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Crl.A.No.585 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2025

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

Crl.A.No.585 of 2019

R.Azhagesan

... Appellant/A1

-VS-

The State Rep. by
The Inspector of Police,
Belukurichi Police Station,
Namakkal District.

(Crime No.63 of 2013)

... Respondent/Complainant

Prayer: Criminal Appeal is filed under Section 374 (2) of Cr.P.C. to set aside the order of conviction made in S.C.No.20 of 2015 dated 22.11.2018 on the file of the learned Principal Sessions Judge, Namakkal under Section 302 IPC.

For Appellant : Mr.P.Rathanavel

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



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J U D G M E N T

(By N.Sathish Kumar, J.)

Challenging the sentence imposed by the Trial Court under Section 302 IPC for life imprisonment, the present appeal came to be filed.

2. Originally, there were three accused in this case. A2 & A3 were charged for offences under Section 302 r/w 34 IPC and the 1st accused / appellant herein was charged under Section 302 IPC. The Trial Court acquitted A2 and A3 from the charges, whereas the appellant / A1 was convicted for the offence under Section 302 IPC vide order dated 22.11.2018 made in S.C.No.20 of 2015 by the Principal Sessions Judge, Namakkal. The appellant was convicted and sentenced to undergo imprisonment for life, with a fine of Rs.10,000/-, in default to undergo simple imprisonment for 4 years. The period of remand already undergone by the accused was directed to be set off . Aggrieved by the order of the learned the Principal Sessions Judge, Namakkal, the Appellant has preferred the present Criminal Appeal before this Court



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

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3.1. The deceased (Murugesan) and the appellant are adjacent land owners and there was a previous enmity over the pathway. On 15.05.2023, while P.Ws.1 & 2 (wife and brother respectively) were standing in front of their house and P.W.3 and others were standing on the road, the deceased came in his motor cycle with a cane of milk. As soon as he got down from the bike, A1 to A3 came there and questioned as to why he is not allowing other land owners to use the pathway. A2 and A3 caught hold of the deceased and A1 stabbed the deceased and ran away from the spot. The accused, while running away fell down and sustained injury on the backside of the head.

3.2. P.W.2 rushed the deceased to the hospital in 108 Ambulance and the deceased was reported dead on the way to hospital. P.W.9 / Medical Officer had first seen the dead body of the deceased in the hospital and noticed 2x1 cm laceration on the left chest and sent the body to the mortuary. P.W.9 also issued a report (Ex.P15) and P.W.1 immediately lodged a complaint Ex.P1 dated 15.05.2023 before P.W.13, who registered



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a case in Crime No.63 of 2013 under Section 302 IPC under Ex.P22 and forwarded the same to the Court with a copy to the Investigation Officer (P.W.14).

3.3. The Inspector of Police (P.W.14) took up the investigation, went to the place of occurrence, prepared Observation Mahazar (Ex.P5), rough sketch (Ex.P23) in the presence of P.W.6 (Sahadevan), conducted inquest over the dead body (Ex.P24) and finally gave requisition to the hospital for conducting post-mortem. P.W.10 / Medical Officer attached to the Salem Kumaramangalam Hospital conducted post-mortem over the dead body and noted the following injuries:

“STAB INJURY OVER LEFT SIDE OF CHEST 4CMS BELOW LEFT NIPPLE AND IT IS SITUATED 121CMS ABOVE LEFT FOOT M-3.5x0.5XCAVITY DEEP (9CMS), EDGES ARE CLEAR CUT WITH ACUTE ANGLE.

NO OTHER EXTERNAL INJURIES SEEN ON THE BODY”

P.W.10 / Medical Officer issued Ex.P17 / post-mortem certificate and after obtaining viscera report gave his final opinion to the effect that the



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deceased would appear to have died of shock and haemorrhage due to stab injury on the chest under Ex.P18.

