



Cr1.A(MD)No.28 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 25.11.2025

CORAM :

**THE HONOURABLE MR. JUSTICE P.VELMURUGAN
and
THE HONOURABLE MS.JUSTICE R.POORNIMA**

Cr1.A(MD)No.28 of 2022

1. Suresh @ Mari Suresh

2. Durairaj

... Appellants/ A2 & A3

vs.

State Represented through
The Inspector of Police,
V.K.Puram Police Station,
Tirunelveli District.
(Crime No.255/2016)

... Respondent

Prayer:- This Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code, to call for the records and set aside the conviction and sentence imposed by the learned III Additional Sessions Court, Tirunelveli, in S.C.No.655 of 2016 dated 23.12.2021.

For Appellants : Mr.R.Karunanidhi
For Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor



Cr1.A(MD)No.28 of 2022

JUDGMENT

(Judgment of the Court was made by **P.VELMURUAN, J.**)

WEB COPY

This Criminal Appeal has been filed by the appellants/A2 & A3 to call for the records and set aside the conviction and sentence imposed by the learned III Additional Sessions Court, Tirunelveli, in S.C.No.655 of 2016 dated 23.12.2021.

2. The case of the prosecution is that the defacto complainant who was cited as LW1 in the charge sheet (hereinafter referred to as LW1) has three sons namely, Selvam, Kumar and Somu. Father-in-law of LW1 executed a sale deed in favour of his daughter i.e., wife of LW1 namely, Duraichi in respect of 8½ cents, out of which, the first son of LW1 built a house in 2½ cents of land, the second son built a house in 2 cents of land and LW1 built two houses in the balance 4 cents of land. Patta has been granted for the said 4 cents of land in favour of LW1's wife Duraichi. A1 who was Brother of Duraichi prepared a bogus sale deed for the above said 4 cents that stand in the name of Duraichi in favour of LW1's second son Kumar. LW1's first son Selvam came from foreign, heard about the above said bogus sale deed and complained before the elders in the village on 11.10.2015. They compromised both



Cr1.A(MD)No.28 of 2022

the parties and directed the accused to file rectification deed to register

the 4 cents in favour of Duraichi. In continuation of which, on 11.10.2015

at 08.00 p.m., A1 came in front of the house of LW1 and called Selvam.

When Selvam, LW1 and his wife Duraichi/PW1 came out of the house,

all the accused stood in front of the house. A1 scolded Selvam for

having abused him before the village elders and attacked Selvam with a

knife on his left waist and left chest. A3 also attacked Selvam with a

knife on his left hand shoulder, left chest and left eyebrow. On seeing

this incident, PW1-Duraichi alarmed and A1 attacked her with a knife on

her left side stomach. When LW1 attempted to prevent the said attack,

A1 attacked on LW1's left cheek and when LW1 prevented himself from

the attack of A1 by his hands, a cut injury was caused to his hands. A4

also attacked PW1 and Selvam with a stick. A5 and A6 also attacked

LW1 with a stick on his backside and also attacked his wife/PW1.

Immediately after the incident, Selvam was brought to the Government

Hospital, Ambasamudram, where he was declared dead and both LW1

and his wife/PW1 were admitted as inpatients for treatment. On the

complaint of LW1, the respondent/police registered a case against all the

accused in Crime No.255/2015 for the offences under Sections 147, 148,



Cr1.A(MD)No.28 of 2022

294(b), 323, 324, 307 and 302 IPC. After investigation, the respondent/police laid charge sheet before the Judicial Magistrate Court, Ambasamudram, and the same was taken on file in PRC.No.16 of 2016. After completing the formalities, the learned Magistrate committed the case to the Court of Session, since the offences are exclusively triable by the Court of Session. The learned Principal Sessions Judge has taken the above case on file in S.C.No.655 of 2016 and made over the case to the III Additional Sessions Court, Tirunelveli, which framed the charges against A1 to A6 for the commission of offence under Sections 148 and 294(b) IPC, against A1 to A3 for the commission of the offence under Section 302 IPC, against A4 to A6 for the commission of the offence under Section 302 read with 34 IPC, against A2 for the commission of the offence under Section 324 IPC(2 counts), against A4 for the commission of the offence under Section 323 IPC(2 counts) and against A5 and A6 for the commission of the offence under Section 323 IPC(2 counts). In order to substantiate the case during trial, on the side of the prosecution, totally 19 witnesses were examined as PW1 to PW19 and 22 documents were marked as Exs.P1 to Ex.P22, besides 5 material objects were exhibited as MO1 to MO5.



