



Crl.A(MD)No.882 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2026

CORAM:

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

**Crl.A(MD)No.882 of 2024
and
Crl.M.P(MD)No.3315 of 2026**

Velayuthaperumal

... Appellant/Sole Accused

Vs.

The State,
Represented by,
The Inspector of Police,
Manamelkudi Police Station,
Pudukkottai District.
Crime No.187 of 1990.

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 415(2) of BNSS or under Section 374(2) of Cr.P.C., to call for the records from the lower Court and duly set aside the Judgment passed by the learned Additional District and Sessions Judge, Pudukkottai in S.C.No.36 of 2019, dated 27.01.2021.



Crl.A(MD)No.882 of 2024

For Appellant : Ms.M.Krishnaveni
For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

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

This appeal is directed as against the Judgment passed in S.C.No.36 of 2019, dated 27.01.2021, on the file of the learned Additional District and Sessions Judge, Pudukkottai, thereby convicting the accused for the offences punishable under Sections 302 and 324 of I.P.C.

2.The case of the prosecution is that on 31.05.1990 at about 7:30 p.m., when the deceased and his father were standing in front of the house belonging to one Muniyammal, they questioned the accused as to how he could vulgarly tease his sister. Therefore, the accused came out from his house and stabbed the deceased. The deceased died on the way to the hospital and was subsequently declared brought dead.

2/22



Crl.A(MD)No.882 of 2024

WEB COPY

3.On the complaint, the respondent registered the F.I.R in Crime No.187 of 1990 for the offences punishable under Sections 302 and 324 of I.P.C. After completion of the investigation, the respondent filed a final report and the same has been taken cognizance by the Trial Court. The Trial Court framed charges as against the accused for the offences punishable under Sections 302 and 324 of I.P.C.

4.On the side of the prosecution, in order to bring the charges to home, they had examined P.W.1 to P.W.7 and Exs.P1 to P17 were marked. The prosecution also produced Material Objects M.O.1 to M.O.10. On the side of the appellant, no one was 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 offences punishable under Sections 302 and 324 of I.P.C and sentenced him to undergo

3/22



Crl.A(MD)No.882 of 2024

Rigorous Imprisonment for life and to pay a fine of Rs.3,000/- in default, to undergo one year Rigorous Imprisonment for the offence punishable under Section 302 of I.P.C and sentenced him to undergo six months Rigorous Imprisonment for the offence punishable under Section 324 of I.P.C. Aggrieved by the same, the appellant has preferred the present appeal.

6.The learned counsel appearing for the appellant submitted that the accused had absolutely no motive to do away with the life of the deceased. Due to a sudden provocation by the deceased, he stabbed him that too with a pen knife. Unfortunately, the injury was inflicted on the throat of the deceased and, as a result of heavy bleeding, he died. The accused had eight children. Therefore, in order to support his family due to financial hardship, after being released on bail, he went to Tiruppur for his livelihood and stayed there. After 30 years, he was arrested and subjected to trial. Hence, the absconding of the accused was neither wilful nor

4/22



Crl.A(MD)No.882 of 2024

wanton. He remained absent without being aware of the consequences. Further, the injured witnesses were not examined by the prosecution, which is fatal to the prosecution's case. There are also contradictions and discrepancies in the evidence of the prosecution witnesses, which are fatal to the case.

7.The learned counsel appearing for the appellant further submitted that the prosecution failed to prove the motive. Even according to the case of the prosecution, the accused had merely commented on the sister of the deceased, and therefore, he had no intention to do away with the life of the deceased. In fact, the alleged occurrence took place within the compound wall of the accused's house, and the accused never went to the deceased's place to cause his death. Therefore, the prosecution has failed to prove the charge under Section 302 of the IPC. The learned counsel further submitted that, from the date of his arrest, the accused has been incarcerated and remains in imprisonment till date.

5/22



Crl.A(MD)No.882 of 2024

WEB COPY

8.Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that after the arrest of the accused, he was granted bail by the Trial Court. Thereafter, he absconded for a period of 30 years. Consequently, the entire trial was stalled, and the Trial Court was unable to proceed with the case. Only after a lapse of 30 years the accused was secured, and the trial was thereafter conducted by the Trial Court. Therefore, the prosecution was unable to examine the injured witnesses. However, the accident registers of the injured witnesses and their statements recorded under Section 164 of the Cr.P.C. were duly marked before the Trial Court. One of the eyewitnesses was examined as P.W.4, and her evidence is cogent and trustworthy. Therefore, the Trial Court rightly convicted the accused, and the same does not warrant any interference of this Court.



Crl.A(MD)No.882 of 2024

9.Heard the learned counsel appearing on either side and

perused the materials placed on record.

