



Crl.A.No.1109 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE M. JOTHIRAMAN

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Sivaprakasam

... Appellant

Vs.

State represented by
The Inspector of Police,
Pochampalli Police Station,
Pochampalli,
Krishnagiri District.

... Respondent

Prayer : Criminal Appeal filed under Section 374(2) Cr.P.C., against the judgment of Sessions Judge, Fast Track Mahila Court, Krishnagiri District, in S.C.No.149 of 2016 dated 11.11.2020.

For Appellant : Mr.C.R.Malaravan
for Mr.V.Rajamohan

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor
assisted by Ms.M.Arifa Thasneem



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J U D G M E N T

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

Aggrieved over the judgment of conviction and sentence passed by the learned Sessions Judge, Mahalir Needhimandram, Krishnagiri, in S.C.No.149 of 2016, dated 11.11.2020, convicting the appellant/accused for the offence under Section 302 IPC and sentencing him to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo three months rigorous imprisonment, the accused has filed the present appeal.

2.The case of the prosecution is as follows :

2.1.P.W.1 (Selvam) had two wives. His first wife is Santhi (P.W.2) and the second wife is Ellammal (deceased). Since P.W.1 had no children through his first wife Santhi (P.W.2), he married Santhi's sister Ellammal (deceased) with her consent. P.W.1 and Ellammal (deceased) had four sons and two daughters, among whom, one of the daughters namely Muniyammal (P.W.16) married the accused four years prior to the date of occurrence and the couple had begotten a female child who was aged



3 ½ years at the time of occurrence. The accused used to drink liquor and torture his wife Muniyammal (P.W.16). Therefore, P.W.16 used to be in her parental house for four days a week. On 24.01.2016, P.W.1, on receiving information from the accused that his daughter Muniyammal (P.W.16) consumed poison and got admitted in hospital, P.W.1 rushed to the spot and found that she (P.W.16) was alright and therefore, scolded the accused for giving false information and took his daughter back to the parental house at Pochampalli. On 25.01.2016, at around 2.00 p.m., while P.W.1 and his second wife Ellammal (deceased) were in their farm, the accused came to the spot and quarrelled with his wife Muniyammal (P.W.16) and when the deceased Ellammal questioned the same, the accused abused her in a filthy language and in continuation, he took out a knife (koduval) (M.O.1) from the nearby thatched shed and attacked the deceased on her head causing grievous injury. On hearing the scream, when people crowded at the spot, the accused fled the scene of occurrence.

2.2.The deceased was taken in an Ambulance to the Pochampalli Government Hospital. P.W.19 (Medical Officer) gave first aid to the injured in Pochampalli Government Hospital and issued Ex.P28 (Accident Register)



and thereafter, referred her to Dharmapuri Government Hospital, where she was admitted by P.W.20 (Medical Officer) who issued Ex.P29 (Accident Register). At that time, the respondent Police arrived at the hospital. P.W.1 lodged a complaint (Ex.P1) with the Police. Based on the complaint (Ex.P1), P.W.12 (Special Sub-Inspector of Police) registered an FIR on 25.01.2016 in Crime No.40 of 2016 against the accused for the offences under Sections 294(b), 324 and 506(ii) IPC. Thereafter, the deceased was shifted to Salem Government Hospital for further treatment.

3.After registration of FIR (Ex.P9), the next day, i.e., on 26.01.2016, P.W.12 went to the place of occurrence and prepared Observation Mahazar (Ex.P6) and Rough Sketch (Ex.P10) in the presence of witnesses P.W.6 and P.W.7. Thereafter, he seized the koduval (M.O.1) near the place of occurrence under Seizure Mahazar (Ex.P7). After recording the statement of the witnesses, he arrested the accused at 17.30 hours on the same day. Thereafter, he sent the accused to judicial custody. On the next day, i.e., on 28.01.2016 at 10.30 a.m., he seized the blood stained earth (M.O.2), ordinary earth (M.O.3) under Seizure Mahazar (Ex.P8) in the presence of



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P.W.10 and another witness. Thereafter, he sent the collected materials to the Court under Form-91 (Ex.P11).

