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Crl.A.No.33 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.09.2025
PRONOUNCED ON : 10.10.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.33 of 2022

1.Govindarajan
2.Krishnan
3.Dharman

... Appellants

Vs.

State rep. by
The Inspector of Police,
Krishnagiri Taluk Police Station,
Krishnagiri District.
(Crime No.532 of 2010)

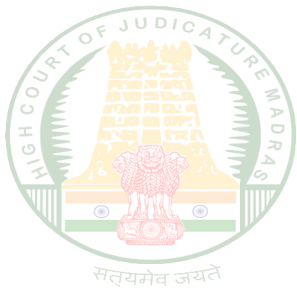
... Respondent

Prayer: Criminal Appeal filed under Section 374(2) of Cr.P.C., to set aside the judgment made in S.C.No.84 of 2012 on the file of the Principal Sessions Judge, Krishnagiri, Krishnagiri District dated 17.12.2021.

For Appellant Nos.1 & 3 : Mr.C.R.Malarvannan

For Appellant No.2 : Mr.V.Parthiban

For Respondent : Mr.L.Baskaran
Government Advocate (Crl. Side)



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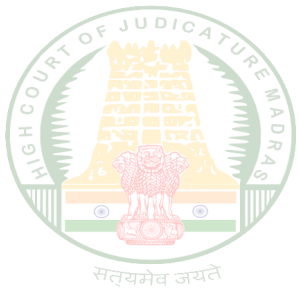
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JUDGMENT

This Criminal Appeal is filed to set aside the judgment made in S.C.No.84 of 2012 on the file of the Principal Sessions Judge, Krishnagiri, Krishnagiri District dated 17.12.2021.

2.The appellants/accused in S.C.No.84 of 2012 was convicted by the Trial Court by judgment dated 17.12.2021 and sentenced as follows:

A1/Govindarajan	U/s.148 IPC	Sentenced him to undergo six months rigorous imprisonment and to pay a fine of Rs.2,000/-, in default to undergo two weeks rigorous imprisonment
A2/Krishnan	U/s.148 IPC	Sentenced him to undergo six months rigorous imprisonment and to pay a fine of Rs.2,000/-, in default to undergo two weeks rigorous imprisonment
	U/s.326 IPC	Sentenced him to undergo three months rigorous imprisonment and to pay a fine of Rs.5,000/-, in default to undergo three months rigorous imprisonment
A4/Dharman	U/s.148 IPC	Sentenced him to undergo six months rigorous imprisonment and to pay a fine of Rs.2,000/-, in default to undergo two weeks rigorous imprisonment

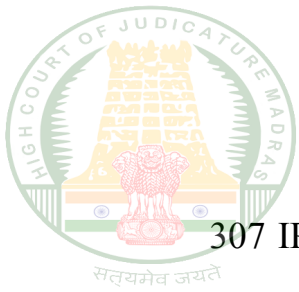


3.The appellants and the deceased as brothers. The deceased

Tirupathy was living in Thuringipatti Village along with his father Narayanan. The said Narayanan and his wife Chinnagovinthi had six sons viz., Govindarajan, Thirupathi, Krishnan, Arjunan, Dharman, Kandasamy and four daughters. All the sons and daughters are married and living separately. The defacto complainant is the father of the deceased and the appellants. There was some misunderstanding and hatred between the brothers since they felt that their father/defacto complainant allotted more property to the second son, Thirupathi and hence there was often quarrel between the appellants, the deceased Thirupathi, his wife Nagamalli and the defacto complainant, Narayanan. The accused in this case sold a land stood in the name of their mother Chinnagovinthi and divided the sale amount among themselves without the knowledge of the defacto complainant and his second son Thirupathi. On 22.09.2010 at about 8.00 a.m., the defacto complainant/Narayanan, his son, Thirupathi, and his wife, Nagamalli questioned and picked up a quarrel with A1/Govindarajan, A2/Krishnan, A3/Arjunan and A4/Dharman asking for their share of money, at that time, the first appellant/A1 abused them in filthy language and assaulted with



hands on his cheek. The third appellant/A4 assaulted PW1/Nagamalli with a wooden log on her back. A3/Arjunan caught hold of the deceased Thirupathi and A2/Krishnan assaulted Thirupathi with knife on the back of his head, right fore arm, both legs, right eyebrow, nose and further caused injury to PW1/Nagamalli using knife on her right leg and left knee. At that time, the villagers, Narayanan and Jeyaraman, who are PW3 and PW4, came there and on seeing them, the accused left. Thereafter, the injured was taken to the Government Hospital, Krishnagiri. The defacto complainant/Narayanan gave a complaint to the Police since his son Thirupathi and daughter-in-law Nagamalli were not in a position to give a statement. PW8/Casualty Doctor on duty at Government Hospital, Krishnagiri treated Thirupathi for the injuries and recorded the same in the Accident Register/Ex.P6 stating that due to assault by three known male and three female members by aruval, Thirupathi sustained injuries and the injuries recorded. On the same day at about 8:30 a.m., PW8 examines PW1 and issued Accident Register/Ex.P7. PW18/Sub-Inspector of police recorded the complaint from Narayanan and registered a case in Crime No.532 of 2010 for the offense under Sections 294(b), 301, 323, 324 and



