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Crl.A.No.1355 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2025

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THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

**Crl.A.No.1355 of 2025 &
Crl.MP.No.16295 of 2025**

Raja

... Appellant

Vs.

State rep. By
Inspector of Police,
Mathikonpalayam Police Station,
Dharmapuri District
(crime No.168 of 2017)

... Respondent

PRAYER: Criminal Appeal filed under Section 415 of BNSS, 2023, praying to set aside the conviction and sentence made in SC.No.8 of 2018 dated 12.06.2025 on the file of the Principal Sessions Judge, Dharmapuri and thus allow the criminal appeal.

For Appellant : Mr.V.Sakkarapani

For Respondent : Mr.S.Raja Kumar,
Additional Public Prosecutor

JUDGMENT

This criminal appeal has been preferred against the judgment passed in SC.No.8 of 2018 dated 12.06.2025 on the file of the Principal Sessions Judge, Dharmapuri, thereby convicted the appellant for the offences punishable under Section 135(1)(a) of Electricity Act, 2003, Section 304(ii) of IPC and Section 304(ii) r/w 201 of IPC.



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2. The case of the prosecution was that the accused was doing agriculture in his own land situated at Jalikottai and cultivated maize in his land. In order to protect the maize crops from the wild animals, he installed iron electric fence in and around his land. While being so, on 26.05.2017, the deceased was found dead near the electric fence due to electrocution. In order to escape from the clutches of illegality, the accused had concealed the dead body of the deceased in the canal behind his land in a gunny bag. Thereafter he shifted the body to a neighbour's land which belongs to one, Sakkarai. On the complaint, the respondent registered FIR in crime No.168 of 2017 for the offences punishable under Section 135(1)(a) of Electricity Act, 2003, Section 304(2) and Section 201 of IPC. After completion of investigation, final report was filed and the same was taken cognizance by the trial court.

3. In order to bring the charges to home, the prosecution had examined PW1 to PW11 and marked Ex.P1 to P23. The prosecution also produced material objects as M.O.1 to M.O.10. On behalf of the accused, no one was examined and no documents were marked. On perusal of oral documents and evidences, the Trial Court found the accused guilty for the



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offences punishable under Section 135(1)(a) of Electricity Act and imposed fine of Rs.10,000/-, in default, to undergo three months simple imprisonment. He was also convicted for the offence punishable under Section 304(ii) of IPC and was sentenced to undergo simple imprisonment for five years with fine of Rs.10,000/-, in default, to undergo six months simple imprisonment. He was also convicted for the offences punishable under Section 304(ii) r/w 201 of IPC and sentenced to undergo simple imprisonment for one year. Aggrieved by the same, the present criminal appeal has been filed by the accused.

4. The learned counsel for the appellant would submit that no person from the Electricity Board was examined by the prosecution to prove the charge under Section 135(1)(a) of Electricity Act. The prosecution also failed to prove that the deceased died only due to electrocution. The body was found after a period of five days from the date of missing in a decomposed state. Therefore, the doctor who conducted post mortem opined that he could not conclusively state the cause of death. The prosecution also failed to prove that the fencing put up by the appellant was electrified. Even then, the trial court without considering the same, mechanically convicted the appellant.



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5. Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that in order to prove the charges, the owner of the neighbouring land where the body was found, was examined. The father of the victim was examined as PW1. He categorically deposed that after five days from the date of missing of his son, they found the body in the neighbouring land of the accused and the same was identified by him. Though final opinion could not be given on the deceased's body regarding the cause of death, the confession statement of the accused corroborates the evidence of prosecution witnesses. PW7 deposed that, immediately after the occurrence, in order to screen the body of the deceased, the appellant approached him for his help. However, he refused to do so. He was requested not to disclose the same to anybody. It corroborates the confession statement of the accused. Further, the Village Administrative Officer who recorded the confession statement of the accused, was examined as PW5. Therefore, the deceased died only due to electrocution and the trial court rightly convicted the appellant. As such, it does not warrant any interference by this Court.

6. Heard, the learned counsel appearing on either side and



perused all the materials placed before this Court.

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7. The case of the prosecution was that the deceased was missing from the 26.05.2017. After five days, on 01.06.2017 his body was found in the land owned by one, Sarkarai in a gunny bag near water channel in a decomposed state. He found cut injuries on the deceased chest and head. He also found cut injuries on the back side of his right leg. Even after the deceased went missing for five days, PW1 did not lodge any complaint. He lodged complaint only after finding the body. Though he found some cut injuries on the body of the deceased, the post mortem report did not corroborate the evidence of PW1. PW2 also identified the body of the deceased as son of PW1. He also found cut injuries on the body of the deceased as deposed by PW1. As per the post mortem report, the body was in a decomposed state and the doctor could not identify any injury on the body.

