

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28/11/2002

Coram

The Honourable Mr.Justice N.DHINAKAR
and
The Honourable Mr.Justice F.M.IBRAHIM KALIFULLA

Criminal Appeal No.677 of 1997
and
Criminal Appeal No.680 of 1997

1. Mehboob Batcha
2. S.Parthasarathy
3. Jaffer Sadique
4. Karunanidhi ... Appellants in Crl.A.No.677/1997
5. A.Ibrahim Sheriff
6. B.Jayaraman : Appellants in
Crl.A.No.680/1997

-Vs-

State represented by
Superintendent of Police,
C.B.C.I.D., Madras.
(In Crime Nos.160/1992 and
162/1992 of Annamalai Nagar
Police Station) ... Respondent in both the appeals

Prayer: Appeals against the judgment dated 4.9.1997 in Sessions Case No.99 of 1993 delivered by the Principal Sessions Judge, Cuddalore.

!For Appellants in : Mr.S.Shanmugavelayutham
both the appeals

^For Respondent : Mr.M.S.Kandasamy
Special Public Prosecutor

:J U D G M E N T

(Judgment of the court was delivered by N.DHINAKAR, J.)

Criminal Appeal No.677 of 1997 is by A3, A6, A8 and A10 and Criminal Appeal No.680 of 1997 is by A1 and A2, in Sessions Case No.99 of 1993 on the file of the Principal Sessions Judge, Cuddalore. Since both the appeals arise out of a single Sessions Case, they are disposed of by the following common judgment.

2. In this judgment, the appellants in CrI.A.No.680 of 1997 will be referred to as accused 1 and 2 (A1 and A2) and the appellants in CrI.A.No.677 of 1997 as accused 3, 6, 8 and 10 (A3, A6, A8 and A10) respectively in the order they were arrayed before the learned Sessions Judge, for the sake of convenience. The appellants were tried along with 5 others, who were acquitted and in this judgment, they will be referred to as A4, A5, A7, A9 and A11 in the same order as they were arrayed before the learned Sessions Judge.

3. The allegation against the appellants in the above two appeals and the acquitted accused is that they being members of a special team of police officers, formed to nab the culprits involved in various offences of theft in and around Chidambaram, wrongfully confined Nandagopal from the early hours of 30.5.1992 till 2.6.1992 and during the course of such wrongful confinement, they caused injuries on Nandagopal by beating him with sticks and also gang-raped Padmini, P.W.1, who is the wife of Nandagopal, during the said period and later, prepared documents to make it appear that Nandagopal was actually arrested at 5.30 p.m. on 2.6.1992, and thereby committed various offences.

4. The learned Sessions Judge framed a charge against A3 to A5, A7 to A9 and A11 under Section 343 IPC under Charge No.1 and under Charge No.2, A1 and A2 were charged for the said offence with the aid of Section 109 IPC. A1 to A5, A7 to A9 and A11 were charged under Charge No.3 framed under Section 348 IPC and under Charge No.4, A1, A3, A4, A6 to A9 and A11 were charged under Section 324 IPC for causing injury to Nandagopal. Under Charge No.5, A1, A3, A4, A6 to A9 and A11 were charged under Section 330 IPC. Charge Nos.6 to 25, which were framed against various accused, ended in acquittal and therefore, we are not giving the details of the said charges. Under Charge No.26, A1, A3, A6, A8 and A10 were charged under Section 354 IPC for outraging the modesty of Padmini, P.W.1, by asking P.W.3, Kolanji @ Rajendran, who was a co-under-trial prisoner, to remove the saree of P.W.1. Charge Nos.27 and 28 ended in acquittal and we are, therefore, not giving the details of the charges. Charge No.29 was framed against A1 to A3, A6, A8 and A10 under Section 376(2)(a)(i)(ii)(iii)(b)(g) IPC for gang-raping on Padmini. Under Charge No.30, A1, A3, A4, A6, A7 and A9 were charged under Section 218 IPC for preparing incorrect records and under Charge No.31, A2, A5 and A10 were charged under Section 218 IPC for preparing incorrect records by registering a case in Crime No.159/1992 in Annamalainagar Police Station under Sections 41 and 102 Cr.P.C. against Nandagopal. Charge No.32 was framed against A1, A3, A4, A6 to A9 and A11 under Section 220 IPC for wrongfully confining Nandagopal, P.W.1, P.W.3, P.W.4 and P.W.5 and Charge No.33 was framed under Section 220 r/w 109 IPC against A2, A5 and A10 for abetting the other accused.

5. The learned Sessions Judge, while convicting A3 and A8 under

Charge No.1 as well as A1 and A2 under Charge No.2 for the offences under Sections 343 IPC and 343 r/w 109 IPC respectively, did not impose any separate sentence upon them. Under Charge No.3 framed under Section 348 IPC, A1 to A3 and A8 were convicted and each of them was sentenced to suffer rigorous imprisonment for three years and to pay a fine of Rs.5000/- with a default sentence of one year rigorous imprisonment. Under Charge No.4, A1, A3 and A6 were convicted under Section 323 IPC for causing injury to Nandagopal and each one of them was sentenced to undergo rigorous imprisonment for one year. For the offence under Section 330 IPC framed under Charge No.5, A1, A3, A6 and A8 were convicted and each one of them was sentenced to suffer rigorous imprisonment for three years and to pay a fine of Rs.5000/- with a default sentence of one year rigorous imprisonment. A3, A6, A8 and A10 were convicted under Charge No.26 framed under Section 354 IPC, and each one of them was sentenced to undergo rigorous imprisonment for two years. The learned Sessions Judge also found A3, A6, A8 and A10 guilty under Section 376(2)(a)(i)(ii)(iii)(b)(g) IPC framed under Charge No.29 and sentenced each one of them to undergo ten years rigorous imprisonment and to pay a fine of Rs.5000/- with a default sentence of one year rigorous imprisonment, while A1 and A2 were acquitted of the said charge. Under Charge No.30, A1 alone was convicted for the offence punishable under Section 218 IPC, while A3, A4, A6, A7 and A9 were acquitted, and A2 was found guilty under Charge No.31 framed under Section 218 IPC while A5 and A10 were acquitted. A1 and A2 were sentenced, each to suffer rigorous imprisonment for three years under Charge Nos.30 and 31 respectively. For the offence under Section 220 IPC framed under Charge No.32, A1, A3, A6 and A8 were found guilty and sentenced each to suffer rigorous imprisonment for three years and under Charge No.33 framed under Section 220 r/w 109 IPC, A2 alone was found guilty and on being convicted, he was sentenced to undergo three years rigorous imprisonment. Hence, the present appeal by the convicted accused.

