



Crl.A.No.455 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2025

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

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Karthick Raja

... Appellant/Accused

-VS-

The State Rep. by
Inspector of Police,
D-4, Kuniyamuthur Police Station
Kuniyamuthur, Coimbatore
Coimbatore District
Crime No.39 of 2018

... Respondent/Complainant

Prayer: Criminal Appeal is filed under Section 374 (2) of Cr.P.C. against the judgment of the learned I Additional District and Sessions Judge, Coimbatore convicting the appellant under Sections 302 IPC by a judgment dated 07.01.2019 in S.C.No.177 of 2018 for the offence under Section 302 IPC sentencing him for life and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for 3 months.

For Appellant : Mr.K.Balasubramaniam



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For Respondent : Mr.A.Damodaran
Addl. Public Prosecutor
Assisted by Ms.M.Arifa Thasneem
Advocate

J U D G M E N T

(By N.Sathish Kumar, J.)

Aggrieved over the judgment of conviction and sentence, dated 07.01.2019 in S.C.No.177 of 2018 passed by the I Additional District and Sessions Judge, Coimbatore, the appellant / accused has filed the present criminal appeal.

2. The Appellant herein, who is the sole Accused in S.C.No.177 of 2018 on the file of learned I Additional District and Sessions Judge, Coimbatore, stands convicted by the trial Court for an offence under Section 302 IPC as follows:

Sl.No.	Conviction	Sentence
1.	Section 302 IPC	To undergo Life Imprisonment with fine of Rs.1,000/-, in default to pay fine to undergo Simple Imprisonment for a period of 3 Months.

The period of remand already undergone by the accused was directed to be set off. Aggrieved by the order of the learned I Additional District and Sessions Judge, Coimbatore, the Appellant has preferred the present



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Criminal Appeal before this Court

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

(i) PW1 (Vishnu) and PW2 (Amitkumar) and the deceased are friends and they are from Utter Pradesh. They used to sell blankets by staying in a lodge. On 15.01.2018, PWs 1 and 2 and the deceased as usual went to sell the blankets. After selling the blankets, they were searching for a hotel near Siruvani Water Tank at about 03.00pm and the deceased enquired about the hotel with the accused and the accused demanded money from the deceased for showing the hotel, but the deceased refused to pay the money. Enraged over the same, the accused hit the deceased on the head and the deceased fell down, he was taken to Malliga Hospital in a auto belonging to PW5 (Rajagopal) by PWs 1 and 2. PW3(Rangasamy), who was running a tea shop in the place of occurrence, has also seen PWs 1 and 2 taking the deceased to the hospital and PW4 (Thillairaj) has also seen the accused running after beating the deceased. PW6 (Abdul Jaffar) is the owner of the lodge where the deceased and Pws1 and 2 were staying and immediately after the occurrence, PW1 informed PW6, they rushed to the



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Malliga Hospital from where the deceased was referred to the Government Hospital where the doctors declared him brought dead.

(ii) Upon receiving information, the police immediately came to the hospital and PW1 gave a statement in Hindi, which was translated to Tamil by Grade I Constable-Abdul Raheem (PW14), who knew Hindi and the statement has been marked as Ex.P1. PW9 (Ilango), who is the Medical Officer attached to the Malliga Hospital, gave a statement to the effect that on 15.01.2018 at about 03.45 pm, the deceased was brought to the hospital by his friends and it was informed that near Siruvani water tank, the deceased was attacked by a person. PW9 noted laceration on the backside of the deceased head and issued Exs.P6 (intimation to the police) and P7 (wound certificate) and referred the injured to the Government Hospital. PW10 (Prasannakumar), who is the Medical Officer attached to the Government Hospital, Coimbatore admitted that the deceased was brought dead and has also stated that there was 3 x 2 cm laceration on the back of his head and sent the dead body to the mortuary and issued Ex.P8 (AIR copy) and also sent the death intimation (Ex.P9). PW15, the Sub-Inspector of Police, after receipt of the intimation, went to the hospital and recorded the



