

THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

AND

THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

Criminal Appeal Nos.1021, 1022, 1023, 1024,  
1025, 1045, 1046, 1060 of 2007 & 470 of 2011

*(Order of the Bench delivered by  
the Hon'ble Sri Justice L. Narasimha Reddy)*  
**% 22-04-2014**

#Chidipudi Srinivasa Reddy and  
others  
Vs.

..appellants

\$The State of A.P. Rep. by the  
Public Prosecutor, High Court of  
A.P.

..Respondent

!Counsel for the appellants : Sri T. Bali Reddy, Sr. Counsel Sri O.  
Kailashnath Reddy, Sri N. Vidya Prasad, Sri D. Pradyumna Kumar  
Reddy, Smt.C.Vasundhara Reddy, Smt A. Gayatri Reddy

^Counsel for the Respondent : Sri Bojja Tarakam, Spl. PP  
Sri V. Raghunath, Spl. PP

< GIST:

> HEAD NOTE:

? Cases referred  
AIR 1956 SC 181

**THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY**

**AND**

**THE HON'BLE SRI JUSTICE M.S.K. JAISWAL**

**Criminal Appeal Nos.1021, 1022, 1023, 1024,  
1025, 1045, 1046, 1060 of 2007 & 470 of 2011**

**COMMON JUDGMENT:** *(Per the Hon'ble Sri Justice L. Narasimha Reddy)*

Tsundur is a village in Guntur District with fertile lands, and the basic activity of the villagers is 'Agriculture'. It is on the railway line between Vijayawada and Madras, and there is a Railway Station at that place. Its neighbouring village on the southern side is, Modukuru with almost similar features. As in any Agricultural Village, the lands are held by some and landless poor, mostly from Scheduled Castes, are engaged in the Agricultural operations.

For some reason on the other, the relation between 'Dalits' and the landholders, such as Reddies and Telagas are said to be not so congenial, even from 1940's. However, except for the expression of differences and protests, no major incident appears to have taken place, obviously because elders from the respective communities ensured that the manifestation of differences does not cross a point. In the recent past, however, the youth were not able to put up with the same state of affairs, and they did not miss any opportunity to assert themselves. The police were also acting promptly, and steps, such as, imposition of prohibitory orders, binding over the persons under Section 107 Cr.P.C., were being resorted to. It was the view of the police, the youth have fallen into the hands of radical elements, they were brain washed, and were waiting for an opportunity to pollute the otherwise peaceful atmosphere in and around said villages.

On 13.10.1990, 'Chintamani' drama' was organized in the village by the youth belonging to 'Telaga' community. One Dayani Dhana Raj (PW-15) and some other youth from Dalit Community are said to have picked up quarrel on a trivial issue and beat one Ambati Narasimha Rao, with deadly weapons. Crime No.51 of 1990 was registered by the Police Station Tsundur, in relation thereto, and was being tried as C.C.No.37 of 1990 in the Court of Additional Sessions judge, Tenali. On the next day, Nakka Jyothi Babu and five others are said to have attacked Padala Srinivas of 'Telaga' community. Crime No.52 of 1990 was registered in relation thereto. Another incident reported by the police is that Crime No.52 of 1991 was registered when a Harijan boy, by name, G. Ravi (not examined) is said to have placed his legs on front seat, touching one Sri K. Srinivas Reddy. The situation is said to have developed to such an extent that 'Reddies' and 'Telagas' who are not united till then, became friends *vis-à-vis* Dalits. Some minor incidents have also taken place and orders under Section 144 Cr.P.C., were passed during July 1991.

On 04.08.1991, D.Rajaa, Dalit boy is said to have outraged the modesty of three girls belonging to 'Reddy' community, by rubbing his shoulders with them, and when he was questioned by T. Krishna Reddy, he stabbed him with knife, collected from the nearby bunk. Crime No.58 of 1991 was registered under Section 354 and 324 IPC in relation to that incident. On 05.08.1991, another incident took place leading to registration of Crime No.59/91 under Sections 341 and 324 IPC. Though the police pickets were existing already, additional force was deployed on that day. Both the groups are said to have gathered at 3.00 p.m., near Bose Statue centre and pelted stones on each other. That resulted in registration of Crime Nos. 60 and 61 of 1991.

What happened on 06.08.1991 has virtually shaken the entire State, and became sensational. However, there are different versions about the sequence of events that took place on that day. According to the police, at about 11.30 a.m., on 06.08.1991, one P. Mohan Rao (not examined ) and others of 'Dalit' community have attacked one Sri V. Siva Koti Reddy, aged about 60 years, in the fields with deadly weapons and Crime No.63 of 1991 under Sections 147, 148, 324 and 329 IPC was registered in relation thereto.

At another place, Medikonda Subba Rao (PW.1), Dhan Raj (PW.15), M. Venkateswarlu (not examined), and seven other Dalits of Tsundur Village, are said to have attacked three persons, namely, V.A. Reddy, and Modugula Mutta Reddy with deadly weapons, like, knives, rods and sticks. Crime No.64 of 1991 was registered under Sections 147, 148, 322, 307 r/w 149 IPC.

On the same day, about 300 persons of Reddy and Telaga community, are said to have gathered before the police station, armed with deadly weapons, like Sticks, rods, knives, axes and spheres. At about the same time, the police are said to have entered the Harijanwada, in search of male members, and afraid of that, all the male members in the Harijanwada ran away. While one group is said to have gone on the Tsundur to Modukuru road in the southern direction, another group is said to have gone towards the railway gate on the southern side of the Village. The 'Reddys' and 'Telagas', who gathered before the police station, are also said to have ran towards Harijans and chased them. Another 50 or 60 persons armed with knives, sticks and spheres are said to have come in a tractor (MO.1) on the Modukuru Road and chased the harijans.

Alleging that the persons from the group, which went towards Modukur road killed Jaladi Immanuel (D1), Jaladi Jalaiah (D2), Jaladi Mattaiah (D3), and

Mallela Subba Rao, near the Tungabhadra Drain Canal, and the persons of the same group, that have chased Dalits, waiting at southern gate, killed Mandru Ramesh (D4) at the first branch canal of new canal, and Jaladi Isaac (D5), Angala Kuduru Raja Mohan Rao (D6), Sankuru Samson (D7) and Devarapalli Jaya Raj, in the vicinity of the room of gateman, at the railway gate, nearby Mothukur Railway station, known as 'Karla gate', and that Panthagani Jakaraiah, PW.8, and Dayari Dhanraj, PW.15 were inflicted with injuries, ten crimes were registered.

A comprehensive investigation was undertaken by Deputy Superintendent of Police, Tenali, wherein, 134 Listed Witnesses were examined. A charge sheet was filed, alleging the offences against 219 accused, alleging offences punishable under various provisions of IPC, and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'the Act'). On committal, the case was taken up as S.C.No.36/1993. A Special Court for trial of this case, exclusively was constituted with its seat at Tsundur itself. A Special Public prosecutor was also appointed by the Government for this case. It remained pending on the file of the trial Court for more than a decade, on account of various reasons.

During the pendency of the case, 33 accused died. In the course of the trial, PWs.1 to 70 were examined and Exs.P1 to P61 were filed. Mos. 1 to 51 were also taken on record. On behalf of the defence, DWs.1 to 8 were examined and Exs.D1 to D267 were filed. The Special Public prosecutor virtually conceded that there are no cases pending against 41 accused. After the Marathon trial, the judgment was pronounced on 31.07.2007. The summary of the judgment is as under:

Victim	Crime	Accused	Provision of law	Sentence
PW8	Causing injuries	A50, A215	324 IPC	
PW15	- do -	A28, A31, A50 and A139	- do-	
D1	Causing death	A6, A20	302 IPC alternatively Section 3, 2 and 5 of SCs and STs (POA) Act, 1898 (for short "the Act)	Life imprisonment
D2	- do-	A3, A14, A23	- do-	- do-
D3	- do-	A50, A56	- do-	- do-
D4	- do-	A57, A58, A88	- do-	- do-
D5	- do-	A104, A150	- do-	- do-
D6	- do-	A5, A28, A31, A64		- do-
D7	- do-	A95	- do-	- do-
D8	- do-	A11, A89, A190		- do-

Almost all the accused referred to above, and some others were also found guilty of causing disappearance of the evidence, as well as, using deadly weapons in committing the crime punishable under Section 148 IPC. The punishment of imprisonment for life and fine of Rs.3,000/- each, was imposed on all the accused that were found guilty of offences punishable under Section 302 r/w 34 IPC. For the offence punishable under Section 201 IPC, punishment of Rigorous imprisonment for one year and fine of Rs.1,000/-, in default, to undergo

Rigorous imprisonment for one month was imposed and for the offence punishable under Section 148 IPC, sentence of Rigorous Imprisonment for one year and fine of Rs.2,000/- each , in default, to undergo Rigorous Imprisonment for one month, was imposed.

These appeals are preferred by the accused that were found guilty of one offence or the other. The State filed Criminal Appeal No.389 of 2008, seeking enhancement of the punishment against the accused, who were found guilty. It has also filed Criminal Appeal No.988 of 2008 challenging the acquittal of the other accused. Some of the prosecution witnesses filed Criminal Revision Case No.829 of 2008, assailing acquittal, as well as, adequacy of sentence.

At a time when the appeals preferred by the convicted accused were listed for hearing in the year 2011, the then Special Public Prosecutor filed 3 Criminal Appeals and Criminal Revision together with the applications for condonation of delay of about 1400 days. The appeals preferred by the State could not be taken up along with the appeals filed by the convicted accused on account of the fact that the matter relating to condonation of delay was not decided yet. We too made an endeavour to hear all the connected matters together. That, however, did not materialise. The following part of order dated 21-03-2014 would reveal the developments.

“...When the matters were listed thereafter, the learned Special Public Prosecutors brought to our notice, that three more appeals and one revision were filed in the year 2011 by the then Special Public Prosecutor against the acquittal, and the applications for condonation of delay in those matters are still pending. On verification, we found that the delay involved was about 1400 days. Since notice was already ordered by this Court, we found ourselves in a typical situation.

Taking note of the fact that all the acquitted accused figured as parties in Criminal Revision Case, filed by some PWs, we indicated to the learned Special Public Prosecutors that they can put forward their contentions in that very revision, and if necessary, the delay can also be condoned, so that the hearing of the matters is not postponed any further. However, they insisted that in the event of the delay being condoned, the appeals may have to be numbered and once again notices must be served upon all the respondents in such appeals, and till then, the appeals filed by the convicted accused cannot be taken up. We found this objection, to be not satisfactory, since it would result in an indefinite postponement of the hearing of the appeals filed by the convicted persons. Therefore, we passed an order, directing that the application for condonation of delay as well as the appeals filed by the State be separated and the appeals preferred by the convicted accused be listed for hearing..."

Thus, the appeals preferred by the convicted accused are taken up, and the appeals preferred by the State, and revision filed by some of the prosecution witnesses are separated, through a detailed order.

The arguments on behalf of the appellants are advanced by Sri T.Bali Reddy, learned Senior Counsel, Sri O. Kailashnath Reddy, Sri N.Vidya Prasad, Sri D. Pradyumna Kumar Reddy, Smt. C.Vasundhara Reddy, Smt A. Gayatri Reddy.

They submit that the situation in and around Tsundur Village was tense, for quite some months before August, 1991 and several criminal cases were registered in relation to various incidents, and armed police was deployed, and the Sub Inspectors of Police from the neighbouring stations, were also assigned the duties for maintaining Law and Order in Tsundur Village and Modukuru Village. They contend that in most of the crimes, the youth from 'Dalits' were



shown as accused, and on 06.08.1991 also, as many as, four persons from 'Reddy' community were attacked by PWs.8, 15 and others with deadly weapons, leading to registration of cases.

Learned counsel submit that not only the police administration but also anyone from the Village, were not aware of any deaths taking place on 06.08.1991 in and around Tsundur Village, and it was only when the dead bodies of the deceased were noticed in the nearby canals from 07.08.1991 onwards, that the 'Dalit' Organizations started protesting that the police had woven out cases, to implicate the persons on the lines of community. They submit that the trial Court itself discarded the evidence of more than half of the so-called eye witnesses by citing cogent reasons, and the evidence of other witnesses, is equally unreliable.

