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R.T.No.2 of 2025 &
Crl.A.No.234 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE M. JOTHIRAMAN

R.T.No.2 of 2025
and
Crl.A.No.234 of 2025

R.T.No.2 of 2025 :

State through
The Deputy Superintendent of Police,
Mettupalayam, Coimbatore.
(Crime No.270 of 2019)

... Complainant

Vs.

Vinoth Kumar

... Accused

Referred Trial under Section 366 Cr.P.C. on the judgment of the learned Sessions Judge, Special Court for trial of cases under SC/ST (PoA) Act, Coimbatore, in Spl.S.C.No.56 of 2023, dated 29.01.2025.



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For Complainant : Mr.Hasan Mohamed Jinnah
State Public Prosecutor
assisted by Mr.A.Damodaran,
Additional Public Prosecutor,
Mr.S.Santhosh,
Government Advocate (Crl. Side),
Ms.M.Summi Arnica &
Ms.T.Harshana

For Accused : Mr.V.Perarasu

Crl.A.No.234 of 2025 :

Vinoth Kumar

... Appellant

Vs.

1.State represented by
The Deputy Superintendent of Police,
Periyanaikan Palayam Sub-Division,
Mettupalayam Police Station,
Coimbatore District.

2.State represented by
The Inspector of Police,
Mettupalayam Police Station,
Coimbatore District.

3.Amudha

... Respondents



R.T.No.2 of 2025 &
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Criminal Appeal filed under Section 415(2) BNSS r/w. Section 14(A) of SC/ST Act against the judgment of conviction and sentence passed by the learned Sessions Judge, Special Court for trial of cases under SC/ST (POA) Act, Coimbatore, in Spl.S.C.No.56 of 2023, dated 29.01.2025.

For Appellant : Mr.V.Perarasu

For R1 and R2 : Mr.Hasan Mohamed Jinnah
State Public Prosecutor
assisted by Mr.A.Damodaran,
Additional Public Prosecutor,
Mr.S.Santhosh,
Government Advocate (Crl. Side),
Ms.M.Sumri Arnica &
Ms.T.Harshana

For R3 : Dr.V.Suresh
for Ms.D.Nagasaila

COMMON JUDGMENT

(Judgment was delivered by **N. SATHISH KUMAR, J.**)

Referred Trial in R.T.No.2 of 2025 is a reference made by the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Coimbatore, under Section 366 Cr.P.C., for confirmation of the death sentences awarded to A1 in Crime No.270 of 2019 on the file of the



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Mettupalayam Police Station, for the offence under Section 302 IPC (2 counts) in Spl.S.C.No.56 of 2023, by judgment dated 29.01.2025.

2.Crl.A.No.234 of 2025 has been filed by A1 under Section 415(2) BNSS r/w. Section 14(A) of SC/ST (PoA) Act, against the judgment of conviction and sentence passed by the trial Court in the above Sessions Case as against him.

3. There are four accused in the case. While acquitting A2 to A4 of all the charges and A1 of the charge under Sections 294(b) and 120(b) r/w. 302 IPC, the trial Court has convicted and sentenced A1 as follows:

<i>Conviction</i>	<i>Sentence</i>
Section 448 IPC	One year rigorous imprisonment and fine of Rs.1,000/-, in default, to undergo one month simple imprisonment
Section 302 IPC (for murder of Kanagaraj)	Sentenced to Death and he shall be hanged by neck till his death, subject to confirmation of Hon'ble High Court in terms of Section 366 Cr.P.C.
Section 302 IPC (for murder of Varshini Priya)	Sentenced to Death and he shall be hanged by neck till his death, subject to confirmation of Hon'ble High Court in terms of Section 366 Cr.P.C.
Section 3(2)(v) of SC/ST (PoA) Act	Since capital sentence of death is awarded to the accused, sentence is not given under this



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<i>Conviction</i>	<i>Sentence</i>
	section.

4.The case of the prosecution is as follows :

4.1.The deceased Kanagaraj (hereinafter referred to as “D1” for the sake of convenience) and A1 are brothers and they belong to Hindu Muthu Raja Community, which comes under Most Backward Class (MBC) Category. The deceased lover of D1, namely, Varshini Priya (hereinafter referred to as “D2” for the sake of convenience) belongs to Hindu Arunthathiyar Community, which comes under Scheduled Caste (SC) Category. A2 to A4 are close friends of A1. D1 and D2 were in love affair. In the year 2018, D1 and D2 voluntarily left their house and they were staying in Oomapalayam. P.W.1 (mother of D2) and her husband (P.W.2) went to Oomapalayam and brought back their daughter D2 and advised her that, since she had not completed the age of 16 years, she had to wait till she attained majority. On the same day all the four accused (A1 to A4) came to P.W.1's house and questioned her as to why she had not advised her daughter not to talk with D1, since she belonged to SC Community. Despite such warning, D1 and D2 continued their relationship, which infuriated A1, since



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he did not like his younger brother marrying or moving around with a girl belonging to a marginalized community.

4.2. When the matter stood thus, three days before the occurrence, D1 and D2 again eloped and they were staying in a thatched shed at D1's father house in Vellipalayam Road. On 25.06.2019, at about 4.30 p.m., when P.W.1 came to know about their stay in the thatched shed at Vellipalayam Road, she (P.W.1), along with her husband (P.W.2), and uncle Chinnakannan (not-examined) went to the thatched shed at about 5.00 p.m. and when they were talking with their daughter D2, the enraged A1 came with a billhook (M.O.1) and in a fit of anger, abused his brother (D1) by saying that a girl belonging to SC Community is not required and by questioning as to how he (A1), being an elder brother, would get a bride, attacked D1 with M.O.1 on his head. Again, he attacked D1 on his neck and hand. When D2 tried to save D1, A1 also attacked D2 on her head with the backside of the billhook (M.O.1) and again, he attacked her on the right and left side of neck. Due to the attack, D1 died at the spot and D2 sustained severe injuries. On seeing this, when P.W.1, P.W.2 and Chinnakannan screamed, A1 fled the scene with M.O.1.