3.4. In the meanwhile, while P.W.8 / VAO was in his office, the accused appeared before him on 16.05.2013 at 9.00am and gave extra judicial confession (Ex.P9) admitting the guilt and thereafter, P.W.8 handed over the accused along with a special report (Ex.P10) to the Inspector of Police. Police examined the accused in the presence of P.W.8, recorded the admitted portion in the confession statement (Ex.P14) and seized M.O.1 from the accused under Mahazar (Ex.P13). Initially, P.W.14 laid a final report omitting A2 & A3 and during pendency of investigation, prosecution took up an application to include A2 & A3, which was allowed by the Trial Court.

3.5. In order to bring on the guilt of the accused, 14 witnesses have been examined on the side of the prosecution, exhibited 42 documents and 6 Material Objects were marked. On the side of the defence, neither witnesses were examined nor exhibits marked. The Trial Court, after



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analyzing the entire evidence and materials, acquitted A2 & A3 from the charges and sentenced the appellant / A1 to undergo life imprisonment under Section 302 IPC. Challenging the said judgment, the accused has filed the instant appeal.

4. Learned counsel for the appellant submitted that prosecution suppressed the genesis of the occurrence. In fact, the accused also sustained injury on the head and he also lodged a complaint under (Ex.P34) and FIR (Ex.P35), which clearly indicates that only the deceased hit the accused on the head and thereafter, the accused was sent to the hospital. The certified copy of Accident Register (Ex.P41) shows that the appellant also suffered laceration. He further submitted that though prosecution projected that there was earlier FIR against the accused for the offence under Section 302 IPC in Crime No.63 of 2013, the accused has not been arrested and it was projected as if the accused himself gave extra judicial confession before VAO, admitting his guilt. Such theory is improbable and unbelievable. He also submitted that the Trial Court, having disbelieved the evidences of eyewitnesses, convicted the accused. Finally, it was argued that the



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prosecution has not established the guilt of the accused beyond reasonable doubt and the order of conviction is liable to be set aside.

5. Learned Additional Public Prosecutor contended that eyewitnesses clearly established the guilt of the accused and the deceased was taken to the hospital by the eyewitnesses, whose evidences were corroborated medically through P.W.9 / Medical Officer. That apart, P.W.5 has also seen the accused, stabbing the deceased and running away from the place of occurrence. The alleged injury sustained by the accused on the backside of the accused was only due to the fall, which has been clearly established by all witnesses. Merely because the accused lodged a complaint later that cannot be a ground to disbelieve the entire case of the prosecution and therefore, the Trial Court rightly imposed the imprisonment for life. The judgment of the Trial Court does not warrant any interference by this Court.

6. We have heard the learned counsel on either side and perused the material documents available on record.



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7. Prosecution relied upon P.Ws.1 to 3 and 5 as eyewitnesses to the occurrence. P.W.4 has not supported the case of prosecution. P.W.1 is the wife of the deceased and occurrence took place in front of the house of P.W.1 and the deceased. This fact has not been disputed. The evidence of P.W.1 clearly shows that while she was sitting in front of her house, her husband came in a motor bike and unloaded the milk cane. At that time, the accused along with others, due to previous enmity over the pathway dispute, started quarrel with her husband and stabbed the deceased with M.O.1. On hearing his sound, P.W.2 / brother of the deceased, who was standing nearby rushed to the spot and took away the deceased to the hospital in 108 Ambulance. Ex.P.1 came to be lodged by P.W.1. P.W.3 / son of the deceased has spoken about the incident and P.W.5 has also seen the accused / A1 stabbing the deceased and running away from the place. From the evidence of eyewitnesses, it is clear that only the accused caused injury on the deceased. According to eyewitnesses, there was a pathway dispute between the deceased and the accused, who are land owners.