3. After completion of the evidence of the prosecution side witnesses, the accused/appellants were questioned under Section 313(1)(b) Cr.P.C with regard to incriminating circumstances made out against them in the evidence rendered by the prosecution witnesses and they denied it as false. On the side of the defence, no oral or documentary evidence was let in. On conclusion of the trial and hearing of the arguments on either side, the trial Court convicted and sentenced the accused as follows:

Sl. No.	Accused	Acquittal	Conviction
1	A1	A1 died. Hence, charges against A1 stand abated.	
2	A2	148, 294(b), 302 IPC	A2 is convicted under Section 324 IPC(2 counts) and sentenced to undergo one year rigorous imprisonment for each counts.
3	A3	148, 294(b) IPC	A3 is convicted under Section 302 IPC and sentenced to undergo life imprisonment with a fine of Rs.1,000/- in default to undergo one month rigorous imprisonment.
4	A4	148, 294(b), 323(2 counts), 302 r/w 34 IPC	-----
5	A5	148, 294(b), 323(2 counts), 302 r/w 34 IPC	-----
6	A6	148, 294(b), 323(2 counts), 302 r/w 34 IPC	-----

The sentences were ordered to be run concurrently. Aggrieved over the same, the appellants/A2 and A3 have filed these appeals before this Court.



4. The learned counsel for the appellants would submit

that; PW2-wife of the deceased Selvam was not present in the scene of occurrence; even PW19-investigating officer has candidly admitted that PW2 has not stated about her presence in the scene of occurrence and as per the investigation, PW2 is not an eye-witness; according to PW1, A1 and A3 had caused two stab injuries on the chest of her husband/deceased, whereas, the evidence of PW14-Doctor and Ex.P9-postmortem certificate show singular injury on the chest of the deceased, as such, the presence of PW1 in the scene of occurrence is doubtful; the trial Court failed to consider the significant aspect of light source in the scene of occurrence and PW19-investigating officer did not examine any staff of the electricity board to ensure light source in the scene of occurrence; the author of the complaint has not been examined; the trial Court failed to consider the inordinate and unexplained delay in sending the statements of eye witnesses/PW1 and PW2 to the Court; there was no specific overt act against A2 by both PW1 and PW2 in their evidence; the evidence of PW1 regarding the attack on her husband(LW1) who died prior to the trial, is of no evidentiary value since LW1 had not been examined to give evidence regarding his injury; the evidence of PW2



Cr1.A(MD)No.28 of 2022

against A2 regarding the attack on LW1 is also not reliable in the absence of the evidence of LW1 who is the competent person to speak about the injury and its cause; the conviction under Section 324 IPC is not based on legal evidence and based on presumption and uncorroborated evidence of PW1 and PW2; there is no evidence to prove the attack on PW1 by A2, hence, the first count of charge goes out; insofar as the second count of charge of attack on LW1 is concerned, it is not proved since LW1 died before commencement of trial, hence, there was no evidence to prove the second count of charge and the prosecution has not explained the injuries sustained by the appellants which is fatal to the case of the prosecution. Thus, the learned counsel would pray for acquittal of the appellants/accused.

5. The learned Additional Public Prosecutor would submit that PW1-mother of the deceased has clearly spoken about the occurrence and also the specific overt act against the appellants which is corroborated by the evidence of PW2-wife of the deceased; since both the appellants and the deceased in this case are relatives, the identification of the accused and the place of occurrence are not in dispute; PW14-



Cr1.A(MD)No.28 of 2022

Doctor has also stated about the antemortem injuries on the body of the deceased and also stated that the deceased appears to have died of shock and hemorrhage due to injury to vital organ namely, chest; the medical evidence also supports the evidence of eye-witnesses; LW1 and PW1 also sustained injuries and they were admitted in the hospital for treatment; since the doctor who gave the treatment to LW1 and PW1, was not in service, the Assistant Medical Officer working in the Government Hospital, Ambasamudram, was examined as PW18 who has spoken about the injury sustained by LW1 and PW1; the prosecution also proved that the appellants caused injuries to the deceased, LW1 and PW1; the trial Court considering the evidence of the prosecution witnesses has rightly convicted and sentenced the appellants; though the counsel for the appellants contended that since recovery was not proved, the prosecution has not proved that the injuries were caused by the appellants through deadly weapons and consequently the offence under Section 324 IPC would not attract; if at all the court comes to the conclusion that A2 caused certain injuries on the deceased, LW1 and PW1, the said offence will fall only under Section 323 IPC not under Section 324 IPC; even though weapons were not recovered from the



