



Crl.A(MD)No.17 of 2023

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 27.01.2026**

**CORAM:**

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

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Saravanan

... Appellant/Sole Accused

Vs.

The State,  
Represented by the Inspector of Police,  
Orathanadu Police Station,  
Thanjavur District.  
(Crime No.5 of 2018).

... Respondent/Complainant

**PRAYER:-** Criminal Appeal is filed under Section 374 of Cr.P.C to call for the records and set aside the conviction and sentence recorded against him by Judgment dated 03.09.2022 on the file of learned III Additional District and Sessions Judge, Pattukottai in S.C.No.87 of 2018 and acquit the appellant.

For Appellant : Mr.M.Karunanithi

For Respondent : Mr.T.Senthil Kumar  
Additional Public Prosecutor



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## **JUDGMENT**

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

This appeal arises out of the Judgment passed in S.C.No.87 of 2018, dated 03.09.2022, on the file of learned III Additional District and Sessions Judge, Pattukottai, thereby convicting the appellant for the offences punishable under Sections 294(b), 506(ii) and 302 of I.P.C.

2.The case of the prosecution is that the deceased and his son, Riaz Khan, were running a grocery shop, where P.W.2 was working as a labourer. The accused frequently used to purchase grocery items from the said shop both on cash and credit basis. One month prior to the occurrence, when the deceased and P.W.1 asked the deceased to pay the balance amount, the accused, without repaying the same, uttered that despite running the shop in his village, they were insisting on payment of the balance amount.



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3.While being so, on 06.01.2018 at about 03.30 p.m., when the deceased, his son and the labourer were present in the shop, the accused, with an intention to do away with the life of the deceased, came to the shop armed with a knife, scolded him using filthy language, abused him by referring to his religion and thereafter stabbed him on his left chest. As a result, the deceased sustained grievous injuries and succumbed to the same. On the complaint, the respondent registered an F.I.R in Crime No.5 of 2018 for the offences punishable under Sections 294(b), 302 and 506(ii) of I.P.C. After completion of investigation, a final report was filed and the same has been taken cognizance by the trial Court.

4.In order to bring the charges to home, the prosecution had examined P.W.1 to P.W.17 and marked Ex.P1 to P20. The prosecution had 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.

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5. On perusal of oral and documentary evidence, the trial Court found the accused guilty for the offences punishable under Sections 294(b), 302 and 506(ii) of I.P.C. He was sentenced to undergo three months Simple Imprisonment and to pay a fine of Rs. 500/- in default, to undergo one month Simple Imprisonment for the offence punishable under Section 294(b) of I.P.C. He was also sentenced to undergo 12 months Rigorous Imprisonment and to pay a fine of Rs.1,000/- in default, to undergo one month Simple Imprisonment for the offence punishable under Section 506(ii) of I.P.C. He was also sentenced to undergo Life Imprisonment and to pay a fine of Rs.3,000/- in default, to undergo three months Simple Imprisonment for the offence punishable under Section 302 of I.P.C. Aggrieved by the same, the present appeal has been preferred by the appellant.



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6.The learned counsel appearing for the appellant submitted that the prosecution failed to prove the arrest and recovery of the appellant. According to the prosecution, the appellant himself brought the knife with the intention to do away with the life of the deceased, but no witness has spoken to prove the same. Even according to the case of the prosecution, the knife was recovered after recording his confession statement. However, P.W.1, who is one of the eyewitnesses, deposed that the knife was dropped by the appellant at the scene of crime and thereafter was handed over to the Investigating Officer.

7.P.W.1 also admitted that he had seen the appellant in police custody at the police station. Therefore, the arrest and recovery of M.O.1 are not proved by the prosecution, which is fatal to the case of the prosecution. The complaint lodged by P.W.1 is not the first information, as it came into existence only after the

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Investigating Officer commenced the investigation by recording the statements of P.W.1 and other witnesses. Hence, it is hit by the provision of Section 162 of Cr.P.C. The learned counsel appearing for the appellant further pointed out that there are material contradictions, omissions and commissions in the evidence of the witnesses. Therefore, the prosecution miserably failed to prove the case beyond reasonable doubt.

