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CRL.A.(MD).No.86 of



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 11.11.2025

PRONOUNCED ON :09.01.2026

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.A(MD).No.86 of 2022

Kannathal

.. Appellant/Complainant

Vs.

1.Muthukumar
2.Paskanpailon
3.Gowri

.. Respondents/Accused

PRAYER: Criminal Appeal filed under Section 378 Cr.P.C, to call for the records and set aside the acquittal judgment passed in C.C.No.33 of 2005, dated 02.11.2015, by the Judicial Magistrate No.I, Sivagangai.

For Appellant : Mr.N.Mohideen Basha

For Respondents : Mr.Althaff Sheriff
for M/s Ajmal Associates
for R.1 and R.2
:R3- Paper Publication
proof filed



JUDGMENT

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The Criminal Appeal is directed against the judgment of acquittal made in C.C.No.33 of 2005, dated 02.11.2015, on the file of the Court of the Judicial Magistrate No.I, Sivagangai.

2. The appellant, who is the complainant has filed a private complaint under Section 200 Cr.P.C., against the accused for the offences under Sections 304(A) and 201 I.P.C.

3. The case of the complainant is that the complainant is the mother of the deceased Harisankar, who was aged about 11 years and was studying IV std., in Panchayat Union Elementary School. On 21.01.2004, the deceased boy as usual went to school and the complainant went to market at Sivagangai. One Gowsalya, schoolmate of the deceased boy, approached Jayalakshmi, daughter-in-law of the complainant and informed that the deceased fell unconscious in the school campus. The said Jayalakshmi immediately went to the school and found that the deceased Harisankar was in unconscious stage, took him to their house. After getting information through phone, Dr.Gunasekaran came to the house of the complainant, gave first aid and advised them to take the boy to Sivagangai Government Hospital and accordingly they admitted the said boy at Sivagangai Government Hospital. But the Hospital authorities advised to shift



the boy to Madurai and accordingly he was admitted at Madurai City Hospital and thereafter in Apollo Hospital. They informed that the boy had “Brain stem Encephalitis” and directed the complainant to take the boy stating that he cannot be cured. When the boy was being taken home, he breathed his last at about 06.00p.m., on 24.01.2004 while on the way. The complainant came to know that the first accused Muthukumar gave corporal punishment for the deceased Harisankar, since he failed to do home work. She came to know that since his son was beaten in head, while he was kneeling down in school veranda, got fainted. Thereafter the complainant lodged a complaint before the Inspector of Police, Kalayarkovil Police Station, Sivagangai, but he refused to register the case. The complainant approached the Superintendent of Police, Sivagangai and only thereafter a case in Cr.No.18 of 2004 under Section 174 Cr.P.C., was registered and a postmortem was conducted. But the Inspector of Police filed a negative final report before the Court of the Judicial Magistrate No.I, Sivagangai and hence, the complainant was forced to file the above private complaint under Section 200 Cr.P.C.

4. It is the further case of the complainant that the second accused was the then Headmaster of the said School and the third accused was working as a teacher and all the accused failed to take any steps for giving medical treatment immediately and attempted to conceal the incident to the complainant. Therefore



the first accused had committed the offences under Sections 304(A) and 201 I.P.C., and the accused 2 and 3 had committed the offence under Section 201 I.P.C.

5. The learned Judicial Magistrate, upon receipt of the complaint, recorded the sworn statement of the complainant and examined one Raja, teacher of the school. The learned Magistrate, upon considering the complaint and statement of the witnesses took the case on file in C.C.No.33 of 2005 for the offences under Sections 304(A) and 201 I.P.C., and ordered for issuance of summons to the accused. After the appearance of the accused, copies of the complaint and other records were furnished to them. Thereafter the complainant's side examined six witnesses and closed their side evidence.

6. The learned Judicial Magistrate, considering the materials available on record, questioned the accused for the alleged commission of offences under Sections 304(A) r/w 201 I.P.C., as against the first accused and under Section 201 I.P.C., as against the accused 2 and 3. All the accused denied the commission of offences. The case was posted for the complainant's further evidence.



7. The case of the complainant emerging from the evidence adduced by her side in brief is as follows:

(a) P.W.1 Kannathal / defacto complainant is the mother of the deceased Harisankar. The deceased was studying 4th std., in Panchayat Union Elementary School, Muthur. P.W.2 is the daughter-in-law of P.W.1. On 6th of Tamil Month of Thai, P.W.1 as usual had taken her son Harisankar to the School by 08.30a.m., and thereafter went to market. When P.W.2 was in her home, at about 11.30a.m., one girl Gowsalya came and informed that Harisankar fell unconscious in school campus. P.W.2 went to School immediately and found that Harisankar was in unconscious stage. On enquiry, the first accused informed that the said Harisankar while reading got fainted. P.W.2 immediately brought the boy to their home and contacted Dr.Gunasekaran.

