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CrI.A.No.485 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE M. JOTHIRAMAN

CrI.A.No.485 of 2019

Murugan

... Appellant

Vs.

State represented by
The Inspector of Police,
Kottur Police Station,
Pollachi (Tk.)

Coimbatore District.

... Respondent

Prayer : Criminal Appeal filed under Section 374(iii) Cr.P.C., against the judgment of conviction and sentence passed by the learned I Additional District and Sessions Judge, Coimbatore, in S.C.No.205 of 2017, dated 19.02.2019.



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

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 passed by the learned I Additional District and Sessions Judge, Coimbatore, in S.C.No.205 of 2017, dated 19.02.2019, convicting the appellant of the offence under Section 302 IPC and sentencing him to life imprisonment and fine of Rs.1,000/-, in default, to undergo three months simple imprisonment.

2.The case of the prosecution is as follows :

The deceased is the husband of P.W.1. Since P.W.1's parents were no



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more, she was brought up by her father's elder brother Selvanathan and his

wife (P.W.3). The accused is the younger brother of P.W.1's father. P.W.2 is

the brother of P.W.1. The uncles of P.W.1 gave her in marriage to the

deceased. Out of wedlock, the couple had a female child. The deceased was

a drunkard. He used to come to the house after taking liquor and used to

beat his wife P.W.1. Therefore, there used to be frequent quarrel between

P.W.1 and the deceased and she (P.W.1) would come to her parental home

often. While so, on 22.12.2016, there was a quarrel between the husband

and wife and P.W.1 left the house and came to her aunt's (P.W.3's) house.

When the accused (younger paternal uncle of P.W.1) and other elder family

members questioned as to why she had left her matrimonial house, she said

there was a quarrel between her and her husband and hence, she came to her

parental house. On 25.12.2016, the deceased came to P.W.1's house to take

her and his child back to his house. At that time, the accused took the

deceased to a funeral of their relative. After returning from the funeral, the



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accused asked the deceased as to why he is taking liquor and beating her

daughter frequently. At that time, the accused's sons Vellingiri and Dilipan

(juveniles) were also there in the house. Infuriated by the question of the

accused, the deceased said that he will continue to do the same and asked the

accused not to question it. Hearing this, the sons of the accused also insulted

the deceased and there ensued a quarrel among them. At the intervention of

neighbours (Rajesh) and Saravanan, the quarrel ended and the deceased and

the accused and his sons left the place. At 6.00 p.m., when P.W.1's brother

Karthikeyan (P.W.2) came to the house, P.W.1 explained about the incident

to P.W.2, and P.W.2 took the deceased along with him to the accused's place

to question the act of the accused and his sons. At that time, P.W.1 and her

aunt P.W.3 followed them. When P.W.2 and deceased questioned the

accused, the accused's sons abused the deceased and one of the sons,

Vellingiri, took out a knife (M.O.1) and stabbed the deceased on the centre

of his neck and head. The accused was also carrying a knife (M.O.3) and



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when he tried to attack the deceased, the deceased warded off the attack and therefore, the deceased sustained injury on his hand. The other son of the accused Dilipan stabbed P.W.2 using a U-shaped knife (M.O.2) on his neck and hip. The deceased succumbed to the injuries at the spot itself. The accused and his sons fled the scene of occurrence. The injured P.W.2 was taken to the hospital in an Ambulance. Thereafter, P.W.1 went to the Police Station and lodged a compliant (Ex.P1).

3.On receipt of the complaint (Ex.P1), P.W.13 (Sub-Inspector of Police) registered an FIR in Crime No.302 of 2016 for the offences under Sections 302 and 307 IPC as against Velligiri, Murugan (accused) and Dilipan and forwarded a copy of the FIR to the Court as well as to the Inspector of Police.

4.P.W.14 (Inspector of Police) took up the investigation and went to



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the house of P.W.3 on 25.12.2016 at 9.30 p.m. and prepared the Observation

Mahazar (Ex.P16) and Rough Sketch (Ex.P17) in the presence of witnesses

P.W.4 and P.W.5. Thereafter, he went to the place of occurrence at 10.00

p.m. and prepared Observation Mazahar (Ex.P18) and Rough Sketch

(Ex.P19) in the presence of the same witnesses. Thereafter, he seized the

blood stained earth with cotton swab (M.O.8) and ordinary earth with cotton

swab (M.O.9) under Seizure Mahazar (Ex.P20). Thereafter, he conducted

inquest over the body of the deceased and prepared inquest report (Ex.P21).

