



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16/02/2026

WEB COPY

CORAM

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

**Crl.A(MD)No.1326 of 2025
and
CMP(MD)No.594 of 2026**

Kannan : Appellant/A3

Vs.

1.The State of Tamil Nadu,
Rep. By the Deputy Superintendent of Police,
Sivakasi Sub Division,
Maraneri Police Station,
Virudhunagar District.
(In Crime No.53 of 2010) : 1st Respondent/Complainant

2.Eswari : 2nd Respondent/De-facto Complainant

PRAYER: Criminal Appeal filed under Section 415(2) of BNSS, to call for the entire records pertaining to the judgement delivered by the Special Court for Trial of SC/ST (POA) Act Cases, Virudhunagar District at Srivilliputhur, in Special SC No.19 of 2011, dated 05/08/2025 and to set aside the same and consequently to acquit the appellant/A3.



For Appellant : Mr.K.Suyambulingabharathi
For 1st Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor
For 2nd Respondent : Mr.K.Ramanathan
(Legal Aid Counsel)

JUDGMENT

(Judgement of the Court was made by **G.K.ILANTHIRAIYAN.,J**)

This criminal appeal is directed as against the judgment of conviction and sentence passed in Special SC No.19 of 2011 by the Special Court for Trial of SC/ST (POA) Act cases, Virudhunagar District at Srivilliputhur, thereby convicted the appellant/A3 for the offences under Section 302 IPC r/w 34 of IPC and Section 3(2)(v) of SC/ST (POA) Act, 1989.

2.The case of the prosecution is that A1 belongs to Christian Paraiyar Community, A2 belongs to Konar Community and A3 belongs to Naickar community. A1 got married to the daughter of A3. While being so, on 10/04/2010 at about 10.00 p.m, with an intention to do away with the life of the deceased due to previous motive with regard to financial transaction with the deceased, the accused joined together and came to the house of the complainant. A1 and A2 knocked the door of the deceased's house. When the same was questioned by them, A1 and A2 had abused them in filthy language by using



their caste name and also threatened to eliminate the husband of the complainant.

A3 also directed them to break open the door of the house and pull him out and assault him. Thereafter, A1 and A2 broke open the padlock of the door and entered into the house with deadly weapons. A2 pulled the deceased out of the house and A3 directed the other accused to assault him. Thereafter, A1 assaulted the deceased with Aruval on his back side of the neck. Therefore, the deceased fell down and succumbed to the injuries.

3. On the complaint, the respondent Police registered the FIR in Crime No.53 of 2010 for the offences punishable under Section 302 IPC and Section 3(2)(v) of SC/ST Act. After completing the investigation, a final report was filed and the accused were charged punishable under Sections 323, 302 r/w 34 IPC and Section 3(1)(x), 3(2)(v) of SC/ST (POA) Act, 1989. The Trial Court had taken cognizance of the case and framed charges against under Sections 302 r/w 34 IPC and Section 3(2)(v) of SC/ST (POA) Act, 1989 and 3(1)(x) of SC/ST (POA) Act, 1989 against A2 and framed charges under Sections 323, 302 r/w 34 IPC and Section 3(2)(v), 3(1)(x) of SC/ST (POA) Act against A3. The first accused did not appear before the Trial Court and as such, the Trial Court had split up the case against A2 and A3 and conducted separate trial.



4. Before the Trial Court, on the side of the prosecution, 19 witnesses were examined as PW1 to PW19 and marked 22 documents as Exs.P1 to P22.

The prosecution had also produced material objects MO1 to MO5. On the side of the accused, no one was examined and no document was produced.

5. On perusal of the oral and documentary evidence, the Trial Court found A2 and A3 guilty of the offences punishable under Sections 302 r/w 34 IPC and Section 3(2)(v) of SC/ST (POA) Act, 1989 and sentenced them to undergo **Life imprisonment** and to pay a fine of Rs.2,000/- each and in default, to undergo one month simple imprisonment. Against which, the present appeal has been preferred by A3 as appellant.

