



Crl.A(MD)No.1367 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.02.2026

CORAM:

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

**Crl.A(MD)No.1367 of 2025
and
Crl.M.P(MD)No.20274 of 2025**

Gnanapandiyan

... Appellant/Sole Accused

Vs.

The State of Tamil Nadu,
Represented by the Inspector of Police,
Thirupullani Police Station,
Ramanathapuram District.
(Crime No.147 of 2019).

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 415(2) of B.N.S.S, 2023, to set aside the Judgment passed in S.C.No.49 of 2021 dated 13.06.2025 on the file of the Principal District and Sessions Court, Ramanathapuram and allow the Criminal Appeal.



Crl.A(MD)No.1367 of 2025

For Appellant : Mr.S.Sivaprakash
For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

JUDGMENT

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

This appeal is directed as against the Judgment passed in S.C.No.49 of 2021 dated 13.06.2025 on the file of the Principal District and Sessions Court, Ramanathapuram, thereby convicting the appellant for the offences punishable under Sections 341 and 302 of I.P.C.

2.The case of the prosecution is that the deceased was doing a wholesale business in grocery items and used to supply them to small shops in nearby villages using his four wheeler, a Tata Ace vehicle. While being so, on 23.10.2019 at about 06.30 p.m., when the deceased was supplying groceries in his vehicle near Vannangundu Panaiadiyan Temple, he hit a peacock due to his rash



Crl.A(MD)No.1367 of 2025

and negligent driving and caused injuries to the bird. The accused witnessed the said accident and scolded the deceased for the same. Immediately, the deceased got down from the vehicle and slapped the accused repeatedly in the presence of several women. Feeling insulted and agitated, the accused took the injured peacock and handed it over to the Forest Department Officials for treatment.

3.On the next day ie., 24.10.2019, the deceased left his house to attend to his business in his vehicle. At about 08.30 a.m., when the deceased stopped his vehicle near the Village Administrative Office, Vannangundu and got down and walked on the road, the accused came there and stopped him. He confronted the deceased and picked up a quarrel regarding the earlier incident. Two passers by had witnessed the quarrel and pacified them. Thereafter, they went to tea shop to have tea. When they returned, they saw the deceased lying with injuries on his left chest. However, they did not see the accused at the scene. The incident was immediately informed



Crl.A(MD)No.1367 of 2025

to the wife of the deceased through another person at about 09.15 a.m. On receipt of the information, the wife of the deceased rushed to the scene of crime and found that the deceased had died due to the injuries sustained by him. She lodged a complaint, which was registered by the respondent in Crime No.147 of 2019 for the offence punishable under Section 302 of I.P.C. After completion of investigation, the respondent filed a final report and the same has been taken cognizance by the trial Court.

4.On the side of the prosecution, in order to bring the charges to home, they had examined P.W.1 to P.W.20 and Exs.P1 to P15 were marked. The prosecution also produced Material Objects M.O.1 to M.O.8. On the side of the appellant, no one was examined and no documents were produced before the Trial Court.



Crl.A(MD)No.1367 of 2025

5. On perusal of the oral and documentary evidence, the trial Court found the appellant guilty for the offences punishable under Sections 341 and 302 of I.P.C and sentenced him to undergo one month Simple Imprisonment for the offence under Section 341 of I.P.C and sentenced him to undergo life imprisonment and imposed a fine of Rs.10,000/- in default, to undergo three months Simple Imprisonment for the offence punishable under Section 302 of I.P.C. Aggrieved by the same, the appellant has preferred the present appeal.

6. The learned counsel appearing for the appellant submitted that the wife of the deceased had deposed as P.W.1 and that she was employed at the Head Post Office, Ramanathapuram. According to her, she was informed about the incident by P.W.9 and based on the said information, she went to the scene of occurrence and lodged the complaint. However, during cross-examination, she stated that she did not go to the scene of occurrence and had gone



Crl.A(MD)No.1367 of 2025

directly to the hospital.

