

A STATE BY INSPECTOR OF POLICE, TAMILNADU

v.

N. RAJAMANICKAM AND ORS.  
(Criminal Appeal No.668 of 2002)

B SEPTEMBER 16, 2008

[DR. ARIJIT PASAYAT AND DR. MUKUNDAKAM  
SHARMA, JJ.]

C *Criminal trial – Conviction by trial Court – Acquittal by High Court on the grounds that there was delay in lodging FIR, that the testimony of witness was not credible and serious injuries on accused were not explained – Interference with – Held: Singularly, these factors may not have adverse effect on prosecution version – But when combined effect of these factors are considered, case not made out for interference.*

D **Prosecution case was that charge-sheet was filed against 16 persons. Trial Court convicted 6 persons. The convicted accused filed appeal while informant filed revision petition questioning the acquittal of rest of accused persons. High Court found that the evidence of PW-1 lacked credibility and allowed the appeal filed by the convicted accused persons and dismissed the revision petition filed by the informant.**

E **In appeals to this Court, appellant-State contended that the factors which weighed with the High Court to direct acquittal had no legal basis.**

F **Dismissing the appeals, the Court,**

G **HELD: Delay in receipt of the FIR and the connected documents in all cases cannot be a factor corroding the credibility of the prosecution version. But that is not the only factor which weighed with the High Court. Added to that, the High Court noted the artificiality of the evidence of PW-1 and the non-explanation of injuries on the ac-**

cused persons which were very serious in nature. The combined effect of these factors certainly deserved consideration and the High Court rightly emphasized on them to hold that the prosecution has not been able to establish the accusations. Singularly, the factors may not have adverse effect on the prosecution version. But when a combined effect of the factors noted by the High Court are taken into consideration, the inevitable conclusion is that these are cases where no interference is called for. [Para 7] [598 F-H, 599-A]

CRIMINAL aPPELLATE JURISDICTION : Criminal Appeal No. 668 of 2002

From the Judgment and Order dated 28.9.2001 of the High Court of Judicature at Madras in Crl. Appeal No. 235 of 1994

S. Thananjayan, V.J. Francis, V. Balu, A. Radhakrishnan and Anupam Mishra for the Appellant.

R. Shunmugashunaram, P. Vajravel, M. Babu, S. Prabu Ramasubramanian, Rakesh K. Sharma and Dr. R. Prakash for the Respondents.

The Judgment of the Court was delivered by

**DR. ARIJIT PASAYAT, J.** 1. Heard learned counsel for the parties.

2. Leave granted in S.L.P.(Crl.) No.1636 of 2002.

3. Criminal Appeal No.668 of 2002 has been filed by the State questioning correctness of the judgment of a learned Single Judge of the Madras High Court. The appeal filed by the respondents (hereinafter referred to as 'the accused') was allowed while the criminal revision petition filed by PW-1, the brother of the deceased was dismissed by the impugned judgment. Originally, 16 persons were named in the charge-sheet. Out of them, one had died and one was absconding. The rest 14 persons faced trial. The Trial Court convicted 6 out of them who had faced trial. Those six persons preferred the criminal

A appeal while the informant filed the revision petition question-  
ing the acquittal of rest of the accused persons. The High Court  
found that there were certain vital factors which rendered the  
prosecution version improbable. Some of the factors noted are  
B the delayed despatch and receipt of the FIR and connected  
documents in the court of Magistrate. The non-explanation of  
injuries on some of the accused persons was held to be of con-  
sequence. It was held that there was a clash amongst the mem-  
bers of complainant party and the accused persons over politi-  
cal factors. The High Court noted that there was no explanation  
C offered for the delayed receipt of the FIR and connected docu-  
ments, Exhs. P-1 and P-22. Added to that, the High Court found  
that the evidence of PW-1 lacked credibility and cogency. With  
these observations, the High Court allowed the appeal filed by  
the convicted accused persons and dismissed the revision  
D petition filed by the informant.

4. In support of the appeals, learned counsel for the appel-  
lant-State and the informant submitted that the factors which  
weighed with the High Court to direct acquittal have no legal  
basis.

E 5. Learned counsel for the respondents, on the other hand,  
supported the judgment of the High Court.

6. It is to be noted that A-8, who was one of the accused-  
respondents had died in the meantime.

F 7. Delay in receipt of the FIR and the connected docu-  
ments in all cases cannot be a factor corroding the credibility of  
the prosecution version. But that is not the only factor which  
weighed with the High Court. Added to that, the High Court has  
noted the artificiality of the evidence of PW-1 and the non-ex-  
G planation of injuries on the accused persons which were very  
serious in nature. The combined effect of these factors certainly  
deserved consideration and, according to us, the High Court  
has rightly emphasized on them to hold that the prosecution has  
not been able to establish the accusations. Singularly, the fac-  
H tors may not have adverse effect on the prosecution version.

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But when a combined effect of the factors noted by the High Court are taken into consideration, the inevitable conclusion is that these are cases where no interference is called for. The appeals are, accordingly, dismissed. A

D.G.

Appeals dismissed. B