

Crl.A(MD). No.306 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 09.06.2026

WEB COPY

CORAM

**THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH
AND
THE HONOURABLE MR. JUSTICE P.B.BALAJI**

Crl.A(MD).No.306 of 2023

Vignesh Kumar @ Kokki Vignesh Kumar,

... Appellant / Sole accused

Vs.

The State Rep. By

The Inspector of Police,

Fort Police Station,

Tiruchirappalli District.

(Crime No.243 of 2016)

... Respondent /Complainant

PRAYER :-Criminal Appeal is filed under Section 374 (2) of the Criminal Procedure Code, against the conviction and sentence imposed on the appellant by the Sessions Judge of Tiruchirappalli Division, Tiruchirappalli District by means of a judgment dated 06.03.2018 made in S.C.No.172 of 2016 of directing him to undergo life imprisonment for the offence committed under Section 302 I.P.C and a fine of Rs.1,000/- and in default to undergo rigorous imprisonment for a period of four years and also sentenced to undergo seven years rigorous imprisonment



Crl.A(MD). No.306 of 2023

for the offence under Section 506(ii) I.P.C and also to pay a fine of Rs.1,000/- in default to undergo rigorous imprisonment for a further period of three months.

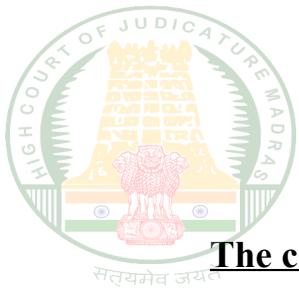
For Appellant : Mr. J.Sankara Pandian

For Respondent : Mr.G.Karuppasamy Pandian,
Government Advocate (Crl.Side)

JUDGMENT

P.B.BALAJI,J.

The sole accused in S.C.No.172 of 2016 on the file of the Sessions Judge of Tiruchirappali Division, Tiruchirappalli District, is the appellant before us, challenging the conviction under Section 302 of the I.P.C., convicting the appellant and sentencing him to undergo life imprisonment and also directing him to pay fine of Rs.1,000/-, in default, to undergo rigorous imprisonment for four years. The appellant was also convicted under Section 506(ii) IPC and sentenced to undergo seven years rigorous imprisonment and also directed to pay a fine of Rs.1,000/-, in default, to undergo three months rigorous imprisonment.

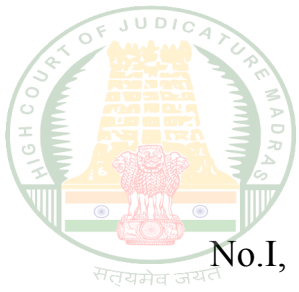


Crl.A(MD). No.306 of 2023

The case of the prosecution:

WEB COPY

2. One Vellaipandi, who is the son of the complainant, Ramachandran @ Abdul Kadar. was staying in room No.34 of Shakila Lodge, Chinthamani Bazaar, Tiruchirappalli and the accused was staying in room No.31. On 20.03.2016, at about 09.00 pm, both the accused and the deceased/Vellaipandi were consuming Alcohol. They had a wordy duel and in the course of the said altercation, the accused was infuriated and with an intention to kill the deceased Vellaipandi, knowing the consequences of his actions, the accused stabbed him with a knife in the neck region and continued to stab the deceased several times and also tore open the stomach region and took out intestine and drew them out and wore it as a garland. The accused also used abusive and filthy language at the time of causing the death of the deceased, for which, the accused was also charged under Section 506(ii) I.P.C, apart from being charged under Section 302 I.P.C. The father of the deceased, viz., Ramachandran @ Abdul Kadhar, is the complainant. A charge sheet was filed against the accused by the Inspector of Police, Fort Police Station, Tiruchirappalli for the offence under Sections 302 and 506 (ii) I.P.C. The accused was produced before the committal Court, Judicial Magistrate



CrI.A(MD), No.306 of 2023

No.I, Tiruchirappali, in P.R.C.No.28 of 2016 and since the offences involved are to be tried exclusively by the Sessions Court, the Judicial Magistrate, after committal, sent the case to the Principal District Court, Tiruchirappalli, under Section 209 Cr.P.C. The appellant / accused pleaded “not guilty” of both the charges. The parties went to trial.

Trial:

3. In order to prove the charges and the guilt of the appellant, the prosecution examined 16 witnesses as P.W.1 to P.W.16 and 23 documents were marked as Ex.P1 to Ex.P23 as well as 24 material objects as M.O.1 to M.O.24.

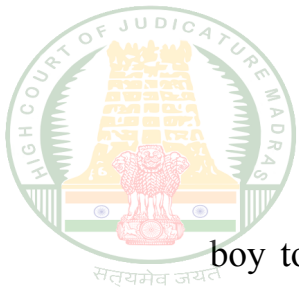
4. P.W.1/Ramchandran @ Abdul Kadhar, has stated that he knew the accused and that his son was running a mobile shop at Ambasamudhiram and he came to Tiruchirappalli to collect money from him for purchasing a new mobile phone. However, P.W.1 noticed that his son was still in Tiruchirappali on 20.03.2016, his son had informed him that he was staying at room No.34, Shakila Lodge. P.W.1 has further stated that at that time, the accused was standing besides his son. Later



Crl.A(MD). No.306 of 2023

that, night at about 9.30 pm to 10.00 pm, according to P.W.1, when he was climbing up the stairs to go to room No.34, he heard an alarm that a man was killing some other man. According to P.W.1, he reached his son's room and was able to see through the window that the accused was stabbing his son's chest, stomach and also brought out the intestine of the deceased/ P.W.1's son. Though P.W.1 and others tried to enter into the room and nab him, the accused escaped by showing a knife and threatening P.W.1 and other persons, who came along with him, to rescue his son. P.W.1 found his son dead inside the room and immediately he rushed to the police station and lodged a complaint, which is marked as Ex.P1. The knife, which was recovered from the scene of occurrence, was marked as M.O.1.

