



Crl.A(MD)No.138 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2026

CORAM:

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

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Ammasi

... Appellant/Sole Accused

Vs.

The State,
Represented by the Inspector of Police,
Sivagangai Taluk Police Station,
Sivagangai District.
(Crime No.3 of 2016).

... Respondent/Respondent

PRAYER:- Criminal Appeal is filed under Section 415 of B.N.S.S, 2023, to call for the records and set aside the conviction and sentence dated 19.10.2024 made in S.C.No.96 of 2016 on the file of the learned Fast Track Mahila Court, Sivagangai and to acquit the appellant.

For Appellant : Mr.M.S.Jeyakarthik

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

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JUDGMENT

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

This appeal has been filed as against the Judgment passed in S.C.No.96 of 2016, dated 19.10.2024, on the file of the learned Fast Track Mahila Court, Sivagangai, thereby convicting the appellant for the offences punishable under Sections 352 and 302 of I.P.C.

2.The case of the prosecution is that the accused is the wife of P.W1 and they gave birth to two children, namely, the deceased son and one daughter. Thereafter, they had a matrimonial dispute and as such both are living separately for the past 20 years. Three months prior to the date of occurrence, the accused had received a sum of Rs.50,000/- from his wife and the deceased and a further sum of Rs.50,000/- from his brother's son, to desilt the well. The deceased and P.W.1 were cultivating about 50 cents of land. They watered



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their garden from the desilted well. At that time, the accused shouted at them, stating that he had already told them not to come near the well, for which the deceased shouted at the accused.

3.While being so, on 04.01.2016 at about 06.00 p.m., when the wife of the accused and the deceased son were standing on the eastern side of the well and talking with regard to irrigation of the land, at that juncture, the accused came there in an agitated mood and quarrelled with them. Thereafter, he also threatened that the property would be settled in favour of his brother's son. Due to which, a quarrel ensued between them and the accused pushed his son into the well. Therefore, the deceased sustained injuries and died. On the complaint, the respondent registered the F.I.R in Crime No.3 of 2016 for the offences punishable under Sections 352 and 302 of I.P.C. After completion of investigation, the respondent filed a final report and the same has been taken cognizance by the Trial Court.

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4.On the side of the prosecution, in order to bring the charges to home, they examined P.W.1 to P.W.23 and Exs.P1 to P16 were marked. The prosecution produced Material Object M.O.1. On the side of the accused, they had examined D.W.1 and D.W.2 and no documents were produced before the Trial Court.

5.On perusal of the oral and documentary evidence, the trial Court found the accused guilty for the offences punishable under Sections 352 and 302 of I.P.C. He was sentenced to undergo three months Rigorous Imprisonment for the offence punishable under Section 352 of I.P.C. He was also sentenced to undergo life imprisonment and also imposed a fine of Rs.5,000/- in default, to undergo six months Simple Imprisonment. Aggrieved by the same, the present appeal has been filed by the appellant.

6.The learned counsel appearing for the appellant submitted that P.W.1 to P.W.10, P.W.12 and P.W.13 are interested



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eyewitnesses and no independent witness was examined by the prosecution to prove the charge. Admittedly, there was a family dispute between the appellant and P.W.1, due to which a false complaint was lodged and the appellant was prosecuted for the charges under Sections 352 and 302 of I.P.C. In fact, even as per the post-mortem report, the deceased did not die due to the injuries said to have been caused by the appellant. He died due to drowning and spinal injury. It is also categorically admitted by P.W.1 that the deceased was under the influence of alcohol and was a drunkard. Therefore, he himself fell down, sustained injuries and died. Even according to the case of the prosecution, all the eyewitnesses are chance witnesses and their presence at the scene of crime is not proved by any independent evidence. There are contradictions and discrepancies in the prosecution evidence and as such, the prosecution failed to prove the charges beyond reasonable doubt. Even then, the Trial Court mechanically convicted the appellant.