6. The case of the prosecution shorn of unnecessary details can be briefly summarised as follows:- During the relevant period, there were thefts in and around Mariappan Nagar and Annamamalai in Chidambaram Town and therefore, the law enforcing agency decided to form a special party to apprehend the culprits, who are engaged in committing thefts. Accordingly, a special team was formed under P.W.29, who was working as Circle Inspector of Police, Chidambaram Town Police Station. A1, the Sub-Inspector of Police of Chidambaram Town Police Station, A3, the Head Constable of Chidambaram Town Police Station, A4, a police constable of Kumaratchi Police Station, A6, a police constable of Killai Police Station, A7, a police constable of Puthur Police Station, A9, a police constable of Kolathur Police Station, and A11, a police constable of Sethiathope Police Station, were the other members of the team. A8 and A10, during the relevant time, were working as police constables at Annamalai in Chidambaram Town Police Station. A2 was the Sub-Inspector in the said police station. The said team was formed by the Assistant Superintendent of Police, Mahali.

7. P.W.1, Padmini, during the relevant period, was working as a sweeper at Government Hospital, Pennadam, and she was residing at Kalliammamkoil Street in Annamalai in Chidambaram Town. She was married to one Palanivel; but, she was separated from Palanivel and later, she developed intimacy with Nandagopal, who was also working as a sweeper in a college at Annamalai in Chidambaram Town.

P.W.1 and Nandagopal married at a temple and later, left for Madras only to return four months thereafter to Chidambaram. After returning from Madras, P.W.1 came to know that Nandagopal is already a married man and she also started residing with Nandagopal along with his first wife Palaniammal. While they were residing so, quarrels arose between P.W.1 and Palaniammal and a complaint was given at Annamalai Nagar Police Station by the said Palaniammal. The police called the parties and advised them to live separately and therefore, P.W.1 went away from her husband's house and took residence at Kaliammankoil Street in Annamalai Nagar. Nandagopal used to visit her regularly and one such visit was on 29.5.1992.

8. On 29.5.1992, Nandagopal and P.W.1 were sleeping in the house and at about 3.00 a.m. on 30.5.1992, A3, A6 and A8 went there. A8 caught hold of the tuft of Nandagopal and P.W.1 questioned A8 for his behaviour. A8 informed P.W.1 that two persons are already in custody and her husband will be released after enquiry. They took away Nandagopal from the house. P.W.1 pleaded with A3, A6 and A8 not to beat her husband. After the day-break, P.W.1 went to Annamalai Nagar Police Station, which was nearer to the house of her mother-in-law. She took coffee to the police station, which was prepared in her mother-in-law's house, with a view to give it to Nandagopal. She met P.W.8, who was working as a sweeper in the police station. She questioned P.W.8 as to why her husband is not let out and he informed her that the enquiry is yet to commence. P.W.1, therefore, went to meet her advocate, who was residing at Chidambaram. The house of the advocate was found locked and therefore, she met his clerk, P.W.9. She narrated to him as to what transpired on the early hours and sought his help; but, P.W.9 sent her away saying that it being a Saturday and the following day being a Sunday, he will not be able to do anything for the release of Nandagopal. P.W.1 was, therefore, returning and on the way, met A6 and A8. On seeing A6 and A8, she became panicky and once again, went to the house of the advocate and met another clerk of the advocate, P.W.10, to whom, she narrated the facts. She has expressed her apprehension and the clerk asked her to stay in the house. After some time, she left the house of the advocate clerk, P.W.10, and reached her house. She returned to P.W.10's house in the evening and met the advocate, P.W.11, who was working as junior under one Venkatraman. This was at 8.30 p.m. She narrated the incident to him and he advised her not to go to her house and asked her to sleep in somebody's house. P.W.1 went to her neighbour's house and took her bed.

9. On 31.5.1992, which was a Sunday, Balaraman, the younger brother of Nandagopal, came to the house and asked P.W.1 to take coffee to her husband Nandagopal. P.W.1 was reluctant to go to the police station, as she was afraid of the police officers; but, Balaraman insisted her to go to the police station to take care of her husband. P.W.1, therefore, went to her mother-in-law's house and her mother-in-law advised her to go to the police station with coffee. P.W.1 went to the police station with coffee and requested one of the police constables, who was seen by her, to give the coffee to her husband. The police constable told her that her husband will be let off and also informed her that her husband was beaten in the night. P.W.1, while returning from the police station, met one Vijaya, who tried to beat her, saying that her husband had also been taken by the police officers

at P.W.1's instance. At that time, P.W.1 saw A8 coming by that side and seeing A8, she started running. A8 commented that she is running because she is afraid of him. At about 1.00 p.m. on the same day, A3 and A6 went to the house of P.W.1 and beat her on her buttocks. She was dragged to an auto, which was parked outside, and was pushed into it. When she was taken into the auto, she found P.W.5 and Nandagopal sitting inside with handcuffs. P.W.1 also sat by their side. The auto went to Annamalainagar Police Station. P.W.1 was asked to enter the police station and she was beaten by A6. Thereafter, 4 or 5 police officers surrounded and beat her and as a result of the beating, her blouse was torn. Someone also pulled her blouse and she was told that she will not tolerate any more beating and was asked to sit. She sat down. Two women police constables came shortly thereafter and thinking that she will be let off, she informed them that she had taken oleander seeds. The two women police constables gave her water mixed with soap and tamarind and compelled her to drink. She took her bed at the police station along with the two women police constables.

10. On 1.6.1992, after the day-break, two women police constables went away from the police station and P.W.1 was given coffee by her sister-in-law's daughter. she also took idlies; but, she was not in a position to talk. Nandagopal, seeing P.W.1, questioned her as to why she had come to the police station, when he is already being beaten by the police officers. P.W.1 pacified Nandagopal and told him that he will be let off. A6, seeing P.W.1 and Nandagopal talking with each other, pushed Nandagopal after beating him, into the lock-up. She also saw A2, A3 and A5. P.W.1 was given palatable food; but the food, which was given to Nandagopal, was found to be poor in quality. Therefore, P.W.1 gave her food to Nandagopal and on seeing this, A1 beat P.W.1 with a lathi. On the evening of 1.6.1992, she heard the police officers talking among themselves that Rs.50/ is to be given to a party and one of the police officers asked them as to why there should be a party. A police constable was seen whispering in the ears of the other police officers. Thereafter, the police officer, who questioned others as to why there should be a party, left the place, after telling them that they are also people born with sisters. At about 8.00 p.m., Nandagopal was brought out and A6 suggested that someone must strip the saree of P.W.1. They brought out P.W.3 from the lockup and directed him to strip P.W.1's saree. P.W.3 refused to do so and he was beaten by A1 and sent away to verandah. A3 stripped the saree of P.W.1 and she was made to stand with inner skirt and blouse. A1, A3, A6, A8 and A10 stripped her saree as well as the blouse and made her naked. They also beat her saying that she must run. She fell down on receiving the blows. All the 5 police officers dragged her and kissed her. A10 beat her on her private part with a lathi, after using filthy language. P.W.1 requested the police officers not to beat her. Someone was seen entering the police station to give a complaint and therefore, P.W.1 was advised not to raise her voice. The police officers went to the front side of the police station and P.W.1 covered herself with the saree. Two women police constables came there and to them, she narrated her harrowing experience. They told P.W.1 that she will not be beaten thereafter. P.W.1 went and took her bed in a room, along with the two women constables.