307 IPC and registered FIR/Ex.P16. The injured Thirupathi and Nagamalli

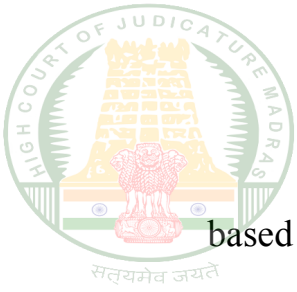
WEB COPY were in critical condition, they were shifted to Live 100 Hospital at Bangalore on 22.09.2010 where PW15/Dr.Chandandesh gave treatment to both of them. Thereafter, Thirupathi's health condition became critical due to the head injury and multiple fractures, he suffered a severe heart attack and he was referred to Deepak Hospital for Cardiology treatment. PW7 attended Thirupathi on 25.09.2010 at 4.20 p.m. for kidney dialysis. Thirupathi was kept in ICU and he undergone kidney dialysis and on 26.09.2010 at about 3:30 a.m., his health condition deteriorated and he was declared dead at 4.00 a.m.

4.PW1/Nagamalli was found to have suffered a fracture and she took treatment as inpatient till 18.10.2010. The Inspector of Police, Mr.Kadhirvel took up investigation, rushed to the scene of occurrence, prepared observation mahazar/Ex.P18 and rough sketch/Ex.P17 in the presence of witnesses, collected blood-stained sand, blood-stained wooden log, blood-stained koduval, blood-stained lungi in the presence of witnesses through seizure mahazar/Ex.P19. He enquired the witnesses PW2, PW3, PW4,



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PW11 and PW14 and recorded their statements. Thereafter, he proceeded to Bangalore and recorded the statement of PW1/Nagamalli, who was taking treatment in Live 100 Hospital. On 26.09.2010 he received the death message of Thirupati from Deepak Hospital, Bengaluru. Thereafter, section was altered to Sections 147, 148, 341, 323, 324, 294(b), 307 and 302 IPC, read with 149 IPC. The body of Thirupati was sent for postmortem and PW6/Postmortem Doctor at Government Hospital, Krishnagiri conducted postmortem and issued a Postmortem certificate/Ex.P5. The chemical examination and viscera report/Ex.P4 confirms that no poison was detected. In the meantime, the health condition of Nagamalli deteriorated, hence a requisition was sent to the Executive Magistrate in Bangalore to record the statement of Nagamalli. The Magistrate recorded the statement of Nagamalli in the presence of Dr.Chandandesh. Thereafter in the presence of Munuswamy/Village Administrative Officer PW12 enquired the accused A2 and A3, who gave a confession stating that on 21.09.2010 all the accused joined together and planned to eliminate Thirupati and on 22.09.2010, they attacked Thirupati and his wife Nagamalli. Based on their confession, MO7 to MO10 recovered in the presence of PW13. A6 and A7 were arrested and



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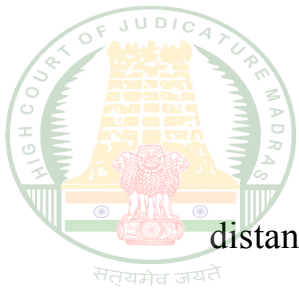
based on their confession, Ex.P13 and Ex.P14, MO11 and MO12 seized. On recording the statements and on collecting postmortem report, wound certificate, Accident Register copy and material objects, charge sheet filed in this case against eight persons. During trial, PW1 to PW19 examined and Ex.P1 to Ex.P20 marked and MO1 to MO16 produced on the side of the prosecution. On conclusion of trial, the Trial Court convicted the appellants as stated above.

5.The contention of the learned counsels for the appellants is that in this case, A1 to A4 are brothers and A5 to A8 are the wives of A1 to A4 respectively. Due to a property dispute, the appellants have been falsely implicated. In the earliest documents in this case, Ex.P6 and Ex.P7, Accident Registers of the deceased and PW1 which was registered by PW8/Casualty Doctor at Government Hospital, Krishnagiri on 22.09.2010, neither it is mentioned that three male members and three female members attacked them using aruval nor it is mentioned that known persons attacked them. However, PW1 gave an exaggerated version as though all the accused persons attacked her and her husband Thirupati using an aruval and further