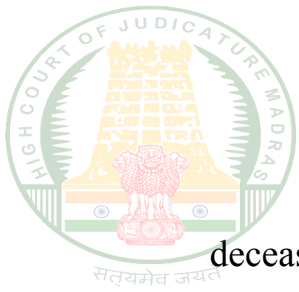
5. The Manager of the Lodge, Manoharan, was examined as P.W.2. He has stated that the deceased Vellaipandi occupied room No.34 on 17.03.2016 and that on 20.03.2016 at about 8.00 p.m., the deceased and the accused went out of the lodge and returned after about half an hour later, with a liquor bottle and a food packet. According to P.W.2, within half an hour, the deceased and the accused had asked the room



Crl.A(MD). No.306 of 2023

boy to come to room No.34 and when the room boy was going to the room, , he heard an alarm from upstairs. Thereafter, P.W.2 and the nearby persons rushed to Room No. 34 and the accused was coming out of the room with a knife in hand. The accused, showing the knife, escaped and on entering the room, P.W.2 found Vellaipandi dead and his intestines had also come out. The Booking Register maintained by Shakila Lodge has been marked as M.O.2.

6. The room boy, viz., Ulaganathan, has been examined as P.W.3. He has also spoken about the accused and the deceased, returning to the lodge and that when he was going to the room at about 09.00 pm., on the fateful day, he saw the accused assaulting the deceased with a beer bottle and cutting his neck with a knife and stabbed him also in his chest and stomach region. P.W.3 has also spoken about the accused bringing out the intestine from the body. P.W.3 raised an alarm, and the father of the deceased, P.W.1, was also present there and raised an alarm along with the manager, viz.,Habib Mohammed and some other persons. Though P.W.3 and other persons tried to catch the accused, the accused, by showing a knife, escaped from the spot. P.W.3 also affirmed that the

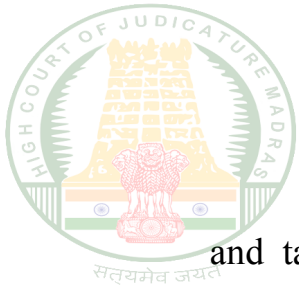


CrI.A(MD). No.306 of 2023

deceased was found dead and murdered. P.W.3 and others, on entering the room, also found the broken beer bottle, which was marked as M.O.3.

7. Habib Mohammed, who runs a tea stall near Shakila Lodge, was examined as P.W.4. He has stated that he rushed to room No.34, where he heard a noise and saw the manager-P.W.2, the room boy-P.W.3 and the father of the deceased-Chandrasekar @ Abdul Kadar and one Krishnan standing there and that at that point of time, the accused came out of the room and by showing a knife, he ran away. He has also stated that they entered the room and found the deceased, Vellaipandi, lying dead, having been murdered by the accused. The wife of the deceased, Jothilakshmi has been examined as P.W.5. She has stated that on getting information from her father-in-law, she reached the spot.

8. One Ismail, a sales representative, was examined as P.W.6 on the side of the prosecution. According to him, on the fateful day, viz., 20.03.2016, he found a crowd had gathered near Shakila Lodge and he also went inside and found the Inspector of Police, Fort Police Station was there in room No.34, who was preparing the observation mahazar

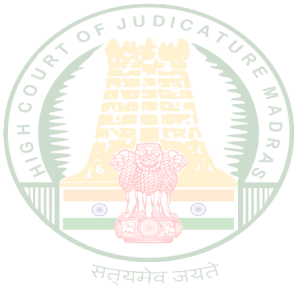


Crl.A(MD). No.306 of 2023

and taking photographs. P.W.2 was asked to witness the observation

mahazar and the said observation mahazar has been marked as Ex.P2.

He has stated that the Inspector of Police also recovered the blood stained pillow cover, bed-sheet, blood stained tile, ordinary tile, blood stained beer bottle, one pair of VKC chappal, one pair of PU-CAFE chappal, one brandy bottle and beer bottle, blood stained pieces of broken beer bottle. The said seizure mahazar was marked as Ex.P3. The blood stained pillow cover was marked as M.O.4, the blood stained bed-sheet was marked as M.O.5, blood stained tiles marked as M.O.6, ordinary tile was marked as M.O.7, one pair VKC chappal was marked as M.O.8, one pair of PU-CAFE chappal was marked as M.O.9, MGM No.1 VSOP brandy bottle was marked as M.O.10. Vorion 12000 Beer bottle was marked as M.O.11 and blood stained pieces of broken brandy bottle were marked as M.O.12. The Inspector of Police also recovered a Sterling bag, Weider Jeans pant and one Expert colour pant and L.T. Shirt, xerox copy of ration card, under seizure mahazar, which were marked as Ex.P4. The Sterling bag, Weider Jeans pant, one Expert colour pant and L.T. Shirt, xerox copy of ration card, were examined as M.O.13 to M.O.17 respectively.