(b) P.W.4 was contacted by the first accused and informed about the fainting of the boy by name Harisankar and requested him to come to their school. He received the phone call of P.W.2 also thereafter and went to the school. But in the meanwhile, the said boy was taken by P.W.2 to her home. Hence, P.W.4 along with the first accused went to the complainant's home and checked the boy. Since P.W.4 informed that the boy was in critical condition



and advised them to take him to Sivagangai, P.W.2 took the boy and admitted him in Manivannan Hospital, Sivagangai.

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(c) P.W.1 while she was in market, was informed that her son was admitted in Sivagangai Hospital, she went to the Hospital. Since Hospital authorities informed that the condition of the boy was in critical stage and advised them to take him to Madurai Hospital, the boy was then admitted in Apollo Hospital. P.W.6, Dr.Jeyakumar admitted the deceased in Hospital with fever, unconscious and seizure and found Encephalitis brain fever. Subsequently, they informed that they cannot given further treatment and directed them to take their boy to their home. While they were taking the boy to their home, the boy breathed his last at 06.00p.m., on the way to home. P.W.5. Dr.Amarnath, who was working in the Apollo hospital at that time, stated that the deceased was given treatment at ICU and since there was no improvement, the patient was discharged as per the wishes of the complainant.

(d) P.W.3, who was also working as a Teacher in the said school, came to P.W.1's house on the subsequent day and informed that the first accused made the deceased boy to kneel down and also beaten him and as a result of which, he fell unconscious. Thereafter P.W.1 went to Kalayarkovil police station and lodged the complaint. Since the complaint was not received, they approached



the Deputy Superintendent of Police, but he directed them to approach the Superintendent of Police.

(e) After the closure of the complainant's side evidence, the accused were examined under Section under Section 313(1) (b) of Cr.P.C., with regard to incriminating aspects found against them in the evidence adduced by the prosecution, they denied the same as false and stated that a false case has been foisted against them. Though the accused have stated that they are having defence evidence, they have only produced and exhibited three documents as Exs.D.1 to D.3., and adduced no ocular evidence.

(f) The learned Judicial Magistrate, upon considering the evidence both oral and documentary and on hearing the arguments of both sides, passed the impugned judgment dated 02.11.2015 holding that the complainant miserably failed to prove the offences under Sections 304(A) and 201 I.P.C., as against the first accused and the offence under Section 201 I.P.C., as against the accused 2 and 3, acquitted them under Section 248(1) Cr.P.C. Challenging the judgment of acquittal, the complainant has filed the present Criminal Appeal.



8. Whether the impugned judgment of acquittal passed in C.C.No.33 of 2005 on the file of the Judicial Magistrate No.I, Sivagangai is liable to be set aside? is the point for consideration.

9. The learned Counsel for the appellant would submit that the trial Court failed to appreciate the evidence of eye witness who deposed about the occurrence, that the Medical Officer had clearly deposed that the deceased died due to the inflammation in the brain and it might have caused to the injuries, that the learned Magistrate failed to take note that the deceased fainted and became unconscious only due to punishment given by the accused and it is causa causans for the death of the deceased, that the proximity and nexus between the corporal punishment given by the accused and the death of the deceased was not properly considered, that the deceased had no other ailments and he died solely due to internal injury inflicted by the accused and that the learned trial Judge, without appreciating the evidence adduced in proper perspective relying on the irrelevant factors, has proceeded to acquit the accused in a mechanical fashion and that therefore, the impugned judgment is liable to be set aside.

10. The learned Counsel for the respondents 1 and 2/accused 1 and 2 would submit that P.W.2 who took the deceased from the school had deposed that P.W.3 – Raja alone beaten the deceased student and hence, the allegation



levelled by P.W.1 that the accused No.1 beaten the deceased student is not only false, but bereft of material evidence, that one Gowsalya who allegedly informed P.W.2 that the deceased fell unconscious, had not stated that the deceased fainted due to the first respondent beaten him and moreover, the complainant has not chosen to examine the said Gowsalya, that P.W.1 complainant would admit that she had taken insurance only for the deceased son and not to the other sons and the above would go to show that the deceased already suffered from brain disease, that though P.W.3 accompanied P.W.1 for three days during the treatment of the deceased, he had not informed that the first accused beaten the deceased and that therefore, the private complaint filed by P.W.1 on the strength of the information given by P.W.3 after the death of the student is highly improbable and it is nothing but motivated one. He would further submit that P.W.5 Doctor had deposed that no wound or external injury was found on the body of the deceased boy and that the deceased was discharged from the hospital on 24.01.2004 against medical advise. He would also submit that P.W.6 Doctor had deposed that the deceased was admitted with symptoms of fever, unconsciousness and seizure and had suggested the possibility of brain fever and that the medical evidence would clearly indicate that the deceased was suffering from Brain stem Encephalitis and brain fever and that he died due to the said disease.