4.While the matter stood thus, on 04.02.2016, the injured Ellammal succumbed to the injuries at Salem Government Hospital at 7.40 p.m. Therefore, P.W.12 handed over the case file to the Inspector of Police (P.W.18). On receipt of death information, P.W.18 (Inspector of Police) altered the case to one under Section 302 IPC vide Alteration Report (Ex.P20).

5.Thereafter, P.W.18 visited the place of occurrence. Since P.W.12 (Special Sub-Inspector of Police) had already prepared Observation Mahazar and Rough Sketch, he did not prepare any fresh Mahazars and on the next day, i.e., on 05.02.2016, P.W.18 went to the Salem Hospital and conducted inquest over the dead body and prepared inquest report (Ex.P21). Thereafter, he sent the dead body for postmortem through P.W.13 (Head Constable) along with requisition letter (Ex.P13). He seized the blood stained dress of the deceased (M.O.4) and sent the same to the Court vide



Form-91 (Ex.P11).

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6.Dr.Sangeetha (P.W.17) conducted autopsy over the body of the deceased and issued postmortem certificate (Ex.P18). She has noted the following injuries over the body of the deceased :

“Antemortem injuries :

- 1. Sutured wound over right side fronto temporo parietal region with 9 intact sutures, O/R M-12 x 1 x Bone deep with irregular edges, its sutivated 6 cms above the angle of right eye O/D Head Sub Scalpular contusion over the right fronto temporo parietal region M- 15 x 4 x 0.5 cm, cut fracture over the right fronto temporo parietal bone M – 11 cms long, sub dural and sub arachnoid haemorrhage over both cerebral hemisphere, base of skull – fracture right middle cranial fossa M – 3 cms.*

Other Findings :

O/D Head : Vide injury column

O/D Thorax : No Rib Fracture. Heart-normal in size. Chambers contains fluid blood valves and coronaries patent. Lungs – C/s congested. Pink froth oozed out from the cut section of both lungs.

O/D Neck : All Neck structures are normal Hyoid Bone –



Intact.

O/D Abdomen : Stomach – contains 100 ml of green colour fluid with no specific smell. Mucosa – C/S congested. Liver, spleen and both kidneys C/S – congested. Uterus – normal in size, C/S. Cavity – Empty. Bladder – Empty. Genitalia – No injuries made out. Pelvis and spinal column – Intact.

Multiple Superficial Incisions made all over the body, no underlying contusion seen.

Viscera preserved and sent for chemical analysis report.”

7. Thereafter, after receipt of Viscera Report (Ex.P17), P.W.17 gave her final opinion (Ex.P19) stating that the deceased would appear to have died due to the effect of head injuries.

8. After recording the statements of the witnesses and collecting biological report (Ex.P25), chemical analysis report (Ex.26) and serological report (Ex.P27) and after completion of the investigation, P.W.18 laid a charge sheet for the offences under Sections 294(b) and 302 IPC as against the accused in P.R.C.No.5 of 2016 before the District Munsif-cum-Judicial



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Magistrate Court, Pochampalli.

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9.On appearance of the accused, the provisions of Section 207 Cr.P.C. were complied with and the case was committed to the Court of Session in S.C.No.149 of 2016 and was made over to the Fast Track Magalir Needhimandaram, Krishagiri, for trial.

10.The trial Court framed the charges for the offences under Sections 294(b) and 302 IPC as against the accused. When questioned, the accused pleaded “not guilty”.

11.To prove the guilt of the accused, the prosecution examined P.W.1 to P.W.20, marked Exs.P1 to P2 and produced M.Os.1 to 4. On the side of the defence, no witness was examined nor any document marked.

12.The trial Court, on appreciation of oral and documentary evidence on record, by judgment dated 11.11.2020, while acquitting the accused of the offence under Section 294(b) IPC, convicted him for the offence under



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Section 302 IPC and sentenced him to life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo rigorous imprisonment for three months.

13.Challenging the conviction and sentence *qua* Section 302 IPC, the accused has preferred the present appeal.

14.Learned counsel for the appellant/accused would submit that the accused is the son-in-law of P.W.1 and P.W.2 and husband of P.W.16 (Muniyammal). It is his specific contention that, though P.W.1 and P.W.2 have spoken about the alleged overt act of the accused, the accused had no intention to cause death and the entire occurrence was due to sudden provocation and there was no intention on the part of the accused to cause murder. Hence, his action will fall within the ambit of Section 304(ii) IPC. Further, it is his contention that the deceased died 10 days after the date of occurrence. The learned counsel would further submit that the accused has already undergone 7 ½ years of imprisonment and he is still in jail. Hence, he would submit that some leniency may be shown.



