



Crl.A(MD)No.1089 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.01.2026

CORAM:

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

**Crl.A(MD)No.1089 of 2025
and
CrI.M.P(MD)No.673 of 2026**

Babu

... Appellant/Sole Accused

Vs.

The State of Tamil Nadu,
Represented by the Inspector of Police,
Rajathanai Police Station,
Crime No.31 of 2021,
Theni District.

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 415(2) of BNSS, 2023, to call for the records from the lower Court, namely Principal Sessions Court, Theni and to quash and set aside the Judgment in S.C.No.114 of 2021, dated 24.09.2025 by acquitting the accused.



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For Appellant : Mr.A.Arivuchandran

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

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

This appeal has been preferred as against the Judgment passed in S.C.No.114 of 2021, dated 24.09.2025 on the file of the learned Principal Sessions Judge, Theni, thereby convicting the appellant for the offences punishable under Section 302 of I.P.C.

2.The case of the prosecution is that the accused and deceased were friends and used to consume liquor together. While being so, on 23.02.2021 at about 10.30 p.m., when the deceased and accused were sitting in a bridge in Keela Manjinayakkanpatty main road, near to the bus stop at Mela Manjinayakkanpatty, Aundipatti Taluk, Theni District, and consuming liquor, the father of the accused came there and scolded the deceased, instructing him not to



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offer liquor to his son and not to mingle with him. Immediately, the deceased shouted at the father of the accused, stating that his son had only offered liquor to him. Thereafter, the father of the accused took his son to their house.

3.After some time, the accused returned to the spot and questioned the deceased as to why he had reported to his father that the accused had offered liquor to him and also scolded and abused the deceased with filthy language in the public road for the same. Therefore, there was a wordy quarrel between them. During the quarrel, the accused kicked the deceased with his leg, as a result of which the deceased fell down from the bridge and became unconscious.

4.On the next day, the general public noticed the deceased lying there with injuries on his forehead and back. He was immediately taken to the Medical College Hospital, Madurai, for

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first aid. After 6 days, ie., on 01.03.2021, he succumbed to the injuries sustained by him. After completion of investigation, the respondent filed a final report and the same has been taken cognizance by the Trial Court.

5.In order to bring the charges to home, the prosecution examined P.W.1 to P.W.22 and marked Exs.P1 to P19. On the side of the accused, no witnesses were examined and no documents were produced before the trial Court.

6.On perusal of oral and documentary evidence, the trial Court found the appellant guilty for the offence punishable under Section 302 of I.P.C and sentenced him to undergo life imprisonment and imposed a fine of Rs.5,000/-, in default, to undergo three months Simple Imprisonment. Aggrieved by the same, the appellant has preferred the present appeal.



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7.The learned counsel appearing for the appellant submitted that though the occurrence took place on 23.02.2021, the complaint was lodged only on 01.03.2021 and the case was registered for the offences punishable under Sections 294(b) and 323 of I.P.C. Though the deceased was admitted into the hospital on the very next day of the alleged occurrence, it was reported to the doctor that he had fallen down by his own mistake. Therefore, no intimation was sent to the jurisdictional police regarding the occurrence.

8.Only after the demise of the deceased, the respondent cooked up a statement as if it had been given by the deceased and registered the F.I.R. Even according to the deceased, no one had kicked him and he had fallen down from the bridge on his own. Further, there was no eye witness to the occurrence. However, the prosecution cooked up the witnesses and examined P.W.10 as an eyewitness.



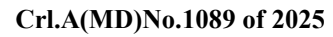
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9.P.W.10 deposed that on 23.02.2021 at about 11.00 p.m., the deceased and accused quarrelled with each other and that the accused kicked the deceased, due to which he fell down. Though P.W.10 attempted to rescue the deceased, he was not permitted by the accused to lift the deceased. On the next day, when P.W.10 came to the scene of crime in his two wheeler, he came to know that the deceased had been lying there for one full day and that he had thereafter been taken to the hospital.

10.P.W.11 also deposed that he had seen the accused and deceased at about 10.15 p.m in the scene of crime, quarrelling with each other and that the accused kicked the deceased, causing him to fall down from the bridge. Their statements were recorded only on 09.03.2021. Though they reside in the same village and were well acquainted with the accused, they neither came forward to lodge a complaint nor disclosed the incident to anyone. However, without

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11.He further submitted that the doctor who treated the deceased had deposed as P.W.12. The deceased categorically stated that he himself had fallen down from the bridge and as such he sustained injury and he suffered pain in his hands and legs. The doctor also issued a wound certificate, which was marked as Ex.P.5. Only as an afterthought, the F.I.R was registered with the allegation that the appellant had kicked the deceased, causing him to fall down from the bridge. Therefore, the prosecution miserably failed to prove the charge as against the appellant and even then the Trial Court mechanically convicted him for the offence punishable under Section 302 of IPC.

