



Crl.A.No.1266 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2025

CORAM :

THE HON'BLE MR. JUSTICE N. SATHISH KUMAR

and

THE HON'BLE MR. JUSTICE M.JOTHIRAMAN

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A.Vivekananthan

... Appellant / Accused

Vs.

State rep. by Inspector of Police,

Erode South Police Station,

Erode District.

... Respondent / Complainant

Crime No.226/2018.

PRAYER: Criminal Appeal filed under Section 374 (2) Criminal Procedure Code, 1973 praying to set aside the judgement and order dated 28.09.2022, made in S.C.No.11 of 2019 on the file of the Sessions Judge, Fast Track Mahila Court, Erode District.

For Appellant : Mr.N.Manoharan

For Respondent : Mr.A.Damodaran

Additional Public Prosecutor

Assisted by Ms.M.Arifa Thasneem

JUDGMENT



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

The sole accused in Crime No.226 of 2018 on the file of the

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respondent is the appellant herein. The appellant has filed the instant criminal appeal challenging the judgment of conviction and sentence dated 28.09.2022 made in S.C.No.11 of 2019 passed by the learned Sessions Judge, Fast Track Court, Mahila Court, Erode, convicting and sentencing the appellant / accused to undergo rigorous imprisonment for life and to pay a fine of Rs.5,000/- in default to undergo 3 month simple imprisonment for the offence under Section 302 IPC and also sentenced to undergo simple imprisonment for one month for the offence under Section 294(b) IPC.

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

2.1. PW1 is the matrimonial uncle of the deceased Deeparanjani.

The deceased is the daughter of PW3. PW2 / Sivaranjan is the brother of the deceased. The deceased is the second daughter of PW3. The deceased had fallen in love with the accused against the wish of PW2 and PW3. The



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deceased went along with the accused and got married in the year 2012.

Initially they were living at Madurai and out of wedlock they begot a girl child within few years of their married life.

2.2. The deceased suffered daily in the hands of the accused and she informed PW3 about the acts of the accused to the elders. The deceased came to the house of PW3 and informed her that the accused is suspecting her fidelity. Hence, PW3 asked her son PW2 and PW1 to go to the house of the accused and speak to the accused. At the request of PW3, they went to the house of the accused on 22.04.2018 at 6.00 P.M. and both were talking to the accused, his parents and sister. The accused entered into quarrel with the deceased and there were wordy altercation between them. The deceased left the house of the accused, and therefore, the accused went to the back of her with knife, caught hold her, stabbed her back despite her running and continuously stabbed her with knife.



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2.3. PW1 called ambulance and taken the deceased to the hospital.

On the way to the hospital, the deceased died. PW1 went to the police station and gave the complaint Ex.P1 at 9.30 P.M. before PW12 / Sub Inspector of Police. PW12 received the complaint and registered an FIR in Crime No.226/2018 for the offences under Sections 302 & 506(ii) IPC. Ex.P12 is the FIR.

2.4. PW12 received the death intimation from the hospital at 8.15 P.M. and went to the Government Hospital, Erode and found that no one was available and he reached the police station on 9.30 P.M. At that time, PW1 has arrived the police station and lodged the complaint. After registration of FIR, PW12 sent the FIR, Complaint and Death Intimation to higher officials and to the concerned jurisdictional Magistrate Court.

2.5. PW13 / Thiru. Rajkumar is the Inspector of Police. PW13 took up the investigation and went to the scene of occurrence at 22.30 hours in



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the presence of witnesses, PW5 / Ilango and PW5 had prepared the

Observation Mahazar and Rough Sketch / Ex.P13. PW13 collected blood

stained sand and non-blood sand through seizure mahazar / Ex.P11. PW14

/ Thiru. Sesathiri Photographer has taken photographs of the blood stains

found in the occurrence place. The photo with CD is M.O.7.

2.6. On 23.04.2018, PW13 conducted inquest over the dead body of the deceased in front of Panchayatdars and prepared Inquest Report / Ex.P14. He has given a requisition to conduct autopsy through Renukadevi, Head Constable under Ex.P8.

2.7. PW9 / Dr.Prakash received requisition letter from the said Renukadevi and conducted postmortem and found the following external injuries over the body of the deceased.

