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Crl.A.No.342 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE M. JOTHIRAMAN

Crl.A.No.342 of 2019

Rajasekar

... Appellant / Sole Accused

-VS-

State by Inspector of Police,
Adiyamankottai Station,
in Crime No.309 of 2013

... Respondent / Complainant

For Appellant : Mr.B.M.Subash

For Mr.B.Mohan

For Respondent : Mr.A.Damodaran

Addl. Public Prosecutor

Asst. by Ms.M.Arifa Thasneem, Advocate

ORDER

N.SATHISH KUMAR,J.,

AND

M.JOTHIRAMAN,J.,

This appeal is listed today under the caption “For Being
Mentioned” at the instance of the learned counsel for the appellant.



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2. When the matter is taken up for hearing, Mr.B.M.Subash, learned counsel for Mr.B.Mohan, learned counsel for the appellant has submitted that though he has advanced argument in this case, name of one Mr.S.Bharanidharan has been wrongly typed in the order. Hence, the cause title in respect of the appearance of the learned counsel for the appellant requires modification.

3. Finding that there was an inadvertent error in marking the appearance of the learned counsel for the appellant, Registry is directed to print the name of Mr.B.M.Subash, learned counsel for the appellant in the place of Mr.S.Bharanidharan in the cause title and issue a fresh copy of the order to the parties concerned.

4. Except the above modification, remaining portion of the order dated 04.11.2025 stands unaltered.

(N.S.K., J.) (M.J.R., J.)
24.11.2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE M. JOTHIRAMAN

Crl.A.No.342 of 2019

Rajasekar

... Appellant / Sole Accused

Versus

State by Inspector of Police,
Adiyamankottai Station,
in Crime No.309 of 2013

... Respondent / Complainant

Criminal Appeal filed under Section 374(2) of Criminal Procedure Code, praying to set aside the judgment of conviction dated 09.04.2019 made in S.C.No.103/2015 on the file of the learned Fast Track Mahila Judge, Dharmapuri.

For Appellant : Mr.S.Bharanidharan
for Mr.B.Mohan



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For Respondent : Mr.A.Damodaran, Addl. Public Prosecutor
assisted by
M/s.M.Arifa Thasneem

JUDGMENT

M.JOTHIRAMAN, J.

The appellant / accused has preferred this appeal challenging the judgement of conviction and sentence dated 09.04.2019 passed by the Fast Track Mahila Court at Dharmapuri, sentencing the appellant to undergo life imprisonment and to pay a fine of Rs.5,000/- in default to undergo 3 months simple imprisonment for the offence under Section 302 IPC and sentencing to undergo 3 years rigorous imprisonment and to pay a fine of Rs.5,000/- in default to undergo 3 months simple imprisonment for the offence under Section 436 IPC and sentencing the appellant to undergo 3 years rigorous imprisonment and to pay a fine of Rs.5,000/- in default to undergo 3 months simple imprisonment for the offence under Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 [TNPPDL Act].



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2. Facts leading to the filing of this appeal, briefly narrated are as under:

2.1. PW1 is the son of one Perumal. The said Perumal had 3 wives, namely Kanthandammal, Mallammal and Nagammal. PW1 was born to the said Nagammal. Perumal had 12 acres of land, out of which 9 acres of land are agricultural lands and the remaining 3 acres are forest bushes. The said Perumal settled 3 acres of land in favour of his 1st wife and his daughter Dhanabhagyam. Out of the remaining 9 acres, 1 Acre and 87 cents are in the hands of PW1. Remaining extent of lands are in the hands of Mallammal/second wife of Perumal. The residential house situated in the village is in the hands of the accused.

2.2. On 13.11.2013 at about 3.00 p.m., PW1's mother Nagammal and his brother were discussing that proper share was not granted to PW1's



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mother. While so, upon hearing the same, the accused brought M.O.2 –

Reaper log and bet him on his mother's Left Cheek, Right Hand wrist repeatedly. On account of the case, she got bleeding on her ears and also set fire on the PW1 mother's hut. PW1's mother Nagammal got swooned and therefore, PW1, his brother Murali /PW2 along with neighbours took her to Dharmapuri Government Hospital and admitted her for treatment.