11. On the morning of 2.6.1992, Senthil, P.W.1's sister-in-law's son,

brought coffee and on the evening, Nandagopal was taken out and brought back to the police station along with P.W.14, the sister of Nandagopal, and P.W.13, the husband of P.W.14. P.W.13 was questioned as to the availability of a tape-recorder and he showed a bill. The police officers threatened him that he is telling a lie and also informed him that they have already stripped P.W.1's saree and if tells a lie, the saree of his wife will also be stripped. They asked Nandagopal and P.W.13 to remove their shirts and after the removal of the shirt of Nandagopal, P.W.1 noticed injuries on Nandagopal's body. A1, A3, A6, A8 and A10 beat Nandagopal and later, P.Ws.13 and 14 were sent away. After the sunset, two women police constables came to the police station and one of the police officers at the police station asked them, whether they had seen the film, 'Semparuthi' and thereby, suggested that they can go to the cinema. P.W.1 pleaded with the two women police constables to take her along with them. The two women police constables left the police station after telling P.W.1 that no harm will be caused to her. After the two women police constables left the police station, at about 10.30 p.m., Nandagopal was brought from the lock-up room to the verandah and P.W.1 was also taken there. Nandagopal was asked to lean on the wall and he was beaten. A6 pulled the saree of P.W.1 and A10 pulled her blouse and skirt and she was made naked. She was also beaten and was pushed off. A2, thereafter, raped P.W.1 followed by A3, A6, A8 and A10 and all of them, at the time of committing rape, were wearing condoms. This gang-rape was in the presence of Nandagopal, who was all the time pleading with the police officers not to cause any harm to his wife. A6 beat the private part of the Nandagopal with a lathi and he fell down. He was asking for water. P.W.1 covering herself with the saree, attempted to give water to Nandagopal; but, the police officers surrounded and told her that unless she gives kiss to everybody, she will not be permitted to give water to Nandagopal. P.W.1 was, thereafter, forced to give a kiss each to all the police officers; but, she was not allowed to give water to her husband as the tumbler, which she was carrying, was pushed away. The officers once again wanted to commit rape and P.W.1 pleaded with them to leave her alone. P.W.1 fell at the feet of A6 and bit his leg. A6 kicked her. On account of gang-rape, P.W.1 suffered injuries on her private part and on her breast. She fell unconscious and on regaining consciousness, she found that she was scantily dressed. She wanted to find her husband; but, the police officers told her that her husband was already taken to court. P.W.1 was taken out of the police station and made to board a van. She was then sent to Chidambaram Town Police Station, where she was given breakfast and coffee. While she was at Chidambaram Town Police Station, the police officers left, leaving one woman police constable, who informed P.W.1 that as there is a rioting, the police officers have gone out. She also informed P.W.1 that someone was beaten to death at Annamalai nagar Police Station. P.W.1 cried and she was allowed to go out. P.W.1, on coming out of Chidambaram Town Police Station, boarded an auto near Mariamman temple and the auto-driver asked her whether she is the wife of Nandagopal. When she replied in the affirmative, the auto-driver informed her that Nandagopal was beaten to death by the police officers and advised P.W.1 not to go there. P.W.1 went to court to find out whether her husband was taken to court, where she heard people discussing about the death of Nandagopal. The auto-driver took P.W.1 to the office of the Tahsildar, P.W.26. She informed the persons, who were there. They told her that all the officers have gone out in connection with the death of

Nandagopal and asked her to take her seat. She went to Annamalainagar Police Station, where she found a huge crowd. She started shouting that they have not only committed rape on her, but also murdered her husband. A10 was present there and he was beaten with slippers by P.W.1. P.W.21, the Revenue Divisional Officer of Chidambaram, who was present there, asked her as to what transpired. P.W.1 started explaining her harrowing experience and when she commenced her narration, she became unconscious. P.W.21, therefore, sent her to the doctor along with two women and she appeared before P.W.6, Civil Assistant Surgeon, Government Hospital, Chidambaram. P.W.6 examined her and she complained of pain all over her body. She alleged that the police officers have misbehaved with her and that she was also beaten with a lathi on the external genitalia. She was treated as an out-patient, as she was not willing to be treated as an in-patient. P.W.1 returned to Annamalainagar Police Station and continued her narration. P.W.21 recorded the said narration by typing it, in which she affixed her signature and the said statement stands marked as Ex.P-1 in the case. P.W.1 later went to her father-in-law's house, where she found the dead body of Nandagopal. Some persons belonging to a political party also reached the house of her father-in-law to whom, she narrated the whole episode. They advised her to give a petition and accordingly, she gave a petition, Ex.P-2, to P.W.21, requesting him to send her to the hospital. She was, therefore, sent to the doctor and P.W.6 once again examined her at about 11.30 p.m. on the basis of the requisition, Ex.P-9, issued by P.W.21. She was admitted in Gynecological

Ward. Ex.P-9 is a copy of the accident register issued by the doctor. The doctor was informed that she was made to run without saree and that she was also asked obscene questions.

12. At about 7.00 p.m. or 7.30 p.m. on 4.6.1992, P.W.18, the Professor of Obstetrics and Gynecology, Raja Muthiah Medical College Hospital, Annamalainagar, Chidambaram, examined her and to the doctor, P.W.1 informed that she was raped by five policemen on the night of 2.6.1992 at Annamalainagar Police Station. On examination, the doctor found multiple nail scratches around the breast and on examining the abdomen, it was found to be soft. P.W.1 complained of severe pain in her private part and therefore, P.W.18 conducted speculum examination and noted multiple abrasions on vagina and servix which is the end of uterus. She found discharge of foul-smelling fluid coming from vagina and took vaginal smear which was sent for examination. The report was received and it indicated that the vaginal smear contained plenty of pus cells and epithelial cells. The doctor issued Ex.P-19, her certificate, with her opinion that the multiple nail scratches on the chest and the abrasions on the vagina may be due to gang-rape.