appellants, weapons were recovered from the other accused; even though recovery mahazar witness turned hostile, the evidence of the eye-witnesses is clear about the overt act and the weapons used by each of the accused which is corroborated by the medical evidence; since because the recovery mahazar witness turned hostile, it cannot be stated that the appellants have not committed the offence with deadly weapons; since the author of the complaint-LW1 who is also one of the injured victims, died before trial, the complaint was marked through the investigating officer-PW19; even though the motive and recovery was not proved, the evidence of the eye-witnesses regarding motive is consistent, cogent, reliable and inspires the confidence of the court; the trial Court rightly appreciated the oral and documentary evidence and convicted the appellants as stated above *de hors* the recovery and motive; there is no merit in this appeal and hence the appeal is liable to be dismissed.

6. Heard both sides and perused the records.

7. The specific case of the prosecution is that A1/Brother of Duraichi prepared a bogus sale deed for the 4 cents of land stands in



Cr1.A(MD)No.28 of 2022

the name of Duraichi in favour of LW1's second son Kumar. On hearing

the same, LW1's first son Selvam complained about it before the elders in the village on 11.10.2015. They compromised both the parties and directed the accused to file rectification deed and to register the said 4 cents in favour of Duraichi. In continuation of which, on 11.10.2015 at 08.00 p.m., A1 came in front of the house of LW1 and called Selvam. When Selvam, LW1 and his wife Duraichi/PW1 came out of the house, all the accused stood in front of the house. A1 scolded Selvam and then A1 and A3 attacked him with a knife on his left waist, left chest, left hand shoulder, left chest and left eyebrow. On seeing it, when PW1-Duraichi alarmed, A1 attacked her with a knife on her left side stomach. When LW1 attempted to prevent the said attack, A1 attacked on LW1's left cheek and when LW1 prevented it, a cut injury was caused to his hands. A4 also attacked PW1 and Selvam with a stick. A5 and A6 also attacked LW1 with a stick on his backside and also attacked his wife/PW1. Immediately after the incident, Selvam was brought to the Government Hospital, Ambasamudram, where he was declared dead and both LW1 and his wife/PW1 were admitted as inpatients for treatment. On the complaint of LW1, the respondent/police registered a



Cr1.A(MD)No.28 of 2022

case against all the accused in Crime No.255/2015 for the offences under Sections 147, 148, 294(b), 323, 324, 307 and 302 IPC. After investigation, the respondent/police laid a charge sheet before the Judicial Magistrate, Ambasamudram, and the same was taken on file in PRC.No.16 of 2016. After completing the formalities, the case was taken on file in S.C.No.655 of 2016 and made over the case to the III Additional Sessions Court, Tirunelveli, which framed the charges against A1 to A6 for the commission of offence under Section 148 and 294(b) IPC, against A1 to A3 for the commission of the offence under Section 302 IPC, against A4 to A6 for the commission of the offence under Section 302 read with 34 IPC, against A2 for the commission of the offence under Section 324 IPC(2 counts), against A4 for the commission of the offence under Section 323 IPC(2 counts) and against A5 and A6 for the commission of the offence under Section 323 IPC(2 counts). In order to substantiate the case during trial, on the side of the prosecution, totally 19 witnesses were examined as PW1 to PW19 and 22 documents were marked as Exs.P1 to Ex.P22, besides 5 material objects were exhibited as MO1 to MO5. On the side of the defence, no oral or documentary evidence was let in.



WEB COPY

8. Though LW1/defacto complainant died before the trial, the complaint lodged by him before the respondent/police to set the law in motion, was marked through PW19-investigating officer. Since the maker of the complaint died, the complaint can be relied upon. If the maker of the complaint is alive, without examining him, the complaint cannot be marked. Reading of Ex.P14-complaint shows that the complainant has made specific overt act against each of the accused and has also narrated the previous enmity between the parties. The wife of LW1/mother of the deceased was examined as PW1 and she was also cited as eye-witness. Since the occurrence took place in front of the house of LW1, the presence of PW1 in the place of occurrence is highly probable. PW1 who is one of the injured witnesses has also clearly spoken about the specific overt act and the motive behind the occurrence. Exs.P18 and P19-Accident Registers of LW1 and PW1 corroborate the evidence of PW1 and the contents of Ex.P14-complaint. The evidence of the injured witness is the best evidence to prove the prosecution case. PW2 who is the wife of the deceased, has also clearly spoken about the previous motive and specific overt act against the appellants. Only because the deceased and the witnesses were living



together, on hearing the voice of A1 and other accused, they all came out of the house and were talking to A1. All of a sudden, the accused attacked with deadly weapons on the deceased and while LW1 and PW1 were preventing the attack on the deceased, they also sustained injuries. Therefore, the presence of the witnesses in the scene of occurrence is highly probable and the same was also proved by the prosecution beyond reasonable doubt. The appellants are relatives of the victims' family and on the date of occurrence, they went to the house of the deceased and quarreled with him and caused injuries on his vital parts, due to which, there was over bleeding of blood which resulted instantaneous death of the deceased.