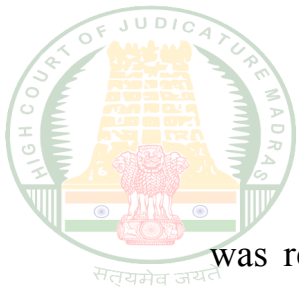


Crl.A(MD). No.306 of 2023

WEB COPY

9. P.W.7 is also a Manager of Shakila Lodge, by name, Senthilkumar. He has stated that he had allotted a room to the deceased Vellaipandi on 17.03.2016 and registered it in SI.No.64 of the register, which has been marked as M.O.2. One Santhanakrishnan, according to P.W.7, who was allotted room No.42, which had been entered into the register in SI.No.70. According to P.W.7, the said Santhanakrishnan wanted a change of room and he was allotted room No.31. However, according to P.W.7, the accused, by changing his name, took the room in the name of Santhanakrishnan. In fact, we find that the other Manager/Manoharan, who was examined on the side of the prosecution as P.W.2, has also spoken about the accused occupying room No.42 in the 4th floor from 18.03.2016 and that he had requested P.W.2 for change of room and subsequently, he was allotted room No.31 in the afternoon of the fateful day, viz., 20.03.2016.

10. The Village Administrative Officer, viz., Kumaravel was examined as P.W.8, in whose presence the accused was arrested. According to P.W.8, the accused confessed to the crime and the same



Crl.A(MD). No.306 of 2023

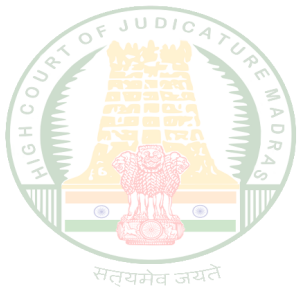
was recorded by the Inspector of Police. P.W.8 has further stated that admission portion in the confession statement has been marked as Ex.P5 and the seizure mahazar has been marked as Ex.P6. The blood stained lungi and vest were marked as M.O.18 and M.O.19 respectively. The autopsy report prepared by P.W.9 has been marked as Ex.P.7 and the following injuries were recorded in the report:

11. One Dr.S.Saravanan, Assistant Professor of Government Medical College Hospital, Trichy, has been examined as P.W.9. He has conducted the *post mortem* on the body of the deceased Vellaipandi. He has noticed several stab injuries all over the body and has opined that the deceased died due to multiple injuries: The autopsy report prepared by P.W.9 has been marked as Ex.P7 and the following injuries were recorded in the report:

“Face:

2. *Blood stained, Oblique, gapping, stab injury 1.8 x 1.5 x 3.8 cm, on lower eyelid of right eye,*

3. *Blood stained, Oblique, gapping, stab injury 2.2 x 1.6 x 2.5 cm, on lower eyelid*



WEB COPY



CrI.A(MD). No.306 of 2023

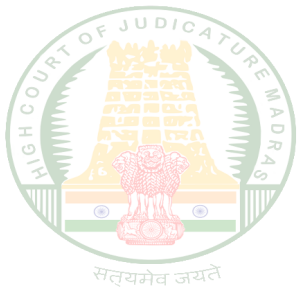
of left eye; Its direction was towards upwards and backwards;

4. Blood stained, Oblique, gapping, cut injury 2.5 x 0.2 x 0.3 cm, on right side of nose; its upper end was towards right side and lower end was on midline of nose;

5. Blood stained, Oblique, gapping, stab injury 3 x 0.2 cm x facial bone cavity deep, on upper of part of left cheek; it was 3 cm left from midline of face; its upper end was towards midline of face and lower end was towards left; its direction was backwards and downwards;

6. Blood stained, Oblique, gapping, cut injury 13 x 0.2 x 0.1 cm, on left side of face; its upper end was from upper part of left ear and lower end was merged with injury on neck;

7. Blood stained, Oblique, gapping, cut injury 2.1 x 0.2 x 0.1 cm, on lower part of left cheek, 5 cm above from lower border of chin; Its upper end was towards left and lower end was towards midline of face; underlying left side of lower jaw bone was intact;



WEB COPY



CrI.A(MD). No.306 of 2023

Neck:

8. *On removal of intestinal coils which was encircled in the neck, Adam's apple was exposed with surrounding dark red extravasation of blood; on further examination, Blood stained, Oblique, gapping, multiple, overlapping, incised injuries, cut injuries and stab injuries of various sizes, on front and both the outer aspects of neck, over an area of 14 x 10 x 6.2 cm; on dissection of neck, diffuse, Dark red extravasation of blood on the underlying soft tissues, multiple, sharp edged injuries on underlying soft tissues, small blood vessels and muscles; Complete, cut fractures on right side of body of hyoid bone and left greater horn of hyoid bone with surrounding Dark red extravasation of blood; other laryngeal cartilages, trachea and great vessels of neck were intact: c/s:larynx and trachea: empty,*

9. *Blood stained, Oblique, gapping, incised injury 9.5 x 0.1 x 0.1 cm. from right clavicular region up to front of right shoulder; Its upper end was towards midline*



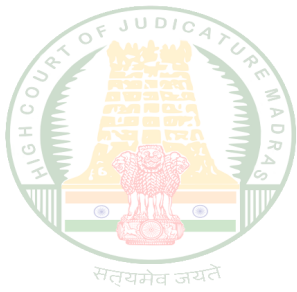
of neck and lower end was towards right side;