12.Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that P.W.10 and P.W.11



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categorically deposed about the overt act committed by the appellant. Though the deceased initially stated before the doctor that he himself had fallen down from the bridge, he subsequently made a categorical statement that the accused had kicked him, as a result of which he fell down from the bridge. Initially, the respondent registered the F.I.R for the offences punishable under Sections 294(b) and 323 of I.P.C. Upon death of the injured, the offence was altered to Section 302 of IPC.

13.He further submitted that the act of the accused was deliberate and he had pushed the deceased with his legs from the bridge, resulting in serious injuries leading to death. Further, the accused had also prevented P.W.10 and P.W.11 from lifting the deceased from under the bridge, which clearly shows his intention to do away with the life of the deceased. Therefore, the respondent rightly filed a final report for the offence punishable under section 302 of IPC and proved the charge. Hence, the Trial Court rightly

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convicted the appellant and the same does not warrant any interference of this Court.

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

15.According to the case of the prosecution, the alleged occurrence took place on 23.02.2021 at about 10.30 p.m while the deceased and appellant were consuming liquor. Initially, the father of the accused came to the spot and scolded the deceased, stating that he was the reason for the accused consuming liquor. The same was objected to by the deceased. Thereafter, the accused allegedly came once again to the scene of crime with the intention to do away with the life of the deceased. He kicked the deceased, as a result of which the deceased fell down from the bridge, sustained injuries and was lying under the bridge for one day. On the next day, he regained consciousness and went to his house. Thereafter, on 25.02.2021, he

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went to the hospital for treatment. However, he succumbed to the injuries after 6 days, ie., on 01.03.2021. The prosecution examined P.W.10 and P.W.11 as eye witnesses to the occurrence.

16.P.W10 is known to both the accused and deceased. On 23.02.2021 at about 11.00 p.m., he claimed to have seen the accused and deceased quarrelling with each other. During the quarrel, the accused allegedly kicked the deceased, as a result of which he fell down from the bridge. When P.W10 attempted to rescue the deceased, the same was prevented by the appellant. Therefore, he went back to his house. Thereafter, he came to know that the deceased had been lying there throughout the entire day ie., on 24.02.2021 and thereafter on 25.02.2021 he was admitted into the hospital and subsequently died on 01.03.2021. The very same version was deposed by P.W.11.



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17.However, their evidence cannot be believable one for the simple reason that their statements were recorded only on 09.03.2021. There is absolutely no explanation from the prosecution to record the statements of the eye witnesses belatedly. Such delay is fatal to the case of the prosecution.

18.In this regard, it is relevant to rely upon the Judgment of the Hon'ble Supreme Court of India in the case of ***Jafarudheen and others Vs. State of Kerala [2022 LiveLaw (SC) 403]***, wherein it has held as follows:

“28.The Investigating Officer is expected to kick start his investigation immediately after registration of a cognizable offense. An inordinate and unexplained delay may be fatal to the prosecution's case but only to be considered by the Court, on the facts of each case. There may be adequate circumstances for not examining a witness at an appropriate time. However, non-examination of the witness despite being available may



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call for an explanation from the Investigating Officer. It only causes doubt in the mind of the Court, which is required to be cleared.

29. Similarly, a statement recorded, as in the present case, the investigation report is expected to be sent to the jurisdictional Magistrate at the earliest. A long, unexplained delay, would give room for suspicion.”

19. Therefore, the inordinate delay in recording the statements of material witnesses casts a cloud of suspicion on the credibility of the entire warp and woof of the prosecution story.

20. This circumstance, looming charge in the background inevitably leads to the conclusion, that the prosecution story was conceived and constructed after a good deal and deliberation of delay in a shady setting, highly redolent of doubt and suspicion.

21. That apart the deceased was lying under the bridge for one day ie., on 24.02.2021 and he went to the house only on

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25.02.2021. Thereafter he went to the Government Hospital, Madurai for treatment. The doctor who had examined the deceased recorded accident register, which was marked as Ex.P5. The deceased made a statement that he himself had fallen down from the bridge by his own mistake and had sustained injuries. He felt pain on both his hands and legs. Accordingly, he was admitted as an inpatient and treatment was commenced. The doctor had deposed as P.W.12. The relevant portion of her deposition is as follows:

