

Crl.A(MD)No.40 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 01.07.2025

Pronounced on : 17.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

AND

THE HONOURABLE MS.JUSTICE R.POORNIMA

Crl.A(MD)No.40 of 2022

Pandaram

... Appellant

Vs.

The Inspector of Police,
Sengottai Police Station,
Tenkasi District.

(Crime No.120/2015)

...Respondent

PRAYER: Criminal Appeal filed under Section 374 of the Criminal Procedure Code to call for the entire records connected to the Judgment in S.C.No.104 of 2016 on the file of the Additional District and Sessions Judge (FTC), Tenkasi, dated 01.12.2021 and set aside the same as illegal.



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For Appellant : Mr.R.Vinoth Bharathi

For Respondent : Mr. S. Ravi

Additional Public Prosecutor

JUDGMENT

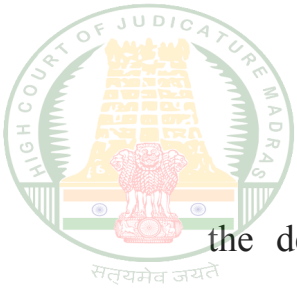
(Judgment of this Court was delivered by **R.POORNIMA, J.**)

This Criminal Appeal is filed against the conviction and sentence passed against the appellant/sole accused in the judgment dated 01.12.2021 passed by the learned Additional District and Sessions Court, Sivagangai, in S.C.No.104 of 2016 by convicting and sentencing the appellant for the offence punishable under Sections 302 & 294(b) IPC and sentenced him to undergo imprisonment for life and to pay a sum of Rs.2,000/- in default, to undergo two years rigorous imprisonment for the offence U/s.302 of IPC and sentenced to pay a fine of Rs.2,000/- in default to undergo simple imprisonment for one month for the offence punishable under Section 294(b) of IPC. The period of sentence already undergone by accused has been set off under Section 428 of Cr.P.C.

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

a) The complaint statement/Ex.P1 was recorded by P.W.15

Thiru.Sankaran, Sub Inspector of Police from P.W.1 Tmt.Sheeba,wife of



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the deceased, wherein she had stated that six months prior to the occurrence, her husband Vijimon had quarrelled with one Paramasivam, father of the accused. During the quarrel Paramasivam had pulled and broken the gold chain from Vijimon's neck. Following this, Vijimon accused him for attempting to snatch the chain with intend to commit robbery. As a result of which, the accused developed grudge against the deceased Vijimon, as his father was publicly humiliated by being labelled as a thief. On 11.05.2015, the accused starred the said Vijimon, when this was questioned by the deceased, he shouted at him and threatened to kill him.

b) On the same day, at about 8.15 p.m., while the complainant was at her residence, one Selvan came to her house and informed that the accused armed with a knife was searching her husband to kill him. Immediately she along with her father and son set out to locate her husband. During the search, they found that the accused and the deceased were quarrelling with each other, immediately they had gone to the said place. The accused abused her husband “தேவடியா மவனே, புண்ட மவனே, என் குடும்பத்தை திருட்டு பட்டம் சுமத்தின நீ உயிரோடு இருக்கக் கூடாது.” and took a knife from his hip and stabbed,



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inflicted grievous injury on his ribs and temporal region. Upon witnessing the occurrence, the complainant and others raised alarm. The accused fled away with knife. Immediately she took him in 108 ambulance to Shengottai Government Hospital for treatment, wherein, the first aid was given and referred to Tenkasi Government Hospital for further treatment. They took him to Tenkasi Government Hospital and admitted him for treatment at about 10.20 p.m. The Doctor examined him and declared that he was brought dead. Hence the complaint.

c) The complaint statement (Ex.P1) was recorded by Mr.Sankaran, Sub Inspector of Police (P.W.15) on 11.05.2015, at about 23.30 hours, and registered FIR in Crime No.120 of 2015 (Ex.P.16) for the offence under Sections 294(b) and 302 of IPC and forwarded the same to the concerned Judicial Magistrate Court through Grade-I Police Constable Thiru.Alphonse Raja (P.W.8).

d) Mr.Muneeswaran, the Inspector of Police (P.W.22), took up the case for investigation, went to the place of occurrence on 12.05.2025 at about 00.30 hours, prepared observation mahazar (Ex.P19) and Rough Sketch (Ex.P22) in the presence of witnesses Ramar and



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Manivannan (P.W.20). He recovered blood stained soil (M.O.5), ordinary soil (M.O.6) under athatchi (Ex.P20). Thereafter, he went to Tenkasi Government Hospital and conducted inquest on the dead body between 07.00 hours and 09.00 hours and prepared inquest report (Ex.P23) in the presence of witness and panchayadhars. In order to verify the real cause of death, the dead body was sent for autopsy through Head Constable Mr.Perumal (P.W.9) with a requisition letter (Ex.P.14). He examined the complainant and other witnesses and recorded their statements.

e) On 13.05.2015 at about 20.00 hours, he arrested the accused and recorded his confession statement (Ex.P.2) in the presence of witnesses Sudhan and Sithuraj (P.W.7) and recovered Knife (M.O.1) and Brandy bottle (M.O.4) under a recovery mahazar (Ex.P3). Thereafter, he handed over the accused for judicial custody.

f) Mr.Perumal (P.W.9), the Head Constable, after postmortem, handed over the dresses worn by the deceased namely, Blood stained T-Shirt (M.O.2) and Blood stained Lungi (M.O.3) and the same was forwarded to the Judicial Magistrate Court under form-95. On 01.06.2015, he sent a requisition letter to the Judicial Magistrate to send



the material objects for chemical analysis.