10. Blood stained, Obliquely horizontal, gapping, stab injury 2.1 x 2x 5.2 cm, on outer aspect of lower part of left side of neck; on further dissection, it was pierced the underlying soft tissues, blood vessels, and muscles; complete Cut fracture on left transverse process of C4 Vertebra with surrounding extravasation of blood; Its direction was downwards and to the right;

11. Blood stained, Oblique, gapping, stab injury 2.1 x 0.2 x 2.5 cm, on back of lower part of left side of neck, 3.5 cm below the hairline; its direction was towards forwards;

Chest:

12. Blood stained, Obliquely vertical, gapping, incised, injury 17.6 x 0.5 cm x thoracic cavity deep, on front of entire left side of chest; Its upper end was towards left side and lower end was towards midline of chest; its upper end was 2 cm below left clavicle bone and 5 cm left away from midline of chest; its lower end was 3 cm left from midline of chest, On Examination, this injury



WEB COPY



CrLA(MD), No.306 of 2023

was exposed the underlying ribs fractures;

13. Blood stained, Oblique, gapping, stab injury 1.5 x 0.2 cm x thoracic cavity deep, on front of lower part of left side of chest; it was 11 cm left from midline of chest and 34 cm below from top of left shoulder;

14. Blood stained, Oblique, gapping, stab injury 1 x 0.2 x 13 cm, on outer aspect of left side of chest; it was 19 cm below from top of left shoulder; Its upper end was towards back and lower end was towards front; its direction was downwards and towards right;

15. Blood stained, Oblique, gapping, stab injury 2.1 x 0.2 cm x thoracic cavity deep, on outer aspect of left side of lower part of chest; it was 15 cm above upper part of left side of hip; its upper was end towards front and lower end was towards back; its direction was downwards, and towards right;

16. Blood stained, Oblique, gapping, stab injury 2.5 x 0.2 x 3.5 cm, on outer aspect of left side of lower part of chest; It was 7 cm above upper part of left side of hip; Its upper end was towards front and lower end was towards back; on dissection of chest,



Complete, cut fractures with regular edges on underlying 1st to 8th left sided costal cartilages with surrounding extravasation of blood; Complete, irregular, fractures on front of 3rd to 6th left sided ribs with surrounding extravasation of blood; obliquely vertical, penetrating, incised injury 4 x 0.2 cm, on front of right ventricle of heart; c/s: all the chambers were empty; no other abnormalities in the heart; all the right sided ribs: intact; both the lungs: intact; both the lungs: pale;

Right shoulder:

17. Blood stained, Oblique, gapping, reverse, 'C' shaped, chop injury 3 x 0.2 x 0.5 cm, on tip of right shoulder; Its upper edge was overhanging and lower edge was undermined:

Left forearm:

18. Blood stained. Oblique, gapping, cut injury 5.1 x 0.2 x 1 cm, on back of middle part of left forearm; It was 11 cm below left elbow;

Abdomen

19. Blood stained, Oblique, gapping, stab injury 7 x 0.2 cm x abdominal cavity

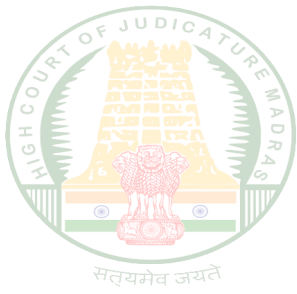


deep, on midline of abdomen, 6 cm below xiphisternum; its upper end was towards left side and lower end was on midline of abdomen; its direction was backwards;

20. Blood stained, Oblique, gapping, stab injury 2.4 x 0.2 cm x abdominal cavity deep, on midline of abdomen, 12 cm below from xiphisternum; its upper end was towards left side of abdomen and lower end was towards right side of abdomen: its direction was backwards;

21. Blood stained, Oblique, gapping, stab injury 3 x 0.2 cm x abdominal cavity deep, on upper part of left side of abdomen; it was 2 cm left from midline of abdomen; Its upper end was towards left side and lower end was on midline of abdomen; its direction was backwards;

22. Blood stained, Oblique, gapping, stab injury 2 x 0.2 cm x abdominal cavity deep, on upper part of left side of abdomen; it was 4 cm left from midline: its direction was backwards, on further dissection of abdomen. Dark red, extravasated blood over an area of 12 x 8 x 2 cm, on the soft tissues on the



WEB COPY



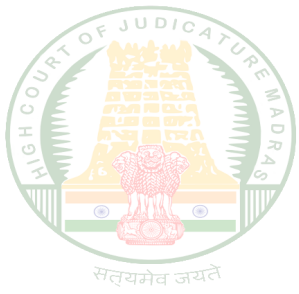
CrI.A(MD). No.306 of 2023

paraspinal region of abdomen and adjoining around left kidney, c/s left kidney: pale; Oblique, incomplete, punctured, fractured injury 1.5 x 0.1 x 0.2 cm, on front of bodies of L1 and L2 lumbar vertebrae with surrounding extravasation of blood: Stomach contained thick, dark green colored fluid amount 105 ml with partly digested, cooked, chicken piece particles with smell of fruity odour, c/s: Mucosa: pale; liver, spleen, right kidney and bladder: intact; c/s: pale and bladder was empty;

Back:

