



Crl.A.(MD) No.726 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 10.02.2026

CORAM:

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

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Nagaraj

... Appellant

-vs-

The Inspector of Police
Keelakarai Police Station,
Ramanathapuram District

...Respondent

Criminal appeal filed under Section 374(2) of Cr.P.C., to call for the records relating to the judgment in S.C.No.72 of 2019 dated 20.07.2022 on the file of the Principal Sessions Judge, Ramanathapuram and set aside the same and acquit the appellant/accused from all the charges levelled against him.

For Appellant : Mr.K.P.S.Palani Velrajan, Senior Counsel
for Mr.R.Senthil Kumar
For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor



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J U D G M E N T

WEB G.K.ILANTHIRAIYAN, J.,

Challenging the conviction and sentence rendered by the Principal Sessions Judge, Ramanathapuram in S.C.No.72 of 2019 dated 20.07.2022, the present criminal appeal has been filed by the appellant.

2. The trial Court has convicted the accused as follows:

Penal Provisions	Sentence of Imprisonment	Fine Amount
302 r/w.34 of IPC	Life Imprisonment	Rs.10,000/- i/d to undergo two years simple imprisonment

3. The deceased is the nephew of the complainant. The accused are brothers. The case of the prosecution is that both the accused and the deceased are rearing doves. While being so, on 01.11.2018 the first accused came to the house of P.W.3 to purchase doves. However he refused to give doves to the first accused. Hence there was a quarrel between them. Thereafter A2 was called and at that time the first accused abused the wife of the deceased in filthy language and



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thereafter quarrel ensued between the deceased and the second accused, thereafter the residents of that area intervened and they had left the scene of occurrence and thereafter when the deceased was proceeding near Santhamariamman temple at Kilakarai fisherman area, both the accused followed him and the second accused caught hold of the deceased, the first accused assaulted him with Thirukaival(திருக்கைவால் முள்), which is a dangerous weapon. He also sustained blood injuries in his right hand and due to which he died on the same day.

4. On the complaint the respondent police registered First Information Report in Crime No.140 of 2018 for the offences under Sections 341 r/w.34 and 302r/w.34 of IPC and Section 294(b)r/w.34 of IPC

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5.. After completion of the investigation, the respondent police laid the charge sheet before the learned Judicial Magistrate, Kilakarai, and the same was taken on file as P.R.C. No.2 of 2019



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6. On the appearance of the accused, the provisions of Section 207 of Cr.P.C. was complied with, and the case was committed to the Court of Session, where it was taken on file in S.C.No72 of 2019 and made over to the Principal Sessions Judge, Ramanathapuram, for trial under Section 209(A) of Cr.P.C. The trial Court framed charges against the appellant for the offences punishable under Sections 341 r/w 34, 302r/w. 34 and 294(b)r/w. of IPC

7. In order to substantiate the case of the prosecution, the prosecution examined 11 witnesses as P.W.1 to P.W.11, and 14 exhibits were marked as Ex.P.1 to Ex.P.14 and three material objects as M.O.1 to M.O.3.

8. After examination of the prosecution witnesses, when the accused was questioned under Section 313 of the Code of Criminal Procedure on the incriminating circumstances appearing against him, he denied the charges as false. No witness was examined on the side of the accused. One document was marked.



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9. The trial Court, after considering the evidence on record and hearing both sides, by judgment dated 20.07.2022, convicted the appellants and sentenced him as detailed in Paragraph No.2 supra. Challenging the above-said conviction and sentence, the present appeal has been filed.

10. The learned counsel appearing for the accused would submit that during trial the first accused died and thereby charge against the first accused got abated.

11. Even according to the case of prosecution A1 had motive and A2 came to the scene of occurrence only thereafter. The first accused came to the house of the deceased and asked for purchase of doves, however the deceased denied the request made by the first accused and as such there was a quarrel between them. Thereafter the first accused came to his house and at the same time the second accused came there and scolded the wife of the deceased in filthy language. He caught hold



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of the hand of the deceased and the first accused assaulted the deceased with Thirukaival on his chest. When the deceased was taking the weapon from his chest, he sustained injuries on his hand.

12. In so far as A2 is concerned even according to the case of prosecution he had no motive to do away the life of the deceased. Further even assuming that the second accused, being the brother of the first accused also had motive, the prosecution failed to prove the motive since there was petty quarrel between the first accused and the deceased about the purchase of doves. Further the weapon which was used for crime is nothing but a 20.5 cm length of fishpin and therefore the accused had absolutely no motive to do away with the life of the deceased. Further the second accused was not at all present at the time of quarrel between the first accused and the deceased. Therefore there was no common intention among the accused persons to eliminate the deceased due to the quarrel between the first accused and the deceased. The second accused came to the scene of occurrence and just caught hold of one of the hand of the deceased.



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WEB COP 13. According to the case of prosecution the second accused caught hold of the right hand of the deceased and the first accused assaulted the deceased with fishpin on the chest of the deceased. Immediately when the deceased pulled the fishpin from his chest he sustained injuries on his left hand. But that could not have been possible, because when the second accused caught hold of the right hand of the deceased, he could not have sustained injuries on his right hand, thereby the prosecution miserably failed to prove the charges under Section 34 r/w.302 of IPC.

