



ROC.No.3685-B/2017/F/MB

P.Dis.No.46/2017

Handwritten circled number 333.

CIRCULAR

Sub: Order of the Hon'ble Division Bench, Madurai Bench of Madras High Court, Madurai, dated 17.11.2016 passed in Crl.A(MD) Nos.73, 81, 82, 250 & 251 of 2016 and Crl.MP (MD) No.5487 of 2016 - Directions issued to circulate the order to all the Sessions Judges in the State - Circulated - Reg.

As directed, the Order dated 17.11.2016 made in Crl.A(MD) Nos. 73, 81, 82, 250 & 251 of 2016 and Crl.MP (MD) No.5487 of 2016 on the file of Madurai Bench of Madras High Court, Madurai, is communicated for information and compliance.

The aforesaid instructions shall be scrupulously adhered to.

Madurai Bench of Madras High Court, Madurai.
DATED: 24.10.2017

Additional Registrar General

To

1. All the Principal District Judges.
2. The Principal Judge, City Civil Court, Chennai.
3. The Chief Judge, Court of Small Causes, Chennai.
4. The District Judge - cum-Chief Judicial Magistrate, The Nilgiris at Uthagamandalam
5. The Chief Judge, Puducherry

With a request to communicate this Circular to all the Sessions Judges in your District.

6. The Director, Tamil Nadu State Judicial Academy, R.A.Puram, Chennai - 20
7. The Deputy Director, Tamil Nadu State Judicial Academy, K.Pudur, Alagar Koil Road, Madurai-2.
8. The Deputy Director, Tamil Nadu State Judicial Academy, Race Course, Coimbatore-18.
9. The Section Officer, F-Section, High Court, Madras.
10. The Record Keeper, A.D.Records, Madurai Bench of Madras High Court, Madurai.
11. The Record Keeper, A.D.Records, High Court, Madras.

ENDT.No.8109/JUD/CJ/J5/2017 Dt.27.10.2017: COPY COMMUNICATED TO ALL THE SESSIONS JUDGE IN THE UNION TERRITORY OF PUDUCHERRY.

Handwritten signature and date 30/10/17, and typed name (S) SELVANADHAN.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2016

CORAM:
THE HONOURABLE MR. JUSTICE S. NAGAMUTHU
AND

THE HONOURABLE MR. JUSTICE M.V. MURALIDARAN
CRL.A[MD].Nos.73, 81, 82, 250 and 251 of 2016
and
Crl.MP. (MD) .No.5487 of 2016

3685-B
F

Shanmugam : Appellant in Crl.A. (MD) .No.73 of 2016 [A-4]
Sivadoss : Appellant in Crl.A. (MD) .No.81 of 2016 [A-3]
Ramadoss : Appellant in Crl.A. (MD) .No.82 of 2016 [A-2]
Stalin : Appellant in Crl.A. (MD) .No.250 of 2016 [A-1]
M.Chellapandian : Appellant/De facto complainant in Crl.A. (MD) .No.251 of 20

Vs.

State, Rep by the Inspector of Police,
Madukkur Police Station,
Thanjavur District,
Crime No.206 of 2009.
: Respondent in CRL.A[MD].Nos.73, 81, 82 and 250 of 2016

1.State, Rep by the Inspector of Police,
Madukkur Police Station,
Thanjavur District, Crime No.206 of 2009.
: 1st Respondent/Complainant

- 2. Ramadoss
- 3. Sivadoss
- 4. Shanmugam

: Respondent Nos.2 to 4/Accused Nos.2 to 4

PRAYER IN CRL.A[MD].Nos.73, 81, 82 and 250 of 2016 : Appeals
Filed under Section 374(2) of the Code of Criminal Procedure praying
to set aside the Judgment and conviction dated 26.02.2016, made
S.C.No.71 of 2014, on the file of the Third Additional District
Sessions Judge, Pattukottai and acquit the appellents.