2.3. PW13 – Dr.Venkatesan, while he was on duty on 13.11.2013 at about 4.30 p.m., PW1's mother Nagammal was brought to the hospital for treatment along with her grandson PW8-Dhanasekaran. On enquiry it was informed that she was attacked by a known person using wooden log at around 4.00 p.m. on the same day. On medical examination, PW13 found the following injuries on Nagammal :

(1) 1 x ½ x ½ cm., incised wound on the left cheek



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(2) Bleeding on the left leg

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(4) 1 x ½ x ½ cms of incised wound on the left hand calf

Thereafter, Nagammal was given first aid and admitted in the Intensive Care Unit as inpatient. Ex.P5 is the Accident Register. At about 5.30 p.m. on the same day, Nagammal died in the hospital since she her body did not respond for the treatment. Death intimation was given from the hospital to Adiyamankottai Police Station.

2.4. PW1 did not know Tamil and hence his younger brother's son PW7-Vignesh written the complaint. The signature found in Ex.P1 belongs to PW7.

2.5. PW17- Soundram, Inspector of Police, Adiyamankottai Police Station while he was on duty on 13.11.2013, PW1 came to the police station and said that her mother Nagammal was beaten by the accused Rajasekar



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with Reaper Logs and caused grievous injuries, due to which she died.

Based on the complaint given by PW1, PW17 registered a case in Crime No.309/2013 for the offences under Sections 436, 427 and 302 IPC. Ex.P8 is the F.I.R. PW17 sent the F.I.R to higher officials.

2.6. PW1- Ganeshkumar, PW2-Murali, PW3-Kaantha, PW4-Muniappan, PW5-Sankar, PW6-Vennila, PW7-Vignesh, PW8-Dhanasekaran, PW9- Krishnamurthy, PW10 – Gunasekaran are relatives.

2.7. The Investigating Officer in this case PW18- Ashokumar, Inspector of Police, took up the investigation on 13.11.2013 night and received the copy of the Death Intimation under Ex.P9. On the next day on 14.11.2013 at 6.00 a.m., he visited the scene of occurrence and in the presence of PW14-Sasikala Village Administrative Officer and PW15-Ponnusamy – Village Assistant, prepared Observation Mahazar – Ex.P6 and



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Rough Sketch – Ex.P10. In the presence of very same witnesses, he

recovered M.O.1- Burnt ash, M.O.2- Reeper Wood under Seizure Mahar

Ex.P7. Thereafter, he conducted inquest on the body of the deceased at the

Dharmapurai Government Hospital and prepared Inquest Report Ex.P11.

PW18 sent requisition under Ex.P3 for conducting autopsy through PW16,

who recovered the dresses of the deceased while conducting postmortem.

2.8. PW12- Dr.Thunderchief is the Doctor who conducted postmortem. Ex.P4 is the Postmortem Certificate, wherein PW12 opined that the deceased would appear to have died due to effects of head injury sustained.

2.9. PW18 – Investigating Officer sent the internal organs of the deceased for forensic analysis and obtained the Forensic Analysis Report- Ex.P12. M.O.3 is a torn saree into three pieces. M.O.4 is the Polyester



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Jacket. M.O.5 is the faded and torn in-skirt. He sent the recovered material objects to the Court under Form 91. Since the electrical meter got damaged in the occurrence, he sent a requisition to the Electricity Department and assessed the damages at Rs.1792/- under Ex.P2 issued by Ex.P11- Assistant Engineer, TANGEDCO.

2.10. PW18-Investigating Officer, in continuation of the investigation, also examined the witnesses one Govindammal, PW6-Vennial, PW7-Vignesh, PW11-Suguna, PW15-Ponnusamy separately and obtained their statements. On 14.11.2013 at 11.30 a.m., near Nallampalli Bus Stand he arrested the accused, interrogated and remanded him to judicial custody. He also examined separately the witnesses PW14-VAO, PW15-Village Assistant, PW17-Sub Inspector of Police and recorded their statements. On completion of investigation, he laid charge sheet against the accused under



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Sections 436, 302 IPC and Section 3(1) of TNPPDL Act, which was taken on file in P.R.C.No.12 of 2015 before the Judicial Magistrate, No.II, Dharmapuri.

