



Crl.A.No.143 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE M. JOTHIRAMAN

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Vivekanandhan

... Appellant

Vs.

State by Inspector of Police,
Thudiyalur Police Station,
Crime No.918 of 2016,
Coimbatore District.

... Respondent

Prayer : Criminal Appeal filed under Section 374(2) Cr.P.C., against the judgment of conviction and sentence passed by the learned Additional District and Sessions Judge No.1, Coimbatore, in S.C.No.230 of 2017, dated 14.11.2018.

For Appellant : Mr.S.Bharanidharan
for Mr.B.Mohan

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor
assisted by Ms.M.Arifa Thasneem



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J U D G M E N T

(Judgment was delivered by **N. SATHISH KUMAR, J.**)

This Criminal Appeal has been filed against the judgment of conviction and sentence passed by the learned I Additional District and Sessions Judge, Coimbatore, dated 14.11.2018, in S.C.No.230 of 2017. The appellant/sole accused was convicted and sentenced as follows :

<i>Conviction</i>	<i>Sentence</i>
Section 302 IPC	Life imprisonment and fine of Rs.1,000/-, in default, to undergo three months imprisonment
Section 506(ii) IPC (3 counts)	One year rigorous imprisonment for each count
The sentences are ordered to run concurrently.	

2.The case of the prosecution is as follows :

The appellant/accused is P.W.1's uncle's son. He was a resident of Chennai. P.W.1 is a resident of Coimbatore who lives along with her father (deceased), mother and a brother. Her mother and brother are mentally retarded. Two weeks prior to the date of occurrence, the accused came to Coimbatore in search of a job and stayed in P.W.1's house. However, he did not get any job. The accused used to return to their house at late hours,

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which was questioned by the deceased. On the date of occurrence also, i.e.,

on 14.11.2016, the accused came to their house at around 12.30 a.m. P.W.1

opened the door. At that time, the deceased questioned the accused as to why he is coming late to the house and told him that, if he continues to do so, he will not be allowed to stay in his house and asked to him to go out. Thereby, a quarrel ensued between the accused and the deceased. At that time, the accused immediately took out a knife (M.O.1) from his pocket and stabbed the deceased on his left side neck. On hearing the scream of the deceased, P.W.2 and P.W.3, who are the neighbours, came to the spot and also witnessed the occurrence and tried to save the deceased. However, the accused threatened them with knife that he would kill them also. Again, when the accused tried to stab the deceased, the deceased made an attempt to ward off the attack and thereby, the accused sustained injury on his finger. After the stab injury, P.W.1's father (deceased) fell down. The accused fled the scene of occurrence. Immediately, P.W.1 called the Ambulance and the people who came in Ambulance declared P.W.1's father dead. Since her mother and brother were mentally retarded, P.W.1 called her relatives and they went to the Police Station and lodged a complaint (Ex.P1) at 3.00 a.m.



before the respondent Police.

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3.P.W.8 (Sub-Inspector of Police), on receipt of complaint (Ex.P1), registered an FIR (Ex.P10) in Crime No.918 of 2016 for the offences under Sections 302 IPC and 506(2) IPC as against the accused. After registration of FIR, he forwarded a copy of the FIR to the Court as well as to the Inspector of Police (P.W.10).

4.P.W.10 took up the investigation in the matter and went to the place of occurrence at the early morning hours at 05.00 a.m. and prepared Observation Mahazar (Ex.P5) and Rough Sketch (Ex.P15) in the presence of witnesses P.W.5 and one Gunasekaran and also arranged for photographs (M.O.7). Thereafter, he conducted inquest over the body of the deceased and prepared the inquest report (Ex.P16). Then, he sent the dead body for post-mortem through Head Constable (P.W.7) along with requisition letter (Ex.P11). Thereafter, he seized the blood stained earth with a cotton swab (M.O.5) and ordinary cotton swab (M.O.6) under Seizure Mahazar (Ex.P8). Thereafter, he arrested the accused on the same day at 3.00 p.m. and recorded



his confession statement in the presence of P.W.5 and one Gunasekaran. The admissible portion of the confession is marked as Ex.P6. Based on the confession, he recovered the blood stained knife (M.O.1), blood stained shirt (M.O.4) under Seizure Mahazar (Ex.P7). On the same day, he sent the accused to judicial custody.