PRAYER IN CRL.A[MD].No.251 of 2016 : Appeal is filed under sect
372 of the Code of Criminal Procedure praying to set aside
Judgment dated 26.02.2016, made in S.C.No.71 of 2014, on the fil
he learned Third Additional District and Sessions Judge
Pattukottai and enhance the sentence imposed on the accused
and allow the appeal.

Crl.A. (MD) .Nos.73, 81 and 82 of 2016

For Appellants : Mr. S. Deenadhayalan
For Respondent : Mr. K. S. Duraipandian
Additional Public Prosecutor

Crl.A. (MD) .No.250 of 2016:-

For Appellant : Mr. N. Anandakumar
For Respondent : Mr. K. S. Duraipandian
Additional Public Prosecutor

Crl.A. (MD) .No.251 of 2016:-

For Appellant : Mr. Veera. Kathiravan
Senior Counsel
For Mr. R. Sureshkumar
For Respondent No.1 : Mr. K. S. Duraipandian
Additional Public Prosecutor
For Respondent Nos.2 to4 : Mr. S. Deenadhayalan

Crl.A. (MD) .No.250 COMMON JUDGMENT

[JUDGMENT of the Court was delivered by S.NAGAMUTHU, J]

The appellants in CRL.A[MD].Nos.73, 81, 82 and 250 of 2016 are the accused Nos.1 to 4 in S.C.No.71 of 2014, on the file of learned Third Additional District and Sessions Judge, Pattukkottai. The appellant in Crl.A. (MD) .No.251 of 2016 is the de facto complainant and a victim. The Trial Court framed as many charges, as detailed below.

Charge	Accused	Penal Provisions
1	1 to 4	120(B) IPC
2	1 to 4	294(b) IPC
3	1	302 IPC
4	4	342 IPC
5	2 to 4	307 r/w 34 IPC
6	1 to 4	352 IPC

The appellant is a victim. The Trial Court framed as many charges, as detailed below.

2. By Judgment dated 26.02.2016, the Trial Court acquitted the four accused from the charge under Section 120-B of the Penal Code, however, convicted them under the other charges detailed below:-

1 to 4	120(B) IPC
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Accused No.	Section of Law	Sentence of imprisonment	Fine amount
1	294(b) IPC	-----	Rs.1,000/- in default to undergo rigorous imprisonment for three months.
	352 IPC	-----	Rs.500/- in default to undergo rigorous imprisonment for one month.
	302 IPC	To undergo imprisonment for life.	Rs.10,000/- in default to undergo rigorous imprisonment for six months.
2 and 3	294(b) IPC	-----	Rs.1,000/- in default to undergo rigorous imprisonment for three months.
	352 IPC	-----	Rs.500/- in default to undergo rigorous imprisonment for one month.
	307 r/w 34 IPC	To undergo rigorous imprisonment for three years.	Rs.5,000/- in default to undergo rigorous imprisonment for six months.
4	294(b) IPC	-----	Rs.1,000/- in default to undergo rigorous imprisonment for three months.
	352 IPC	-----	Rs.500/- in default to undergo rigorous imprisonment for one month.
	307 r/w 34 IPC	To undergo rigorous imprisonment for three years.	Rs.5,000/- in default to undergo rigorous imprisonment for six months.
	342 IPC	To undergo rigorous imprisonment for one year.	Rs.1,000/- in default to undergo rigorous imprisonment for one month.

The sentences have been ordered to run concurrently. Challenging said conviction and sentence, the appellants/accused Nos.1 to 4 come up with CRL.A[MD].Nos.73, 81, 82 and 250 of 2016 challenging the acquittal of the accused Nos.1 to 4 from the charge under Section 120-B of the Indian Penal Code, the de facto complainant/a victim, has come up with CRL.A[MD].No.251 of 2016. That is how, all these Criminal Appeals are now before us for disposal.

3. The case of the prosecution, in brief, is as follows:-

The deceased, in this case, was one Mr.Velmurugan. PW-1 is a resident of Aavikkottai Village in Dindigul District. PW-2 and the deceased are the sons of PW-1. They were also residing with PW-1 at Aavikkottai Village. Two months prior to 06.07.2009, all the accused were found drinking liquor in the borewell shed of PW-1. PW-1 questioned the same. This resulted in an ill-feeling between PW-1 and the accused. This is stated to be the motive for the occurrence. PW-1 is challenging the acquittal of the accused Nos.1 to 4 from the charge.