It is argued by the learned counsel for the appellants that the trial Court failed to take into account, several important aspects, and had held the appellants guilty of causing the death of D1 to D8. They contend that in almost every inquest report, pertaining to the deceased, a clear statement was made to the effect that the respective deceased was last seen in the company of various persons between 2.00 and 4.00 p.m., on 06.08.1991, whereas, they are said to have been killed at around 12.00 noon on that day. They submit that the uniform tutored version of all the prosecution witnesses was that the police entered Harijanwada between 11.00 and 11.30 a.m., and chased all the male members, and afraid of being arrested, all the male members ran away from the village and were waiting at distant places, whereas, PW.57, the Sub Inspector of Police stated that himself, and other police officials came to the southern gate, whereas PW.15, D1, D4 to D8 and others were waiting. They submit that when the police were very much with the persons waiting at the

southern gate, the very theory of the chasing by the police turns out to be false. Learned counsel further submit that PWs.57 and 59, the then S.I of Police, Tsundur categorically stated that the group of Reddies and Telagas, who were before the police station, came running towards southern gate, where Harijans were waiting, and when the first group started chasing the second group, the police chased the group of Reddies and Telagas, and unable to catch any of them, they came back. According to the learned counsel, such a statement is not only ridiculous but also shameful on the part of the police. They further submit that though at one point of time, PW-59, the S.I of police is said to have apprehended about 50 'Reddy' community persons, of the same group, together with weapons, he set them free on the instructions of C.I of police, but the same was belied by the evidence of other witnesses.

It is also argued that almost every witness referred to MO.1-Tractor and trailer, and many of them stated that it was parked at a distance of 100 yards i.e., 300 ft from them and they heard utterances of the persons, who are said to have got down from the tractor, which according to them is highly impossible. They submit that while one of the witnesses stated that the tractor was proceeding on Modukuru road, by which time, PWs.1 to 8 have hidden in Jasmine or Mango garden, and on seeing them, A1 stopped Tractor, rest of the witnesses stated that the tractor was stopped at a distance of 100 yds, from there, and the assailants came running.

As regards D1 to D3, learned counsel submit that, PW.1 himself was an accused in several cases and the President of Dalit Organization, and his evidence is totally interested and untrustworthy. They contend that at one breath, PW.1 stated that he does not know swimming, and at another breath stated that he crossed the drain canal of width of about 150 ft. to 200 ft.,

with water flowing at a depth of about 10ft . As regards PW.4, they submit that though his father and uncle are said to have been killed right before him, he did not even raise cries, much less, did he at least go to the dead bodies, even after the alleged assailants have left the place. Learned counsel further submit that the persons, who are said to have seen the killing of D1 to D3, did not inform about that to anyone, till their statements were recorded by the police, and even those statements have been disowned by them. They submit that it is just unimaginable that any person, if, in fact, has witnessed any harm, not to speak of murder, their near and dear, would remain silent, particularly, when the commotion in the village was existing for past several months. They submit that when such a large contingent of police is in the village, it is unimaginable that even a small incident of criminal act would not remain unnoticed.

Regarding the deaths of D5 to D8, learned counsel submit that almost all the witnesses who spoke about the incident stated that they have seen the incident of killing of D-5 to D-8 by hiding near the room of the railway gateman, and have also seen the dead bodies having been taken near by cattle shed, and since the railway gate is almost in the middle of the village, and is surrounded by various establishments, one just cannot think the criminal act or the dead bodies not being noticed by anyone of that Village. It is also their case that the bodies of D-5 to D-7 are said to have been noticed at various places, and nobody spoke as to how, the bodies of those deceased were removed from the cattle shed.

Regarding the death of D4, learned counsel submit that the same persons, who spoke about D-5 to D-8, spoke in relation to D4 also and their evidence is equally untrustworthy. Learned counsel submit that the version of

PW.15 about the attack on him, and taking of blood from him, are so artificial that even after such an alleged attack, and removal of blood, he is said to have walked or swam in the new canal, up to distance of about 3 KMs., that too against flow. They submit that though PW.15 is said to have been rescued by two ladies, they have not been examined.

Learned counsel further submit that though almost all the witnesses stated that they have taken shelter at Tenali, for 3 to 4 days not a single person in whose houses, these persons have stayed, were examined and their versions deserve to be ignored. Other contentions were also urged.

Sri Bojja Tarakam, learned Senior Counsel and Sri V. Raghunath, learned counsel were appointed as Special Public Prosecutors in this case. While Sri Tarakam advanced extensive arguments, Sri Raghunath, has ably assisted him by taking us through the voluminous record and supplementing the arguments.

Sri Tarakam, submits that almost a genocide has taken place in the Village, where the victims were living. He contends that the oppression of Dalits in the Village was going on for decades together, and around the year 1990, when Dalits started asserting their rights or opposing the oppression, Reddies and Telagas of the Village united for elimination of the Dalits who questioned them. He submits that though Police picket was arranged in the Village, the Police officials have taken the side of the affluent and the same is evident from the fact that in the morning of the fateful day, large contingent of police entered the Dalitwada and chased all the male members. He submits that taking advantage of this chasing, a group of Reddies and Telagas, who were already present near the police station in large number with weapons, have chased the

Dalits who were standing at two places i.e. at the southern gate and on the Modukuru road, and have killed 8 persons, apart from injuring many others. Learned counsel submits that the incident was so ghastly and gruesome, that while many have escaped, the others who happened to see the incident, reeled under shock for many days, and obviously for that reason, no complaint was made. He submits that the prosecution has established beyond any pale of doubt, the manner in which D-1 to D-3 were killed and the dead bodies were thrown into water. Learned Senior counsel submits that though the trial Court disbelieved the evidence of PWs 2, 3, 5 and 6, the evidence of PWs 1, 4 and 7 was consistent and clear and accordingly, the concerned accused were convicted. He submits that the details of attack and the killing of D-4, D-5 to D-8 were also presented by the eye-witnesses and there do not exist any reasons, to disbelieve the evidence of those witnesses.

Learned Senior Counsel submits that the inconsistencies or defects pointed out by the learned counsel for the appellants are on trivial aspects and on material aspects, the evidence is consistent. He submits that the discrepancy as to the timings mentioned in the inquest reports or the statements recorded from the witnesses can squarely be attributed to the indifference of police who failed to rescue the innocent poor persons of the Village. He further submits that when such a holocaust has taken place and terror was created in both the Villages, the parameter or norms, adopted in crimes committed by individuals, in the ordinary circumstances; cannot be applied. He contends that the evidence on record is in fact, adequate to convict the other accused also and for enhancement of the punishment awarded to the appellants herein. He has advanced arguments on other supplemental grounds also.

A small prologue becomes necessary before the discussion is undertaken, on merits. The case became sensational, obviously because large number of Dalits were put to death. The agitation on caste lines has virtually shaken the State for quite a considerable time. Since many of the accused and the appellants herein are from Reddy Community, we verified from the learned Special Public Prosecutors, before the commencement of arguments, as to whether they have any objection for this Bench, to hear the appeals. Both of them stated that they have absolutely no objection, and only then, the hearing was commenced.

At a time when we were disposing of 6 to 8 criminal appeals, per day, we had to devote weeks together, for this case. The record itself runs into four big volumes. The arguments on behalf of the appellants were advanced for 8 working days. The learned Special Public Prosecutors argued for two days, and on the third day, an oral submission was made to the effect that they have no faith in the Bench. Taken by surprise, we insisted on the reasons.

An affidavit by one Sri Moses, said to be associated with an organisation and who did not figure as a witness in the case; was filed stating that he lost faith in the Bench, having regard to the way, the proceedings were going on. To be guided in this behalf, we requested the learned Attorney General of India to render assistance. On his behalf, the Additional Solicitor General, Sri Wilson, appeared and advanced arguments. According to him, raising an objection as to hearing of a matter by a Bench, that too half way through; amounts to gross impropriety, and of all the persons, the Public Prosecutors cannot resort to that. He further submitted that it is a fit case for issuing contempt notices to the persons, that have raised objection for hearing of the matter. He cited fairly good number of precedents.

After hearing the learned Special Public Prosecutors, we passed a detailed order on 21-03-2014. The Registry was directed to issue contempt notices. Even before any notice was issued, the person, who filed the affidavit, tendered apology and has withdrawn his affidavit. Therefore, we dropped further proceedings, against him.

Learned Special Pubic Prosecutors have also submitted that they do not have anything personal, and they have just conveyed the view expressed by the person, who filed the affidavit. Taking the same into account, the proceedings against them were also dropped.

Both of them resumed the arguments without any protest or demur, express or implied, and their arguments went on for about five days.

Learned counsel for the appellants have also advanced arguments, in detail. We felt this is necessary, to put the record straight.

The brief introduction of the state of affairs that existed in Tsundur Village in the year 1991 has been furnished in the preceding paragraphs, may be within the permissible limits of brevity. It is most unfortunate that precious lives of 8 innocent persons of Dalit community were lost. The incident naturally attracted the national attention and became very sensational. A Special Court had to be constituted, to function in the same Village, and as many as 219 persons were named as accused. The resolve of the parties was so strong that at every stage of trial, each party wanted to have its own say. They approached this Court even on trivial aspects. On certain occasions, the matter was carried to the Supreme Court. The very purpose of constituting a Special Court for speedy disposal of the case was

defeated. A Sessions Case in its ordinary course takes hardly two or three years for disposal, whereas the present case has taken nearly 15 years.

Be that as it may, notwithstanding the sensation that the case has created, and the attention, paid by the parties to it, the case has to be dealt with by applying the settled principles of law. Margin, certainly can be given on some aspects, taking into account, the fact that the atmosphere was already surcharged, people were moving in large groups as well as fear psychosis, which the victim in such an atmosphere, would be subjected to.

D-1 to D-8, are said to have been killed on 06-08-1991 and that PWs 8 and 15 were injured. The facts mentioned at the threshold of the judgment are mostly from the charge-sheet that was filed by the prosecution. Before discussing the matter with reference to the evidence on record, it becomes necessary to take note of the fact that the role played by the police at Tsundur in 1991 was far from satisfactory. Either it is a case of total collapse of the system, leaving the ground for the unlawful elements to have a hay day, or exhibition of a knee-jerk reaction, to cover up the lapses. Otherwise it is just unthinkable that in a Village of which, one end, which can be seen from the other end, and where hundreds of police were already deployed, as many as 8 deaths that too not in a clandestine manner, but as a result of groups of about 20 or 30, having been chased by about groups of about hundred each; remain unnoticed by the police. Still astonishing is the fact that the police is also said to have chased the assailants up to some distance.

On 06-08-1991 no complaint as such was received in relation to the death of 8 persons. However, two crimes were registered on that day. One is Crime



No.63/1991 against one Kuragantha Mohan Rao, alleged that he attacked the Vuyyuri Sivakoti Reddy at 11:00 a.m. Another incident led to registration of crime No.64/1991, under Section 147, 148, 324, 347 read with Section 149 I.P.C. PWs 1, 15 and one Medikonda Venkat and 7 other harijans of Tsundur Village are said to have attacked Vuyuru Anji Reddy, Venkat Reddy and Medikonda Mutha Reddy with deadly weapons at 11:45 a.m.

PW-59 was working as SI of Police, Tsundur at the relevant point of time. According to him, a message was received from the Sub-Divisional Police Officer, Tenali and Revenue Divisional Officer, Tenali, PW-44 late in the night, to the effect that some Dalits of the Village were murdered. The police teams are said to have gone around and did not find any dead bodies. PW-44 is said to have visited the Village on the night of 06-08-1991 and found the situation peaceful. He came to Village on the next day, and so did the then DSP. According to both of them, some persons from Tenali have telephoned them and informed that Dalits in the Tsundur Village have been killed. Particulars of persons who were said to have been spoken to PW-44, were not given. PW-59 further stated that on the morning of 07-08-1991 also he sent police parties to various places to find out whether any deaths have taken place and that no information was received, in that behalf. It is also important to note that the police did not receive any complaint from anyone, about the death or injuries to Dalits of Tsundur Village.

In the afternoon on 07-08-1991, PW-9, Jaladi Neelamma is said to have heard about the floating of two dead bodies in the Tungabhadra canal and on hearing the same, herself and two persons, viz., Jaladi Tirupatamma (no more) and Jaladi Bharatamma, PW-10, are said to have proceeded to the place. The bodies were found to be those of Jaladi Emmanuel, D-1, husband of PW-10, and

Jaladi Mathaiah, D-2. PW-10 is said to have fainted on seeing the dead bodies. PW-9 is said to have informed the same to the police. The statement that was recorded from PW-9 and signed by her is marked as D-113, and when it was shown to her, she admitted it to be the same. It is on the basis of D-113 that crime No.63/1991 was registered. D-113 reads as under:

“Representation got submitted by Jaladi Neelamma w/o. Babu of Tsundur to the Sub-Inspector, Tsundur Police Station.