WEB COPY

7.The persons who mediated the quarrel between the deceased and the accused deposed as P.W.2 and P.W.3. P.W.2, who is employed as a Village Assistant, deposed that he saw the deceased and the appellant quarrelling near his office. He, along with P.W.3, pacified them and thereafter went for tea. When P.W.2 and P.W.3 returned, they saw the deceased lying on the ground with a chest injury. Both P.W.2 and P.W.3 were declared hostile and were cross-examined by the prosecution to the effect that they had witnessed the accused attacking the deceased with a knife.

8.On the basis of their statements, the accused was arrested and his confession statement was recorded by the Investigating Officer. Even as per the confession statement, the deceased had brought an iron rod and the accused suspected that the deceased had come to attack him and in turn, he had assaulted the deceased with a



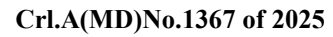
Crl.A(MD)No.1367 of 2025

knife. There is no eyewitness to support the case of the prosecution.

Though the prosecution projected the motive to be the incident where the deceased hit the peacock with his vehicle and subsequently slapped the accused, thereby provoking him, the same has not been proved satisfactorily.

9.The learned counsel appearing for the appellant further submitted that though P.W.1 was informed immediately, she did not lodge a complaint at once. The complaint was lodged only on 24.10.2019 at about 10.30 a.m. There are material contradictions among the prosecution witnesses and therefore, the prosecution has failed to prove the charges beyond any doubt. However, the Trial Court, without properly appreciating the evidence, convicted the appellant.

10.Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that though P.W.2 and P.W.3



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



Crl.A(MD)No.1367 of 2025

WEB COPY

12.The prosecution projected the motive for the accused to commit the crime as follows:

12.1.On 23.10.2019 at about 06.30 pm., the deceased hit a peacock, the National Bird, with his vehicle. The said accident was witnessed by the accused, who immediately questioned the deceased. Therefore, the deceased got down from the vehicle and slapped the accused repeatedly in the presence of several women, which agitated and humiliated the accused. Due to the said incident, the accused was provoked to do away with the life of the deceased. On the next day, when the deceased came in his vehicle for supplying groceries to the nearby shops, the accused again picked up a quarrel with him and at that juncture, stabbed him.

12.2.Though the prosecution projected P.W.2 and P.W.3 as eyewitnesses to the occurrence, they turned hostile. However, they categorically deposed that on 24.10.2019 they had seen the accused



Crl.A(MD)No.1367 of 2025

and the deceased quarrelling with each other. In fact, they pacified them and thereafter went to have tea. While they returned, they saw the deceased lying on the ground with a chest injury.

12.3. Even assuming that they had not witnessed the actual occurrence, they had last seen the accused and the deceased quarrelling with each other. On the basis of their statements, the accused was arrested and his confession statement was recorded.

13. A perusal of the confession statement reveals that after the peacock was hit, the deceased did not stop the vehicle. On witnessing the incident, the accused stopped the vehicle and questioned the deceased as to why he had not stopped after hitting the National Bird. Immediately, the deceased got down and slapped the accused repeatedly in the presence of several women. Feeling humiliated, the accused went back to his house. However during entire night he must have thought over the insult. On 24.10.2019, he

10/26



Crl.A(MD)No.1367 of 2025

again went to the place of occurrence and found that the injured peacock was lying there without any treatment. He immediately contacted a person working in the Forest Department and handed over the injured peacock for treatment.

14. Thereafter, the accused searched for the deceased and found that he was proceeding in his vehicle near the Village Administrative Office at Vannangundu Pannaidaiyan Temple. The accused stopped the vehicle. Immediately, the deceased got down holding an iron rod. The accused apprehended that the deceased was about to attack him. At that juncture, P.W.2 and P.W.3 came there and therefore, the deceased placed the iron rod inside the vehicle and walked towards the accused. Utilising the said circumstances, the accused attacked the deceased with a knife. Thus, even as per the confession statement, though the accused was in possession of a knife, the assault took place only after the deceased got down from the vehicle with an iron rod. The relevant portion of the confession