13. After the return from the hospital on 5.6.1992, P.W.1 gave a petition, Ex.P-3, to the District Superintendent of Police. The District Superintendent of Police sent a police constable to the house of P.W.1 and questioned her; but, no action was taken on that. Later, the police officer came to her house and she narrated the whole incident, which was reduced into writing. She affixed her signature in the complaint, which is Ex.P-4. The said complaint was given to the Assistant Superintendent of Police, Mahali,

and on 7.6.1992, the said Assistant Superintendent of Police endorsed the said complaint to P.W.31, the Sub-Inspector of Police of Chidambaram Town Police Station. On the basis of Ex.P-4, a case in Crime No.162 of 1992 under Section 34 1 and 376(b) IPC was registered and as the accused were police officers, the report was sent to the Collector. Ex.P-74 is a copy of the printed first information. Investigation was taken up by P.W.34, the Inspector of Police of Bhuvanagiri, who was in-charge of Chidambaram Town Police Station. Immediately on taking up investigation, he altered Crime No.160 of 1992, which was registered under Section 174 Cr.P.C., to one under Sections 302, 149, 343, and 341 r/w 34 and 109 IPC and the express report in the altered crime is Ex.P-79. He also altered the Sections in Crime No.162 of 1992 by preparing express report, Ex.P-80, after adding Sections 343, 149, 114 and 109 IPC. The express reports were sent to Judicial Magistrate, Chidambaram. P.W.34 reached the scene of occurrence and prepared an observation mahazar, Ex.P-81, and a rough sketch, Ex.P-82, as regards Annamalainagar Police Station, which is the scene of occurrence. At 3.00 p.m. on 18.7.1992, P.W.34 arrested A1 to A5 and they were sent to court for remand on 19.7.1992.

14. Further investigation was taken up by P.W.36, Inspector of Police, C.B.,C.I.D. On taking up investigation, P.W.36 seized the saree, inner skirt and the blouse produced by P.W.1, which were marked as M.Os.1 to 3 in the trial court, under Form 95, which is Ex.P-52. He also sent M.Os.6 and 7 seized by P.W.34, to Judicial Magistrate No.1, Chidambaram. He sent 10 material objects to the said Magistrate under Ex.P-66. At 7.30 p.m. on 4.9.1992, P.W.36 arrested A6 and at 1.00 p.m. on 5.9.1992, A7 was arrested and they were sent to court for remand. He issued a requisition to the Judicial Magistrate for conducting test identification parade.

15. On receipt of the requisition, P.W.22, Judicial Magistrate, Portnovo, conducted test identification parade in respect of A1 to A5 on 13.8.1992. P.W.1 correctly identified A1, A2 and A3; but, she could not identify A4 and A5. Ex.P-31 are the proceedings prepared by him. At the time of identification parade, the accused informed the Judicial Magistrate that they were already shown to the witness. On 14.8.1992, another test identification parade was conducted by him in respect of A6, A7, A8 and A9 and P.W.1 correctly identified A6 and A8. The proceedings prepared by the learned Magistrate are Ex.P-28. The learned Magistrate also conducted test identification parade as regards A10 and A11 on 16.11.1992. P.W.1 could not attend the identification parade as she was not well since she was suffering from chest pain. A memo Ex.P-30 sent by her was recorded. But, the other witnesses, who appeared on that day, could not identify the accused. P.W.23, Judicial Magistrate No.2, Chidambaram also conducted a test identification parade in respect of A1 to A5 with a view to enable P.W.2 to identify. He identified A3 and A4 and the proceedings are Ex.P-40.

16. In the meantime, on the orders of the High Court, investigation was taken up by P.W.37, who was then the Superintendent of Police, C.B.,C.I.D. The investigation was also monitored by the High Court. On 29.7.1992, P.W.37 proceeded to Chidambaram and visited Annamalainagar Police Station and she returned to Madras on 30.7.1992, as she was not able to record the statement of P.W.1, since she was not available. On 7.8.1992, P.W.37 examined P.W.1 and

recorded her statement and on 11.8.1992 and she went to Chidambaram to continue her investigation and in Chidambaram, she examined P.Ws.3 to 5 and 14 and recorded their statements. P.Ws.3 to 5 were sent for medical examination. On 12.8.1992, she examined P.Ws.6, 8, 13, 16, 18 and others and their statements were recorded. A saree, a petticoat and a blouse collected by P.W.37, were sent for chemical examination. She examined P.Ws.2, 12, 34 and some others and recorded their statements. M.Os.6 and 7 produced by the Inspector of Police, Subbannan, were seized and they were sent to court for analysis. She also requested the services of a scientific assistant from Cuddalore for inspecting the scene of occurrence. On 14.8.1992, she examined P.W.19 and others. On 15.8.1992, she examined P.W.32 and on 26.8.1992, P.Ws.9, 10 and 11 were examined and their statements were recorded. P.Ws.20 and 21 were questioned and their statements were recorded on 29.8.1992. On 22.9.1992, she further examined P.W.2 and on 23.9.1992, P.W.18 was further questioned. P.W.37 also questioned P.W.16, Civil Assistant Surgeon, Government Hospital, Chidambaram, who conducted post-mortem on the body of Nandagopal on the requisition issued by P.W.21, the Revenue Divisional Officer, and obtained the post-mortem certificate, Ex.P-10, in which the following injuries are found noted:-

- 1.A rope like ligature mark centre of neck encircling obliquely upwards. Right to left neck with knot like mark on right neck. (Size about ½" in width - Rope mark). Middle lateral aspect. Underlying skin dry parchment in colour.
- 2.An abrasion 1 x 1 cm left cheek.
- 3.An abrasion 3 x 1 cm right hip anterior.
- 4.An abrasion 2 x 1 cm left leg middle anterior.
- 5.An abrasion 3 x 1 cm right leg middle anterior.
- 6.An abrasion 2 x 1 cm left arm shoulder posterior lower.
- 7.An abrasion 2 x 1 cm right arm shoulder posterior lower.
- 8.An abrasion 2 x 1 cm left elbow antero-medial.
- 9.An abrasion 2 x 1 cm right elbow posterior lower.
- 10.An abrasion 3 x 1 cm right scrotum lower antero-lateral. No underneath haemotoma injuries are ante-mortem in nature.
- 11.Tongue bitten in between the teeth partially protruded outside.

The post-mortem certificate contains the final opinion of the doctor that Nandagopal died of asphyxial death due to atypical hanging about 10 to 24 hours prior to post-mortem.

17. On 1.10.1992, on receipt of a Government Order for a second medical opinion, the body of Nandagopal was exhumed in the presence of P.W.26. The body was subjected to further post-mortem. D.W.2 and his team, who issued Ex.D-16, the post-mortem certificate, opined that the death was due to suicidal hanging. The accused were sent for potency test and after completing the investigation, the final report was filed against the accused on 18.11.1992.

