



Crl.A.No.314 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.A.No.314 of 2023

Kumar

... Appellant

Vs.

State rep. by,
Inspector of Police,
Mecheri Police Station,
Salem District
crime No.201 of 2013

... Respondent

PRAYER: Criminal Appeal filed under Section 374(2) of Cr.P.C., praying to set aside the conviction and sentence of the appellant to undergo 10 years of rigorous imprisonment and fine of Rs.5,000/-in default to undergo 6 months simple imprisonment for the offence under Section 304II of Indian Penal code imposed by judgment dated 10.03.2023 passed by the learned II Additional District and Sessions Judge, Salem in SC.No.46 of 2016.

For Appellant : Mr.L.Mouli

For Respondent : Mr.S.Raja Kumar,
Additional Public Prosecutor

JUDGMENT



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This criminal appeal has been preferred against the judgment

dated 10.03.2023 passed in SC.No.46 of 2016 on the file of the II Additional District and Sessions Court, Salem, thereby the appellant has been convicted for the offences punishable under Section 304 II of IPC.

2. The case of the prosecution is that there was a dispute between the appellant and the defacto complainant with regards to drawing water. The appellant was the ward member and he cut the water pipeline of the defacto complainant's house. Therefore, the defacto complainant went to another tap to draw water, which is situated near the house of a neighbour. Therefore, there was enmity between the appellant and the defacto complainant. While being so, on 14.02.2013 at about 5 p.m., the defacto complainant was digging a pit to keep the pot at lower level to draw water from the common tap. At that time, the appellant went there and warned him that if no water comes to house, the entire pipeline will be closed, for which the defacto complainant told him to do whatever he wished. Therefore, the appellant slapped him by his hands. At that time, the mother of the defacto complainant intervened and questioned the appellant as to why he was beating her son. Due to the previous enmity, the appellant slapped her as well by his hands and



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pushed her. Therefore, the mother of the defacto complainant fell down on a stone and sustained head injury. Immediately, she was taken to hospital. However, she died subsequently. Therefore, the respondent registered FIR for the offence punishable under Section 302 of IPC.

3. On the side of the prosecution, they had examined PW1 to PW23 and marked Ex.P1 to Ex.P22. On the side of the appellant, no one was examined and no documents were marked. On perusal of oral and documentary evidences, the trial court found the appellant guilty for the offence punishable under Section 304 II of IPC, and sentenced him to undergo 10 years rigorous imprisonment with fine of Rs.5,000/-, in default to which he was ordered to undergo six months simple imprisonment. Aggrieved by the same judgment, the present criminal appeal has been filed.

4. The learned counsel for the appellant would submit that the appellant had absolutely no intention to cause death of the deceased. There was a quarrel between the appellant and the defacto complainant. At that juncture, the deceased intervened and therefore, there was a push and pull and as such, the deceased herself fell down. The appellant never



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pushed her and the appellant never had any intention to push her down to cause death. The deceased was also an aged woman and she was already ailing with illness, for which she had been taking treatment. Therefore, on her sudden fall, she died. Immediately, she was taken to hospital. Thereafter, she died only on 17.02.2013. Therefore, the appellant did not commit any offence to attract the charge under Section 304 II of IPC.

5. Per contra, the learned Additional Public Prosecutor submitted that with regards to drawing water, there was already a dispute between the defacto complainant's family and the accused, for which the appellant had slapped PW1's brother with his chappel. That apart, he closed the pipeline and stopped water coming to PW1's house. Therefore, the defacto complainant was not able to draw water from their pipeline and went to another pipeline which is situated in front of a neighbour's house. While drawing water, the appellant came there and slapped him. When the deceased intervened, the appellant also slapped her by hand and pushed her on a stone. Therefore, she sustained head injuries and died. The post mortem report is also clear that the deceased died due to the head injury. Hence, the trial court rightly convicted the appellant and the said conviction does not require any interference by this Court.