3.2. It is further alleged that on account of the said motive all these four accused had conspired. [What was the conspiracy has not been stated in the charge]. On 06.07.2009, in connection with the Maigai Vinayagar Temple Festival at Aavikkottai Village a music programme was arranged by the villagers. In order to participate in the same, PW-1 and PW-2 along with the deceased went to the said temple around 09.00 PM. The organizers had ropes to regulate the crowd. When PW-1 and PW-2 along with the deceased were going in the line along with the rope, suddenly, these four accused emerged. They approached PW-1, PW-2 and the deceased menacingly. All the four accused shouted at PW-1, PW-2 and the deceased abusing them in filthy language. On reaching them, it is alleged that the first accused had stabbed the deceased with a knife at seven places on his body. When PW-2 intercepted, with a view to rescue the deceased, the fourth accused caught him hold. The second accused stabbed him with a knife on his head and neck. The third accused stabbed PW-2 with knife on his buttocks and shoulders. PW-1 intervened. All the four accused kicked him on the legs and fisted him with hands. PW-1 also fell down. PW-2 and the deceased had already fallen in a pool of blood. All these four accused ran away from the scene of occurrence. PW-1 and PW-2 raised an alarm. The people in the crowd also witnessed the occurrence.

3.3. Immediately, thereafter, with the help of others, PW-1 took the deceased and PW-2 to the Government Hospital at Mannarkudi. After treatment for some time, the doctors in the said hospital advised PW-1 to take PW-2 and the deceased to a private hospital at Dindigul. Accordingly, PW-2 and the deceased were taken to Vinothakan Memorial Hospital at Thanjavur, where they were admitted as in-patients. Since PW-1 had sustained only minor injury, he was treated as out-patient.

alarm. The people in the crowd also witnessed the occurrence.

3.4. On getting intimation from the hospital, PW-15, the the Head Constable, attached to the Madukkur Police Station, rushed to the Vinothakan Memorial Hospital, at 10.30 AM, on 07.07.2009. Since the deceased and PW-2 were unconscious, he waited in the hospital and thereafter, he came to know that at 11.20 AM, the deceased succumbed to the injuries in the hospital. Thereafter, PW-1 recorded the statement of PW-1 at 11.45 AM. On returning to the Police Station, at 01.00 PM, he handed over the said statement to the Sub-Inspector of Police.

3.5. PW-14, the then Sub-Inspector of Police, on receipt of the said statement, [vide EX-P1] registered a case in Crime No.206 of 2009, under Sections 294(b), 342, 323, 307 and 302 of the Indian Penal Code. EX-P14 is the First Information Report. Then, PW-14 forwarded both the documents to the Court and handed over the investigation to the Inspector of Police.

3.6. Taking up the case for investigation, at 03.00 PM, on 07.07.2009, PW-16 proceeded to the Vinothakan Memorial Hospital, Thanjavur, where he conducted inquest on the body of the deceased. EX-P15 is the inquest report. Then, he went to the place of occurrence, prepared an Observation Mahazer and a Rough Sketch showing the place of occurrence in the presence of the witnesses. He recovered bloodstained earth and sample earth from the place of occurrence. Then, he forwarded the dead body for postmortem.