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4.3.Immediately, P.W.1, P.W.2 and Chinnakannan took both D1 and D2 to Government Hospital, Mettupalayam, in an Auto driven by P.W.7. Dr.Vijayaraja (P.W.13), attached to the Emergency Unit, Mettupalayam Government Hospital, examined D1 and declared him “brought dead” and he noted a laceration of about 7 x 3 x 3 cm on head and a laceration of about 3 x 2 x 1 cm on the back side of head and issued Accident Register (Ex.P23) in respect of D1. P.W.13 also examined D2 and noted a contusion of about 1 x 1 x 1 cm near the right eye and also a contusion of 1 x 1 x 1 cm on the left back side of head and gave first aid to D2 and referred her to Coimbatore Medical College Hospital for further treatment and issued Accident Register (Ex.P24) in respect of D2. P.W.13 (Medical Officer) has stated in his evidence that both D1 and D2 were brought by one Chinnakannan and the said Chinnakannan informed him that both D1 and D2 were attacked by one known person with a billhook.

4.4.On receiving the information from the Mettupalayam Government Hospital, P.W.15 (Sub-Inspector of Police, Mettupalayam Police Station) went to the hospital and on coming to know that one injured (D1) had died and the other injured (D2) was shifted to Coimbatore Medical College



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Hospital, he went to Coimbatore Medical College Hospital. There, he found D2 unconscious and therefore, he recorded the statement of P.W.1 (mother of D2) which is marked as Ex.P1 and based on Ex.P1, he registered an FIR (Ex.P30) in Crime No.270 of 2019 on the same day, i.e., 25.06.2019 at 22.00 hours, for the offences under Sections 302 & 307 IPC and Section 3(2)(v) of SC/ST (Prevention of Atrocities) Act, 1989, as against A1.

5. Based on the proceedings of the Superintendent of Police, Coimbatore (Ex.P31), P.W.16 (Deputy Superintendent of Police) took up the investigation in Crime No.270 of 2019. On 26.06.2019 at 00.15 hours, P.W.16 (Investigating Officer) went to the Mettupalayam Police Station and took up the case file and at 03.00 hours, went to the place of occurrence and prepared Observation Mahazar (Ex.P6) and Rough Sketch (Ex.32) in the presence of P.W.5 and one Rahuman. Thereafter, he seized the blood stained earth (M.O.5) and ordinary earth (M.O.6) under Seizure Mahazar (Ex.P7) and sent the collected material objects to the Court under Form-91 (Ex.P33). At 6.15 a.m., he went to the Mettupalayam Government Hospital and took photographs of the dead body of D1 through P.W.9 (photographer).



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Thereafter, he conducted inquest over the body of deceased D1 and prepared inquest report (Ex.P34) and recorded the statements of the witnesses. Thereafter, he sent the dead body of D1 for post-mortem through one Ramkumar, Head Constable (not-examined) along with Police Report (Ex.P35) and Case History (Ex.P36).

6.Dr.S.Lakshmana Kumar (P.W.12) conducted autopsy on the body of the deceased Kanagaraj (D1) and issued Post-mortem Certificate (Ex.P21) noting down the following injuries :

- (1)A Laceration (3 x 1 x 1 cm) over left wrist (medial aspect)*
- (2)A Laceration (2 x 1 x 1 cm) over the left forearm below left elbow*
- (3)Bleeding from left ear*
- (4)A Laceration (6 x 1 x 1 cm) over the occipital region of scalp*
- (5)A Laceration (7 x 2 x 2 cm) over frontal region of the (middle) scalp*
- (6)Bleeding from nose (right nostril)*



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After receipt of Viscera Report (not-marked), P.W.12 gave his final opinion (Ex.P22) opining that D1 would appear to have died of head injury with *intracranial subarachnoid haemorrhage* and brain death; and no poison was detected in any viscera.

7.Meanwhile, at 11.30 a.m., the Investigating Officer arrested A1 and recorded his confession statement in the presence of witnesses P.W.8 and one Muhamed Ali. Based on the confession of A1, the Investigating Officer seized the blood stained billhook (M.O.1); blood stained T-Shirt (M.O.7) and blood stained pant (M.O.8) worn by A1 at the time of occurrence under Seizure Mahazar (Ex.P10) and sent the collected material objects to the Court under Form-91 (Ex.P37).

8.After post-mortem of D1, the Investigating Officer recovered the blood stained baniyan (M.O.2), blood stained dhoti (M.O.3) and inner-wear (M.O.9) worn by the deceased D1 at the time of occurrence and forwarded the same to the Court under Form-91 (Ex.P39). Thereafter, he produced A1 before the Court. Thereafter, the Investigating Officer recorded the



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statements of witnesses.

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9.P.W.1 and P.W.2 (parents of D2) are eye-witness to the occurrence.

10.P.W.3 has deposed that A1, along with his friends A2 to A4, were speaking among themselves that, A1's brother D1 is continuing his affair with D2 despite warnings, and if they allow this continue, they would not even get water in the Village and therefore, conspired to do away with both D1 and D2.

11.P.W.4 (vegetable vendor) has stated that he saw A1 moving out the scene of occurrence with a blood stained billhook (M.O.1) in his hands; thereafter, he saw P.W.1, P.W.2 and Chinnakannu taking D1 and D2 in an Auto to Hospital.

12.P.W.7 (Auto-Driver) has stated that when he was driving his Auto near the place of occurrence, few people asked him to stop the Auto and P.W.1, P.W.2 and Chinnakannu brought two persons with cut injuries and



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asked him to take them to hospital. Accordingly, he took them in his Auto and they reached the Mettupalayam Government Hospital at around 5.45 p.m. and both the injured were admitted in the hospital. Thereafter, he left the place.

13.After recording the statements of the witnesses, at 11.00 p.m., the Investigating Officer altered the case to one under Sections 302, 307, 109 r/w. 3(2)(v) of SC/ST (Prevention of Atrocities) Act and filed Alteration Report (Ex.P40).

14.Thereafter, on 27.06.2019, the Investigating Officer requested for the Community Certificates of the deceased and accused persons from the Revenue officials. On 28.06.2019, he recorded the statements of other witnesses and he sent a requisition letter to the Court for sending the material objects for forensic examination vide Ex.P41.



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15. On 29.06.2019 at 02.30 hours, on receipt of information that D2 had died in Coimbatore Medical College Hospital on 28.06.2019 at 11.45 p.m., the Investigating Officer again altered the case to Section 302 IPC (2 counts), Section 109 IPC r/w. Section 3(2)(v) of SC/ST (POA) Act vide Alteration Report (Ex.P42).

