



Crl.A.No.196 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2025

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

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Tamil Selvan

... Appellant/Accused

-VS-

The State Rep. by
Inspector of Police,
Sethiyathope Police Station,
Cuddalore District

... Respondent/Complainant

Prayer: Criminal Appeal is filed under Section 374 of Cr.P.C. to set aside the order passed by the Hon'ble II Additional District and Sessions Judge, Chidambaram in S.C.No.216 of 2015 dated 20.11.2017.

For Appellant : Mr.R.John Satyan, Senior Counsel
For Mr.W.M.Abdul Majeed
For Respondent : Mr.A.Damodaran
Addl. Public Prosecutor
Assisted by Ms.M.Arifa Thasneem
Advocate

J U D G M E N T

(By N.Sathish Kumar, J.)

Challenging the sentence imposed by the Trial Court under Section 302 IPC for life imprisonment, the present appeal came to be filed.



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2. Though a counsel on record has represented the appellant / accused, Mr.R.John Satyan, learned Senior Counsel, who has been appointed through High Court Legal Services Committee, has rendered a *pro bono* service in this case and advanced his argument for the appellant / accused.

3. The Appellant herein, who is the Sole Accused in S.C.No.216 of 2015 on the file of the learned II Additional District and Sessions Judge, Chidambaram, stands convicted by the Trial Court for an offence under Section 302 IPC as follows:

Sl.No.	Conviction	Sentence
1.	Section 302 IPC	To undergo Life Imprisonment with fine of Rs.1,000/- in default to pay fine to undergo Simple Imprisonment for a period of 6 Months.

The period of remand already undergone by the accused was directed to be set off . Aggrieved by the order of the learned II Additional District and Sessions Judge, Chidambaram, the Appellant has preferred the present Criminal Appeal before this Court



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4. Brief Facts of the Prosecution case are as follows:

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4.1. The deceased (Thangarasu) is the father of the accused.

P.W.1 (Thamaraiselvan) is the brother of the accused and P.W.2 (Vanitha) is the wife of P.W.1. The accused married 15 years back and settled in Kerala. P.W.1 was residing with the deceased in the Village. Since the mother of the accused and P.W.1 died on 21.02.2015, the accused came from Kerala to participate in the last rites and after completion of rituals, children of the accused were sent to Kerala. The 7th day ceremony was scheduled on 28.02.2015. On 27.02.2015 at 9.00pm, the accused demanded partition of the property from the deceased for which the deceased informed the accused that he would give the property to his daughter and thereafter, divide the property. Therefore, there was a quarrel between the father and the accused. On the next day at about 2.00pm, the accused once again demanded partition and during such demand, the accused hit the deceased with M.O.1 in the shoulder. P.Ws.1 and 2 and others witnessed the occurrence. P.W.1 immediately lodged a complaint with P.W.21 / Sub-Inspector of Police, who had registered a case in Crime No.37 of 2015 under Ex.P13 and forwarded the same to the Court, with a copy to P.W.22.



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4.2. P.W.22 took up the investigation and went to the place of occurrence, prepared the Observation Mahazar (Ex.P2), recorded the statement of witnesses and also seized the material objects from the place of occurrence (Ex.P3). He conducted inquest over the body and thereafter forwarded the dead body through P.W.15 to P.W.17 (Doctor) for post-mortem. P.W.17 conducted post-mortem and noted the following external injuries under Ex.P9:

- i) Lacerated injury on the left forehead above left eyebrow 6x2x1cm;
- ii) Lacerated wound over right cheek 1x1x1/2 cm
- iii) Laceration 4x2 cm on the left bemparaparietal region;
- iv) Contusion over left side neck
- v) Abrasion 2x2x1½ over left clavicle
- vi) Abrasion over right clavicle 2x1cm
- vii) Abrasion over left shoulder and right shoulder
- viii) Abrasion over right upper chest.

4.3. After post-mortem, P.W.17 found that the deceased died due to head injury and haemorrhage and also issued post-mortem report (Ex.P9). P.W.17 opined that the injuries were sustained on account of the attack with M.O.1. P.W.20 (Scientific Officer) examined the material objects sent by the Investigating Officer and submitted a report under Ex.P12. Judicial Magistrate (P.W.16) recorded the 164 statement of P.Ws.1,



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2 and 4. P.W.22 arrested the accused on 28.02.2015 at 19.30 hours and recorded his confession and also seized M.O.1 in the presence of P.W.10, pursuant to the admitted portion in the confession statement of the accused. After completion of the investigation, P.W.22 laid a final report in this case.

4.4. In order to bring on the guilt of the accused, 23 witnesses have been examined on the side of the prosecution, exhibited 22 documents and 8 Material Objects were marked. The Trial Court, after analyzing the entire evidence and materials, sentenced the accused to undergo life imprisonment under Section 302 IPC. Challenging the said judgment, the accused has filed the instant appeal.

