 and 9 were also stated to have been injured by the cuts and bearings (sic) inflicted, by the other accused on the prosecution party, accidentally falling upon them.

9. Deceased 1 was lying dead in front of the house of one Ramalinga Naidu, son of Rajagopal Naidu. Deceased 2 was lying in the Verandah of his house. Deceased 3 did not at all die immediately after the occurrence was over. Consequently, P.W. 1 himself being an injured, took the other injured P.Ws. 2, 3, 5 and deceased in a tyre bullock cart for treatment to the Government Hospital, Cuddalore. However, he left all the injured as above at Andikuppam Road, so that they could be taken to the Government Hospital, Cuddalore, by means of a bus.

10. After the occurrence was over, P.W. 1, it is said, went in search of P.W. 20, the village Administrative Officer and he came to understand that P.W. 20 had been to Kurinjipadi. Therefore, he made a march to Vadalur Police Station and in fact, reached there at 7 p.m. for the preference of a complaint. At the Police Station, he sought the aid of one Mani for drafting the complaint. The said Mani, in fact, was stated to have obliged him in drafting the complaint. Exhibit P. 1. In the complaint so prepared, he subscribed his signature. The complaint so prepared was then handed over to P.W. 25, the then Sub-Inspector of Police, who was then stated to be in charge of the police station.

11. P.W. 25, in turn, on the strength of Exhibit P. 1, registered a case in Crime No. 352 of 1994 for alleged offences under Ss. 147, 148, 341, 324, 326, 452, 448, 307 and 302, IPC. Exhibit P. 40 is the printed FIR. Since P.W. 1 was found injured, P.W. 25 was stated to have made arrangements to send him to Government Hospital, Cuddalore, with a medical memo for his treatment. In order to protect and guard the scene of occurrence, P.W. 25 was stated to have sent one Head Constable and other Constables of that station to the scene village. At about 7-30 p.m., he despatched Exhibits P. 1 and P. 40 through P.W. 22, then grade 1 Constable attached to the Vadalur Police Station to the Judicial Magistrate No. III, Cuddalore. He also handed over to P.W. 22 the express FIR intended to the Deputy Superintendent of Police, Neyveli and other higher officials of the police at

Cuddalore.

12. At or about the same time, that is to say at 7-30 p.m., accused 1 appeared before him and gave a complaint and on the strength of the said complaint (which had not been marked), he registered a case in Crime No. 353/94, for alleged offences under Ss. 147, 148, 341 and 324 IPC. Exhibit P. 41 is the carbon copy of the printed FIR. Since accused 1 was found to be having certain injuries on his person, he was stated to have made arrangements for his treatment in the Government Hospital, Cuddalore, with a medical memo at 8 p.m. by P.W. 25. P.W. 25 also sent a VHF message to P.W. 26, then Inspector of Police Neyveli Mandharakuppam Circle, who was in charge of the Inspector of Police, Vadalur Circle. He also then proceeded to the scene village.

13. P.W. 26, on receipt of VHF message at 7-45 p.m., while he was at Mantharakuppam, rushed and reached the scene at about 8-30 p.m. On reaching the scene, he got the copy of the express FIR from P.W. 25, who was then available there and took up further investigation of the case.

14. In the meantime, the victim - deceased 3 had been taken by his wife to the Government Headquarters Hospital, Cuddalore for the purpose of treatment. The victim - deceased 3 was admitted at 8 p.m. as an inpatient by the doctor, P.W. 14, who was the then Civil Assistant Surgeon attached to the Government Headquarters Hospital, Cuddalore. He treated him for the injuries. The injuries he found on his person were stated to have been caused by a knife (Veecharuval) by five persons on 8-9-1994 at 8 p.m. at Arangamangalam Village. He found on him the following four injuries :

1. An incised wound left frontal area 4 x 2 x bone deep (inches)
2. Incised wound left parieto-occipital area 4' x 2' x 2' bleeding present.
3. Contusion right forearm back side upper 1/3rd 4' x 3'.
4. Contusion left forearm upper 1/3 3' x 6'.