16. On the next day morning, he visited the Coimbatore Medical College Hospital and conducted inquest over the dead body of D2 and prepared inquest report (Ex.P43). Thereafter, he sent the dead body of D2 for post-mortem through one Renuka, Woman Head Constable (not-examined) along with requisition letter (Ex.P44), report (Ex.P45) and Special Report of Head Constable (Ex.P46).

17. Dr. Peranandam (P.W.14) conducted autopsy over the dead body of the deceased Varshini Priya (D2) and issued Post-mortem Certificate (Ex.P25), noting down the following injuries :

(1) Abrasion 0.5 x 0.5 cm noted over outer aspect of right forehead. 0.5 x 0.5 cm, 0.5 x 0.5 cm noted over back of right elbow.



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(2) Abrasion 4 x 3 in length, 2 x 1 cm noted over the centre of back of upper chest. 6 x 2 cm noted over back of right upper chest. 5 x 3 cm noted over the back of mid chest. 6 x 1 cm noted over the back of left upper chest.

(3) Laceration of size 3 x 0.5 cm x bone deep noted over left parietal region.

(4) Migrating contusion of size 5 x 3 cm noted over the right cheek. 6 x 4 cm noted over the left zygomatic and parotid region. 7 x 5 cm noted over the back of right ear and right mastoid region. 10 x 6 cm noted over the back of left ear, left mastoid and left neck. 5 x 4 cm noted over the right angle of mandible and right neck.

After receipt of Viscera Report (Ex.P26), P.W.14 gave his final opinion (Ex.P27) opining that D2 would appear to have died of shock and haemorrhage due to cranio cerebral injury; time of death 12 to 24 hours prior to autopsy; viscera does not contain any poison.

18. After post-mortem, the Investigating Officer seized the blood stained nighty worn by D2 (M.O.4) at the time of occurrence and sent the same to the Court under Form-91 (Ex.47). Thereafter, the Investigating Officer arrested the accused A2 to A4 and recorded their confession



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statements in the presence of P.W.6 (turned hostile) and produced the accused A2 to A4 before the Court. Thereafter, he sent the collected materials for forensic examination vide requisition letter (Ex.P48).

19. Thereafter, the Investigating Officer recorded the statements of the Revenue Officials and collected the Community Certificates of the deceased and the accused persons. Thereafter, the Investigating Officer took steps to record the statements of the witnesses by the learned Magistrate under Section 164 Cr.P.C. vide Ex.P49. The statements given by the prosecution witnesses under Section 164 Cr.P.C. have been marked as Exs.P50 to P59. Thereafter, the Investigating Officer collected the Biological Report in respect of D1 (Ex.P60), Serology Report in respect of D1 (Ex.P61), Serology Report in respect of D2 (Ex.P62), Biological Report in respect of D2 (Ex.P63) and Serology Report in respect of dress worn by D2 (Ex.P64). Since the said Chinnakannan died, his Death Certificate was marked as Ex.P65.

20. The Investigating Officer found from his investigation that D1,



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who belonged to Most Backward Class Category was in love affair with D2, who belonged to Scheduled Caste Category. Since A1 (elder brother of D1) and his close friends (A2 to A4), who were casteist persons, did not like the same, they conspired together and A2 to A4 instigated A1 to kill both D1 and D2 and accordingly, A1 committed the murder of D1 and D2.

21.After recording the statements of the witnesses and collecting various reports, the Investigating Officer completed his investigation and filed a final report for the offences under Sections 294(b), 302 (2 counts) IPC and Section 3(2)(v) of SC/ST (POA) Act as against A1; and for the offences under Section 302 (2 counts) r/w. 109 IPC and Section 3(2)(v) of SC/ST (POA) Act r/w. Section 109 IPC as against A2 to A4, before the Principal Sessions Court, Coimbatore, and the case was taken on file in Spl.S.C.No.25 of 2019.

22.Thereafter, the case was made over to the Special Court for Trial of



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Cases under SC/ST (PoA) Act for trial and renumbered as Spl.S.C.No.56 of
2023.

23.The trial Court framed the charges for the offences under Sections 120(b), 448, 294(b), 302 (2 counts) IPC and Section 3(2)(v) of SC/ST (PoA) Act as against A1; for the offences under Sections 120(b), 448 r/w.109 IPC, 302 r/w. 120(b) (2 counts), 302 r/w. 120(b) IPC and Section 3(2)(v) of SC/ST (PoA) Act as against A2 to A4. When questioned, the accused pleaded “not guilty”.

24.To prove the guilt of the accused, the prosecution examined P.W.1 to P.W.16, marked Exs.P1 to P67, and produced M.Os.1 to 9. On the side of the defence, no witness was examined nor any document marked.

25.When the accused were questioned under Section 313 Cr.P.C., they denied the charges framed against them.

26.The trial Court, on appreciation of entire oral and documentary



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evidence on record, by judgment dated 23.01.2025 in Spl.S.C.No.56 of 2023, acquitted A2 to A4 of all the charges framed against them and A1 of the charges under Section 294(b) IPC and Section 120(b) IPC, however, convicted A1 for the offences under Section 448 IPC, 302 IPC (2 counts), 302 IPC r/w. Section 3(2)(v) of SC/ST (PoA) Act. Thereafter, the trial Court adjourned the case for pre-sentence questioning under Section 235(2) Cr.P.C.

27. On 29.01.2025, the trial Court sentenced A1 to one year rigorous imprisonment and to pay fine of Rs.1,000/-, in default, to undergo one month simple imprisonment for the offence under Section 448 IPC; and sentenced him to DEATH for the offence under Section 302 IPC for committing murder of Kanagaraj (D1) and also sentenced him to DEATH for the offence under Section 302 IPC for committing murder of Varshini Priya (D2) and held he shall be hanged by neck till his death and the said death sentences will be subject to confirmation of High Court of Madras in terms of Section 366 IPC. Since capital sentence of death was awarded to A1, no separate sentence was imposed under Section 3(2)(v) of SC/ST (PoA) Act. The trial Court also ordered the District Administration to pay the



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compensation as per Annexure 1 to Rule 12(4) of SC/ST (PoA) Rules, 1995.