1.Stab wound 1 x 2 x 16 cm above right side collar bone.



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2.Stab wound on right shoulder 2 x 1 x 3 cm

3.Stab wound 1 x 1 x 1 cm below collar bone on left side

4.Stab wound on right scapular bone 1 x 1 x 2 cm

5.Stab wound on left scapular bone 1 x 1 x 2 cm

6.Stab wound 1 x 1 x 2 cm on upper back

7.Ruptured wound 1 x 1 x 1 cm behind right side ear

8.Ruptured wound 3 x 0.5 cm in right neck region

9.Stab wound on back of head 3 x 2 x 2 cm

10.Abrasion wound above right eyebrow 2 x 1 cm

11.A contusion was seen on the right upper tip

12.Stab wound 1 x 1 x 1 cm in jaw area

13.There was swelling in the right eyelid.

PW9 issued the postmortem certificate - Ex.P10. After receiving Forensic Examination Report - Ex.P9. PW9 issued final opinion - Ex.P11 and opined that the deceased died due to shock and hemorrhage by multiple stab injuries and internal injuries.



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WEB COPY 2.8. PW8 / Dr.Srinivasan, examined the deceased and recorded the

Accident Register / Ex.P6 and stated that the person was brought dead and sent the body for postmortem.

2.9. PW13, on 23.04.2018 at about 12.30 P.M. arrested the accused near Pallipalayam Bus Stand in the presence of Village Administration Officer (VAO) / PW7 and his assistant, Balasubramaniam. He recorded voluntary confession statement given by the accused. The admitted portion of the confession statement given by the accused is Ex.P15. Based on the confession statement, PW13 recorded M.O.1 / knife, M.O.5 / Blood stained half sleeve shirt, M.O.3 / blood from the scene with a bandage wrapped around a small stick, M.O.6 / lungi and the same was recovered under Ex.P5 / seizure mahazar. From the deceased body, PW13 recovered M.O.8 / blood stained rose colour inner wear and sent them under Ex.P19 / Form 95 to the Court.



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2.10. On 25.04.2018, he sent the case properties to the Court under Exs.P18 and P19. Thereafter, PW13 produced the accused before the Magistrate for judicial custody. PW13 issued requisition letter / Ex.P21 to the Chief Judicial Magistrate for sending the case properties for chemical analysis and also requisition for recording of 164 Cr.P.C. statements of PW2 and PW3 under Ex.P22. On 30.05.2018, PW13 examined the photographer / PW11. Then he altered the sections under sections 302 and 506(ii) IPC to 294(6), 302 & 506(ii) IPC and submitted the Alteration Report under Ex.P23. He examined the witnesses and recorded their statements. He also received Chemical Analysis Report / Ex.P24 and Serology Report / Ex.P25 and after completion of investigation, he laid a final report under Sections 294(b), 506(ii) & 302 IPC.

2.11. The prosecution, in order to bring home the charges, examined



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PWs 1 to 13 and marked Exs.P1 to P25 and also produced eight Material

Objects. After completion of evidence on the side of the prosecution, the accused was questioned under Section 313 Cr.P.C. with regard to incriminating materials found in the evidence adduced by the prosecution, the accused denied them as false and no defence side evidence was adduced. Upon hearing on either side, appreciating the documents and evidence, the Trial Court held that the prosecution has proved the case beyond reasonable doubt and convicted under Section 302 IPC. Aggrieved over the above conviction and sentence, the accused / appellant has preferred this appeal.

3. The learned counsel appearing for the appellant, while assailing the impugned judgment of conviction and sentence, put forward the following contentions:

(i) The eyewitnesses in this case are interested witnesses and there are contradictions in their evidences.

(ii) Non-examination of witnesses i.e., father, mother and



sister of the accused, who were residing along with the deceased and the appellant/accused by the prosecution is fatal to the case of the appellant / accused.

(iii) The trial Court failed to note that the motive put forth by the prosecution is that the appellant / accused doubted the fidelity of the deceased and used to quarrel with the deceased.

