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CrI.A.No.269 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2025

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CrI.A.No.269 of 2022

and

CrI.M.P.No.3279 of 2022

Maheswaran @ Mahendran

... Appellant/Accused

Versus

State Rep. by,

The Inspector of Police,

B3, Variety Hall Road L & O Police Station,

Coimbatore City.

(Crime No.1362 of 2017)

... Respondent/Complainant

PRAYER : Criminal Appeal filed under Section 374(2) of Cr.P.C. praying to set aside the judgment and conviction dated 25.02.2020 by the learned III Additional District and Sessions Judge, Coimbatore passed in S.C.No.65 of 2018 convicting him for offence punishable under Section 304(1) of I.P.C. to undergo rigorous imprisonment for 10 years and to pay a fine of Rs.2,000/-, in default to undergo simple imprisonment for the period of 3 months and may be pleased to acquit the appellant/sole accused from the charges.

For Appellant : Mr.A.Mohammed Ismail
for Mr.A.Abdul Lathif

For Respondent : Mr.Leonard Arul Joseph Selvam
Additional Public Prosecutor



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JUDGMENT

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The appellant/accused in S.C.No.65 of 2018 was convicted by the trial Court by judgment dated 25.02.2020 for the offence under Section 304-I of I.P.C. and sentenced to undergo 10 years rigorous imprisonment and to pay a fine of Rs.2,000/- in default, to undergo 3 months simple imprisonment. Aggrieved against the said conviction, the appellant/accused filed this appeal.

2.(i)Gist of the prosecution case is that the appellant/accused, deceased, PW1, PW2 and PW3 all were staying in a mansion rooms. PW1, PW2 and deceased sharing one room. All the three were working in a goldsmith shop. The accused was working in Vigneshwara Hardwares in the ground floor of the mansion and staying in the mansion. The accused was having a pet (dog), which caused nuisance and the dog used to litter in the terrace, where the deceased normally sleeps. There was constant fight between the accused and the deceased in this regard. On 02.12.2017 at about 10.00 p.m., the accused came and questioned the deceased as to why he



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consumed the liquor and ate fried fish and kept it for dinner. This had lead to a fight, PW2 intervened and pacified them and thereafter the deceased had gone to the terrace for sleep. The accused followed the deceased and PW2 was forced out from there. Thereafter PW2 had come down informing PW1/his room-mate about the fight. The incident happened at about 10.00 p.m., some time later, huge shout and noise heard. PW1 came out, saw deceased holding his stomach rushing down. The accused followed him holding a knife stabbed the deceased, near the left ribs and again stabbed on his left neck. The deceased fell down and the accused escaped from there. PW2 climbing the stairs seen the accused stabbing the deceased. PW1 and PW2 called for an Auto, by the time, Ambulance service informed and Ambulance reached. The paramedical person in the Ambulance examined the deceased and informed deceased already died.

(ii)PW1 and PW2 went to B3 Variety Hall Police Station. PW9/Sub Inspector of Police had written down the complaint as stated by PW1 and PW2 and explained to them. PW1 and PW2 signed the complaint, PW9



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registered a case in Crime No.1362/2017 for offence under Section 302 of

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I.P.C./Ex.P14. Thereafter, F.I.R. handed over to PW11/Investigating Officer, who went to the scene of occurrence, collected bloodstains from the terrace and near the bathroom using bandage cloth, prepared observation mahazar, rough sketch, seized articles, conducted inquest, sent the body for post-mortem. PW10/Doctor attached to Government Hospital, Coimbatore conducted post-mortem, gave his post-mortem report/Ex.P16 and Final Opinion/Ex.P18. PW14 getting information the accused found near Ukkadam bus stand, he went there and arrested the accused in presence of PW6. The accused was found wearing blood stained shirt and pant. On his confession, M.O.1/knife and blood stained cloths seized. After examining witnesses, collecting Medical report, Forensic report and Serology report, charge sheet filed in this case before the trial Court.

3.During trial, on the side of the prosecution PW1 to PW11 examined, Exs.P1 to P25 marked and M.O.1 to M.O.13 produced. On the side of the



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defence, no witnesses examined and no documents marked. On conclusion of trial, the trial Court convicted the appellant as stated above.