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8. Admittedly, the deceased and the accused are neighbouring land owners, which was nowhere disputed by the accused. Though the prosecution projected as if P.W.3 (son of the deceased) is also one of the eyewitnesses to the occurrence, we are not inclined to believe the said version for the simple reason that if P.W.3 really was an eyewitness, P.W.1 would have certainly mentioned his name in Ex.P.1, whereas she stated in the complaint that P.W.2 and one Arjunan were standing nearby the road. The evidence of P.Ws.1 & 2 clinchingly established the fact that it was the accused, who caused stab injury on the deceased.

9. Though much emphasis has been made to the complaint (Ex.P34) lodged by the accused to contend that only the deceased attacked the appellant on the same day at 6.00pm, pursuant to which, an FIR (Ex.P35) has also been filed and the accused was sent to the hospital as per Ex.P41, on perusal of Ex.P41, it is seen that the Medical Officer treated the accused and noted in the AR copy that accused suffered only simple injury. Be that as it may, it is the specific evidence of eyewitnesses that the accused, after stabbing the deceased, while running away from the place,



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fell down, as a result of which, the accused sustained injury on the head.

For the first time the plea was raised before this Court that the said injury was caused by the deceased. It is relevant to note that when the witnesses were cross examined by the accused, it was specifically stated by the accused that he never sustained any injury at the relevant point of time. Therefore, marking of Ex.P41 in support of his injury will not help him any more. Moreover, the complaint lodged by him was also closed as mistake of fact.

10. The next argument advanced by the learned counsel for the appellant is that the Trial Court, having disbelieved the evidence of eyewitnesses to extend the benefit of doubt to A2 & A3, ought to have believed the evidence of the accused also. We are not in a position to accept such contention for the reason that the Doctrine of *falsus in uno falsus in omnibus* cannot be 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



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discard the entire testimony of the witness, which is otherwise proved by other evidence.

11. In the given case, admittedly, versions of eyewitnesses clearly show that there was a previous enmity between the deceased and the accused and the presence of the accused on the spot was duly proved. After stab injury caused by the accused, the deceased was taken to the hospital in 108 Ambulance by P.W.2. The accused has not made any foundation to believe his stand that on account of the attack by the deceased, he sustained injury. In the cross examination, an attempt was made as if the deceased himself fell down on the rod kept in the farm to remove the husk (exocarp) of coconuts, but, however such stand is without any basis.

12. Learned counsel for the appellant stated that P.W.2 is a related witness, having familial connection with the deceased and therefore, his evidence cannot be reliable. It is relevant to point out that though P.Ws.1, 2 and 5 are related witnesses, there is a difference between related witnesses and interested witnesses. Interested witnesses are the one, who



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have some motive or grudge to implicate the accused for some purpose to ensure that he is convicted without any reason, whereas related witnesses are the parties, who would be normally present along with the deceased in the house and their presence would suit to the circumstances. Merely because such witnesses happened to be relatives of the deceased, their evidence cannot be completely discarded.

13. We feel it appropriate to refer to a recent judgment of the Apex Court, in which the distinction between related witnesses and interested witnesses has been elaborately dealt with, in the case of *K.P.Tamilmaran vs. The State by Deputy Superintendent of Police*, reported in *2025 LiveLaw (SC) 493*, holding as under:

39. Another plea taken by the defence is that many witnesses who have deposed against them, such as PW-49, PW-1, PW-15, are interested witnesses. PW-49 for example being the step-mother of Murugesan, the boy who was killed. Now, so far as witnesses being interested witnesses is concerned, it is a settled position of law that the Court cannot ignore the testimonies of witnesses only because they are close relatives of the victim. A Three-Judge Bench of this Court in *Jaikam Khan v. State of U.P.* (2021) 13 SCC 716 notes:

“28...No doubt that, merely because the witnesses are interested and related witnesses, it cannot



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be a ground to disbelieve their testimony. However, the testimony of such witnesses has to be scrutinised with due care and caution. Upon scrutiny of the evidence of such witnesses, if the court is satisfied that the evidence is creditworthy, then there is no bar on the court in relying on such evidence.”

