



Crl.A(MD)No.71 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2026

CORAM:

**THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**Crl.A(MD)No.71 of 2026
and
Crl.M.P(MD)No.997 of 2026**

Rajkumar

... Appellant/Sole Accused

Vs.

The State,
Represented by,
The Inspector of Police,
Thiruppalaikudi Police Station,
Ramanathapuram District.
Crime No.226 of 2020.

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 415 (2) of BNSS Act, 2023 to call for the records in S.C.No.50 of 2021 dated 07.02.2023 passed by the learned Principal and Sessions Judge, Ramanathapuram and to set aside the same.



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For Appellant : Mr.J.Vivek
For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

JUDGMENT
(Judgment of the Court was delivered by
G.K.ILANTHIRAIYAN, J.)

This appeal is directed as against the Judgment passed in S.C.No.50 of 2021, dated 07.02.2023, on the file of the learned Principal and Sessions Judge, Ramanathapuram, thereby convicting the accused for the offence punishable under Section 302 of I.P.C.

2.The case of the prosecution is that the deceased and the accused were friends. The deceased was an operator of a JCB, and the accused used to work with him. On 30.07.2020, at about 10.30 a.m., while the accused was having his breakfast at Hotel Sumaiah Amma, the deceased arrived and teased the accused, asking if he would buy borota for him. This led to a worsening of the enmity between them. Later on the same day, at about 02.30 p.m., when the deceased was resting in the veranda of a building located on the

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north side of the Government High School at Chozhandhur, the accused struck the deceased's head with a granite stone with the intention to kill him. As a result, the deceased sustained fatal injuries and died on the spot.

3.On the complaint, the respondent registered the F.I.R in Crime No.226 of 2020 for the offence punishable under Section 302 of I.P.C. After completion of the investigation, the respondent filed a final report and the same has been taken cognizance by the Trial Court. The Trial Court framed charges as against the accused for the offence punishable under Section 302 of I.P.C.

4.On the side of the prosecution, in order to bring the charges to home, they had examined P.W.1 to P.W.18 and Exs.P1 to P13 were marked. The prosecution also produced Material Objects M.O.1 to M.O.6. On the side of the appellant, he had examined D.W.1 and marked Ex.D.1 before the Trial Court.

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5.On perusal of the oral and documentary evidence, the Trial Court found the accused guilty for the offence punishable under Section 302 of I.P.C and sentenced him to undergo Rigorous Imprisonment for life and to pay a fine of Rs.1,000/- in default, to undergo two months Simple Imprisonment. Aggrieved by the same, the appellant has preferred the present appeal.

6.The learned counsel appearing for the appellant submitted that the entire conviction is based on the evidence of eyewitnesses P.W.1 to P.W.4 and P.W.12, as well as a confession that led to the recovery of clothes containing blood stains. However, the confession statement and the discovery of facts resulting from it cannot, by themselves, be the determining factor in concluding the guilt of the accused. The presence of blood stains, especially human blood, without grouping, does not provide sufficient grounds to convict the accused in a murder case. Furthermore, the credibility of the so-called eyewitnesses is highly doubtful, as their testimonies are



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not consistent and are contradictory to each other. The respondent also brought a sniffer dog to trace the missing accused. However, since P.W.1 to P.W.4 were eyewitnesses, there was no need to use a sniffer dog to trace the accused. The Trial Court failed to consider the defence witness, a medical officer, who testified that the accused had undergone a psychotic check-up from 13.10.2020 to 24.12.2020. The accused was diagnosed with chronic resistant schizophrenia. Moreover, on the date of the alleged incident, there was only a verbal quarrel between the deceased and the accused, and the accused had no intention or motive to do away with the life of the deceased. Despite this, the Trial Court mechanically convicted the accused for the offence punishable under Section 302 of I.P.C.

7.Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that there are absolutely no circumstances to disbelieve the evidence of P.W.1 and P.W.12. Although the accused and the deceased were friends, on the date of



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the occurrence, the deceased teased the accused about buying borota for him. This led to a verbal quarrel between them. Later on the same day, when the deceased was resting on the school premises, the accused arrived at the scene of the crime with the intention to do away with the life of the deceased. In furtherance of this intention, he struck the deceased's head with a granite stone, which was produced as M.O.1. As a result, the deceased sustained grievous injuries on his head and died on the spot. The post-mortem report clearly corroborated the evidence of P.W.1 to P.W.4, and the Trial Court rightly convicted the accused for the offence punishable under Section 302 of the IPC.

8.Heard the learned counsel appearing on either side and perused the materials available on record.