11. He would further submit that the complaint given by P.W.1 was registered and after conducting proper investigation, negative report was filed stating that the deceased died due to the brain fever and its complications and that the complainant with an intention to extract money, filed the above false complaint. He would further submit that the learned Magistrate, considering the evidence available on record, has come to a decision that the complainant failed to prove their case and rightly acquitted the accused and that therefore, the same does not warrant any interference.

12. Before proceeding further, it is necessary to refer the decision of the Hon'ble Supreme Court in ***Chandrappa and others Vs. State of Karnataka*** reported in ***(2007)4 SCC 415*** relied on by the learned Counsel for the respondents 1 and 2, wherein the Hon'ble Apex Court formulated the principles regarding the powers of the appellate Court while dealing with the appeal against the judgment of acquittal and the relevant portions are extracted hereunder:

(1) An appellate Court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded;

*(2) The **Code of Criminal Procedure, 1973** puts no limitation, restriction or condition on exercise of such power and an appellate Court on the evidence before it may reach its own conclusion, both on questions of fact and of law;*



(3) *Various expressions, such as, 'substantial and compelling reasons', 'good and sufficient grounds', 'very strong circumstances', 'distorted conclusions', 'glaring mistakes', etc. are not intended to curtail extensive powers of an appellate Court in an appeal against acquittal. Such phraseologies are more in the nature of 'flourishes of language' to emphasize the reluctance of an appellate Court to interfere with acquittal than to curtail the power of the Court to review the evidence and to come to its own conclusion.*

(4) *An appellate Court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.*

(5) *If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court."*

13. It is not in dispute that the first accused and the third accused and P.W.3 served as teachers and the second accused as Headmaster in the Panchayat Union Elementary School, Muthur, during the time of alleged occurrence. It is also not in dispute that P.W.1 complainant's fourth son by name Harisankar was



studying 4th std., in the said school at that time. It is also not in dispute that on 21.01.2004, P.W.1's son Harisankar, who attended the school, fainted in the school campus and despite treatment for four days, he died on 24.01.2004. The complainant's case is that the first accused gave corporal punishment to the deceased Harisankar, as he failed to do homework and the deceased fainted in the school as he was beaten in the head while he was kneeling down in school verandha.

14. It is the further case of the complainant that the accused 1 to 3 had not taken any immediate action for giving treatment to the fainted boy and they had lengthy discussion for concealing the crime. It is not in dispute that on the basis of the complaint given by P.W.1, F.I.R., came to be registered in Cr.No.18 of 2004 under Section 174 Cr.P.C., on the file of the Kalayarkovil Police Station, that the body of the deceased was exhumed and postmortem was conducted, that after completing investigation, negative final report was filed. It is also not in dispute that P.W.1 filed a petition in CrI.O.P.No.13472 of 2004 invoking Section 482 Cr.P.C., seeking transfer of investigation and this Court recording the statement of the learned Government Advocate that after investigation, action was dropped on 13.08.2004 as death is natural, directed the respondent police therein to serve RCS notice on the complainant if not already served and it was



left open to the complainant to seek appropriate remedy as available under law,
vide order dated 22.09.2004.

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15. As already pointed out, the present private complaint was filed on 28.12.2004 before the jurisdictional Magistrate Court. It is the specific case of the complainant that she came to know about the alleged occurrence only from P.W.3 – Raja, who was also working as a teacher in the said school, and that too, only the day after the cremation. P.W.1, in her evidence, stated that P.W.3 Raja had been present in the hospital during the treatment of the deceased boy for three days. However, admittedly, he did not inform P.W.1, her husband, or any other relative of P.W.1 that the first accused alone had beaten the deceased boy, resulting in him fainting.