Exhibit P. 7 is the carbon copy of the accident register.

15. The injured witnesses, namely, P.Ws. 2, 3 and 5, as well as injured accused, namely, accused 3, 5 and 9 were taken from the scene village to the Government Head-quarters Hospital, Cuddalore for the purpose of treatment.

a. P.W. 5 was examined by the doctor, P.W. 14 at 8.15 p.m. for certain injuries said to have been caused to him on 8-9-1994 at about 3-30 p.m. at Mahalingam's house by five known persons with Veecharuval and crowbar. He found on him the following three injuries :

1. An incised wound occipital area centre verticle 4' x 2' x bone depth.
2. An incised wound left occipital area 3' x 2' x 1' bleeding.
3. Incised wound frontal area centre 5' x 2' x 1' depth.
4. Incised wound right arm lateral aspect 3' x 2' x muscle exposed.
5. Contusion left forearm 2' x 1.'

Exhibit P.9 is the accident register copy issued to him. He would opine that injury Nos. 1, 2, 3 and 5 are simple in nature, while injury No. 4 is grievous in nature. He is of further opinion that injury Nos. 1 to 4 are possible by using weapons like MOS 1 and 2, and that injury No. 5 is possible by using any blunt object like stick.

b. The said doctor examined P.W. 3 at about 8-20 p.m. for certain injuries said to have been caused on 8-9-1994 at about 3 p.m. by a known person with a knife at his residence. He found on him, the following injury :

1. Lacerated injury frontal region centre 3 x 1 x 1 cm. in size.

Exhibit P. 10 is the copy of the accident register issued to him. He would opine that the said injury is simple in nature and could have been caused at the time and in the manner alleged.

c. At 8-30 p.m., he examined P.W. 2 for certain injuries said to have been caused on 8-9-1994 by four persons at Arangamangalam village by using casuarina stick. He found on him, the following injuries :

1. A contusion on the right forearm 2' x 2'.
2. Contusion on the right wrist 2' x 2'.
3. Abrasion on the left thigh upper 1/3rd 1' x 1.1.'

Exhibit P. 11 is the copy of the accident register issued to him. He would opine that the said injuries are simple in nature and could have been caused at the time and in the manner alleged.

d. He examined accused 5 at 8-35 p.m., for certain injuries said to have been caused on 8-9-1994 at about 3 p.m. at Mahalingam's house by knife. He found on him, the following three injuries :

1. Incised wound right frontal region 4' x 2' x bone depth.
2. Fracture of frontal bone seen.
3. Blood clot present.

Exhibit P. 36 is the copy of the accident register issued to him. He would opine that these injuries are grievous in nature and could have been caused at the time and in the manner alleged. He was admitted as an inpatient.

e. He examined accused 9 also at 8-50 p.m. for certain injuries said to have been caused to him on 8-9-1994 at 3 p.m., at Mahalingam's house by eight known persons by using knife. He found on him, the following three injuries :

1. A lacerated injury left angle of the mouth 4 x 2 x 1 c.m.
2. Lacerated wound on the forehead 2 x 2 cm.
3. Contusion left forearm backside 3' x 2'.

Exhibit P. 37 is the copy of the accident register issued to him. He would opine that injury No. 8 is grievous in nature and that the other injuries are simple in nature. He would further opine that those injuries could have been caused at the time and in the manner alleged. He was admitted as an inpatient.

4. He examined accused 3 at about 9 p.m. for certain injuries said to have been caused to him at about 3 p.m. on 8-9-1994 at Mahalingam's house by nine persons by using knife, sulukki, soolam. He found on him, the following three injuries :

1. An incised wound left frontal region 5' x 2' x bone deep. PFracture of the frontal bone, blood clots seen.

2. An incised wound left hand 5' x 2' x 1'.

3. A lacerated wound left arm 2' x 1'.

Exhibit P. 38 is the copy of the accident register, he issued to him. He would opine that injuries 1 and 2 are grievous in nature, while injury 3 is simple in nature. He would further opine that the said injuries could have been caused at the time and in the manner alleged. He was admitted as an inpatient.

