



Crl.A(MD)Nos.640 & 736 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.01.2026

CORAM:

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

Crl.A(MD)Nos.640 & 736 of 2022

1.Crl.A(MD)No.640 of 2022:

Vasudevan

... Appellant/Accused No.2

Vs.

The State represented by,
The Inspector of Police,
Bazzer Police Station,
Ramanathapuram District.
Crime No.342 of 2013.

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 374 of Cr.P.C., to call for the records and set aside the Judgment of the Additional Sessions and District Court, Ramanathapuram District dated 07.09.2022 made in S.C.No.143 of 2019 insofar as against the appellant/Accused No.2 herein and allow the above appeal.



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For Appellant : Mr.S.Veeranasamy

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

2.Crl.A(MD)No.736 of 2022:

Sakthivel ... Appellant/Accused No.1

Vs.

The State represented by,
The Inspector of Police,
Bazzer Police Station,
Ramanathapuram District.
Crime No.342 of 2013.

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 374 of Cr.P.C., to call for the records and set aside the Judgment of the Additional Sessions and District Court, Ramanathapuram District dated 07.09.2022 made in S.C.No.143 of 2019 insofar as against the appellant/Accused No.2 herein and allow the above appeal.

For Appellant : Mr.S.Veeranasamy

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



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COMMON JUDGMENT

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

These appeals have been filed as against the Judgment passed in S.C.No.143 of 2019, dated 07.09.2022, on the file of the learned Additional Sessions and District Court, Ramanathapuram District.

2.The case of the prosecution is that during Deepavali on 02.11.2013, while the complainant, along with his friends, was consuming liquor, there was a quarrel between A.1 and deceased with regard to previous dispute. Therefore, the deceased slapped A.

1. Immediately, A.1 left the place and returned to the scene of crime along with A.2 to A.4 in order to do away with the life of the deceased. On the same day, at about 01.45 p.m., A.2 attacked the deceased with an iron rod, while A.1 attacked the deceased with a



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chisel on his chest. The other accused caught hold the deceased and A.1 assaulted him, causing grievous injuries that led to the deceased's death.

3.On the complaint, the respondent registered the F.I.R in Crime No.342 of 2013 for the offences punishable under Sections 324 and 302 of I.P.C. After completion of investigation, the respondent filed a final report and the same has been taken cognizance by the Trial Court.

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 P18 were marked. The prosecution produced Material Objects M.O.1 to M.O.5. On the side of the accused, no witnesses were examined and no documents were produced before the Trial Court.



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5. On perusal of the oral and documentary evidence, the Trial Court found A.1 guilty for the offences punishable under Sections 302 and 324 (2 counts) of I.P.C. A.1 was sentenced to undergo Life Imprisonment and also imposed a fine of Rs.5,000/- in default, to undergo six months Simple Imprisonment for the offence punishable under Section 302 of I.P.C. He was also sentenced to undergo six months Rigorous Imprisonment for each count and also imposed a fine of Rs.1,000/- for each count in default, to undergo one month Simple Imprisonment for each count for the offence punishable under Section 324 of I.P.C. The Trial Court found A.2 guilty for the offence punishable under Section 324 of I.P.C. and he was also sentenced to undergo six months Rigorous Imprisonment and was also imposed a fine of Rs.1,000/- in default, to undergo one month Simple Imprisonment. The trial Court acquitted A.3 and A.4. Aggrieved by the same, the present appeals have been filed by the Accused Nos.1 and 2 as appellants.



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6.The learned counsel appearing for the appellants submitted that even according to the case of the prosecution, the deceased attacked A.1 and as such, on sudden provocation A.1 attacked him with a chisel. A.2 attacked one of the injured witnesses on his leg with an iron rod. Therefore, they had no intention to do away with the life of the deceased at any point of time. Hence, the charge under Section 302 of IPC is not at all applicable to A.1. There are contradictions and discrepancies in the witnesses testimony and evidence. Further, the prosecution failed to establish the motive to attract the offence punishable under Section 302 of IPC. The prosecution also failed to prove essential ingredients of offence and the Trial Court convicted A.1 based on an extra-judicial confession statement. In order to prove any crime, mens rea is essential. Especially in the case of murder, it is the degree of intention that determines whether an act classifies as culpable homicide or murder. Therefore, since the prosecution failed to prove motive or intention,

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which is the essential ingredients of mens rea, it was not appropriate for the Trial Court to have convicted A.1 under Section 302 of IPC.

