



CRL.A.(MD).No.541 of

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16/02/2026

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

Crl.A(MD)No.541 of 2022

Kamaraj : Appellant/Sole Accused

Vs.

The State rep. By
Inspector of Police,
Mamsapuram Police Station,
Srivilliputhur,
Virudhunagar District.
(Crime No.299 of 2009)

: Respondent/Respondent/
Complainant

PRAYER: Criminal Appeal filed under Section 394(2) of the Criminal Procedure Code, against the judgment of conviction and sentence passed by the Principal District and Sessions Judge, Virudhunagar at Srivilliputhur, in SC No. 61 of 2010, dated 24/10/2019 and to set aside the same and consequently to acquit the appellant.

For Appellant : Mr.C.Christopher
(Legal Aid Counsel)

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor



JUDGMENT

(Judgement of the Court was made by **G.K.ILANTHIRAIYAN.,J**)

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This criminal appeal is directed as against the judgment of conviction and sentence passed in SC No.61 of 2010, dated 24/10/2019 by the Principal District and Sessions Judge, Virudhunagar District @ Srivilliputhur, thereby convicted the appellant for the offence under Section 302 IPC.

2.The case of the prosecution is that two years prior to the occurrence, there was a quarrel between the accused's brother and PW1 as the brother of the accused teased the sister of PW1, however, it was subsequently compromised by the elders. Thereafter, the accused's family shifted far away from the place of PW1. While being so, on 23/08/2009 at about 10.00 p.m, the accused had quarrel with the deceased Pandiya Raj @ Pandi and pushed him down. Thereafter, he attacked him with stone on his face. Therefore, the deceased sustained injuries and died on the spot.

3.On the complaint, the respondent Police registered the FIR in Crime No.299 of 2009 for the offence punishable under Section 302 IPC. After completion of the investigation, final report was filed and the same has been taken cognizance by the Trial Court and framed the charge under Section 302 IPC against the accused.



4.In order to bring home the charge, the prosecution had examined 18 witnesses as PW1 to PW18 and marked 16 documents as Exs.P1 to P16, besides produced material objects MO1 to MO6. On the side of the accused, no one was examined and no document was produced.

5.On perusal of the evidence, both oral and documentary, the Trial Court found the accused guilty for the offence under Section 302 IPC, convicted and sentenced him to undergo **Life Imprisonment** and to pay a fine of Rs.10,000/-, in default to undergo one year SI. Aggrieved over the same, this criminal appeal is filed.

6.The learned counsel for the appellant submits that the so called eye witnesses as projected by the prosecution as PW1 to PW3 and their presence in the scene of crime itself is doubtful and the prosecution failed to prove the charge as against the appellant. PW2 deposed that he did not witness the occurrence and he is only a hearsay witness. Even according to the evidence of PW2, the presence of PW3 is highly doubtful. Therefore, the accused cannot be convicted on presumption. They also contradicted with each other in respect of the place of occurrence and the time of the occurrence. Another eye witness was examined as PW1 who is the brother of the deceased. Therefore, he is also an interested witness and his evidence is not admissible in law. His evidence is also



contradictory in nature. The prosecution also failed to prove the motive for the crime. Even according to the prosecution, the brother of the deceased teased the sister of PW1 two years prior to the occurrence. It was amicably settled between both the families by the panchayadhars. In fact, thereafter they shifted their residence about 40 to 50 kms away from the place of PW1. On 23/08/2009, the accused visited the place of PW1 to attend the marriage function of his Paternal Uncle's daughter. At this juncture, he had seen the deceased and quarreled with each other. Due to wordy quarrel, the accused had taken a big stone weighing nearly 22 kgs and dropped on the face of the deceased and therefore, he sustained injuries and died on the spot and therefore, the accused charged under Section 302 IPC. But the prosecution failed to prove the charge under Section 302 IPC. In view of the above said circumstances, he prays for allowing the appeal by setting the judgment of conviction and sentence passed by the Trial Court.

7.Per contra, the learned Additional Public Prosecutor submits that the prosecution had categorically proved the motive between the accused and the deceased, since the sister of PW1 was eve-teased by the brother of the accused. Therefore, there was quarrel between them. Though, the matter was compromised, the accused had an intention to do away the life of the deceased and on 23/08/2009, when he visited the place of PW1, he quarreled with the



deceased with an intention to do away the life of the deceased. Thereafter, he pushed him down and attacked him by using a big stone on his face and therefore, the deceased sustained injury and died on the spot. PW1 to PW3 alleged to be the eye witnesses to the occurrence and they also categorically deposed about the occurrence. Therefore, the Trial Court has rightly convicted the accused and it does not warrant any interference by this Court.

8. Heard both sides and perused the materials available on record.

9. In this case, there was a dispute with regard to eve-teasing by the brother of the accused against the sister of PW1. Therefore, there was dispute between the two family members and later, it was compromised by the panchayadhars. Thereafter, the accused family shifted their residence to some other place just 40 to 50 kms away from the place of the deceased. When the accused was visiting the place of the deceased to attend the marriage function of his Paternal Uncle's daughter, on 23/08/2009, he had seen the deceased. Therefore, there was wordy quarrel between them and due to it, the deceased fell down. Thereafter, the accused had taken a big stone and dropped on the face of the deceased. Therefore, the deceased sustained injured and died on the spot.



