



Crl.A(MD)No.1041 of 2024

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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**

**Crl.A(MD)No.1041 of 2024
and
Crl.M.P(MD)No.369 of 2026**

Kannan

... Appellant/Sole Accused

Vs.

State rep. by
The Inspector of Police,
Sedapatti Police Station,
Madurai District.
(In Cr.No.169 of 2015).

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 415 (2) of BNSS, to call for the records and to allow the appeal by setting aside the impugned Judgment and conviction imposed in S.C.No.458 of 2016, dated 28.09.2022 by the I Additional District Judge, Madurai and may be pleased to acquit the appellant/accused.



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For Appellant : Mr.R.Pon Karthikeyan
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.458 of 2016, dated 28.09.2022, on the file of the I Additional District Judge, Madurai, thereby convicting the appellant for the offences punishable under Section 302 of IPC.

2. The case of the prosecution is that the accused and the deceased were friends for the past three years before the date of occurrence. The deceased had lent a sum of Rs.1,000/- to the accused. On 04.12.2025 the deceased requested the accused to repay the said amount since he had some urgent needs. In response, the accused and the deceased traveled together to Sedapatti on the

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M.O.1 to M.O.4. On the side of the accused, two witnesses were examined as D.W.1 and D.W.2 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 Section 302 of I.P.C. He was sentenced to undergo life imprisonment and imposed a fine of Rs.5,000/-. Aggrieved by the same, the present appeal has been filed by the appellant.

6. The learned counsel for the appellant submits that the prosecution has failed to establish the charges beyond reasonable doubt. Despite this, the trial court mechanically convicted the appellant, even though the material witnesses did not support the prosecution's case. The medical evidence also did not support the case of the prosecution. Although, according to the prosecution, many persons had seen the accused in the day light, the prosecution



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failed to examine any independent witness. The prosecution mainly relied upon the evidence of P.Ws.1 to 3, who are close relatives of the deceased. However, the prosecution failed to examine the owner of the grocery shop, where the alleged occurrence took place. It is fatal to the prosecution case that there are material contradictions and omissions in the evidence of the prosecution witnesses. Despite these serious infirmities, the learned Trial Court mechanically convicted the accused for the offence punishable under Section 302 of the Indian Penal Code.

7. Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that, P.Ws.1 to 3 are the eye witnesses to the occurrence and they categorically deposed about the specific overt act as against the accused. Admittedly, the accused borrowed a sum of Rs.1,000/- from the deceased and when he was asked to repay the said amount, the accused with an intention to do away with the life of the deceased assaulted him with Sprite glass



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bottle. In fact, the accused took a Sprite bottle, broke it, and thereafter assaulted the deceased by inflicting injuries on his left chest and stomach. The prosecution has thus proved the charge under Section 302 of IPC beyond all reasonable doubt. Hence, the Trial Court rightly convicted the appellant, and the conviction does not call for any interference by this Court.

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

9. The wife of the deceased has deposed as P.W.1. She deposed that the accused and the deceased are friends and the accused had borrowed a sum of Rs.1,000/- from the deceased. On 04.12.2015, the deceased demanded repayment of the said amount due to his financial difficulties. Thereafter, the accused and the deceased went to Poosalapuram. At about 5.00 p.m., P.W.1 was standing at a grocery shop purchasing certain grocery items. At that

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time, the President of the Poosalapuram Panchayat, along with one Ramaraj, was also present. The accused and the deceased were drinking tea, when the accused took a Sprite bottle from the grocery shop and assaulted the deceased on his left chest and stomach. The relevant portion of P.W.1 evidence is as follows:-

“.... 04.12.2015ம் தேதி என் கணவர் பணகஷ்டம் உள்ளதால் பணத்தை திருப்பி தருமாறு கண்ணணிடம் கேட்டபோது ஆஜர் எதிரி சேடபட்டியிலிருந்து பணம் வாங்கி தருவதாக கூறி என் கணவரும், ஆஜர் எதிரியும் புசலாபுரத்திற்கு வந்திருந்தார்கள். அப்போது மாலை 5.00 மணிஇருக்கும். நான் மளிகை ஜாமான் வாங்க வந்திருந்தேன். புசலாபுரத்தில் பஞ்சாயத்துபோர்டு ஆபிஸ் அருகே பஞ்சாயத்து தலைவர் நீதி என்பவரும், சாமித்தேவர் மகன் ராமராஜ் இருந்தார்கள். அப்போது என் மச்சான் கார்மேகம் என்பவர் அங்கு டீ குடித்துக்கொண்டு இருந்தார். ஆஜர் எதிரி என் கணவரை பார்த்து நீ 1000 ரூபாய் காசு கேட்டுக்கொண்டே இருக்கிற என்றும் நீ உயிருடன் இருந்தா தானே காசு கேட்பாய் என்று சொல்லி இத்தோடு செத்து தொலைடா என்று சொல்லி டீக்கடை படியில் பாட்டிலை உடைத்து உடைந்த பாட்டிலை வைத்து இடதுபுற மார்பிலும், வயிற்றிலும் என் கணவரை குத்திவிட்டார். ஆஜர் எதிரி பாட்டிலால் குத்திவிட்டு வலதுபுறமாக பாட்டிலோடு ஓடிவிட்டார்...”



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10. Thus, it is clear that both the accused and the deceased came together in the motorcycle belonging to the accused to Poosalapuram Village. While they were drinking tea, all of a sudden, the accused had taken the sprite bottle from the grocery shop and assaulted the deceased. It is also corroborated by other witnesses namely P.Ws.2 & 3. Thus, it is clear that the accused had no intention to do away with the life of the deceased. In order to repay the loan amount, the accused and the deceased came together in their motorcycle to Poosalapuram. All of a sudden, when the deceased repeatedly sought for repayment of the money, the accused had taken the sprite bottle, which was made up of glass and had broken the same and assaulted the deceased with it.

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



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12. Section 300 of IPC states says 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 clearly attract Section 304 Part II of I.P.C.

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:



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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.”

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 appellant is 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 appellant in S.C.No.458 of 2016, dated 28.09.2022, on the file of the I Additional District Court, Madurai, for the offence punishable under Section 302 of I.P.C are set aside. The appellant is convicted for the offence punishable under Section 304 Part II of I.P.C and sentenced to undergo six years Rigorous Imprisonment and to pay a fine of Rs.5,000/- each in default, to undergo six months Simple Imprisonment.



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16. With the above modification, the Criminal Appeal is partly allowed. It is made clear that if the appellant has 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. Consequently, connected miscellaneous petition is closed.

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

NCC : Yes/No
Index : Yes/No
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To

- 1.The I Additional District Judge,
Madurai.
- 2.The Inspector of Police,
Sedapatti Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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