7.The learned counsel appearing for the appellants further submitted that the Trial Court relied upon an extra-judicial confession statement allegedly made by A.1. An extra-judicial confession, which is only supported by a direct witness, cannot be admissible in the eyes of law, as it may have been made under coercion. It is highly improbable and illogical for a person to make such a voluntary confession before third persons. Without considering the above facts and circumstances, the Trial Court mechanically convicted the appellants.

8.Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that after the quarrel between A.1 and the deceased, A.1 left the place and brought his friends, namely A2 to A4, to do away with the life of the deceased that too



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with a chisel. Therefore, the accused had the intention to do away with the life of the deceased. Due to previous enmity, the accused had the motive to commit murder. The injured witnesses categorically deposed about the specific overt act as against the accused and as such, the Trial Court rightly convicted them and it does not warrant any interference of this Court.

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

10.A.1 and A.2 are brothers and A.3 and A.4 are their friends. It appears that A3 and A4 are carpenters and used to possess chisels and other instruments to make furniture. While the deceased and others were consuming alcohol, A.1 arrived at the scene. At that juncture, there was a quarrel between them due to which the deceased slapped A.1. Immediately, A.1 went to his house and returned to the scene of crime along with A2 to A4. At that juncture,

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A.2 questioned the deceased as to why he had slapped his brother, A.1. Thereafter A.2 attacked one of the friends of the deceased on his leg with an iron rod. This was questioned by the deceased and immediately A.1 assaulted the deceased with a chisel on his chest. While P.W.1 attempted to intervene, he also sustained injuries on his left hand middle finger. A.1 also caused injuries to three other persons. Thereafter, all the accused fled from the scene. One of the injured had deposed as PW1. His deposition is as follows:

“02.11.2013 அன்று தீபாவளி தினத்தன்று நான், சிலம்பரசன், அகமது ஆசிக், பாலமுருகன், மணிகண்டன் ஆகிய 5 பேர்களும் ஐயப்பன் கோவிலுக்கு பின்னால் உள்ள பாலத்தில் மதியம் 1.45 மணியளவில் மது அருந்திக்கொண்டிருந்தோம். அப்போது அங்கு எதிரி சக்திவேல் வந்தார். அப்போது சிலம்பரசன் எதிரி சக்திவேலைப் பார்த்து ஏண்டா சின்ன பயல்களை அடிக்கிறாய் என்று சொல்லி சக்திவேலின் கன்னத்தில் சிலம்பரசன் அரைந்தான். சக்திவேல் அதோடு போய் விட்டான். பின்னர் சக்திவேல் அவர் தம்பி, விக்னேஸ்வரன், பாலமுருகன் ஆகிய 4 பேர்களும் அதே இடத்திற்கு திரும்பவும் வந்தார்கள். வந்தவுடன் எதிரி சக்திவேலன், தம்பி சிலம்பரசனை பார்த்து ஏண்டா



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என் அண்ணனை அடித்தாய் என்று கேட்டான். பின்னர் சக்திவேலின் தம்பி அகமது ஆசிக்கின் காலில் ராடு கம்பியை வைத்து அடித்தான். அப்போது சிலம்பரசன் ஏண்டா என்று சக்திவேல் மற்றும் அவன் தம்பியை கேட்டபோது சக்திவேல் மறைத்து வைத்திருந்த உளியை எடுத்து சிலம்பரசன் மார்பில் குத்திவிட்டான். நான் அவர்களை விலக்கும்போது சக்திவேல் வைத்திருந்த உளி என்னுடைய இடது கை நடுவிரலில் பட்டு காயம் ஏற்பட்டது. அகமது ஆசிக்கை எதிரி சக்திவேல் உளியை வைத்து தோள்பட்டையில் குத்தி காயப்படுத்தினார். பாலமுருகனுக்கு முதுகில் சக்திவேல் உளியை வைத்து காயத்தை ஏற்படுத்தினார். பின்னர் 4 பேரும் அங்கிருந்து தப்பித்து ஓடி விட்டார்கள். அங்கிருந்த பாலமுருகன் காயம்பட்ட சிலம்பரசனை இராமநாதபுரம் அரசு மருத்துவமனைக்கு இருசக்கர வாகனத்தில் சிகிச்சைக்கு கூட்டிச்சென்றார். அதன் பின்னர் நானும், அகமது ஆசிக்கும் இராமநாதபுரம் அரசு மருத்துவமனைக்கு சிகிச்சைக்கு போனோம். அப்போது சிலம்பரசனை மேல் சிகிச்சைக்காக இராமநாதபுரம் அரசு மருத்துவமனையில் இருந்து மதுரை அரசு மருத்துவமனைக்கு கொண்டுபோய் விட்டதாக சொன்னார்கள். அன்று மாலை 5.30 மணியளவில் சிலம்பரசன் மதுரை அரசு மருத்துவமனையில் வைத்து இறந்துவிட்டதாக சொன்னார்கள்.”

