



Crl.A(MD)No.561 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2026

CORAM:

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

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1.Rajagopal
2.Murugan

... Appellant/Accused Nos.1 & 2

Vs.

State rep. by
The Inspector of Police,
Poovanthi Police Station,
Sivagangai District.
(In Cr.No.107 of 2011).

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 374(2) of Cr.P.C., to call for the records and to allow the appeal by setting aside the impugned Judgment and conviction imposed in S.C.No.27 of 2012, dated 15.07.2022 by the Fast Track Mahila Court, Sivagangai and may be pleased to acquit the appellants/accused.



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For Appellants : Mr.Gopala Krishna Laxmana Raju
Senior Counsel
for Mr.S.G.L.Rishwanth
For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

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.27 of 2012, dated 15.07.2022, on the file of the Fast Track Mahila Court, Sivagangai, thereby convicting the appellants for the offences punishable under Section 302 of IPC.

2. The case of the prosecution is that both the accused are brothers. The accused and the deceased belong to same village. On 01.08.2011 at about 08.00 a.m., both the accused had beaten P.W.1 alleging that he committed eve-teasing on their brother's daughter, who was studying in grade 12. Thereafter, P.W.1 informed about the said occurrence to his maternal uncle namely Manikandan. On the same day, at about 5.30 p.m., P.W.1, the said Manikandan along with

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his father-in-law rushed from Thisayanvilai Village to P. Velankulam Village and went to the house of the accused. The paternal uncle of the P.W.1, who was the deceased questioned the accused as to why he attacked P.W.1 for such a simple problem. Immediately, the accused scolded him with filthy language and dragged him in front of their house and assaulted him with aruval and knife. Therefore, the deceased sustained grievous injuries. Subsequently, the deceased succumbed to the injuries.

3. On the basis of the complaint, the respondent registered an F.I.R in Crime No.107 of 2011 for the offences punishable under Sections 294(b), 323, 324 and 302 of IPC. After completion of investigation, the respondent filed a final report and the same has been taken cognizance by the Trial Court.

4. On the side of the prosecution, in order to bring the charges to home, they examined P.W.1 to P.W.17 and Exs.P1 to P12



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were marked. The prosecution also produced Material Objects M.O. 1 to M.O.8. On the side of the accused, no witnesses were examined 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 offence punishable under Sections 302 of I.P.C. They were sentenced to undergo life imprisonment each and imposed a fine of Rs.15,000/- each. Aggrieved by the same, the present appeal has been filed by the appellants.

6. The learned counsel appearing for the appellants submitted that the occurrence allegedly happened in the house of the accused. They had absolutely no intention or motive to cause the death of the deceased. Even according to the prosecution, the deceased along with others went to the house of the accused and questioned them about the morning incident. All of a sudden, the

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accused was provoked by the deceased and assaulted them. The prosecution failed to prove the charge under Section 302 of IPC. Further, the accused had absolutely no common intention to do away with the life of the deceased.

7. Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that, though the occurrence had happened in the house of the accused, P.W.1 was beaten by the accused and as such, the accused had a motive to do away with the life of the deceased. When the deceased questioned about the morning incident, he was dragged by the accused to the front of their house and assaulted him with deadly weapons. It shows that the accused had assaulted the deceased in order to do away with the life of him. Therefore, the prosecution has proved the charge under Section 302 of IPC. Hence, the Trial Court rightly convicted the appellants and it does not warrant any interference of this Court.



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

9. Admittedly, P.W.1 was beaten by the accused on 01.08.2011 at about 08.00 a.m. It was informed to the deceased by P.W.1 and he along with others came to the house of the appellants. While they were sitting in their house, the deceased asked about the incident that occurred in morning, immediately, both the appellants got annoyed and scolded the deceased. He was dragged to the front of their house, where M.O.s 1 and 2 were brought from their residence and he was assaulted. Thereafter, the deceased was brought to the Primary Health Centre at Poovanthi and the deceased was further referred to the Government Hospital, Sivagangai for higher treatment. However, the doctor, who examined the deceased, declared that the deceased was brought dead. The person, who informed to the deceased about the morning occurrence has deposed as P.W.1. The relevant portions of P.W.1 are extracted hereunder:-

