



CrI.A(MD)No.70 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2025

CORAM:

**THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

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Premavathi,
W/o.Ramamoorthi,
No.28, Main Road,
Nemeli, Vadacheri,
Orathanadu Taluk,
Thanjavur District.

... Appellant/2nd Accused

Vs.

The State of Tamil Nadu,
Represented by the Inspector of Police,
Papanadu Police Station,
Thanjavur District.
(Crime No.126 of 2016).

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 415(2) of B.N.S.S, 2023, to set aside the Judgment of conviction and sentence dated 18.09.2024 by the learned III Additional District and Sessions Judge, Pattukottai in S.C.No.263 of 2018 and acquit the appellant.



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For Appellant : Mr.M.Karunanithi
For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

JUDGMENT

**(Judgment of the Court was delivered by
G.K.ILANTHIRAIYAN, J.)**

This appeal has been preferred as against the Judgment passed in S.C.No.263 of 2018, dated 18.09.2024, on the file of the learned III Additional District and Sessions Judge, Pattukottai.

2.The case of the prosecution is that there was a land dispute between the first accused and the deceased with regard to the settlement of land measuring to an extent of 2 cents by the deceased in favour of his sister. While being so, on 26.07.2016, when the daughter of the deceased was returning home after procuring some feed for the cattle, she heard the second accused instigating the first accused to sever the hands of the deceased in which he had signed



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the settlement document in favour of his sister. Therefore, on 27.07.2016, at about 12 noon, when the deceased and his daughter were proceeding to their house in a bicycle, the first accused came there in his TVS 50 and waylaid them. Thereafter, the first accused attacked the deceased with a sickle on both his shoulders and also caused damage to the bicycle. Thereafter, he fled away from the scene of crime.

3.Immediately, the deceased was taken to the Government Hospital, Vadasery. After first aid, he was referred to the Government Hospital, Pattukottai for further treatment, but he was declared as brought dead.

4.On the basis of the complaint lodged by P.W.1, an F.I.R was registered in Crime No.126 of 2016 for the offences punishable under Sections 341, 302 and 109 of I.P.C as against the two accused persons. After completion of the investigation, a final report was



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filed and the same was taken cognizance in S.C.No.263 of 2018 on the file of the learned III Additional District and Sessions Judge, Pattukottai.

5.In order to bring the charges to home, the prosecution examined P.W.1 to P.W.30 and marked Exs.P1 to P29. The prosecution also produced Material Objects M.O.1 to M.O.8. On the side of the accused, no witnesses were examined and no documents were produced before the trial Court.

6.During trial, the first accused died and therefore, all the charges framed as against the first accused stood abated.

7.On perusal of the oral and documentary evidence, the trial Court convicted the second accused for the offences punishable under Sections 120(b) of I.P.C and Section 302 of I.P.C r/w 109 of I.P.C and sentenced her to undergo life imprisonment and imposed a



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fine of Rs.2,000/-, in default of which, to undergo one month Simple Imprisonment, for the offence under Section 120(b) of I.P.C; she was sentenced to undergo life imprisonment and was imposed a fine of Rs.2,000/-, in default of which, to undergo one month Simple Imprisonment, for the offence under Section 302 r/w 109 of I.P.C. Aggrieved by the same, the present appeal has been filed.

8.The learned counsel appearing for the appellant submitted that the appellant was convicted solely on the basis of the deposition made by P.W.8. In fact, even P.W.8 had merely stated that she heard the words uttered by the second accused while she was returning home. Except the evidence of P.W.8, there is no other material to link the appellant with the first accused. Therefore, the entire conviction cannot be sustained and is liable to be set aside.

9.The learned Additional Public Prosecutor appearing for the respondent submitted that P.W.8 categorically deposed that she



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heard the statement made by the appellant and that the same was also informed to P.W.1 and P.W.2. Further, P.W.1 lodged the complaint with specific allegations as against the appellant. Therefore, the appellant instigated the first accused to commit the murder of the deceased. Hence, the trial Court rightly convicted the appellant and the same does not warrant any interference of this Court.

10.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

11.There were two accused, in which the appellant was arrayed as second accused. During trial, the first accused died and all the charges framed as against the first accused stood abated.