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28.The trial Court has awarded death sentences, since A1 has murdered two persons in the name of “honour killing”, as A1 did not like his younger brother (D1) marrying or moving with a girl belonging to marginalized community and therefore, he decided to do away with both his brother (D1) and his lover (D2).

29.For confirmation of the death sentences, the trial Court has referred the matter to this Court under Section 366 Cr.P.C., which is numbered as R.T.No.2 of 2025. Challenging the conviction and sentence, A1 has filed an independent appeal in Crl.A.No.234 of 2025.

30.It is the contention of the learned counsel appearing for the appellant/A1 that the prosecution has not proved the case of honour killing. The prosecution story clearly shows that it is an ordinary murder in a fit of anger. The allegation that the appellant has killed the deceased only due to caste, has not been established. It is his contention that such a theory has



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been developed later. In the complaint (Ex.P1), absolutely there is no whisper, whatsoever, with regard to caste bias, etc. Only during the course of investigation, particularly in order to make the case sensational, such a theory has been introduced by the prosecution. Therefore, the same cannot be a ground to bring the case within the ambit of “honour killing” to impose capital punishment.

31.The learned counsel would further submit that the presence of eye-witnesses, namely P.W.1 and P.W.2, in the place of occurrence, is highly doubtful. According to him, if P.W.1, P.W.2 and Chinnakannan were really present at the place of occurrence, they would have atleast made some attempt to prevent the attack. However, they had remained as mute spectators and they have not even made any hue and cry to stop the attack. This itself clearly shows that their conduct is unnatural and makes their evidence unbelievable. Further, it is his contention that, to believe that P.W.1 and P.W.2 were present at the place of occurrence, the so-called blood stained dresses of P.W.1 and P.W.2 have not been seized by the Investigating Officer for the reasons best known to him. Further, P.W.4, though stated that



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he saw the appellant/A1 moving out with M.O.1, in his statement under Section 164 Cr.P.C., has clearly admitted that he has not identified the appellant. For the first time, in the Court, he has given evidence as if he knows the appellant. This contradiction is also material and therefore, the evidence of P.W.4 cannot be believed at all. P.W.7's (Auto Driver) evidence also will not serve any purpose to the prosecution. The arrest and recoveries are also highly doubtful. Therefore, the learned counsel would submit that the accused is entitled to the benefit of doubt.

32.The learned counsel would further submit that, even if the Court believes the prosecution story, it is not a fit case to impose the maximum punishment of death, as the act of the appellant/A1 will not fall within the ambit of “rarest of the rare cases”. Hence, he would pray that the conviction and death sentence imposed by the trial Court, has to be set aside.

33.Whereas, the learned Public Prosecutor appearing for the State in



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the Referred Trial would submit that P.W.1 and P.W.2, who are the eye-witnesses to the occurrence, have clearly spoken about the occurrence and the injuries inflicted by A1 with M.O.1 (billhook) on the deceased D1 and D2. P.W.4 has seen the accused carrying M.O.1 with blood stain. P.W.4 has no axe to grind against the accused and he has seen A1 immediately after the occurrence with blood stained M.O.1, moving in a panic manner. Similarly, P.W.7 (Auto Driver), who is an utter stranger, has deposed that he took both the deceased D1 and D2 along with P.W.1, P.W.2 and Chinnakannan and admitted the injured in the hospital. His evidence is natural. Therefore, from the evidence of the eye-witnesses, independent witnesses, medical evidence and other cogent circumstances, the prosecution has clearly established the case of murder.

34.Further, it is the contention of the learned Public Prosecutor that the overall evidence of the prosecution witnesses also clearly indicates that A1 has done away with both the deceased only on the ground that D2 belongs to a marginalized community. That was the reason why A1 murdered his brother (D1) as well as his lover (D2) in the name of “honour



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killing”. Therefore, the trial Court has rightly imposed the capital punishment on A1. Thus, the learned State Public Prosecutor would submit that the conviction and sentence imposed by the trial Court has to be confirmed.

35.Dr.V.Suresh, learned counsel appearing for the *de facto* complainant (P.W.1)/3rd respondent in Crl.A.No.234 of 2025 would submit that the act of the appellant cannot be condoned. The learned counsel would submit that, though the *de facto* complainant is not pressing for capital punishment of death, the appellant should be punished for life. It is his contention that the evidence of the prosecution witnesses has clearly established the guilt of the appellant beyond reasonable doubt. Therefore, the conviction made by the trial Court warrants no interference.

36.In the light of the submissions made on either side, the points that arise for consideration are :

- i. *Whether the prosecution has proved the guilt of the accused beyond reasonable doubt ?*
- ii. *If so, whether the case falls within the ambit of “rarest*



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of the rare cases” warranting death sentence ?

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37.The case of the prosecution is that, earlier when D1 and D2 eloped in the year 2018, all the accused A1 to A4 came to the house of P.W.1 and warned her not to allow her daughter (D2) to move around with D1, as they are not in favour of D1 marrying D2 who belonged to SC Community. The prosecution has projected a theory as if, despite such warning, since D1 and D2 continued their affairs and eloped once again, A1 to A4 conspired together and decided to do away with both D1 and D2 and instigated A1 to kill both D1 and D2. On account of which, the enraged A1, on coming to know about the whereabouts of the deceased, came to the spot with a billhook (M.O.1) and cut both D1 and D2 and murdered them.

38.However, the theory of conspiracy projected by the prosecution was totally disbelieved by the trial Court. Accordingly, A2 to A4 were acquitted of all the charges framed against them. The prosecution has not challenged the acquittal of A2 to A4. Further, when the entire evidence of prosecution is carefully perused with regard to the theory of conspiracy, we



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are of the view that the alleged conspiracy theory to eliminate the deceased only on the ground of caste, has not been established. Be that as it may.

