



Crl.A.No.404 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved On	29.10.2024
Pronounced On	31.01.2025

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.404 of 2024

1.Manikandan
2.Nandhan @ Nandhagopal ... Appellants

Vs.

1.The State, Rep. by,
The Deputy Superintendent of Police,
Thirukoilur Sub Division,
New Kallakurichi District.

2.The Inspector of Police,
Arakandanallur Police Station,
Villupuram District.
(Crime No.376 of 2018)

3.K.Kanniyiram ... Respondents

Prayer:- Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code, 1973, to call for the records and set aside the conviction and sentence imposed in Special S.C.No.6 of 2020, dated 29.02.2024, on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases registered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Villupuram.



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For Appellants : Mr.R.Sankarasubbu
For R1 and R2 : Mr.R.Vinothraja
Government Advocate
(Criminal side)

JUDGMENT

This Criminal Appeal arises out of the judgment of conviction and sentence rendered in Spl.S.C.No.6 of 2020, dated 29.02.2024, by the learned Sessions Judge, Special Court for Exclusive Trial of Cases registered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Villupuram.

2. The appellants/accused in Spl.S.C.No.6 of 2020 are convicted by the trial Court by judgment dated 29.02.2024, as under:-

The appellants were initially charged for the offences under Section 304(ii) I.P.C., Section 135(1)(a) of the Electricity Act, 2003 and Section 3(2)(v) of the SC/ST (PoA) Amendment Act, 2015. On conclusion of trial, the trial Court found the appellants not guilty and acquitted them under Section 235(1) Cr.P.C. for the offence under Section 3(2)(v) of the SC/ST (PoA) Amendment Act, 2015 and convicted them for the offences



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under Section 304(ii) I.P.C. and Section 135(1)(a) of the Electricity Act, 2003 and sentenced them as follows:-

Section	Sentence
304 (ii) I.P.C.	To undergo rigorous imprisonment for seven years.
135(1)(a) of the Electricity Act	To undergo rigorous imprisonment for three years.

The period of sentence already undergone by the appellants / A1 and A2 either as remand prisoner or under trial prisoner was ordered to be set off under Section 428 Cr.P.C. and the period of imprisonment in both the offences to run concurrently.

3. The charge stems from an incident on 26.04.2018, when the appellants unlawfully installed an electric fence around their agricultural land using Vathanarayanan tree sticks to prevent wild pigs from damaging their paddy field. The electricity was illegally sourced by tampering with Uthanda Raman's electric connection. The fence was connected to a high-voltage power supply.

3.1. On 27.04.2018, at around 04:30 a.m., Venugopal, the adjacent



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landowner, came into contact with this illegal electric fence while tending to his field and was electrocuted to death on the spot. The appellants later informed Venugopal's brother, Kannayiram, that Venugopal was found motionless in the field. They transported the body to the hospital, where it was declared dead.

3.2. However, during the last rites, Kannayiram observed injuries on Venugopal's body and found his mobile phone and slippers in unusual places, which raised his suspicions of foul play. He then filed a complaint with the respondent Police. The investigation confirmed that the cause of death was electric shock due to the illegal fence.

3.3. The investigation also revealed evidence of the unlawful electricity connection and the appellants' negligence, leading to the tragic death of Venugopal. Statements from witnesses, reports from the Tamil Nadu Electricity Distribution Circle regarding the illegal connection, and the post-mortem examination supported the case against the appellants.

3.4. The trial Court examined 23 witnesses and marked 19 exhibits



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during the trial. After evaluating the evidence, the trial Court found the appellants not guilty and acquitted them under Section 235(1) Cr.P.C. for the offence under Section 3(2)(v) of the SC/ST (PoA) Amendment Act, 2015 and convicted them for the offences under Section 304(ii) I.P.C. for causing death due to negligence and Section 135(1)(a) of the Electricity Act, 2003, for illegal electricity usage and sentenced them as stated above.