9. Since the doctor who treated LW1 and PW1 in Ambasamudram Government Hospital was not in service, PW18- Assistant Medical Officer working in the said hospital was examined. PW18 with reference to medical records has stated that on 11.10.2015 at 10.30 a.m., LW1 and PW1 came for treatment for the injuries caused by the accused. After giving first aid, both of them were referred to Tirunelveli Government Medical College Hospital, for further treatment.



Cr1.A(MD)No.28 of 2022

Exs.P18 and P19-Accident Registers of LW1 and PW1 issued by the Government Hospital, Ambasamudram, show that the injuries mentioned therein were caused by the appellants along with other accused through deadly weapons. Though PW15 who is a witness to the recovery of material objects and also to the confession statement of A1, turned hostile, the evidence of the injured witness PW1 and PW2 who are also eye-witnesses clearly shows that the injuries were caused by the appellants to the deceased, LW1 and PW1 through deadly weapons which is also corroborated by Exs.P18 and P19-Accident Registers of LW1 and PW1 as well as Ex.P9-postmortem certificate. Therefore, the appellants have committed the charged offences for which the trial Court convicted them. Merely because the recovery was not proved in the manner known to law, it does not mean that the prosecution has not proved the case and the accused had not caused injuries through deadly weapons, whereas, the prosecution has proved the case through the injured witnesses and the said evidence is corroborated by the medical evidence both oral and documentary.



WEB

10. As far as the offence of Section 302 IPC against A3 is concerned, LW1 has clearly stated about the specific overt act and the motive in his complaint-Ex.P14 which was registered as Ex.P15-FIR. Though the counsel for the appellants contended that there was no motive and premeditation and therefore, the offence under Section 302 IPC against A3 will not attract, a reading of Ex.P14-complaint statement of LW1 who is one of the injured witnesses subsequently died before trial, clearly shows the motive and the usage of deadly weapons by each of the accused and the place of attack and the injuries, due to that there was over bleeding of blood which resulted the instantaneous death of the deceased. Even otherwise, PW1 and PW2 are eye-witnesses and PW1 is another injured witness and from their evidence, the prosecution has proved the motive and the overt act against the appellants.

11. Though the learned counsel for the appellants contended that the injuries sustained by the appellants were not explained by the prosecution, a reading of the remand report which is the first available statement of the accused recorded by the learned Judicial Magistrate at the time of remand, shows that the appellants



Cr1.A(MD)No.28 of 2022

after stabbing the deceased while pulled the knife from his body, sustained injuries. Thus it is clear that the appellants themselves admitted that the injuries sustained by them are self-inflicted injuries and hence, it cannot be said that the prosecution has not explained the injuries sustained by the appellants. Therefore, the above contention is not acceptable. Though there are certain contradictions and discrepancies in the evidence of the prosecution witnesses, that are not material contradictions which will go to the root of the prosecution case. The prosecution witnesses have clearly stated the date of occurrence, place of occurrence and the motive behind the occurrence. Further, the victims and the accused are relatives and the accused were also identified by the witnesses. While re-appreciating the evidence, this Court as an appellate Court as well as the final court of fact finding, finds that the prosecution has proved its case beyond reasonable doubt. The entire evidence of the prosecution witnesses is consistent, cogent, reliable, credible and also inspires the confidence of the Court and this Court finds no reason to discard the said evidence and consequently to interfere with the conviction and sentence imposed by the trial Court. Hence, this Court finds no merit in this appeal.



Cr1.A(MD)No.28 of 2022

WEB COPY 12.

Accordingly, the Criminal Appeal is dismissed.

[P.V, J.] [R.P., J.]
25.11.2025

Index : Yes / No
Neutral Citation : Yes / No
bala

To

1. The Inspector of Police,
V.K.Puram Police Station,
Tirunelveli District.

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

3. The Section Officer
Criminal (Records) Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Cr1.A(MD)No.28 of 2022

P.VELMURUGAN, J.
AND
R.POORNIMA, J.

bala

JUDGMENT MADE IN
Cr1.A(MD)No.28 of 2022

DATED : 25.11.2025