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Crl.A.No.574 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2026

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.574 of 2018

Sekar, aged about 45 Years,  
S/o.Muniyandi,  
No.11, Bajanai Koil Street,  
Velachery,  
Chennai.

... Appellant

Vs.

State rep. by,  
Inspector of Police,  
J-7 Velachery Police Station,  
Chennai.  
(Crime No.3758 of 2015).

... Respondent

PRAYER: Criminal Appeal filed under Section 374(2) of Criminal Procedure Code, to call for the records and set aside the judgment and order of conviction and sentence imposed by the learned XV Additional Sessions Judge, Chennai dated 27.06.2018 in S.C.No.273/2017 acquit the appellant herein of all the charges.

For Appellant : Mr.S.Baskaran

For Respondent : Mrs.Sharada Vivek,  
Government Advocate (Crl. Side)  
assisted by Mr.M.Arul Raj



## JUDGMENT

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The appellant was convicted *vide* judgment dated 27.06.2018 in S.C.No.273 of 2017 by the learned XV Additional Sessions Judge, City Civil & Sessions Court, Chennai and sentenced to undergo one month Simple Imprisonment for offence under Section 341 IPC; ordered to pay a fine of Rs.1,000/-, in default, to undergo three months Simple Imprisonment for offence under Section 294(b) IPC; and to undergo five years Rigorous Imprisonment for offence under Section 307 IPC. Challenging the same, the present appeal filed.

2.The case of the prosecution is that on 07.11.2015 at about 07.30 p.m., PW2 was standing near Fast Watch Shop situated at 100 Feet Road, Velachery. At that time, the appellant called PW2 and attacked him on the left side of his neck with knife (MO1) and fled from the scene. PW4, brother-in-law of PW2, informed PW1, the mother of PW2, who came to the scene and took PW2 to Xcellent Care Hospital, Velachery. PW7, the Doctor, examined the injured PW2 at about 08.05 p.m. and issued the Accident Register (Ex.P4). Thereafter, PW2 referred to the Government Rajiv Gandhi General Hospital, Chennai, where PW10, the Doctor, gave further treatment



and issued Wound Certificate (Ex.P5). On the same day, PW1, the mother of PW2, went to the respondent-Police Station and lodged complaint (Ex.P1) with PW9, the Investigating Officer, who registered FIR (Ex.P6) in Crime No.3758 of 2015 at 11.30 p.m. for the offences under Sections 294(b) and 307 IPC, visited the scene of occurrence, prepared the Observation Mahazar (Ex.P7), Rough Sketch (Ex.P8), examined the witnesses, recorded their statements, arrested the appellant, recorded his confession statement (Ex.P9), seized the knife (MO1) under the Seizure Mahazar (Ex.P10), collected Accident Register and Wound Certificate (Exs.P4 and P5). On completion of investigation, filed the charge sheet before the trial Court, which was taken on file as S.C.No.273 of 2017. During the trial, on the side of the prosecution, PW1 to PW9 examined and Exs.P1 to P11 marked and MO1 produced. On the side of the defence, no witness examined and no document marked. On conclusion of trial, the trial Court convicted the appellant as stated above.

3.Learned counsel for the appellant submitted that in this case, the appellant had some election dispute with PW2, on account of which, false case foisted against the appellant and the appellant arrested in the present



case. He further submitted that the offence under Sections 294(b) and 341 IPC are not made out. Even as per the complaint, PW2 went near the appellant when PW2 was called, thereafter, there was heated argument which ensued into assault. Further, there is no independent public witness to establish that the appellant abused PW2 in public place.

4.Learned counsel further submitted that PW1 & PW3 are parents of PW2 and they are only hearsay witnesses and PW2 is the injured witness. PW4, the brother-in-law of PW2, not supported the case of the prosecution. PW5 and PW6 are the witnesses to Observation Mahazar and Rough Sketch, respectively, who merely identified their signatures and not spoken any other material aspect of the prosecution case. PW7 is the Casualty Doctor attached to Xcellent Care Hospital, Velachery, PW8 is the Doctor attached to Rajiv Gandhi Government General Hospital, Chennai, and PW9 is the Investigating Officer.

5.He further submitted that PW7 and PW8, the Doctors, admitted that the injury sustained by PW2 was simple in nature. Though the prosecution projected that MO1-knife recovered based on the confession statement of the



appellant (Ex.P9), there is no cogent evidence to establish that any portion of the confession statement led to recovery of MO1. He further submitted that, even according to the evidence of PW2, the appellant attacked him only once with MO1 and the injury sustained by him was simple in nature. There was neither any motive nor any intention on the part of the appellant to cause the death of PW2. It was only a wordy quarrel which subsequently resulted in a fight, but the same was exaggerated and projected as though the appellant attempted to murder PW2. Considering the nature of the injury, the manner of occurrence, the evidence of the witnesses and the other materials available on record, the essential ingredients of the offences are not made out against the appellant. In support of his contentions, learned counsel for the appellant relied upon the decision of the Hon'ble Apex Court in *Sivamani and another v. State represented by Inspector of Police, Vellore Taluk Police Station, Vellore, in Criminal Appeal No.3619 of 2023 (Special Leave Petition (Crl.) No.5136 of 2022) dated 28.11.2023*, wherein the Hon'ble Apex Court held that where the circumstances and evidence do not establish the intention or knowledge necessary for an offence under Section 307 IPC, particularly where there are only simple injuries and no repeated or severe blows, conviction under Section 307 IPC may not be



sustainable. Hence, he prayed for allowing the appeal and acquitting the appellant.