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statement of PW1, which was translated in Tamil by PW14-Abdul Raheem, the Grade I Constable and registered a case in Crime No.39 of 2018 for an offence under Section 302 IPC under Ex.P15 (FIR) and forwarded the FIR to the Court and a copy was marked to PW17 (Investigation Officer), the investigation officer took up the case for investigation and went to the hospital and examined PWs 1 and 2 and also went to the place of occurrence on the same day and prepared observation mahazar (Ex.P2) in the presence of PW7 and also drawn a rough sketch (Ex.P19) and also collected the blood stained earth and ordinary earth in the place of occurrence, which have been marked as MO2 and MO3 under Ex.P3-mahazar. Thereafter, on 16.01.2018, conducted inquest over the dead body and the inquest report has been marked as Ex.P20 and a request was made to the Medical Officer to conduct autopsy. PW11, the Medical Officer conducted the autopsy based on Exs.P10 and the Postmortem Certificate has been marked as Ex.P11 and in the post-mortem following injuries were found:



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External Injuries

Laceration 3 x 1 cm x subcutaneous deep noted over right parietal eminence with surrounding graze abrasion noted over right parietal region.

Internal Injuries

On dissection of scalp, skull and dura: Reddish and scalpal contusion 4 x 3 cm seen over right parietal eminence. Diffuse Sub dural and sub-arachnoid hemorrhage seen over both cerebral hemisphere. Contusion noted over both frontal lobe left temporal lobe and mid brain region.

4. The post-mortem doctor gave a final opinion opining that the deceased died approximately 12 to 24 hours prior to the post-mortem due to injuries on the head and brain. PW17 in continuation of investigation has also collected blood stained shirt, pant from the Grade I Constable (PW12) and forwarded the same to the Court under Ex.P21 (Form 95) and thereafter, on 16.01.2018, arrested the accused in the presence of PW8 and recorded his confession and the admitted portion of the confession is Ex.P4, seized MO1 and produced the accused before Court for remand and recorded further



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statement of witnesses and laid the charge sheet for the offence 302 IPC.

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5.The Investigating Officer, after completing the investigation, laid final report against the accused for the offence under Section 302 IPC before the learned Judicial Magistrate VII, Coimbatore.

6.On appearance of the accused, the provision of Section 207 Cr.P.C. was complied with and the case was committed to the learned Principal District and Sessions Court, Coimbatore as contemplated under Section 209 of CrPC in S.C.No.177 of 2018 and was made over to the learned I Additional District Judge, Coimbatore.

7. In order to bring on the guilt of the accused, the prosecution has examined as many as 17 witnesses and exhibited 22 documents and 5 material objects.



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8. The trial Court, after appreciation of evidence, found the accused guilty of offence under Section 302 of IPC and imposed life sentence with fine of Rs.1000/- with default sentence. Challenging the said judgment, the accused has filed the instant appeal.

9. The learned counsel appearing for the appellant would submit that the witnesses examined by the prosecution are interested witnesses and therefore, conviction recorded solely relying on those witnesses is not proper. Further, it is the contention of the learned counsel for the appellant that the accused had no intention whatsoever to commit the offence and the occurrence took place due to sudden quarrel as there was a miscommunication since the deceased and other witnesses were affluent only in Hindi and the accused was not able to understand the conversation and as a result, the accused was provoked and committed the offence. Therefore, it is contended that the accused had no intention of causing murder and the act of the accused would fall within the ambit of exception under Section 300 IPC. Therefore, at the most the accused would be guilty of offence only under Section 304 IPC and not under Section 302 IPC and hence, prayed for leniency.



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10. Per contra, the learned Additional Public Prosecutor would submit that the accused beat the deceased since the deceased has refused to pay the money and there is clear motive and intention established on the part of the accused.

11. We have considered the rival submissions and also perused the entire materials.

12. PWs 1 and 2, the eye witnesses, have clearly stated that they went to Kuniyamuthur for sale of the blankets, after selling the blankets, they all came near the Siruvani water tank and were in search of a hotel, the deceased enquired with the accused about the hotel and there arose a quarrel, as the accused demanded money and the accused beat the deceased with MO1. PW3, who was owning the tea shop near the place of occurrence, also seen the accused beating the deceased and running away and PW4 has also seen the accused running from the place of occurrence with MO2. PW7 has also seen PWs 1 and 2 lifting the deceased asking for auto to take the victim to the hospital. The occurrence took place at 03.00pm, immediately, PWs 1 and 2 with the help of PW5 (auto driver) took him to the hospital and PW6, the lodge owner where PWs 1 and 2 and