12.The crux of the allegation as against the appellant is that, even as per the case of the prosecution, there was a property dispute between the first accused and the deceased, who are none



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other than siblings. The deceased settled the property to an extent of 2 cents in favour of his sister, without giving the said property in favour of the first accused. It is stated that the first accused and the second accused were residing under the same shelter. The husband of the second accused had died and she was under the care of the first accused. In view of the settlement made by the deceased in favour of his sister, the second accused, being the wife of the elder brother of the first accused, instigated the first accused to sever the hands of the deceased in which he had signed the settlement deed.

13. On 26.07.2016, the said incident was informed to P.W.1 and P.W.4. One of the daughters of the deceased was examined as P.W.8. She deposed that while she was returning to her house after procuring some feed for her cattle on 26.07.2017 at about 06.00 p.m., the appellant herein instigated the first accused to sever the hand of the deceased hand in which he had signed the settlement deed in favour of his sister. Therefore, she alerted the deceased and



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advised him to be cautioned. She also informed the same to her sister and mother. Her sister had deposed as P.W.1.

14.P.W.1 deposed that she was informed about the overt act of the appellant herein. However, in her cross-examination, she categorically stated that she did not hear anything from the appellant herein. Another relative had deposed as P.W.4. He deposed that the appellant herein instigated the first accused to sever the hand of the deceased in which he had signed the settlement deed and that the said news spread throughout the Village. However, P.W.8 deposed that she had informed about the instigation only to P.W.1 and her mother. No one informed P.W.4 about the alleged instigation by the appellant herein. Overall, from a perusal of the depositions, the entire overt act is attributed only to the accused who murdered the deceased.



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15. Admittedly, P.W.2 was not present in the scene of occurrence. Even according to P.W.8, when she was returning to her house after procuring feed to her cattle, she heard that the appellant herein instigating the first accused to sever the hand of the deceased. Even then, neither P.W.1 nor P.W.8 nor the wife of the deceased lodged any complaint. Merely because the second accused and the first accused were living under the same shelter and because she is a close relative, she had also been implicated as an accused. Now, the entire charges stood abated as against the first accused since he died during the trial. Even then, the trial Court mechanically convicted the appellant for the offences punishable under Sections 120(b) of I.P.C and Section 302 of I.P.C r/w 109 of I.P.C and sentenced her to undergo life imprisonment and imposed a fine of Rs.2,000/- in default to undergo one month Simple Imprisonment for the offence under Section 120(b) of I.P.C and sentenced her to undergo life imprisonment and imposed a fine of Rs.2,000/- in default to undergo



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one month Simple Imprisonment for the offence under Section 302
r/w 109 of I.P.C.

16. Even assuming that the appellant instigated the first accused to sever the hand of the deceased in which he had signed the settlement deed, the same would not amount to a conspiracy to do away with the life of the deceased. In case of **Jainul Hague vs. State of Bihar [AIR 1974 SC 1651]**, the Hon'ble Supreme Court in para 8 of its judgment has held as under:

“The evidence of exhortation is, in the very nature of things, a weak piece of evidence. There is quite often a tendency to implicate some person, in addition to the actual assailant by attributing to that person an exhortation to the assailant to assault the victim. Unless the evidence in this respect be clear, cogent and reliable, no conviction for abetment can be recorded against the person alleged to have exhorted the actual assailant.”

17. Therefore, the overt act alleged by the prosecution as against the appellant is merely “exhortation” and the same cannot



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attract the offence of conspiracy in order to sustain the charge under Section 120(b) of IPC. The prosecution has failed to prove beyond reasonable doubts that the appellant was instrumental in the commission of the offence. Consequently, if the charge under Section 120(b) of IPC fails, no offence under Section 302 of IPC r/w 109 of I.P.C would be attracted as against the appellant.

18.In view of the above, the conviction and sentence imposed on the appellant in S.C.No.263 of 2018, dated 18.09.2024 on the file of the learned III Additional District and Sessions Judge, Pattukottai, cannot be sustained and are liable to be set aside.

19.In the result, this Criminal Appeal is allowed and the Judgment, dated 18.09.2024, made in S.C.No.263 of 2018, by the III Additional District and Sessions Judge, Pattukottai is hereby set aside and the appellant is acquitted of all the charges. The bail bond, if any, executed by the appellant shall stand cancelled. The fine

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amount, if any paid, shall be refunded to the appellant. The appellant shall be set at liberty forthwith, if she is no longer required in connection with any other case.

**[G.K.I.J.] & [R.P.J.,]
16.12.2025**

NCC :Yes/No
Index :Yes/No
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To

1.The III Additional District and Sessions Judge,
Pattukottai.

2.The Inspector of Police,
Papanadu Police Station,
Thanjavur District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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