



Crl.A.No.1104 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2025

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

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Bakkiyaraj

... Appellant/Accused

-VS-

The State Rep. by
The Inspector of Police,
Mathikonpalayam Police Station
Mathikonpalayam
Dharmapuri District
(Cr.No.986 of 2020)

... Respondent/Complainant

Prayer: Criminal Appeal is filed under Section 374 (2) of Cr.P.C. against the judgment of the learned Additional District and Sessions Judge, Dharmapuri District in Sessions Case No.31 of 2021 dated 20.03.2023.



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For Appellant : Mr.C.R.Malarvannan

For Respondent : Mr.A.Damodaran

Addl. Public Prosecutor

Assisted by Ms.M.Arifa Thasneem



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J U D G M E N T

(By N.Sathish Kumar, J.)

Aggrieved over the judgment of conviction and sentence passed by the learned Additional District and Sessions Judge, Dharmapuri District, in Sessions Case No.31 of 2021 dated 20.03.2023, 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.5,000/-, in default, to undergo 2 years rigorous imprisonment, the accused has filed the present appeal.

2. Brief case of the prosecution is as follows:

2.1. The deceased is the husband of PW1. The deceased developed illegal intimacy with the wife of the accused in respect of which a panchayat was convened four months prior to the occurrence in the house of PW17 and PW1 also informed to the accused that, the same will not be repeated. In



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view of such illegal conduct, the accused developed enmity as against the deceased. On 13.09.2020 at about 07.45 pm, while the deceased was sitting in front of a temple, the accused came with MO5 and stabbed him. On hearing the sound, PWs 1 to 3 rushed to the spot. PWs 4 to 6 also seen the accused stabbing the deceased. Immediately, the deceased also informed PW1, 2 and 4 that the accused only stabbed him. Thereafter, PW2 and others took the deceased to the hospital where PW1 gave a complaint (Ex.P1) to PW23 (Sub-Inspector of Police). PW23 has registered an FIR under Ex.P13 under Section 302 of IPC and forwarded the FIR to the Court and a copy was marked to the Investigation Officer. PW27, the Medical officer, who admitted the deceased on the date of occurrence at 07.45pm seen 3 x 2 x 5 cm stab injury on the chest and later, he died at 09.45pm. In this regard, he issued Ex.P15 (Death Intimation).

2.2. PW25 took up the investigation and went to the place of occurrence and prepared Observation Mahazar (Ex.P2) in the presence of



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PWs 7 and 8 and has drawn a rough sketch (Ex.P16) and also seized the material objects (MOs 2 and 3) under Ex.P3- Seizure Mahazar and conducted inquest over the dead body in the hospital and prepared inquest report under Ex.P17 and gave a requisition under Ex.P7 for postmortem through Head Constable (PW21). PW22, the Medical officer attached to the Dharmapuri Government Hospital conducted autopsy and found the following injuries:

“ 5 x 2 cm cavity deep stab wound, obliquely placed was present over the anterior aspect of left side of the chest with contused margin and edges were acute in angle, on dissection stab wound penetrating medial to lateral and upwards between the 4th to 5th inter costal muscles and perforating the right atrium and measure 2 x 1.5 x 3 cm (chamber deep) ”

2.3. The Medical Officer gave a final opinion that the deceased died due to shock and haemorrhage due to sharp force trauma and his opinion is



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marked as Ex.P12. PW25 in continuation of investigation, arrested the accused in the presence of PW12 and recovered MOs 4 and 5 in pursuant to the admitted portion of confession (Ex.P4) and forwarded the material objects to the Court and sent the accused for remand. He also seized blood stained dresses from the accused and sent to the Court under Form 95 (Ex.P20) and other seized items were also sent under Exs.21 to 23 to the Court and received the biological report (Ex.P25) and serological report (Ex.P26). After completion of investigation laid the final report as against the accused.

3. Based on the oral and documentary evidence, the trial Court found the accused guilty and imposed life imprisonment.

4. The learned counsel appearing for the appellant would submit that it is the specific case of the accused that the deceased and all other witnesses tried to attack the accused and in fact, the deceased tried to stab the accused



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and only in exercise of private defence, the accused took the knife from the deceased and gave a single blow and hence, according to learned counsel, the accused exercised only his right of private defence and the accused is entitled for acquittal.

5. The learned Additional Public Prosecutor appearing on behalf of the State would submit that absolutely there is no material to show that there was an attack unleashed on the accused to contend that the accused exercised such private defence and to disprove the motive projected by the prosecution that the deceased had illegal intimacy with the accused wife and in view of the same, the accused developed grudge against the deceased. To substantiate the version of the prosecution that there was illegal intimacy between the deceased and the accused wife, PWs 1, 3 and 17 were examined and they have clearly stated that four months prior to the occurrence there was a panchayat in this regard and in fact PW1 herself has



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informed that the same thing will not continue. The motive projected by the prosecution has not been disputed by the witnesses. The accused also in the written statement filed under Section 233 (2) Cr.P.C has stated that the deceased developed illegal intimacy with his wife and in this regard, there was also panchayat whereas it is his contention that he has exercised only private defence when the deceased tried to attack him on 13.09.2020 at about 08.00pm in front of the temple. Therefore, the motive aspect has been clearly established.