14. In so far as the offence under Section 341 of IPC is concerned, the alleged occurrence took place in the place of deceased and the deceased was wrongfully restrained by the accused. During the quarrel between them, the first accused assaulted the deceased with fishpin, thereby the prosecution failed to prove the charge under Section 341 of IPC. Therefore, the conviction and sentence passed by the trial Court is liable to be set aside and the appeal is liable to be allowed.



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WEB COP 15. The learned Additional Public Prosecutor would submit that PW.1 is the eye witness to the occurrence and he had categorically deposed about the specific overt act of A2. The second accused followed the first accused to do away the life of the deceased. Thereafter he caught the hands of the deceased and the first accused stabbed him with a fishpin, therefore the deceased sustained grievous injuries and died. Fish pin is a dangerous weapon and that was the reason for the deceased's fatality. Both the accused are brothers and they had common intention to do away with the life of the deceased. The second accused returned to the scene of occurrence even after being pacified by others and caught hold of the deceased's hands, therefore there is absolutely no circumstances to dis-believe the evidence of P.W. 1 and the trial Court has rightly convicted the accused persons and it does not warrant any interference of this Court.

16. We have considered the submissions of the learned Counsel for the appellant and the learned Additional Public Prosecutor for the State,



and have consciously gone through the evidence and materials on
record.

17. The prosecution mainly relied on the evidence of P.W.1 to prove the charges. The paternal aunt of the deceased has deposed as P.W.1 who happened to be the eyewitnesses of the occurrence. The brother- in-law of the deceased deposed as P.W.3. The deceased was playing with his brother -in-law in front of the house of the deceased and at that time the first accused came there and asked about the dove from P.W.3 for sale for which P.W.3 stated that without consent of the deceased he would not sell the dove, therefore the first accused scolded P.W.3 and his sister with filthy language and therefore there was a wordy altercation between them, hence wife of the deceased woke up and came from inside the house and brought the deceased to the scene of occurrence . Immediately the grand mother of the first accused called the second accused to pacify them. Thereafter both the accused quarrelled with the deceased and there was a push and pull between them and thereafter they went to their house. Once again the second



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accused came to the scene of occurrence and scolded P.W.3, for which the deceased replied and thereafter the second accused caught hold the right hand of the deceased and the first accused assaulted the deceased on his chest with fishpin. When the deceased attempted to pull the fishpin from his chest, he sustained injuries on his left hand. The relevant portion of her evidence reads as follows:

□ஆனந்த் மனைவி சத்தியாவின் தம்பி தக்காளி என்ற நாகராஜ் என்பவர் புறா வளர்க்கும் பழக்கம் உடையவர். தக்காளி என்ற நாகராஜீடன் ஆனந்து குழந்தைகளுடன் அவர் மனைவி பாட்டி வீட்டிற்கு முன்பாக விளையாடி கொண்டிருந்தார். அப்போது நான் அங்கு சென்றேன். அப்போது ஆஜர் 1ம் எதிரி முத்துக்குமார் என்பவர் அங்கு வந்து தக்காளி என்ற நாகராஜீடம் புறா கேட்டார். அதற்கு தக்காளி என்ற நாகராஜ் தன் மாமா ஆனந்திடம் கேட்காமால் தரமாட்டேன் என்று மறுத்து விட்டார். அதற்கு 1ம் எதிரி முத்துக்குமார்தக்காளி என்ற நாகராஜ் அசிங்கம் அசிங்கமாக பேசினார். நாகராஜின் அக்காளையும் தேவடியா கண்டார ஓழி என்று அசிங்கமாக பேசினார். இருவருக்கும் வாக்கு வாதம் ஏற்பட்டது.



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அப்போத ஆனந்தின் மனைவி வீட்டிற்குள்ளே சென்று தூங்கிக்கொண்டிருந்த ஆனந்தை அழைத்து கொண்டு வந்தார். 1ம் எதிரி முத்துக்குமாரின் பெரிய பாட்டி மகள் ஊமச்சி என்ற மாரி என்பவர் 1ம் எதிரியின் அண்ணன் ஆஜர் 2ம் எதிரியையும் அழைத்து வந்தார். 2ம் எதிரி வந்தவுடன் 1,2எதிரிகளும் ஆனந்துக்கும் சண்டை வந்தது. 1ம் எதிரி ஆனந்தின் அக்காள் தங்கையை தரக்குறைவாய் பேசினார்கள். அதற்கு ஆனந்த் ஏன் அசிங்கமாக பேசுகிறீர்கள் என்று கேட்டார். அதற்கு 1ம் எதிரி முத்துக்குமார் தக்காளி என்ற நாகராஜினை பார்த்து நீ வெளியூரை சேர்ந்தவர்தானே எதற்கு இந்த ஊருக்கு வந்தாய் என்று பிடித்து தள்ளினார். எனவே இருவருக்கும் அடிதடி நடந்தது. நான் பேசி தக்காளி என்ற நாகராஜ் கூட்டிச் செல்லுமாறு அவரது அக்கா சத்தியாவிடம் சொன்னேன். சத்தியா தக்காளி என்ற நாகராஜீடன் கூட்டிச் சென்றார். பின்னர் 1,2 எதிரிகள் அவர்கள் வீட்டிங்கு சென்று விட்டனர். நான் என் அக்கா மகன் ஆனந்திடம் அங்கு பேசிக் கொண்டிருந்தார். அப்போது 2ம் எதிரி நாகராஜ் செல்போன் பேசிக்கொண்டே அங்கு மீண்டும் திரும்பி வந்தார். வந்தவுடன் வெளியூர்க்காரர்களை எல்லாம் எதற்கு