Sir,

I belong to Tsundur. I live by doing coolie work. Yesterday i.e. on 6.8.1991 at about 2 p.m. while police entered our palle, due to fear that they will apprehend us, our male members are fleeing away towards fields, Reddies, Telagas and upper caste people about 400 members armed with knives, iron rods, chased our male members. Among the persons who fled away in the fields there are 1) Jaladi Immanuel, 2) Jaladi Mathaiah, 3) Dayiri Dhanaraj, 4) Panthagani Jakraiah and six others and some others. Among them Jakraiah and Dhanaraju were admitted to hospital with injuries. The dead-bodies of Mathaiah, Immanuel were floating in the Thungabhadra drain canal situated adjacent to the garden of Manneva Nagabhushanam with blood injuries. Their whereabouts of remaining six members and some other persons are also not known. We suspect that they were also killed. When Mathaiah and Immanuel were killed some male persons in our palle witnessed the same. The upper caste people, who are chasing them (our male members), were witnessed by me and some other female members of our palle. We can identify if they were seen. Due to previous grudges between us, on one side and Reddies and Telagas on another side, they attacked our male members and killed them. Hence, I require to take appropriate action against them.

L.T.I of Jaladi Neelamma.”

It is necessary to note that in Ex.D-113, PW-9 stated that the police entered the Harijanpalle on 06-08-1991 at 2 p.m., and fearing that they may apprehend them, the male members of the Village fled away towards the fields. A statement was also recorded from PW-9 under Section 161 Cr.P.C. In her chief-examination, PW-9 stated that the police entered Harijanpalle at 11:00 a.m. and fearing arrest, the male persons run away. The relevant portion in the statement recorded from her under Section 161 Cr.P.C., wherein she stated that the time 2:00 p.m. was marked as D-109. Another portion, wherein she stated that about one hour after the male members of the harijanpalle left the palle, the Reddies and Telagas armed with knives and axes and ran towards Modukuru road, was marked as D-111. The relevant portion reads:

“...After about one hour, Reddies, Telagas belong to our village, armed with knives, axes, iron rods, sticks, spears ran towards Modukuru Road and railway track, chased our male persons towards fields. After some time Gorrepati Sambi Reddy of Munnangivaripalem went to Modukuru on road by driving his tractor...”

From this very witness, it was elicited that PW-8 was not present along with the male members of the palle. The relevant portion reads:

“...I know PW-8 and Dhanaraj (L.W.26). P.W.8 and Dhanaraj (L.W.26) were not present along with the other male persons of our palle which I witnessed running towards Modukuru...”

In the cross-examination, PW-9 stated that she does not remember the names of the persons with whom she came to the place, and where the dead bodies were found.

So much, about the tracing of dead-bodies of D-1 and D-2. The inquest on the dead body of D-1 was conducted at 5:00 p.m. on 07-08-1991, and the report thereof is Ex.P-46. The statements of Mr. Kommerla Prakasarao (not examined), Chappidi Mark, PW-7; Medikondur Subbarao, PW-1, and PWs 9 and 10 were recorded.

In Ex.P-47 it was alleged that about 47 persons belonging to Reddy and Kapu Community, named therein have attacked D-1 with knives, iron rods, axes, spears. The inquest report of D-2, Mathaiah, is Ex.P-48. The same persons were mentioned here and the statements of the 5 persons referred to above, were recorded.

The inquest report in respect of D-3, M. Subba Rao was drawn at 11:45 a.m. on 08-08-1991 i.e. one day after the inquest on the dead bodies of D-1 and D-2. In column 11, it was mentioned that at about 4:00 p.m. on 06-08-1991. 13 persons mentioned therein, who are from Reddy and Kapu community attacked D-3 and killed him. In Column 15, no mention is made to the persons, who are said to have given the information about the tracing of the dead body of D-3. The inquest report pertaining to D-4 is on the same lines as that of D-3. Except that in Column No.9 it was mentioned that Kesani Prasad S/o. Chennaiah and 9 other Reddy and Telaga people attacked and killed D-4. As regards D-5, the inquest was commenced at 6:30 p.m. on 08-08-1991 and it was closed at 9:00 p.m. The persons who are said to have given information about this are not mentioned.

The manner in which the respective dead bodies were noticed, and the persons on whom the suspicion was expressed, is as under:

Deceased	Witnesses/persons	Time of noticing	Suspicion
----------	-------------------	------------------	-----------

	who noticed the dead-body		expressed upon
D-1 and D-2	PWs 9 & 10	In the afternoon of 7-8-1991	49 persons
D-3	PWs 11 & 12	At 12:00 Noon On 8-8-1991	T. Srinivas Reddy and 12 others
D-4	PW-13, mother of the deceased	8-8-1991 at 7 hours	Kesani Prasad 11 others
D-5	Jaladi Samadanam	8-8-1991 at 2 p.m	Tippireddy Rama Krishna Reddy and 6 others
D-6	Angalakuduru Kotirathnam	8-8-1991 at 2.30 pm	Tippireddy Sambireddy 54 others
D-7	Sankuru Kotaiah, father of the deceased	8-8-1991 at 5:00 p.m	Padala Venkata Ramaiah & 35 others
D-8	Devarapalli Ramesh	8-8-1991 at 6 p.m	Gorrepati Sambireddy & 25 others

With this background, it needs to be seen as to whether the prosecution has proved that the appellants herein caused the death of D-1 to D-8 and whether they have caused injuries to PWs 8 and 15.

Taking into account, the facts presented before it, in the form of charge-sheet and the enclosures, the trial Court framed the following points for its consideration:

1. Whether the deceased 1 to 8, and the injured in this case belong to Scheduled Caste or not?
2. Whether there are any previous disputes existing between the two groups i.e., the upper caste people and the Scheduled Caste people, as on the date of the alleged incident on 6-8-1991 and whether the prosecution has proved the motive for the accused to commit the offence, with which they are charged?
3. Whether the plea of Alibi taken by the accused A41, A131, A199 and A214 proved or not?
4. Whether the prosecution could establish the plea of conspiracy?
5. Whether there is no evidence against some of the accused and who are they?
6. Whether all the accused formed into an unlawful assembly with a common object to do away with the deceased 1 to 8 and caused injuries to the injured persons, as alleged by the prosecution?
7. Whether the prosecution could able to establish the guilt of the accused for causing death of D1 to D8?
8. Whether the prosecution could able to establish the guilt of the accused in causing injuries to P.W.8, P.W.15 and others?
9. Whether the prosecution has proved the screening of dead bodies of Deceased 1 to 8, as alleged by the prosecution?

10. Whether the accused have intention to commit the offence on the ground that the deceased and the injured belong to Schedule Caste?

Point No.1 was answered in affirmative; point No.2 was almost superfluous, since nobody doubted the existence of previous disputes. On point No.3, the plea of alibi, raised by A-131 alone was accepted and similar pleas raised by A-41 and A-191 and 214 were rejected. Point No.4 was answered in affirmative and on point No.5, the trial Court held that no evidence whatever exists, *vis-à-vis* 20 accused, namely A-72, A-73, A-76, A-107, A-109, A-110, A-132, A-133, A-140, A-142, A-160, A-171, A-179, A-194, A-198, A-204, A-208, A-209, A-212 and A-213.

Point Nos. 6 to 11 were discussed together. The trial Court pointed out the following defects in the investigation:

1. "Registering 12 crimes for one incident.
2. Not registering the case under Sec.120-B IPC conspiracy against A1 and others on 4.8.1991.
3. Not taking into custody of group of people who were armed with weapons and who were gathered in front of the police station, by L.W.130.
4. There is no need for L.W.130 and his subordinates to drive away the palle persons from their houses for nabbing the accused in previous cases.
5. Even after RDO's enquiry about the alleged incident no steps taken to know the incident on 6.8.1991.
6. When M.O.1 along with assailants were going through the borse statue centre, the bandobust duty police personnel not prevented them and if L.W.130 and his subordinates acted timely the entire episode would

have been averted on 6.8.1991. Further, if there is defective investigation, naturally there will be contradictions and omissions find place in the evidence of prosecution witnesses."

After hearing the learned Special Public Prosecutor and defence counsel, at length, the trial Court took note of the following observation of the Supreme Court in **Baladin v. State of U.P.**<sup>[1]</sup>. Obviously by taking the view that the said defects are not fatal to the case, it proceeded to discuss the matter on merits, in detail. It reads,

"It is manifest that the police officers concerned with the investigation of the case did not fully realize the gravity of situation and did not take prompt steps to collect evidence of an occurrence which on the face of it was rather of an unusual character in so far as it had been the result of preconcert plan to annihilate the male members of the refugee families which were being treated by the residents of the village as so many usurpers of their cultivable lands and house sites.

Even if the police had realized the seriousness of situation, they did not prove equal to the occasion. Either they were incompetent or were unwilling to take all necessary steps to vindicate justice and to inspire confidence in the minds of aggrieved party. As will presently appear, this remissness on the part of the police officers has had a very adverse effect on the prosecution case and has added to the difficulties of the court in finding out who the real culprits were."

The appellants herein were found guilty and punishments of various descriptions were imposed.

The charge-sheet, reflecting the case of the prosecution disclosed that the attack on D-1 to D-3 was at one place and there existed common evidence for that. The attack on D-4 was said to be a solitary incident whereas D-5 to D-8



were attacked at the same place. According to the prosecution, PWs 1 to 7 are the eye-witnesses for the attack on D-1 to D-3. The uniform and common case of PWs 1 to 7 was that,

- a) there existed longstanding disputes between the persons belonging to Harijan Community, on the one hand, and Reddies, Telagas and others of TsundurVillage, on the other hand.
- b) On 06-08-1991 the police entered the harijanwada at 11:00 a.m. and started chasing them. PWs 1 to 7 and others ran from the Palle towards Modukuru Road, to avoid arrest. They crossed the Nidra Ganneru tree on the road and entered the fields situated on the western side and stayed therefor about 30 to 45 minutes.
- c) The tractor, MO-1 driven by A-11 wherein 50 to 60 persons armed with weapons were traveling, came on the Modukuru Road and slowed down at Nidra Ganneru tree. A-28, A-32, A-57 and A-58 got down from the tractor before it stopped and they ran towards the railway track on the eastern side proclaiming that they would deal with the harijans, standing on the railway track. The remaining persons got down from the tractor after it was stopped and proceeded to the place where PWs 1 to 7, D-1 to D-3 and others were standing.
- d) PWs 1 to 7 and D-1 to D-3 started running towards Tungabhadra drain canal. 4 of them, viz., PWs 2, 3, 5 and 6 crossed the canal and sat under the bushes on the western bund and watched the occurrence, whereas PWs-1, 4 and 7 did not cross the canal, but have hidden in the plantain and jasmine gardens abutting the eastern bund of the canal.
- e) According to these witnesses, the attack on the deceased 1 to 3 was caused by the following accused:

According to	Attackers on		
	D1	D2	D3
PW-1	A-1, A-6, A-11, A-20	A-3, A-4, A-27, A-41, A-42, A-49, A-23	A-16, A-50 A-56, A-86
PW-2	A-2, A-6, A-11, A-20, A-26	A-3, A-49, A-27, A-14 A-15, A-41	A-16, A-50, A-86
PW-3	A-1, A-11, A-20, A-26	A-3, A-49, A-27, A-23	A-16, A-56, A-65
PW-4	A-1, A-2, A-6, A-11, A-20, A-26	A-3, A-49, A-27, A-23 A-14, A-42, A-41	A-16, A-50, A-56, A-80
PW-5	A-1, A-2, A-6, A-11	A-3, A-23, A-27, A-49	A-16, A-50, A-56, A-80
PW-6	A-1, A-11, A-20, A-26	A-3, A-27, A-49, A-41 A-42	A-16, A-56, A-64
PW-7	A-2, A-6, A-11, A-20, A-26	A-3, A-23, A-27, A-41, A-49	A-16, A-5, A-56, A-80

The trial Court found A-5, A-11, A-28, A-31, A-64, A-89, A-95, A-104, A-115, A-190, guilty in this behalf.

The purport of the evidence of PWs 1, 4 and 7 would be discussed a bit later.

The attack on D-4 is said to have been witnessed by PWs 15 to 23. PWs 15, 20, 21, and 23 are said to be eye-witnesses for the attack on D-5 to D-8. PWs 15 to 23 spoke about the attack on D-4 by A-28, A-32, A-57, A-58, A-88, A-90, A-

93, A-115 in various combinations. A-57, A-58, A-28 and A-32 figured in common to the evidence of almost all the witnesses. The trial Court found A-57, A-58 and A-88 guilty of causing the death of D-4.

PWs 15, 20, 21 and 23 were cited as eye-witnesses for the attack on D-5 to D-8.