3.7. PW-11 - Dr.K.G.Padmanaban conducted autopsy on the body of the deceased on 07.07.2009. EX-P10 is the postmortem certificate. He noticed the following injuries:-

External Injuries:

1. Surgically made midline laprotomy wound seen over the front of abdomen 19 cm above and 6 cm below the umbilicus.
2. Sutured cut injury measuring 4 x 2 cm x muscle deep seen over the left side of the neck.
3. Sutured laceration measuring 9 x 1 cm x bone deep seen over right dorsum of wrist joint region.
4. Sutured cut injury measuring 5 x 2 cm x bone deep seen over the palmar aspect of right hand below the right thumb.
5. Intercostal drain seen over the right side of the deceased ~~on 07.07.2009. EX-P15 is the postmortem certificate.~~ lateral wall of chest in the 5th intercostal region (for treatment purpose).
6. Surgically made drainage wound seen over the right flank (for treatment purpose).
7. Sutured laceration measuring 3 x 2 cm x bone deep over left side of hip region with underlying left pubis iliac crest bone fracture with surrounding contusion.
8. Abrasion reddish brown in colour measuring 6 x 1 cm seen over lateral aspect of left arm.

9. Sutured stab injury seen on top of left shoulder measuring 2 x 1 cm x muscle deep.

10. Sutures stab injury seen over the right back of abdomen in renal area measuring 4 x 2 cm x peritoneal cavity depth.

11. Sutured stab injury seen over the right upper gluteal region measuring 2 x 1 cm x muscle deep.

He gave opinion that the death of the deceased was due to shock and hemorrhage due to multiple injuries involving the vital organ right kidney.

3.8. On 08.07.2009, near Sirankudi Branch Road, PW-16 arrested all the four accused in the presence of PW-9 and another witness. On such arrest, all the four accused gave voluntary confessions one after the other. PW-16 recorded the same. In his confession, the first accused disclosed the place, where he had hidden three knives. In pursuance of the same, the accused took the police and the witnesses to the hide out and produced three knives [MO-1 to MO-3]. PW-16 recovered the same under a mahazer. On returning to the Police Station, PW-16 forwarded the accused to the Court for judicial remand. He also handed over the material objects to the Court. PW-16 examined many sutured witnesses and recorded their statements.

3.9. Thereafter, the investigation was continued by PW-17. He examined the doctors, who treated PW-2 and the deceased and collected the medical records, including the postmortem certificate. At his request, the material objects were sent for chemical examination. The report revealed that there were human bloodstains on all the material objects, including the knives - MO-1 to MO-3. On completing the investigation, he laid charge sheet against the accused.

3.10. Based on the above materials, the Trial Court framed charges [erroneously], 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, on the side of the prosecution, 17 witnesses were examined, 18 documents and five material objects were marked. Out of the said 17 witnesses, PW-1 and PW-2 have vividly spoken about the entire occurrence as eye-witnesses. They also sustained injuries in the very same occurrence. PW-1 has spoken about the complaint made by him, after the demise of the deceased.

3.11. PW-3 has stated that when he was in temple, he heard about the occurrence, came to the place of occurrence and found PW-1, PW-2 and the deceased with injuries. He has further stated that he found all the four accused fleeing away from the scene of occurrence. At that time, the accused Nos.1 to 3 were armed with knives and the fourth accused was armed with an iron rod. PW-4 has stated that he was also present in the temple at the relevant point of time. He heard the alarm raised and rushed to the place of occurrence. According to him, the accused Nos.1 to 3 were armed with

knives and the fourth accused was armed with an iron rod. PW-5 has turned hostile and he has not supported the case of the prosecution in any manner. PW-6 has also stated that when he was in the temple, he heard the alarm raised and immediately, he rushed to the place of occurrence. At the place of occurrence, he found all the accused fleeing away from the scene of occurrence. He has further stated that the accused Nos.1 to 3 were armed with knives and the fourth accused was armed with an iron rod.

3.12. PW-7 has stated that after hearing about the occurrence, he went to the place of occurrence and with the help of others, he took PW-1, PW-2 and the deceased to the Government Hospital at Mannarkudi. He has further stated that as advised by the doctor, he took PW-2 and the deceased to the Vinothakan Memorial Hospital, Thanjavur and admitted them as in-patients. PW-9, the then Village Administrative Officer, who was expected to speak about the arrest of all the four accused, disclosure statements made by the first accused and the recovery of the material objects - MO-1 to MO-3 from the hide out, on the disclosure statement made by the first accused, had not supported the case of the prosecution in full. Still, he was not treated as hostile.