16. P.W. 26, after reaching the scene village, inspected the scene of occurrence, in the presence of P.W. 20, the village Administrative Officer and his menial Panchamurthy. The time was then 9-30 p.m. He prepared Exhibit P. 22 observation mahazar. He also drew a rough sketch of the scene, Exhibit P. 42 at about 11-30 p.m., he seized knife (MO 2) lying near the house of deceased 2 under Exhibit P. 23 mahazar.

17. P.W. 1 and accused 1, stated to have been sent by the Sub-Inspector of Police, P.W. 25 to the Government Headquarters Hospital for treatment with medical memos, reached the said hospital, as below :

a. P.W. 1, was seen at 00-15 a.m. on 9-9-1994 by the doctor P.W. 14, who treated him for the injuries said to have been caused on 8-9-1994 at about 3 p.m. by two known persons by using Veecharuval. He found on him the following two injuries :

1. Incised wound on the eight elbow lateral aspect 4' x 3' x muscle depth. Bleeding profusely.

2. Incised wound left arm lateral aspect middle 2 x 1 cm.

Exhibit P.8 is the copy of the accident register, he issued to him, he would opine that the injuries found described therein are simple in nature and could have been caused at the time and in the manner alleged.

b. Accused 1 was seen by the doctor P.W. 14 at 1-05 a.m. on 9-9-1994 and treated him for the injuries said to have been caused on 8-9-1994 at about 3 p.m. near one Rajulu's house by one known person with knife and Veecharuval. He found on him the following injuries :

'(1) An incised wound centre of the forehead 2' x 1/2' x 1/2' superficial.

(2) An incised wound right side shoulder upper aspect 2' x 1/2' x 1/2'.

(3) An incised wound left side of the chest 1' x 1/2' x 1/2' near the inferamemory area'.

Exhibit P. 39 is the copy of the accident register. He would opine that those injuries are simple in nature and could have been caused at the time and in the manner alleged.

18. In the meantime, deceased 2, who was admitted as an inpatient, died at 00.55 a.m. Exhibit P. 6 is the death intimation.

19. (a) Between 00-30 and 2 a.m., P.W. 26 held inquest over the body of deceased 2. Exhibit P.43 is the inquest report. During inquest, he examined P.W. 1 and others. He handed over the body of deceased 2 to the Constable, P.W. 18 with a requisition, Exhibit P.2 for the purpose of autopsy. At 2-30 a.m., he seized cement flooring (MO 59), where the body of deceased 2 was lying under Exhibit P.24 mahazar. At about 3 a.m., he seized Veecharuval (MO 1), spade handle (MO 3), casuarina sticks. (MOs. 4 and 5), one ballpoint pen (MO 60) and one cover with letter addressed to one Vaithianathan (Accused 13) in front of the house of one Rajagopal, where the body of deceased was lying, under Exhibit P. 25 mahazar.

(b) Between 3-30 and 5 a.m., he held inquest over the body of deceased 1. Exhibit P.44 is the inquest report. During the said inquest, he examined P.W. 4 and others. After the inquest was over, he despatched the body of deceased 1 through

the Constable, P.W. 17, along with Exhibit P.34 requisition for the purpose of autopsy. At about 5 a.m. he seized bloodstained earth (MO 62) and sample earth (MO 63) in front of the house of the said Rajagopal, where the body of deceased 1 was lying under Exhibit P. 26 mahazar.

