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Crl.A.No.924 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2025

CORAM :

THE HON'BLE MR. JUSTICE N. SATHISH KUMAR

and

THE HON'BLE MR. JUSTICE M.JOTHIRAMAN

Crl.A.No.924 of 2023

and Crl.M.P.No.645 of 2024

Shanmugam

... Appellant / Accused

Vs.

The State Rep by
The Inspector of Police,
Bhavani Police Station,
Erode District.

[Crime No.127 of 2017]

... Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374 (2) Criminal Procedure Code, 1973 praying to set aside the judgment of conviction and sentence passed by the learned Sessions Judge- Magalir Needhi Mandram [Fast Track Mahila Court], Erode in S.C.No.69 of 2019 dated 23.02.2023 and allow this appeal.

For Appellant : M/s.V.S.Senthilkumar

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor



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Assisted by
Ms.M.Arifa Thasneem

JUDGMENT

(Judgment of the Court was made by M.Jothiraman, J.)

The sole accused in Crime No.127 of 2017 on the file of the respondent is the appellant herein. The appellant has filed the instant criminal appeal, challenging the judgment of the learned Sessions Judge-Magalir Needhi Mandram [Fast Track Mahila Court], Erode in S.C.No.69 of 2019 dated 23.02.2023 in and by which the appellant / accused was convicted for the offence under Section 302 of Indian Penal Code [in short “IPC”] and sentenced to undergo rigorous imprisonment for life with fine of Rs.5,000/- in default to undergo simple imprisonment for 3 months.

2. The brief case of the prosecution is as follows :

2.1. The deceased Chithra and accused got married 19 years before the date of occurrence. Out of wedlock, they got a male child – PW3. The accused suspected the fidelity of the deceased and often quarreled with her and in the year 2016, the deceased lodged a complaint against the



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accused in this regard. The deceased separated herself from the accused and was living with her son/PW3 near the house of PW1-Easwaran. The accused was in the habit of consuming alcohol and quarrel with the deceased.

2.2. On 03.03.2017, when PW1 was in home at 10.00 p.m., he received a phone call from the deceased that the accused had been there and creating a problem. PW1 along with mother / PW2 went and sent the accused out of the house. On the next day at about 7.00 p.m., PW1's friend Balakrishnan came to his house and informed him that the accused and his sister are quarreling near water tank.

2.3. PW1 and his mother / PW2, PW6, PW7 and PW4 went to the said place and they all seen the accused assaulting the deceased with M.O.1 – Iron rod on the top of the head and back of the accused. The deceased fell down due to the injuries and immediately, the accused took



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his vehicle M.O.2 and went away. The deceased was lying on a thorny bush. PW2 carried her to the main road and called “108” Ambulance.

They found that the deceased lost her breath.

2.4. PW4 gave a complaint under Ex.P1 before PW13-Sub-Inspector of Police. PW13 received the complaint and registered a case in Crime No.127 of 2017 for the offences under Sections 506(ii) and 302 IPC and sent the complaint and the F.I.R. to higher officials and to the Judicial Magistrate – PW14. FIR is Ex.P11.

2.5. PW18-Inspector of Police took up the investigation and went to the scene of occurrence on 04.03.2017 at 9.15. p.m. and prepared Observation Mahazar- Ex.P6 and Rough Sketch – Ex.P19 in the presence of PW19 and one Chandrasekaran. He conducted inquest over the body of the deceased in the presence of Panchayatdars and prepared Inquest Report – Ex.P20. He examined the witnesses and recorded their



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statements. He also collected Blood Stained soil – M.O.3 and Unblood

Stained Soil – M.O.4 under Seizure Mahazar- Ex.P7 in the presence of

PW9. He sent them to the Court under Form -91- Ex.P21.

2.6. PW18, in continuation of investigation, on 05.03.2017, he arrested the accused in the presence of PW10- Saravanan and one Nagarajan near Kuduthurai Indira Mess. The accused voluntarily gave confession statement and recorded the same. The admissible portion of the confession statement is Ex.P22. He seized the Motorcycle vehicle M.O.2. Based on confession statement, the accused took them to his house and handed over M.O.1- Iron rod, M.O.5-Shirt, M.O.6-Lungi. The material objects were sent to the Court through Form-91 under Ex.P24. He sent the accused for judicial custody. He also collected the material objects from the deceased body, namely M.O.8 to M.O.18 and sent the same to the Court under Form-91 – Ex.P25. He examined the witnesses and recorded their statement. Before that PW18 sent a requisition under Ex.P2



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to conduct autopsy.