Attack on Deceased	Prosecution Witnesses/Involvement of Accused				Accused held guilty
D-5	PW-15  A-104, A-115	PW-20,  A-104, A-115	PW-21,  A-104, A-115	PW-23  A-104, A-115	A-104  A-115
D-6	A-5, A-28, A-31 (Cr.No.67/91) A-5, A-28, A-31, A-64 (Cr.No.68/91)	A-5, A-28, A-64  A-5, A-28, A-31, A-64 (Cr.No.68/91)	did not name anyone in Cr.No.68/91 A-5, A-28, A-31, A-64 in Cr.No.70 & 73/91	A-5, A-23, A-64	A-5, A-28, A-31 & A-64
D-7	A-95, A-130	A-95, A-130	A-95, A-130	---	A-95
D-8	A-5, A-6, A-11 A-28, A-102	A-6, A-90, A-102 and A-219 & A-4, A-6, A-11, A-89, A-102, A-190 in Cr.No. 67/91	A-6, A-11, A-89, A-102 & A-190 & A-4, A-6, A-11, A-89, A-102, A-190 in Cr.No.73/91	A-6, A-11, A-89, A-102, A-190	A-11 A-89 & A-190

The discussion undertaken by the trial Court as well as the arguments advanced by the learned counsel for the parties are in three compartments, covering, a) deaths of D-1 to D-3, b) D-4 and c) D-5 to D-8.

It has already been mentioned that the evidence adduced by the prosecution is common in respect of D-1 to D-3. The trial Court discarded the evidence of PWs 2, 3, 5 and 6, by assigning the following reasons:

- 1) They swam through the drain for saving their own lives.
- 2) In such circumstances it will not be possible to look back while swimming and to see the incident.
- 3) On either side of the drain canal there are trees and bushes which definitely block the vision.
- 4) The width of the drain may also prevent the vision of P.W.2, P.W.3, P.W.5 and P.W.6 to see what was happening on the other side of the drain canal.
- 5) Afterwards, the witnesses would have gone to elders or the police, but they have not done so.
- 6) At the most their evidence is relevant only to point out that they were chased on 6.8.1991.
- 7) The assailants will not stop attacking till the witness swam across the drain and to reach other side of the bund to see the incident."

PW-1 is almost a star witness for the prosecution. He is not related to any of the accused, nor did he figure as a complainant. He furnished a detailed account of what happened on 06-08-1991. He has also furnished a brief account of the state of affairs that prevailed before that date. On 06-08-1991 at 11:00 a.m., PW-1 was said to be at his house at Tsundur and he heard that police

raided Harijanwada, and beat and abused people. On seeing the people running in front of his house, he too is said to have come out and ran out of fear towards Modukuru road. The group that ran towards Modukuru road included D-1 to D-3, PW 2, PW-4, PW-7, LW-7, LW-10, LW-15, Yacob-LW-12, LW-14, LW-17, LW-18. Most of the LWs were given up and not examined. He stated that he saw the Dalits running helter-skelter towards railway track also.

When they entered the fields to the west of the road towards Modukuru and were waiting there, himself and others are said to have seen the tractor-MO-1 driven by A-11, coming towards Modukuru road with 50 or 60 persons belonging to Reddy and Telaga Communities, armed with iron rods, knives, axes, spears and sticks. The tractor is said to have stopped at Nidra Ganneru tree at a distance of 100 yards from them. A-57, A-58, A-27 and A-32 are said to have got down from the tractor even before it stopped and proceeded to railway station and others who got down after the tractor stopped, are said to have started running towards PW-1 and others, standing in the fields. He is said to have ran into the plantain garden of LW-7 abutting a jasmine garden on the southern side and hidden himself in the bushes. He stated that PWs 2, 3, 5 and 6 crossed the Tungabhadra drain canal. He stated in detail the manner in which the various accused are said to have attacked D-1 to D-3. After the attack, the accused are said to have kicked the bodies of D-1 to D-3 into the canal. He named 38 accused in this regard. What happened after the incident is stated by him in the chief-examination, as under:

“...Then all of us went to Mamillapalli and from there to Ponnur and then to Tenali to our relatives houses and stayed there. We returned to Tsundur on 8-8-91 from Tenali. The Police examined me and recorded my statement. I saw the dead bodies of Mathaiah and

Immanuel (D-1 and D-2) when the inquest was held. I was again later examined, by the police..."

Here itself it needs to be mentioned that the inquest on D-1 and D-2 was held on 07-08-1991 at Tsundur, after PW-9 furnished the information about her noticing the dead bodies. PW-1 figured as a witness therein.

At the threshold of the cross-examination, PW-1 stated,

"...It is true that I was the President of Dalitha Porata Samithi in 1991..."

Though he denied the suggestion that he figured as an accused in connection with the stabbing of one Mr.Anji Reddy i.e. on 06-08-1991, at Konda Reddy tank, he stated that the case ended in acquittal on compromise. He pleaded ignorance about the population of Tsundur in 1991, the number of Telaga community persons, number of persons belonging to mala community of the Village in the year 1991. He admitted that some more cases were also registered against him. He has also stated that he cannot swim whereas Chappidi Mark, PW-7 can swim. His attention was drawn to the statements recorded under Section 161 Cr.P.C about the swimming across the drain canal, namely, Ex.D-3 and D-4. About the furnishing of information as to the death of D-1 to D-3, PW-1 stated,

"We did not give any report to Police at Tenali either on 6<sup>th</sup>, or 7<sup>th</sup> or 8<sup>th</sup>. We returned to Tsundur at 6-00 or 6-30 a.m. on 8<sup>th</sup> August 1991. While I was at Tenali, I came to know that one Dayari Dhanraj (PW-15) and Panthagani Jakraiah (PW-8) sustained injuries, were hospitalized and were in Government Hospital, Tenali. I came to know that fact in the morning of 7<sup>th</sup> August, 1991. I did not visit them at the

hospital. We did not try to observe the condition of those 3 persons of Dalitwada, thrown into the Drain Canal..."

He denied the suggestion that A-131 named by him in the Chief-examination was at Bangalore in the BSF camp on 06-08-1991. It was also suggested to him that no one can swim across the Thungabadra canal during August of an year. Suggestion was given to the effect that he deposed falsehood in order to get benefits from the Government. He stated that during his stay at Tenali, he did not inform any one about the incident, except one Smt.Kousalyamma (not examined). He admitted that there are as many as 10 persons with the name Gorepati Sambhi Reddy in the Village. He has also stated that he cannot say as to where the remaining persons of the group have gone after reaching Tenali.

PW-4 is the son of D-2, Jaladi Mathaiah and nephew of D-1, Jaladi Emmanuel. His evidence is almost on the same lines as that of PW-1, as regards the entering of the police into the harijanwada, their running from the Village, staying at a distant place in the fields, coming of the tractor and the alighting of the assailants. He too named 41 accused, apart from identifying 30. He stated that he has also gone into the plantain garden and hidden behind the thorny bushes. He stated that the attackers caught hold of D-1 first, and hacked him. Thereafter, the named assailants who are said to have caught hold of D-2 and caused injuries to him. D-3 is said to have been attacked subsequently. What occurred after the alleged attack is stated by PW-4; as under:

"...They (attackers) ran towards the Tractor jubilantly and reached the tractor stationed at Nidraganneru tree. After we satisfied that they reached Nidraganneru tree and were away from us, we

crossed the Thungabhadra Drain Canal and saw the tractor carrying those persons proceeding towards Modukuru. We joined the persons of our Harijanawada palle who already crossed the canal and hide themselves there prior to us. We embraced each other, wept and went to Mamillapalle and from there, we went to Ponnur by bus and went to Tenali via Intur. We dispersed at Tenali for our respective relatives houses. My brother, Mathe Pethuru and I went to the house of my relative at Chinaravuru and the name of my relative is Ashok. On 9-8-91, I saw the dead bodies of my father and junior paternal uncle at Tenali Govt. Hospital..."

He admitted in the cross-examination that A-6 named by him is effected with polio to his right leg and there are several persons with the same surnames and specific names. He stated that he did not inform about the incident, to any one including the passengers traveling in the bus from Mamillapalle to Tenali. He admitted that the canal is full of weeds and creepers and it would be difficult for anyone to swim, but stated that one can walk. He admitted that he did not state before the police that he has seen the dead bodies at Tenali.

The other witness relied upon by the trial Court in relation to the death of D-1 to D-3 is, PW-7. The evidence of this witness in the chief-examination is on the same lines as that of PWs 1 and 4. He too admitted that A-6 was attacked with polio in his right leg. He named quite large number of accused, as those, who attacked the deceased. His version is same as that of PWs 1 and 4, as regards the sharing of information with others.

Two or three aspects relating to the evidence of PWs 1, 4 and 7 become relevant. The first is about the timing of the incident. The second is about the non-furnishing of information of the incident to any one, almost for a period of four days. The third is about the truthfulness.



The evidence of PWs 1, 4 and 7 needs to be read with that of PW-9. While PW-1 a prominent personality in the Community, PW-4, who is none other than the son of D-2 and nephew of D-1; PW-7 has no such relation or prominence. Not only these three, but other four witnesses whose evidence was disbelieved by the trial Court stated that the police raided the Harijanpalle at about 11:00 or 11:30 a.m. and while all the male members have ran away to a distant place in two directions, the ladies came up to some distance. The persons who ran away on Modukuru road or the railway track are said to have waited for about 45 minutes. At that time, a tractor is said to have come with the persons armed with deadly weapons. The incident of attack on D-1 to D-3 is said to have taken place immediately. There is also evidence to the effect that the entire incident lasted for just about 10 to 15 minutes. It means, maximum by 1:00 or 1:30 p.m. the incident must be over.

However, if one reads Ex.D-113, the statement of PW-9, which is extracted in the preceding paragraphs, it is evident that the visiting of police to the Harijanwada itself was at 2:00 p.m. This was reiterated in her statement recorded under Section 161 Cr.P.C., marked as D-109. She further stated that about one hour later, Reddies and Telagas belonging to their Village came, armed with knives, axes, iron rods, sticks and after a while, A-11 left towards Modukuru Road by driving his tractor. Ex.D-109 and D-111, the relevant portions of her statement read as under:

“Ex.D-109: “On 6.8.1991 at about 2.00 p.m. while police entered our palle, due to fear that we will be caught...”

Ex.D-111:

“...After about one hour, Reddies, Telagas belong to our village, armed with knives, axes, iron rods, sticks, spears ran towards Modukuru Road and railway track, chased our male persons towards fields. After some time Gorrepati

Sambi Reddy of Munnangivaripalem went to Modukuru on road by driving his tractor..."

This takes the time of reaching of the tractor at the site at 3:00 p.m. In the inquest report, it was mentioned that D-1 was last seen by PWs 1 and 7 at 2:00 p.m. There are similar, if not more discrepancies as regards the timings in relation to the attack on the other deceased. Coming to the second aspect, Section 154 of Cr.P.C., places an obligation on every citizen who happens to witness a criminal act, to report the same to the police. Apart from that, if any one comes across a serious criminal act, though in relation to a person, unrelated to him, he tends to share the news at least with others, though not immediately with police, out of fear. It has already been mentioned that PW-1 is a Dalit Leader and head of an organization, at the relevant point of time. If in fact he has witnessed the attack on D-1 to D-3, he would have taken up the matter with required amount of seriousness and concern with the police or other organizations to ensure that the culprits are apprehended. The fear complex if any can be up to the stage the assailants moving away from the scene. All the eye-witnesses uniformly stated that it is only when they became confident that the assailants moved away and there is no threat to them, that they have proceeded towards Mamillapalle and then to Tenali. None of them stated that the assailants have threatened with dire consequences if they reveal the incident to any one. In fact, some of the witnesses stated that even when the assailants have seen them, they did not make an attempt to attack them.

Whatever may be the disinclination or indifference on the part of PWs 1 and 7 to reveal the information to any one, PW-4 being the son of D-1 and nephew of D-2 was bound to be very much bereaved and he could not have

been normal during the course of his travel also. Added to that, the relations of PWs 4 and others are said to be in Mamillapalle village in the immediate neighbourhood, where they are said to have gone. There was no threat perception at that place, for PW-4 to reveal the bereavement suffered by him. At Tenali also, he is said to have maintained silence for four days.

There are several factors that make this Court to hesitate to believe the evidence of PW-1. The first is that the timings furnished by him do not accord with the contents of D-113 and the statements recorded under Section 161 Cr.P.C. The second is that on the one hand he stated that he does not know swimming and on the other hand, deposed that he crossed the canal. The record discloses that the width of the canal is about 150 to 200 feet and its depth of water at the relevant point of time is 10 feet at the middle point. The question of a person walking across the canal does not arise. In August, the flow is said to be very high speed. Secondly, though he stated that he came to Tsundur for the first time on 08-08-1991, he stated that he was present when the inquest of the dead bodies of D-1 and D-2 was conducted on 07-08-1991. Thirdly, a person heading a Dalit organization cannot be expected to leave the injured persons, even before the attackers left the place.

When attacks of this nature take place, people will even stake their lives to protect their kin. Such a necessity did not exist here, because the assailants are said to have already left. Further, if D-1 to D-3 were killed on the spot and their bodies were pushed into the canal, with such a flow of water, it is difficult to expect the bodies to remain at the same place, till the next day, in respect of D-1 and A-2 and two days in respect of D-3.