23. Blood stained, Oblique, gapping, stab injury 2.1 x 0.2 x 4.5 cm, on lower part of left side of back; it was 6 cm left away from midline of back and 23 cm above from middle of buttocks bone; It was forwards, downwards and from left to right;

24. Blood stained, Oblique, gapping, stab injury 2.1 x 0.2 x 4 cm, on lower part of left side of back; it was 3 cm left from midline of back and 12 cm above middle of buttocks bone. It was forwards, downwards and from left to right;



Crl.A(MD). No.306 of 2023

WEB COPY

12. The Scientific Officer, viz., Nalina, was examined as P.W.10. She stated that she received the blood stained samples for examination and she has opined that the blood samples are human blood and the serology report was marked as Ex.P10 and Ex.P11. One Parthasarathy, Village Assistant, was examined as P.W.11. He was present when the accused was arrested by the Inspector of Police and he also affirmed the factum of the accused having given a confession statement and the Inspector of Police taking the blood stained lungi, vest as well as a small knife. He has corroborated the evidence of P.W.8 / Kumaravel.

13. The photographer, viz., Kumar was examined as P.W.12. He has stated that he visited Shakila Lodge and took photographs in room No.34. He has also produced a compact disc, which was marked as M.O.20. Photographs were marked as M.O.21 series.

14. The Head constable, viz., Viswanathan, has been examined as P.W.13. He has spoken about the body of the deceased being handed



Crl.A(MD). No.306 of 2023

over to the family of the deceased, after conducting post mortem. He has also stated that the inner parts of the deceased were preserved and produced for analysis by the forensic science laboratory. He has also stated that he had handed over the blood stained dresses to the Inspector of Police, which have been marked as M.O.22 to M.O.24.

15. One Nixan Sahayaraj, Head Constable, was examined as P.W. 14, who has on instructions of the Sub Inspector of Police, sent the printed F.I.R to the Judicial Magistrate No.I, Trichy, besides also sending copies of the same to the Higher officials. The Sub Inspector of Police, Fort Police Station, viz., Sulochana was examined as P.W.15 and she is the officer, who has registered the case on 20.03.2016, at about 23.30 hours. F.I.R has been marked as Ex.P12.

16. The Investigating Officer, viz., Seetharaman, was examined as P.W.16. He has stated about his visit to the place of occurrence, preparation of observation mahazar in the presence of two witnesses and a detailed rough sketch has been marked as Ex.P13 and another rough sketch has been marked as Ex.P14. The investigating officer has also



Crl.A(MD). No.306 of 2023

spoken about the recovery of various material objects, from the scene of occurrence and that the body of the deceased through head constable/ Viswanathan/P.W.13 was sent for *post mortem*. He has also spoken about the investigation undertaken by him and the inquest report prepared by him being marked as Ex.P15. He has also stated that on 20.03.2016, at about 04.00 pm, the accused was arrested near Chinthamani Gandhi river bed, in the presence of P.W.8 and P.W.11, whose evidence also corroborates the evidence of the Investigating Officer. He has also spoken about the confession statement given by the accused. Recovered articles, have been sent to the Court vide Form 95, which were marked as Ex.P16 to Ex.P19 and he has also stated that he has received the *post mortem* certificate on 22.03.2016. He has also recorded the statement of the Doctor and witnesses Senthilkumar, Kolanjinathan and photographer - Kumar. He has also recovered the lodge booking register from the Manager of Shakila Lodge, Senthilkumar, which has been marked as Ex.P20. Requisition letter for chemical examination of the recovered article has been marked as Ex.P21. The copy of the requisition letter issued by the Judicial Magistrate for forensic examination has been marked as Ex.P22. Bio-logical report has been marked as Ex.P23. After



CrL.A(MD). No.306 of 2023

completing investigation, the Inspector of Police, has laid a charge sheet under Sections 302 and 506 (ii) I.P.C.

17. At the time of questioning under Section 313 Cr.P.C about the incriminating circumstances appearing against the accused, the accused has denied the allegations and pleaded “not guilty” and claimed that a false case has been foisted against him.

18. Though as many as 16 witnesses were examined on the side of the prosecution, no witness was examined on the side of the accused, in defence.

Decision of the trial Court:

19. The learned Principal District and Sessions Judge, Trichy, on analysing the facts and circumstances of the case and the oral and documentary evidence, came to a categorical finding that the prosecution has proved the case beyond reasonable doubt and that the offences were indeed committed only by the accused, disbelieving the contention of the learned counsel for the accused that the evidence of the prosecution

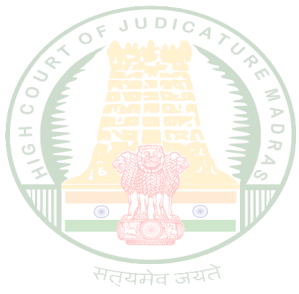


Crl.A(MD). No.306 of 2023

witnesses were either hearsay or unreliable and that there was also no corroboration between the property recovered. Accordingly, the accused was convicted and sentenced in the manner stated supra.

Arguments of the learned counsel for the appellant:

20. The learned counsel for the appellant has firstly stated that the prosecution has failed to prove any motive and admittedly, the deceased and the accused were total strangers and therefore, in the absence of any evidence that the accused had a motive to attack and kill the deceased, the accused can never be imputed with the offence of murder. However, the primordial submission of the learned counsel for the appellant is that the manner in which the accused has attacked and killed the deceased, clearly points to the fact that his behaviour is not normal. In this regard he would point out to the fact that even pending trial, the accused was admitted in the mental hospital and he was suffering from mental illness. He would place reliance on the additional typed set of papers, containing the medical records of the accused as well as the proceedings recorded in the “B Diary” extract by the trial Court.