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11.Thus, it is clear that the deceased started the quarrel with A.1 by slapping him due to previous enmity. Immediately, A.1 went to his house and brought his brother along with his two friends. They are arraigned as A.2 to A.4. A.2 assaulted one of the injured with an iron rod on his leg. Thereafter, A.1 assaulted the deceased with a chisel. It is also noted that A.3 and A.4 are carpenters and they regularly used chisels and other instruments for making furniture. Therefore, it appears that all of a sudden A.1 took the chisel and assaulted the deceased with it. When the other friends of the deceased attempted to prevent him, A.1 also assaulted them with the chisel. This is corroborated by the evidence of P.W.2, who is also one of the injured. The relevant portion of his deposition is as follows:

“அசா1 பிரவுதேவா, பாலமுருகன்.
மணிகண்டன், அஸ்வின் குமார் ஆகியோரைத்
தெரியும். ஆஜர் எதிரிகளைத்
தெரியும். இவ்வழக்கில் ஆஜரில் உள்ள 2
எதிரிகளைத் தவிர மற்ற 2 எதிரிகளான
விக்னேஸ்வரன், பாலமுருகன் ஆகியோரையும்



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தெரியும். 02.11.2013 அன்று தீபாவளி அன்று காலை 10 மணியளவில் நான், சிலம்பரசன், பிரவுதேவா, பாலமுருகன் ஆகிய 4 பேர்களும் காட்டுப்பிள்ளையார் போவில் ஐயப்பன் கோவில் பக்கத்தில் உள்ள ஒரு பாலத்தில் மது அருந்திக்கொண்டிருந்தோம். அந்த இடத்திற்கு வந்த சக்திவேலை சிலம்பரசன் ஏண்டா சின்ன பயல்களை அடிக்கிறாய் என்று கேட்டார். அப்போது பேச்சு வார்த்தை நடந்துகொண்டிருக்கும் போது சக்திவேலை சிலம்பரசன் கன்னத்தில் அரைந்துவிட்டார். அதோடு சக்திவேல் இருடா நான் வீட்டுக்கு போய்விட்டு வருகிறேன் என்று சொல்லிவிட்டு சென்று விட்டான். மீண்டும் சக்திவேல் வீட்டுக்கு போய்விட்டு திரும்ப அதே இடத்திற்கு மதியம் 1.45 மணியளவில் சக்திவேல் அவன் தம்பி வாசுதேவன் அவரது உறவினர்களான விக்னேஸ்வரன் பாலமுருகன் ஆகிய 4 பேர்களும் வந்தார்கள். வந்தவுடன் சக்திவேலின் தம்பி வாசுதேவன் யாரடா என் அண்ணனை அடித்தது என்று கேட்டான். அப்போது பேசிக்கொண்டிருக்கும்போதே வாசுதேவன் இரும்பு ராடை எடுத்து என்னுடைய இடது முழங்காலில் அடித்தான். அப்போது கூட இருந்த சிலம்பரசன் ஏண்டா அடித்தாய் என்று கேட்பதற்குள் சக்திவேல் சிலம்பரசனின் மார்பில் கையில் ஒளித்து வைத்திருந்த உளியை எடுத்து சிலம்பரசனின் மார்பில் குத்தி விட்டான், அதை தடுக்கப்போய்



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பின்னால் பிடிக்கப்போன பிரபுதேவாவை சக்திவேல் உளியை வைத்து இடது கையில் காயம் ஏற்படுத்தினார். கூட இருந்த பாலமுருகனுக்கு இடது முதுகில் உளியைக் கொண்டு சக்திவேல் குத்தி காயம் ஏற்படுத்தினார். அதை தடுக்கப்போன என்னை உளியை வைத்து சக்திவேல் எனது வலது கையில் குத்தி காயம் ஏற்படுத்தினா. அதோடு 4 பேர்களும் ஓடி விட்டார்கள்.”

12.It is also clear that while P.W.1 to P.W.4 were consuming alcohol during Deepavali, A.1 arrived and the deceased slapped A.1, due to previous dispute. Immediately A1 went to his house and brought his brother and two other friends to the scene of crime. When A.2 attacked P.W.2 with an iron rod, the deceased questioned him. Immediately, A.1 assaulted the deceased with a chisel. Therefore, the incident occurred due to sudden provocation and it cannot be said that the accused intended to do away with the life of the deceased. Apart from the said quarrel, there was no motive for the accused to do away with the life of the deceased. In fact, A.1



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was slapped by the deceased and as such A.1 brought A.2 to A.4 to the scene of crime to question about the assault, which led to a quarrel between them and they attacked each other.