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she was nailed and nails were also sent into her body. PW8/Doctor who first examined PW1 and her husband, when confronted admitted that no such information was given to him at the time of examination. PW1 further stated that the accused attacked them with aruval, soori knife, thoondukol and spade. The complaint in this case itself is with lot of suspicion. As per FIR, it is recorded that PW18 went to the Government Hospital, Krishnagiri and recorded the statement of Narayanan, father of the deceased. Nowhere it is mentioned that the deceased or PW1 were not in a stable mind to give any statement. PW1 on the other hand stated that Kadirvel, Investigating Officer obtained a statement from her and she signed in it. Further, she also state that at 9:00 a.m., her statement was recorded and thereafter only they proceeded to Bangalore Hospital. The said Narayanan/defacto complainant is no more. PW18/Sub-Inspector of Police comes up with an improved version stating that the deceased and PW1 were not in a position to speak and he received a statement from Narayanan. The prosecution has suppressed the earliest information and written complaint given by PW1 to Inspector of police Kadirvel and later projected a case according to their convenience. In this case, FIR reached the court only at 5:45 p.m. when the



distance between the Court and Police Station is only 2 kms. The names of A4 to A8 are not in the FIR. To brook vengeance and the entire family members of A1 to A4 and their wives A5 to A8 are added as accused alleging specific overt act to each of the accused. Hence, the origination of the case becomes highly doubtful.

6.The learned counsels for the appellants further submitted that the relationship between the deceased and the accused are siblings but in the Accident Register, nowhere it is stated that known persons attacked. Hence, for the injuries sustained by PW1 and her husband by somebody due to fishing right dispute is now taken advantage and to brook vengeance for the property dispute, the accused falsely implicated. As per Ex.P6 and Ex.P7, only aruval recorded as the weapon used but the injuries sustained are lacerated injuries. The medical evidence and the ocular evidence are contrary. In this case, PW2's evidence is in the nature of hearsay. PW3 and PW4, the projected eyewitnesses, do not support the case of the prosecution. PW5 admits that she came to the scene of occurrence after coming to know about the incident. Hence, the only evidence available is that of PW1, an



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interested witness, who implicated the entire family members against whom there was a property dispute. The other private witnesses are all close relatives, who have given an exaggerated version. During cross-examination, it was proved that they could not have been present at the scene of occurrence. In this case, the entire investigation was conducted by one Kadirvel, who had unfortunately passed away and he was not available for evidence. In his place, PW19/Ellappan, who claims to be familiar with the handwriting of Kadirvel deposed. He could not speak much about the investigation except for producing the records collected during investigation. The records do not speak by itself and there are contradictions for which the Investigating Officer/PW19, could not give an answer. The Trial Court finding that PW1's evidence is exaggerated and unbelievable with contradictions, acquitted all the other accused except A1, A2 and A4. The appellant A1 and A4 were convicted not under section 302 IPC but for a lesser offence.

7.The learned Government Advocate (Crl. Side) filed this counter and submitted that in this case Ex.P1/Complaint was lodged by Narayanan, who



is the father of the appellants as well as the deceased. The said Narayanan was examined by PW18/Sub-Inspector of Police. After getting information from the Government Hospital, Krishnagiri, he went there and received the complaint. PW8 is the Doctor who examined the injured Thirupathi and his wife Nagamalli/PW1 and issued Accident Registers/Ex.P6 and Ex.P7. The attack is said to have taken place at 8:00 a.m., they rushed to the Hospital through Ambulance at 8:30 a.m. Thereafter, the health condition of the injured deteriorated and at the request of the injured, they were taken to a Hospital in Bangalore. PW18 on receipt of the complaint, registered FIR/Ex.P16. The then Inspector of Police, Kadirvel on receipt of the FIR, visited the scene of occurrence, prepared observation mahazar/Ex.P8 and rough sketch/Ex.P17. Thereafter, he went to Bangalore to record the statements of Thirupathi and PW1. Since they were in the ICU, the statements could not be recorded immediately. Thereafter he examined Dr.Chandradesh of Live 100 Hospital. The condition of the injured further deteriorated, he was referred to Deepak Hospital, where he was admitted and given kidney dialysis treatment by PW7. His condition further deteriorated and the said Thirupathi died on 26.09.2010 at 4:00 a.m. The



death was informed to the respondent and thereafter, he took the body to

Government Hospital, Krishnagiri, where inquest conducted and the body was sent for postmortem. PW6/Postmortem Doctor conducted postmortem. In this case, PW8/Casualty Doctor at Government Hospital, PW7/Dr.Mohan of Deepak Hospital, Bangalore and PW15, Doctor from Live 100 Hospital, who treated PW1 as inpatient from 25.09.2010 to 18.10.2010 confirmed the injuries sustained by the deceased Thirupathi and PW1. Thereafter, the accused were arrested and material objects seized. On completion of investigation, charge sheet filed. During trial, PW1 to PW19 examined, Ex.P1 to Ex.P20 marked and MO1 to MO16 produced on the side of the prosecution. On the side of the defence, no witness examined and no documents marked. The Trial Court on the available materials had rightly convicted the appellants. Hence prayed for dismissal.