(c) Since P.W. 4 was found to be having certain injuries on his person, he was sent to the Government Hospital, Cuddalore, with a medical memo. At 5-45 a.m. PW 26 seized casuarina sticks (MOs 6 and 7), lying adjacent to the house of P.W. 1 under Exhibit P. 27 mahazar. He then received information that deceased 3, admitted as an inpatient at the Government Hospital, Cuddalore, expired in the early hours of the morning and consequently, he rushed and reached the Government Hospital, Cuddalore at 7 a.m.

(d) P.W. 4 was examined by the doctor, P.W. 15, then Civil Assistant Surgeon attached to the Government Headquarters Hospital, Cuddalore at 8-30 a.m. for certain injuries said to have been caused on 8-9-1994 at about 3 p.m. by four known persons, by assault with sticks. He found on him the following injuries :

'There was a contusion on the right leg 3 x 2 cm., upon it was an abrasion 2 x 1/2 cm. Complained of back pain. No external injury on the back. There was diffused contusion on the back.

Exhibit P.12 is the copy of the accident register, he issued. He would opine that the injury is simple in nature and could have been caused at the time and in the manner alleged.

(e) Between 7 and 9 a.m., P.W. 26 held inquest over the body of deceased 3. Exhibit P. 45 is the inquest report. He examined P.W. 7 and the wife of deceased 3, namely, Lakshmi and others. He sent the body of deceased 3 through the Constable, P.W. 19, along with Exhibit P.4 requisition for the purpose of autopsy. He also examined P.Ws. 2, 3, 5 and 6 at the hospital. He then returned and reached Vadalur Police Station at 9-50 a.m., wherein he was stated to have arrested accused 1, who was readily available there.

(f) At about 10-15 a.m., he took the photographer, P.W. 21 to the scene village. P.W. 21, in turn, took photographs of the various places of the scene of occurrence in 18 angles. M.O. 64 series are the photographs and MO 65 series are the negatives. At 10-30 a.m., he seized cycle (MO 12) in front of the milk depot located at Adi Dravidar Colony under Exhibit P. 28 mahazar.

(g) At 11-15 a.m., he seized from the house of P.W. 8 Aluminium Kundan (MO 19), aluminium Kundu two numbers (MO 20 series), aluminium Annakkoodai (MO 21), aluminium Idli Kundan with lid (MO 22), aluminium plate two numbers (MO 23 series), eversilver Bowl (MO 24), eversilver Cup (MO 25), eversilver tumbler two numbers (MO 26 series), eversilver Thavalai (MO 27), eversilver Kudam (MO 28), Wooden window frames (MO 29 series), broken window wooden slabs reapers (MO and 30 series), and Balappams (broken pieces 10 - MO 31 series) under Exhibit P.29 mahazar.

(h) At 12-15 p.m., he seized from the house of P.W. 7, eversilver Annakkoodai two in numbers (MO 13) eversilver Annakkoodai (MO 14), eversilver Thavalai (MO 15), Parai (used for measuring paddy (MO 16), a peice of iron thagadu (bureau plate MO 17), electric bulb shade (MO 18) under Exhibit P.30 mahazar.

(i) At 1 p.m., he seized from the house of P.W. 10, eversilver Kudam (MO 35), eversilver Annakkoodai (MO 36), eversilver Thavalai (MO 37), aluminium Annakkoodai three in number (MO 38 series). Thombai palagai (MO 39) switch board (MO 40) and cement window (MO 41) under Exhibit P. 31 mahazar.

(j) At 2 p.m. he seized from the house of one Vaithilingam (father of PW. 11), eversilver Kuvalai (MO 42), eversilver Bucket with lid (MO 43), eversilver Kinnam (MO 44), eversilver Cup (big) (MO 45), eversilver small Cup (MO 46), eversilver small Kuvalai (MO 47), aluminium Kundus (four in number MO 48 series), aluminium small kundis (two in number MO 40 series), aluminium Vadithattu (two in number MO 50 series) and broken piece of upper portion of mud pot (MO 51) under Exhibit P. 32 mahazar.