18. The accused were questioned under Section 313 Cr.P.C. on the incriminating circumstances appearing against them and they denied the circumstances. The accused examined D.W.1, a court clerk, to show that one

Balakrishnan voluntarily helped P.W.1, as a criminal case was pending against him on an allegation that he attacked police officials. The accused also examined D.W.2, Professor and Head of the Department of Forensic Medicine,

Thanjavur Medical College, Thanjavur, who conducted the second post-mortem on the body of Nandagopal, which was exhumed, to show that the death of Nandagopal was due to suicidal hanging and not due to homicidal violence.

19. The learned counsel appearing for the appellants/accused in both the appeals contend that since the said Balakrishnan was involved in a criminal case on the allegation that he has beaten the police officers, the whole case was shaped at his instance, by P.W.1 and if there had been a gang-rape on her by the accused on the night of 2.6.1992, she would have mentioned the said fact to P.W.6, the doctor, before whom she appeared, after she was sent there by P.W.21, Revenue Divisional Officer, Chidambaram. It is his further submission that since P.W.6 did not find any external injury on P.W.1, there could not have been a gang-rape on the night of 2.6.1992 and that Ex.P-1 given by her is bereft of many details and the evidence of P.W.1 in court is an improvement on her earlier version given to the investigating agency and under the above circumstances, the accused are to be acquitted.

20. The Special Public Prosecutor, per contra, contends that Ex.P-1, which is the statement given by P.W.1 to P.W.21, cannot be easily brushed aside. In any event, the evidence of P.W.1 shows that she was gang-raped on the night of 2.6.1992 and her evidence is also supported and corroborated by other particulars as brought out through the other witnesses. We have perused the entire recorded evidence, which was read to us, and have also given our anxious consideration to the rival contentions.

21. It is the case of the prosecution that Nandagopal was taken from the house at 3.00 a.m. on 30.5.1992 by A3, A6 and A8 and when questioned by P.W.1, who was present there, she was informed that he is being taken for some enquiry. It is the further case of the prosecution that P.W.1 went to the police station taking coffee for her husband on 2.6.1992 and that she was detained at the police station and gang-raped on that night, after the two women police constables have left for a cinema theatre to see a movie. According to the prosecution, on the morning of 3.6.1992, P.W.1 was transferred from Annamalainagar Police Station, where she was gang-raped, to Chidambaram Police Station and while she was at the police station, she came to know about the death of a person at Annamalainagar Police Station and therefore, she left the police station only to be informed by an auto driver that her husband is dead and thereafter, she went to the court and later to the office of the Tahsildhar and then to Annamalainagar Police Station, where she met P.W.21, the Revenue Divisional Officer, to whom she gave a statement, Ex.P-1. The evidence of P.W.1 is to the effect that on reaching Annamalainagar Police Station, she found a huge crowd and also several police officers standing there and A10 was one among them. On seeing A10, P.W.1 beat him with slippers shouting that the police officers have not only raped her, but also murdered her husband. P.W.1 was questioned by P.W.21 and she narrated the incident, which was typed. After commencing her statement, she could not continue as she was feeling giddy. She was, therefore, sent to the

doctor, P.W.6, along with two women. She appeared before P.W.6 at 2.00 p.m. and to the doctor, she alleged misbehaviour by the police. Though the doctor advised her to get herself admitted, she refused and returned to Annamalainagar Police Station and continued with her narration. In the said statement, Ex.P-1, which was narrated to P.W.21, she has given necessary details as regards the incidents, which happened between 3.00 a.m. on 30.5.1992 and the time, she met P.W.21.

22. The contention of the learned counsel is that Ex.P-1 does not contain all the graphic details of the harrowing experience of P.W.1, which she had given in court and there are omissions in Ex.P-1. According to him, in her evidence, P.W.1 has stated that three police officers came to the house on the early hours of 30.5.1992 and took her husband, whereas in her statement, Ex.P-1, she has stated that about 10 police officers came and removed her husband Nandagopal. The learned counsel also submits that though P.W.1 has, in her evidence, claimed that the police officers have used condoms while they gang-raped her, she did not mention the said fact in the statement, Ex.P-1. The learned counsel also submits that P.W.1 did not mention about her meeting the advocate clerk, P.W.9, and on the contrary, she has stated in her statement, Ex.P-1, that she went to the office of the advocate and met him, which is contradictory to the present version given by her in court. The learned counsel further submits that P.Ws.9 and 10 have stated that P.W.1 met them on 29.5.1992, whereas the present case of the prosecution is that they were met by P.W.1 on 30.5.1992. To say the least, the above omissions and contradictions, on which the learned counsel has placed reliance, are too trivial in nature and they do not affect the substratum of the prosecution version. The fact remains that on the early hours of 30.5.1992, Nandagopal was taken from the house and P.W.1 was present at that time. The question whether Nandagopal was taken by three police officers or by 10 police officers, does not matter and it also does not matter whether she met the advocate or his clerk on 30.5.1992. The evidence of P.W.1 and the statement, Ex.P-1, indicate that Nandagopal was taken away from his house on the early hours of 30.5.1992 and P.W.1 was taking steps to get her husband released from the police station, by meeting the advocate and his clerks on 30.5.1992. In our view, the evidence of P.Ws.9 and 10 that P.W.1 met them on 29.5.1992 could only be on account of lapses in their memory, since it is nobody's case that Nandagopal was taken away by the police officers on 29.5.1992. We do not attach much importance to the contradiction as to the date given by P.Ws.9 and 10. A perusal of Ex.P-1 indicates that she has mentioned the necessary details. She has also mentioned in the said statement that she was raped by the police officers and concluded it by saying that her husband could not have committed suicide and he must have been murdered. She has also requested the authorities to take action against those who are responsible for committing the murder of her husband on that day. This plea of P.W.1 in the statement, Ex.P-1, gives an insight as to the state of mind of P.W.1 at the time she gave the said statement to P.W.21.

23. It is to be remembered that after P.W.1 was brutally gang-raped on the night of 2.6.1992 at Annamalainagar Police Station, she was transferred in a van to Chindambaram Town Police Station on the morning of 3.6.1992, where she came to know about the death of a person at Annamalainagar Police Station.