Crl.A(MD). No.306 of 2023

WEB COPY

21. The learned counsel for the appellant relied on the following decisions:

(i) Judgment of the Hon'ble Supreme Court in ***Devidas Loka Rathod v. State of Maharashtra***, reported in **2018-7-SCC-718**;

(ii) Judgment of the Division Bench of this Court in ***Vijay Pratap Singh v. State rep. by the Inspector of Police***, reported in **2021-4-MLJ(Criminal)-449** ; and

(iii) Judgment of the Division Bench of this Court in ***Petchiyammal v. State through the Inspector of Police***, reported in **2024-1-TLNJ-100 (Criminal)**.

Arguments of the learned counsel for the State:

22. Per contra, Mr.G.Karuppasamy Pandian, learned Government Advocate (Crl.Side), appearing for the State, has stated that the prosecution has proved the case beyond all reasonable doubts; that the accused had committed the murder and was guilty of the offences charged and the entire investigation has also been properly conducted.

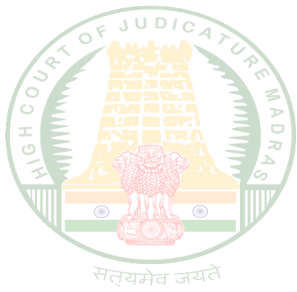


Crl.A(MD). No.306 of 2023

He would also meet the arguments advanced on the side of the appellant that there was no motive with regard to the appellant having assaulted and murdered the deceased, by contending that the complainant has clearly spoken about the presence of the accused with the deceased from the period proximate to the time of the crime and therefore, the accused and the deceased were not total strangers, as brought out by the prosecution.

23. The learned Government Advocate would further contend that the accused had assaulted the deceased by stabbing him repeatedly and had also escaped without being caught by anybody by threatening them with a knife in his hand and in such circumstances, the learned counsel states that the accused was therefore clearly aware of the consequence of his actions and rightly the trial Court has convicted the accused under Section 302 I.P.C. as well as Section 506(ii) I.P.C., and no interference is warranted.

24. The learned Government Advocate (Crl.Side) appearing for the State has relied on the following decisions:



Crl.A(MD). No.306 of 2023

(i) Judgment of the Hon'ble Supreme Court in ***Prem Singh v. State (NCT of Delhi)***, reported in ***2023-3-SCC-372***;

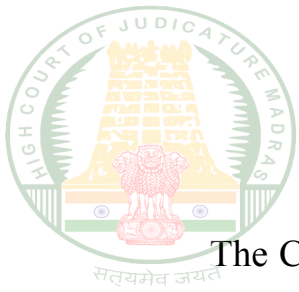
(ii) Judgment of the Hon'ble Supreme Court in ***Elavarasan v. State*** reported in ***2011-7-SCC-110***;

(iii) Judgment of the Hon'ble Supreme Court in ***Sudhakaran v. State of Kerala***, reported in ***2011-1-SCC(Crl.)-49***;

Analysis:

25. We have carefully considered the submissions advanced by the learned counsel for the parties.

26. The trial Judge has found that the evidence of P.W.1, who is the eye witness to the murder, was cogent and supports Ex.P1-complaint. The learned trial Judge has also dealt with the arguments of the learned counsel for the accused with regard to the improbability of the presence of P.W.1 and P.W.2 at the scene of crime. The trial Judge has assessed the evidence of P.W.1 and P.W.2 in a proper perspective and we do not find any mis-appreciation of the evidence adduced by the eyewitnesses.



Crl.A(MD). No.306 of 2023

The Court has also found that the eyewitness account of P.W.1 to P.W.3 stand corroborated by medical evidence in terms of the autopsy report which records the injuries sustained by the deceased and there are no discrepancies in the evidence and in our opinion, we have come to the conclusion that the accused has committed the murder with which he is charged and we do not see any grounds whatsoever to interfere with the well considered findings arrived at by the trial Court, in this regard.

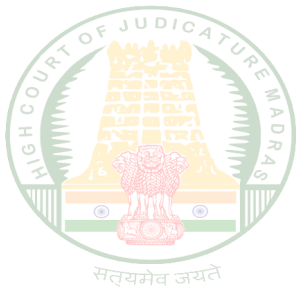
27. The issue, however, does not rest here. The trial Court has held that it is not one of the rarest of rare case, compelling the trial Court to sentence the accused to death penalty and has instead sentenced the accused to undergo life imprisonment along with a fine, with a default sentence in case of non-payment of fine, and directed that both sentences shall run concurrently.

28. As already discussed in detail, the manner in which the accused acted on the fateful day clearly indicates that the accused was not in a normal state of mind. Though it is alleged that he was having enmity with the deceased, firstly, we do not find any real motive being



Crl.A(MD). No.306 of 2023

established by the prosecution for the accused having attacked and physically assaulted the deceased. Even assuming there was some quarrel, which led into a physical fight between the accused and the deceased, the manner in which, even according to the prosecution, the accused has gone about, raises serious doubts as to whether the accused was in a proper frame of mind. It is clearly brought out from the evidence adduced on the side of the prosecution, including the evidence of the father of the deceased and other eyewitnesses that the accused repeatedly stabbed the deceased on various parts of the body and strangely, witnesses even spoke about the manner in which the accused acted, especially, by going to the extent of removing intestines from the body of the deceased and wearing it as a garland. His actions were so abnormal that we are unable to consider his conduct to be the behaviour of a normal human being. As already held, the accused and the deceased are virtually strangers, except for having been introduced to each other only a couple of days earlier to the incident. No motive has also been attributed or established to the accused for having attacked and killed the deceased.