WEB COPY 2.7. PW8- Dr.Saravananaraja has conducted Postmortem on 05.03.2017 and found the following injuries:

- 1.Abrasion wound over the left eyebrow 1 x 2 cm
- 2.Lacerated wound over the back of left ear 6 x 1 x 2 cm.
3. A lacerated wound just above the right ear 5 x ½ x 2 cm
- 4.A lacerated wound centre of scalp 4 – ½ x 2 – ½ x 1 – ½ cm
- 5.An abrasion over the left shoulder 1 x 1 cm.
6. A lacerated wound just above left ear 3 x 1 x 1 cm., and
7. Abrasion wound over the back 2 x 2 cm

Internal examination :

1. No free fluid in peritoneum cavity
2. Ribs from 1 to 6 fracture
3. Heart 2.50 gms in size and shape.
- 4.Right lungs punctured. Weight 500 gms. Left lungs appeared normal 450 grms.
- 5.Stomach contains partially digested food.
6. Liver 1200 gms spleen appears normal.
- 7.Kidney appeared both side norma.
8. Intestine appears normal bladder empty.
9. Uterus appears norma.
10. Skull and base of skull fracture left side temporal bone fracture. Right side brain contusion hemorrhage over right temporal area.

PW8 issued the Postmortem Certificate - Ex.P3 and Final Opinion –

Ex.P4. He opined that the deceased appears to have died due to damage



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of vital organs bleeding to hemorrhage and shock due to occurrence 12 to

13 hours prior to autopsy.

2.8. PW16, Head Constable received a requisition from PW18 and handed over the same to PW8. PW11 taken photographs of the dead body as requested by PW18. The photographs are M.O.7 series. PW15-Scientific Officer received the viscera and after examination found that no poison deducted. He issued the report Ex.P12 and sent the material objects for serological examination. Serology Report is Ex.P13. He received a report under Ex.P14 from the Chennai Forensic Lab that they were unable to find out the blood group in the material object sent to them.

2.9. After completion of investigation and after recording the



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statement of witnesses, PW18 laid the Final Report – Ex.P4 against the accused.

2.10. The prosecution, in order to prove the guilt of the accused beyond reasonable doubt, has examined PW1 to PW18, marked Exs.P1 to P25 and also produced 18 material objects. After completion of evidence on the side of the prosecution, the accused was questioned under Section 313 CrPC with regard to incriminating material, the accused had denied them as false and no evidence was put forward on the side of the accused. Upon hearing either side and upon perusal of evidence, the learned Trial Court found the accused guilty under Section 302 IPC and convicted and sentenced him to undergo imprisonment for life and imposed the fine of Rs.5,000/- in default to undergo 3 months simple imprisonment. Aggrieved over the same, the accused has preferred the present appeal.

3. The learned counsel appearing for the appellant, while assailing



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the impugned judgment of conviction and sentence, put forward the

following contentions:

(i) The alleged occurrence said to have taken place at about 7.00 p.m. on a public road and it is very strange that no independent witness have been examined by the prosecution.

(ii) Eye witnesses are relatives to the deceased and therefore, their evidences are unbelievable one.

(iii) Though PW1 and PW2 claimed to have seen the alleged incident, their respective evidences have serious contradictions and raised serious doubt about the alleged occurrence.

(iv) PW6, in his evidence, categorically admitted that independent witness was present at the scene of occurrence, but the prosecution has not examined any independent witness.

(v) PW8- Doctor who conducted autopsy in her evidence stated that the deceased died due to loss of blood and also stated that the alleged injuries to the deceased would not caused immediate death, which is directly contrary to the case of the prosecution.

(vi) The evidence of PW18 / Investigating Officer with regard to arrest and confession statement is contrary to the evidence of PW10.



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(vii) The Trial Court has convicted the appellant based on the evidence of interested witnesses and such a conviction imposed on the appellant is unsustainable in law.

4. *Per contra*, learned Additional Public Prosecutor appearing for the respondent / State would submit that PW1, PW2, PW4 to PW7 are the eye witnesses and they seen the accused assaulting the deceased and she died on the spot. The medical evidence of PW8- Doctor is also corroborated by the evidence of PW1. The accused had brutally murdered the wife suspecting her fidelity. The cause of death is due to severe head injury and other injuries sustained by the deceased.

5. This Court considered the rival submissions and also perused the entire materials available on record.

6. The prosecution has placed heavy reliance upon the following facts:



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(I) Motive,

WEB CO (II) Eye Witnesses,

(III) Medical Evidence,

(IV) Arrest and Recovery.

7. PW1 is the brother of the deceased. PW2 is the mother of the deceased. PW3 is the son of the deceased and PW4 is the wife of PW1. PW3/ son of the deceased deposed that his father / accused, on 03.03.2017 came to his house at about 10.00 p.m. and involved in quarrel with the deceased. The deceased immediately informed to her brother / PW1. At that time, the accused threatened the deceased with dire consequences. PW1 deposed that the deceased and PW1 are residing near to his house. The accused suspected the fidelity of the deceased and often quarreled with her. At the time of occurrence, PW3 was studying 12th standard. Since the deceased and the accused often quarreled with each other, a complaint was given before police and they are living separately. The



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accused was in the habit of consuming alcohol and creates problem

whenever he comes to the deceased house for seeing his son / PW3.