“கடந்த 25.02.2021 ஆம் தேதியன்று காலை 9.00 மணி அளவில் நான் மருத்துவமனையில் பணியில் இருந்தபோது போது 28 வயது மதிக்கத்தக்க ராஜேஷ் என்பவர் என்னிடம் சிகிச்சைக்கு வந்தார். அவர் பாலத்தில் படுத்திருக்கும் போது தவறுதலாக கீழே விழுந்ததாகவும், 23.02.2021 அன்று இரவு 11:50 மணிக்கு அவ்வாறு கீழே விழுந்து தனக்கு காயம் ஏற்பட்டதாக தெரிவித்தார். அவருக்கு கை மற்றும் கால்களில் வலி இருப்பதாக தெரிவித்தார். அவரை உள்நோயாளியாக அனுமதித்து சிகிச்சை பெறுவதற்கு பரிந்துரை செய்தேன். அவருக்கு ஏற்பட்டுள்ள காயங்கள் குறித்து நான் விபத்து பதிவேட்டில் குறித்து வைக்கவில்லை. அவரால்



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கை, கால்களை மடக்க இயலாமல் இருந்தார். இது சம்பந்தமாக நான் வழங்கிய விபத்து பதிவேடு ஆ.சா.ஆ.8 ஆய்வாளர் என்னை விசாரித்தார்.”

22.However, the doctor did not note down the specific injuries sustained by the deceased. Thereafter, he succumbed to the injuries only on 01.03.2021. Though P.W.12 recorded the statement of the deceased in the accident register, the same was not intimated to the respondent police, who are being the jurisdictional police. Only on 01.03.2021, the statement of the deceased was recorded and the F.I.R was registered. In fact, the complaint was lodged by the wife of the deceased which was marked as Ex.P.1. Therefore, it is clear that only after the demise of the deceased, the complaint was lodged as if the appellant had kicked the deceased and due to which he had fallen down from the bridge and sustained injuries.

23.If at all P.W.10 and P.W.11 had witnessed the occurrence, atleast after the demise of the deceased, they could have



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informed others and lodged a complaint. However, they did not even whisper till 09.03.2021. Only on 09.03.2021, the respondent recorded their statements as if they had witnessed the occurrence.

24. Admittedly P.W.10 and P.W.11 are well known to the deceased and accused. Even then, they did not even whisper to anybody about the occurrence. Moreover, the statements of P.W.10 and P.W.11, which were recorded on 09.03.2021, were forwarded to the Court only on 12.08.2021. There is absolutely no explanation from the prosecution for recording the statements belatedly and also for sending the same belatedly to the Court. Further, even after recording Ex.P.5-Accident Register, which ought to have been duly informed to the police station, even then the respondent did not register any F.I.R till the demise of the deceased.

25. Thus it is clear that the entire case of the prosecution is a cooked up story to falsely implicate the appellant herein as the



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accused. Except P.W.10 and P.W.11, no witness supported the case of the prosecution. Further, the prosecution also failed to prove any motive for the appellant to do away with the life of the deceased. The father of the appellant was not examined by the prosecution to prove the motive.

26. According to the case of the prosecution, the father of the appellant went to the scene of crime while the appellant and deceased were consuming alcohol and scolded the deceased, stating that he was the reason for the appellant consuming liquor. Immediately the appellant was taken to his house. Thereafter, the appellant returned to the scene of crime once again and kicked the deceased. In order to prove the same, the prosecution did not examine the father of the appellant herein. It is fatal to the case of the prosecution and failed to prove the motive behind the crime.



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27.It is also evident from the statement of the deceased recorded by P.W.12-doctor who treated him that the deceased categorically stated that he himself had fallen down from the bridge by his own mistake. He did not whisper anything about the alleged overt act of the appellant till his demise. Therefore, the very recording of the statement obtained from the deceased on 01.03.2021 is doubtful and the prosecution miserably failed to prove the charge under Section 302 of IPC against the appellant.

28.In view of the above, the conviction and sentence imposed on the appellant in S.C.No.114 of 2021, dated 24.09.2025 on the file of the learned Principal Sessions Judge, Theni, cannot be sustained and are liable to be set aside.

29.In the result, this Criminal Appeal is allowed and the Judgment made in S.C.No.114 of 2021, dated 24.09.2025 on the file of the learned Principal Sessions Judge, Theni, is hereby set aside.

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The appellant is acquitted of all the charges. The bail bond, if any, executed by the appellant shall stand cancelled. The fine amount, if any paid, shall be refunded to the appellant. The appellant shall be set at liberty forthwith, if he is no longer required in connection with any other case. Consequently, connected Miscellaneous Petition is closed.

**[G.K.I.J.,] & [R.P.J.,]
20.01.2026**

NCC : Yes/No
Index : Yes/No
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To

1.The Principal Sessions Court,
Theni.

2.The Inspector of Police,
Rajathanai Police Station,
Theni 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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