



Crl.A.Nos.12 & 13

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2026

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CORAM :

The Hon'ble **Mr.JUSTICE N.SATHISH KUMAR**
and
The Hon'ble **Mr.Justice K.RAJASEKAR**

Crl.A.No.12 & 13 of 2020

Sankar @ Sankaramoorthi
Vinayagam @ Vinayagammoorthi

.. Appellant in Crl.A.No.12 of 2020
.. Appellant in Crl.A.No.13 of 2020

Versus

State rep by
The Inspector of Police,
Thakkolgam Police Station
Vellore District
(Crime No.87 of 2014)

.. Respondent in both appeals

These Criminal appeals have been filed under Section 374(2) Cr.P.C. seeking to set aside the judgment of conviction and sentence dated 31.10.2019 passed in S.C.No.188 of 2015 on the file of learned II Additional District and Sessions Court, Vellore District @ Ranipet and thus render justice.

For Appellants

: Mr.D.Percivul Pericles
for Mr.G.Saravanan
in Crl.A.No.12 of 2020
Mr.M.Kumar
in Crl.A.No.13 of 2020

For Respondent
in both Crl.Appeals

: Mr.M.Mohamed Riyaz
Government Advocate
Criminal Side

COMMON JUDGEMENT

(Judgment of the Court was made by **N.SATHISH KUMAR, J.**)

Aggrieved over the judgment of conviction and sentence, dated 31.10.2019



passed in S.C.No.188 of 2015 on the file of learned II Additional District and Sessions Court, Vellore District @ Ranipet, A-1 has filed Crl.A.No.12 of 2020 and A-2 has filed Crl.A.No.13 of 2020. The appellants/accused were convicted and sentenced by the trial Court as follows :

<i>Accused</i>	<i>Conviction</i>	<i>Sentence</i>
A1 & A2	Section 302 read with 34 of IPC	Each to undergo Life imprisonment and to pay a fine of Rs.5,000/- each, in default, to undergo six months simple imprisonment.
These sentences were ordered to run concurrently		

Facts of the prosecution case :

2.The brief facts of the prosecution case is as follows:

2.1.PW1 and PW2 are the parents of the deceased Balakrishnan. With regard to stacking the mud, there was a quarrel between the deceased and the accused 2 ½ years back. When the matter stood thus, on 20.05.2014 during the festival in the village, when PW1 went to the flour mill to grind the flour at about 8.15pm, A1 attacked the deceased with M.O.1/iron rod and A2 caused cut injury with M.O.2/chopper on both legs and the same was witnessed by PW1 to PW8. Though attempt was made by the witnesses to catch the accused, they fled away from the place of occurrence. Immediately, the deceased fell down and was taken to the Government Hospital, Arakkonam. PW17/Medical Officer attached to the Government Hospital, Arakkonam noted the following injuries:-

7x3x2 cut injury on right parietal region and similarly, another cut injury 3x2x1 cms on right leg and 2x2x1 cms on left leg



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and issued Ex.P14/Accident Register in this regard and since the deceased was unconscious, he was referred to the Rajiv Gandhi Government Hospital. PW1 lodged the complaint under Ex.P1. PW15, after receipt of Ex.P1 registered the FIR in Cr.No.87 of 2014 under Sections 341 & 307 of IPC under Ex.P10 and forwarded the copy to the Court and the superior officers. PW19 took up the investigation and went to the place of occurrence, prepared Observation Mahazar under Ex.P15, rough sketch under Ex.P16 and examined witnesses and recorded their statement and arrested the accused in the presence of PW11 and recorded the admitted portion of confession of the accused under Ex.P12 and P13 respectively and seized material objects under Seizure Mahazar under Ex.P18. Later on receipt of death intimation from the hospital, they altered the charges from Sections 341 & 307 of IPC to 341 & 302 of IPC and conducted inquest over the dead body in the hospital and prepared inquest report under Ex.P20 and gave requisition to conduct postmortem under Ex.P21. PW14/Medical Officer attached to the Kilpauk Government Medical College conducted autopsy and found the following injuries:-