After coming out of Chidambaram Town Police Station and on seeing P.W.10 in the crowd, who was standing in front of Annamalainagar Police Station, she slapped him with slippers by shouting that they have not only raped her, but also committed the murder of her husband. So, P.W.1, at that time, was under the impression that her husband was murdered by the police officers and therefore, she was bent upon giving details as regards the attack on Nandagopal and the statement, Ex.P-1, was given to P.W.21 not with a request to take action against the persons who are responsible for gangrape; but, the said statement was given with a request to bring those who are responsible for the murder of Nandagopal to book. In the above situation, one cannot expect P.W.1 to give the graphic details of gang-rape committed by the men in uniform in the police station on the night of 2.6.1992.

24. In the above background, when we look at the evidence of P.W.6, we do not find fault with P.W.1 for not informing him that she was gang-raped. The evidence of P.W.1 clearly shows that though P.W.1 did not allege gang-rape at that time, she, in fact, gave the outline of her suffering by telling the medical officer that the police officers misbehaved with her. The word 'misbehaviour' used by P.W.1 is only an euphemism for rape, since at that time, P.W.1 was more particular to bring the police officers responsible for the death of her husband to book and her intention was not to seek action against the police officers for the gang-rape. P.W.6 has, in his evidence, also stated that though he advised P.W.1 to admit herself in the hospital, she refused to do so and therefore, she was treated as an out-patient. No importance can be attached to the evidence of P.W.6 that he did not find any injury on P.W.1. In his cross-examination, he has admitted that when he wanted his staff lady nurse Susheela Rajarajan to examine her genital part, it was contended that there is no external injury on the genital part, which means P.W.1 was not willing to subject herself for thorough examination as she was more interested in going back and meeting the Revenue Divisional Officer, P.W.21, to give the details as to what transpired at the police station. P.W.6 has, in fact, admitted that the staff lady nurse Susheela Rajarajan was asked by him to examine P.W.1 thoroughly in his presence, which means P.W.1 could not have been subjected to thorough examination by the lady in the presence of P.W.6, who happens to be a male. Therefore, no importance can be attached to the evidence of P.W.6 that there was no complaint of rape on her, by P.W.1.

25. P.W.18, the doctor, who examined P.W.1 on 4.6.1992, has, in her evidence, stated that she found several multiple nail scratches on the chest and abrasions on the vagina and that scratches and abrasions on the chest and the vagina could have been on account of gang-rape. She also told the medical officer at that time that she was gangraped by 5 policemen on the night of 2.6.1992. In the statement, Ex.P-1, P.W.1 has also mentioned about the gang-rape committed on her, though she did not give all the graphic details. The statement of P.W.1 given at the earliest opportunity to P.W.21, the Revenue Divisional Officer, before she could not get any help or advice from any quarters, also shows that she was raped on the night of 2.6.1992. Therefore, the minor omissions and contradictions found between her evidence and Ex.P-1 do not affect the prosecution version that P.W.1 was gangraped at Annamalainagar Police Station on the night of 2.6.1992.

26. P.W.1, when examined in court, stated that at 3.00 a.m. on 30.5.1992, A3, A6 and A8 took away her husband and that she later went to Annamalainagar Police Station and met P.W.8, a sweeper, who told her that her husband will be released after the enquiry. Though P.W.8 was examined to corroborate P.W.1, he turned hostile; but, he has admitted that he was working as a sweeper at the police station on the relevant date. The evidence of P.W.1 that thereafter, she was taking steps to get her husband Nandagopal released from the custody of the police, is supported by P.W.9, who was the clerk of the advocate. Both P.Ws.9 and 10 have stated that P.W.1 sought their help to get her husband released and P.W.10 informed that nothing could be done as 30.5.1992 happens to be a Saturday and 31.5.1992 is a Sunday. It was on 31.5.1992, she was taken to the police station in an auto, in which she also found P.W.5 and Nandagopal. This evidence of P.W.1 is corroborated by P.W.15, who has, in his evidence, stated that he was an auto-driver in the month of May and June, 1992 and about 5 years prior to the date of his giving evidence in court, he had taken two accused and police officers in his auto and that the police officers recovered two ceiling fans at Gandhinagar and thereafter, they went to Thiruvakkulam and took a woman in the auto to Annamalainagar Police Station. At the police station, according to P.W.1, she was surrounded by 4 or 5 persons and her blouse was pulled and torn. She has further deposed that in order to escape from the custody of the police, she has informed the two women police constables, who had come there, that she has consumed oleander seeds and the two women police constables made her drink water mixed with soap and tamarind. She took her bed in a room at the police station, along with the two women police constables. On the morning of 1.6.1992, the two women police constables left the police station and thereafter her husband was beaten and A6, after beating her husband, pushed him into the lock-up, where P. Ws.2, 3 and 5 were also seen. She has further stated that since the food supplied to her husband was poor in quality, she gave her food, which was given to her, to which A1 beat her. It is her further evidence that the police officers were seen whispering among themselves and when one police officer asked as to what is happening, he was informed that for a party to be conducted on that night, Rs.50/- is to be collected and the said police officer left the police station after asking them as to whether they have sisters at home. At about 8.00 p.m., according to P.W.1, Nandagopal was brought out of the lock-up and P.W.3 was asked to pull her saree, to which P.W.3 refused and for that, A1 beat him. Thereafter, A3 pulled her saree and later, her inner skirt and blouse were also removed and she was made to stand naked. According to her, she was made to run and each police officer gave her a kiss and A10 gave a blow on her private part causing an injury. She informed this incident to the two women police constables, after their arrival; but, they told her that she will not be subjected to such cruelty any more. According to P.W.1, on the morning of 2.6.1992, coffee was brought to her by her sister-in-law's son and her husband was taken out and he was brought later along with P.Ws.13 and 14. P.Ws.13 and 14 were also questioned about a tape-recorder and when they pleaded ignorance, the officers threatened P.W.13 that the saree of his wife will also be removed as they removed the saree of Padmini, P.W.1. P.W.1 also noted injuries on the body of her husband. Her evidence that P.Ws.13 and 14 were brought to the police station is supported by the two witnesses. According to P.W.1, at about 10.30 p.m. on 2.6.1992, her husband Nandagopal

was brought out of the lockup to a room and she was also taken there and after A6 and A10 removing her clothes, she was pushed down. She has further deposed that she was raped by A2, A3, A6, A8 and A10 in the presence of her husband, in spite of the pleadings of her husband not to cause any harm to his wife. After she was raped, she fell down and Nandagopal, who was also losing his consciousness, was asking for water and when P.W.1 wanted to give water, she was prevented by the accused, who put a condition that if she wants to give water to her husband, she must kiss each one of them. P.W.1, was, thereafter, forced to give a kiss to each of the police officers; but, still she was prevented from giving water to her husband by the accused, who pushed away the tumbler, which was in her hand. A6 wanted to rape her once again. P.W.1 pleaded with him not to do so and fell at his feet. She also bit his legs and A6 kicked her.