13.Insofar A.3 and A.4 are concerned, there is absolutely no overt act against them and no one has spoken about their involvement. Therefore, the trial Court rightly acquitted them.

14.The only point for consideration now is whether the prosecution proved the charge under Section 302 of IPC or not.

15.In order to prove any crime, mens rea is an essential ingredient. Particularly in the case of murder, it is crucial to note that the degree of intention, as it determines whether an act can be classified as culpable homicide or murder.



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16.In the present case, as stated supra, the prosecution failed to prove motive or intention, which are essential ingredients of mens rea for convicting A.1 under Section 302 of IPC.

17.A perusal of all the evidences and records shows that the act committed by the accused amounts to a case of grave and sudden provocation, as the prosecution admits that a quarrel took place before the incident. Even according to the case of the prosecution, the deceased started the quarrel by slapping A.1. Further P.W.1 is a habitual offender facing trials in 9 cases. Therefore, the deceased and injured witnesses provoked A.1 into committing the offence. They had absolutely no motive or intention to do away with the life of the deceased. Therefore, the prosecution failed to prove the charge under Section 302 of IPC.

18.Insofar as the specific ground raised by the learned counsel appearing for the appellants that the extra-judicial



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confession statement is inadmissible before the Court of law, it is important to note that when there are injured eyewitnesses who clearly speak about the occurrence, extra-judicial confession statements do not play a significant role in proving the charge. It is true that the extra-judicial confession statement cannot be solely relied upon to convict the accused.

19.Hence, as per the evidence, the prosecution failed to prove the charge under Section 302 of I.P.C as against A.1. However, there is clinching evidence to attract the offence punishable under Section 304 Part II of I.P.C.

20.In this regard, it is relevant to reply upon judgment 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:



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“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



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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;*
- (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*



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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.”

21.In view of the above, the conviction and sentence imposed on A.1 for the offence punishable under Section 302 of IPC cannot be sustained and are liable to be set aside. However, A.1 is liable to be convicted for the offence punishable under Section 304 Part II of IPC. Even if A.1 did not have the intention to cause such bodily injury as was likely to cause death, he had the knowledge that the injury was likely to cause death. The intention to cause death cannot be imputed to him, but it can be inferred that he had knowledge that any injury to the vital part of the body of the deceased could cause death. Therefore, he can be convicted for the offence punishable under Section 304 Part II of IPC and sentenced him to undergo six years Rigorous Imprisonment.



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22.Insofar as A.2 is concerned, the prosecution has categorically proved the charge for the offence punishable under Section 324 of IPC and the Trial Court rightly convicted him. However, considering the age of A.2, this Court is inclined to modify the sentence alone. Accordingly the sentence imposed on A.2 is modified from six months Rigorous Imprisonment to the period already undergone by him, which is 128 days.

23.In view of the above, the conviction and sentence imposed on A.1 in S.C.No.143 of 2019, dated 07.09.2022, on the file of the learned Additional Sessions and District Court, Ramanathapuram District, for the offence punishable under Section 302 of I.P.C is set aside and A.1 is convicted for the offence punishable under Section 304 Part II of I.P.C and sentenced to undergo six years Rigorous Imprisonment.



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24.The conviction and sentence imposed on A.1 for the offence punishable under Section 324 of I.P.C (2 counts) are confirmed.

24.The conviction imposed on A.2 in S.C.No.143 of 2019, dated 07.09.2022, on the file of the learned Additional Sessions and District Court, Ramanathapuram District, for the offence punishable under Section 324 of I.P.C is confirmed. However, considering the age of A.2 and the fact that A.2 has already undergone 128 days, the sentence imposed on A.2 is modified from six months Rigorous Imprisonment to the period already undergone by him.

25.With the above modifications, these Criminal Appeals are partly allowed. The fine amount, if any paid, shall be refunded to A.1 forthwith for the offence under Section 302 of I.P.C and A.2 forthwith. The sentences of imprisonment shall run concurrently in

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respect of A.1. The period of imprisonment already undergone by the A.1 shall be set off under Section 428 of Cr.P.C.

**[G.K.I.J.] & [R.P.J.,]
28.01.2026**

NCC :Yes/No
Index :Yes/No
Internet :Yes
ps



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To
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- 1.The Additional Sessions and District Court,
Ramanathapuram District.
- 2.The Inspector of Police,
Bazzer Police Station,
Ramanathapuram 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.

ps

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28.01.2026

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