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15. Whereas, the learned Additional Public Prosecutor would submit that head injury has been caused and the medical evidence also substantiates the same. It is his contention that there is no evidence to show that the accused was deprived of the power of self-control by grave and sudden provocation. Hence, it is his contention that the case will not fall within the ambit of Section 304(ii) IPC and therefore, the judgment of the trial Court does not require any interference.

16. We have perused the entire materials available on record.

17. P.W.1 is the father-in-law of the accused and P.W.2 is the first wife of P.W.1. The deceased (second wife of P.W.1) is the mother-in-law of the accused. The accused has married P.W.1's daughter P.W.16. The evidence of P.W.1 and P.W.2 indicates that the accused, after marriage, particularly after the child birth, used to quarrel frequently with P.W.16. Therefore, P.W.16 used to come to her father's house very often. Even on the day prior



to the date of occurrence, similar is the case. After P.W.16 was brought to P.W.1's house, when they were all sitting and discussing near the thatched shed in the farm, the accused came at about 1.00 p.m. and abused the deceased stating that she was the reason for bringing his wife to P.W.1's house and that she (deceased) is not allowing her daughter to live with him. By saying so, the accused attacked the deceased with M.O.1 on her head and thereafter, ran away from the place of occurrence.

18.P.W.2, in her evidence, has stated that the accused suddenly took out M.O.1 from the thatched shed and cut the deceased and thereafter, left the place. The evidence of P.W.1 and P.W.2 also clearly shows that, on the previous day of occurrence, P.Ws.1 and 2 brought P.W.16 to their house, which angered the accused; to question the same, the accused has come on the next day. This fact clearly indicates that the accused was frustrated in matrimonial life, since his wife was brought back to P.W.1's house. The evidence of P.W.16, when carefully perused, clearly indicates that P.W.16 was separated from the accused on the previous day and she accompanied P.W.1, P.W.2 and the deceased to her parental house. Her (P.W.16) evidence



further indicates that she left the 3 years old child with the accused on the previous day and on the next day, the accused brought the child also along with him. At that time, the deceased questioned the accused as to why he had come to their house. The accused developed an argument with the deceased as to who has to maintain the child. At that time, there ensued a quarrel and the accused suddenly took out a koduval (M.O.1) from the thatched shed and hit the deceased.

19.From the reading of the entire evidence of P.W.1, P.W.2 and P.W.16, it is clear that the entire occurrence took place in a sudden fight, in a heat of passion. The entire occurrence was not a pre-meditated one, whereas, it was the result of a sudden quarrel in the matrimonial dispute. The accused, in fact, was infuriated, since P.W.16 left the three years old child with him and she was brought back to her parental house. When the accused came to his father-in-law's house with the child on the next day to question about the same, there ensued a quarrel between the accused and his mother-in-law (deceased) and suddenly, in a heat of passion, the occurrence took place and the accused immediately ran away from the place of



occurrence when he saw others coming there, without taking any undue advantage or acting in a cruel or unusual manner. If really the accused had an intention to cause murder, he would not have left the place and he would have inflicted more injuries on the deceased with M.O.1. But, in the contrary, he ran away from the place immediately on seeing others. He has not taken any undue advantage or acted in a cruel or unusual manner. Therefore, though the act of the accused can be termed as culpable homicide falling within the ambit of Section 299 IPC, certainly it will not amount to murder, as it clearly falls within the ambit of Exception (4) to Section 300 IPC.

20.Exception (4) to Section 300 IPC reads as follows :

“Exception 4 – Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner.

Explanation : It is immaterial in such cases which party offers the provocation or commits the first assault”.



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21.The requirements of this exception are :

- i. without premeditation in a sudden fight
- ii. in the heat of passion upon a sudden quarrel
- iii. the offender has not taken undue advantage; and
- iv. the offender has not acted in a cruel or unusual manner

When these requirements are satisfied, culpable homicide would not be murder.