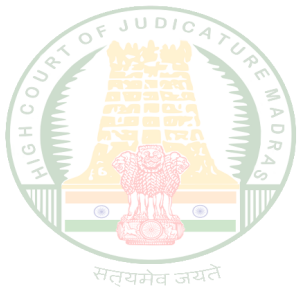


Crl.A(MD). No.306 of 2023

WEB COPY

29. The medical records of the deceased as seen from the discharge summary dated 09.12.2016, 30.06.2017, observation report dated 06.07.2017, discharge summary dated 10.04.2022, 11.10.2023, 22.12.2023, 10.02.2024, 11.05.2024 clearly indicate, in unequivocal terms, that the accused was suffering from *Bi-polar Affective disorder Mania with Psychotic symptoms*. The above records also additionally indicate that the accused was undergoing treatment at various hospitals, including Institute of Mental Health at Chennai. Infact, presently also we are informed that the accused is taking treatment at IMH, Chennai, regularly, in view of the relapse of symptoms in 2023 and again in 2024.

30. In the light of the above facts, the strange and abnormal manner in which the accused behaved and the materials available to support his mental condition, clearly raises a doubt in our minds as to whether the accused committed such cruel acts, while being in a sound and disposing state of mind, understanding the consequences of his actions.



WEB COPY

31. In spite of recording the treatment undergone by the accused person which is evident from the 'B' Diary extract, in the entire judgment of the trial Court, there is absolutely no reference to the mental status of the accused, despite the trial Court having been put on notice about the insanity of the accused. As rightly pointed out by the learned counsel for the appellant, even pending the proceedings, the case has been adjourned on several occasions, citing the fact that the accused was admitted in Kilpauk Mental Hospital, where he has been taking treatment. Unfortunately, the trial Court has been totally insensitive to such mitigating and relevant factors while convicting the accused.

32. We are immediately reminded of the decision in *M'Naghten's Case [R. v. M'Naghten, 1843-8 ER 718]*, which was decided by the House of Lords. The then Chief Justice, Lord Tindal, who was summoned by the House of Lords, addressed the queries of the House of Lords with regard to the law relating to crimes committed by persons who were afflicted with insanity or delusion at the time of commission of the offence. Lord Tindal, the Chief Justice, responded by stating that if the accused committed the act complained of under the influence of



WEB COPY

insane delusion, he would be liable to be punished according to the nature of the crime committed, if, at the time of committing such crime, he knew that he was acting contrary to law. The said facts were quoted with approval in the case of **Vijay Pratap Singh**, and the Division Bench of this Court also held that the said decision lays down what is the correct legal position with regard to Section 84 of the IPC. We extract Section 84 of the Indian Penal Code, for easy reference:

84. Act of a person of unsound mind: Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

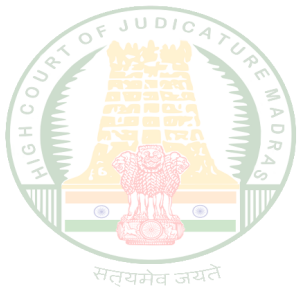
33. If we find that the accused, at the time of committing the offence, was not of sound mind, then he would be a person incapable of knowing the nature of the act or that what he was doing was wrong or contrary to law. Of course, we are mindful of the fact that mental illness can also be temporary in nature. However, in the instant case, right from the date of commission of the murder, the accused has been found to be mentally unstable. Even during the trial, he was undergoing treatment at



Crl.A(MD). No.306 of 2023

Kilpauk Medical Hospital and was produced before the Court only from the hospital. In such circumstances, considering the nature and manner of the commission of the acts by the accused, we have no hesitation in holding that the accused was certainly a person of unsound mind and was incapable of knowing that the act committed by him was wrong or contrary to law. After all, the letter and spirit of Section 84 of the I.P.C is to not treat as offences, acts done by a person of unsound mind since no *mens rea* can be attributed to such acts.

34. In ***Devidas Loka Rathod***'s case, the Hon'ble Supreme Court, held that when the previous history of insanity of the appellant / accused was revealed, it was the duty of an honest investigator to subject the accused to a medical examination immediately and place the evidence before the court and if this is not done, it creates a serious infirmity in the prosecution case and the benefit of doubt has to be given to the accused. Admittedly, in the present case, neither the investigating officer nor the trial Court have been alive to the mental insanity of the accused and no medical examination has been conducted.



WEB COPY

35. In State of *Rajasthan v. Shera Ram @ Vishnu Dutta*, reported in **2012-1-SCC-602**, the Hon'ble Supreme Court held that when there was evidence that the accused was getting treatment for mental sickness even when he was in jail, the case can be brought under Section 84 I.P.C., and the defence of unsoundness of mind would be a valid and successful defence, entitling him to the benefit of the Section. In the present case, the manner in which the accused acted, violently, while killing the deceased clearly establishes that he was suffering from insanity and was of unsound mind. In such circumstances, the accused is entitled to the exception provided under Section 84 of I.P.C. and he cannot be charged of offences under Section 302 I.P.C. or even Section 506 (ii) I.P.C.