16. More importantly, as rightly pointed out by the learned counsel for the respondents, P.W.3, in his evidence, stated only that, from his classroom, he observed the deceased along with four other students kneeling down, and that P.W.1 was present at that time. In his chief examination, P.W.3 did not state that he personally witnessed the first accused beating the deceased boy. He deposed that, at a later stage, in another classroom, he was informed by some students that the deceased boy had fainted because he was beaten by the first accused. During cross-examination, when it was suggested that he had been informed by



the other students that the first accused had beaten the deceased, he denied the suggestion. P.W.3 did not provide the particulars of the students who allegedly informed him about the beating. Moreover, the complainant did not take any steps to examine those students who were purportedly witnesses to the occurrence.

17. According to the complainant, one Gowsalya a student of that school had informed P.W.2 about the fainting of the Harisankar. However she was not examined. It is pertinent to note that neither Gowsalya nor any other student or person informed P.W.1 or P.W.2 that the deceased boy had fainted as a result of being beaten by the first accused. P.W.2 in her evidence would admit that Gowsalya did not state that the deceased fainted because he was beaten by the first respondent. As rightly pointed out by the learned Counsel for the respondents, P.W.2 in her evidence would say that the deceased was beaten only by P.W.3 Raja and not by the first accused. Significantly, there is absolutely no evidence on record to show that the first accused had beaten the deceased boy.

18. Turning to the offence under Section 201 Cr.P.C., it is noted that except for the evidence of P.W.3, no other evidence is available on record. It is pertinent to note that P.W.3 admittedly had prior enmity with the second accused. The accused 1 and 2 produced copies of the charge sheets under Exs.D.1 to D.3 to show that P.W.3 was facing criminal cases. According to



P.W.3, he observed the accused 1 to 3 chatting in a tensed manner, and thereafter P.W.2 came to the school and took the fainted boy in an auto. It is not in dispute that only four teachers, including P.W.3 were working in the school at that time. However P.W.3 would admit that he did not go to the place where the deceased boy was lying unconscious. In cross-examination, P.W.3 would say

“11.30 மணிக்கு 7 ம் வகுப்பு மாணவர்கள் கூறியபின்புதான் எனக்கு தெரியும். அவர் மயக்கம் அடைந்துவிட்டார் என்று கூறிய பிறகுதான் தெரியும். நான் அருக சேன்று பார்க்கவில்லை. தலைமை ஆசிரியர் அழைக்காததால் நான் அருக சேன்று பார்க்கவில்லை. நான் பதற்றத்துடன் ஸ்கூல்கொண்டிருந்தவர்களை என்ன விபரம் என்று கூட்கவில்லை.”

19. P.W.3 would admit that he was also taking class for the deceased boy. The very conduct of P.W.3 failing to go near the fainted boy, or to make any enquiry with the other teachers, and remaining silent until the cremation raises a genuine doubt regarding the veracity of his version of the occurrence.

20. P.W.4, a practicing Siddha doctor in the vicinity, would depose that he was first contacted by the first accused and only thereafter by P.W.2. He would state that he went to the school, and finding that the boy had already been taken home, he proceeded to the boy's residence along with the first accused. As rightly pointed out by the learned counsel for the respondents, the evidence of



P.W.4 indicates that the accused had taken immediate steps to provide treatment to the fainted boy, thereby showing that the allegations against the accused are false and imaginary.

21. P.W.6 Medical Officer would say that the deceased was admitted with fever, unconscious and seizure and they have also noticed the symptoms of Encephalitis brain fever. He would say

“அவருக்கு காய்ச்சல்தான் மயக்கநிலைஇ அத்துடன் வலிப்புடன் அனுமதிக்கப்பட்டார். முதலில் சிட்டி மருத்துவமனையில் அனுமதிக்கப்பட்டு அதன்மீறகு மலச்சிச்சைக்காக அப்பாலா மருத்துவமனையில் உள்ள நாயாளியாக அனுமதிக்கப்பட்டு வைத்தியம் செய்யப்பட்டார். அவரை பரிசாதித்தபாது அவருக்கு முளைகாய்ச்சல் நேப்பதற்குண்டான அறிகுறி தெரியவந்தது. மலமும் அவருக்கு தொடர்ந்து வலிப்பு நேந்ததாலும் அதற்குண்டான அவருடைய சுவாச மகாளாறு சீர்செய்வதற்காக அவரை மதுரை அப்பாலா மருத்துவமனைக்கு அனுமதிக்கப்பட்டார். அப்பாலா மருத்துவமனையில் அவர் சிச்சைக்கு அனுமதிக்கப்பட்டபொழுது அவர் சுயநிலைவு அற்ற மகாமா நிலையில் நேந்தார். மலமும் அவருக்கு தொடர்ந்து வலிப்பு நேந்ததால் அவரை மலச்சிச்சைக்காக அப்பாலா மருத்துவமனையில் (ஐசியூ) அனுமதிக்கப்பட்டார். அது தவிர கண் அசைவு லேலை. அவருடைய கைஇ மற்றும் கால்கள் முறுக்கிக்கொண்டு நேந்தன.அவருக்கு சுவாசம் சீராகவில்லை. அதற்காக அவருக்கு செயற்கை சுவாசம் மதுவைப்பட்டது. மலற்கொண்டு நேதய துடிப்பும் அதிகமாக நேந்தது. ரத்த அழுத்தம் குறைவாக நேந்தது. அதற்காக நேதய மலாய் சிச்சை அளிக்கும் மருத்துவரின் கருத்து பெறப்பட்டது. மருத்துவ பரிசாதனை மற்றும் ஆவணங்கள் அடிப்படையில் அவருக்கு முளைக்காய்ச்சல் ஏற்பட்டதற்குண்டான அறிகுறிகள் தென்பட்டன.”