Dark brown abrasions: (i) 5x2 cm on the right side of the forehead, (ii) 1x0.5 cm on the centre of the forehead, (iii) 1x1 cm on the centre of the front of the chest, (iv) 4x2 cms on the right knee, (v) 1x1 cm on the upper surface of the left toe, (vi) 1x1 cm on the front of the left knee
(2) An oblique sutured lacerated wound 8x2x2.5cm on the right side of the parieto occipital region of scalp. On removal of the sutures the wound margins were loosely adherent. (3) On reflection of the scalp, dark brown scalp deep contusion 28x18cms on the right parietal, right temporal and right side of the occipital region of the scalp. Right temporalis muscle was contused. (4) an oblique fissured fracture of 20 cms on the right side of the frontal, right parietal and right side of the



occipital bones of the calvarium.(5) On removal of the calvariuum, diffuse subdural haemorrhage and diffuse subarachnoid haemorrhage were present on both cerebral and cerebellan hemishperes of the brain. On removal of the brain, base of the skull was found intact. (6) A linear sutured incised wound 5x1x2.5 cms on the front of the right leg. On removal of the sutures the wound margins were loosely adherent. (7) A transverse incised wound 6x1x1 cms on the inner aspect of the upper part of the left thighs.

and opined that deceased died due to head injury and its complications and issued Ex.P9. PW18 finally laid the final report against both the accused under Sections 341, 302 read with 34 of IPC.

2.2. To prove the case, the prosecution has examined as many as 19 witnesses, namely P.W.1 to P.W.19 and marked 21 documents, namely Ex.P.1 to Ex.P.21 and produced 2 material objects, namely M.O.1 & M.O.2.

2.3. On completion of the evidence on the side of the prosecution, the accused were questioned under section 313 Cr.P.C. as to the incriminating circumstances found against them in the evidence adduced by the prosecution witnesses. They denied all the incriminating circumstances. On the side of the defence, no oral and documentary evidences were marked and examined.

2.4. The trial Court, after appreciating the oral and documentary evidence and materials on record, by judgment dated 31.10.2019, found both the accused guilty of the offences and convicted and sentenced them to undergo imprisonment as stated above. Challenging the same, the present criminal appeal has been preferred.

Submissions on the side of Appellants :



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3. The learned counsel for the appellants would submit that all the eyewitnesses examined by the prosecution are highly interested witnesses and, therefore, their presence is highly doubtful. PW1 to PW8 are relatives of the deceased, they were not even present at the place of occurrence. All the witnesses have spoken like parrot like version and attributed a single blow, whereas, the medical evidence clearly shows that there are multiple injuries on the body of the deceased. Hence, would submit that witnesses could not have been present at the place of occurrence and the accused have been unnecessarily roped in the case. The Investigating Officer has admitted in his evidence that PW1 to PW8 are only hearsay witnesses, whereas, they have given their evidence as if they have all seen the occurrence.

4. Furthermore, the Doctor who treated the deceased until his death has not been examined, and no medical records have been filed, therefore, would submit that there is a clear contradiction between the ocular evidence and medical evidence, which itself proves that the witnesses were not present at the occurrence and the occurrence could have taken place in some other manner, therefore, would submit that prosecution has not proved the case beyond all reasonable doubt. Hence, seeks for allowing this criminal appeal.

5. Whereas, the learned Government Advocate (Crl.Side) would submit that PW1 to PW8 eye witnesses to the occurrence. Though PW1 to PW4, being family members had some motive to implicate the accused, PW5 to PW8 are



villagers and they had no axe to grind against the accused. That apart, their evidence appears to be very natural. Further, the medical evidence also clearly shows that the deceased died due to head injury and its implications. The medical evidence, in fact, suggest that only one severe blow fell on the deceased, as a result of which he fell to the ground which was the root cause for the other minor injuries. Hence, seeks for dismissal of the criminal appeal.

6. In light of the above and when the entire evidences carefully perused, the charges against the accused is that the accused being brothers had developed enmity with the deceased over the dispute regarding stacking of mud near the house of the deceased. This occurrence took place about 2 ½ years prior to the date of the occurrence. On 20.05.2014, in the evening hours, during the festival in the village, the deceased went to a nearby flour mill to grind flour and, while returning, A1 caused injury with M.O.1 and A2 caused cut injuries on both his legs. PW1 is the mother of the deceased, PW2 is the father, PW3 and PW4 are the relatives of the deceased. Though in one voice, they have spoken about their presence and witnessing the occurrence, we are of the view that their presence is somehow or other doubtful for the simple reason that during the investigation before the Investigating Officer, PW2, has in fact, stated after hearing about the occurrence, he went to the spot, lifted him and took the injured to the hospital. Similarly, other witness namely PW1 to PW4 appears to be hearsay evidence, only after the occurrence, they had rushed to the spot, but the fact remains that PW5 to PW8 are the villagers and they were