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6. Heard, the learned counsel appearing on either side and perused, all the materials placed before this court.

7. On perusal of records, it is revealed that admittedly there was a dispute pending between the appellant and the deceased's family with regards to drawing water. The appellant stopped water coming to the PW1's house. Therefore, PW1 went to a neighbour's drinking water tap and while drawing water, the accused came there and warned him. Thereafter, the appellant slapped him by his hands. After seeing the same, the mother of PW1 intervened the quarrel between the appellant and PW1. Once again, the appellant slapped the deceased and pushed her by holding her neck forcibly. Therefore, she fell down on a stone and sustained grievous injuries on her head. The appellant, knowing very well that if she falls down on a stone, she will get grievous injuries, even then, the appellant holding her neck pushed her down forcibly. Therefore, the trial court rightly convicted the appellant for the offence punishable under Section 304 II of IPC. The father of PW1 was examined as PW2. He also corroborated the evidence of PW1 and he was one of the eye witnesses to the occurrence. The brother of PW1 was examined as PW3 and he was a



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hear-say witness. However, he corroborated the evidence of PW1 and PW2. One of the independent witnesses, who was the eye witness to the occurrence, deposed as PW4. On perusal of his deposition, it is revealed that when PW1 was drawing drinking water, the appellant came there and quarreled with him. The appellant also slapped him on his neck. Therefore, the mother of PW1 came there and intervened . Once again, the appellant slapped the deceased and pushed her by holding her neck. Therefore, she fell down on a stone and sustained grievous on her head. Immediately, she was taken to hospital. However, she died on 17.02.2013.

8. The viscera report was marked as Ex.P10 and it revealed that no poison was detected in the body of the deceased. The postmortem certificate was marked as Ex.P12 and final opinion of the doctor was marked as Ex.P13, which shows that the deceased died due to the effects of the head injuries. In order to prove the occurrence, the accident register was marked as Ex.P14. It corroborated the overt act against the appellant. It was reported that the assault was made by a known person on 14.02.2013 at about 5 p.m.. Initially, the accident register was recorded by the Medical Officer of Government Hospital, Mettur. Thereafter, the



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deceased was referred to Government Mohan Kumaramangalam

Government Hospital, Salem for better treatment. There also, they registered accident register, which was marked as Ex.P15. Therefore, the prosecution categorically proved the charge and the trial court rightly convicted the appellant for the offence punishable under Section 304 II of IPC though he was charged for the offence under Section 302 of IPC. The appellant had no intention to murder the deceased. However, he had knowledge that if she falls down on a rough stone, death will happen. Therefore, the trial court rightly convicted the appellant for the offence punishable under Section 304 II of IPC.

9. However, the learned counsel for the appellant requested that the sentence may be reduced considering the age of the appellant. Considering the said submission, this Court is inclined to modify the sentence alone. Accordingly, the conviction imposed on the appellant by the judgment dated 10.03.2023 passed in SC.No.46 of 2016 on the file of the II Additional District and Sessions Court, Salem, is hereby confirmed. However, the sentence of ten years rigorous imprisonment alone is reduced for the period of five years. The trial Court is directed to secure the appellant for the purpose of sentencing him to undergo the



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reduced/modified period of sentence. Further, the period of remand already undergone by the appellant if any, is ordered to be set off against the sentence imposed.

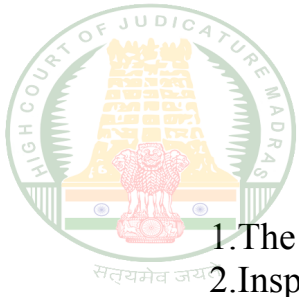
10. With the above modification, this Criminal Appeal stands partly allowed.

12.06.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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- 1.The learned II Additional District and Sessions Judge, Salem
- 2.Inspector of Police,
Mecheri Police Station,
Salem District
- 3.The Public Prosecutor,
Madras High Court.



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