22. P.W.6 in his cross-examination would admit that while the deceased



was admitted in City Hospital as well as in Apollo hospitals, it was not informed that he was attacked by somebody. P.W.5 Medical Officer gave evidence on the basis of the medical records as the Doctors who treated the deceased were working at different places. In chief examination he would say

“மருத்துவ ஆவணத்தில் சொல்லப்பட்ட ஁நாயானது பாக்கடரியா மற்றும் வைர!னால் ஏற்பட வாய்ப்புள்ளது.”

In cross-examination, he would say

அடிபட்டதாக எந்தவொரு தடையுமா அல்லது ஒரு வடுவா அல்லது காயுமா நேந்ததாக மருத்துவகுறிப்பில் லேலை.”

No doubt, in chief examination he would say

“தலையில் பலமாக போருள் ஁வகமாக தண்டுவடத்தில் (முனை) brain stem அடிபட்டால் மருத்துவ ஆவணத்தில் சொல்லப்பட்ட ஁நாய் வர வாய்ப்பு உள்ளது.”

But in cross-examination, he would explain

“தலையில் அடிபட்டால் மட்டும்தான் மருத்துவ ஆவணத்தில் குறிப்பிட்ட ஁நாய் வரும் என்று நான் குறிப்பிட்டு சொல்லவில்லை. வைர! பாக்கடரியாக்கள் யேற்கையாவும்இ மலித உடலில் உருவாக வாய்ப்புள்ளது. யேற்கையாக஁வ ஁தான்றி நேந்தால் வலிப்பு ஁பான்ற அறிகுறிகள் தெரிய வாய்ப்பு உள்ளது.”

23. As rightly pointed out by the learned Counsel for the respondents, the Doctors who conducted postmortem initially gave opinion that the deceased would appear to have died 7-15 days prior to autopsy and no definite information could be given for the cause of death, since the body was



decomposed. But after perusing the medical records, when a specific query was raised by the Investigating Officer, the Medical Officers gave their opinion that the deceased would have died of brain fever and consequent complications. As rightly contended by the learned Counsel for the respondents, the Investigating Officer filed a final report, after getting the final opinion that the deceased would have died of brain fever and the consequent complications, dropping further action. It is pertinent to note that Brain-stem Encephalitis is a severe inflammation of the brain-stem caused by infections or autoimmune conditions or immune reactions.

24. Considering the medical evidence on record, and in the absence of any material to show that the first accused had beaten the deceased or caused the disappearance of evidence of the alleged offence, the finding of the learned Magistrate that the prosecution failed to prove the offences cannot be faulted. As rightly contended by the learned counsel for the respondents, the complaint was lodged before the police solely on the basis of information furnished by P.W.3, who acted with an alleged evil motive, and after closure of the police complaint, the private complaint was filed before the jurisdictional Court. In view of the evidence on record, no other conclusion is possible except the one reached by the trial Court. Accordingly, the impugned judgment of acquittal is liable to be confirmed, and this Court concludes that the Criminal Appeal is devoid of merits



and is therefore liable to be dismissed.

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25. In the result, the Criminal Appeal is dismissed confirming the judgment made in C.C.No.33 of 2005, dated 02.11.2015, by the Judicial Magistrate No.I, Sivagangai in acquitting the respondents/accused.

09.01.2026

NCC : Yes/No

Index : Yes/No

Internet : Yes/No

SSL

To

1. The Judicial Magistrate No.I, Sivagangai.

2. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



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CRL.A.(MD).No.86 of

K.MURALI SHANKAR, J.

SSL

PRE-DELIVERY JUDGMENT MADE IN

CRL.A(MD).No.86 of 2022

09.01.2026