4. Challenging the said conviction and sentence, the appellants are before this Court to set aside the conviction and sentence rendered in Spl.S.C.No.6 of 2020, dated 29.02.2024, by the learned Sessions Judge, Special Court for Exclusive Trial of Cases registered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Villupuram.

5. The contention raised by the learned counsel for the appellants is that the deceased, Venugopal, died due to accidental electrocution caused by a low-lying power line near his well, and not as a result of any illegal action by the appellants. The appellants, who were agricultural landowners in the nearby villages, maintain that there was no cordial relationship with the deceased due to tensions regarding land ownership.



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The appellants deny any involvement in illegal activities, such as installing electric fencing or drawing unauthorized power connections.

According to the postmortem report (Ex.P.10) of the medical officer, the cause of death was confirmed as electrocution, and no external injuries were found on the body. The complaint filed by the deceased's family was based on the discovery of injuries during the last rites, which they subsequently associated with suspicions of foul play, though no eyewitnesses were available to testify to the actual incident. In the light of the medical evidence and the lack of direct evidence of criminal wrongdoing, the learned counsel for the appellants contends that the death was accidental and that they are not responsible for any unlawful conduct and therefore, the appellants are not liable for the death of the deceased.

5.1. The learned counsel further submitted that in this case, P.W.13, the Assistant Engineer of the Electricity Department, stated that on 29.04.2018, he saw a news report in the Daily Thanthi daily regarding the death of Venugopal due to electrocution. Thereafter, he sent a requisition to the respondent Police and visited the scene of occurrence. Upon his visit, he learned that the illegal electric fencing materials had already been



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seized by the Police and taken to the Police Station. Upon perusal of the records and conducting a physical inspection, he found that there was a valid electricity service connection (Service Connection No.216) at the location. He also observed that there was a changeover switch and that the wire was positioned at a lower level. However, his report (Ex.P.7) does not indicate any illegal drawing of electricity from the connection. Furthermore, the Investigating Officer marked the Rough Sketch (Ex.P.14), which similarly does not show any evidence of illegal electricity usage or the installation of an electric fence.

5.2. The learned counsel further submits that though P.W.5, Elumalai, has been presented as a witness to the Observation Mahazar, it is noteworthy that he did not sign either the Mahazar (Ex.P.2) or the Observation Mahazar (Ex.P.3 and Ex.P.13). P.W.5 himself admits to discrepancies in his testimony regarding the Observation Mahazar. The other witnesses to the Observation Mahazar, P.W.11 and P.W.12, are Village Assistants. P.W.11 states that he signed all the documents at the Police Station, while P.W.12 confirms his signature on the confession and the Mahazar documents (Exs.P.2 and P.4). However, it is significant that



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these documents, though purportedly prepared on 29.05.2018 and 29.04.2018 respectively, were only forwarded to the Court along with Form-91 (Ex.P.17) on 15.07.2019. This delay raises doubts about the seizure of the three 2 ½ feet Vathanarayanan sticks, five meters of green wire, fifteen meters of binding wire, and two ceramic carriers from the lands of the appellants in the presence of witnesses, as well as the subsequent forwarding of these items to the Court.

5.3. The learned counsel for the appellants further submits that in this case, P.W.1 to P.W.9 are relatives of the victim, Venugopal, who either arrived at the scene of the occurrence, saw the field, or took the deceased to the hospital, and later participated in the last rites ceremonies. These witnesses, however, are not connected in any way to the appellants or the alleged incident. The witness to the Observation Mahazar, P.W.10, confirms that his signature was taken at the Police Station. Similarly, one of the Village Assistants, P.W.11, also confirms that his signature was obtained at the Police Station. P.W.14, the Photographer, stated that someone had taken pictures using a mobile phone, which were then converted into photographs by his staff.