22.In the given case, there appears to be matrimonial dispute between the accused and his wife (P.W.16), on account of which, on the previous day of occurrence, the wife (P.W.16) was taken to her parental house by her parents (P.W.1 and P.W.2). However, the evidence also makes it clear that P.W.16 has left the three year old child with the accused while leaving the matrimonial house. On the next day, when the accused came to the in-law's house along with the child, he was questioned by the deceased (mother of P.W.16) and there ensued a quarrel between the deceased and the accused,



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and in a sudden heat of passion, the accused took out the koduval (M.O.1) which was available in the nearby thatched shed and made a blow on the head of the deceased. It is very clear that the occurrence took place without any premeditation in a sudden fight, in the heat of passion upon a sudden quarrel. Further, it is relevant to note that, on seeing others coming, the accused ran away from the spot without taking any undue advantage or acting in a cruel or unusual manner. If the accused really intended to cause murder, he would have inflicted more injuries by taking advantage, but that is not the case here. The accused has run away from the place, which is quite usual and natural. Therefore, the facts and circumstances of the case squarely falls within the ambit of Exception (4) to Section 300 IPC. Therefore, this Court has no hesitation to hold that it is a case of culpable homicide not amounting to murder and hence, the accused cannot be held guilty of the offence of murder under Section 300 IPC, punishable under Section 302 IPC.

23.Further, it is also to be noted that the deceased was immediately taken to the Pochampalli Government Hospital on 25.01.2016 where she



was given first aid. Ex.P28 (Accident Register) indicates that later, she was referred to Dharmapuri Medical College Hospital. Thereafter, again, she was shifted to Salem Government Hospital. She was under treatment for more than 10 days. Only thereafter, she has succumbed to the injuries on 05.02.2016.

24.The Hon'ble Supreme Court, in *Anbazhagan v. The State represented by the Inspector of Police* reported in **2023 (10) SCALE 173**, after referring various judgments, has held as follows :

“(3) To put it in other words, if the act of an accused person falls within the first two clauses of cases of culpable homicide as described in Section 299 of the IPC it is punishable under the first part of Section 304. If, however, it falls within the third clause, it is punishable under the second part of Section 304. In effect, therefore, the first part of this section would apply when there is ‘guilty intention,’ whereas the second part would apply when there is no such intention, but there is ‘guilty knowledge’.

...

(12) In determining the question, whether an accused had guilty intention or guilty knowledge in a case where only



a single injury is inflicted by him and that injury is sufficient in the ordinary course of nature to cause death, the fact that the act is done without premeditation in a sudden fight or quarrel, or that the circumstances justify that the injury was accidental or unintentional, or that he only intended a simple injury, would lead to the inference of guilty knowledge, and the offence would be one under Section 304 Part II of the IPC.”

(emphasis supplied)

25. In the case on hand, the accused has inflicted an injury on the deceased with knife (M.O.1) on the head, however, in a sudden heat of passion, during a sudden quarrel which ensued while arguing on a matrimonial dispute. It is not the case of the prosecution that the accused came with any weapon with premeditation to kill the deceased. The accused has, in fact, come with his child to P.W.1's house and only while arguing, in a sudden heat of passion, the accused took out the knife (M.O.1) from the thatched shed near the place of occurrence and committed the offence. Therefore, the accused cannot be said to have had “guilty intention” of causing such injury, but with “guilty knowledge”. Therefore, the act of the



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accused will be punishable only under Section 304(ii) IPC. Therefore, this Court is of the view that the conviction and sentence imposed by the trial Court warrants modification.

26. Accordingly, the conviction of the appellant/accused is modified from Section 302 IPC to Section 304(ii) IPC. Considering the fact that the appellant/accused has already undergone 7 ½ years of imprisonment and is still in jail, the sentence is modified to the period already undergone and the accused is directed to be set at liberty forthwith, unless his custody is required in connection with any other case. As a result, this Criminal Appeal is partly allowed.

(N.S.K., J.) (M.J.R., J.)
28.10.2025

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Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No



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To

- 1.The Sessions Judge,
Fast Track Mahalir Needhimandram,
Krishnagiri.
- 2.The Inspector of Police,
Pochampalli Police Station,
Pochampalli,
Krishnagiri District.
- 3.The Public Prosecutor,
High Court, Madras.



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and
M. JOTHIRAMAN, J.

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