36. Lastly, we also rely on the ratio laid down in Division Bench in *Petchiyammal's* case. This Court held that when the accused is found to be a mentally deranged person and was taking regular treatment at the mental health institute and continued to take treatment even during the trial of the case, it would confirm his psychiatric illness and such an

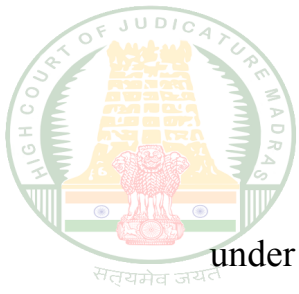


Crl.A(MD). No.306 of 2023

accused is entitled to the benefit of Section 84 I.P.C. The Hon'ble Division Bench, in fact under Section 335 I.P.C, had directed the accused to be detained in safe custody and also be given treatment at the institute of mental health, with a further direction that the accused should remain under constant treatment, with periodical medical aid and review.

37. Coming to the decision that has been relied on by the State, in **Prem Singh's** case, the Hon'ble Supreme Court held that burden of proving the existence of circumstances, so as to bring the case, within the preview of Section 84 I.P.C. lies on the accused in terms of Section 105 of the Evidence Act. The same ratio in fact has been laid down in **Sudhakaran v. State of Kerala**, reported in **2011-1- SCC-(Criminal)-49**. In these case, the Hon'ble Supreme Court, on facts, found that the accused was not entitled to the benefit of Section 84 I.P.C., as there was no evidence to establish the mental unsoundness of the accused.

38. We have no quarrel with the ratio laid down by the Hon'ble Supreme Court. However, in the light of the above discussion, we have found that right from the date of the offence, the appellant has been



CrI.A(MD), No.306 of 2023

under constant medical supervision for mental unsoundness. The very manner in which the accused went about attacking and killing the deceased, leaves no room for doubt that he was certainly of unsound mind and was acting without the least iota of knowledge of the nature of the act and the consequences thereof.

39. For all the above reasons, we are fortified in applying the mandate of Section 84 I.P.C and acquit the accused. Though the appellant has caused the death of the deceased Vellaipandi, we hold that the appellant is entitled to the exception carved out under Section 84 of I.P.C and consequently, we are constrained to set aside the judgment and also the order of conviction and sentence passed by the trial Court.

40. However, in view of the peculiar facts and circumstances of the case, and having regard to the facts that the accused has been undergoing treatment at Kilpauk Mental Health (IMH) till date, the Dean / Director of the Institute of Mental Health(IMH), Kilpauk, Chennai, shall ensure that the appellant is given proper care and treatment for his mental illness / unsoundness. If, after such treatment, the IMH, Kilpauk, is of the firm



CrL.A(MD). No.306 of 2023

opinion that the appellant has recovered and is fit to rejoin his family members, then, upon obtaining such a fitness certificate from IMH, Kilpauk, liberty is granted to the family members of the appellant to approach the competent authority seeking custody under Section 335 Cr.P.C. Before parting, we would also like to remind the Trial Courts that, in all cases where the Court is put on notice or comes to know of any mental unsoundness of the accused, it is the duty of the Trial Court to ensure that the accused is medically examined and a medical report is obtained from the competent mental health institute/hospital and the Court shall thereafter assess the report obtained from the mental health institute/hospital and render a finding as to whether the accused would be entitled to the benefit of Section 84 IPC, even in cases where no specific plea of mental unsoundness has been taken by the defence, when such fact has otherwise been brought to the notice of the Court trying the case.

41. In fine, this Criminal Appeal is allowed and the conviction and sentence imposed on the appellant by the Sessions Judge, Tiruchirappali Division, Tiruchirappalli District, made in S.C.No.172 of 2016, dated 06.03.2018, is set aside and the accused is acquitted of all the charges.



Crl.A(MD). No.306 of 2023

The appellant is at liberty to seek for a refund of the fine amount, if any already paid, by taking out a proper application before the trial Court.

[N.A.V.J.,] & [P.B.B.J.]

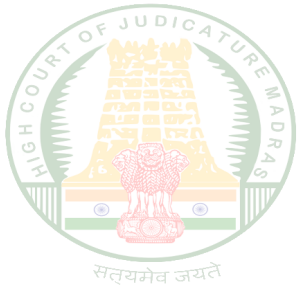
09.06.2026

Neutral Citation Case : Yes / No
Speaking / Non-speaking order
Index : Yes/No
LS

TO

- 1.The Sessions Judge,
Tiruchirappali Division,
Tiruchirappalli District.
2. The Inspector of Police,
Fort Police Station,
Tiruchirappalli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

36/38

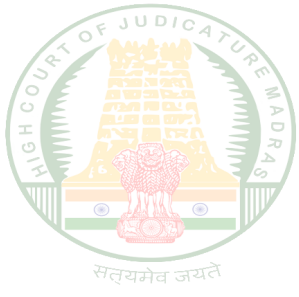


Crl.A(MD). No.306 of 2023

WEB COPY

Copy to

The Dean / Director of the Institute of Mental Health(IMH),
Kilpauk,
Chennai.



WEB COPY



Crl.A(MD). No.306 of 2023

N.ANAND VENKATESH,J.
AND
P.B.BALAJI,J.

LS

Crl.A(MD) No.306 of 2023

09.06.2026