(k) At 3-15 p.m., he seized from the house of P.W. 9, aluminium Kundan (MO 32), aluminium small Kundan (MO 33) and broken Madras tiles-five pieces (MO 34

series) under Exhibit P.33 mahazar. Exhibits P.22 to P. 35 were (sic) at listed by PW. 20 and another. He then examined P.Ws. 8 to 11 and 17 to 20.

20. In the meantime, the autopsy of deceased 1 to 3 were held in the following order :-

(a) P.W. 12, the then Civil Assistant Surgeon attached to the Government Headquarters Hospital, Cuddalore, on receipt of Exhibit P. 2 requisition, held autopsy over the body of deceased 2 at 10.30 a.m. He found on the body of deceased 2, the following six external injuries :

(1) An incised wound left frontal region 4 x 1 x 1 cm.

(2) An incised wound left lateral canthus of left eye 3 x 2 x 1 cm., bone deep.

(3) An incised wound centre of the chin 5 x 2 cm. bone deep with fracture mandible midline.

(4) An incised wound left parietal region 5 x 1 cm.

(5) An incised wound left frontal region 3 x 1 x 1 cm.

(6) An incised wound left upper knee 1 x 3 cm x bone deep.

On internal examination, he found the following :

'Skull - On opening skull left frontal bone depressed fracture and left parietal bone fracture (depressed). Subdural haematoma the abovesaid two areas each 5 x 3 cm. size. Nasal bone fractured with haematoma size 4 x 2 cm. weight of the brain 1300 grams. Hyoid bone intact. No fracture in the chest. Exhibit P. 3 is the post-mortem certificate. He would opine that the deceased would appear to have died of brain stem injury and multiple fractures of skull and subdural haematoma due to the injuries sustained 18 to 20 hours prior to autopsy. He would further opine that the external injuries 1, 4 and 5, with their corresponding internal injuries were enough to cause death instantaneously. He would further opine that all the external injuries found described in Exhibit P.3 was possible by a knife, like Nos. 1 and 2.

(b) P.W. 13, the then Civil Assistant Surgeon attached to the Government Headquarters Hospital, Cuddalore on receipt of Exhibit P. 4, requisition, commenced autopsy over the body of deceased 3 at 11.30 a.m. He found on the said body the following four external injuries.

(1) Sutured wound 5 cm. in length over the left frontal region.

(2) Sutured wound 4 cm. in length over left parieto-occipital region.

(3) Contusion 4 x 3 cm. right forearm upper 1/3rd.

(4) Contusion 3 x 3 cm. over the left forearm upper 1/3rd.

On internal examination, he found the following :-

'On dissection of injury No. 3, fracture ulna right upper 1/3 with haematoma 150 gram. On dissection of injury No. 4, blood clots seen. Head - A linear fracture involving left parietal and temporal bone 4 cm in length. Membranes torn with subdural haematoma 500 grams present. Brain on cut section pale. Blood with clots 100 grams found in the base of skull. Thorax - No fracture of rib. Heart - Chambers empty. Lungs-Pale. Hyoid bone intact.'

Exhibit P.5 is the post-mortem certificate, he issued. He would opine that the deceased 3 would appear to have died of shock and haemorrhage due to injuries sustained 10 to 12 hours prior to post-mortem examination. He would further opine that injury No. 2, with the corresponding internal injuries is fatal enough to cause instantaneous death. He would also opine that external injury Nos. 1 and 2 with their corresponding internal injuries are possible by using the weapons like Nos. 4 and 2.

(c) P.W. 24, the then Civil Assistant Surgeon attached to the Government Headquarters Hospital, Cuddalore, on receipt of Exhibit P. 34 requisition, commenced autopsy over the body of deceased 1 at 12-30 p.m. He found on his body the following four external injuries :

'(1) A cut injury on left thigh 8 x 4 cm., exposing the muscles.

(2) A cut injury above the 1st one 4 x 2 cm.

(3) Lacerated injury of the left ear.