39.Now, coming to Point No.1 with regard to the guilt of the appellant/A1, the evidence of P.W.1 (mother of D2) and P.W.2 (father of D2) is vital. P.W.1 and P.W.2 have stated in their evidence that their daughter (D2) was in love affair with D1 and on an earlier occasion, they eloped together in the year 2018 and thereafter, they found them and brought back their daughter (D2) to their house and advised her to wait till she attains majority. Thereafter, prior to the occurrence, again, they eloped together. On the date of occurrence, i.e., on 25.06.2019, when P.W.1 came to know that D1 and D2 are staying in a thatched shed, she (P.W.1), her husband (P.W.2) and her uncle Chinnakannan (not-examined) went to the place. At about 5.00 p.m., when they were in conversation with D1 and D2, the accused A1, who is the elder brother of D1, came with a billhook (M.O.1) and in a fit of anger, abused his younger brother (D1) saying that he already warned him that a SC Community girl is not required and he (A1) will not also not get any bride. By saying so, A1 cut the deceased D1 with M.O.1 on



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his head and then, on his neck and when D1 tried to ward off the attack, A1 inflicted cut on D1's hand also. When they shouted, D2 tried to save D1 and at that time, A1 turned back the billhook (M.O.1) and hit D2 with the back of M.O.1 on her head and then, on her right side neck and left side neck. ON seeing this, P.W.1, P.W.2 and Chinnakannan screamed. The appellant A1 left the scene of occurrence with M.O.1. According to P.W.1 and P.W.2, D1 succumbed to injuries at the spot itself. D2 was struggling for life. Thereafter, both D1 and D2 were taken to the Mettupalayam Government Hospital in an Auto. P.W.7 (Auto Driver) has also supported the version of P.W.1 and P.W.2. In his evidence, P.W.7 has also clearly stated that, in his Auto, both the deceased D1 and D2 were taken to Government Hospital. He has further stated that P.W.1, P.W.2 and Chinnakannu came along with the deceased to the hospital. Therefore, the presence of P.W.1, P.W.2 and Chinnakannan in the scene of occurrence is established by the evidence of P.W.7 (Auto Driver) who is an utter stranger to the case. Further, P.W.4 (vegetable shop owner), in his evidence, has also clearly stated that he has also seen the accused at the relevant point of time moving out of the scene of occurrence with a blood stained billhook (M.O.1) in a panic manner.



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Therefore, the presence of A1 in the scene of occurrence at the relevant point of time, is also established by an independent witness (P.W.4).

40. Therefore, from the above evidence, it is clear that the evidence of P.W.1 and P.W.2 can be relied upon as eye-witness to the occurrence.

41. P.W.13 (Medical Officer) attached to Mettupalayam Government Hospital has seen the deceased D1 brought dead and D2 brought with injuries. On examination, he issued Ex.P23 (Accident Register) in respect of D1 and Ex.P24 (Accident Register) in respect of D2 and referred D2 to Coimbatore Medical College Hospital. It is to be noted that P.W.13 has stated in his evidence that both the deceased were brought to the hospital by one Chinnakannan (another person who witnessed the accident). However, unfortunately, the prosecution could not examine him, since he died. To prove his death, the prosecution has marked the Death Certificate of Chinnakannan as Ex.P65.

42. With this backdrop, now, delving into the evidence of eye-



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witnesses (P.W.1 and P.W.2), it is clear that the enraged A1, in a fit of anger against his younger brother (D1) as he is trying to marry before him, cut the deceased D1 on his head and neck. Though P.W.1 and P.W.2 have stated in their evidence that A1 was not happy with his brother D1 marrying or moving with D2 belonging to SC Community, we are of the view that such statements have been introduced for the first time during investigation and trial. At the earliest point of time, when P.W.1 lodged her complaint (Ex.P1), she had never whispered anything about the caste-bias which was the alleged root cause for the murder. Therefore, this Court is of the view the entire prosecution version that A1 murdered both the deceased on the ground of caste bias, is highly doubtful and it has been introduced only at the later point of time to strengthen the case and also to make it sensational. Therefore, we are not in a position to persuade ourselves to rely upon the evidence of P.W.1 and P.W.2 with regard to caste-bias alone. However, their evidence with regard to witnessing the occurrence cannot be disbelieved.

43.Though it is the contention of the learned counsel for the appellant



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that the blood stained dresses worn by P.W.1 and P.W.2 at the time of occurrence, have not been seized by the Police, their evidence cannot be discarded for the simple reason that P.W.7 (Auto Driver), who is a stranger, has clearly seen P.W.1 and P.W.2 bringing both the injured to his Auto and immediately, both D1 and D2 were taken to the Government Hospital, Mettupalayam and admitted in the hospital. Therefore, we are of the view that, merely because the Police have not seized the blood stained clothes from P.W.1 and P.W.2, the same cannot be a ground to disbelieve their evidence in entirety. It may be a mistake on the part of the Police. Mere defect in the investigation or mistake on the part of the Investigating Officer will not render the evidence of the witnesses unbelievable, which is otherwise believable.

44. Though we have disbelieved the evidence of P.W.1 and P.W.2 with regard to caste bias, their evidence with regard to motive of murder and the occurrence, cannot be disbelieved. Merely because one portion of the evidence is disbelieved, it does not mean that their entire evidence has to be disbelieved. The Doctrine of *falsus in uno falsus in omnibus* cannot be



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strictly applied to Indian conditions. A witness may improve certain aspects and give an exaggerated version and such version alone may not be believed by the Court by considering the overall facts and circumstances of the case, however, that may not be a sole ground to discard the entire testimony of the witness which is otherwise proved by other evidence. Therefore, the contention of the learned counsel for the appellant with regard to non-recovery of blood stained clothes from P.W.1 and P.W.2, cannot be countenanced by this Court.

45.Yet another ground urged by the learned counsel for the appellant/A1 is the contradiction in description of injuries by P.W.1 and P.W.2 in their evidence and also the conduct of the witnesses at the relevant point of time. According to the learned counsel, there are more injuries noted on D1, however, the evidence of P.W.1 and P.W.2 describes only few injuries. We are of the view that, every eye-witness cannot be expected to describe the minute details of the injuries. The nature of injuries on the body can be accurately noted only by the Medical Experts. A person witnessing the occurrence cannot be expected to give all the minute details of every



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injury sustained by the victim. What one has witnessed and observed may not be the case of the other. Further, reaction of a person to an incident, will differ from person to person. Ultimately, what is relevant to be found is as to who has caused the injuries. It is relevant to note that the Investigating Officer, based on the confession of A1, has seized the billhook (M.O.1) used for attacking the deceased D1 and D2, blood-stained shirt (M.O.7) and blood-stained pant (M.O.8) worn by A1 at the relevant point of time. Those Material Objects were also subjected to forensic examination. Though human blood was found in all those Material Objects and the blood grouping test was inconclusive in respect of billhook (M.O.1) and pant (M.O.8), the T-Shirt seized from A1 (M.O.7) contained human blood of “B-Group” which is none other than the blood group of D1. From this incriminating circumstance, coupled with the eye-witnesses' version and the evidence of independent witness P.W.4, we are of the view that it is only the accused A1 who caused the murder of the deceased D1 and D2. Therefore, the contention of the learned counsel that the witnesses have not given the minute details of the injuries, cannot be countenanced by this Court.