10.The motive behind the crime was that the accused had teased P.W.4. This was informed to her brother, i.e., the deceased. Therefore, the deceased went to the house of the accused and questioned him about the same. Immediately, the accused came out from his house and stabbed the deceased on his neck with a pen knife. The sister of the deceased had deposed as P.W.4. The relevant portion of her deposition is as follows:

“விளாங்காய் காம்பவுண்டில் நாங்கள் வாடகைக்கு குடியிருந்தபோது, ஆஜர் எதிரியும் அந்த காம்பவுண்டில் வடக்கு பக்கம் உள்ள வீட்டில் குடியிருந்தார். சுமார் 30 ஆண்டுகளுக்கு முன்பு ஆஜர் எதிரி அவர் மனைவியை பிரிந்து இருந்தார், அப்போது ஒரு நாள் என் அண்ணன் சாமுவேல் வெளியே போயிருந்த நேரம் ஆஜர் எதிரி என்னை கையை பிடித்து இழுத்து வா என்று கூப்பிட்டு கிண்டல் செய்தார். இந்த விவரத்தை என் அண்ணன் சாமுவேல் வந்தவுடன் அவரிடம் சொன்னேன். என் அண்ணன் சென்று ஆஜர் எதிரியிடம் நீ எப்படி கிண்டல்



Crl.A(MD)No.882 of 2024

செய்யலாம் என்று கேட்டதற்கு ஆஜர் எதிரி தன் கையில் வைத்திருந்த கத்தியால் என் அண்ணன் சாமுவேலை தொண்டைக்குழியில் குத்தினார். தற்சமயம் என்னிடம் காட்டப்படும் கத்தி தான் அந்த கத்தி ஆகும். அந்த கத்தி ஏற்கனவே சா.பொ.1 ஆக குறியீடு செய்யப்பட்டுள்ளது. என் பக்கத்து வீட்டில் வசிக்கும் முனியம்மா என்பவர் வந்து ஆஜர் எதிரியை ஏன் இப்படி செய்கிறாய் என்று கேட்டதற்கு ஆஜர் எதிரி முனியம்மாளின் இடது கையில் அதே கத்தியால் குத்தி காயப்படுத்திவிட்டார். அப்போது என் அண்ணன் சாமுவேலை தூக்கிகொண்டு போகும் போது ராமகிருஷ்ணன் என்பவர் வந்து ஆஜர் எதிரியை ஏன் அடித்தாய் என்று கேட்டதற்கு அவரை வலது காலில் கத்தியால் குத்தி ஆஜர் எதிரி காயப்படுத்திவிட்டார். பின்னர் என் அண்ணன் சாமுவேலை ஆசிர்வாதம், ஆறுமுகம், ராமகிருஷ்ணனும் மணமேல்குடி மருத்துவமனைக்கு கொண்டு சென்றார்கள்.”

11.Thus, it is clear that P.W.4 was teased by the accused, and this was informed to the deceased by P.W.4. Therefore, on the date of occurrence, the deceased went to the house of the accused and questioned him about the same. Immediately, the accused stabbed the deceased in the throat. When the neighbour, one



Crl.A(MD)No.882 of 2024

WEB COPY

Mariamammal, attempted to prevent the accused, he also stabbed her on the left hand wrist. When one Ramakrishnan chased him, the accused stabbed him on his right leg.

12.Immediately, the injured as well as the deceased were taken to hospital. The wound certificates of the injured witnesses were marked as Ex.P.13 and Ex.P.14. Both Ex.P.13 and Ex.P.14 reveal that one Muniyammal sustained injuries on her left hand wrist and Ramakrishnan sustained injuries on his right knee. Both injuries were declared to be simple in nature. They were not examined by the prosecution for the simple reason that the trial commenced 29 years after the date of occurrence. While the accused was released on bail, he escaped from the clutches of law. Therefore, the respondent could not ascertain the whereabouts of the accused.

13.Only in the year 2018, he was arrested and subjected for Trial. Therefore, the non-examination of the injured witnesses is not

9/22



Crl.A(MD)No.882 of 2024

fatal to the case of the prosecution, as the eyewitnesses deposed cogently and were found to be trustworthy. Further, it is admitted that when the deceased came to the house of the accused to question him about the teasing, the accused stabbed him in the throat with a pen knife. Fishermen normally possess pen knives for fishing purposes. Therefore, it must be considered whether the accused had the intention to do away with the life of the deceased with a motive.

14.The accused had absolutely no motive to do away with the life of the deceased and also no intention to do away with his life. The deceased himself invited the problem and all of a sudden, the accused stabbed him with a pen knife.

15.Now, the point for consideration is whether the prosecution proved the charge under Section 302 of IPC or not.



Crl.A(MD)No.882 of 2024

WEB COPY

16. In order to prove the charge under Section 302 of IPC, the prosecution shall prove that the death is caused with an intention of causing death or if it is done with an intention of causing such bodily injury as the offender known to be likely to cause the death of the person to whom the harm is caused, or if it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or if the person committing the act known that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid. However, the exception 4 says that culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner. Further, it is immaterial in such cases which party offers the provocation or commits the first assault.

11/22



Crl.A(MD)No.882 of 2024

WEB COPY

In order to attract 4th exception of Section 300 of IPC, the necessary ingredients are a sudden fight, absence of premeditation, no undue advantage or cruel or unusual act on the part of the offender. These conditions have to be fulfilled to attract the exemption 4 of section 300 of IPC.

17.It is relevant to extract the fourth exception of Section 300 of IPC:-

“4thly. - If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.”