8.Further, the prosecution suppressed the earliest information, which is categorically admitted by P.W.1 and P.W.2. It is also evident from the property list sent to the jurisdictional Magistrate. Initially, the properties were not produced before the jurisdictional Magistrate and were returned on 07.01.2018. Subsequently, they were produced only on 09.01.2018. In fact, Material Object No.1 was subsequently inserted in the list of properties which was sent to the learned Judicial Magistrate. Therefore, the entire case of the prosecution is not believable one



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and as such, the entire conviction and sentence imposed on the appellant cannot be sustained and are liable to be set aside.

9.Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that there are totally six eyewitnesses, all of whom clearly deposed and corroborated each other. P.W.1, who is none other than the son of the deceased, deposed that even 20 days prior to the occurrence, there was a quarrel between the deceased and the appellant regarding the purchase grocery items on credit. On that occasion, the appellant scolded the deceased by using religious references and abused him.

10.Thereafter, on 06.01.2018 at about 03.30 p.m., the appellant came to the shop and asked for grocery items. When the deceased informed him about the outstanding balance and stated that items would be given only after payment, the appellant immediately pushed him down him, took out a knife and stabbed him. The same



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is corroborated by P.W.2 to P.W.6. When there are eyewitnesses, who have clearly spoken and corroborated each other, minor contradictions, if any, in the arrest and recovery are not material and it would not affect the case of the prosecution. Therefore, the prosecution has clearly proved the charges and the Trial Court rightly convicted the appellant and it does not warrant any interference of this Court.

11.Heard the learned counsel appearing on either side and perused the materials available on record.

12.P.W.1 is none other than the son of the deceased, who was very much present in the scene of crime and he deposed as follows:

“சம்பவத்திற்கு 20 நாட்களுக்கு  
முன்பாகவே ஏற்கனவே ஒரு தகராறு நடந்தது.  
ஆஜர் எதிரி எங்கள் கடைக்கு இந்த சம்பவத்திற்கு  
20 நாட்களுக்கு முன்பாகவே சாமான்கள்



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வாங்குவதற்கு வந்தார். பழைய  
கடன்கள் இருப்பதால் அந்த கடன்கள்  
கொடுத்துவிட்டு சாமான்கள் வாங்கிகொள்ளலாம்  
என்று என்னுடைய அப்பா சொன்னார்.

அதற்கு ஆஜர் எதிரி என்னடா துலுக்க  
பயலே எங்கள் ஊரில் கடை வைத்துகொண்டு  
எனக்கு சாமான்கள் தரமாட்டாயா என்று என்னுடைய  
அப்பாவை பார்த்து சொன்னார். அந்த பிரச்சனை  
முடிந்து எதிரி போய்விட்டார். அதன் பிறகு  
06.01.2018ம் தேதி பிற்பகல் 3.30 மணிக்கு ஆஜர்  
எதிரி கடைக்கு வந்தார். திரும்பவும் சாமான்களை  
கடனுக்கு கேட்டார். அதற்கு பழைய பாக்கி  
உள்ளது என்றும் அதை கொடுத்துவிட்டு சாமான்கள்  
வாங்கிகொள் என்றும் என் அப்பா கூறினார். என்  
அப்பா சாமான்கள் கொடுக்க மறுத்ததால் ஆஜர்  
எதிரி கடையிலுள்ள சாமான்களை கீழே  
தள்ளிவிட்டார். பிரச்சனை செய்யாதீர்கள் வெளியே  
போங்கள் என்று என் அப்பா தெரிவித்தார். அந்த  
சமயத்தில் ஆஜர் எதிரி சரவணன் கத்தியை  
காண்பித்து என் அப்பாவை மிரட்டினார்.