5. Learned Senior Counsel for the appellant submitted that though the presence of the accused was very much established and there was evidence to show that the occurrence was the result of quarrel between the father and the son in dividing the property, P.Ws.3 & 4 could not have witnessed the occurrence. Though P.W.1 has spoken about the accused, his evidence cannot be believed, since he had motive in respect of the property.



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There may be a possibility of implicating the accused to take the entire property. Learned Senior Counsel further submitted that in any event, the evidence of P.Ws.1 to 3 can be appreciated only to infer that there was a quarrel between the father and the son, which has resulted in the attack and the accused has not taken any undue advantage and the evidence of P.W.3 makes it clear that he was present in the place, when the accused attacked the deceased. The accused, under the total deprivation of his self-control caused injury to the deceased under the heat of passion and the act of the appellant is not a murder but only culpable homicide not amounting to murder and therefore, the case may fall under Exception 4 to Section 300 IPC, so as to have the benefit of reduction of punishment under Section 304 (ii) IPC

6. Learned Additional Public Prosecutor contended that the guilt of the accused has been duly established by the prosecution and therefore, the Trial Court rightly imposed the imprisonment for life. The judgment of the Trial Court does not warrant any interference by this Court.



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7. We have heard the learned counsel on either side and

perused the material documents available on record.

8. The presence of the accused has been clearly established and the evidence of witnesses would clearly indicate that it was the accused, who pushed the deceased, while demanding partition, which had resulted in the injury. It has been duly established that there was a quarrel between the father and son and the accused hit the deceased with M.O.1. The accused has come down to the native place after 15 years, which has been proved by the evidence of P.Ws.1 to 3 and the 7th day ceremony was scheduled on 28.02.2015. On 27.02.2015 at 9.00pm, there was a quarrel between the father and the son over dividing the property. Though P.Ws.1 & 2 stated as if they witnessed the occurrence, they had not made any attempt to prevent such attack. It clearly indicates that only after the attack, the deceased fell down and the witnesses gathered. This has been substantiated by the admission of P.W.2 in the cross examination. P.W.2 stated that she came running to the house only after hearing the sound. There was a clear contradiction between her evidence in the chief examination and the cross



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examination. In the cross examination, she clearly stated that her father-in-law/ deceased abused the accused and infuriated by the same, there was a quarrel between the accused and the deceased. In such circumstances, the accused hit the deceased with M.O.1. After attacking the deceased, the accused did not run away from the place of occurrence and he was very much present till the Police comes to the spot, which was spoken by P.W.5.

9. It is seen that the accused had not taken any undue advantage after hitting the deceased and the entire occurrence was the result of quarrel between the father and the son in dividing the property. P.W.2 stated that the deceased, in a drunken mood, abused the accused and enraged by the same, the accused attacked the deceased and caused injury. We are of the view that the act of the accused will fall within the ambit of Exception 4 of Section 300 IPC, since the offender attacked the deceased without premeditation in a sudden fight in the heat of passion, upon sudden quarrel and without the offender having taken undue advantage or acted in cruel or unsound manner. However, there is intention on the part of the accused to cause bodily injury, as there was a repeated attack on the



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deceased, which is likely to cause death and any injury on the head would likely to cause death. Any act causing death committed with the intention of causing death or of causing bodily injury likely to cause death will fall under Section 304 (i) IPC.

10. Taking into consideration the facts and circumstances of the case and in view of the above discussions, this Court is of the opinion that the conviction and sentence passed by the Court below requires modification, as the facts of the present case clearly fall under Exception 1 to Section 300 of the Indian Penal Code and therefore, the appellant is convicted for “culpable homicide not amounting to murder” and he is sentenced under Section 304 (i) of the Indian Penal code, to undergo Rigorous Imprisonment for a period of eight years.

11. The conviction and sentence passed by the Court below in S.C.No.216 of 2015, is modified to the above extent and accordingly, this Criminal Appeal is allowed in part. It is made clear that the appellant shall be entitled for set off in accordance with Section 428 of the Code of



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Criminal Procedure for the period of detention already undergone by him.

The appellant is directed to immediately surrender before the concerned jurisdictional Magistrate and on such surrender, the appellant shall be confined in jail to undergo the remaining period of sentence, if any. It is made clear that if the appellant fails to surrender before the concerned Court, the respondent police shall secure the appellant and produce him before the Magistrate and thereafter, he shall be confined to the prison.

(N.S.K,J.,) (M.J.R,J.,)
29.10.2025

Index: Yes / No
Internet: Yes / No
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To:

1. The II Additional District and Sessions Judge,
Chidambaram.
2. The Inspector of Police,
Sethiyathope Police Station,
Cuddalore District
3. The Public Prosecutor,
High Court, Madras.



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