(iv) The prosecution has examined PW1 and PW2, whereas PWs.1 and 2 deposed that they went to the house of the accused and questioned as to why he suspecting the deceased. At that time, the appellant / accused told them that the deceased was opening the kitchen window and seeing someone else from there and he insisted the deceased not to open the kitchen window, but the deceased used to open the kitchen window. The prosecution did not produce the Rough Sketch of the interior of the house of the appellant / accused.

(v) The prosecution has suppressed the fact that the earliest information received from the place of occurrence was over phone. The place of occurrence is only about 2 kms from the police station and two version of evidence is available before the Court. One is that PW1 went to the police station and other is that he went with the deceased in Ambulance. Hence the mere



presence of PWs.1 and 2 at the place of occurrence itself is doubtful.

(vi) PW8 -Doctor, who sent Ex.P7-Death Intimation to the police station and also issued Ex.P6-Accident Register in his evidence had stated that the deceased was brought dead by one Arumugam/father of the appellant / accused.

(vii) PW9- Doctor, who conducted autopsy noted 13 external injuries on the body of the deceased and the deceased died due to puncture wound in the left and right public region and due to the bleeding in multiple injuries, hemorrhage and shock. There is different type of wounds on the body of the deceased. It is suggested by the defence that two types of weapon used to cause those injuries and there is a murder for gain, since at the place of occurrence there is a bag and bottle was seen and the same is reflected on M.O.7-Photograph. However, the said bag and bottle was not seized by the Investigating Officer.

(viii) The trial Court failed to note that the prosecution has relied on the evidence of PW7-VAO for the arrest and recovery of weapon based on his confession. The prosecution witnesses had stated that the appellant / accused was present at the hospital and he was taken by the Investigating Officer from the hospital.



(ix) Due to the wordy quarrel between the appellant/accused and the deceased, out of sudden provocation and heat of passion, the accused committed the offence and therefore, it comes under Exception (1) of Section 300 IPC and the culpable homicide is not a murder and therefore, the punishment may be imposed under Section 304 IPC.

4. *Per contra*, learned Additional Public Prosecutor appearing for the respondent / State would submit that the evidence of PWs.1 and 2 speaks about witnessing the commission of offences and the medical evidence of PW9 corroborates the evidence of PWs.1 and 2. The prosecution, through the evidences, proved its case beyond reasonable doubt and the evidence of the prosecution witnesses are cogent, trust worthy and goes to prove the charges against the appellant / accused. The appellant / accused with an intention to commit murder had inflicted several stab injuries and due to the injuries sustained, the deceased died.

5. This Court gave its anxious consideration to the rival submissions



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and also perused the entire materials available on record.

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6. The point for determination arises in this appeal is that whether the prosecution has proved the case beyond reasonable doubt or not?

7. It is the case of the prosecution that the deceased had fallen in love with the accused. They got married in the year 2012 and out of wedlock, a female child was born. After few years of their marriage, the accused started suspecting the character of his wife and quarreled with her. She complained about the harassment of the accused to her parents and PW1 / maternal uncle. On 22.04.2018 at 6.00 p.m., PW2 / brother of the deceased and PW1 went to accused house and questioned on the same. The accused does not like the same and he quarreled with her, while the deceased walked down the staircase, the accused took M.O.1-knife from his house, followed her and stabbed on her back. Despite her running, he caught hold of her and continuously stabbed her with M.O.1. They called



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the ambulance and had taken the injured to the hospital, but on the way to hospital, she died.

8. The prosecution has relied upon the following circumstances viz.,

- (a) Motive, (b) Eyewitnesses of PW1 and PW2, (c) Medical Evidence and
(d) Arrest and Recovery.

(A) MOTIVE

9. PW3 / mother of the deceased deposed that she had one son / PW2 and two daughters. The deceased is younger daughter of PW3. The deceased had fallen in love with the accused and against the wish of PW3, she got married in the year 2012. But she conducted the marriage in the Registrar Office in the year 2014. Since the accused was not going for any job and suffered without any income, PW3 had arranged residence for them near PW3's house and had taken care of both of them for about 3 ½ years, without informing anyone they shifted the house to Erode. The deceased informed to PW3 that the accused is suspecting the character and



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running, he caught hold of her and continuously stabbed her with M.O.1.