அதே போல சாமான்கள் வாங்க வந்த  
நான்கு பேரையும் பார்த்து எதிரி கத்தியை காட்டி  
மிரட்டினார். அந்த சமயத்தில் ஆஜர் எதிரி என்  
அப்பாவை இடது பக்க மார்பில் குத்தினார். உடனே  
என் அப்பா ரத்தம் வந்து கீழே விழுந்துவிட்டார்.  
நான் என் அப்பாவின் சட்டையை கழற்றிவிட்டு



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அவருக்கு நான் முதலுதவி செய்தேன். எதிரி சரவணன் ஓடிவிட்டார். அவரை துரத்திக்கொண்டு காதர்முகைதீன், அப்பாஸ், பாருக், வீரக்குமார் ஆகியோர்கள் ஓடினார்கள். எதிரி சரவணன் ஓடிவிட்டார். அதன் பின்பு 108 ஆம்புலன்சிற்கு போன் செய்து வரவழைத்து ஆம்புலன்சில் என் அப்பாவை தூக்கிக்கொண்டு நானும், காதர்முகைதீன் அப்பாஸ், பாருக், வீரக்குமார் ஆகியோர்கள் தஞ்சாவூர் மருத்துவகல்லூரி மருத்துவமனைக்கு கொண்டுசென்றோம். மருத்துவர் பரிசோதனை செய்துவிட்டு என்னுடைய அப்பா இறந்துவிட்டதாக தெரிவித்தார்.”

13.P.W.1's evidence is also corroborated by other eyewitnesses. On a perusal of the examination of P.W.1, nothing was elicited from him by the defence to discredit his testimony.

14.The saleswoman of the grocery shop owned by the deceased had deposed as P.W.2. She also corroborated the evidence of P.W.1. She deposed that when the deceased refused to provide grocery items without receiving money and without paying of the

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earlier balance, the appellant immediately took out a knife and stabbed the deceased on his left chest. Immediately, the 108 ambulance was called, but it arrived late. In the meantime, the police also arrived at the scene. It is not the case of the prosecution that the deceased died on the spot. The deceased was taken to the Government Thanjavur Medical College Hospital, Thanjavur, however, he was declared as brought dead.

15. One of the customers was examined as P.W.4. He deposed that while he was purchasing grocery items on 06.01.2018 at about 03.30 p.m., the appellant came to the shop and asked for provisions without paying money. Immediately, the deceased told him that he should first pay the balance, thereafter, grocery items would be provided. Thereupon, the appellant took out a knife from his hip and stabbed the deceased on his left side of the chest. Immediately, an ambulance was called and the deceased was taken to the Thanjavur Government Medical College Hospital. The same is

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corroborated by P.W.5 and P.W.6, who were also very much present in the scene of crime.

16.The learned counsel appearing for the appellant mainly projected that the Village Administrative Officer was examined as P.W.9, who deposed that in his presence, the appellant gave an extra-judicial confession statement which led to the recovery of material objects. Pursuant to the confession, the knife used for the commission of the offence and the clothes worn by the appellant at the time of occurrence were recovered. However, the eyewitnesses, namely P.W.1 to P.W.6, categorically deposed that the appellant had concealed the knife in his hip and took it out to stab the deceased. Therefore, when there is clinching evidence from the eyewitnesses, minor discrepancies, if any, with regard to arrest and recovery would not affect the case of the prosecution.



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17.Further, immediately after the occurrence, the deceased was taken to the Thanjavur Government Medical College Hospital, where the Accident Register was prepared by the causality medical officer on 06.01.2018 at about 04.00 p.m. This is the earliest document and first document, which was marked as Ex.P.11. After recording the Accident Register, the body was sent for postmortem. The autopsy was conducted by P.W.15. She deposed that the deceased died due to the stab injuries caused by the appellant. The postmortem report was marked as Ex.P.10.