9.Admittedly, the accused and the deceased were friends and were working together. On the date of occurrence, while the



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accused was having his breakfast at a private hotel, the deceased came there and asked the accused to buy borota for him. However, the accused refused to buy any borota, which led to a verbal quarrel between them. Later, at about 02.30 p.m., when the deceased was resting on the school premises, the accused arrived at the scene of the crime and once again quarrelled with him. During the verbal altercation, the accused suddenly picked up M.O.1 and struck the deceased on the head. As a result, the deceased sustained grievous injuries and died on the spot. P.W.1 to P.W.4 were eyewitnesses to the occurrence. The relevant portion of the evidence of P.W.1 is as follows:

“ஆஜர் எதிரி என் மகனிடம் அடிக்கடி டி போண்டா ஆகியவற்றை வாங்கி தருமாற கேட்பார். என் மகன் தரவில்லை என்றால் எதிரி என் மகனுடன் சண்டை போடுவார். இதனால் இருவருக்கிடையே பிரச்சனை உண்டு. கடந்த 30.07.2020 அன்று காலை 7.00 மணிக்கு என் மகன் என் வீட்டிலிருந்து வெளியே சென்றார். மதியம் 2.00 மணி வரை அவர் வீட்டிற்கு திரும்பி வரவில்லை. என் மகன் மதிய சாப்பாட்டிற்கு வீட்டிற்கு வெளியே வரவில்லை என்பதால் என் மகனை பார்ப்பதற்காக வெளியே கிளம்பி



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வந்தேன். நானும் எனது மைத்துனர் ராமநாதன் மற்றும் சாட்சி அப்துல் மஜித் ஆகியோர் என் மகனை தேடி வந்தோம். அப்போது இருச்சக்கர மிதிவண்டியில் வந்த ஒருவர் என்மகனுக்கும் ராஜ்குமாருக்கும் சோழந்தூர் பள்ளிக்கூடத்தில் சண்டை நடப்பதாக கூறினார். உடனடியாக நாங்கள் 3 பேரும் சோழந்தூரில் உள்ள அரசு பள்ளிக்கு சென்று பார்த்தோம். பள்ளிக்கூடத்திற்கு சென்றபோது என் மகனுக்கும் ராஜ்குமாருக்கும் வாக்குவாதம் நடந்து கொண்டிருந்தோம். நாங்கள் 100 அடி தூரத்தில் சென்று கொண்டிருந்தபோது எதிரி ராஜ்குமார் முண்டுகருங்கல்லை தூக்கி என் மகன் மணிகண்டன் தலையில் போட்டார். அதில் என் மகனுக்கு காயம் ஏற்பட்டு ரத்த வெள்ளத்தில் கீழே விழுந்துவிட்டார். அப்போது அந்த சம்பவ இடத்திற்கு அருகே பூமிநாதன், வேலு ஆகியோர் இருந்தனர். அவர்களும் சம்பவ இடத்திற்கு வந்தார்கள்.”

10.P.W.1, the mother of the deceased, deposed regarding the presence of P.W.2 to P.W.4. They also clearly deposed and corroborated the evidence of P.W.1. Thus, it is clear that the accused and the deceased were good friends and worked together. The deceased used to ask the accused to buy him some eatables. On the date of the occurrence, the deceased teased the accused about buying



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borota while the accused was having his breakfast. Therefore, the accused had no motive or intention to do away with the life of the deceased. Furthermore, the post-mortem report, marked as Ex.P.6, clearly corroborates the injuries sustained by the deceased. After the occurrence, the deceased was taken to the hospital, and an accident register was recorded, which was marked as Ex.P.13. It also revealed that the deceased was assaulted by the accused. Therefore, it was solely due to the assault committed by the accused that the deceased died.

11. After occurrence while the accused was in prison, he was subjected for medical examination. Therefore, there is no piece of evidence produced by the defence to show that at the time of occurrence, the accused was suffering from chronic resistant schizophrenia. Hence, the submission of the learned counsel appearing for the appellant cannot be accepted.



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12.The only point for consideration in this appeal is whether the prosecution has proven the charge under Section 302 of I.P.C.

13.In view of the above discussions, the prosecution has failed to prove the charge under Section 302 of I.P.C, but the accused is liable to be punished for the offence punishable under Section 304 Part II of I.P.C.