6.Learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that PW1 and PW3 are the parents of the injured PW2. On hearing about assault on her son, PW1 immediately rushed to the scene of occurrence and took PW2 to Xcellent Care Hospital, Velachery, for treatment, where PW7, the Doctor, examined PW2 and issued the Accident Register (Ex.P4). In Ex.P4, it was recorded that PW2 was assaulted by a known person using a knife. Thereafter, on the advice of PW7, PW2 referred to Rajiv Gandhi Government General Hospital, Chennai, where PW8, the Doctor, gave further treatment and issued Wound Certificate (Ex.P5), in which the cut injuries sustained by PW2 on his neck clearly recorded. Thereafter, PW1 lodged the complaint (Ex.P1) with PW9, the Investigating Officer, who received the same, registered FIR (Ex.P6), visited the scene of occurrence, prepared Observation Mahazar, Rough Sketch in the presence of PW5 and PW6, arrested the appellant, recorded his confession statement (Ex.P9), seized MO1 under Seizure Mahazar (Ex.P10), and, on completion of the investigation, filed the charge sheet before the trial



Court.

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7.She further submitted that the injury was caused on the neck, which is a vital part of the body. Had the assault been inflicted with much force, PW2 could have succumbed to the injuries. It is further submitted that the evidence of the prosecution witnesses is cogent, consistent and trustworthy and the trial Court, after properly appreciating the oral and documentary evidence available on record, rightly convicted the appellant by a well reasoned judgment. Hence, she prays for dismissal.

8.Considering the submissions and on perusal of the materials, it is seen that PW2 is the injured witness and PW1 and PW3 are his mother and father respectively. Their evidence is in the nature of hearsay. PW4, the brother-in-law of PW2, not supported the case of the prosecution. PW2 deposed about the assault committed by the appellant on his neck with a knife (MO1). The fact that PW2 sustained injuries and was taken to the hospital immediately after the occurrence is confirmed by the evidence of PW7 and PW8, the Doctors who examined and treated him. PW9, the Investigating Officer, deposed lodging of complaint (Ex.P1) by PW1 and



registration of FIR (Ex.P6).

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9.Insofar as the offence under Section 341 IPC is concerned, as per the complaint (Ex.P1) and the evidence of PW2, the appellant called PW2 when he was standing near the Fast Watch Shop. PW2 went near the appellant who assaulted PW2 using knife (MO1). Hence, the evidence and material on record do not establish that the appellant voluntarily obstructed PW2 and from proceeding in any direction. Thus, the essential ingredients of wrongful restraint not made out and the conviction under Section 341 IPC cannot be sustained.

10.As regards the offence under Section 294(b) IPC, though it is stated that the appellant used abusive words, there is no cogent evidence as to the exact obscene words used by the appellant and, more particularly, such word used in a public place so as to attract the ingredients of Section 294(b) IPC. The evidence available on record is insufficient to establish essential ingredients of Section 294(b) IPC beyond reasonable doubt. Hence, the conviction under Section 294(b) IPC also cannot be sustained.



11.Now, coming to the offence under Section 307 IPC, it is true that the injury caused on the left side of the neck, which is a vital part of the body. Mere fact that the injury sustained on a vital part, is not sufficient to conclude that the appellant had an intention or knowledge to cause death of PW2. The intention or knowledge has to be proved from the nature of weapon used, the manner in which the assault made, the nature of the injuries and the number of blows inflicted.

12.In the present case, the evidence of PW2 discloses that the appellant assaulted him only once with the knife (MO1). The medical evidence shows that the injury sustained by PW2 was simple in nature. There is no evidence of any repeated attack or any attempt by the appellant to inflict further injuries on PW2. Further, the recovery of MO1 pursuant to the confession statement of the appellant not satisfactorily established by the prosecution. Except the fact that the injury caused on the neck, there is no other material to establish that the appellant intended to cause the death of PW2 or the injury inflicted was of such a nature.



13.It is seen that the appellant initially represented by Mr.Rajavelu, learned counsel, who later withdrew his appearance. Thereafter, Mr.Venkatesan appointed as Legal Aid Counsel. But he has not cross-examined PW1 to PW7 and cross-examined only PW8.

14.The evidence on record established that during wordy quarrel, the appellant assaulted PW2 with knife (MO1) and caused simple injury. Hence, this Court is of the view that the prosecution failed to establish essential ingredients of offence under Section 307 IPC beyond reasonable doubt. But the evidence of PW2, which is corroborated by the medical evidence PW7 & PW8, clearly established that the appellant voluntarily caused hurt to PW2 by using knife (MO1). Hence, the act of the appellant falls under Section 324 IPC.

15.Accordingly, the conviction of the appellant under Section 307 IPC is not sustainable and the same is altered to Section 324 IPC. Taking into consideration the nature of the occurrence, the fact that only a single blow was inflicted, the simple nature of the injury sustained by PW2 and the period already undergone by the appellant, the sentence imposed on the



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appellant is modified to the period already undergone.

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16.In view of the above discussion, the conviction and sentence imposed on the appellant for offence under Sections 341 and 294(b) IPC are set aside and the appellant is acquitted from the said offences. Fine amount if any paid shall be refunded.

17.In the result, this Criminal Appeal is Partly Allowed.

13.08.2026

Index : Yes/No  
Speaking Order/Non Speaking Order  
Neutral Citation: Yes/No  
vv2

To

1.The XV Additional Sessions Judge,  
Chennai.

2.The Inspector of Police,  
J-7 Velachery Police Station,  
Chennai.

3.The Public Prosecutor,  
Puducherry.



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M.NIRMAL KUMAR, J.

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