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வீட்டிற்குள் வைத்துள்ளீர்கள் உங்களை எல்லாம் ஒரு வழி பண்ணி விடுகிறேன் என்று கூறினார். அதற்கு ஆனந்த் எல்லார் வீட்டிலும் வெளியூர்க்காரர்கள் தொழில் செய்கிறார்கள் என்று சொன்னார். அப்போது 2ம் எதிரி நாகராஜ் ஆனந்தின் கையை பிடித்துக்கொண்டார். அப்போது நான் பக்கத்தில் நின்றேன். அதற்குள் 1ம் எதிரியும் அந்த இடத்திற்கு வந்து விட்டார் அப்போது 1ம் எதிரி ஆனந்ததை பார்த்து நீ உயிருடன் இருந்தால் தான் உன் மச்சினனுக்கு உதவியாக வருவாய் என்று சொல்லி தன் வேட்டிக்குள் மறைத்து வைத்திருந்த திருக்கை முள்ளை எடுத்து ஆனந்தின் இடது பக்க மார்பில் குத்தி உருவினான். அப்போது ஆனந்த் அந்த திருக்கை முள்ளை இடது கையால் பிடித்தார். அவர் பிடித்த போதும் முத்துக்குமார் திருக்கைமுள்ளை உருவினார். அதனால் ஆனந்திற்கு இடது கையில் இடது நெஞ்சிலும் காயம் ஏற்பட்டது. வலது கையை 2ம் எதிரி நாகராஜ் பிடித்துவிட்டார். அப்போது நான் அய்யோ குத்தி விட்டானே என்று அலறினாள்

18. According to P.W.1 the deceased sustained injuries on his right



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hand and chest. In order to corroborate the same, no one had deposed on the side of the prosecution, The medical evidence also did not corroborate the injuries as deposed by P.W.1. The doctor who conducted post mortem on the deceased deposed as P.W.10. P.W.10 has deposed that there are three injuries found in the body of the deceased, two injuries on the chest of the deceased and third injury on his right palm at about 6X3 cm. According to autopsy report the deceased sustained injuries on his right hand, whereas P.W.1 had deposed that the second accused caught hold of the right hand of the deceased and when the deceased attempted to pull out the fishpin he sustained injuries on his right hand, therefore the contradictions are fatal to the case of prosecution.

19. In so far the second accused is concerned even according to the case of prosecution, he caught hold of the right hand of the deceased to facilitate the first accused to do away the life of the deceased. As per medical evidence the deceased sustained injuries on his left hand. When the second accused caught hold of the right hand of the deceased he



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would not have sustained injuries on his right hand. Further the second accused came to the scene of occurrence only to question about the first accused and the deceased. Therefore the prosecution has failed to prove the common intention between both the accused to do away the life of the deceased. Infact even the first accused had no motive to do away the life of the deceased and all of a sudden he assaulted the deceased. The first accused assaulted the deceased with fishpin. Both the deceased family and accused family are fisherman and they used to keep fish pin in their house. Therefore they have no intention to away the life of the deceased. That apart the person who informed the second accused about the quarrel between the first accused and the deceased was not examined by the prosecution.

20. In order to prove the common intention under Section 34 of IPC there must be pre arranged or pre meditated concert from the more fact that the accused came and caught hold of the deceased where the first accused came to the scene of occurrence and stabbed him and therefore it cannot be stated that both the accused shared common



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intention to do away the life of the deceased. Further the alleged occurrence took place at about 4.30 pm., at 07.11.2018. The First Information Report got registered at about 10.30 pm., and it reached the Court on 08.11.2018 at about 3.40 a.m. and the said delay was not explained by the prosecution, therefore the prosecution miserably failed to prove the charges in-accordance with law and even then they mechanically convicted the appellant herein and thereby the appeal is liable to be set aside and the same is allowed.

21. In the result the criminal appeal stands allowed. The conviction and sentence passed in .S.C.No.72 of 2019 on the file of the learned Principal Sessions Judge, Ramanathapuram is set aside and the appellant is acquitted of all charges. Bail bond if any executed by the appellant shall stand cancelled. Fine amount if any paid shall be refunded.

[G.K.I.,J] [R.P.,J]
10.02.2026

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1. The Principal Sessions Judge, Ramanathapuram
2. The Inspector of Police
Keelakarai Police Station,
Ramanathapuram District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Record keeper
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai



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

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