11/26



Crl.A(MD)No.1367 of 2025

statement is extracted as follows:

“கடந்த 23.10.19ம் தேதி சாயங்காலம் சுமார் 06.30 மணிக்கு எங்கள் தெருவில் உள்ள பனையடியான் கோவில் முன்பு நான் குடிபோதையில் கிழக்கில் இருந்து மேற்கு நோக்கி எனது இரு சக்கர வாகனத்தில் போகும் போது மேற்கில் இருந்து கிழக்கு நோக்கி வந்த பின்னால் பெயர் விலாசம் கேட்டு தெரிந்த திருப்பல்லாணி பஞ்சந்தாங்கி ஊரை சேர்ந்த சங்கர நாராயணன் மகன் சக்திவேல் என்பவர் அவர் ஓட்டி வந்த டாட்டா யுஊ வண்டியை ஓட்டிவரும் போது நமது இந்திய நாட்டின் தேசிய பறவையான மயிலின் மீது மோதிவிட்டார். அதனால் மயில் காயம் அடைந்து கீழே விழுந்து விட்டது. இதை பார்த்த நான் சக்திவேலை பார்த்து என்னப்பா வண்டியை மெதுவா ஓட்டிட்டு வர மாட்டியா நம் நாட்டு தேசிய பறவை மீது மோதி காயத்தை ஏற்படுத்திட்டாயே என்று சொன்னதற்கு டேய் உன் வேலமயிரை பார்த்துட்டுபோடா என்று கோபமாய் சொன்னான். நான் மரியாதையாக பேசு என்று சொல்லி கொண்டிருக்கும் போதே சக்திவேல் ஓட்டுனர் சீட்டில் இருந்து இறங்கி என் இடது கண்ணத்தில் மாறி மாறி கையால் மூன்று முறை அடித்து கீழே தள்ளிவிட்டான். நான் சத்தம் போடுவதை பார்த்த அந்த இடத்தில் குடியிருந்து வரும் பொம்பளைங்க சிலர் கூடி அவனை சத்தம் போட்டவுடன் அவன் வண்டியை எடுத்துக்கொண்டு போய் விட்டான். அந்த இடத்தில் இருந்த



WEB COPY



Crl.A(MD)No.1367 of 2025

முத்துநாச்சியார் என்ற பெண் மட்டும் எனக்கு பெயர் அடையாளம் தெரியும் மற்றவர்கள் யாரும் எனக்கு தெரியாது. அன்று இரவு முழுவதும் பொம்பளைங்க முன்னாடி நம்மளை அடித்து அசிங்கப்படுத்திட்டானே என மனம் வெறுத்து வீட்டில் இரவு முழுவதும் தூங்காமல் இருந்தேன். இவனை விடிந்த பின்பு குத்தி கொலை செய்தால்தான் நம நிம்மதியாக வாழ முடியும் என நினைத்து ஆட்டுகறி உரிக்கும் சூரி கத்தியை எனது இடுப்பில் சொறுகி கொண்டு எனக்கு சொந்தமான இருசக்கர வாகனத்தில் 24.10.19 தேதி காலை 05.30 மணிக்கு தேடிவரும்போது வரும் வழியில் காயம்பட்ட மயில் அந்த இடத்திலே கிடந்தது. அதனால் அந்த மயிலை நான் தூக்கி கொண்டு வனத்துறைக்கு தகவல் சொல்வதற்காக விசாரித்து வனத்துறையில் வேலை பார்க்கும் முத்துக் கருப்பன் என்பவருக்கு காலை 06.00 மணிக்கு எனது போன் மூலம் தகவல் சொன்னேன். அதனால் முத்து கருப்பனிடம் வண்ணாங்குண்டு பழைய மாட்டு ஆஸ்பத்திரி அருகில் வைத்து காயம்பட்ட மயிலை ஒப்படைத்தேன். அந்த மயிலை ஒப்படைக்கும் போது மேற்படி முத்துக் கருப்பன் என்னையையும், மயிலையையும் வைத்து அவரது செல்போனில் எனது முகம் தெரியாமல் போட்டோ எடுத்தார். அதன்பிறகு நான் ஆத்திரத்தில் சக்திவேலை தேடி எனது வண்டியில் வரும்போது வண்ணாங்குண்டு கிராம நிர்வாக அலுவலகம் அருகில் உள்ள பிரிவு ரோட்டில் மேற்க்கில் இருந்து கிழக்கு நோக்கி சக்திவேல் டாட்டா