4.The contention of the learned counsel for appellant/accused is that in this case PW1 and PW2 are the projected eyewitnesses to the occurrence. Their evidence is contradictory to each other. PW2 states that PW1 was inside the room when he was climbing up the stairs. PW1 states he saw the deceased running down from the terrace and at that time the accused stabbed deceased and PW2 was in the ground floor climbing the stairs. Thus, the presence of PW1 and PW2 are doubtful, which cannot be considered as eyewitnesses. Since PW1, PW2 and deceased all staying in the same room, they were tutored to depose against the appellant. Further the first stab is said to have been made in the terrace but no witness had seen the same. The presence of the appellant in the building is highly doubtful. The accused was in the hardware shop in the ground floor and accused is not the reason for the stab injury. Since the witnesses and the deceased were all working in the goldsmith shop, they deposed against the appellant at the instance of the



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respondent Police.

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5.He further submitted that in this case, the conviction under Section 304-I of I.P.C. may not be proper for the reason that PW2 confirms the appellant was in a drunken state. The Doctor/PW10 in his final opinion/Ex.P18 confirms deceased had consumed alcohol. PW5, the employer and owner of Vigneshwara Hardwares confirms that accused used to have a screwdriver and knife with him to attend emergency repair work. Hence, carrying of knife/M.O.1 with him was a requirement for his job, but not with an intention to commit murder. The accused and deceased both were in a drunken state, the accused was furious, since deceased consumed alcohol and eaten the fish kept by the appellant, in a fit of rage the accused stabbed the deceased. Hence, it would fall under Section 304-II of I.P.C. and prayed for lesser sentence.

6.The learned Additional Public Prosecutor on the other hand strongly opposed the appellant's contention stating that PW1 and PW2 are from

6/14



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Kerala. PW1, PW2 and deceased are room-mates, all staying in the first floor in the first room. The appellant/accused staying in the same floor in the third room. The accused was bossy and shown his muscle power claiming he is from Tirunelveli. He was having a dog littering in the terrace, where the deceased normally sleeps, which caused disturbance and the deceased could not sleep properly and there was constant fight between them. PW5 confirms the same. On 02.12.2017 between 9.30 to 10.00 p.m. when PW2 and deceased were together, the accused came and picked up a quarrel accusing deceased had eaten his fried fish and consumed alcohol of the accused. PW2 pacified them and took the deceased to the terrace to sleep. The accused followed them continued his fight. When PW2 attempted to intervene, he was forced out. PW2 informed PW1 about the fight and left. Few minutes later, loud shout heard. PW1 came out from his room, saw the deceased running down from the terrace holding his stomach, accused followed him and inflicted stab injury on the upper part of the stomach and also stabbed in the neck, which witnessed by PW1 and PW2 and the accused escaped from the



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place. Thereafter Ambulance came, paramedical attender examined the deceased and declared him dead. PW1 and PW2 went to the police station and gave oral complaint, since they were not proficient in writing both in Tamil and English. Their statement recorded by PW9/S.I. and explained to them. PW1 and PW2 signed the complaint. PW9 informed PW11/Investigating Officer and handed over F.I.R. to PW11, who took up investigation, visited scene of occurrence, examined the witnesses, collected the bloodstains using a bandage cloth from the terrace and near the bathroom in presence of PW3.

7.He further submitted that Ex.P3 is the observation mahazar, Ex.P5 is the mahazar for collection of materials (M.O.3 to M.O.7). The pieces of liquor bottle/M.O.5 also collected from the terrace. Thereafter, inquest conducted, the body sent for post-mortem, information received that the accused was seen near Ukkadam bus stand. The Investigating Officer went there, found the accused wearing shirt and pant with bloodstains and he was



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arrested. The confession/Ex.P7 recorded. Based on his confession, M.O.1,

M.O.9 and M.O.10 seized, the same recorded in Ex.P9. In this case,

PW4/employer of PW1, PW2 and deceased, received the message of

stabbing, PW5 is the employer of the accused, who confirms the dispute

between the deceased and the accused with regard to littering of pet.