The evidence of PW 4, that was believed by the trial Court is equally unnatural and unbelievable. PW-4 is the son of one of the deceased and nephew of another deceased. He is said to have witnessed the event throughout, and simply moved away from the place after the assailants went back in their tractor. He too is said to have gone to Tenali by crossing the Villages of Mamillapalle and Ponnur. For days together, neither he filed any complaint nor did he inform the incident to anyone.

PW-7 is another key witness. He too named scores of persons as assailants, as did the PW-1. This witness also is said to have gone to Tenali by crossing the same Villages and remained there till the next day. Even after he came back, he did not share the information with anyone. Several contradictions from him in comparison to what he stated before the Police were elicited. In the cross-examination, this witness stated,

"...The persons named by me in my chief examination (were) alone beat the three deceased persons and no other person gave blows to them when they were alive, before they were kicked with legs. It is not true to suggest that I stated before the police that some other persons also beat Immanuel (D-1) to D-3, as in Ex.D95-A Ex.D-95-B and Ex.D95-C..."

A perusal of the documentary evidence discloses that the facts stated by the above mentioned witnesses can not be taken as true. The following is the summary of the inquest reports of D-1 to D-3.

	Certificate	PM conducted	Identification marks	Injuries	Opinion of the Doctor
D1	Ex.P150	10.08.1991	Not visible	A lacerated injury on the face extending from right ear to left ear with multiple fractures of mandible and	The deceased would appear to have died of shock due to

				maxillae measuring 8"x6" into up to base of skull. Pinna of right ear absent. Eye Balls absent. Distortion of nose and mouth and present. 2) A lacerated wound of 6"x4" Bone deed on the left upper arm. All the above injuries are anti mortem in nature.	injury No.1 about 3-5 days prior to P.M.Examination
D2	ExP101	8.8.1991	Cannot be made out	1.(L) External ear is cut by an incised injury of 2 inches x thickness of pinna up to the root of the ear. 2. An incised wound of 1 inch x half inch into bone deep behind left ear 3. An incised injury of half inch x one inch into bone deep on the (L) angle of the mandible 4. An incised injury of ¾ inch x 2 inch into bone deep over the (L) temporal region of skull 5. An incised injury of ¾ inch x ½ inch into bone deep one inch above injury no.4.	The deceased would appear to have died of shock due to multiple injuries. 48 to 72 hours prior to post-mortem examination.
D3	Ex.P147	9.8.1991	Not visible	1} A contusion of 4"x3" size on the top of head. On dissection of the underlying tissues are found bruised. There is transverse fracture of skull vault involving both parietal and temporal bones. On	The deceased would appear to have died of shock due to head injury within about two to three days prior to P.M. examination

				opening skull extra dural hematoma present. 2} A contusion of 4"x3" on right foot. A contusion of 4" x3" on the front of chest.	
--	--	--	--	--	--

We are conscious of the fact that the inquest report can not be treated as a piece of substantive evidence. However, from a perusal of the above table, it becomes clear that the cut and lacerated injuries were noticed on D1 and D2, whereas, all the injuries noticed on the body of D3 are just contusions. It has to be seen as to whether the depositions of the alleged eye witnesses accord with the findings of the postmortem. For this purpose, the case in relation to D3 is taken as a sample.

The trial Court summed up the evidence in relation to attack on D3 :

"ATTACK ON D-3:

P.Ws. 1 to 7 are the eye witnesses to the attack on D3 Mallela Subba Rao. PW.1 saw A16 beat D3 blunt side of the axe on the back side. A86, A56, A50 beat D3 with iron rods on his chest.

PW.2 saw A16 beat D3 with axe and A86 , A50 beat D-3 with iron rods.

PW.3 saw A16 beat D3 on his head with the blunt portion of the axe. A56, A65 beat D3 on his chest with iron rods.

PW.4 saw A16 beat D3 on his head with wooden portion of the axe. A50, A56 beat D3 with iron rods on his chest. A80 beat him with stick on his right foot.

PW.5 saw A16 beat D3 on his head with the blunt portion of the axe. A56, A50 beat D3 on his chest with iron rod. A80 beat D3 with a stick on his right foot.

PW.6 saw A16 beat D3 with the butend/blunt side portion of the axe on his head A56, A64 beat him with iron rods on his chest.

PW.7 saw A16 beat D3 on his head with the blunt side portion of the axe. A56, A50 beat D3 on his chest with iron rods. A80 beat D3 with a stick on his right foot."

If so many injuries were caused with iron rods and axes, that too, by so many accused, it is just unthinkable that there exist only marks of contusion on the body of D3. The attempt made by the prosecution to be nearer to the findings as to the injuries on the body is evident from the fact that the witnesses were made to present a picture as though the accused used only blunt portions of the axe. It is also necessary to notice that in relation to attack on D1 and D2, the persons of the same group, were said to have used spheres, knives and axes, whereas, some from the same group has chosen to selectively attack D3, with the wooden sticks or blunt portion of the axe, and iron rods. It appears as though every caution was taken to ensure that no visible injury is caused to him.

There is a clear discrepancy between what is usually called as 'ocular evidence' on the one hand, and the medical evidence on the other hand. It is also necessary to notice the approximate time of the death of the persons. The facts mentioned in the respective postmortem reports do not lead to inference that D1 and D3 died at the same time, as spoken to by PWs.1 to 7.

The injuries on D4 to D8 are noticed as under:

	Certificate	PM conducted	Identification marks	Time as to which the body was noticed	Injuries	Opinion
D4	Ex.P94	08.08.1991	Not visible	At 10.00p.m.	1. An incised wound extending from the bone of right thumb to the bone of right little	The deceased would appear to have died of

					<p>finger 4 inches x half inch into bone deep.</p> <p>2. An incised wound across the right wrist 3 inches x 1 inch bone deep.</p> <p>3. An incised wound over the middle of right side of the neck situated transversely 8x1 inch into bone deep.</p>	shock due to hemorrhage as a result of multiple injuries within about 48 to 72 hours prior to postmortem examination.
D5	Ex.P148	09.8.1991	Not visible	At 9.00 am	<p>1. A cut laceration of 4"x1" size, transverse, on the occiput. On Exploration fracture of occipital bone present with underlying Epidermal Hematoma.</p> <p>2. A contusion of 6"x2" size on right fore arm.</p>	The deceased would appear to have died of shock due to head injury two to three days prior to P.M. examination.
D6	Exp100	9.8.1991	Could not be seen	At 9.00am	<p>1. A contusion of 4"x3" on the left shoulder</p> <p>2. A contusion of 4"x3" on the left parietal occipital area with corresponding extra dural hemorrhage</p> <p>4. A contusion of 2"x2" on the right knee. All the injuries are ante mortem in nature.</p>	The deceased would appear to have died of shock due to head injury two to three days prior to Post Mortem examination
D7	Exp150	10.8.1991	Not visible	At 9.00am	<p>1. A lacerated injury on the face extending from right ear to left ear with multiple fractures of mandible and maxillae</p>	The deceased would appear to have died of shock due to injury No.1 about 3-5



					measuring 8"x6" into up to base of skull. Pinna of right ear absent. Eye Balls absent. Distortion of nose and mouth and present. 2. A lacerated wound of 6"x4" Bone deed on the left upper arm. All the above injuries are anti mortem in nature.	days prior to P.M. examination.
D8	Exp.95	10.8.1991	Could not be seen	At 9.20am	1. An incised wound 6"x2"x1" over left side of the neck. 2. Incised wound 3"x1"x1/2 " on front neck. 3. Incised wound 4"x1"x1" over right side of neck. 4. Incised wound 3"x1"x1/2 " over left parietal region. 5. Incised wound 4"x1"x1/4 " over left occipital region. 6. Incised wound 2"x1"x1/4 " over right parietal region. The above injuries are anti-mortem in nature.	The deceased would appear to have died of shock due to hemorrhage as a result of multiple injuries about 2 to 3 days prior to Post Mortem examination.

If one takes into account, the places and time at which the dead bodies of D1 to D8 were noticed, it becomes clear that the theory presented by the prosecution, namely, that all of them were killed at about afternoon of 06.08.1991 that too, at the places mentioned in the evidence, becomes unbelievable.

According to PWs.1 to 7, D1 to D3 were dealt severe blows and were pushed into water by the named accused, in the afternoon of 06.08.1991. There was heavy flow of water in the canal. The prosecution failed to explain as to how the bodies remained at the same place where the attack is said to have taken place for days together. Another missing link is how and why the body of D3 was noticed one day later. The record also discloses that some of the bodies were found in gunny bags and tied with wires or ropes. Not a single witness has spoken to about the bodies being put in bags, or tied with wires or ropes.

D5 to D8 were said to have been attacked near the railway gate abutting Modukuru Village. The attackers are said to have dragged all the four bodies to nearby cattle shed and went away from that place. However, the dead bodies were not recovered from the cattle shed.

The manner in which, the bodies of D1 to D8 were recovered as mentioned in the respective inquest reports, is as under:

	Exhibit of the Inquest report	Time and place where the dead body was seen, first found; and; by:	Condition of the body
D1	Ex.P47	7-8-1991 at 2.00 p.m. at Tungabhadra Drain Channel, which is adjacent to Jasmine Garden of Mannava Naghabhushanam situated on the southern side to Tsundur Village, found by PW.9	The corpse was stiffened and as in the water it was decomposed. On the head there were approximately two inches length hair. Both eyes are closed, mouth is opened, lower teeth are exposing. Unshaved beard both legs are whitish.
D2	Ex.P48	7-8-1991 at 2.00 p.m. at Tungabhadra Drain Channel, which is adjacent to	The dead body was stiffen and decomposed, as it was lying in the water. There is one and

		Jasmine Garden of Mannava Naghabhushanam situated on the southern side to Tsundur Village,  found by PW.9	half inches, length of black hair on the head. Both eyes are closed, mouth is opened, both legs and hands are whitish.
D3	Ex.P41	8-8-1991 at 1.30 p.m. at Tungabhadra Drain Channel, which is adjacent to Jasmine Garden of Mannava Naghabhushanam situated on the southern side to Tsundur Village,  found by PW.11	Dead body is completely in decomposed position and swollen and stiffed. Mouth was opened. Eyes were swollen and protruded out. Hands are stiffed and stretched to aside in a folding position. Head portion is pressed downwards. Genital parts are completely swollen. Skin and scarfskin was completely peeled off from the body. As the feet are drowned in the water they became pale....
D4	Ex.p40	7-8-1991 at 3.00 p.m. lying in the field canal of new channel No.1 situated on the eastern side of Modukuru village,  found by PW.13	Dead body is in stiff condition in the water it is decomposed. There is black hair on the head. Two eyes are closed. Mouth is opened and upper teeth are appearing. As it is in water the skin at the hands and legs is folded.
D5	Exp54	8-8-1991 at 2.00 p.m., at new canal situated on the southern side of Modukuru Railway station at a distance of ½ km.  Found by PW.24 .	Dead body was tightened in gunny bag and was in the water. Tghere was swelling and foul smell emanating from it. There are 3 inches of hair on the head. Two eyes are closed in a swollen

			condition. Mouth is opened. The scarfskin on the dead body was peeled off. On the back of the head it is appearing that there was an injury. As the dead body was fully swollen injuries could not be seen.
D6	Ex.P51	8-8-91 at 2.30p.m. from the gunny bag in Tungabhadra canal which is situated in between the two bridges in Modukuru village by Angalakuduru Kotirathnam,  found by PW.25	The dead body was tied in a gunny bag lying in water and in swollen condition. On the head about two feet hair is there. Both eyes are absent, mouth is opened, and tongue is in between the two teeth. Both legs are pale and whitish. As the corpse is completely swollen, no injuries are visible.
D7	Ex.P42	8-8-1991 at 5.00 p.m. lying in the canal water under the Armanda new canal bridge situated on the road leading from Ponnuru to Inturu which is about 4KM away on the eastern side of ponnur village,  found by PW.23 .	Lying in the water, it became pale and the entire skin being peeled off and whitish. It is completely swollen. It is in supine posture with its head on western side and legs on eastern side. Both eyes are absent. Both legs are tied with country coir rope. There is no hair on the head.
D8	Ex.P56	8.8.1991 at 6.00 p.m. lying in the canal water on the eastern side of Ponnur sluice approximately at a distance of KMs on the road running from Ponnur to Inturu under Aramanda Canal Bridge.	The corpse is with stiffness soaked in water it is pale and is whitish due to loosening of all the skin. It is perfect. Legs were straight and hands were folded side ways and was lying in supine posture. The face was fully swelled and eyes are protruded out. Blood

		Found Devarapalli Ramesh.	by	serum is oozing from nose and mouth. The hair is at a length of two inches.
--	--	---------------------------------	----	--

The particulars furnished above reveal that the dead bodies of the deceased were not recovered from the place, at which D1 to D-8 are said to have been killed or attacked. There is some proximity as regards D1 to D4. However, if one takes into account, the place of attack on the one hand and the place at which the dead bodies are recovered on the other hand in relation to D5 to D8, it becomes clear that there is no comparison whatever. The record is totally silent as to how and by whom the bodies of D5 to D8 were taken to different places. While the dead body of D5 was in new channel, which is eastern side of Modukuru village, and the dead body of D6 was found on Tungabhadra channel on the western side. The dead bodies of D7 and D8 were found in a channel near Ponnur village, which is far away from Tsundur and Modukuru. We are quite aware of the fact that the inquest reports are not pieces of substantial evidence. However, on the facts such as, the timing and places, they can certainly be taken as authentic version of the prosecution. We are not dealing with the evidence of the other witnesses in detail unless it is essential, lest the length of the judgment increases without any useful purpose.