6. The learned counsel for the appellant/A3 submits that the appellant is arrayed as A3. Even according to the case of the prosecution, this accused induced the others to commit the offence. He had no specific overtact to attract any of the charges as alleged by the prosecution. The prosecution also failed to prove the previous enmity or motive between the accused and deceased. There was no prior meeting of mind between the accused to do away the life of the deceased. In order to prove the conspiracy, the prosecution had examined PW6 and PW7. But both turned hostile and did not support the case of the prosecution. Even though, the Trial Court convicted the appellant/A3 for the



offence under Section 302 r/w 34 of IPC, the appellant/A3 never conspired together with the other accused and did not have any common intention to do away the life of the deceased. The prosecution mainly projected the witnesses PW1 and PW2 as eye witnesses to the occurrence. In fact, the injured witness turned hostile and as such, the accused were acquitted from the charge under Section 323 IPC. Therefore, the entire conviction and sentence imposed on the appellant/A3 cannot be sustained in law and prays for allowing the appeal by acquitting the appellant/A3.

7.Per contra, the learned Additional Public Prosecutor submitted that there are totally three accused. The appellant is arrayed as A3. A1 so far did not turn up and as such, the Trial Court split up the case as against A2 and A3 and conducted a separate trial. PW1 had spoken about the motive behind the crime. One month prior to the occurrence, they lent Rs.3,500/- to A1 on 10/04/2010. When they demanded A1 to return the same, A1 refused to pay the said amount. Therefore, PW1 and the deceased intended to lodge a complaint, for which A1 abused him by using their caste name. Therefore, all the accused conspired together and murdered the deceased. The husband of PW1's sister deposed as PW2 and he also corroborated the evidence of PW1 and therefore, the prosecution clearly proved the charges and the Trial Court has rightly convicted the accused and it does not warrant any interference by this Court.



of her evidence is as under:-

WEB COPY

“சம்பவத்தன்று 10.04.2010ம் தேதி இரவு 09.00 மணிக்கு கெவின், ராமர் என்ற சந்திரன், கெவின் மாமனார் கண்ணன் எல்லோரும் சேர்ந்து தண்ணி அடித்துக்கொண்டு பேசிக் கொண்டிருந்தார்கள். நான் மதியம் பிரச்சனை நடந்ததால் பிள்ளைகளை கூட்டிக் கொண்டு வீட்டிற்குள் சென்றுவிட்டேன். மூன்று பேரும் வந்து என் வீட்டு கதவை உடைத்து ஏண்டா சக்கிலிய பயல்களே வீட்டை விட்டுவெளியே வாடா என்று சொன்னார்கள். அப்போது இரவு மணி 10.00 இருக்கும். நாங்கள் பயந்து கொண்டு கதவை திறக்கவில்லை. அப்போது எங்களுடன் இருந்த என் கணவர் ஏன் இரவு நேரத்தில் வந்து தொந்தரவு செய்கிறீர்கள் என்று கேட்டார். கெவினும் ராமன் என்ற சந்திரனும் சத்தம் போட்டு அரிவாளை வைத்து தாழ்ப்பாளை உடைத்து வீட்டிற்குள் இரண்டு பேரும் வந்துவிட்டார்கள். ராமர் என்ற சந்திரன் என் வீட்டுக்காரரை பிடித்து வெளியே இழுத்துக்கொண்டு வந்துவிட்டார். கண்ணன் என்பவர் கெவினை பார்த்து அவனை வெட்டிக்கொள்ளுங்கடா என்று சொல்லிவிட்டார். கெவின் என் வீட்டுக்காரரின் கழுத்து பின்பகுதியில் ஒரே வெட்டு அரிவாளால் வெட்டினார். ராமர் என்ற சந்திரன் சின்ன அரிவாள் வைத்திருந்தார் இரத்தம் பீச்சியடித்தது என் கணவர் கீழே விழுந்துவிட்டார். ஈஸ்வரன் காலனியில்தான் என் அம்மா பழனியம்மாள் குடியிருந்தார். ஏன் அம்மா, என் அக்கா காமாட்சி, என் மாமா கணேசன் மூவரும் தகவல் தெரிந்து வந்துவிட்டார்கள். வெட்டும்போது மூன்று பேரும் வந்துவிட்டார்கள். மூன்று பேரும் வேகமாக போவதை பார்த்து பிடிக்க போனார்கள். அதில் என் அக்கா காமாட்சியை கண்ணன் என்பவர் தள்ளிவிட்டுவிட்டு சென்று விட்டார்”.