In cases where the crime is committed at the residence or a place near the residence of the deceased, it is the close relatives who are likely to be a witness to the crime. They are natural witnesses. This Court in *State of A.P. v. S. Rayappa*, (2006) 4 SCC 512, while noting the difference between interested witness and related witness, observed as follows:

“6...By now it is a well-established principle of law that testimony of a witness otherwise inspiring confidence cannot be discarded on the ground that he being a relation of the deceased is an interested witness. A close relative who is a very natural witness cannot be termed as an interested witness. The term interested postulates that the person concerned must have some direct interest in seeing the accused person being convicted somehow or the other either because of animosity or some other reasons. 7. On the contrary it has now almost become a fashion that the public is reluctant to appear and depose before the court especially in criminal case because of varied reasons. Criminal cases are kept dragging for years to come and the witnesses are harassed a lot. They are being threatened, intimidated and at the top of all they are subjected to lengthy cross-examination. In such a situation, the only natural witness available to the prosecution would be the relative witness. The relative witness is not necessarily an interested witness. On the other hand, being a close relation to the deceased they will try to prosecute the real culprit by stating the truth. There is no reason as to why a close relative will



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implicate and depose falsely against somebody and screen the real culprit to escape unpunished. The only requirement is that the testimony of the relative witnesses should be examined cautiously...”

14. A careful perusal of the post-mortem certificate Ex.P17 discloses that there was a cut injury over 5th rib with incised wound over 4th intercostel space and the injury corresponds to the injury no.1. Further, there was a wound seen over lower part of left ventricle M-3.2x0.5xcavity deep and the left lung collapsed. Thus, the post-mortem Doctor clearly opined that the death would have occurred on account of external injuries caused with a sharp weapon and therefore, a conclusion can be arrived at that the accused caused injury on the deceased with an intention to murder him, which resulted in the death of the deceased. Though it is submitted by the learned counsel for the appellant that the FIR as against the accused has been registered at 10.00pm and the accused himself has gone to the Police Station at 10.30pm and lodged the FIR later under Ex.P35 and thereafter, he was sent to the hospital and treated for the injury, which fortifies the fact that the accused is in the custody of Police and therefore, the extra judicial confession Ex.P9 said to have been given by the accused to P.W.8 is highly unbelievable. We are also in agreement with the said submission.



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Admittedly, FIR under Section 302 IPC has been registered against the accused and he himself went to the Police Station and later he was treated for simple injury (Ex.P41). Therefore, it could be inferred that the accused would have been in the custody of Police and his appearance before P.W.8 / VAO on the next day morning at 9.00am and confessing the crime cannot be believed and the seizure of M.O.1 is also highly doubtful.

15. Be that as it may, merely because the seizure of material objects from the accused has not been established that itself will not be a ground to disbelieve the evidence of eyewitnesses, when their evidences were cogent and proved the specific overt act against the accused. Considering the nature of injuries caused and the evidences of eyewitnesses, we are of the view that the prosecution has proved its case beyond any reasonable doubt and we do not find any ground or merit in the appeal to interfere with the order of the Trial Court.

16. Accordingly, this Criminal Appeal is dismissed. The conviction and sentence passed by the Principal Sessions Judge, Namakkal



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in S.C.No.20 of 2015 dated 22.11.2018 stands confirmed. It is made clear that the appellant / accused 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. As the appellant / accused is on bail now, he is directed to immediately surrender before the concerned jurisdictional Magistrate and on such surrender, he shall be confined in jail to undergo the period of sentence. It is further 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.,)
12.11.2025

Index: Yes
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Note: Issue order copy on 17.11.2025



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To:

1. The Principal Sessions Judge,
Namakkal.
2. The Inspector of Police,
Belukurichi Police Station,
Namakkal District.
3. The Superintendent,
Central Prison,
Salem.
4. The Public Prosecutor,
High Court, Madras.



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AND
M.JOTHIRAMAN, J.
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