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7.The learned counsel appearing for the appellant further submitted that the Trial Court failed to consider the evidence of D.W.1 and D.W.2. The appellant deposed as D.W.1 and categorically deposed that while he was irrigating his land, the deceased came there in a drunken mood and he himself fell down into the well. No one was present near the well to witness the alleged occurrence. After the deceased fell into the well, D.W.1 went to the well and raised an alarm. After hearing the noise, others came there and the fire service was called to rescue the deceased. Therefore, no offence under Section 302 of I.P.C is made out and the appellant did not commit any offence as alleged by the prosecution. Even then, the Trial Court mechanically convicted the appellant without any evidence.

8.Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that though P.W.1 and others are relatives of the deceased, they are eyewitnesses and categorically



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deposed that there was a quarrel between the appellant and deceased.

The deceased was pushed into the well by the appellant and therefore, sustained injuries and died. Even according to the appellant, there was previous enmity between them and as such, he committed a serious offence as against the deceased. Minor contradictions are not fatal to the case of the prosecution. All the prosecution witnesses have categorically deposed and their evidence is clinching in nature. Minor contradictions cannot be fatal to the case of the prosecution. Therefore, the Trial Court rightly convicted the appellant and it does not warrant any interference of this Court.

9.Heard the learned counsel appearing on either side and perused the materials placed on record.

10.Admittedly, the deceased is the son and P.W.1 is the wife of the appellant. They got married and gave birth to two children, namely, the deceased son and daughter. According to the



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appellant, the deceased son was living with him and had gone abroad for his avocation. However, he did not marry his lover and as such, he became a drunkard. Further, the well belongs to the appellant and a portion of the land was cultivated by the deceased and P.W.1. Therefore, there was a dispute with regard to irrigation of the land by drawing water from the well. On the date of occurrence, when P.W.1 and deceased were near the well, the accused came there and quarrelled with them. There was an altercation between them and the deceased was pushed down by the appellant. Therefore, he fell into the well and sustained injuries. Admittedly, the well and a portion of the land are owned by the appellant and another portion of the land was possessed and enjoyed by P.W.1 and deceased.

11.As per the evidence, the deceased and P.W.1 were denied to draw water from the well. Therefore, there was a dispute and during the course of the dispute, the appellant pushed the deceased. Unfortunately, he fell down into the well and sustained



injuries. Subsequently, he succumbed to the injuries.

12.The only point for consideration in this appeal is whether the prosecution has proved the charge under Section 302 of I.P.C or not. If not, what is the offence made out as per the evidence?

13.The mother of the deceased had deposed as P.W.1 and the relevant portion of her evidence is as follows:

“நானும், எனது கணவர் அம்மாசியும் கடந்த 25 வருடங்களாக பிரிந்து வாழ்ந்து வருகிறோம். எனது கணவர் அம்மாசி அவரது அண்ணன் மனைவியுடன் சேர்ந்து கொண்டு எங்களை சரிவர கவனிக்காததால் தனியே பிரிந்து வாழ்ந்து வந்தோம். எனது மகன் இறப்பதற்கு முன் என்னுடன் எனது அப்பா வீட்டில் இருந்து வந்தான். என் மகன் இறப்பதற்கு மூன்று மாதத்திற்கு முன்பு எங்களுக்கு சொந்தமான தோட்டத்தில் உள்ள பழைய கிணற்றை ஆழமாக்க தூர்வாரினார்கள். எங்களுக்கு சொந்தமாக தோட்டத்தில் விவசாயம் செய்தோம். தூர்வாரிய கிணற்றில் இருந்து எங்கள் தோட்டத்திற்கு தண்ணீர் பாய்ச்சினார். அப்போது எனது கணவர் எனது மகனை பார்த்து நான் தான் கிணறு பக்கமே வரக்கூடாது என்று