27. On the morning of 3.6.1992, she was removed to Chidambaram Town Police Station and later, on coming to know of the death of a person at Annamalainagar Police Station, came out the police station and gave a statement, Ex.P-1 to P.W.21 at Annamalainagar Police Station. The above evidence of P.W.1 is in consonance with her earlier statement, Ex.P-1, given by her to P.W.21, the Revenue Divisional Officer. Of course, Ex.P-1 lacks all the details, which she has mentioned in her evidence; but, as we have already stated, one is to consider the state of mind of P.W.1, when she gave the said statement to P.W.1. It would have been difficult for P.W.1 to travel down the memory lane when she was examined by P.W.21 and narrate all the gory incidents in detail. She could have been in a position only to give the bare details regarding the illegal detention of her husband from 3.00 a.m. on 30.5.1992, the torture and ill-treatment meted out to her husband at Annamalainagar Police Station, where he was detained, till his death and the gang-rape committed on her by the accused on the night of 2.6 .1992. These important details are found mentioned even in Ex.P-1, which is the earliest document in point of time, given by her, when she had no advice or help from any quarters. The present evidence is in tune with the earlier statement given by P.W.1 and in view of the above, it is impossible for this court to hold that P.W.1 was tutored by Balakrishnan and Jhansirani, to give false evidence in court against the police officers, merely on the ground that Balakrishnan had a criminal case pending against him for the alleged assault on police officers. We, therefore, reject the defence theory as brought out by way of suggestions and through the defence witness, D.W.1.

28. On the contrary, as we have stated earlier, P.W.1's evidence is also supported and corroborated by the other materials and the recorded evidence. She also identified the accused except A10 in the test identification parades. A10 was not identified in the test identification parade not because she was not in a position to identify, but she could not come to the identification parade on the day when it was conducted, as she was not well. The fact that A10 was not identified at the test identification parade by P.W.1, cannot be a ground to reject her evidence, when we taken into consideration the statement made by her to P.W.21 that when she went to the police station, she saw A10 in the crowd and she beat him with slippers. If A10 was not really responsible for the acts and if P.W.1 was not in a position to identify him, she could not have beaten him on the evening of 3.6.199 2

with slippers, when she saw him at Annamalainagar Police Station. The evidence of P.W.1 that she saw A10 at Annamalainagar Police Station and that she beat him with slippers clearly shows that on seeing A10, she immediately recognised him as one of the persons, who not only committed gang-rape, joining with the other accused, but also beat her husband and caused injuries and it was he, who actually beat her on her private part, as could be seen from her evidence. In fact even in Ex.P-1, she has mentioned the name of A10 as Karunanidhi and therefore, there cannot be any difficulty for her to have identified A10 when she saw him at Annamalainagar Police Station. Further, it was A10, according to P.W.1, who used abusive and filthy language while she was at the police station in the custody of the police. Therefore, the absence of P.W.1 in the test identification parade conducted by P.W.22 is not a ground to reject the prosecution theory that A10 was one of the persons, who committed gang-rape by joining with the other accused. We, therefore, accept the evidence of P.W.1, which is not only supported by other materials, but also by the medical evidence and other circumstances, which we have extracted above.

29. Once we accept the evidence of P.W.1, there cannot be any difficulty for us to come to the conclusion that P.W.1 was gang-raped and A3, A6, A8 and A10 were rightly convicted under Charge No.29 framed under Section 376(2)(a)(i)(ii)(iii)(b)(g) IPC, and that there is every justification for the conviction of A3, A6, A8 and A10 for the offence under Section 354 IPC framed under Charge No.26. As the evidence of P.W.1, which is supported by the doctor, P.W.16, who conducted post-mortem on the body of Nandagopal, clearly show that Nandagopal was beaten with lathis and sticks at the police station, the learned Sessions Judge was justified in convicting A1, A3 and A6 under Section 323 IPC under Charge No.4. Since the evidence of P.W.1 indicates that Nandagopal was taken into custody at 3.00 a.m. on 30.5.1992 and his arrest was shown as if he was arrested at 5.30 p.m. on 2.6.1992, it is to be held that after the apprehension of Nandagopal, he was detained and wrongfully confined at the police station. Therefore, the conviction of A1, A2, A3 and A8 under Charge No.3 framed under Section 348 IPC is correct and we uphold the same. As Section 348 IPC takes within its wings the offence under Section 343 IPC, the conviction of A1, A2, A3 and A8 under Charge Nos.1 and 2 are also confirmed. The recorded evidence shows that Nandagopal was detained in order to extract a confession to show detection of crimes and therefore, the conviction of A1, A3, A6 and A8 under Charge No.5 framed under Section 330 IPC is also justified. Since A1, A3, A6, and A8 have been convicted under Section 330 IPC and each one of them was sentenced to suffer three years rigorous imprisonment and to pay a fine of Rs.5000/- with a default sentence of one year rigorous imprisonment, the sentence of imprisonment imposed upon A1, A3 and A6 under Section 323 IPC framed under Charge No.4 for causing injury to Nandagopal, cannot be maintained, though the conviction can be confirmed, in view of Section 71 IPC. We, accordingly, while confirming the conviction of A1, A3 and A6 under Section 323 IPC under Charge No.4, set aside the sentence alone, while maintaining the conviction and sentence imposed upon A1, A3, A6 and A8 under Section 330 IPC as framed under Charge No.5.

30. A1 and A2 stand convicted under Section 218 IPC and as we have already stated, A1 was the Sub-Inspector of Police of Chidambaram Town Police