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5.4. The learned counsel for the appellants submits that the prosecution has failed to establish the appellants' involvement in the death of Venugopal for several reasons. Firstly, the Village Administrative Officer (P.W.17) confirmed that the land is still registered under the appellants' father's name, Ramalingam, and that there is no power connection either in name of the appellants or in their father's name. Furthermore, the Village Administrative Officer stated that any power connection was used for cooking purposes, not through a switch or fuse carrier, suggesting it was not a formal or legal connection. Secondly, the Electricity Department witness (P.W.13) admitted that he has not observed any illegal electricity connection, which undermines the prosecution's case that the appellants were responsible for setting up the illegal electric fencing. Furthermore, while the deceased, Venugopal, was from a Scheduled Caste community, this does not establish a direct link between the appellants and the alleged illegal electric fencing, as required for an offence under the SC/ST Act. Further, P.W.21, the Sub Inspector of Police, admitted that he was not authorized to conduct the investigation; it was assigned to another officer, raising concerns over procedural errors in the investigation. Moreover, the prosecution has failed to prove that the



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appellants set up illegal electric fencing or that it directly caused Venugopal's death. Finally, the appellants acted responsibly by finding Venugopal's motionless body, informing P.W.1 (Venugopal's brother), and taking him to the hospital, which demonstrates their intent to assist, not harm. Hence, the learned counsel submits that the prosecution has not provided sufficient evidence to prove the appellants' guilt, and therefore, the criminal appeal should be allowed.

6. The learned Government Advocate (Criminal Side) submits that in this case, P.W.1 Kannayiram, the brother of the deceased Venugopal, appeared before the respondent Police and lodged a complaint with P.W.21. The complaint was received, and a case was registered under Crime No.376 of 2018 for offenses under Section 304(ii) of the Indian Penal Code (I.P.C.), Section 135(1)(a) of the Electricity Act, 2003 and Section 3(2)(v) of the SC/ST (PoA) Act, 2015. According to the complaint, on 27.04.2018 at approximately 05:16 a.m., the appellants and one Giri contacted the de-facto complainant, informing him that his brother, Venugopal, had come into contact with an electric fencing and



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was found motionless in the field. Subsequently, the de-facto complainant questioned the appellants' father about the illegal electric fencing, and the father promised to provide adequate compensation. The following day, on 28.04.2018 at around 12 noon, when the last rites of Venugopal were being performed, contusions were noticed on his head, neck, and legs. Suspecting that the death may not have been due to electrocution but for some other cause, the de-facto complainant filed a complaint, leading to the investigation.

6.1.The learned Government Advocate (Criminal Side) further submits that P.W.21 received the complaint and registered the F.I.R. as Ex.P.12. Subsequently, the body of the deceased Venugopal was taken to the mortuary of the Government Hospital. The investigation was then taken over by P.W.22, the Investigating Officer, who conducted an inquest on the body and arranged for a postmortem. The body was handed over to P.W.19 for this purpose. P.W.18, the postmortem doctor, conducted the postmortem and issued a report. The viscera was sent to



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P.W.20 for analysis, and the report confirmed the absence of poison or alcohol. P.W.18 later confirmed that the cause of death was due to electric shock. The witnesses who were present near the scene of the incident were examined, and their statements were recorded. P.W.1, the de-facto complainant, is the brother of the deceased. P.W.8, another brother of Venugopal, stated that he brought his Tata Ace van, in which Venugopal was taken to the hospital. P.W.6 and P.W.7, the wife and daughter of the deceased, were also witnesses. P.W.2, P.W.3, P.W.4, and P.W.9, who are relatives, confirmed seeing the illegal electric board installed by the appellants at the scene of occurrence.