2.11. On the appearance of the accused, the provisions of Section 207 Cr.P.C. were complied with and the case was committed to the Fast Track Mahila Court, Dharmapuri in Special S.C.No.103 of 2015, for trial. The trial Court framed charges under Sections 302 and 436 IPC and Section 3(1) of the TNPPDL Act. When questioned, the accused pleaded not guilty.

2.12. To prove the case, the prosecution examined 18 witnesses, marked 13 exhibits and produced 5 Material Objects . When the accused was questioned under Section 313 Cr.P.C. about the incriminating circumstances appearing against him, he denied the same. On behalf of the accused, neither



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any witness was examined nor any document was marked.

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2.13. The trial Court, after having considered the oral and documentary evidence, found that the prosecution had proved the guilt beyond reasonable doubt and convicted and sentenced him as stated above, against which the accused has preferred the instant Criminal Appeal.

3. The learned counsel appearing for the appellant made the following contentions:

(i) The judgment of the trial Court in concluding the guilt of the accused without considering the admissions of the witnesses in respect of the insanity of the appellant in view of non-furnishing of documentary evidences is erroneous and unjust.

(ii) The Trial Court erred in not taking the petition on file, filed under Section 311 CrPC to prove his insanity and



passed the judgment of conviction on 09.04.2019 and the same cause prejudice to the accused.

(iii) The delay in lodging the complaint is not explained by the prosecution and the same is fatal to the prosecution case and the delay causes reasonable doubt in the case of the prosecution.

(iv) In view of the evidence of PWs.1, 2, 3, 8 and 14, Ex.P1 would show that Ex.P1 is not the first information and the first information in this case is suppressed and a false story was fabricated by the relatives of the deceased for their ulterior motive.

(v) The evidence of eye-witnesses PWs.1, 2 and 3 is not cogent and it is contradictory to each other and does not inspire confidence and make the evidence unbelievable and liable to be eschewed.

(vi) The ocular evidence of PWs.1 to 3 are interested and



related witness and therefore, in the absence of cogent and independent corroboration, the same should be rejected for consideration.

(vii) The Fire Department report is suppressed by the investigating agency for the reasons best known to them and the suppression of the statement of the witnesses is fatal and creates doubt in the case of the prosecution.

The learned counsel for the appellant, in support of his contentions, has relied upon the judgment in *A.Steepen v. The State represented by the Inspector of Police [CDJ 2016 MHC 824]*.

4. *Per contra*, the learned Additional Public Prosecutor would submit that the prosecution proved its case beyond reasonable doubt through the evidence of the eyewitnesses PWs.1 to 3 and amply corroborated by medical evidence of the Doctor PW12 and the Trial Court on a proper consideration of the testimonies and documents, has rightly convicted and sentenced the



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accused and therefore, the judgment of the trial Court, convincing and sentencing the appellant does not warrant interference.

5. This Court has considered the submissions made and also perused the materials available on record.

6. The prosecution has relied upon the following circumstances:

(a) Motive and eye witnesses of PW1 to PW3.

(b) Confession and recovery under Section 27 of the Indian Evidence Act.

(c) Medical Evidence.

7. PW1 and PW2 are the sons' of the deceased Nagammal. PW3 is the wife of PW1. According to the prosecution case, the alleged occurrence took place on 13.11.2013 at about 3.00 p.m. while the deceased Nagammal



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was standing near her hut. PW1, in his chief examination, deposed that the occurrence was held on 13.11.2013 and he has not stated the specific time as to when the occurrence took place, whereas PW2, in his cross examination, stated that the occurrence took was held at about 3.00 p.m. PW2 never stated about the date and time of the occurrence. PW1, in his chief examination, states that the accused was assaulted with M.O.2,- Reeper log while the deceased, PW1 and PW2 were taking each other. PW1 not at all stated about the presence of his wife PW3, at the time of occurrence.