Crl.A(MD)No.1367 of 2025

யுஊ வண்டியை ஓட்டிக்கொண்டு வந்தான். நான் வண்டியை நிறுத்தியவுடன் அவன் கீழே இறங்கி அவன் வண்டியில் இருந்த இரும்பு கம்பியை எடுத்து வந்தான். நான் நம்மளை அடித்து கொன்று விடுவான் என நினைத்து நான் என் இடுப்பில் மறைத்து வைத்திருந்த சூரி கத்தியை எடுக்க முயற்சித்த போது எங்க ஊரு தலையாரி பூமிநாதனும் டீ கடைகாரன் முருகேசனும் மற்றும் சிலரும் சத்தம் போட்டவுடன் அவன் கொண்டு வந்த இரும்பு கம்பியை அந்த டாட்டா யுஊ வண்டிக்குள் போட்டுவிட்டு என்னிடம் நேராக வந்தான். நான் இதுதான் சமயம் என்று இவனை உயிரோடு விடகூடாது உயிரோடு விட்டா நம்மள கொன்றுவிடுவான் என நினைத்து இன்னிக்கோட செத்து தொலைஞ்சு போடா என சொல்லி கொண்டே எனது இடுப்பில் இருந்த சூரி கத்தியை எடுத்து சக்திவேலின் இடது பக்க மார்பில் ஓங்கி குத்தி விட்டேன்.”

15.Thus, it is clear that the accused had absolutely no motive to do away with the life of the deceased, though he was in possession of a knife. It was only due to sustained provocation that he committed the act. Therefore, the prosecution has failed to prove the charge under Section 302 of I.P.C. However, the accused is liable to be punished for the charge under Section 304 Part I of I.P.C.



WEB COPY

16. In this regard, it is relevant to reply upon judgment 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:

“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 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*



Crl.A(MD)No.1367 of 2025

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 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.”

17. In this regard, it is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India in Criminal Appeal No.1124 of 2022 in the case of Dauvaram Nirmalkar vs. State of Chhattisgarh. The relevant paragraph is extracted hereunder:-

“12. The question of loss of self-control by grave and sudden provocation is a question of fact. Act of provocation and loss of self-control, must be actual and reasonable. The law attaches great importance to



two things when defence of provocation is taken under Exception 1 to Section 300 of the IPC. First, whether there was an intervening period for the passion to cool and for the accused to regain dominance and control over his mind. Secondly, the mode of resentment should bear some relationship to the sort of provocation that has been given. The retaliation should be proportionate to the provocation. The first part lays emphasis on whether the accused acting as a reasonable man had time to reflect and cool down. The offender is presumed to possess the general power of self-control of an ordinary or reasonable man, belonging to the same class of society as the accused, placed in the same situation in which the accused is placed, to temporarily lose the power of self-control. The second part emphasises that the offender's reaction to the provocation is to be judged on the basis of whether the provocation was sufficient to bring about a loss of self-control in the fact situation. Here again, the court See the opinion expressed by Goddar, CJ. in R v. Duffy (supra) would have to apply the test of a reasonable person in the circumstances. While examining these



questions, we should not be short-sighted, and must take into account the whole of the events, including the events on the day of the fatality, as these are relevant for deciding whether the accused was acting under the cumulative and continuing stress of provocation. Gravity of provocation turns upon the whole of the victim's abusive behaviour towards the accused. Gravity does not hinge upon a single or last act of provocation deemed sufficient by itself to trigger the punitive action. Last provocation has to be considered in light of the previous provocative acts or words, serious enough to cause the accused to lose his self-control. The cumulative or sustained provocation test would be satisfied when the accused's retaliation was immediately preceded and precipitated by some sort of provocative conduct, which would satisfy the requirement of sudden or immediate provocation."