(4) Bleeding from the left ear, bleeding through both the nostrils'.

On internal examination, he found the following :

'Chest - No fracture - Lungs a Pale Heart - Four Chambers empty. Hyoid - Hyoid bone-intact. Abdomen - Stomach undigested food articles about 200 grams present. Liver, Kidney, Spleen - Pale. No blood in the partional cavity. Bladder - empty. Intestines - Distended with air and fluid. Skull lacerated injury of the scalp over the occiptial and both parietal region with multiple fracture of the occpitial and both the parietal bones. Brain-Lacerated injury of the brain over the above region with intracerebral haemorrhage.'

Exhibit P. 35 is the post-mortem certificate, he issued. He would opine that the deceased 1 would appear to have died of shock and haemorrhage due to multiple injuries sustained by him about 20 to 22 hours prior to autopsy. He would further opine that injury Nos. 1 and 2 are possible by weapons like Nos. 1 and 2, while injury No. 3 as well as other injuries mentioned in Exhibit P. 35 are possible by weapons like Nos. 3 to 7. He would further opine that the external injuries with the corresponding internal injuries, as described in Exhibit P. 35 are fatal enough to cause death instantaneously.

21. (a) After the autopsy of deceased 1 was over, the constable P.W. 17 recovered from the body of deceased 1, Dhoti (M.O. 8), Shirt (M.O. 9), Jatti (M.O. 52) and sleaveless banian (M.O. 53) under Form No. 95.

(b) The Constable, P.W. 18, after the autopsy over the body of deceased 2 was over, seized from the same Kaili (M.O. 10), Shirt (M.O. 11), Banian (M.O. 54) and underwear (M.O. 55) under Form No. 95.

(c) Likewise, the Constable, P.W. 19, after the autopsy over the body of deceased 3 was over seized from the same Shirt (M.O. 56), Dhoti (M.O. 57) and Jatti (M.O. 58) under Form No. 95.

22. On 9-9-1994, at about 9 p.m. P.W. 26. arrested accused 3, 8 and 9, at the Government Headquarters Hospital, Cuddalore. He then made arrangements for remanding them to judicial custody. On 10-9-1994, and 11-9-1994, he examined certain witnesses. On 13-9-1994, he examined the doctor, P.W. 14, with reference to the weapons of offence. Thereafter, he sent the requisitions, Exhibits P. 13 to P. 15 to the Judicial Magistrate No. III, Cuddalore for despatching the incriminating material objects to the Chemical Examiner for the purpose of examination.

23. P.W. 16 was the then Head Clerk attached to the Court of the Judicial Magistrate No. III, Cuddalore. On receipt of Exhibits P. 13 to P. 15, requisitions, all the incriminating material objects, pursuant to the directions of learned Magistrate, had been separately packed, sealed and sent to the Chemical Examiner for the purpose of examination under the originals of Exhibits P. 16 to P. 18, office copies of letters. Exhibits P. 19 and P. 20 are the reports of the Chemical Examiner, while Exhibit P. 21 is the report of the Serologist.

24. P.W. 26 took up the investigation of the case in Crime No. 353/94 also which had been registered by the Sub-Inspector of Police, P.W. 25, on a complaint given by accused 1 for alleged offences under Sections 324, 147, 148 and 341, I.P.C. The further investigation in both the Crime Numbers 352/94 and 353/94 was taken up by P.W. 23, then Inspector of Police, Vadalur on 19-9-1994. He, in turn, examined P.Ws. 12 to 14 and 24 and recorded their statements. Accused 2 was arrested on 4-11-1994, and sent to Court for remand. The rest of the accused, namely accused 4, 6 to 8, and 10 to 15 surrendered before Court on various dates.