8. On 03.03.2017, PW1 received a phone call from the deceased that the accused had been there and quarreling with the deceased. Immediately PW1 and his mother PW2 went to the deceased house and sent the accused out of the house. From the evidence of PW3 / son of the deceased and the evidence of PW1 clearly reveals that the accused involved in a quarrel with the deceased on 03.03.2017, one day prior to the occurrence. PW2 / mother of the deceased also corroborated the evidence of PW1 and PW3. From the evidence of PW1 to PW3, the prosecution has established that the accused suspected the fidelity of the deceased Chithra and often quarreled with her and also threatened the deceased with dire consequences on 03.03.2017 in the house of the deceased at 10.30 p.m. Therefore, the prosecution has clearly established the motive for the occurrence.



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WEB COPY 9. PW5 -Balamurugan deposed that the accused and the deceased

quarreling with each other on the road and had informed PW1.

Immediately, PW1, PW2, PW4, PW6, PW7 went to the place of occurrence and witnessed the accused assaulting the deceased with M.O.1.

They also deposed that they were unable to prevent the attack, due to intimidation by the accused and also seen that thereafter the accused left the place through his Motorcycle-M.O.2.

10. The evidence of PW1, PW2, PW4 to PW7 clearly shows that they were running to the occurrence place and then seen that the accused assaulting the deceased with M.O.1 – Iron rod. The witnesses have also identified M.O.1 – Iron rod used by the accused for assaulting the deceased. The deceased is residing near to the house of PW1 and PW2. As per the evidence of PW5, he had informed PW1 about the quarrel of the accused and the deceased between 6.00 to 7.00 p.m. Immediately,



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PW1, PW2, PW4 to PW7 went to the place, witnessed the occurrence and found that the deceased died due to injuries. PW1 lodged a complaint at 7.45 p.m. and the case was registered by PW16.

11. PW8 – Dr.Saravanaraja, who had conducted autopsy on 05.03.2017, opined that the deceased appears to have died due to injury to vital organs bleeding to hemorrhage and shock death due to occurrence 12.00 to 13.00 hours prior to autopsy. The weapon M.O.1 shown to the witness and he deposed that there is possibility of the injuries stated in the postmortem certificate being caused by the weapon shown to him.

12. PW18 – Investigating Officer, after taking up the investigation, went to the occurrence place and in the presence of PW9, he has prepared Observation Mahazar -Ex.P6 and drawn Rough Sketch – Ex.P19 and on the same day, he has conducted inquest over the body of the deceased and sent a requisition for postmortem through PW16-Sub Inspector of Police.



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In continuation of his investigation, he arrested the accused on 05.03.2017

and the accused voluntarily gave confession and the same has been recorded in the presence of PW10 and one Nagaran. Based on the confession statement, the accused handed over M.O.1 – Iron Rod, M.O.5- Shirt and M.O.6- Lungi. PW18 also seized the Motorcycle – M.O.2. The admissible portion of the confession statement of the accused is Ex.P22.

13. Though PW1, 2 and 4 are relatives to the deceased and they are also eye-witnesses and the occurrence said to have been happened near to their residence, the evidence of PW1, PW2, PW4 to PW7 are cogent and reliable and only because they are relatives to the deceased, their evidence cannot be rejected in toto.

14. PW10 speaks about the seizure of M.O.1, M.O.5 & M.O.6 based on the confession statement of the accused. PW1 and PW2 also



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spoke about the previous day incident and from the evidence of PW3,

the accused used to visit the house of the deceased for seeing his son and frequently involved in quarreling. PW5 informed that the deceased and the accused have involved in the quarrel near water tank and immediately, they informed the same to PW1. The evidence of PW5 is natural and acceptable one. Immediately thereafter, PW1, 2, 3 and 7 went to the occurrence place and witnessed the occurrence when the accused brutally assaulted the deceased with M.O.1 on his head.

15. This Court do not find any material discrepancy which goes to the root of the case of the prosecution. In order to commit the murder of his wife, the accused has assaulted her with M.O.1 on his head causing grievous injury, thereby immediately causing her death. The act of the accused shows that with the knowledge that the injuries will lead to the death of the deceased, caused injuries on the vital part, which falls under the definition of “murder” under Section 300 of Indian Penal Code and the



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act of the accused does not fall under any exception under Section 300

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IPC. This Court finds no merit in this appeal and there is no reason warrants interference with the judgment of conviction and sentence passed by the Trial Court.

16. Accordingly, this Criminal Appeal stands dismissed, confirming the judgment of conviction and sentence dated 23.02.2023 in S.C.No.69/2019 passed by the Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Erode. Consequently, connected miscellaneous petition is also dismissed.

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

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Index : yes/no

Speaking /Non speaking Order

To

1. Sessions Judge,

Fast Track Mahila Court, Erode District.



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2.The Inspector of Police,
Erode South Police Station,
Erode District.

3.The Additional Public Prosecutor,
High Court, Madras.

N. SATHISH KUMAR, J.
and
M.JOTHIRAMAN, J.

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