3.13. PW-10, Dr.D.Jeyaprakash, has stated that on 06.07.2009, at 09.00 PM, when he was on duty at Vinothakan Memorial Hospital, Thanjavur, the deceased was brought to him for treatment. At that time, the deceased was fully conscious. He told him that he was attacked by three known persons with knives. There were as many as seven stab injuries found on the body of the deceased. He has further stated that despite efforts taken, the deceased succumbed to the injuries, on 07.07.2009 at 11.20 AM. He examined PW-2, who was also brought for treatment. He inspected number of stab injuries on his body. The injuries were simple in nature. EX-P9 is the Accident Register.

3.14. PW-11 has spoken about the autopsy conducted by him and his final opinion regarding the cause of death. PW-12, a Forensic Expert, has stated that he examined the material objects at the Regional Forensic Lab at Dindigul and found human bloodstains on all the material objects, including the knives - MO-1 to MO-3. PW-13, Dr.R.Manjula, has stated that at 11.30 PM, on 06.07.2009, when she was on duty at the Government Hospital, Mannarkudim, PW-2 was brought to her for treatment. At that time, the deceased was conscious. He told that when he was travelling in a motorcycle, three persons stabbed him with knives. She found number of stab injuries on the body of the deceased. Since the injuries were serious in nature, according to her, she referred PW-2 to the Thanjavur Medical College Hospital for further treatment. EX-P12 is the Accident Register. She has further stated that on the same day, at 11.35 AM, she examined the deceased. He also told that he was attacked by three known persons with knives. She found cut injuries and an abrasion on his body. She referred him to the Thanjavur Medical College Hospital.

3.15. PW-14 has spoken about the statement recorded from PW-1. [Vide EX-P1], on 07.07.2009 at 11.20 AM. PW-15 has spoken about the registration of the case, on the complaint made by PW-1. PW-16 and PW-17 have spoken about the investigation conducted by them and the filing of final report.

3.16. 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. However, they did not choose to examine any witness nor to exhibit any document. Their defence was a total denial. Having considered all the above materials, the Trial Court convicted the appellants, as detailed in the first paragraph of this Judgment and punished them accordingly. That is how, the appellants are now before this Court with this Criminal Appeal.

4. We have heard the learned Senior Counsel appearing for the appellants, the learned Additional Public Prosecutor appearing for the State, the learned counsel appearing for the de facto complainant and also perused the records carefully.

5. Though the learned counsel on either side made elaborate submissions, touching upon the merits of the evidences available on record, we are unable to go into the same, as we are totally dissatisfied with the charges framed by the Trial Court. Therefore, let us, at the first, examine the correctness of the charges framed in the case by the Trial Court.

6. The first charge framed against all the four accused is under Section 120-B of the Indian Penal Code simplicitor. The Trial Court had failed to take note that the Section 120-B of the Indian Penal Code consists of two sub-sections, which read as follows:-

"120-B. Punishment of criminal conspiracy.-

(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, [imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both".

7. A reading of Sub-Section (i) of Section 120-B of the Indian Penal Code would make it clear that for quantum of punishment to be imposed for the offence of conspiracy falling within the ambit of Sub-Section (i) of Section 120-B of the Indian Penal Code is traceable to the main offence as enumerated in the said provision itself as though the accused had abetted such offence. For example,

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if the conspiracy was to commit murder, the charge should be under Section 120-B r/w Section 302 of the Indian Penal Code. If he is found guilty of conspiracy, he shall be punished either with death sentence or imprisonment for life and with fine, which is the punishment for murder.

8. Now, turning to Sub-Section (ii) of Section 120-B of the Indian Penal Code, if the conspiracy is to commit any other offence, other than the offences enumerated in sub-Section (i) of Section 120-B of the Indian Penal Code, then, the punishment for the said offence is imprisonment of either description for a term not exceeding six months, or with fine or with both. At any rate, the charge should specifically state as to whether it is under Sub-Section (i) of Section 120-B of the Indian Penal Code or Sub-Section (ii) of Section 120-B of the Indian Penal Code and it should indicate as to what was the main offence that was abetted.