PW7/Assistant Engineer, TNEB confirmed, that at the time and date of

occurrence there was no power cut. PW10/Post-mortem Doctor conducted

post-mortem and gave his report/Ex.P16 confirming that the death of the

accused was due to the injuries sustained. In the final report/Ex.P18, he

confirms deceased had consumed alcohol. The Serology report and Forensic

report confirms the presence of blood in the dress materials of the accused,

weapon and articles seized from the scene of occurrence. The Investigating

Officer on collection of materials, examination of witnesses, filed charge

sheet in this case. The depth of the injury found on the deceased will confirm

that the accused, with intention and knowledge caused such bodily injuries

causing death. Before the trial Court, PW1 to PW11 examined, Exs.P1 to



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P25 marked and M.O.1 to M.O.13 produced. On the side of the defence, no witnesses examined and no documents marked. The trial Court on the evidence and materials produced, rightly convicted the appellant under Section 304-I of I.P.C.

8.Considering the submissions made on either side and on perusal of the materials, it is seen that the deceased, PW1 and PW2/eyewitnesses all three were sharing a room in a Mansion and the accused was staying in the same Mansion in a different room. There was acrimony between the appellant and deceased with regard to tying of dog in the terrace and near the passage. The dog used to litter in the terrace and passage, making it difficult for the deceased to sleep which caused annoyance and disturbance to the deceased. On 02.12.2017, at about 10.00 p.m., the appellant questioned and picked up quarrel with the deceased for consuming alcohol and eating fried fish kept by the accused. Hence, there was a quarrel and abuse. PW2 intervened and he was forced out, the deceased went to the terrace to sleep, the appellant



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followed him and continued the fight. Few minutes thereafter shouts and noise heard. PW1, who was in the room came out, saw the deceased running down from terrace holding his stomach and the accused followed him and stabbed him on the upper part of the stomach and on the neck. The deceased fell down in the floor. PW2, who climbing the stairs saw stabbing by the accused. The accused ran away from the place. He was arrested on the next day near Ukkadam Bus stand and on his confession, blood stained cloths worn by the accused and M.O.1/knife recovered and seized, which is confirmed by Serology report.

9.PW1 and PW2/eyewitnesses clearly deposed about stabbing by the accused. The deceased died on the spot due to stab injuries. PW10/Post-mortem Doctor in his report/Ex.P16 confirms the death due to stab injuries, the depth of injuries confirms the force used by the accused. The final opinion/Ex.P18 confirms deceased consumed alcohol. PW2 deposes that the appellant was under influence of alcohol at the time of occurrence.



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PW5/employer of the accused deposed that the appellant normally carry screwdriver and knife as tool for plumbing works, carrying knife and screwdriver are tools for the appellant job, unfortunately it has been used as weapon to stab the deceased. Hence carrying M.O.1 by the appellant is not a premeditate act. Both the appellant and deceased were under influence of alcohol, stab preceded with a quarrel and fight, leads to inference, the act of the accused is without any intention but causing of such bodily injury as is likely to cause death, more particularly to the left side of neck, piercing thyroid cartilage, right side carotid artery, upper abdomen, piercing between 7th and 8th intercostal space, penetrating into fundus of stomach and piercing through 8th and 9th intercostal space entry into the peritoneum. This Court finds that the conviction of the appellant under Section 304-I of I.P.C is proper and the same is hereby confirmed.

10.It is seen that the appellant was in prison for a period of three months as under trial prisoner, thereafter he is in prison from the date of his



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conviction *i.e.*, from 25.02.2020, in total, the appellant is in prison for 5 years and 11 months. Considering the appellant's family having two sons, his antecedents and his period of incarceration, this Court modifies the sentence of 10 years Rigorous Imprisonment to period already undergone by the appellant.

11. With the above modification, this Criminal Appeal stands disposed of. Consequently, the connected Criminal Miscellaneous Petition is closed.

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Index : Yes / No

Neutral citation : Yes / No

Internet : Yes/No

Speaking / Non-speaking order

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M.NIRMAL KUMAR, J.

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To

- 1.The III Additional District and Sessions Judge,
Coimbatore.
- 2.The Inspector of Police,
B3, Variety Hall Road L & O Police Station,
Coimbatore City.
- 3.The Superintendent,
Central Prison, Coimbatore.
- 4.The Public Prosecutor,
High Court, Madras.

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and

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25.10.2025