They called ambulance and had taken the injured to hospital and on the way to the hospital, the injured died. PW1 lodged complaint under Ex.P1 before PW12 at 9.30 p.m. PW12-Sub Inspector of Police states that he had received the Death Intimation – Ex.P7 from the hospital and went to the hospital and since he had not seen any of the deceased relatives, he came back to the police station and at 9.30 p.m., PW1 came to the police station and lodged Ex.P1-complaint. As per Exp6-Accident Register, the deceased was brought dead at 7.30 p.m.. The Death Intimation-Ex.P7 was given to the police at 7.30 p.m. On 22.04.2018. As per the evidence of PW2, they went to the deceased house at 6.00 p.m.

11. PW8-Dr.Srinivasan examined the deceased and recorded Ex.P6-Accident Register. A perusal of Ex.P6 would show that the deceased was taken to the hospital and the name of the person, who came along with the injured was one Arumugam and not PW1 or PW2.



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12. The complaint was lodged by PW1 at 9.30 p.m. The occurrence took place on 06.40 p.m. and immediately the injured was sent to the hospital through ambulance and due to the injuries, the deceased died on the way to the hospital and the same is recorded in Ex.P6 and Ex.P7, wherein the death time was mentioned as 7.30 pm. On 23.04.2018. Admittedly, neither the name of PW1 nor PW2 is found in found in Ex.P6/Accident Register.

13. The father of the appellant/accused is not in inimical terms with the deceased. As per the prosecution case, they are living in a joint family and therefore, the father-in-law of the deceased called the ambulance and had taken her to the hospital cannot be ruled out. Mere non-mentioning of the name of PW1 and PW2 in the Accident Register does not create any doubt as to the prosecution case. The eye-witnesses PWs.1 and 2 deposed about the manner of accident and they have also clearly deposed that the



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spouses entered into quarrel and thereafter within few minutes, with an intention to murder the wife, the accused/appellant stabbed his wife / deceased several times with M.O.1 – Knife. The evidence of PWs.1 and 2 inspires the confidence of the Court.

(C).MEDICAL EVIDENCE

14. PW9 / Dr.Prakash, who conducted postmortem and issued the postmortem certificate under Ex.P10, after receiving Forensic Examination Report under Ex.P9, gave final opinion under Ex.P11 that the deceased died due to shock and hemorrhage by multiple stab injuries and internal injuries. Therefore, the medical evidence amply proved the cause of death due to multiple stab injuries by the accused.

(D) ARREST AND RECOVERY

15. PW13-Inspector of Police arrested the accused on 23.04.2018 at 12.30 p.m near Palayapalayam Bus Stop in the presence of PW7-Village



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Administrative Officer and the accused voluntarily gave confession

statement. The admissible portion of confession statement is Ex.P15. In

continuation of the same, the accused identified and handed over M.O.1-

Knife, M.O.5 – Half Sleeve Shirt and M.O.6-Lungi and the same was

seized under Mahazar-Ex.P5. PW1 and PW2 deposed that after the

occurrence, the accused fled away from the occurrence place with M.O.1.

The evidence of PW13-Investigating Officer, who discovered the material

objects are convincing, the evidence as to discovery cannot be rejected.

16. The act of accused / husband in this case, done with an intention of causing such bodily injury with M.O.1-Knife knows to be likely to cause the death of his wife. Therefore, the act of accused falls under the definition of Section 300 of IPC, culpable homicide amounting to murder not falls under any of the exceptions.



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17. We are of the view that the prosecution had proved the guilt of

the accused/appellant beyond reasonable doubt through the testimonies of the witnesses PWs.1 to 3 and PW9. The trial Court, on a careful analysis of the testimonies of the witnesses, had rightly convicted and sentenced the appellant / accused, which does not warrant any interference by us.

18. Accordingly, this Criminal Appeal stands dismissed, confirming the judgment and order dated 28.09.2022, in S.C.No.11/2019 on the file of the Sessions Judge, Fast Track Mahila Court, Erode District.

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

06.11.2025

Jvm

Index : yes/no

Speaking /Non speaking Order

To

1. Sessions Judge,
Fast Track Mahila Court, Erode District.

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

20/22



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Erode District.

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

N. SATHISH KUMAR, J.

and

M.JOTHIRAMAN, J.

Jvm

Judgment in

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