14.In this regard, it is relevant to reply upon judgment of the Hon'ble Supreme Court of India in the case of ***Pulicherla Nagaraju @ Nagaraja Reddy v. State of A.P [2007 (1) SCC (CRI) 500]***, wherein it has been observed as follows:

“18. Therefore, the court should proceed to decide the pivotal question of intention, with care and caution, as that will decide whether the case falls under Section 302 or 304 Part I or 304 Part II. Many



petty or insignificant matters like plucking of a fruit, straying of cattle, quarrel of children, utterance of a rude word or even an objectionable glance, may lead to altercations and group clashes culminating in deaths. Usual motives like revenge, greed, jealousy or suspicion may be totally absent in such cases. There may be no intention. There may be no pre-meditation. In fact, there may not even be criminality. At the other end of the spectrum, there may be cases of murder where the accused attempts to avoid the penalty for murder by attempting to put forth a case that there was no intention to cause death. It is for the courts to ensure that the cases of murder punishable under Section 302, are not converted into offences punishable under Section 304 Part I/II, or cases of culpable homicide not amounting to murder, are treated as murder punishable under Section 302. The intention to cause death can be gathered generally from a combination of a few or several of the following, among other, circumstances:

- (i) nature of the weapon used;*
- (ii) whether the weapon was carried by the accused or*



was picked up from the spot;

(iii) whether the blow is aimed at a vital part of the body; (iv) the amount of force employed in causing injury;

(v) whether the act was in the course of sudden quarrel or sudden fight or free for all fight;

(vi) whether the incident occurs by chance or whether there was any pre- meditation;

(vii) whether there was any prior enmity or whether the deceased was a stranger;

(viii) whether there was any grave and sudden provocation, and if so, the cause for such provocation;

(ix) whether it was in the heat of passion;

(x) whether the person inflicting the injury has taken undue advantage or has acted in a cruel and unusual manner;

(xi) whether the accused dealt a single blow or several blows. The above list of circumstances is, of course, not exhaustive and there may be several other special circumstances with reference to individual cases which may throw light on the question of intention. Be that as it may.”



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15. In this regard, it is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India in ***Criminal Appeal No.1124 of 2022*** in the case of ***Dauvaram Nirmalkar vs. State of Chhattisgarh***. The relevant paragraph is extracted hereunder:-

“12. The question of loss of self-control by grave and sudden provocation is a question of fact. Act of provocation and loss of self-control, must be actual and reasonable. The law attaches great importance to two things when defence of provocation is taken under Exception 1 to [Section 300](#) of the IPC. First, whether there was an intervening period for the passion to cool and for the accused to regain dominance and control over his mind. Secondly, the mode of resentment should bear some relationship to the sort of provocation that has been given. The retaliation should be proportionate to the provocation. The first part lays emphasis on whether the accused acting as a reasonable man had time to reflect and cool down. The offender is presumed to possess the general power of self-control of an ordinary or reasonable man, belonging to the same



class of society as the accused, placed in the same situation in which the accused is placed, to temporarily lose the power of self-control. The second part emphasises that the offender's reaction to the provocation is to be judged on the basis of whether the provocation was sufficient to bring about a loss of self-control in the fact situation. Here again, the court See the opinion expressed by Goddar, CJ. in R v. Duffy (supra) would have to apply the test of a reasonable person in the circumstances. While examining these questions, we should not be short-sighted, and must take into account the whole of the events, including the events on the day of the fatality, as these are relevant for deciding whether the accused was acting under the cumulative and continuing stress of provocation. Gravity of provocation turns upon the whole of the victim's abusive behaviour towards the accused. Gravity does not hinge upon a single or last act of provocation deemed sufficient by itself to trigger the punitive action. Last provocation has to be considered in light of the previous provocative acts or words, serious enough to cause the accused to lose his self-



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control. The cumulative or sustained provocation test would be satisfied when the accused's retaliation was immediately preceded and precipitated by some sort of provocative conduct, which would satisfy the requirement of sudden or immediate provocation.”

16.The above judgment is squarely applicable to the case on hand. Therefore, the appellant is liable to be punished for the offence punishable under Section 304 Part II of I.P.C.

17.Accordingly, the conviction and sentence imposed on the appellant for the offence under Section 302 of I.P.C cannot be sustained and are liable to be set aside. However, the appellant is liable to be convicted for the offence punishable under Section 304 Part II of I.P.C.

18.In view of the above, the conviction and sentence imposed on the appellant in S.C.No.50 of 2021, dated 07.02.2023,



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on the file of the learned Principal and Sessions Judge, Ramanathapuram, are set aside and the appellant is convicted for the offence under Section 304 Part II of I.P.C and is sentenced to undergo ten years Rigorous Imprisonment and to pay a fine of Rs. 1,000/- in default, to undergo two months Simple Imprisonment.

19. Accordingly, the Criminal Appeal is partly allowed. It is also made clear that if the appellant already paid the fine, it shall be adjusted towards the fine amount imposed by this Court. The sentences of imprisonment shall run concurrently. The period of imprisonment already undergone by the appellant shall be set off as per Section 428 of Cr.P.C. Consequently, connected Miscellaneous Petition is closed.

**[G.K.I.J.,] & [R.P.J.,]
17.02.2026**

NCC :Yes/No
Index :Yes/No
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To

1.The Principal and Sessions Judge,
Ramanathapuram.

2.The Inspector of Police,
Thiruppalaikudi Police Station,
Ramanathapuram District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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