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சொல்லியிருக்கிறேனே எனச்சத்தம் போட்டார். அதற்கு
என்மகன் செல்வம் நான் அப்படித்தான் வருவேன்
எனக்கும் பங்கு இருக்கிறது என்று என் கணவரிடம்
சத்தம் போட்டுள்ளான். கடந்த 4ம் தேதி 1 மாதம்
2016ம் வருடம் மாலை 06.00 மணியளவில் எனது மகன்
எங்கள் தோட்டத்தில் கலைஎடுத்துக்கொண்டிருந்தான்.
எனது மகன் கத்தரிசெடிக்கு தண்ணீர்
பாயச்சிக்கொண்டிருந்தான். அப்போது எனது கணவர்
வேகமாக வந்து எங்களை பார்த்து உங்களைத்தான்
கேணிப்பக்கம் வரக்கூடாது என்று சொல்கிறேனே ஏன்
வந்தீர்கள் என்று அசிங்கமாக பேசி, என்னை அடித்தார்.
அதன் பின்னர் எனது மகனை உன்னை கேணிக்கு
வரக்கூடாது என்று சொல்கிறேனே ஏன்டா வந்தாய் என
அவனை அடித்து வேகமாக கேணிக்குள் தள்ளிவிட்டார்.
அப்போது நான் அய்யோ என் மகனை கேணிக்குள்
தள்ளிவிட்டாரே என சத்தம் போட்டேன். எனது சத்தம்
கேட்டு பக்கத்து தோட்டத்தில் வேலை பார்த்த அய்யாவு,
போஸ் ஓடிவந்து என்ன நடந்தது என்று கேட்டார்கள்.
நடந்த விபரத்தை சொன்னேன்.”

14.Thus, it is clear that there was quarrel between the
appellant and deceased. While being so, the appellant pushed him
down. The deceased fell down in the well and sustained injuries.
Thereafter, other witnesses came to the scene. Further, P.W.1 and the
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appellant had separated long back and were living separately. The appellant also admitted in his cross-examination that the deceased had paid some money for desilting the well. Therefore, the deceased also had a right to draw water from the well.

15. In this regard, there was a dispute, due to which, on the date of occurrence, the appellant pushed the deceased. However, the appellant had no motive to do away with the life of the deceased so as to attract the offence under Section 302 of I.P.C. Further, as per the post-mortem report, the deceased was under the influence of alcohol. Therefore, there was some push and pull between them. While being so, the deceased fell into the well and sustained injuries. Hence, as per the evidence, the prosecution failed to prove the charge under Section 302 of I.P.C. However, there is clinching evidence to attract the offence punishable under Section 304 Part II of I.P.C.



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16. In this regard, it is relevant to reply upon judgement 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;*



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(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.”

17. In view of the above, the conviction and sentence imposed on the appellant in S.C.No.96 of 2016, dated 19.10.2024, on the file of the learned Fast Track Mahila Court, Sivagangai, for the offence punishable under Section 302 of I.P.C is set aside and the appellant is convicted for the offence punishable under Section 304 Part II of I.P.C and sentenced to undergo four years Rigorous Imprisonment. Insofar as the offence under Section 352 of I.P.C is concerned, the conviction and sentence passed under Section 352 of I.P.C are confirmed.



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18. With the above modification, the Criminal Appeal is partly allowed. The fine amount, if any paid, shall be refunded to the appellant forthwith. The sentences of imprisonment shall run concurrently. The period of imprisonment already undergone by the appellant shall be set off under Section 428 of Cr.P.C. The respondent is directed to secure the appellant and produce him before the Trial Court for taking further steps.

**[G.K.I.J.] & [R.P.J.,]
27.01.2026**

NCC : Yes/No
Index : Yes/No
Internet : Yes
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To

- 1.The Fast Track Mahila Court,
Sivagangai.
- 2.The Inspector of Police,
Sivagangai Taluk Police Station,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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