Station and A2 was the Sub-Inspector of Police of Annamalainagar Police Station. The entire occurrence took place within the premises of Annamalainagar Police Station and admittedly, A2 was the Station House Officer of the said police station during the relevant period. If an occurrence takes place within the premises of a particular police station, it could not have happened without the knowledge of the Station House Officer of that particular police station and in the present case, Nandagopal could not have been detained at the police station without the knowledge of A2. It is not possible for A2 to plead ignorance that he was not aware of the detention of Nandagopal at the police station from the early hours of 30.5.1992 till he was shown arrest on the evening of 2.6.1992. It was he, who registered the crime against Nandagopal under Sections 41 and 102 Cr.P.C. at 7.30 p.m. on 2.6.1992 and the first information report is Ex.P-77. The said first information report came to be registered on the basis of a report submitted by A1, who has, in his report, stated that Nandagopal was taken into custody at 5.30 p.m. on 2.6.1992 and the special report of A1 is Ex.P-76. Along with the report, A1 also produced a mahazar, Ex.P-18, purported to have been prepared by him at 5.30 p.m. on 2.6.1992, showing the alleged recovery of two ceiling fans and parts of another ceiling fan. As we have already observed, A2 being the Station House Officer of Annamalainagar Police Station, he should have been in the know of things as to what was transpiring at the police station and even if it is to be stated that he was not privy to the offence of gang-rape, it cannot be said that he was not even aware of the illegal detention of Nandagopal from the early hours of 30.5.1992. It is not his case that during the period between 30.5.1992 and 2.6.1992, he did not visit the police station and he was detailed for duty at some other place and under the above circumstances, a presumption is to be drawn against him that he must have gone to the police station in connection with his duty everyday and it is preposterous for this court to hold that Nandagopal was detained in the lock-up without his knowledge. Therefore, it is clear that A2 was aware of the presence of Nandagopal in the lock-up and any Station House Officer, who discharges his duty honestly and sincerely, would have asked the police officers as to why he was brought and kept in the lock-up. If the officer had been acting honestly, he would have registered a crime if any offence is made out against Nandagopal or would have sent him away from the lock-up. He did neither. He permitted the illegal detention of Nandagopal. Therefore, it does not lie in his mouth to say that mere preparation of a first information report, Ex.P-77, cannot be an offence under Section 218 IPC, since he has prepared the said first information report knowing it to be false, as Nandagopal was not arrested at 5.30 p.m. on 2.6.1992, but was attested much earlier, i.e. at 3.00 a.m. on 30.5.1992, as claimed by the prosecution. It was A1, who prepared Ex.P-76, his special report, and Ex.P-78, a mahazar, informing A2 by showing that Nandagopal was arrested at 5.30 p.m. on 2.6.1992 and the articles were recovered on the basis of the statement given by him, under a mahazar, Ex.P-78. As Nandagopal was in custody at Annamalainagar Police Station from 3.00 a.m. on 30.5.1992, A1 could not have effected his arrest at 5.30 p.m. on 2.6.1992 near Srinivasa Theatre in Chidambaram. Therefore, the averments in Ex.P-76 are false and consequently, the alleged recovery of two ceiling fans and parts of another ceiling fan under Ex.P-78 is also false. A1, therefore, prepared these two false documents with a view to make it appear that Nandagopal was arrested at 5.30 p.m. on 2.6.1992 and A2

also prepared an incorrect record by registering Ex.P-77, the first information report, on the basis of Ex.P-76, the special report of A1, and the records have been prepared with a view to save the police constables from prosecution and consequent punishment, for illegally detaining Nandagopal at the police station from the early hours of 30.5.1992 till his death. The facts show that after Nandagopal died by committing suicide, the officers wanted to escape from the consequences and therefore, prepared the above three documents showing the arrest of Nandagopal at 5.30 p.m. on 2.6.1992 and we strongly believe that if Nandagopal has not breathed his last on the early hours of 3.6.1992, the whole unsavoury episode would not have come to light and the officers, in order to save their sub-ordinate police constables, prepared Exs.P-76 to P-78. Therefore, the conviction of A1 under Charge No.30 framed under Section 218 IPC and the conviction of A2 for the same offence framed under Charge No.31, are justified.

31. Though we have confirmed the conviction of A1 and A2 as indicated above, we are unable to convict A1, A3, A6 and A8 under Section 220 IPC under Charge No.32 since for an accused to be convicted under Section 220 IPC, the prosecution has to show that the person in office must have legal authority to commit persons for trial or to confinement and in the exercise of that authority, he should act contrary to law. The facts in the present case do not disclose that A1, A3, A6 and A8 committed P.W.1 and Nandagopal either for trial or to confinement in the exercise of their authority. We, therefore, acquit A1, A3, A6 and A8 of the charge framed under Section 220 IPC under Charge No.32. Since A1, A3, A6 and A8 are not found guilty under Section 220 IPC, A2 cannot be found guilty under Section 220 r/w 109 IPC framed under Charge No.33 and therefore, he is acquitted of the charge framed under Section 220 r/w 109 IPC.

32. In the result, the conviction and sentence of the appellants/accused under Sections 348, 330, 354, 376(2)(a)(i)(ii)(iii)(b)(g) and 218 IPC are confirmed. The conviction of A1, A3 and A6 under Sections 323 IPC is confirmed, while the sentence of imprisonment imposed upon them is set aside, in view of Section 71 IPC. The conviction of A3 and A8 under Section 343 IPC as well as the conviction of A1 and A2 under Section 343 r/w 109 IPC under Charge Nos.1 and 2 respectively, are confirmed. A1, A3, A6 and A8 are acquitted of the charge framed under Section 220 IPC and A2 is acquitted of the charge framed under Section 220 r/w 109 IPC. The appeals are dismissed with the above modifications. It is reported that the appellants in CrI.A.No.680/1997, who are A1 and A2, are on bail. Hence, the learned Sessions Judge shall take steps to commit them to jail to undergo the remaining period of sentence.

33. Before parting with the appeals, it is our duty to point out that this is a sordid example of a case as to how brutal the accused/ police officers can behave inside the police station, where the hapless victims, like P.W.1, are left in their custody. The graphic description of the inhuman conduct unleashed on P.W.1 by the accused, shocks our conscious and makes our hearts bleed and we only feel that such conduct is not repeated in future by the law enforcing agencies as against the under-trials, who are also human beings and whose rights are guaranteed under the Constitution. The manner in which the accused behaved on the night of 2/3.6.1992, while molesting P.W.1,

if retraced in one's mind, he will feel that she was like a hunted deer in the captive of blood-thirsty animals, who wanted to lick the flesh of the hapless animal to quench their thirst before killing it. We wish to state and record that police station is not the house meant for carrying out such brutal obligations, but meant for carrying out a more better and lawful exercise. We express our deep anguish at the way the police officers conducted themselves in this case and we feel that the sentiments expressed by us are taken in the right spirit and the officials concerned bestow their attention to take necessary steps to thoroughly reform the entire law enforcing system.

(N.D.,J.) (F.M.I.K.,J.)

28.11.2002

Index : Yes

Website: Yes

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To

- 1.The Principal Sessions Judge, South Arcot District at Cuddalore.
- 2.The Judicial Magistrate No.1, Chidambaram.
- 3.The Judicial Magistrate No.1, Chidambaram, through the Chief Judicial Magistrate, Cuddalore.
- 4.The Chief Judicial Magistrate, Egmore, Madras-8.
- 5.The District Collector, Cuddalore.
- 6.The Director General of Police, Chennai-600 004.
- 7.The Superintendent of Police, C.B.C.I.D., Madras.
- 8.The Superintendent, Central Prison, Cuddalore.
- 9.The Public Prosecutor, High Court, Madras.
- 10.The Station House Officer, Annamalainagar Police Station.

((SCO LYRIX 6.1

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