PW-8 stated that he was injured in the attack, by the accused and he joined Hospital at Tenali. However, he did not inform the police and joined hospital on his own accord. He is said to have seen the attack on D-4 to D-8. In the cross-examination he stated,

“...I can not say the names of the persons who bet me. I can not say the names of those persons who beat on which part of my body,

but, they beat me indiscriminately. Borugadda Sambayya (L.W.66) and Dayiri Dhanraj (PW-15)(L.W.26) were also present along with me at that time..."

"...I can not say the names of the persons who hacked D-4 to D-8..."

"...I did not state the names of assailants of D-4 to D-8 before the police..."

A statement recorded from him on 06-08-1991 at 10-15 p.m., in Ex.P.153 reads,

"...I belong to Tsundur village. I live by doing agricultural work. It is learned that about two days ago Mala Caste people beat a person of Reddies and that today also i.e. 6-8-1991 at fields the people of reddy caste and the people of mala caste fought. Today apprehending that the bandobast police may catch us at Palle, and having afraid and when went in between Moparru and Kandepadu from Tsundur, some persons came in RTC Bus. From among them Satyam who is ready beat on my right and left shoulder with iron rod. Others stabbed on my left and right legs with knives and beat indiscriminately with sticks. I know Satyam. I can identify remaining persons if seen. This incident occurred at 2 p.m. My both legs sustained severe injuries and bleeding. Previous grudges is the reason for beating me Unable to come due to pain of injuries, I myself joined in Tenali Government Hospital. Doctor treated me. This is a fact. Read over and it is correct."

This, however, reached the police station at 8:20 a.m. on 08-08-1991, i.e. 1 ½ days after the statement was recorded. It is important to note that PW-8 did not mention about any incident of chasing or attacking others in the Village.

PW-15 is a key witness for the prosecution. He is said to be not only an injured witness, but also an eye-witness for the attack on D-4 to D-8. He is the person who named or identified largest number of accused, namely, 76 persons. Left to himself, he did not submit any complaint. However, his statement, Ex.P-3 was recorded on 07-08-1991 at 7:00 a.m. and his signature was taken thereon. This constituted the basis for registering crime No.67/1991.

In his chief-examination, PW-15 stated that he was at home at 11:30 a.m. on 06-08-1991 and when he saw police chasing the persons in the Village, he too ran towards railway track along with 40 or 50 persons of the Palle. He furnished the names of about 40 persons, who are said to have been standing on the railway track by the side of the railway gate after being chased by the police. According to him, about 20 persons of the Reddy, Naidu, Washermen and Potter community came towards them, in front of the police station, and he saw the police also coming behind them towards the railway gate on the northern side. Thereafter he stated that the railway gate is on the eastern side of their palle. He named about 60 to 70 persons said to have chased the harijans that were standing at the railway gate and he named some of them. He is said to have seen A-28, A-32, A-57 and A-58 chasing the persons from China Polimera donka and there catching hold of Mandru Ramesh, D-4. Those four persons attacked D-4 with axe and rods. PW-15 is said to have waited there for about few minutes. Thereafter, the harijans of the Village are said to have disbursed to the various places and that he came towards Mothukuru railway gate, known as Karla gate, and he saw D-6 and certain others being chased by the assailants. He is also said to have seen the tractor belonging to A-11, coming behind them. At that stage, PW-15 and others are

said to have went behind the room of the railway gateman and hidden themselves behind the trees.

D-5, D-7 and D-8 were said to be running on the railway track, but the assailants, in particular A-64, A-104 and A-115 attacked D-5; A-5, I-28, A-31 attacked D-6; A-95 hit D-7 and D-8 on their faces with an axe; A-4 and A-102 and another person whose name he does not know are said to have attacked D-8 with knives. The dead bodies are said to have been dragged by the assailants towards the cattle shed and at that stage, PW-15 and some others waiting at the railway gate are said to have ran towards different places. He made a mention about 20 persons who are said to have got down from a bus on the Amarthaluru and Guntur road. He did not attribute any acts of attack to them. His only allegation is that those persons have attacked PW-8 and caused injuries. One Borugadda Sambaiah, LW-66 (died during the trial) is said to have been beaten by A-50. The same A-50 is said to have attacked PW-15 and one Poluri Ravindranath Reddi beat him on leg with iron rod. He stated that when he asked for water on becoming thirsty, A-4 and A-5 are said to have poured urine into his mouth and A-27 removed his shirt. PW-15 is said to have been carried on the shoulders of A-139 up to a distance and thereafter he was laid down after covering up to some distance. He is also said to have carried to the plantain garden by A-127 and there he was laid on the bund of canal. He stated that A-28 stood on his hands, A-50 held a bottle and A-93 pulled the blood from his body i.e. PW-15's body, with a syringe. Assailants are said to have left by keeping one unknown person as a guard at PW-15 and the said person has left that place after some time. He is said to have slipped into a new canal and came to the village and there two



woman by name Hamsamma and Buragadda Meeramma (not examined) lifted him out. The relevant portion reads,

“...Later I myself slipped into the canal. In the water flow, I reached the bridge over the new channel at the Railway gate from where we started initially when the assailants chased us. Then I heard voices of some female persons. I raised a cry as Sister (Akkayi). Hamsamma and Buragadda Meeramma lifted me out of the water and they carried me on their shoulders to my house...”

After going home, he is said to have left for Tenali at 9:00 p.m. by a train and he was kept in the house of his relatives. He is said to have gone to the area hospital, Tenali at 8:00 a.m. on 07-08-1991. He has also stated that at 9:00 a.m. his statement, Ex.P-3 was recorded by the police. He further stated that contents of Ex.P-3 were not read over to him, but the S.I of Tsundur, PW-59, recorded his statement, after he was shifted to Government General Hospital, Guntur. Apart from naming about 50 accused, who are said to have chased him, he identified another 76 persons.

In the cross-examination, he admitted that at 2:00 p.m. on 06-08-1991, a case was registered against him and others alleging that they attempted to kill Vuyyuru Anjireddy and some others near Kondareddi tank. It was suggested to him that apprehending arrest by police in connection with that case, he joined the area hospital on 06-08-1991. In reply to a suggestion made to him, he stated that the contents of Ex.P-3 are false and that he did not state those facts. He denied the contents of Ex.P-3.

In reply to a question about the alleged attack on D-4, he stated as under:

"...I heard cries after I crossed the branch canal No.1 of New channel and when I was 10 yards away from it. I was not frightened but I stood and observed the attack on Ramesh, D-4. At that time, I say 60 or 70 persons among the mob of the assailants. I stood there for 2 minutes and witnessed the attack on D4. Only a few persons among the mob attacked D-4, Ramesh. I did not observe what others were doing while Ramesh was being beaten by the assailants, but they were standing and observing the attack..."

At another place in the cross-examination, he stated,

"...I was examined by police on 7.8.91 at 9.00 a.m. at Tenali, but I do not know the designation of the police officer who examined me. At 5.00 or 6.00 p.m. on 7.8.91, the S.I. examined me at Guntur. On 10-8.91, the Dy.S.P. examined me, but I do not remember the exact time when he examined me..."

Since he named or identified more than 100 accused, a suggestion was put to him as to whether he can furnish the names of the persons who ran ahead of him. The relevant answer reads as under:

"...Thirty or 40 persons were along with me while I was running on the new channel bund. About 10 persons were ahead of me while running, and I was in the middle. I can not say the names of the persons who were running ahead of me. Those persons were running closely ahead of me..."

A suggestion was also put to the effect that he is a rowdy- sheeter.

Ex.P-3 has already been extracted in the preceding paragraphs. From a perusal of the same, it is clear that PW-15 did not make any mention about the attack on D-4 to D-8. The time mentioned in Ex.P-3 at which PW-15 and others have started at the village is 10:00 a.m. He did not state that when he became

thirsty and asked for water, some of the accused poured urine in his mouth. No reference was made to the manner in which he came from the place of alleged attack to his house. Though he admitted that Ex.P-3 is recorded from him, in the cross-examination he stated that whatever he stated in Ex.P-3 is false. The portion of chief examination where he stated the manner in which he reached home after being attacked was extracted already. The record discloses that the distance between the place where PW-15 slipped into the canal and southern gate from where he started is roughly 3 kilometers. During the course of arguments, it became clear that the flow in the canal was from north to south. The width of the canal is said to be between 50 to 100 feet and that during August, the flow is very heavy. If what is stated by PW-15 in the paragraph extracted above is true, he was beaten severely and inflicted many injuries, blood was extracted from him, he was unable to walk and in that condition, he swam in the new canal, up to a distance of 3 kilometers against the flow. It is also important to note that the two ladies, who are said to have lifted him up, were not examined. The trial Court has given utmost importance to the evidence of PW-15 by treating him as an injured witness.

PW-15 stated that the following injuries were inflicted upon him:

- a) an injury on right knee caused by A-50, Poluri Prasadareddy
- b) another injury at the same place caused by Poluri Ravindranath Reddi with iron rod.
- c) The injuries on other parts of the body on being beaten with iron rods by A-23, A-28, and A-31.
- d) Twisting of leg by Poluri Prasada Reddy

- e) Injury with iron rod by A-4
- f) Another injury caused by Poluri Prasada Reddy, A-50 with iron rod when PW-15 was drinking water from the fields.

Ex.P.97 is the wound certificate issued by the Superintendent of the Government Hospital. The following injuries were noticed:

"A diffused swelling over right hand reddish.

- 1. A reddish diffused swelling over upper 1/3<sup>rd</sup> of right fore arm
- 2. A reddish swelling from left shoulder 3 inches X 2 inches.
- 3. A diffused swelling over right leg
- 4. Blood is oozing from left collar bone".

The Doctor certified that all the injuries are simple in nature. However, if the facts such as,

- a) he figured as an accused in Crime registered at Tsundur at 2:00 p.m. on 06-08-1991 alleging attempt to kill one Sri Vuyyuru Anjireddy and some others near Kondareddi tank,
- b) though he named or identified more than 100 accused, he expressed his inability to name 10 persons who are closely running ahead of him
- c) he did not mention about the attack on any of the deceased in Ex.P-3,

- d) he admitted at one stage that Ex.P-3 is the statement recorded from him and at another stage, disowned the entire statement.
- e) He did not lodge any complaint in the police station, though he was there at Tsundur at 9:00 p.m. on 06-08-1991, in spite of the fact that he is stated to have been inflicted injuries and blood was collected, he swam or walked up to 3 kilometers in the opposite direction of the flow of the water,
- f) The failure to examine two ladies who are said to have rescued him, his joining the hospital on his own accord, without any reference by the police,
- g) The failure to make the statements recorded by the SI of police and D.S.P, as part of record,
- h) The serious discrepancy between the injuries said to have been inflicted upon the witness and Ex.P-97, the injury certificate;

would clearly disclose that PW-15 is not truthful and he has been planted by the police with an effort to provide an important link in their version.

There may be some remote possibility to believe that PWs 1 to 15 are other similar witnesses were shocked and did not feel like informing anybody about the alleged incident. PW-16, however, is a person who retired from Military service on 31-07-1991 i.e. less than one week before the alleged date of

incident. It was elicited from him that it would take at least one, for the pension matter to be finalized, after retirement. It is important to mention that he did not state about his background, in the chief-examination and it was elicited in the cross-examination. He stated in same fashion as did PW-15.

Assuming that PW-16 was in the mob that ran away towards the southern gate and has seen the attack on D-4 to D-8, one cannot expect an Army man, fresh from service, to remain a mute spectator, that too when he is in the company of many. He has to cross the police station, before he reaches his house. Even this person did not choose to inform the police. This witness also named scores of people as assailants. When he was in service up to that time, how he could identify the persons of the village from a long distance, in such large numbers is a mystery.