6.2. The learned Government Advocate (Criminal side) further submits that P.W.11 and P.W.12, the Village Assistants, were present during the arrest of the first appellant. On the appellants' confession, an electric wire, fuse carrier, and binding wire were seized from the appellants' field. P.W.13, the Assistant Engineer of the Electricity Department, provided details about the power connection at the scene of occurrence. Finding that the deceased was from the Scheduled Caste



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community, the case was transferred to P.W.23, the Deputy Superintendent of Police (D.S.P.), for further investigation. P.W.23 re-examined witnesses, recorded their statements, and filed the final report. During the trial, P.W.1 and P.W.23 were examined, and Exhibits P.1 to P.19 were marked as evidence. The trial Court concluded that the death was caused by electrocution due to an illegal electric fence set up by the appellants. However, the trial Court determined that the electrocution was accidental. While the trial Court ruled that the appellants were responsible for the illegal electric fencing, it also found that the electrocution did not occur solely because Venugopal belonged to the Scheduled Caste community. Hence, the appellants were acquitted of charges under the SC/ST Act.

6.3. The learned Government Advocate (Criminal Side) further submits that since the deceased belonged to a Scheduled Caste community, compensation of Rs.8,50,000/- was paid to P.W.6, Sulochana, under the SC/ST Act. Further, at the time of filing the admission and suspension sentence bail application before this Court in Crl.M.P.No.6219 of 2024, the appellants were directed to deposit a sum of Rs.10,00,000/- in the name of the victim in Spl.S.C.No.6 of



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2020. This amount was deposited on 02.05.2024. P.W.6, the victim, received the sum of Rs.10,00,000/- and appeared before this Court on 28.06.2024 to confirm the same, and the said confirmation has been duly recorded.

6.4. Further, the learned Government Advocate (Criminal Side) submits that the victim, P.W.6, had appeared before this Court and provided an affidavit stating that after further enquiry, it was found that her husband, Venugopal, had come into contact with a live electric wire. She clarified that this was not done with any malicious intent but was a practice followed in the village to keep away wild birds. Consequently, she expressed that she was not inclined to further pursue the case against the appellants.

7. Considering the submissions and on perusal of the materials on record, it is seen that the appellants have been primarily convicted for the offence under Section 304(ii) of the Indian Penal Code (I.P.C.) and Section 135(1)(a) of the Electricity Act. In this case, it is undisputed that



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there is no eyewitness to the incident. P.W.1, the brother of the deceased Venugopal, was informed by the appellants and one Giri on 27.04.2018 at around 05:16 a.m. that Venugopal had been found motionless in the field. Thereafter, P.W.1 and the appellants took Venugopal to the hospital, where he was pronounced dead. Subsequently, the body was brought back to Venugopal's house for the last rites. During the process of bathing the body, contusions were found on the head and neck. This raised suspicions that the cause of death might be due to reasons other than electrocution, prompting P.W.1 to lodge a complaint. In the complaint, it was noted that P.W.1 had questioned the father of the appellants about the illegal electric fencing, to which he responded by stating that "what has happened has happened" and that they would be adequately compensated.

8. It is important to note that in Ex.P.1, there is an insertion of the word "எனது" which means that Ramalingam is alleged to have admitted that the deceased had come into contact with the electric fencing in his field. However, P.W.23, the Deputy Superintendent of Police, states that there is a discrepancy in the ink used for this word insertion. This raises doubts about the authenticity of the statement. Further, the complaint in this case was lodged with a delay, which further undermines the



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credibility of the prosecution's case. Furthermore, P.W.5, who was projected as a witness to the Observation Mahazar, did not sign Ex.P.2.

While so, the signatures of P.W.11 and P.W.12, the Village Assistants, are found on Ex.P.2. These two Village Assistants were present when Ex.P.16, the confession, is said to have been recorded. Based on this confession, various items, including Vathanarayanan tree sticks, electric wire, binding wire, and a ceramic fuse carrier, are claimed to have been seized.

9. Further, P.W.11 admits that he signed all the documents at the Police Station. However, it is crucial to note that although Exs.P.2 and P.3 were said to have been recorded on 29.05.2018 and 29.04.2018 respectively, Form-91 did not reach the Court until 15.07.2019, causing a significant delay in the process. Furthermore, none of the witnesses have provided any information regarding the formation of the electric fencing or how it was connected to the electricity switch box. There is no documentation or recording to support these details.