5.P.W.9 (Medical Officer) conducted autopsy on the body of the deceased and noted down the following injuries :

“i. Vertically oblique stab injury 1 x 0.25 cm noted over left side neck. Both edges are regular. The upper blunt end is 7 cm medial to acromian process and the lower sharp end is 6 cm below and lateral to angle of mandible. On dissection the wound passes inwards, downwards, cutting the underlying muscle, vessels, nerves including common carotid artery and passes just posterior to clavicle and cutting the 1st rib and enter in to the left pleural cavity then piercing the upper lobe of left lung measuring 0.5 x 0.5 x 0.5 cm. Left side pleural cavity contains about 500 ml of fluid blood with 100 grams of blood clot.”



He issued the post-mortem certificate (Ex.P12) stating that the deceased would appear to have died of shock and haemorrhage due to stab injury neck and its corresponding internal injuries; the death would have occurred 6 to 12 hours prior to autopsy and gave his final opinion (Ex.P14) after receipt of Viscera Report (Ex.P13) that no poison was detected in the viscera.

6.After post-mortem, the Investigating Officer (P.W.10) recovered the dresses worn by the deceased (M.O.2 and M.O.3) at the time of occurrence and sent the same to the Court under Form-91. After completing his part of the investigation, he handed over the case records to P.W.11 (Inspector of Police) for further investigation.

7.P.W.11, in continuation of the investigation, submitted a requisition to the Court for sending the collected materials for chemical examination vide Ex.P17.

8.P.W.4 (Scientific Officer) in the Forensic Sciences Department



examined the material objects collected by the Investigating Officer and found that human blood was detected in knife (M.O.1), shirts (M.O.2 and M.O.4) and lungi (M.O.3) and also found that it belongs to “A” Group, which is the blood group of the deceased. Thereby, he issued the Biological Report (Ex.P2), Serology Report (Ex.P3) and Blood Group Report (Ex.P4).

9.After recording the statements of the witnesses and collecting various reports, P.W.11 completed the investigation and filed a final report for the offences under Sections 302 and 506(ii) IPC as against the accused in P.R.C.No.XXVI/2017 before the Judicial Magistrate No.1, Coimbatore.

10.On appearance of the accused, the provisions of Section 207 Cr.P.C. were complied with and the case was committed to the Court of Session in S.C.No.230 of 2017 and was made over to the I Additional District and Sessions Court, Coimbatore, for trial.

11.The trial Court framed the charges for the offences under Sections



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302 and 506(1) IPC (3 counts) as against the accused. When questioned, the accused pleaded “not guilty”.

12.To prove the guilt of the accused, the prosecution examined P.W.1 to P.W.11, marked Exs.P1 to P17 and produced M.Os.1 to 7. On the side of the defence, no witness was examined nor any document marked.

13.The trial Court, after appreciating the oral and documentary evidence and materials on record, by its judgment dated 14.11.2018, convicted the accused of the offences under Sections 302 IPC and 506(ii) IPC (3 counts) and sentenced him as stated *supra*.

14.Challenging the conviction and sentence, the accused has preferred the above appeal.

15.Learned counsel appearing for the appellant/accused would submit



that the prosecution case raises several serious doubts. The versions of P.W.1 to P.W.3 are inconsistent with each other and they are not reliable. It is his contention that the accused admittedly sustained injuries on his ring finger and middle finger, which has been suppressed by the prosecution and the injuries sustained by the accused have not been explained by the prosecution. Further, it is contention that P.W.2 and P.W.3 would have not seen the occurrence, as P.W.2 is residing in the next house and P.W.3's house is opposite to the place of occurrence. Therefore, the possibility of P.W.2 and P.W.3 coming to the house of P.W.1 at odd hours and witnessing the occurrence, is highly improbable. He would further submit that their evidence has various contradictions and hence, it is highly doubtful and not reliable.