8.Considering the submissions made and on perusal of the materials, it is seen that in this case, the identity of the appellants is not doubtful. Earlier there was property dispute between the appellants as one group and their brother Thirupathi. The deceased Thirupathi is the second son of



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Narayanan, who was residing along with him. The property of their mother Chinnagovinthi was sold by the appellants as a group and the entire sale proceeds were shared by them which was questioned by Narayanan and Thirupathi. Hence, there was some dispute between them. On 22.09.2010, after fishing the deceased Thirupathi and his wife Nagamalli were coming near Kaliyamman temple, at that time, the accused attacked Thirupathi and PW1 using Koduval, wooden log and a hammer. The injuries sustained have been recorded in Ex.P6 and Ex.P7 by PW8/Casualty Doctor to whom both the injured were immediately taken. One of the injuries sustained by the deceased was on the parietal region of the forehead and there was corresponding internal injury caused. The deceased as well as PW1 suffered multiple fractures. Thereafter, in the hospital complaint was received from Narayanan, father of the deceased. Thereafter, both the injured, namely Thirupathi and his wife, were taken to Live 100 Hospital, Bangalore which is spoken to by PW15. PW15 further confirms that since the health condition of Thirupathi deteriorated, he was referred to Deepak Hospital for further treatment and dialysis. PW7/Doctor who treated Thirupathi confirms that Thirupathi succumbed to his injuries and was pronounced dead on

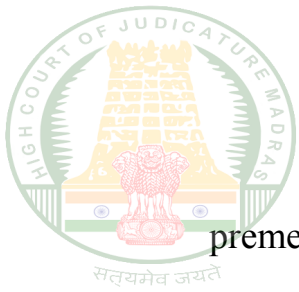


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26.09.2010 at 4:00 a.m. and the death was informed to the respondent.

PW15 confirms the treatment given to PW1, who took treatment as inpatient from 25.09.2010 to 18.10.2010. The corresponding medical records have been produced. The postmortem was conducted by PW6 and the postmortem report confirms the injuries sustained and the reason for death. There might be some exaggeration due to the close relationship and the betrayal but that cannot be a reason to reject the evidence of PW1 in toto. The projected eyewitnesses known to both the deceased and the accused, not supported the case of the prosecution. In this case, the injury sustained by the deceased and PW1 recorded and proved. The presence of the appellants is confirmed by the evidence of PW1. The Trial Court considered the evidence and the material produced, figured out the exaggeration, gave the benefit to the accused and thereafter independently considered the proved facts by the prosecution with the evidence and materials and rightly convicted the appellant. Hence, this court finds no reason to interfere with the judgment of the Trial Court.

9.The learned counsels for the appellants submitted that it was not a

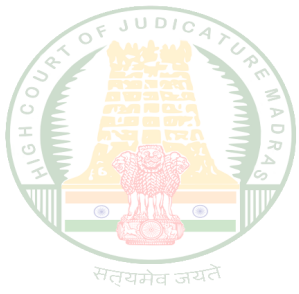


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premeditated attack and the dispute was with regard to the sharing of sale proceeds of a property. The property stood in their mother's name and in fact, their mother was suffering from cancer and for her treatment, almost the entire amount spent. The appellants have come forward to pay some compensation to PW1 within their means.

10.The appellants 1 and 3/A1 and A4 paid a sum of Rs.50,000/- each to the account of PW1. The second appellant/A2, paid a sum of Rs.1,00,000/-, in total, Rs.2,00,000/- was paid to PW1.

11.In view of the above, this court though confirms the conviction of the appellants 1 and 3/A1 and A4 but modifies the sentence as period already undergone and a sum of Rs.50,000/- each is directed to be paid as compensation. As regards the second appellant/A2, the conviction imposed by the Trial Court is confirmed and the sentence is modified to the period already undergone and a sum of Rs.1,00,000/- is directed to be paid as compensation. The compensation amount already paid is recorded in paragraph 10.



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10.10.2025

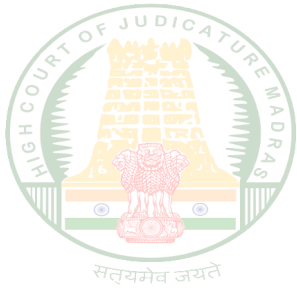
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Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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To

1.The Inspector of Police,
Krishnagiri Taluk Police Station,
Krishnagiri District.

2.The Principal Sessions Judge,
Krishnagiri,
Krishnagiri District.

3..The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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Pre-delivery judgment made in

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10.10.2025