18. Thus, the gravity of provocation can be assessed by taking into account the history of the abuse and need not be confined to the gravity of the final provocative act in the form of acts, words



Crl.A(MD)No.1367 of 2025

or gestures. The final wrongdoing, triggering off the accused's reaction, should be identified to show that there was temporary loss of self-control and the accused had acted without planning and premeditation. Therefore, the charge under section 302 of IPC cannot be sustained in this case on hand. The action of the appellant will attract the offence under Section 304 Part I of IPC. If it is coming under any one of the exception under Section 300 of IPC, it can be altered under Section 304 Part I of IPC. For the exception 1 of Section 300 to be invoked: 1) the deceased must have given provocation to the accused; 2) the provocation must be grave; 3) the provocation must be sudden; 4) the offender, by the reason of the said provocation, should have been deprived of his power of self-control; 5) the offender should have killed the deceased during the continuance of the deprivation of power of self-control; and (6) the offence must have caused the death of the person, who gave the provocation or the death of any other person by mistake or accident.

It is relevant to extract Section 299 of IPC:-

20/26



Crl.A(MD)No.1367 of 2025

“299. Culpable homicide:- Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.”

19.It is also relevant to extract the first exception of Section 300 of IPC:-

“Exception 1 of Section 300 of IPC:- When culpable homicide is not murder. Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident.”

20.As per the evidence of the prosecution, the accused was provoked by the incident that had occurred on the previous day and committed the offence. The act of the accused would fall within the

21/26



Crl.A(MD)No.1367 of 2025

WEB COPY

First Exception to Section 300 of I.P.C and therefore, he is liable to be convicted for the offence punishable under Section 304 Part I of I.P.C.

21.Even according to the case of the prosecution, when the deceased came in his vehicle and saw the accused, he got down holding an iron rod with the intention to attack him. Thus, the deceased was also ready to assault the accused. Therefore, it cannot be said that the accused wrongfully restrained the deceased. Further, no witness has spoken about the alleged offence under Section 341 of I.P.C.

22.Accordingly, the conviction and sentence imposed on the appellant for the offence under Section 341 of I.P.C cannot be sustained and the same is liable to be set aside.

22/26



Crl.A(MD)No.1367 of 2025

WEB COPY

23. Accordingly, the conviction and sentence imposed on the appellant for the offence under Section 341 of I.P.C is set aside.

24. Further, the conviction and sentence imposed on the appellant for the offence under Section 302 of I.P.C cannot be sustained and are liable to be set aside. However, the appellant is liable to be convicted for the offence punishable under Section 304 Part I of I.P.C.

25. In view of the above, the conviction and sentence imposed on the appellant in S.C.No.49 of 2021 dated 13.06.2025 on the file of the Principal District and Sessions Court, Ramanathapuram, are set aside and the appellant is convicted for the offence under Section 304 Part I of I.P.C and is sentenced to undergo five years Rigorous Imprisonment and to pay a fine of Rs.10,000/- in default, to undergo three months Simple Imprisonment.

23/26



Crl.A(MD)No.1367 of 2025

WEB COPY

26. Accordingly, the Criminal Appeal is partly allowed. It is also made clear that if the appellant already paid the fine, it 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 appellant shall be set off as per Section 428 of Cr.P.C. Consequently, connected Miscellaneous Petition is closed.

[G.K.I.J.] & [R.P.J.,]
04.02.2026

NCC : Yes/No
Index : Yes/No
Internet : Yes
ps



WEB COPY



Crl.A(MD)No.1367 of 2025

To

1.The Principal District and Sessions Court,
Ramanathapuram.

2.The Inspector of Police,
Thirupullani Police Station,
Ramanathapuram District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.A(MD)No.1367 of 2025

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

ps

Crl.A(MD)No.1367 of 2025

04.02.2026