present in the village. PW5 to PW8 have clearly stated that when deceased while returning from the flour mill, A1 caused single blow on the back of the head, as a result, he fell down and A2 caused cut injuries. When their evidence indicate that there was quarrel between the parties, on perusal of evidence of PW5 to PW8, we are of the view that they are villagers and there was no motive whatsoever for them to implicate the accused and thus, there is no need to reject their evidence. Though much emphasis has been made with regard to the investigating officer's cross examination to the effect as if PW5 to PW8 are only hear-say evidence, on perusal of the entire materials, particularly, statement of the witnesses given before the police and the evidence of investigating officer to that fact is not correct and in fact, instead of PW1 to PW4 are hearsay evidence, it is recorded during the evidence that PW5 to PW8 are hearsay evidence.

7. Further, it is to be noted that deceased was taken to the Government Hospital, Arakkonam. PW17/Medical Officer examined the injured at the casualty ward at about 9 pm on the same day brought by his uncle and noted 7x3x2 cut injury on right parietal region and similarly, other cut injuries 3x2x1 cms and 2x2x1 cms on both legs and in fact, the injured was unconscious at that time. In this regard, Ex.P14 is also issued. Thereafter, the injured was referred to Rajiv Gandhi Government Hospital, Chennai. The evidence of PW5 to PW8 clearly show that there was occurrence and in fact, the accused had carried M.O1 and M.O.2. Though the motive aspect projected by the prosecution has not been established, when there are eye



witnesses version clearly pointing out the nature of injury caused on the deceased, the motive assumes insignificance. Therefore, merely because the motive as projected by the prosecution has not been established, that will not have any impact in deciding the case when the eye witnesses have clearly spoken about the nature of injuries inflicted on the deceased.

8. It is the relevant to note that the deceased was immediately shifted to the Rajiv Gandhi Government Hospital, Chennai, wherein, he was treated and succumbed to injuries after six days on 25.05.2014. Postmortem Doctor has clearly opined that deceased died due to head injury. Furthermore, it is to be noted that regarding the nature of the treatment given to the deceased in the hospital for 5 days until his death, no materials whatsoever has been placed before the Court. Though the postmortem Doctor has clearly opined that the deceased died due to the head injury and its complications, the fact remains that the injured died after six days due to the injury. The nature of treatment given has not been placed before the Court and further the witnesses statement also clearly show that there were quarrel between the parties before the attack was unleashed on the deceased. This itself show that quarrel ensued between the parties, therefore, A1 and A2 being brothers had attacked the deceased and immediately fled from the place of occurrence.

9. Considering these aspects and the deceased had died after five days later and the nature of treatment given to the injured has not been placed by the



prosecution, we are of the view that at the most, though the prosecution was able to prove the nature of injury caused, but the fact remains that whether accused act fall within ambit of Section 302 of IPC has to be seen. The death is not immediate and the death is due to various other complications which has not been placed before the Court. The deceased was in the hospital for more than 5 days after the injury, the nature of injury, surgery performed on head have not been placed before this Court and without proof of any treatment, we are of the view that it is not safe to bring the act of the accused within Section 302 of IPC, however, taking note of the fact that there was a sudden quarrel arose between the deceased and the accused had also left the place immediately and had not taken any undue advantage, we are of the view that the act of the accused will certainly come within Section 304 (I) of IPC.

10. Taking into consideration the facts and circumstances of the case and in view of the above discussions, this Court is of the opinion that to meet the ends of justice the conviction and sentence passed by the Court below requires modification and the accused are sentenced under Section 304 (II) of the Indian Penal code, to undergo rigorous imprisonment for a period of ten years.

11. The conviction and sentence passed by the Court below in S.C.No.188 of 2015, is modified to the above extent and accordingly, these Criminal Appeals are allowed in part. The appellants are directed to surrender before the concerned Trial Court within a period of ten days and on such surrender, the appellants shall be confined in jail to undergo the remaining period of sentence. It is made clear that if



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the appellant fails to surrender before the concerned Court, the respondent police shall secure the appellant and produce them before the Trial Court and thereafter, they shall be confined to the prison.

(N.S.K., J.) (K.R.S., J.)
20.08.2026

Index : Yes
Speaking Order
Neutral Citation : Yes
dhk

To

1. The II Additional District and Sessions Judge
Ranipet @ Vellore

2.The Inspector of Police,
Thakkolgam Police Station
Vellore District

3.The Public Prosecutor,
Madras High Court,
Chennai.



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and
K.RAJASEKAR, J.**

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