8. PW1 deposed that he lodged the complaint – Ex.P13, which was written by PW7-Vignesh. PW1 admitted the deceased in the hospital at about 4.00 p.m., thereafter at about 4.30 p.m., his mother died. After the death of this mother, police has arrived at the hospital and enquired him and they also obtained statement from him. While attacking the accused with M.O.2 on his mother, PW1 has not tried to prevent the same. PW1 did not



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know whether the accused is mentally disabled person.

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9. PW2, in his cross examination, deposed that at the time of occurrence, neighbours one Ramakrishnan and Gunasekaran was present. He was unable to prevent the assault made by the accused, since the accused was attacked spontaneously. PW2 took the deceased to Laligam Hospital through two wheeler. PW1, in his cross examination, states that the deceased was taken to hospital at first through two wheeler, one Raja was holding the deceased and son-in-law of one Kala, drove the two wheeler. One Mani drove the another two wheeler, wherein PW1 was accompanied by the said Mani.

10. PW3, in her cross examination, deposed that on hearing sound, she rushed to the scene of occurrence. Before she reaches the scene of occurrence, her mother-in-law was provided with some water, the deceased



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was unable to speak anything. At that time, the neighbours namely

Krishnamoorthi and one Gunasekaran were there and they hide themselves.

Police has arrived at 5 to 6 p.m. and they enquired her and the police recorded her statement.

11. Though PW1 states that Ex.P1-complaint was written by PW7-Vignesh, PW7 states that he did not know anything about the occurrence, since PW1 told that he could not read and write, PW1 asked to sign him. Therefore, PW7 has signed. The signature of PW7 found in Ex.P13 complaint, his signature marked as Ex.P1, PW7 turned hostile and not supported the case of the prosecution.

12. PW6 is the daughter-in-law of the deceased, who deposed that the accused was mentally retarded person and he was attacked the deceased by using Leaf Cup (தொன்னை).



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WEB COPY 13. PW15- Ponnusamy, Village Assistant deposed that on 13.11.2013, he went to the hospital to see the deceased at about 5.30 p.m., after he came to know that the deceased was attacked by the accused. PW15, in his cross examination, deposed that on the date of occurrence, police has arrived at the scene of occurrence at about 5.30 p.m. and they return back from the scene of occurrence at about 7.00 p.m. PW14-VAO has arrived at the occurrence on the next day morning at about 6.30 a.m. When PW15 went there, police have enquired the witnesses.

14. PW14-Sasikala, Village Administrative Officer, in her chief examination, deposed that when she went to the hospital on 13.11.2013 at about 5.30 p.m. he could not see the deceased. On the next day on 14.11.2013, he went to the scene of occurrence, where PW18-Inspector of Police prepared Observation Mahazar – Ex.P6, Rough Sketch-Ex.P10.



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PW18 recovered M.O.1 and M.O.2 under Mahazar-Ex.P7, where PW14 and

PW15 have signed as a witness. PW14 deposed that M.O.2 was tainted with blood stains. As per Ex.P7-Mahazar, M.O.2., wooden log was found with blood stains, whereas PW18 has not taken any step to send M.O.2 for forensic analysis to find out the blood group found in the weapon-M.O.2.

15. PW1 to PW3, in their evidence, have not stated about the specific time at which the alleged occurrence took place. PW1 in his complaint has stated that the occurrence took place at 3.00 p.m. PW1 has lifted the deceased after the occurrence was over. PW1 and PW2 had not tried to prevent the attack made by the accused. PW3 came to be occurrence upon hearing the sound from the deceased. There are contradictions between the evidence of PW1 to PW3, since PW8 is the person, who accompanied PW1 and PW2 to the hospital, turned hostile and not supported the case of the prosecution. Therefore, the very presence of PWs.1 to 3 in the occurrence



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place creates serious doubts in this case.

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16. PW1 claims that Ex.P13 complaint was written by PW7 Vignesh, whereas PW7 has not supported the case of the prosecution.