16.The learned counsel further submitted that the prosecution has not examined the wife and son of the deceased, though they are present at the time of occurrence. Therefore, he would submit that the entire prosecution is highly doubtful. According to him, there was a quarrel between the deceased and his son and when the accused tried to prevent such quarrel, the accused



sustained injuries. The deceased had died due to the injuries caused by the deceased's son. Only in order to protect the deceased's son, the accused has been made as a scapegoat. Therefore, he would submit that the accused is entitled to benefit of doubt. In the alternative, the learned counsel would submit that, since the entire occurrence took place in the course of a quarrel, the offence of murder under Section 300 IPC would not be made out and at the most, only culpable homicide under Section 299 IPC would be made out and therefore, prays for interference in the conviction and sentence.

17. Whereas, the learned Additional Public Prosecutor appearing for the State would submit that P.W.1 to P.W.3 have no axe to grind as against the accused. There was no motive, whatsoever, established as against them for false implication of the accused in this case. The blood contained in M.O.1 (knife) and M.O.4 (shirt) recovered from the accused, pursuant to his confession, also tallies with the blood group of the deceased. P.W.1 is a natural witness; P.W.2 and P.W.3, immediately on hearing the sound in the neighbouring house in the same premises, rushed to the place of occurrence and thereby, witnessed the occurrence. Though P.W.1's mother and brother



have not been examined, it has been clearly explained by P.W.1 to P.W.3 that both the mother and brother of P.W.1 are mentally retarded and therefore, they have not been examined. Therefore, that aspect cannot be a ground to doubt the entire prosecution. Further, it is his contention that, absolutely, there is no material, whatsoever, to bring the act of the accused within the ambit of Section 304(1) IPC. Hence, he opposed the appeal.

18.We have perused the entire materials available on record.

19.It is the specific case of the prosecution that the accused and P.W.1 are relatives. The accused, who was in search of job, came to Coimbatore two weeks prior to the date of occurrence and stayed in the house of P.W.1. However, he had not got any job, but he used to return to the house at late hours in the night. The deceased (father of P.W.1), being the uncle of the accused, objected the accused coming at late hours. On 14.11.2016, when the accused came as usual at 12.30 a.m., P.W.1 opened the door and the deceased questioned the accused coming at late hours and there ensued a quarrel between the deceased and the accused and in fact, the deceased asked



the accused to leave the house, if he wants to continue to come to house at late hours. Infuriated by such statement of the deceased, immediately, the accused took out a knife (M.O.1) from his pocket and stabbed the deceased on his left side neck. P.W.1 witnessed the same. On hearing the scream of the deceased, P.W.2 and P.W.3 also came to the spot and they also witnessed the occurrence.

20.P.W.2 and P.W.3 have clearly stated in their evidence that there was some quarrel between the accused and the deceased on the date of occurrence and prior to hearing the sound of the deceased, they rushed to P.W.1's house.

21.On careful perusal of the evidence of P.W.1 to P.W.3, we are not able to find out any motive attributable to P.W.2 and P.W.3 for falsely implicating the accused. P.W.1 to P.W.3, in one voice, have clearly stated that, though the wife and son of the deceased were also in the house, they are not mentally alright and hence, they could not accompany them to the Police Station. Only P.W.1 has gone to the Police Station and Ex.P1 came to be filed, which resulted in registration of FIR (Ex.P10).



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22.The registered FIR has also reached the Court on the same day. Investigation has commenced on the same day in the morning hours. P.W.10 went to the spot and observed the place of occurrence and recovered the material objects, dresses, etc., and on the same day, the accused was arrested in the presence of P.W.5. The confession of the accused was recorded in the presence of P.W.5, admissible portion of which is marked as Ex.P6. Based on the same, M.O.1 (knife) and M.O.4 (shirt) were recovered from the accused. The Biological Report (Ex.P2), Serology Report (Ex.P3) and the Blood Grouping Report (Ex.P4) are also filed which clearly show that the human blood found in the knife (M.O.1) and the shirt worn by the accused (M.O.4) belongs to “A” Group, which belongs to the deceased, which is also found in the dresses worn by the deceased at the time of occurrence (M.O.2 and M.O.3).