25. The further investigation was taken up-by P.W. 27, Inspector of Police, Vadalur. He, in turn, on 8-12-1994, examined P.Ws. 14, 15 and 21 and recorded their statements. He, after completing the formalities of the investigation in Crime No. 352/94, filed a final report under Section 173(2), Cr.P.C. against accused 1 to 15 for alleged offences under Sections 147, 148, 448, 427, 326, 324; 323, 307 and 302 read with Sections 109 and 149, I.P.C. before the Judicial Magistrate No. III, Cuddalore on 9-12-1994. He was stated to have referred the case in Crime No. 353/94, as 'mistake of fact.'

26. On committal, learned Sessions Judge, South Arcot Vallalar Division, at Cuddalore framed charges against accused 1 to 15, as referred to earlier.
27. Accused 1 to 15, when questioned as respects the charges so framed, denied the same and claimed to be tried.
28. The prosecution, in proof of the charges so framed, examined P.Ws. 1 to 27, filed Exhibits P. 1 to P. 45, and marked M.Os. 1 to 65.
29. The accused, when examined under Section 313, Cr.P.C. as respects the incriminating circumstances appearing in evidence against them, denied their complicity in the crime. They did not, however, choose to examine any witness on their behalf. But, they were rest content in marking the remand reports of accused 3 and 1 (Exhibits D.1 and D.2), endorsements of return of the charge-sheet in Crime, No. 352/94 (Exhibits D.3 and D.4), pocket note book of P.W. 22 Ramanathan Grade I.P.C. (815) Ex. D-5 office copies of Travelling Allowance Bills relatable to P.W. 22 Ramasamy. H.C. 766, Natarajan H.C. 1323, and P.W. 25 Rathirapandian, Sub-Inspector of Police pertaining to the month of September, 1994, (Exhibit D.6 to D.8 and D.10), acquittance roll of vadalur Police Station for the month of September, 1994, (Exhibit D.9), bail order in Crl. M.P. No. 2029/94 on the file of Court of Session, South Arcot-Vallalar Division at Cuddalore dated 1-9-1994, (Exhibit D.11), medical memo book of Vadalur Police Station for the year 1994 (Exhibit D. 12), Counterfoil of medical memo relatable to P.W. 4 (Exhibit D-13), entry in the general diary dated 8-9-1994, (Exhibit D. 14), and replies received from District Police Office, Cuddalore and the Sub-Inspector of Police, (Law and Order), Vadalur in Crl.M. No. 2304 of 1995, on the file of Court of Session, South Arcot Vallalar Division, Cuddalore (Exhibits D-15 and D-16), on their side.
30. Learned Sessions Judge, South Arcot Vallalar Division at Cuddalore, on consideration of the materials placed on record and after hearing the arguments of learned counsel for the defence and learned Public Prosecutor, convicted and sentenced the accused, as stated above.
31. Mr. R. Shanmugasundaram, learned counsel for himself and on behalf of other learned counsel on record appearing for the appellants-accused would seek

to assail the conviction and sentence of the appellants-accused by pressing the following points :-

'(1) The first information, Exhibit P. 1, forming the basis of the case of the prosecution, which was stated to have been launched at 7 p.m., after a delay of four hours on the day of the occurrence, could not even have been so lodged and the materials available on record, if sifted and scanned in the proper perspective, would possibly point out, with so much of certainty, that it could have been lodged after an undue delay, far beyond the time, at which it was purported to have come into existence, with the sinister object of projecting a version, suiting to the needs and exigencies of the case of the prosecution, with so much of window-dressing; but, definitely show of reflecting the reality of the situation, abusing the powers of investigation, forgetting the fact that such powers had been given to the police for the purpose of ascertaining the truth and not for foisting of cases with evidence true or false, which might be available and thereby suppressing the genesis and origin of the occurrence.

(2) The version of the defence, as alleged to have been projected by accused 1, in his complaint, leading to the registration of a case in Crime No. 353/94 had not at all seen the light of the day, in the sense of marking of the day, in sense of marking of the said complaint and thereby making assiduous suppression thereof, but rest content in marking the carbon copy of the printed FIR - Exhibit P.41 - the so-called resultant product of the original complaint, containing the so-called requisite details as relatable to the occurrence.