17. As per the evidence of PW15, the police has arrived the occurrence place at about 5.30 p.m. on 13.09.2013 i.e., before registration of F.I.R. As per the evidence of PW17 – Sub Inspector of police, PW1 has lodged the complaint on 13.09.2013 at 21 hours and Ex.P8-F.I.R. was registered, thereafter at about 9.30 p.m PW18-Inspector of Police has arrived the police station. Though the F.I.R. in Ex.P8 was registered at 9.00 p.m., whereas PW18-Inspector of Police had visited the scene of occurrence on the next day on 14.09.2013 at 6.30 a.m. Though PW18 recovered M.O.2. Wooden log with blood stains under Ex.P7-Mahazar, the same was not sent for chemical analysis.



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WEB COPY 18. PW13 – Dr.Venkatesan, deposed that on 13.11.2013, the deceased was brought by PW8 – Dhanasekaran, grandson of the deceased, informed that the assault by known person (mentally retarded person) by using reeper wooden log at 4.00 p.m. He found laceration over the left cheek, about 1x0.5 x 0.5 cm, bleeding from left ear swelling, left hand 8 x 8 cm, laceration left forearm by 0.5 x 0.5 cm. He admitted that the deceased is in intensive care unit. He has seen Ex.P5 – Accident Register. According to PW1 to PW2, they have admitted the deceased in the hospital. As per the evidence of PW13 and PW8, the deceased was admitted by PW8 alone.

19. PW9 and P10 deposed that the accused was being taking treatment for his mental illness. PW8 informed PW13 that the accused is mentally retarded person and the same has been recorded in Ex.P5 – Accident Register. At this juncture, it is relevant to cite the judgment of the Hon'ble



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Supreme Court in the case of ***Bapu @ Rajraj Singh v. State of Rajasthan***

[(2007) 7 S.C.R. 917] wherein it has been held that ***“the onus of proving unsoundness of mind is on the accused. But where during the investigation previous history of insanity is revealed, it is the duty of an honest investigator to subject the accused to a medical examination and place that evidence before the Court and if this is not done, it creates a serious infirmity in the prosecution case and the benefit of doubt has to be given to the accused”.***

20. PW1 to PW3 have suppressed the fact that the accused is a mentally retarded person. PW18-Inspector of Police have also not investigated the aforesaid aspects. The presence of PWs.1 to 3 in the scene of occurrence has not been established by the prosecution. There is a contradiction between the evidence of PW8, PW1 and PW2 with regard to taking the deceased to the hospital. There is a contradiction between the



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evidence of PW1 and PW7 with regard to lodging of complaint in Ex.P13.

As per the evidence of PW14, on the same day on 13.09.2013 at 5.30 p.m., police has arrived the scene of occurrence and they left the place at 7.00 p.m. Therefore, before registering the F.I.R. At 9.00 p.m., police has arrived the scene of occurrence. There is a contradiction in the evidence of PW14, PW15 and PW18 with regard to the visit of scene of occurrence by the police. We are of the view that the very presence of PW1 to PW3 at the place of occurrence creates doubt in the prosecution case.

21. In the light of the aforesaid infirmities and inconsistencies, this Court is of the view that the prosecution has not proved its case beyond reasonable doubt and the benefit of doubt enures in favour of the appellant / accused.

22. This Criminal Appeal stands allowed and the conviction and sentence imposed on the appellant under Sections 302, 436 IPC and Section



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3(1) of TNPPDL Act, vide impugned judgment dated 09.04.2019 made in

S.C.No.103/2015 passed by the learned Fast Track Mahila Court is set aside

and the appellant/accused is acquitted of the charges framed against him.

Fine amount, paid if any, is directed to be refunded to the appellant. Bail

bonds executed, shall stand cancelled.

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

04.11.2025

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Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

To

1.Fast Track Mahila Court,
Dharmapuri.

2.Inspector of Police,
Adiyamankottai Station,
Crime No.309 of 2013

3.The Public Prosecutor,
High Court, Madras.



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