6. We have heard the rival submissions and also perused the entire materials available on record.

7. PWs 1 to 6, who is said to have seen the occurrence, in their evidence in unison stated that on 13.09.2020, while the deceased was sitting in front of the temple, the accused stabbed and immediately, they have taken the deceased to the hospital and Medical Officer (PW24) also admitted the



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deceased in the hospital and noted stab wound on the chest and she has also issued Accident Register in this regard. A careful perusal of entire evidence of eye witnesses, viz., PWs 1 to 6 indicate that the occurrence took place on 13.08.2020 at 08.00 pm, which is also admitted by the accused. Though evidence of PW1, who is projected as an eye witness, clearly indicate that only after hearing the noise, she rushed to the spot where her husband has told her that the accused has stabbed him. PWs 2, 4, 5 and 6 witnessed the occurrence and they have spoken about the accused stabbing the deceased. Though the stand of the accused that the deceased and other family members tried to attack him and only in exercise of his right of private defence, he caused single injury, to substantiate his contention that there was attack unleashed on him due to which he attacked the deceased, absolutely there is no material whatsoever except his statement under Section 233 Cr.P.C.

8. No doubt some of the witnesses also immediately rushed to the



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spot, the evidence of PW1 indicate that she heard the noise and thereafter, she went to the spot along with PW3. Therefore, the contention of the accused that he was attacked by the deceased and his relatives and therefore, he exercised private defence has no legs to stand. PW2 is the mother of the deceased. The evidence of PW2 would clearly indicate that when the deceased was sitting in the front of the temple, the accused questioned as to why he is still moving with his wife and spoiling his family life even after the Panchayat held in this regard. At that time, the deceased scolded and uttered the word “you are female” and “when you are not in a position to control your wife, why are your questioning me?”. Only when the deceased uttered such word, there arose a quarrel. PW2's evidence clearly indicate that in fact the accused got provoked. Her evidence also clearly indicate that the accused also warned the deceased stating that he will inform PW17 (Prakasam), who conducted Panchayat earlier in this regard and thereafter, the accused caused stab injury on the deceased. These evidences coupled

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with the relationship between the deceased and the accused's wife clearly prove the fact that such act has in fact provoked the accused and there was a sudden provocation.

9. On the day of occurrence, when the accused questioned the deceased as to why he still moving with his wife, despite the panchayat convened in this regard, the deceased in fact uttered a words “you are a female” and “you are not able to control your wife and in stead your are questioning me”. Uttering such a word, despite the fact that he is continuing the illegal relationship with his wife, would normally provoke any ordinary person. Only in such circumstances, the accused has lost his self control and out of sudden provocation, he caused single injury and immediately ran away from the place. The accused has not taken any undue advantage or acted in a cruel manner and left the place. Though the accused caused stab injury, the evidence of witnesses clearly show that there were quarrel



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between the parties. The evidence of PW2 further indicates that there were quarrel for more than 15 minutes and PW3 in the cross examination has also admitted that there were quarrel between the accused and the deceased and in fact the quarrel existed for more than an hour and her evidence also indicate that other family members of the deceased was also very much present. These facts clearly probablize the accused statement that there was some attempt to beat him.

10. Be that as it may, though it has not been established from the evidence of eye witnesses that the accused carried the weapon to show that he had come to the place of occurrence only to kill the deceased. The entire evidence of eye witnesses clearly indicate that only when the accused asked the deceased why you are continuing the illegal relationship with his wife, there started a quarrel, which lasted for more than an hour. Though the family members of the deceased were present, they have not made any



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attempt to separate them. None of the witnesses say that the accused carried the knife from his house. Therefore, considering these aspects, this Court is of the view that the entire occurrence took place only due to sudden quarrel particularly when the accused was insulted, which provoked him suddenly and in the quarrel, he attacked the deceased and caused the injury and ran away from the place of occurrence and he has not taken any undue advantage.

11. In such view of the matter, the act of the accused will not fall under Section 300 IPC. At the most, the act of the accused is punishable for the offence under Section 304 IPC.

12. 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, Accordingly, we modify the conviction as one under Section 304 of IPC.



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The appellant/accused is convicted under Section 304(i) of IPC and not under 304(ii) of IPC and he is sentenced to undergo Rigorous Imprisonment for a period of 8 years, instead of life imprisonment.



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13. The conviction and sentence passed by the Court below dated 20.03.2023 in S.C.No.31 of 2021, is modified to the extent indicated above 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.)
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Index: Yes / No

Internet: Yes / No

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To:

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1. The Additional District and Sessions Judge
Dharmapuri District
2. The Inspector of Police,
Mathikonpalayam Police Station
Mathikonpalayam
Dharmapuri District
3. The Public Prosecutor,
High Court, Madras.



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

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