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the victim normally stay, have also rushed to the Malliga hospital where the deceased was first taken for treatment. PW9, the Medical Officer attached to the Malliga hospital has clearly stated that at 03.45 pm, the deceased was brought to the hospital and it was informed that he was attacked by a person. In this regard, Exs.P6 and P7 were marked. PW10, the Medical Officer attached to the Government Hospital has also stated that the deceased was brought dead. The above evidences are spontaneous and there were no infirmities in their evidences. There was no reason whatsoever established for false implication of the accused and PWs 4 and 5, who also belong to that place, have stated that they have seen the deceased injured and taken to the hospital and PW3's evidence clearly indicate that the accused beat the deceased and ran away from the place of occurrence. Further PWs 1 and 2's evidence clearly establish that only when they were in search of a hotel, there arose a quarrel due to which the accused beat the deceased. Their evidence clearly prove that the accused has caused the injury. The evidence of PWs 9 and 10, the Medical Officer, who has seen the external injuries, also spoken substantially in favour of the prosecution. Post-mortem conducted on the deceased clearly proves that in fact the single injury



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caused on the head was a fatal which resulted in the death of the deceased.

Therefore, there are evidences and FIR has also been registered without any delay. In fact PW14 – Abdul Raheem translated the statement of PW1 from Hindi to Tamil.

13. It is relevant to note that accused and the deceased were totally unconnected and PWs 1 and 2 and deceased came to Coimbatore only for sale of blankets and were staying in the lodge owned by PW6 and that after selling the blanket, they were in search of a hotel, there ensued a quarrel between the deceased and accused, as a result, a single injury was caused on the head of the deceased. Though their evidence did not indicate that there was a quarrel between the deceased and the accused for some time, the fact remains that the evidence of PWs 1 and 2 did not indicate what was the nature of conversation took place. It is stated that they have not clearly heard what was the nature of the conversation. The same clearly indicate that there were some quarrel between the deceased and the accused which led to the single blow on the head. Therefore, we are of the view that as there is no enmity whatsoever between the accused and the deceased. The occurrence took place suddenly when the deceased and PWs 1 and 2 had



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conversation in Hindi which resulted in the single blow. The accused did not carry any weapon and he just picked up M.O.1 from the place and hit the deceased and ran away. Therefore, he has not taken any undue advantage or acted in a cruel and unusual manner. As the entire occurrence took place due to the misunderstanding of language, we are of the view that act of the accused would certainly fall within the meaning of the culpable homicide not amounting to murder. Any act causing death is committed with the intention of causing death or of causing bodily injury likely to cause death will fall under Section 304 (i) IPC.

14. Taking into consideration the facts and circumstances of the case and in view of the above discussions, this Court is of the opinion that the conviction and sentence passed by the Court below requires modification, as the facts of the present case clearly fall under Exception 1 to Section 300 of the Indian Penal Code and the appellant is convicted for “culpable homicide not amounting to murder”. Accordingly, we modify the conviction as one under Section 304 (i) of the Indian Penal code as the act of the accused was not with intent to cause death. The intention can be gathered from the seat of injury. The appellant/accused is convicted under



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Section 304(i) of IPC and not under 304(ii) of IPC and he is sentenced to undergo Rigorous Imprisonment for a period of 10 years, instead of life imprisonment.

15. The conviction and sentence passed by the Court below dated 07.01.2019 in S.C.No.177 of 2018, is modified to the above extent and accordingly, this Criminal Appeal is allowed in part. It is made clear that the appellant shall be entitled for set off in accordance with Section 428 of the Code of Criminal Procedure for the period of detention already undergone by him. The appellant is directed to immediately surrender before the concerned jurisdictional Magistrate and on such surrender, the appellant shall be confined in jail to undergo the remaining period of sentence, if any. It is made clear that if the appellant fails to surrender before the concerned Court, the respondent police shall secure the appellant and produce him before the Magistrate and thereafter, he shall be confined to the prison.

(N.S.K,J.,) (M.J.R,J.,)
04.11.2025

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

1. I Additional District and Sessions Judge
Coimbatore
2. The Inspector of Police,
D-4, Kuniyamuthur Police Station
Kuniyamuthur, Coimbatore
Coimbatore District
3. The Public Prosecutor,
High Court, Madras.



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AND
M.JOTHIRAMAN,J.
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