(3) The ocular witnesses, either denying the presence of the injuries on the persons of accused or tending of offer explanation, in accordance with the needs of the case of the prosecution, are uttering lies on most material points and their evidence is, therefore, unreliable.

(4) The defence version, which explains injuries on the persons of the accused is rendered probable as to throw a doubt on the veracity of the case of the prosecution.

(5) The prosecution witnesses, besides being partisan in character, in the sense of belonging to one faction, are also interested, and therefore, their testimony cannot at all be safely relied upon to fasten or mulet criminal liability upon the accused.

(6) Two versions - one projected by prosecution and the other by the defence- each widely differing from the other; but arising out of the same transaction at the same time and place cannot at all be stated to reflect the reality of the situation. It is perhaps possible that one of the two version can be true or both the versions can be false, as being distorted versions. The police, under the extraordinary powers of investigation, could have done well to acquire all materials for ascertaining the truth and projecting the real version before Court, in the form of a positive report under section 173(2), Cr.P.C., besides filing a negative report as regards the other version appearing to be ex-facie false. If the police are unable to come to any definite conclusion and feel that both the versions are false, as being distorted versions of the occurrence, it is perfectly open to them to file a negative report under section 173 Cr.P.C.

(7) The investigation in this case is rather perfunctory and slipshod, besides being lopsided, in not scrupulously following the instructions contained in Clause 588-A of the Tamil Nadu Police Standing Orders, which resulted in causing prejudice to the case of justice.

32. Mr. R. Raghupathi, learned Additional Public Prosecutor would, however, repel such sub-missions.

33. There is no pale of controversy that there are two Mariamman temples in the scene village - one in the Caste Hindu locality and the other in the Harijan Colony. For sometime prior to the occurrence, which event happended on 8-9-1994, there was some sort of dispute with regard to the management and control over the hundial collections pertaining to the Mariamman temple located in the Harijan Colony. There were two groups in the colony, one headed by accused 3 - Nattanmai and he other headed by deceased 1-Nattanmai. The two warring groups claimed to have the management and control over the hundial collections of the said temple.

34. According to the prosecution, some two months prior to the occurrence, the dispute relating to the management and control over the hundi collections of the said temple was stated to have been settled by P.W. 1 - ex-President of the said village in favour of deceased 1 - Nattanmai group and as a consequence thereof, the group headed by accused 33 developed embittered relationship towards P. W. 1 and his family members. Two or three events or incidents were stated to have happened in the scene village, in which the accused participated causing damage mainly to P. W. 1's house and those incidents or events were stated to have happened on three days, namely, 16-8-1994, 17-8-1994, and 22-8-1994. Those incidents or events were stated to have been reported to the police and cases against the accused party were stated to have been registered and pending. Worthy it is to note here that the groups of Harijans in the colony of the scene village were supported by Caste Hindu people belonging to different communities. P. W. 1 and his relations supported the group headed by deceased 1, while accused 1 and 2, the other Caste Hindu supported yet another group of Harijans headed by accused 3. It is thus clear that there were two factions among colony people in the scene village, ably supported by Caste Hindus.

34-A. It is also to be noted that some of the accused, namely, accused 1, 3, 4, 9, and 15 and some others of their group were granted anticipatory bail in CrI. M.P. No. 2029 of 1994 by learned Sessions Judge, South Arcot Vallalar Division at Cuddalore (Vide; Exhibit D. 11) on condition that they shall report before the Judicial Magistrate No. III, Cuddalore, twice in a week on every Monday and Thursday at 10 a.m. Significant it is to note that the day of the occurrence was on Thursday.

(a) It is the case of the prosecution that the occurrence happened at 3 p.m. on 8-9-1994, by all Mr. M. Ranka, for Appellants.

Mr. T. Srinivasamoorthy, Additional Central Government Standing Counsel, for Respondents.