Then, he recorded the statements of the witnesses.

5.P.W.3 (aunt of P.W.1) has also witnessed the occurrence. According to her, the deceased was stabbed by one Velligiri.

6. Thereafter, the Investigating Officer (P.W.14) sent the dead body to the Coimbatore Medical College Hospital for post-mortem through Head



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Constable (P.W.10) along with requisition letter (Ex.P9).

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7.P.W.11 (Medical Officer) conducted autopsy on the body of the deceased and noted the following injuries :

“The ante mortem external and internal injuries seen over the body :

1.Reddish abrasion 3x1 cm noted above right eyebrow, 3.5x1 cm noted over lateral aspect of right eyebrow, 1x0.5 cm noted over centre of forehead, 7x2 cm extending from right cheek to right temple area, 0.5x0.5 cm, 3x0.5 cm, 0.5x0.5 cm, 0.5x0.5 cm seen over left side neck, 1x0.5 cm noted over left side neck, 2x0.5 cm noted over just above medial end of left clavicle. 2X0.5 cm noted over top of left shoulder, 3x0.5 cm, 1x0.5 cm, 3x0.5 cm noted over upper part of right arm, 3x0.5 cm noted over right mid arm, 0.5x0.5 cm noted over right elbow, 6x5 cm noted over right scapular region, 0.5x0.5 cm noted over right ankle, 3x1.5 cm, 1x0.5 cm noted over left knee, 1x0.5 cm noted over left 1st web space, 1x0.5 cm noted over left elbow and 4x2 cm noted over left lower chest.

2.Laceration 2.5x1 cm x muscle deep noted below centre of right



clavicle.

3. Incised wound 2x0.5 cm x scalp deep noted over mid frontal region and 0.5x0.5 cm noted over upper part of left lateral chest.

4. Cut injury 9x3x2 cm muscle deep noted over middle of left arm, 9 cm below the top of left shoulder. On dissection the wound cutting the underlying muscle, vessels and nerves.

5. Vertically oblique stab wound 3x1 cm x left pleural cavity deep noted over centre of lower neck. The upper end is 7 cm below to upper border of thyroid cartilage and the lower end is 1.5 cm above the sternal notch. On dissection the wound passes inwards, downwards, laterally piercing the underlying lower neck muscle, vessels including left carotid sheath, nerves, partially cutting the trachea and enter into the left pleural cavity. Left side pleural cavity contains about 1000 ml of fluid blood with clots.”

P.W.11 issued the Post-mortem Certificate (Ex.P10) opining that the deceased would appear to have died due to shock and haemorrhage due to stab injury on the neck corresponding to internal injuries; the death would



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have occurred 12 to 24 hours prior to autopsy. After receipt of Viscera

Report (Ex.P11) stating that no poison was detected in the viscera, P.W.11

gave his final opinion (Ex.P12).

8.Meanwhile, the Investigating Officer (P.W.14) arrested the accused and his sons Velligiri and Dilipan on 26.12.2016 at 12.30 p.m. and recorded the confession of the accused in the presence of witnesses P.W.8 and one Selvaan. The admissible portion of the confession is marked as Ex.P22. Based on the confession, the Investigation Officer seized the blood stained knife (M.O.3) and shirt worn by the accused (M.O.10) under Seizure Mahazar (Ex.P23). Thereafter, he sent the accused and his sons to judicial custody and sent the collected materials to the Court under Form-91. Then, on 27.12.2016, he visited the hospital, where P.W.2 was admitted and recorded his statement. P.W.2 (brother of P.W.1) has also sustained injuries and he has spoken about the occurrence. He has also recorded the statement



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of the Doctor (P.W.9) who gave treatment to P.W.2. P.W.9 has examined

P.W.2 and issued Accident Register (Ex.P6) and Wound Certificate (Ex.P7)

stating that the wound is simple in nature.