10.The prosecution had examined PW1 and PW3 as eye witnesses to the occurrence. The brother of the deceased had deposed as PW1. In his evidence, he deposed as follows:-

“....சுமார் 7 வருடங்களுக்கு முன்பு எதிரியின் தம்பி ஜெயச்சந்திரன் என்பவர் என் தங்கை அகிலா (எ) ரமா என்பவரை கேலி கிண்டல் செய்ததார். இது சம்மந்தமாக அவர் அம்மாவிடம் சொல்லி சத்தம் போட்டு சமாதானம் ஆகிவிட்டோம். இந்த விவரம் எதிரிக்கு தெரிந்து என்னையையும், என் தம்பியையும் என் வீட்டில் வந்து ரகலை செய்தார். பின்பு நாங்கள் ஊர் பெரியோர்களிடம் சொல்லி எதிரியை சத்தம் போட்டு சமாதானம் செய்தனர். பின்பு எதிரி குடும்பத்தோடு சிவகாசிக்கு போய்விட்டார். அதன் பிறகு 23.08.2009 அன்று எதிரி அவருடைய சித்தப்பா மகள் கல்யாணத்திற்காக மம்சாபுரத்திற்கு வந்திருந்தார். அன்று இரவு 10.00 மணியளவில் நான் ரொட்டிக்கடை பஜாரில் இருந்தேன். அப்போது மாடசாமி என்பவர் வந்து என்னிடம், உன் தம்பியும் எதிரி காமராஜும் காளியம்மன் கோவில் முன்பாக சண்டை போட்டுக் கொண்டிருப்பதாக சொன்னார். நான் பதறி அடித்து சம்பவமிடத்திற்கு சென்றேன். நான் வந்து பார்த்தபோது எதிரி அசிங்க அசிங்கமாக பேசிக் கொண்டு என் தம்பியை அடித்து கீழே மல்லாக்க போட்டுவிட்டார். பின்பு பக்கத்தில் இருந்த பொங்கல் வைக்க பயன்படுத்தும் கல்லை போட்டு என் தம்பியின் முகத்தை நைத்துவிட்டார். நான் அலறி அடித்து சத்தம் போட்டேன். பக்கத்தில் இருந்த விஜயகுமார், சித்திரைவேலு ஆகியோர்கள் வருவதை பார்த்து எதிரி ஓடிவிட்டார்.”



11. Therefore, it is clear that though the prosecution has projected that there was previous enmity between the accused and the deceased with regard to eve-teasing against the sister of PW1, it was happened two years prior to the occurrence. That apart, the accused family had shifted their residence far away from the place of the deceased. Further, PW1's sister was subjected for eve-teasing that too by the brother of the accused. Therefore, absolutely, there was no prior dispute or any motive with regard to eve-teasing on the accused. On the date of the occurrence, the accused visited the place of the deceased to attend his Paternal Uncle daughter's marriage. Therefore, the accused did not have any intention or motive to do away the life of the deceased. However, there was quarrel between them and the deceased was assaulted by the accused by putting a big stone. The evidence of PW3 also corroborated the same.

12. In fact, there was a wordy quarrel between the accused and the deceased and due to the said quarrel, the deceased fell down and thereafter, the accused took the stone which is used as stand for cooking pongal and put it on the face of the deceased. Therefore, it has to see whether the charge framed under Section 302 IPC is attracted as against the accused or not.

13. In order to prove the charge under Section 302 IPC, the death of some human being was caused; and such death was caused by the accused or



was the consequence of the act of the accused; and that the accused did so, with the intention of causing death or that the accused knew that his act was likely to cause death.

14. In the case on hand, the accused did not have any such intention to cause the death while visiting the place of the deceased. All of a sudden, after seeing the deceased, the accused and the deceased quarrelled with each other and due to the same, the deceased fell down. Thereafter, the accused dropped a stone on his face. Hence, it is coming under exception 4 of the provision of 300 of IPC. The offence committed by the accused is without pre-meditation of mind and sudden fight. Therefore, the offence committed by the accused not falls under [Section 302](#) IPC, but falls under Section 304 (Part II) [IPC](#). Therefore, the conviction and sentence passed by the learned trial Judge against the accused for the offence under [Section 302](#) IPC is set aside, but however, the accused is convicted for the offence under Section 304 (Part II) [IPC](#) and sentenced to undergo 10 years rigorous imprisonment along with fine of Rs.10,000/-, in default of payment to undergo one year SI.

15. In the result, this Criminal Appeal is **partly allowed**. The conviction under Section 302 IPC passed by the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputhur, dated 24/10/2019, in



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S.C.No.61 of 2010 is set aside and instead the appellant is convicted under Section 304-II IPC. Accordingly, the sentence of Life Imprisonment passed by the Court below is set aside and the appellant is sentenced to undergo **Rigorous Imprisonment for 10 years** and to pay a fine of Rs.10,000/-, and in default to pay the fine amount, to undergo Simple Imprisonment for one year. The period of sentence already undergone by the appellant/accused shall be set off under Section 428 Cr.P.C., as against the substantive sentence.

(G.K.I., J) (R.P., J)
16/02/2026

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To,

1.The Principal District and Sessions Judge,
Srivilliputhur District at Srivilliputhur.

2.The Inspector of Police,
Mamsapuram Police Station,
Srivilliputhur,
Virudhunagar District.

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



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**G.K.ILANTHIRAIYAN, J.
AND
R.POORNIMA, J.**

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