18.A perusal of the same revealed that the deceased was brought to the hospital by P.W.1 and a statement was recorded to the effect that due to previous enmity one known person had stabbed the deceased, as a result of which he became unconscious and was brought to the hospital. He was declared brought dead and the dead body was sent to the mortuary for post-mortem. Thereafter, P.W.1 lodged the complaint on the same day ie., on 06.01.2018 and the

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F.I.R was registered, which was marked as Ex.P.9. The F.I.R was received by the learned Judicial Magistrate at his residence on 06.01.2018 itself at about 10.30 p.m. Therefore, there is absolutely no delay in lodging the complaint and registering the F.I.R.

19.The learned counsel appearing for the appellant pointed out that there are material contradictions, omission and commissions in the evidence of the prosecution. But after thorough perusal of the materials produced, this Court is inclined to hold that the contradictions so pointed out are not material and it is no way fatal to the case of the prosecution. At this juncture, it is relevant to rely upon the Judgment of the Hon'ble Supreme Court in the case of *State represented by Inspector of Police Vs. Saravanan and another (2008) 17 SCC 587*, wherein it is held as follows:

"18.The High Court also held that as there were some discrepancies and improvements in the statement of the



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witnesses, their evidence should not be relied upon. In [State of U.P. v. M.K. Anthony](#), [(1985) 1 SCC 505] this Court has laid down the approach which should be followed by the Court in such cases:

*While appreciating the evidence of a witness, the approach must be whether the evidence of the witness read as a whole appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the court to scrutinise the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief. Minor discrepancies on trivial matters not touching the core of the case, hyper- technical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical error committed by the investigating officer not going to the root of the matter would not ordinarily permit rejection of the evidence as a whole. If the court before whom the witness gives evidence had the*



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*opportunity to form the opinion about the general tenor of evidence given by the witness, the appellate court which had not this benefit will have to attach due weight to the appreciation of evidence by the trial court and unless there are reasons weighty and formidable it would not be proper to reject the evidence on the ground of minor variations or infirmities in the matter of trivial details. Even honest and truthful witnesses may differ in some details unrelated to the main incident because power of observation, retention and reproduction differ with individuals. Cross- examination is an unequal duel between a rustic and refined lawyer....."*

*Even otherwise, it has been said time and again by this Court that while appreciating the evidence of a witness, minor discrepancies on trivial matters without affecting the core of the prosecution case, ought not to prompt the court to reject evidence in its entirety. Further, on the general tenor of the evidence given by the witness, the trial court upon appreciation of evidence forms an opinion about the credibility thereof, in the normal circumstances the appellate court would not be justified to review it once again without*



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*justifiable reasons. It is the totality of the situation, which has to be taken note of. Difference in some minor detail, which does not otherwise affect the core of the prosecution case, even if present, that itself would not prompt the court to reject the evidence on minor variations and discrepancies.”*

20. When that being so, the prosecution also did not suppress any first information. Though police personnel were present in the scene of crime, immediately the deceased was taken to the Thanjavur Government Medical College Hospital, where he was declared as dead. Thereafter, P.W.1 lodged the complaint and the F.I.R was registered. Thus, the prosecution has categorically proved the charges beyond any reasonable doubt and the Trial Court rightly convicted the appellant. This Court finds no infirmity or illegality in the conviction and sentence imposed by the Trial Court in S.C.No.87 of 2018, dated 03.09.2022, on the file of learned III Additional District and Sessions Judge, Pattukottai. Hence, the appeal fails and



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is dismissed. The respondent is directed to take steps to secure the appellant and produce him before the Trial Court for taking further steps.

**[G.K.I.J.] & [R.P.J.,]  
27.01.2026**

NCC :Yes/No  
Index :Yes/No  
ps



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To

1.The III Additional District and Sessions Judge,  
Pattukottai.

2.The Inspector of Police,  
Orathanadu Police Station,  
Thanjavur 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.**

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