PW-17 was a student of degree at the time. PW-18 was a driver under training. PW-19 is a relation of D-6. He admitted that he figured as accused in several cases and was convicted in a case on finding that he has set on fire the house in that village and that the father of A-57 and A-58 deposed as a witness in the case. He admitted that he was on hunger strike in July 1991 in the village in relation to his demands and that he was arrested and that a case is pending wherein he was alleged to have stolen the buffalo of D-6. Several contradictions were elicited and he alone is said to have gone to Tenali.

PW-12 is a witness who spoke on similar lines. Even in the chief-examination he furnished as to the manner of attack on D-4. This is the only witness who stated that he gave a report to the police, may be on 08-08-1991, regarding the incident. However, the report did not form part of record. In further cross-examination, he stated that he did not give any report. The consequence thereof is not difficult to imagine. It was suggested to him that A-6 was implicated only because he filed a writ petition in the High Court, opposing the acquisition of his land for the benefit of the Harijans of the village.

PW-23 is the maternal uncle of D-5. His evidence is on the same lines as that of others, on broad aspects. Similar contradictions were elicited from him.

PW-26 is a railway gang man, who was said to be on duty on a gate nearby which, the incident of attack on D-5 to D-8 is said to have taken place. He did not state that he has seen the incident. At the instance of the Special Public Prosecutor, he was declared hostile but nothing material was elicited from him, in the cross-examination.

PW-27 stated that he worked as a gateman on the same day i.e. 06-08-1991, at Modukur. He admitted that he is only a gang man and did not produce anything to show that he was authorized to work as gate man.

Most of the witnesses, such as PW-15, PW-21, PW-23 stated that when the attack on D-5 to D-8 was taking place, about 20 persons came in a bus, alighted at Modukur and joined the assailants. The conductor and Driver of the

bus were examined as PW-28 and PW-29. These witnesses did not support the case of the prosecution and were declared hostile.

So far, we have discussed the evidence of the prosecution witnesses, who are said to have witnessed the occurrence, there are witnesses from government departments also. PW.57 was the constable, who worked at the relevant point of time at Tsundur, and PW.59 the Sub Inspector of Police. The sequence of incidents that occurred on 06.08.1991 is furnished by PW.59 as under:

“....There was tension in the village from 04.08.1991 itself. The Inspector of Police, Tenali Rural along with the S.I of Vemur, Amarthalur and Tenali Tq. camped in Tsundur. At about 7.00 a.m on 06.08.1991, I myself and Inspector of Police and others visited the Tsundur village Reddi and Telaga locality searching for accused in Crime No.60/91. But in vain. Afterwards, we visited Malapalli of Tsundur for searching accused in Cr.No.59/91. The Malapalli is located to the east of Tsundur –Modukuru road. But we could not trace any accused. On seeing police, the male persons of Tsundur Malapalli and some of the ladies ran away in different directions. We all returned back to the police station and without arresting any accused. We have already arranged two pickets functioning at Bose Statue centre and Church centre of the Tsundur. In the meanwhile PC 547 Sai Baba LW.89 came to the P.S. and reported that two reddies were stabbed by harijans towards Alapadu Road. As per directions of the Inspector of police, myself and the Sub Inspector of Police, Tenali Rural visited the place at about 11.00 or 11.30 a.m., on 06.08.91. We did not find any assailants there but we found two injured persons. We returned back to the P.S. at about 12 noon. In front of P.S., there is a gathering of mob pertaining to Tsundru, Munnagivaripalem, Modukuru and Valiveru Reddies and Telagas and were talking to the Inspector of police. Some of the mob were going towards Railway level crossing to the South of Tsundur Railway station. They were going on the road, in front of police station and also



on the Railway track. They were armed with sticks, spears and some other weapons like iron rods etc. They were about 100 in number. Along with the Inspector of police, I followed the mob. At the railway gate to the south of Tsundur Railway station S.I. of Vemuru P.S., and Head Constable Gafoor PW.57 were there. The Reddies and Telagas were chasing Harijans towards south i.e., Modukuru road on the eastern bund of new channel and we chased the Reddies and Telags up to 2 furlongs we are unable to catch them. We brought 50 persons belonging to Reddi and Telaga persons of four villages upto Erukala colony and on the instructions of police they were let off along with their respective weapons and they went into the Church road...."

MO.1 is a tractor and trailer belonging to one of the accused the only thing set about tractor by PW.58 reads as under:

"....At about 3.00 p.m., one Gorrepati Sambi Reddy came there in a tractor and requested the Inspector of police who was there to provide escort to bring their children from Dan Basqo school at patchala Tadiparru. Accordingly, Inspector of Police, Tenali Rural provided escort comprising S.I of Amarthalur P.S., Mr Veerayya and six constables, who went along with party successful escorted the children of upper caste persons of Mudukuru. The tractor also came...."

Barring this, he did not state that the tractor was used by the assailants to attack the deceased or any of the PWs. About the incident leading to the deaths, PW.59 stated as under:

"....At about 11.00 p.m., on 06.08.19991, the D.S.P., Tenali phoned to the Inspector of Police, Tenali and informed that some Harijans were killed by some upper caste persons and their dead bodies might be found at the tank near Alapadu. Acting on the information

I followed the Inspector of Police, Tenali Rural along with some police personnel to the said tank and conducted search for the dead body

and found no dead bodies there. On 07.08.1991 at about 9.00 a.m., the D.S.P Tenali Mr Rayalayya and R.D.O Tenali came to Tsundru and camped at Tsundru. The Dy.S.P formed 4 search parties to trace the dead bodies in and around Tsundur. The DSP also informed us that he had information that one D.Dhanraju (PW.15) and P Jakrai PW.8 were beaten by upper caste people and there were taking treatment at Tenali. A case in Cr.No.65/91 was registered on 07.08.91 in Tsundur PS. I took up investigation in the said crime and recorded the statement of PW.8 on 7.8.91...."

PW.57 stated :

".....On 6.8.91 at 12 noon the Inspector of Police, Tenali Rural Mr P.V.Saibabu (LW.130) gave instructions to me to be on Bundobust duty at the Railway level crossing at Erukala colony in Tsundru. Accordingly, I went to that place and did Bundobust duty. By that time of my reaching the level crossing Vemuri SI Mr Madar Vali (LW.129-A) and two police constables were also present there. Besides there were also present about 30 to 40 male Harijan persons on the railway track, by the side of the track at the gate and also on the bridge over new channel. There were also some 3 or 4 females/Harijans present at the western side of the gate. The Sub Inspector of Police shaik Madar Vali LW.129-A stood at the western side of the level crossing whereas I stood at the eastern side. Sometime thereafter a mob of about 300 Reddies and Telagas were seen coming towards us by the western side of the railway station and also on the road in front of the police station. They were armed with sticks, axes, iron rods and spears. By the time the mob came to the western side of the railway level crossing where LW.129-A stood, the harijans stood up. The Reddies and Telagas at that juncture raised some cries. The Harijans started running towards the eastern bund of the new channel. Some of the Reddies and Telagas, who were running towards eastern bund of the new channel towards Modukur side. I saw Inspector of Police, Tenali Rural Sai Babu LW.130 and Sub Inspector of Tenali Taluq P.S., LW.127 and our station Sub Inspector LW.124 coming behind the Reddies and telagas, who were chasing the

Harijans that went towards eastern bund of new channel. I was also ordered by the Inspector of Police to come along with him. I also joined the police officers in chasing the Reddies and telagas, who were after the harijans on the eastern bund of the new channel. We went for about 2 furlongs but could not catch none of the Reddi or Telaga assailants, though they were still chasing the Harijans on the eastern bund of the new channel. Our Inspector of Police LW.130 asked all of us to go back to the village to be on bundobust duty in the village. Accordingly, myself LW.130, 129-A, 127 and 124 came back and other police persons returned back to the Tsundur village and we were on bundobust duty at Bose statue center...."

He repeated the version of PW.59 about MO.1 tractor.

PW-62 is Sub-Inspector of Police of Kollipara Police Station at the relevant point of time. The SDPO, Tenali deputed the Sub-Inspector of Police of different stations to Tsundur in August, having regard to the gravity of the situation. PW-62 was one such. In the cross-examination, he stated,

"... In the afternoon on 6-8-91 the S.D.P.O. Tenali instructed me to go to Tsundur for Bandobust. I reached Tsundur at about 6-30 or 7-00 p.m on 6-8-91. Throughout the night of 6/7-8-91 I was on bundobust duty at Bose statue centre. Throughout that night nobody came to me and informed regarding any incident on 6-8-91. I did not also get any impression of any incident happening on that day. The S.D.P.O entrusted me with the investigation in Cr.No.68/91 at about 4-00 p.m. on 7-8-91. No written instructions were given to me in that regard. I mentioned in my Part I C.D. regarding the entrustment of the investigation by the S.D.P.O in Cr.No.68/91..."

On the subsequent days he is said to have been informed about the finding of dead bodies. He stated in detail, the steps, such as preparation of inquest, taken by him. Several procedural lapses such as failure to record statements of the concerned persons, were suggested.

Similarly, PW-65 was S.I. of Police Duggirala of Guntur District in 1991. He too was deputed to Tsundur in August 1991. He stated *inter alia*,

"...it is true that the Superintendent of Police, Guntur, District Collector, Guntur and the D.I.G of Police Guntur visited Tsundur Police Station on 7-8-91 but I do not remember the time of their visit. The Dy.S.P.Tenali instructed me on 7-8-91 to receive Addl.forces and to form 10 to 15 search parties under a Sub-Inspector with ten police constables in search of the Dalits who were strongly suspected to have been murdered. I noted down the details of the Searach parties including their names about their destination, the time of their leaving the Police station and handed over that record to the Dy.S.P. Tenali. I did not take any report from those search parties. I was in Tsundur P.S. on 8-8-91 till 3-00 P.M. Along with me the S.I. of Police, Tsundur, Inspector of Police, Tenali Fural, Dy.S.P. Tenali and some other staff were present in the Police station Tsundur on 8-8-91. On 7-8-91 while I was in the Police station Tsundur nobody came to P.S. to give information regarding the incidents happened on 6-8-91..."

Other information elicited from him includes,

"...It is true that the mediators G.Y.V. Ramana Murthy P.W.45 and Yedluri Jakraiah L.W.102 are not residents of Tsundur. I do not know from what time and for what purpose those mediators were at M.R.O.

Office

on 8-8-91. The three witnesses i.e., P.W.11, P.W.12 and Devarapalli Alia L.W.17 were at the Police station by the time I received copy of F.I.R. in Cr.No.69/91. I along with two mediators, G.Y. V. Ramana Murthy, and Y. Jakraiah and the three witnesses P.W.11, P.W.12 and Devarapalli Elia, LW-17 went to the scene of offence in a Jeep, and along with 2 or 3 police Constables. P.W.11 Mallela Danamma showed us the scene of offence. By the time we reached there the dead body was floating in the water and Gurrapu Dekkalu plants spread around the dead body. I observed the scene of offence after getting the dead body out of the water. It is true that the width of the Thungabhadra drain is 50 yards. It is true that the dead body was lying 6 feet away towards west of the Western bund (GATTU) and 110 feet away on the northern side from the Southern boarder of Mannava Nagabhushanam Jasmine garden as mentioned in Ex.P.70. The dead body was floating in the water and it is not possible for strangers to identify the dead body without making its face upwards (supine). The wife of the deceased might have identified the dead body from seeing it towards its back side (Pronet). I can not agree with the suggestion that it is not possible for anybody to identify the dead body in the position it was floating in the water. I have noted in Ex.P-70 what I have observed.

“...I did not mention in my Part I C.D. about the bringing out the dead body from the water. It is true that the rough sketch Ex.P-225 does not disclose the existence of a dead body or any other detail regarding the dead body. Ex.P-225 is not in my hand writing...”

“...It is true that the inquest panchayat P.W.45 and Y. Jakraiah L.W.102 are not residents of Tsundur. As per Column III of Ex.P-41 the dead body was firstly seen dead at about 1-30 p.m. on 8-8-91. During

the inquest In read over the contents of copy of Ex.P-201 to the mediators and the witnesses who were present at the time of inquest. As per Column.IV of Ex.P-41, the deceased was lastly seen alive in between 3-30 and 4-00 P.M. on 6-8-91 in the Wet lands adjoining the road leading to Modukuru. It is true that as per Col.No.IX of P-41 the deceased was alive till 4-00 P.M. on 6-8-91..."

As regards the social status of the deceased and the injured, PW-65 stated,

"...In the requisition Ex.P-222 I requested the MRO to check up the revenue records and certify whether the deceased and injured persons mentioned in the Charge Sheet belong to Scheduled Caste or not. It is true that the MRO P.W.64 did not issue any certificates of caste of the 8 deceased and other witnesses L.Ws 1 to 84, 87 and 88. He did not even certify in Ex.P-224 about the same. The witness adds that the MRO informed me in writing in Ex.P-224. It is true that Ex.P-223 does not contain the fathers names, ages and address particulars of the 8 deceased persons and 5 injured persons..."