11.Thus, it is clear that A3 instigated A1 to do away the life of the deceased. Even according to PW1, A1 had previous enmity with regard to the money transactions between them. As far as appellant/A3 is concerned, even according to the case of the prosecution, he is just a friend of A1. He did not have any motive or intention to do away the life of the deceased. According to PW1, when her sister attempted to catch the appellant/A3, he pushed her down and fled away from the scene of occurrence. Therefore, the prosecution charged the accused under Section 323 of IPC.

12.The said victim was examined as PW15. She deposed that she did not know the appellant/A3. She also did not know how the husband of PW1 died. She heard about the demise of the husband of PW1. Therefore, the prosecution treated PW15 as hostile. Hence, PW15 did not support the case of the prosecution. Therefore, the Trial Court rightly acquitted the appellant/A3 from the charge under Section 323 IPC.

13.Another eye witness was examined by the prosecution as PW2. PW2 categorically admitted that A1 and A2 are the friends of the deceased and there were money transactions between A1 and the deceased. In so far as A3 is concerned, he did not have any previous enmity with the deceased. Further, there are contradictions between the evidence of PW1 and PW2 with regard to the



overtact against A3. When the prosecution failed to prove the common intention and also the assault on PW15, A3 cannot be convicted for the offences under Section 302 r/w 34 IPC. Even, according to the prosecution, A3 just instigated A1 to do away the life of the deceased, when A1 and A2 pulled the deceased inside the house of the deceased. The appellant/A3 did not possess any weapon and did not even touch the deceased.

14. Another eye witness had deposed as PW17. Even, according to her, A1 and A2 pushed the deceased from his house and assaulted him with a sickle. There is no overtact as against A3. In fact, A1 and A2 and the deceased are close friends and they used to consume liquor together. Even on the date of the alleged occurrence, they all consumed liquor together. Thereafter, there were quarrel between them. Therefore, the prosecution failed to prove any of the charges as against A3. Further, A2 is now reported to be dead. Therefore, all the charges abated as against A2.

15. In view of the foregoing discussion, the conviction and sentence imposed on the appellant/A3 cannot be sustained in law and is liable to be set aside and accordingly, it is set aside.



16.In the result, this Criminal Appeal is **allowed** and the judgment of conviction and sentence passed by the Special Court for trial of SC/ST (POA) Cases, Virudhunagar District at Srivilliputhur, in Special SC No.19 of 2011, dated 05/08/2025 is set aside and the appellant/A3 is acquitted from all the charges. The appellant/A3 is directed to be released forthwith unless his detention is required in connection with any other case. Bail bonds, if any, executed by the appellant/A3 shall stand cancelled. Fine amount, if any, paid by him is ordered to be refunded to the appellant/A3. Consequently connected Miscellaneous Petition is closed.

(G.K.I., J) (R.P., J)
16/02/2026

Index :Yes/No
Internet :Yes/No

er



CRL.A.(MD).No.1326 of

To,

- 1.The Sessions Judge,
Special Court for Trial of SC/ST (POA) Act Cases,
Srivilliputhur.
- 2.The Deputy Superintendent of Police,
Sivakasi Sub Division,
Maraneri Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CRL.A.(MD).No.1326 of

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

er

CrI.A(MD)No.1326 of 2025

16/02/2026