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46. In view of the above discussion, **this Court holds that the prosecution has proved the charge of murder of Kanagaraj (D1) and Varshini Priya (D2) against the appellant/A1 beyond reasonable doubt** and therefore, the conviction of the appellant/A1 for the offence under Section 302 IPC (2 counts) warrants no interference. ***Accordingly, Point No.1 is answered.***

47. Now, coming to the question of punishment, it is relevant to note that the injuries inflicted by A1 on D1 and D2 are not similar and in fact, on D1, the injuries are more severe than D2. P.W.1 and P.W.2 have clearly spoken in their evidence that, in fact, D1 was cut by A1 on his head and neck with billhook (M.O.1), whereas, when D2 intervened, the accused A1, in fact, has not inflicted similar attack on D2, but rotated the billhook (M.O.1) and hit her (D2) with the back side of M.O.1 on her head and neck. This version of the prosecution witnesses is also supported by medical evidence. While P.W.12, the Medical Officer who conducted post-mortem on D1, has noted a laceration (7 x 2 x 2 cm) over frontal region of the (middle) scalp and a laceration (6 x 1 x 1 cm) over the occipital region of scalp on the body



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of the deceased Kanagaraj (D1), P.W.14, the Medical Officer who conducted post-mortem on D2, besides a laceration of size 3 x 0.5 cm x bone deep over left parietal region, has noted down only contusions of size 5 x 3 cm over the right cheek; 6 x 4 cm over the left zygomatic and parotid region; 7 x 5 cm over the back of right ear and right mastoid region; 10 x 6 cm over the back of left ear, left mastoid and left neck; and 5 x 4 cm over the right angle of mandible and right neck. In fact, A1 has not inflicted any cut injury on D2. He has attacked D2 only when she intervened to prevent the attack on D1. The main intention of A1 appears to be to cause severe injuries on his younger brother (D1) since he (A1) was not happy with his younger brother (D1) getting married before him. Considering the intention of the accused and the nature of attack made by A1 on D1 and D2, this Court is of the view that the murder was not based on caste bias. It was only in a fit of rage that his younger brother (D1) was trying to get married before him (A1). That was the main reason. Even the very evidence of P.W.1 and P.W.2 would clearly indicate that, only in a fit of anger, A1 entered the thatched shed and hit D1 on his head with M.O.1 and later, when D2 prevented, using the backside of M.O.1, hit her on the head. Therefore, these facts also clearly



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indicate that the occurrence took place only in a fit of rage that the accused A1 was not happy with his younger brother getting married before him. In such view of the matter, though unfortunately two of them had died, we are of the firm view that the murder will not fall within the ambit of “honour killing” as held by the trial Court.

48.The Constitution Bench of the Hon'ble Supreme Court in ***Bachan Singh v. State of Punjab*** reported in ***(1980) 2 SCC 684***, in majority, has indicated the standards and norms restricting the area of imposition of death penalty and has broadly indicated the aggravating and mitigating circumstances to be looked in a particular case while awarding death sentence. The Hon'ble Supreme Court has held that, in order to qualify for inclusion in the category of “aggravating circumstances” which may form the basis of “special reasons” in Section 354(3) IPC, the circumstances found on the facts of a particular case must evidence aggravation of an abnormal or special degree. At the same time, “mitigating circumstances” are undoubtedly relevant circumstances and must be given great weight in the determination of sentence. It has been held that factors like extreme



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“202.Drawing upon the penal statutes of the States in U.S.A. framed after Furman v. Georgia [33 L Ed 2d 346 : 408 US 238 (1972)] , in general, and clauses 2 (a), (b), (c) and (d) of the Penal Code, 1860 (Amendment) Bill passed in 1978 by the Rajya Sabha, in particular, Dr Chitale has suggested these “aggravating circumstances”:

“Aggravating circumstances: A court may, however, in the following cases impose the penalty of death in its discretion:

(a) if the murder has been committed after previous planning and involves extreme brutality; or

(b) if the murder involves exceptional depravity; or

(c) if the murder is of a member of any of the armed forces of the Union or of a member of any police force or of any public servant and was committed—

(i) while such member or public servant was on duty; or

(ii) in consequence of anything done or attempted to be done by such member or public servant in the lawful discharge of his duty as such member or public servant whether at the time of murder he was such member or public servant, as the case may be, or had



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ceased to be such member or public servant; or

(d) if the murder is of a person who had acted in the lawful discharge of his duty under Section 43 of the Code of Criminal Procedure, 1973, or who had rendered assistance to a Magistrate or a police officer demanding his aid or requiring his assistance under Section 37 and Section 129 of the said Code.”

205. In several countries which have retained death penalty, pre-planned murder for monetary gain, or by an assassin hired for monetary reward is, also, considered a capital offence of the first-degree which, in the absence of any ameliorating circumstances, is punishable with death. Such rigid categorisation would dangerously overlap the domain of legislative policy. It may necessitate, as it were, a redefinition of ‘murder’ or its further classification. Then, in some decisions, murder by fire-arm, or an automatic projectile or bomb, or like weapon, the use of which creates a high simultaneous risk of death or injury to more than one person, has also been treated as an aggravated type of offence. No exhaustive enumeration of aggravating circumstances is possible. But this much can be said that in order to qualify for inclusion in the category of “aggravating circumstances” which may form the basis of “special reasons” in Section 354(3), circumstance found on the



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facts of a particular case, must evidence aggravation of an abnormal or special degree.

206.Dr Chitale has suggested these mitigating factors:

“Mitigating circumstances.—In the exercise of its discretion in the above cases, the court shall take into account the following circumstances:

(1) That the offence was committed under the influence of extreme mental or emotional disturbance.

(2) The age of the accused. If the accused is young or old, he shall not be sentenced to death.

(3) The probability that the accused would not commit criminal acts of violence as would constitute a continuing threat to society.

(4) The probability that the accused can be reformed and rehabilitated.