10. On the other hand, the evidence of P.W.13 and Ex.P.7 presents a different story. P.W.13 states that after seeing the news in Daily Thanthi two days after the incident, he visited the Police Station, requested the



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report, and examined the scene of the occurrence. Ex.P.7, his drawing, shows that Service Connection No.216 is registered in the name of Uthanda Raman, from whom the appellants' father, Ramalingam, is said to have purchased the property. The Rough Sketch in Ex.P.14, which depicts the field map with Venugopal's, Ramalingam's paddy fields, three lamp posts, and a well, does not provide any information on where the fence was located or how power was drawn. Moreover, none of the witnesses, including P.W.1 to P.W.9, have mentioned where the power was sourced from. P.W.13, however, states that the power was drawn through a switch box and fuse carrier. He also mentions that when he visited the scene of occurrence, the Police had already seized these articles, but he was not shown the items and could not confirm how the illegal power was drawn. Further, the Village Administrative Officer stated that the power was drawn using a hook, not by manipulating the fuse carrier.

11. The cause of death, as confirmed, is electrocution. P.W.13 admits that there is a low-power line leading to Venugopal's pump set, which is 15 feet below ground level. Venugopal had reportedly gone to switch on the motor and was electrocuted. However, it remains unclear



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whether the electrocution was caused by the low power line to the pump set or the illegal electric fencing.

12. P.W.1, P.W.6, and other family members of the deceased confirm that Venugopal had been away the entire night, attending the village festival, and left for the field around 04:00 a.m. It is likely that he was not in a normal state and could have been drowsy due to lack of sleep. His body was found in one location, while his slipper and mobile phone were found elsewhere. The investigation did not adequately address these discrepancies, as it is admitted that P.W.6 used the deceased's mobile phone but no report was made regarding this detail.

13. The investigation appears to have been poorly conducted. There has been no proper recording of events and materials, and vital materials were forwarded to the Court with a delay. Furthermore, these materials were not shown to the relevant experts, and the reports received were not properly considered. It is also notable that P.W.23 was not the officer specifically nominated to conduct the investigation under the SC/ST Act.

14. In the light of these anomalies and discrepancies, the prosecution has failed to prove its case beyond reasonable doubt and



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therefore, it would not be just or safe to convict the appellants. Thus, the prosecution has miserably failed to meet the required burden of proof.

15. The learned counsel for the appellants has fairly submitted that the compensation of Rs.10,00,000/-, which was ordered by this Court on 30.04.2024 in Crl.M.P.No.6219 of 2024, has been paid purely on humanitarian grounds, in consideration of the loss of life, and is not an admission of liability or an acknowledgment of guilt by the appellants.

16. In the result, this Criminal Appeal is allowed and the conviction recorded and sentence awarded to the appellants, vide Judgment dated 29.02.2024, made in Spl.S.C.No.6 of 2020 passed by the learned Sessions Judge, Special Court for SC/ST Act, Villupuram, are hereby set aside and the appellants are acquitted of the charges framed against them. It is reported that the appellants/accused are on bail. The bail bonds shall stand terminated/discharged.

Index : Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
smn2

31.01.2025

To



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- 1.The Sessions Judge,
Special Court for Exclusive Trial of Cases
registered under the Scheduled Castes and
Scheduled Tribes (Prevention of Atrocities)
Act, 1989,
Villupuram.
- 2.The Deputy Superintendent of Police,
Thirukoilur Sub Division,
New Kallakurichi District.
- 3.The Inspector of Police,
Arakandanallur Police Station,
Villupuram District.
- 4.The Public Prosecutor,
High Court,
Madras.
- 5.The Criminal Section,
Madras High Court.
- 6.The Superintendent,
Central Prison, Cuddalore.



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M.NIRMAL KUMAR, J.

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Pre-delivery Judgment in
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