18.In this regard, the learned Senior Counsel appearing for the appellants relied upon the judgment of the Hon'ble Supreme Court of India in the case of *Anbazhagan vs. The state represented*

12/22



Crl.A(MD)No.882 of 2024

WEB COPY

by the Inspector of Police reported in **2023 Live Law (SC) 550**. The relevant portion of the judgment is extracted hereunder:-

“60(12). In determining the question, whether an accused had guilty intention or guilty knowledge in a case where only a single injury is inflicted by him and that injury is sufficient in the ordinary course of nature to cause death, the fact that the act is done without premeditation in a sudden fight or quarrel, or that the circumstances justify that the injury was accidental or unintentional, or that he only intended a simple injury, would lead to the inference of guilty knowledge, and the offence would be one under Section 304 Part II of the IPC.”

19. Thus, it is clear that when an accused had done the act without premeditation in a sudden fight or quarrel, it would attract charge under Section 304 Part II of IPC. In the case on hand, the prosecution miserably failed to prove the charge under Section 302 of I.P.C. However, the accused is liable to be punished for the offence punishable under Section 304 Part II of I.P.C.



Crl.A(MD)No.882 of 2024

WEB COPY

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:

“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



Crl.A(MD)No.882 of 2024

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*



Crl.A(MD)No.882 of 2024

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 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 this regard, it is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India in ***Criminal Appeal No.1124 of 2022*** in the case of ***Dauvaram Nirmalkar vs. State of Chhattisgarh***. The relevant paragraph is extracted hereunder:-

“12. The question of loss of self-control by grave and sudden provocation is a question of fact. Act of provocation and loss of self-control, must be actual and reasonable. The law attaches great importance to



Crl.A(MD)No.882 of 2024

two things when defence of provocation is taken under Exception 1 to Section 300 of the IPC. First, whether there was an intervening period for the passion to cool and for the accused to regain dominance and control over his mind. Secondly, the mode of resentment should bear some relationship to the sort of provocation that has been given. The retaliation should be proportionate to the provocation. The first part lays emphasis on whether the accused acting as a reasonable man had time to reflect and cool down. The offender is presumed to possess the general power of self-control of an ordinary or reasonable man, belonging to the same class of society as the accused, placed in the same situation in which the accused is placed, to temporarily lose the power of self-control. The second part emphasises that the offender's reaction to the provocation is to be judged on the basis of whether the provocation was sufficient to bring about a loss of self-control in the fact situation. Here again, the court See the opinion expressed by Goddar, CJ. in R v. Duffy (supra) would have to apply the test of a reasonable person in the circumstances. While examining these



Crl.A(MD)No.882 of 2024

questions, we should not be short-sighted, and must take into account the whole of the events, including the events on the day of the fatality, as these are relevant for deciding whether the accused was acting under the cumulative and continuing stress of provocation. Gravity of provocation turns upon the whole of the victim's abusive behaviour towards the accused. Gravity does not hinge upon a single or last act of provocation deemed sufficient by itself to trigger the punitive action. Last provocation has to be considered in light of the previous provocative acts or words, serious enough to cause the accused to lose his self-control. The cumulative or sustained provocation test would be satisfied when the accused's retaliation was immediately preceded and precipitated by some sort of provocative conduct, which would satisfy the requirement of sudden or immediate provocation."

22.The above judgment is squarely applicable to the case on hand. Therefore, the appellant is liable to be punished for the offence punishable under Section 304 Part II of the IPC.

18/22



Crl.A(MD)No.882 of 2024

WEB COPY

23. Accordingly, the conviction and sentence imposed on the appellant for the offence under Section 302 of I.P.C cannot be sustained and are liable to be set aside. However, the appellant is liable to be convicted for the offence punishable under Section 304 Part II of I.P.C.

24. In view of the above, the conviction and sentence imposed on the appellant in S.C.No.36 of 2019, dated 27.01.2021, on the file of the learned Additional District and Sessions Judge, Pudukkottai, for the offence under Section 302 of I.P.C are set aside and the appellant is convicted for the offence under Section 304 Part II of I.P.C and is sentenced to undergo ten years Rigorous Imprisonment and to pay a fine of Rs.10,000/- in default, to undergo one year Rigorous Imprisonment. The conviction and sentence imposed on the appellant for the offence punishable under Section 324 of I.P.C is confirmed.

19/22



Crl.A(MD)No.882 of 2024

WEB COPY

25. Accordingly, the Criminal Appeal is partly allowed. It is also made clear that if the appellant already paid the fine, it 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 appellant shall be set off as per Section 428 of Cr.P.C. Consequently, connected Miscellaneous Petition is closed.

[G.K.I.J.] & [R.P.J.,]
19.02.2026

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



WEB COPY



Crl.A(MD)No.882 of 2024

To

1.The Additional District and Sessions Judge,
Pudukkottai.

2.The Inspector of Police,
Manamelkudi Police Station,
Pudukkottai District.

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



WEB COPY



Crl.A(MD)No.882 of 2024

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

ps

Crl.A(MD)No.882 of 2024

19.02.2026

22/22