The State shall by evidence prove that the accused does not satisfy the conditions (3) and (4) above.

(5) That in the facts and circumstances of the case the accused believed that he was morally justified in committing the offence.

(6) That the accused acted under the duress or domination of another person.

(7) That the condition of the accused showed that he



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was mentally defective and that the said defect impaired his capacity to appreciate the criminality of his conduct.”

*207. We will do no more than to say that these are undoubtedly relevant circumstances and must be given great weight in the determination of sentence. **Some of these factors like extreme youth can instead be of compelling importance.** In several States of India, there are in force special enactments, according to which a “child”, that is, “a person who at the date of murder was less than 16 years of age”, cannot be tried, convicted and sentenced to death or imprisonment for life for murder, nor dealt with according to the same criminal procedure as an adult. The special Acts provide for a reformatory procedure for such juvenile offenders or children.*

*208. According to some Indian decisions, the post-murder remorse, penitence or repentance by the murderer is not a factor which may induce the court to pass the lesser penalty (e.g. *Mominuddi Sardar* [AIR 1935 Cal 591 : *Emperor v. Mominuddi Sardar*, 39 CWN 262 : 36 Cri LJ 1254]). But those decisions can no longer be held to be good law in view of the current penological trends and the sentencing policy outlined in Sections 235(2) and 354(3). We have already extracted the views of A.W. Alschuler in *Criminal Year-Book* by Messinger*



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and Bittner, which are in point.

209. *There are numerous other circumstances justifying the passing of the lighter sentence; as there are countervailing circumstances of aggravation. “We cannot obviously feed into a judicial computer all such situations since they are astrological imponderables in an imperfect and undulating society.” Nonetheless, it cannot be over-emphasised that the scope and concept of mitigating factors in the area of death penalty must receive a liberal and expansive construction by the courts in accord with the sentencing policy writ large in Section 354(3). Judges should never be bloodthirsty. Hanging of murderers has never been too good for them. Facts and Figures, albeit incomplete, furnished by the Union of India, show that in the past, courts have inflicted the extreme penalty with extreme infrequency — a fact which attests to the caution and compassion which they have always brought to bear on the exercise of their sentencing discretion in so grave a matter. It is, therefore, imperative to voice the concern that courts, aided by the broad illustrative guide-lines indicated by us, will discharge the onerous function with evermore scrupulous care and humane concern, directed along the highroad of legislative policy outlined in Section 354(3) viz. that for persons convicted of murder, life imprisonment is the rule and*



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death sentence an exception. A real and abiding concern for the dignity of human life postulates resistance to taking a life through law's instrumentality. That ought not to be done save in the rarest of rare cases when the alternative option is unquestionably foreclosed.”

(emphasis supplied)

49.The Hon'ble Supreme Court, in ***Ramnaresh and others v. State of Chhattisgarh*** reported in (2012) 4 SCC 257, has followed ***Bachan Singh's case*** (*supra*) and has further added the following circumstances under “mitigating circumstances” in addition to the ones enumerated in ***Bachan Singh's case*** (*supra*).

“76. ... Mitigating Circumstances

... (5) The circumstances which, in normal course of life, would render such a behaviour possible and could have the effect of giving rise to mental imbalance in that given situation like persistent harassment or, in fact, leading to such a peak of human behaviour that, in the facts and circumstances of the case, the accused believed that he was morally justified in committing the offence.

(6) Where the court upon proper appreciation of evidence



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is of the view that the crime was not committed in a preordained manner and that the death resulted in the course of commission of another crime and that there was a possibility of it being construed as consequences to the commission of the primary crime.”

50.By applying the broad guidelines enumerated by the Hon'ble Supreme Court in the above judgment to the present case on hand, it is relevant to note that none of the aggravating circumstances as extracted *supra* can be attracted in the instant case. On the contrary, the appellant/A1 was at a young age of 24 years at the time of occurrence and he was unmarried. As already held, A1 has committed murder of his brother (D1) only in a fit of anger, in an extreme mental and emotional disturbance that his younger brother (D1) is likely to get married before him and therefore, he could not get a bride thereafter. Such an act of the accused, in normal course of life, would render such a behaviour possible in that given situation. Further, from the overall evidence, it appears that the murder of D2 was not committed in a preordained manner and the death resulted in the course of commission of another crime, i.e., attack on D1, when D2 tried to intervene,



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and therefore, it can be construed as a consequence to the commission of the primary crime. The occurrence is only a result of an extreme rage and anger of the accused A1 that his younger brother is getting married before him. Such an act of the accused can never be brought within the ambit of “rarest of rare cases” at any stretch of imagination. Therefore, when there are more than one mitigating circumstances in favour of the appellant/A1, the trial Court is not justified in awarding the death penalty as against the appellant/A1, as per the authoritative pronouncement of the Hon'ble Supreme Court in ***Bachan Singh's case (supra)***.

51.It is relevant to note that the Hon'ble Supreme Court in ***Vikas Yadav Vs. State of U.P. and others*** reported in ***(2016) 9 SCC 541***, which also discusses about sentencing in a case of honour killing, has held as follows :

“74A.Thus analyzed, we find that the imposition of fixed term sentence on the Appellants by the High Court cannot be found fault with. In this regard a reference may be made to a passage from Guru Basavaraj v. State of Karnataka (2013) 7



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SCC 545, wherein while discussing about the concept of appropriate sentence, the Court has expressed thus:

“18. Just punishment is the collective cry of the society. While the collective cry has to be kept uppermost in the mind, simultaneously the principle of proportionality between the crime and punishment cannot be totally brushed aside. The principle of just punishment is the bedrock of sentencing in respect of a criminal offence. A punishment should not be disproportionately excessive. The concept of proportionality allows a significant discretion to the Judge but the same has to be guided by certain principles. In certain cases, the nature of culpability, the antecedents of the accused, the factum of age, the potentiality of the convict to become a criminal in future, capability of his reformation and to lead an acceptable life in the prevalent milieu, the effect-propensity to become a social threat or nuisance, and sometimes lapse of time in the commission of the crime and his conduct in the interregnum bearing in mind the nature of the offence, the relationship between the parties and attract ability of the doctrine of bringing the convict to the value-based social mainstream may be the guiding factors. Needless to emphasise, these are certain illustrative aspects put forth in a condensed manner. We may hasten to add that there can neither be a straitjacket formula nor a solvable theory in mathematical exactitude. It would be dependent on the facts of the case and rationalized judicial discretion. Neither the personal perception of a Judge nor self-adhered moralistic vision nor hypothetical apprehensions should be allowed to have any play. For every offence, a drastic measure cannot be thought of. Similarly, an offender cannot be allowed to be treated with leniency solely on the ground of discretion vested in



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a court. The real requisite is to weigh the circumstances in which the crime incarceration meaning has been committed and other concomitant factors which we have indicated herein before and also have been stated in a number of pronouncements by this Court. On such touchstone, the sentences are to be imposed. The discretion should not be in the realm of fancy. It should be embedded in conceptual essence of just punishment.”