9. Thereafter, the Investigating Officer sent a requisition to the Court for sending the collected materials for chemical examination vide requisition letter Ex.P24. He also recorded the statement of the Scientific Officer (P.W.12) who examined the materials collected during the investigation. P.W.12 has issued the Biological Report (Ex.P13) and Serology Report (Ex.P14) stating that the human blood found in the dresses belong to “A” Group.

10. After recording the statements of other witnesses and collecting various reports, the Investigating Officer (P.W.14) completed the investigation and filed a final report for the offences under Sections 294(b),



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302, 307 IPC as against the accused in P.R.C.No.25 of 2017 before the

WEB COPY Judicial Magistrate No.2, Pollachi.

11.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.205 of 2017 and made over to the I Additional District and Sessions Judge, Coimbatore, for trial.

12.The trial Court framed the charges under Sections 302 IPC and 294(b) IPC as against the accused. When questioned, the accused pleaded “not guilty”.

13.To prove the guilt of the accused, the prosecution examined P.W.1 to P.W.14, marked Exs.P1 to P24 and produced M.Os.1 to 10.



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14. When the incriminating materials were put to the accused and

when the accused was questioned under Section 313 Cr.P.C., he denied the same. On the side of the defence, two witnesses were examined as D.W.1 and D.W.2 and three documents were marked as Exs.D1 to D3.

15. The trial Court, after appreciating the oral and documentary evidence and materials on record, by its judgment dated 19.02.2019, acquitted the accused of the offence under Section 294(b) IPC, however, convicted the accused of the offence under Section 302 IPC and sentenced him to life imprisonment and fine of Rs.1,000/-, in default, to undergo three months simple imprisonment. The trial Court also ordered all the material objects collected in that case to be forwarded to the Juvenile Justice Board, Coimbatore, where the case as against the sons of the accused (Vellingiri and Dilipan) was pending in J.C.No.101 of 2017.



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16.Challenging the conviction and sentence, the accused has preferred

the above appeal.

17.Learned counsel appearing for the appellant/accused would submit that the evidence of the eye-witnesses P.W.1 to P.W.3 is not reliable. It is his contention that the accused is no way connected to the crime and he has only advised the deceased not to quarrel with his wife (P.W.1). The evidence of P.W.1 also clearly indicates that the deceased was a drunkard. It is his further contention that the accused is not the root cause for the murder of the deceased. Even if the entire evidence of P.W.1 and P.W.2 are believed to be true, the same will not attract a charge under Section 302 IPC as against this accused. Therefore, he prayed for setting aside the conviction and sentence as against the accused.

18.Whereas, learned Additional Public Prosecutor would submit that



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P.W.1 has clearly spoken about the overt act of the accused and P.W.2

(injured witness) has also clearly narrated the incident implicating the accused and the entire prosecution has proved the guilt of the accused beyond reasonable doubt. Hence, he would submit that the trial Court's judgment needs no interference.

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

20.The accused faces a charge under Section 302 IPC simpliciter. The charge proceeds as if the accused has stabbed on the left hand and chin of the deceased, which resulted in the death of the deceased. On a perusal of the medical evidence, absolutely, there is no dispute with regard to the fact that the deceased had died due to homicidal violence. The Medical Officer's (P.W.11) evidence clearly shows that the deceased had died due to shock and haemorrhage due to stab injury on neck and corresponding internal injuries.



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Therefore, the prosecution has clearly established that the death was due to

homicidal violence and the death was only due to the stab injury on the neck. Be that as it may.

21.The evidence of P.W.1 and P.W.2, when carefully scanned, would clearly indicate that P.W.1 has left the house due to the quarrel between the deceased and P.W.1 and she came to the house of P.W.3 (aunt of P.W.1). The accused, who is none other than the uncle of P.W.1, has enquired P.W.1 as to why she has come to the house of her aunt, for which, P.W.1 has replied that there was a quarrel between her and her husband and therefore, she has come to her aunt's house. On 25.12.2016, when the deceased came to the house of P.W.3 to take P.W.1 and his child to their house, the accused and his sons (juveniles) were present in the house and the accused advised the deceased not to involve in quarrel with P.W.1. However, when the same was objected by the deceased, there ensued a quarrel between the deceased and



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the accused and his sons, and the accused's sons also caused some injuries on the deceased in the house itself. This incident took place in the evening.