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“....கடந்த 01.08.2011ம் தேதி காலை 08.00 மணியளவில் நான் பள்ளிக்கு செல்வதற்காக படமாத்தூர் பேருந்து நிலையத்தில் நின்று கொண்டிருந்தேன். அச்சமயம் முருகன், ராஜகோபால் ஆகிய இருவரும் கருவேலக்கட்டையால் என்னை ஏன்டா தாயோலி என் அண்ணன் மகள் சந்தியாவை கேலி செய்கிறாய் என்று முதுகில் அடித்தார்கள். அதனால் எனக்கு ஊமைக்காயம் ஏற்பட்டது. நான் பள்ளிக்கு செல்லாமல் வீட்டிற்கு சென்று நடந்த விபரத்தை எனது அம்மா பாண்டியம்மாஸிடம் சொன்னேன். எனது அம்மா. திசையன்விளையில் உள்ள எனது மாமா மணிகண்டனிடம் போன்மூலம் தகவல் சொன்னார். எனது மாமா மணிகண்டன் மாலை சுமார் 04.00 மணியளவில் எங்கள் வீட்டிற்கு வந்தார். வந்து நடந்த விபரத்தை என் அம்மாவிடம் கேட்டார். உடனே நானும், எனது மாமா மணிகண்டன், என் நண்பன் வெங்கடேசன் எனது பெரியப்பா அங்குநாதன் ஆகியோர்கள் அன்று மாலை 05.00 மணிக்கு ராஜகோபால் வீட்டிற்கு போனோம். அங்கு ராஜகோபாலும், முருகனும் அருகில் சாய்ந்து கிடந்த மின்கம்பத்தில் உட்கார்ந்திருந்தார்கள். அப்போது எனது மாமா ராஜகோபாலிடம் சின்ன பையன்கள் தப்பு செய்திருந்தால் பெரியவர்களிடம் சொன்னால் கண்டிப்போம்லா என்று



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சொன்னார். அதற்கு அடிக்கலாமா எனக்கேட்டார். அதற்கு ராஜகோபால் என்னடா தேவடிய பகனே உன் பெண்ணை கேலி செய்தால் சும்மாவிடுவியாடா என்று எதிரி முருகனும், ராஜகோபாலும் வீட்டிற்குள் சட்டையை பிடித்து இழுத்துச்சென்றார்கள். இராஜகோபால் அருவாளால் எனது மணிகண்டனை முன்பக்க தலையில் அடித்தும், எனது மாமாவின் மார்பிற்கு கீழ் முருகன் கத்தியால் குத்தினார். எனது பெரியப்பா அங்குநாதனும், நானும் தடுக்க முயன்றபோது எனது பெரியப்பாவை முருகன் வைத்திருந்த கத்தியால் வலது முழங்கைக்கு மேல் குத்தினார். மீண்டும் எனது மாமாவின் முதுகில் எதிரி முருகன் கையில் வைத்திருந்த கத்தியால் குத்தினார். இதை பார்த்த எங்களுடன் வந்த வெங்கடேஷ் இரத்தத்தை கண்டவுடன் ஓடிவிட்டான்.....”

10. Thus, it is clear that when the deceased asked about the morning occurrence to the accused, it provoked the accused and all of a sudden, they dragged the deceased to the front of their house and assaulted him with M.Os.1 & 2. The father-in-law of the deceased has deposed as P.W.2, who also accompanied the deceased to question the accused about the morning incident. He also



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deposed and corroborated the evidence of P.W.1. Therefore, the prosecution categorically proved the case.

11. The only point for consideration in this appeal is whether the prosecution proved the charge under Section 302 of IPC or not?

12. Section 300 of IPC states that the death shall be caused with an intention of causing death. Further, when it is proved that, even if the accused had no intention to cause such bodily injury as was likely to cause death but had the knowledge that the injury was likely to cause death, then it would attract the charge under Section 304 Part II of IPC. The intention to cause death cannot be imputed to him but it would be reasonable to infer that he had knowledge that any injury on the vital part of the body of the deceased would cause death. Though the prosecution failed to prove the charge under Section 302 of IPC, the overt act of the accused is clearly attract Section 304 Part II of I.P.C.



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13. In this regard, it is relevant to rely upon the 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.”

14. The above judgment is squarely applicable to the case on hand. The prosecution failed to prove the charge under Section 302 of IPC, however, the appellants are liable to be punished for the offence punishable under Section 304 Part II of I.P.C.

15. In view of the above, the conviction and sentence imposed on the appellants in S.C.No.27 of 2012, dated 15.07.2022, on the file of the Fast Track Mahila Court, Sivagangai, for the offence punishable under Section 302 of I.P.C are set aside. The



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appellants are convicted for the offence punishable under Section 304 Part II of I.P.C and sentenced to undergo seven years Rigorous Imprisonment and to pay a fine of Rs.15,000/- each in default, to undergo six months Simple Imprisonment.

16.With the above modification, the Criminal Appeal is partly allowed. It is made clear that if the appellants have already paid any fine, the same shall be adjusted towards the fine amount imposed by this Court. The sentences of imprisonment shall run concurrently. The period of imprisonment already undergone by the appellants shall be set off under Section 428 of Cr.P.C.

**[G.K.I.J.] & [R.P.J.,]
03.02.2026**

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To

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



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