(emphasis supplied)

52. One more relevant circumstance to be noted in this case is that the trial Court has not followed the proper procedure as contemplated while questioning the accused under Section 313 Cr.P.C. It is well settled that every incriminating material staring as against the accused, has to be separately put to the accused under Section 313 Cr.P.C. for his explanation. However, on a perusal of records, it is seen that the evidence of each witness has been put as one question and explanation has been sought, which is totally against the very provision under Section 313 Cr.P.C. The trial Judge has, in fact, has not adhered to the procedure contemplated under Section 313 Cr.P.C. and has allowed the questions under Section 313 Cr.P.C. to be mechanically typed by a Typist and instead of participating in the actual trial, he has remained as a mute spectator. The very purpose of questioning



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under Section 313 Cr.P.C. is to put each and every incriminating material

appearing in evidence, to the accused for him to offer his explanation.

However, in the given case, the trial Judge has simply abdicated his responsibility and it appears that the evidence of each witness has been just copied and pasted and the formality of questioning under Section 313 Cr.P.C. has been completed. Instead of giving too much appreciation to the Advocates who conducted the case, the trial Judge ought to have followed the proper procedure while conducting the case. No doubt, the accused has also offered his reply separately and he has taken defence that he was not in the place of occurrence at the relevant point of time, whereas, the same has not been proved by him and in the contrary, the prosecution has also proved the presence of the accused in the place of occurrence. In this circumstance, having not followed the proper procedure of questioning under Section 313 Cr.P.C. in a criminal trial, the trial Judge is not justified in awarding maximum penalty of death to the accused.

53.Though the act of the trial Judge invites proceedings against him, we restrain ourselves from passing any adverse orders against him and we



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only record that the trial Court shall be careful and shall not repeat the same in future in any Sessions Case and shall follow the proper procedure as contemplated under law, while conducting the case.

54.In view of the above discussion, we are of the view that it is not a fit case warranting death penalty and therefore, **this Court is inclined to reduce the death sentence imposed on the appellant/A1 for the offence under Section 302 IPC to imprisonment for life. *Point No.2 is answered accordingly.***

55.Since the prosecution has clearly established through the evidence of eye-witnesses (P.W.1 and P.W.2) that the appellant/A1 trespassed into the house of D1 when they were having a conversation with D1 and D2, the conviction and sentence awarded by the trial Court *qua* Section 448 IPC warrants no interference.

56.Insofar as the charge under Section 3(2)(v) of SC/ST (PoA) Act is concerned, though the prosecution has alleged that the murder was due to



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caste bias, since D1 was trying to marry a girl of marginalized community, this Court, on a careful scanning of the entire evidence, has already held *supra* that the caste bias theory was, in fact, developed only later. In fact, while abusing his younger brother (D1) in the fit of anger that he is trying to get married before him, the appellant/A1 had attacked D1. At that time, when D2 intervened, in a fit of anger, she was also attacked by A1. Therefore, it cannot be construed that she (D2), who belonged to SC Community, was attacked only because of her caste or on the ground that she belonged to SC Community, to maintain a charge under Section 3(2)(v) of SC/ST (PoA) Act. Therefore, this Court is of the view that the charge under Section 3(2)(v) of SC/ST (PoA) Act is not made out as against the accused and the accused is entitled to be acquitted of that charge. It is relevant to note that the trial Court has not awarded any separate penalty under this Section.

57.In view of the narrative *supra*, the judgment of the trial Court is modified to the following extent :

<i>Accused</i>	<i>Charge</i>	<i>Result</i>	<i>Sentence</i>
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Appellant/ A1	Section 448 IPC	Confirmed	Confirmed
	Section 302 IPC (for murder of Kanagaraj)	Confirmed	Imprisonment for life
	Section 302 IPC (for murder of Varshini Priya)	Confirmed	Imprisonment for life
	Section 3(2)(v) of SC/ST (PoA) Act	Not proved.	Acquitted.

The sentences are ordered to run concurrently. The period of remand/incarceration already undergone by the appellant/A1 from 26.06.2019 till date is ordered to be set off under Section 428 Cr.P.C. Since the appellant/A1 is acquitted of the offence under Section 3(2)(v) of SC/ST (PoA) Act, the direction of the trial Court ordering the District Administration to pay the compensation as per Annexure 1 to Rule 12(4) of SC/ST (PoA) Rules, 1995, is set aside. However, the *de facto* complainant (P.W.1), who is the mother of the deceased Varshini Priya (D2), is entitled to compensation under the Tamil Nadu Victim Compensation Scheme, 2013. The District Legal Services Authority, Coimbatore, shall pursue the matter for recommending appropriate compensation to the victim as per the Scheme. Rest of the judgment of the trial Court stands confirmed.



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58.In fine, the Criminal Appeal in Crl.A.No.234 of 2025 is partly allowed and the reference in R.T.No.2 of 2025 is answered in terms of Para No.57, *supra*.

(N.S.K., J.) (M.J.R., J.)
03.11.2025

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Internet : Yes
Index : Yes / No
Neutral Citation : Yes

To

- 1.The Sessions Judge,
Special Court for trial of Cases under SC/ST (PoA) Act,
Coimbatore.
- 2.The Deputy Superintendent of Police,
Mettupalayam,
Coimbatore.
- 3.The Superintendent,
Central Prison,
Coimbatore.

N. SATHISH KUMAR, J.
and
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4.The Secretary,

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District Legal Services Authority,
Coimbatore.

5.The District Collector,
Coimbatore.

6.The District Adi Dravidar & Tribal Welfare Officer,
Coimbatore.

7.The Public Prosecutor,
High Court, Madras.

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