It is relevant to note that, prior to this incident, both the deceased and the accused had gone to a funeral of their relative and after they came back to the house of P.W.3, there was a quarrel as stated above. Later, when P.W.2 came to the house, on seeing some injuries on the deceased, he enquired with P.W.1 and thereafter, he took the deceased to the accused's place to question them for such act. There, again, a quarrel ensued. According to the version of P.W.1 and P.W.2, the accused's son Vellingiri caused stab injury on the neck of the deceased and other son Dilipan caused injury on P.W.2.

22.It is relevant to note that, P.W.1 has deposed that, when the accused tried to stab the deceased, the same was warded off by the deceased and thereby, the deceased sustained injury on the hand. Whereas, P.W.2 has deposed that the accused caused injury on the shoulder of the deceased. The



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evidence of P.W.1 and P.W.2 with regard to the nature of injuries caused by the accused, is highly inconsistent with each other. Be that as it may.

23. Even if the entire evidence of P.W.1 and P.W.2 is taken as such, the same clearly indicates that the accused has caused injury only on the hand or shoulder. Only a single injury is stated to have been caused by the accused. While P.W.1 states that the attack fell on the hand, P.W.2 states it was on the shoulder. In any event, the injury caused by the accused is not on the vital part. This injury was not the cause of death at all. From the medical evidence, in fact, it is very clear that the death was a result of stab injury on the neck. Admittedly, from the evidence of P.W.1 and P.W.2, we could see that no such injury on the neck, whatsoever, caused by this accused.

24. Therefore, we are of the definite view that, as long as there was no common intention to commit murder and there was no charge framed against



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the accused for sharing the common intention under Section 34 IPC with his

sons, who were tried independently as juveniles, imposing punishment against this accused under Section 302 IPC is nothing but a result of clear misunderstanding of the provisions of law. The charge faced by the accused is only Section 302 IPC simpliciter, but not Section 302 r/w. 34 IPC to hold him guilty for sharing the common intention with his sons. Therefore, in the absence of any such charge, this accused cannot be punished for the offence under Section 302 IPC simpliciter, merely on the ground that he appears to have caused some injury on the hand or shoulder of the deceased. Even the evidence of P.W.1 and P.W.2 in this regard is inconsistent with each other and their evidence is also totally contradictory to their earlier evidence adduced before the Juvenile Justice Board. This aspect is also clearly admitted in the cross-examination.

25. Admittedly, only the deceased and the accused had gone to the



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funeral of their relative together and thereafter, after returning to home, the

accused had advised the deceased not to involve in quarrel with P.W.1 and

there ensued a quarrel between the deceased and the accused and his sons.

Thereafter, the deceased and P.W.2 had proceeded to the accused's place to

question the same. Therefore, the presence of the accused in his place along

with his sons, is quite normal. Therefore, merely because the accused's sons

have inflicted injuries on the accused and the accused was present at that

place, such presence of the accused cannot be construed to mean that they all

shared the common intention of causing murder. It is normal for any father

to be present along with his children in his house. The deceased and P.W.2

have proceeded to the place of the accused and there ensued a quarrel, which

resulted in a severe blow on the neck of the deceased by one of the juveniles.

In such circumstances, mere presence of the accused, being the father of the

juveniles, at that place of occurrence, cannot be construed to mean that the

accused also shared the common intention of committing murder so as to



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attract the offence under Section 302 r/w. 34 IPC also. No doubt, there is no such charge, whatsoever, framed as against the accused. In view of the same, the conviction made by the trial Court as against the accused, cannot be sustained in the eye of law.

26. Accordingly, this Criminal Appeal is allowed and the impugned judgment of conviction and sentence passed by the trial Court, is set aside. The appellant/accused is acquitted of all the charges framed against him. Fine amount paid by the appellant/accused, if any, shall be refunded to him. Bail bond executed by the appellant/accused, if any, shall stand discharged.

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

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Neutral Citation : Yes

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To

- 1.The I Additional District and Sessions Judge,
Coimbatore.
- 2.The Inspector of Police,
Kottur Police Station,
Pollachi (Tk.)
Coimbatore District.
- 3.The Public Prosecutor,
High Court, Madras.



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