23.The evidence of P.W.1 to P.W.3, in the view of this Court, does not suffer from any artificiality. Though it is contended that the exact and minute details of the occurrence and injuries have not been narrated, it is common



that each person will react independently on seeing a murder or such grievous attack. One cannot expect that all the witnesses have to narrate the entire incident with all minute details as parrot-like repetition. One person's reaction on seeing an occurrence, will be different from the other person. Therefore, the evidence of natural witnesses are bound to have some minor contradictions. Therefore, any minor contradiction, which will not go to the root of the matter, need not be given much importance. Unless the contradictions are such material so as to affect the very genesis of the prosecution case, the minor contradictions in a criminal trial have to be ignored.

24.As far as the injuries are concerned, P.W.1 to P.W.3 have clearly spoken that the injury was inflicted on the left side neck. The post-mortem Doctor's (P.W.9) evidence and the post-mortem report (Ex.P12) also clearly prove the said fact spoken by P.W.1 to P.W.3. Therefore, this Court is of the view that the evidence of P.W.1 to P.W.3 cannot be brushed aside merely on the ground that the wife and son of the deceased were not examined.



25.P.W.3 is a Priest in the Temple and P.W.2 is also residing in the same building. The Observation Mahazar (Ex.P5) and the Rough Sketch (Ex.P15) filed by the Police clearly show that three buildings are situated in the same premises and hence, one can easily hear what is happening in the other building. Therefore, as long as there is no motive established against the witnesses for false implication of the accused, merely because the exact narration of the incident has not been given by the witnesses, their evidence cannot be termed as false.

26.Though much emphasis has been made by the learned counsel for the accused that the injuries sustained by the accused have not been explained by the prosecution, on a perusal of the Remand Report, it is seen that, while remanding the accused, in fact, the accused has not made any complaint, whatsoever, to the Judicial Magistrate at the first instance about the injuries sustained by him. Though the complaint (Ex.P1) also does not speak about the injuries sustained by the accused, P.W.1 herself, in her chief-examination itself, has clearly deposed that, when the accused tried to stab her father for the second time, the same was warded off by her father and thereby, the



accused sustained injury on his finger. If really the intention of the witness (P.W.1) was to suppress the injury sustained by the accused, she would not have disclosed the same even in her evidence. This fact clearly indicates that P.W.1 has come out with truth, whereas, the accused has not complained about the same at the time of remand. Only during cross-examination, a suggestion has been put to the witness that the accused also suffered injuries on his fingers. Therefore, when there are minor injuries sustained by the accused, even in the absence of any explanation by the prosecution, we are of the view that the same will not affect the case of the prosecution.

27.Now, coming to the contention of the learned counsel for the accused that the offence under Section 302 IPC will not be made out, on careful perusal of the evidence and materials, the accused has, in fact, inflicted stab injury with M.O.1 (knife) on the left side of the neck of the deceased. Therefore, such an act of the accused done with an intention to cause such bodily injury with M.O.1 (knife) on the neck of the deceased, which the accused is aware that it is likely to cause death of the deceased, will certainly come within the ambit of Section 300 IPC. On scanning of the



entire evidence and materials on record to find out whether the act of the accused will fall within any of the exceptions under Section 300 IPC, we are not able to find any material. Though it is suggested that there was a quarrel, it is not established or explained anywhere by the accused as to what was the nature of quarrel and whether the deceased had provoked the accused and absolutely, there is no material in that aspect. In the absence of any material in that regard, the act of the accused cannot be brought under any of the exceptions under Section 300 IPC and therefore, we have no hesitation to hold that the act of the accused will certainly fall within the ambit of “murder” under Section 300 IPC, punishable under Section 302 IPC. Therefore, we do not find any merit in the appeal and the judgment of the trial Court does not warrant any interference.

28. Accordingly, this Criminal Appeal is dismissed and the judgment of conviction and sentence passed by the trial Court, is confirmed. The trial Court is directed to secure the accused and commit him to prison for undergoing the remaining part of the sentence. Bail Bond, if any, executed by



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the accused, shall stand cancelled.

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(N.S.K., J.) (M.J.R., J.)
30.10.2025

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Neutral Citation : Yes

To

- 1.The I Additional District and Sessions Judge,
Coimbatore.
- 2.The Inspector of Police,
Thudiyalur Police Station,
Coimbatore District.
- 3.The Public Prosecutor,
High Court, Madras.

N. SATHISH KUMAR, J.
and
M. JOTHIRAMAN, J.

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