9. In the instant case, the Trial Court had not indicated in the charge as to whether it was for an offence under Sub-Section (i) of Section 120-B of the Indian Penal Code or Sub-Section (ii) of Section 120-B of the Indian Penal Code and it has not indicated the main offence, which was abetted, [conspired]. Thus, the charge framed against the accused under Section 120-B of the Indian Penal Code simplicitor is highly defective and it does not conform to Section 211 of the Code of Criminal Procedure.

10. The second charge framed by the Trial Court is against all the four accused, under Section 294(b) of the Indian Penal Code. This would indicate that all the four accused had common intention among themselves. The third charge framed by the Trial Court is against the first accused alone under Section 302 of the Indian Penal Code, on the allegation that he had stabbed the deceased seven times on his body and caused his death. It is the positive case of the prosecution, as culled out from the police report and the documents filed therein, that all the four accused came together to the place of occurrence, armed with weapons, they together approached the deceased, menacingly and all the four accused shouted at the deceased, PW-1 and PW-2 in abusive language. It was only in the same transaction, it is alleged that the first accused had stabbed the deceased and caused his death.

11. From the above, it is inferable that all the four accused had gone there with the common intention of causing the death of the deceased. From the police report, it cannot be inferred that the first accused had his own intention to cause the death of the deceased which was not shared with the other accused. The police report clearly indicates that all the four accused went together, all armed with weapons and in the same transaction, the first accused caused the death of the deceased by stabbing him seven times. When that be so, the Trial Court ought to have framed charges against the accused Nos. 2 to 4 under Section 302 r/w Section 34 of the Indian Penal Code, as they together approached the deceased, menacingly and all the four accused shouted

the Indian Penal Code. But, unfortunately, the Trial Court framed any such charge, by invoking Section 34 of the Indian Code, against the accused Nos.2 to 4.

12. The fifth charge is against the accused Nos.2 to 4. Section 307 r/w Section 34 of the Indian Penal Code. It is the allegation that the fourth accused caught hold PW-2, accused Nos.2 and 3 stabbed him with knives. When the Trial Court had invoked Section 34 of the Indian Penal Code to frame a charge against the three accused, it is quite shocking that the Trial Court had declined to invoke Section 34 of the Indian Penal Code to frame a charge against the accused Nos.2 to 4 for the offence of murder also. Further, it is not as though the first accused had no intention with the accused Nos.2 to 4, when the accused Nos.2 to 4 had stabbed PW-2. Therefore, the Trial Court ought to have framed a charge against the first accused also under Section 307 r/w Section 34 of the Indian Penal Code.

13. From the above discussion, it is crystal clear that the Trial Court had failed to frame appropriate charges as required by law. Now-a-days, we have come across several such cases where charges have not been framed, properly, as dealt with in Section XVII of the Code of Criminal Procedure. This is largely due to the fact that there is no such practise in many of the Sessions Courts in the State for the Public Prosecutors to open the case, as required by Section 226 of the Code of Criminal Procedure Code.

14. Section 226 of the Code of Criminal Procedure follows:-

226. Opening case for prosecution. When the accused appears or is brought before the Court in pursuance of the commitment of the case under section 209, the prosecutor shall open his case by describing the charge brought against the accused and stating by what evidence he proposes to prove the guilt of the accused.

15. The above provision contained in Section 226 of the Code of Criminal Procedure is seldom followed by the Public Prosecutors. It is mostly ignored. The Trial Courts also, we are informed, insist upon the Public Prosecutor concerned to open the case as mandated in Section 226 of the Code of Criminal Procedure, and to state the charges to be brought against the accused. Only after hearing the Public Prosecutor and after perusing the records, the Court has to either frame charge against the accused or discharge him, as provided in the Code of Criminal Procedure. Since this practice has been almost done away with in many of the Sessions Courts, we have seen that most of the cases are being tried without appropriate charges, resulting ultimately in miscarriage of justice. This has become a common event. We regret for this scenario.

hopeful that the Sessions Judges would at least hereinafter meticulously follow Section 226 of the Code of Criminal Procedure.