With this evidence of PW-65, the very basis for initiating the proceedings under the provisions of the Act against the accused becomes shaky.

The DSP, who worked at relevant point of time died. PW.70 is the DSP, who functioned as Investigating Officer. His evidence is almost inconformity with that of PWs.57 and 59. When the police itself get any information about the deceased on 06.08.1991 that too when suspicion was expressed by an official

like DSP, it is not possible to think that the named accused killed as many as 8 persons around the village, about 15 eye witnesses saw that, but out of fear, would not reveal the same to anyone till four days.

Whenever a crime takes place in a civilized society, governed by Rule of Law, every one except, of course, the culprits and their kin, would be interested in, the guilty being punished. That would be possible for the courts only when the events are fed and supplied in accordance with the requirements under law. Whether one likes it or not, in the system adopted by our country, the benefit of doubt in a criminal case must go to the accused. Any deviation from it on account of the special circumstances in a given case, may prove to be fatal to the system itself.

It is too well known that the complaint of a victim in a criminal case constitutes the foundation, upon which the rest of the structure is to be developed. Obviously for this reason, even an hour's delay in submitting the complaint, after the occurrence is treated as material, unless explained properly. The underlying principle is that the time gap between the occurrence and submission of complaint is prone to be used in deliberations or planning to present a version, that otherwise suits the complainant, such as inclusion of names of the inimically disposed persons as accused and supplying the missing links, if any.

Another hallmark of criminal proceedings is consistency of the evidence of the witnesses on the relevant aspects and the oral and documentary evidence, to be in tandem with each other.

In the instant case, there is every justification for the victims as well as the society at large, to expect that the persons who caused the death of D-1 to D-8 and injuries to PW -8 and PW-15 or others, are punished. The basic step to be taken by the victims or others who are acquainted with the matter was, to file complaints or to furnish information, at the earliest. The police station is right in the village. The theory of fear psychosis may hold good for delay of few hours. Non-submission of complaint and retraction from what was recorded days after, would not leave the proceedings unaffected.

Lack of consistency has been pointed out in the preceding paragraphs. In certain cases the statements were recorded from the witness, months after the incident. Many statements said to have been recorded, were not marked. The Special Public Prosecutor in the trial Court, has given up almost half of the listed witnesses. During the trial also, he admitted that there is no case whatever against 70 accused. Witnesses, who are not able to furnish the names of their companions, were made to spell out not only the names of hundreds of accused, but also their fathers.

Whatever be the reason for the failure to submit any complaint or furnish information or for retracting from the statements recorded from them by the



victims or prosecution witnesses, one just can not avoid the legal consequences that flow from them. The Courts do not have like or dislike towards any, including the victims and the accused in a criminal case. Their duty is only to see whether a case, as required under law is made out by the prosecution for holding an accused, guilty. Many a time, the real culprit may escape punishment. For that, the absence of adequate evidence alone would be the cause. It is no part of the duty of the Court to ensure that unimpeachable evidence is adduced in a case. That depends upon the efficiency of prosecution and honesty of witnesses.

A comprehensive evaluation of the evidence on record gives rise to the following conclusions:

- 1) The day 06.08.1991, in P.S. Tsundur, started with,
  - a) G.D. entry to the effect that four persons belonging to Reddy Community received stab injuries at the Alapadu fields; and
  - b) Crime Nos.63 and 64 of 1991 were registered in relation to stab injuries on Vuyyuru Sivakoti Reddy and Vuyyuru Anji Reddy, respectively.
- 2) In relation to investigation in certain crimes, the police in the afternoon went to Harijanwada to nab the culprits, and that resulted in all the male members of the community running away from their houses. Though it is stated that the Harijans of the palle ran away in two directions, one on the Modukuru road and the other towards southern railway gate, the evidence of PW.57, who worked as Head constable at relevant point of time, discloses that

they gathered only at southern railway gate. However, the possibility of another group of Harijans proceeding in Modukuru, is not ruled out.

- 3) PWs.15 to 23 stated that after escaping arrest from the police, they were waiting at the southern gate for about 45 minutes. The evidence of PWs. 57 and 59, the Sub Inspector of Police, who worked at relevant point of time, discloses that those two officials were very much with the Harijans who gathered at the railway gate after running away from the village.
- 4) Quite large number of people from Reddy, Telaga and other communities gathered before the police station and they are said to have chased the Harijans, who were waiting at two different places, on being chased by the police. According to PWs.1 to 7, the only persons, who came towards them are those that came in a tractor MO.1, whereas, the persons who are running are said to have chased PWs.15, 23 and others, on the bund of the new canal.
- 5) The evidence of PWs. 57 and 59 discloses that while Harijans were being chased by Reddys and Telagas, the police chased the latter, but after running up to some distance, they stopped chasing and came back. Here again, there are conflicting versions. According to those very witnesses, about 50 persons belonging to Reddy community, were nabbed, together with weapons, but were let off on being instructed by the Circle Inspector of police.
- 6) On 06.08.1991, no complaint of attack or murder on Harijans was received by the police at P.S., Tsundur or in any nearby stations. If in fact, 8 persons were killed and 2 were seriously injured, that too, when the heavy bundobusth of police was there in the village, it is

unimaginable that the information does not reach the police, even if, a formal complaint was not submitted.

- 7) Though the R.D.O, PW.44 and the then D.S.P are said to have received phone calls in the night of 06.08.1991, that murders have taken place, they did not choose to verify the accuracy information.
- 8) Till the bodies of D1 and D2 were found in the Tungabhadra canal by PW.9, no information whatever was forthcoming except, the so-called unverified telephonic information.
- 9) At least on 07.08.1991, the dependents of the deceased such as PW4, PW.13 did not submit any complaint or informed the police about the missing of their kith and kin.
- 10) PW.8 and PW.15, who are said to be injured witnesses, have joined in the Government Hospital at Tenali, on their own accord, without information to the police. Even when their statements were recorded, they did not make any mention of the attack on D1 to D8.
- 11) Not a single complaint was submitted by anyone in relation to the 8 deaths. Added to that, statements recorded by the police as constituting basis for registration of crimes and issuance of FIRs, were retracted by the respective witnesses.
- 12) PW.15, who has furnished the names of about 100 to 120 persons as the attackers or chasers admitted that he cannot give the names of at least 10 persons of their community, who were just proceeding before him. That would tell upon the reliability of the information given by him. Further, he is said to have swam about 3

KMs that too against the flow in the new canal even after receiving serious injuries.

13) The evidence of PW.1 that he received injuries, suffers a serious dent in as much as :

a) Being a leader of the Dalit community, he did not choose to submit a complaint or pass on the information to others about the alleged attack;

b) Though he admitted that he cannot swim, he stated that he went across the channel in about 10 feet depth of water with distance of about 150 ft. He is said to have taken shelter in the house of his relations at Tenali and stayed there till 10.08.1991, whereas he figured as a witness in the inquest of D1 and D2, conducted on 07.08.1991.

13) Though almost all the eye witnesses are said to have taken shelter at Tenali, particularly in the house of one Mr. Ashok, no one from that place, were examined as witnesses.

14) The injuries found on D1 to D8 particularly those on D3 do not accord with the evidence of the respective alleged eyewitnesses.

15) There is no correlation whatever between the places where the deceased was said to have been put to death on the one hand, and the places from where the dead bodies were recovered, on the other, or the timings thereof.

16) Though all the 8 deceased are said to have been killed on the same day at about same time, the recovery of the dead bodies was separated over three days and the bodies were in mutilated condition.

- 17) Uniformly, in all the postmortem reports, it was mentioned that there are no identity marks and that the bodies were decomposed almost beyond identity. The prosecution did not even make any effort to suggest as to how the bodies of the deceased particularly those of D4 to D8 had their way to the places from where they were recovered. The probable time at which, the respective deceased may have breathed last, as indicated in the respective postmortem reports, would disclose that D1 to D8 did not die at the same point of time as pleaded by the prosecution.
- 18) Almost every witness from PWs. 1 to 7 admitted that A6 is a physically handicapped person and that he cannot walk unless he puts his hand on the leg. Still the trial Court believed that A6 chased deceased 1 to 3 along with other accused and PWs 1 to 7 and D1 to D3 could not match the speed of D6.
- 19) Many witnesses spoke to about the presence of A.131 in the attackers. Once the trial Court accepted the plea of *alibi* of A-131 and found that he was at a different place attending to his duties in the Border Security Force on 6.8.1991, the veracity of the evidence of the concerned witnesses suffers a set back.

Many such aspects can be pointed out. The details of the accused, who are said to have attacked the respective deceased as furnished by the alleged eye witnesses, has been furnished in the tables in the preceding paragraphs. A comparison of the details would disclose that there was no uniformity in this behalf. The trial Court itself discarded that the evidence of substantial number of witnesses can not be accepted. Even the left over witnesses were not consistent. For example, PW.1 stated that A1, A6, A11 and A20 attacked D1,

whereas, PW.4 stated that it is A1, A2, A6, A11, A20 and A26 attacked D1. PW.7 stated that the attackers are A2, A6, A11, A20 and A26. The trial Court recorded a finding to the effect that A6 and A20 are guilty of killing D1. The basis for the same is not indicated. Similar conclusions were arrived at with reference to other deceased.

The trial in a criminal case is not something like a mathematical exercise where the common minimum factors from various numerical can be taken and put outside a bracket. Once the Court finds that the evidence of a particular witness that a particular set of accused attacked the deceased; cannot be accepted; part of that evidence cannot become acceptable, simply because, some accused occurred common in the depositions of other witnesses. With the finding of the trial Court that the version of a witness with a particular number of accused attacked the deceased cannot be believed, the evidence of that witness become shaky. A thread from the evidence of such witness cannot be picked up, to make a fabric with the similar threads picked up from other truncated depositions.

Separate charges were framed against the accused with reference to the provisions of Act. Almost every witness examined by the prosecution, hailing from the Village pleaded that he is a Hindu – Mala or Madiga. The defence cross-examined the witnesses at length to prove that they have been converted into Christianity.

The net result is that the prosecution failed to prove the exact time of the death of the deceased and place of occurrence and the identity of the persons who attacked them. The trial Court itself suggested that there are

serious procedural lapses in the prosecution but ignored them by mentioning certain reasons.

Obviously because,

- a) quite large number of accused were put to trial;
- b) the incident has attracted the attention of the Nation,  
and
- c) that a special Court has been constituted for trial of the case; virtually moral conviction was given to certain accused.

We therefore, allow Criminal Appeal Nos.1021, 1022, 1023, 1024, 1025, 1045, 1046, 1060 of 2007 and 470 of 2011, and the conviction and sentence ordered in S.C.No.36 of 1993 on the file of the Special Judge-cum-IV Additional Sessions Judge, Guntur, through judgment dated 31-07-2007 against Accused Nos.2, 3, 5, 6, 10, 11, 14, 18, 19, 20, 21, 22, 23, 26, 27, 28, 30, 31, 32, 35, 38, 40, 41, 44, 49, 50, 56, 57, 58, 61, 62, 64, 87, 88, 89, 90, 92, 94, 95, 98, 100, 104, 115, 120, 121, 123, 124, 125, 126, 127, 128, 129, 139, 190, 214, 215, are set aside. Such of the accused who are serving sentence shall be set at liberty forthwith, unless their detention is needed in any other case. The fine amount, if any, paid by the appellants-accused shall be refunded to them.

Before parting with the case, we intend to make an appeal to the Villagers of Tsundur and Modukur, particularly the elderly persons from all sections. On account of the prolonged differences between various sections, spread over decades together, precious lives of 8 innocent persons hailing from Dalit community were lost, and their families were virtually ruined. The help extended by the Government cannot remove the agony of the members of the families of the deceased. The counter-attacks and prolonged prosecution for

about 15 years, against about 200 persons from other communities; would certainly have its impact upon their families. At least now, wiser counsel must prevail, and differences, if any, must be buried. Every endeavour must be made by the elderly persons as well as the organizations, that are active in the Village, to inculcate human values and mutual respect towards each other, in the villagers. Carrying the old legacy would not be in the interest of anyone.

The Superintendent of Police, Guntur Rural, shall also ensure that no celebrations or protests in the Villages of Tsundur and Modukur, on the eve of this judgment; take place, at least for a period of three months and utmost vigilance is kept on the Villages.

---

**L.NARASIMHA REDDY, J.**

---

**M.S.K. JAISWAL, J.**

**Dt.22-04-2014**

**Note:**

LR copy to be marked.

(B/O)

KO/GVL