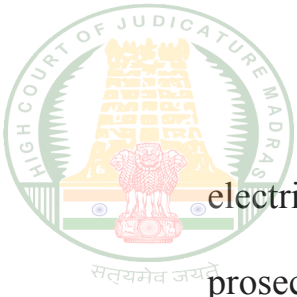
8. While being so, the appellant himself voluntarily appeared before Village Administrative Officer who was examined as PW5 and made a confession. His confession statement was recorded by the Village Administrative Officer in the presence of her assistant. However,



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her assistant was not examined by the prosecution. After recording his confession, he was brought to the respondent police station. Thereafter, his confession was recorded by the respondent. However, the Village Administrative Officer's assistant was not examined by the prosecution, in order to corroborate the evidence of Village Administrative Officer. In fact, her assistant had not even stood as witness to any of the confession statement or seizure mahazar. On the confession, the respondent recovered binding wire from the appellant's land. The body of the deceased was subjected for post mortem by PW6. The doctor deposed that due to decomposition of the body, nothing could be identified, such as injuries or poison, to give opinion. Therefore, there is absolutely no evidence to show that the deceased died due to electrocution.

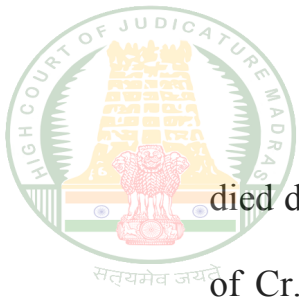
9. It is also curious to note that when the prosecution specifically alleged that the deceased was electrocuted and died, the prosecution ought to have examined the concerned authorities from the Electricity Board in order to prove that the appellant's land was fenced with electric power and on the date of the occurrence, whether the fencing of the appellant was electrified. Mere recovery of binding wire could not be taken as evidence to show that the appellant's land had



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electric fencing. No one from the Electricity Board was examined by the prosecution. If at all the appellant illegally fenced the land with electric power, he ought to have been fined for tapping the electricity power and also for putting electric fencing without any permission or licence. Normally, fencing in and around the agricultural crops are put in order to protect the crops from the wild animals such wild boar, elephant and bear. The agriculturists put electric fencing during night hours by tapping live electricity wire. In the morning, they remove the wire connecting the live electricity wire and the fencing. Therefore, non examination of any person from Electricity Board to prove that the appellant fenced his land with electric power is fatal to the case of the prosecution. In fact, no one deposed that the appellant fenced his property with electric power. There was absolutely no evidence to show that the deceased died due to electrocution.

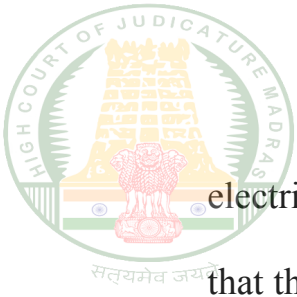
10. Admittedly, his body was found after a period of five days from the date of missing. In fact, PW1 did not lodge any complaint for missing of his son for five days. Further, even according to the PW1 and PW2, they found some cut injuries on the body of the deceased. Therefore, the prosecution miserably failed to prove that the deceased



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died due to electrocution. In order to prove the charges under Section 201 of Cr.P.C. the prosecution had examined PW7 and he deposed that the appellant sought for help from him to screen the body of the deceased after demise due to electrocution. He refused to help him and after four days, he informed to the police. But the investigation officer did not even whisper about receiving any information from PW7. If at all any information was received from PW7 about the help sought for by the appellant, the respondent would have registered FIR. Admittedly, after seeing the body of the deceased, after five days from the date of missing, FIR was registered. In order to fix the appellant as accused, the prosecution cooked up the story that the deceased was electrocuted by the electric fencing put up by the appellant and died. Thereafter, the accused packed the body in a gunny bag and threw on the land belongs to one, Sakkarai. In fact, the said Sakkarai was not examined by the prosecution to prove that the body was found in his land.

11. The entire conviction was based on the confession statement of the appellant herein. Though the confession statement of the appellant led to recovery of bind wire which was produced as material objection No.8, it did not mean that the appellant's fence was connected with



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electric power. The prosecution failed to examine any person to prove that the fencing of the appellant was connected with electric power on the date of the occurrence or at least before the date of the occurrence. The tapping of electricity from the live electric wire and electric fencing are illegal and the person concerned is liable to be punished under the Electricity Act. But the prosecution failed to produce any piece of evidence to prove the same. Therefore, the prosecution failed to prove any of the charges. Even then, the Trial Court mechanically convicted the appellant for the aforesaid charges.

12. In criminal jurisprudence, the burden is always on the prosecution to prove its case beyond reasonable doubt. When two views are possible and the one favourable to the accused is equally plausible, the benefit of doubt must necessarily go to the accused. In the present case, the prosecution has failed to discharge its burden convincingly, and the trial Court failed to properly appreciate the infirmities in the prosecution case. Therefore, the conviction and sentence awarded by the trial Court in respect of all the charges against the appellant cannot be sustained and are liable to be set aside.



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13. Accordingly, this Criminal Appeal is allowed and the judgment passed in SC.No.8 of 2018 dated 12.06.2025 on the file of the Principal Sessions Judge, Dharmapuri, is set aside. The appellant is acquitted of all charges under Section 135(1)(a) of Electricity Act, 2003, Section 304(ii) of IPC and Section 304(ii) r/w 201 of IPC. The appellant/accused is directed to be set at liberty forthwith unless his custody is otherwise required in connection with any other case. Fine amount, if any paid, shall be refunded to the appellant forthwith. Bail bond, if any executed, shall stand cancelled. Consequently, connected miscellaneous petition is closed.

28.08.2025

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To

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



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G.K.ILANTHIRAIYAN, J.

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