16. As we have come to the conclusion that the charges have not been framed properly and since we have already found that there has occurred failure of justice on account of the same, as provided in Section 464 of the Code of Criminal Procedure, we deem it appropriate to remand back the case to the Trial Court with a direction to frame appropriate charges, after affording sufficient opportunity to the parties and then to pass fresh Judgment, for which we are bound to set aside the conviction and sentence imposed on the accused Nos.1 to 4 and also the acquittal of the accused under Section 120-B of the Indian Penal Code. Since we are inclined to remand the matter back to the Trial Court, we refrain ourselves from entering into the domain of appreciation of the evidence let in by the prosecution. The observations, which we have made hereinabove, are not based on the evidence let in by the prosecution, but, on the basis of the police report and the documents filed therewith. Therefore, any of the observations, which we have made hereinabove, shall not influence the Trial Court, except to the limited extent of framing appropriate charges by the Trial Court and the Trial Court shall dispose of the case independently on appreciating the evidence afresh.

17. In the result, CRL.A[MD].Nos.73, 81, 82 and 250 of 2014 filed by the accused Nos.1 to 4 are allowed, the conviction and sentence imposed on the accused Nos.1 to 4 are set aside; CRL.A[MD].No. 251 of 2016 filed by the de facto complainant against the acquittal of the accused Nos.1 to 4 from some of the charges is, also allowed and the case in S.C.No.71 of 2014, on the file of the learned Third Additional District and Sessions Judge, Pattukottai, is remanded back to the Trial Court for fresh disposal in accordance with law. The Trial Court shall alter the charges, appropriately, as indicated in the Judgment, afford sufficient opportunity to the prosecution to let in additional evidence, if any, either oral or documentary and also allow the prosecution to recall any witness examined already for the purpose of further examination. Similarly, the Trial Court shall allow the accused Nos.1 to 4 to recall any witness already examined by the prosecution for the purpose of further cross-examination and allow the accused Nos.1 to 4 to let in evidence on their side, either oral or documentary. At any rate, the Trial Court shall dispose of the case within a period of six months from the date of receipt of a copy of this Judgment. Consequently, connected Miscellaneous Petition is closed.

18. Since the first accused was on bail during the period of trial, he is ordered to be released on bail, pending disposal of S.C.No.71 of 2014, on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the Trial Court and the Third Additional District and Sessions Judge, Pattukottai, subject to a further condition that

shall report before the said Court, on all the hearing dates, till the disposal of S.C.No.71 of 2014, unless his personal appearance is dispensed by the Trial Court.

Sd/-

Assistant Registrar(RTI)

/True Copy/

23/1/17
Sub Assistant Registrar

To:

1. The Third Additional District and Sessions Judge, Pattukottai.

2. -Do- Through the Principal District Judge, Thanjavur

3. The Chief Judicial Magistrate, Pattukottai

4. -Do- Through the Chief Judicial Magistrate, Thanjavur @ Kumbakonam.

5. The Superintendent of Central Prison, Tiruchirapalli.

6. The Inspector of Police Madukkur Police Station, Thanjavur District.

Sub Assistant Registrar

7. The Commissioner of Police Thanjavur.

8. The District Collector, Thanjavur.

9. The Director General of Police, Chennai

10. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

Copy to:

1. The Registrar General, High Court, Madras.

2. The Registrar(Judicial), Madurai Bench of Madras High Court, Madurai

3. The Section Officer, F-Section, Madurai Bench (For Follow-up).

4. The Section Officer, Criminal Section, Madurai Bench.

+3cc to Mr S. Deenadhayalan, SR Nos 70334, 70335, 70336

+2cc to Mr R. Suresh Kumar, SR Nos 70516, 70131

+1cc to Mr N. Ananda Kumar, SR No 70632.

nb

ms/pm/am/18.01.2017/12p.21c

PRE-DELIVERY JUDGMENT MADE IN

CRL.A[MD].Nos.73, 81, 82, 250 and 251 of 2016

17.11.2016