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g) On 14.05.2015, he examined Venkateswaran (P.W.21) Junior Engineer of Tamil Nadu Electricity Department and received certificate Ex.P21 to prove availability of light and that there was no power cut on the date of occurrence. On 22.07.2015, he examined Dr.Chellasamy (P.W.14) who had conducted postmortem and collected postmortem report (Ex.P15).

h) P.W.14 Dr.Chellasamy, in the postmortem report (Ex.P15) noted the following injuries on the dead body :

"A body of male aged about 41 lying supine with the eyes closed. Rigor mortis of all 4 limbs present. Incised wound of Lt. side of scalp over parietal area 5 x 1 cm. Bone not penetrated. Another incised wound over Rt. Lower thorax lateral side in the region of 9th inter costal space about 5cm x 1cm seen with pleura protruding through the wound. Abdomen Opened. On opening in abdomen blood with air bubble gushed through the abdominal incision. Intestines and stomach kidneys are not damaged. On the Rt side liver was cleared for about 15 cms with blood rushing from the wound area. Thoracic Viscera are intact.

He opined that the deceased would appear to



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have died of injury to liver.”

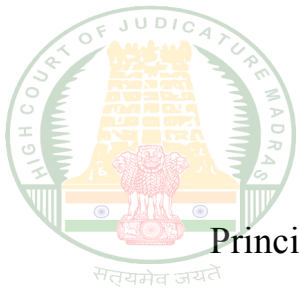
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i) On 17.07.2025, he received Chemical analysis report (Ex.P11). Thereafter, on 22.07.2015, he examined Dr.Gangadevi (P.W.13), Dr.Feroz Khan (P.W.16) and recorded their statements. On 13.08.2015, he received the serology report (Ex.P12) and examined Thiru.Gajendravarathan (P.W.12), Assistant Director, Regional Forensic Science Lab, Tirunelveli and recorded his statement.

j) On 17.08.2015, he completed the investigation and filed a final report against the accused for the offence punishable under Sections 294(b) and 302 of IPC.

3) On receipt of the final report, the Judicial Magistrate, Sengottai, took up the case in P.R.C.No.75 of 2015 and issued summons to the accused. After appearance of the accused, copies of the entire records were furnished to him at free of cost under Section 207 Cr.P.C.

4) Since the offence was exclusively triable by the Sessions Court, the learned Judicial Magistrate committed the case records to the



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Principal District Judge, Tirunelveli. The learned Principal District Judge, Tirunelveli, made over the case to the Additional District and Sessions Judge, Tenkasi, under Section 209(A) Cr.P.C. for further action.

5) The Additional District Judge, Tenkasi received the case records, numbered it as S.C.No.104 of 2016 and took up the case for disposal according to law, framed charges against the accused under Sections 302 and 294(b) IPC. The charges were read over and explained to the accused. The accused denied the charges and claimed to be tried. Therefore, the case was posted for trial.

6) On the side of the prosecution, P.W.1 to P.W.22 were examined and Ex.P1 to Ex.P23 were marked. Material Objects M.O.1 to M.O.6 were produced. Neither oral nor documentary evidence was adduced by the accused.

7) After a full fledged trial, the trial Court convicted the accused for the offence punishable under Sections 302 & 294(b) IPC and sentenced him to undergo imprisonment for life and to pay a sum of Rs.2,000/- in default, to undergo two years rigorous imprisonment for the



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offence U/s.302 of IPC and sentenced to pay a fine of Rs.2,000/- in default to undergo simple imprisonment for one month for the offence punishable under Section 294(b) of IPC, against which, the present Criminal Appeal has been filed.

8. Mr.Vinoth Bharathi, learned counsel appearing for the appellant assailing the judgment of conviction and sentence made the following submissions :-

a) That the learned Judge failed to see that the motive between the deceased and the appellant was not properly proved by the prosecution side.

b) That the learned Judge ought to have considered that P.W.1 to P.W.4 and P.W.6 are not independent witnesses.

c) That the learned Judge failed to see that the independent witness P.W.3 has not supported the case of the prosecution.

d) That the learned Judge failed to see that there is a delay in sending FIR to the concerned Magistrate Court.

9. The learned Additional Public Prosecutor appearing for the State argued that, the case rests on the evidence of eyewitness. P.W.1



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and P.W.2, who have clearly spoken about the occurrence. There is no delay in the FIR. The motive for the occurrence was spoken by the witnesses. The evidence of eyewitness are corroborating with medical evidence. Arrest, confession and recovery has been proved. The prosecution proved the guilt against the accused beyond all reasonable doubt and there is no ground to interfere with the order of trial Court and prayed to dismiss the Criminal Appeal.

10. Heard the learned counsel on either side and perused the materials available on record.

11. Now this Court has to decide whether the prosecution proved the case beyond all reasonable doubt and the judgement rendered by the trial Court is sustainable or liable to be set aside ?

12. It is the contention of the learned counsel for the appellant that there is a delay in lodging the complaint as well as in handing over the FIR to the concerned Judicial Magistrate, which was not properly explained by the prosecution. The alleged incident happened at about 8.30 p.m., but the same was reported to the Police



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only at about 11.30 p.m., and the complaint and FIR was handed over to

the learned Judicial Magistrate Court at about 2.00 a.m. P.W.8, Thiru.Alphonse Raja, Grade-I Police Constable through whom the FIR was sent to the Court stated that he had handed over the FIR to the staff of the learned Judicial Magistrate at about 2.00 a.m., but he had not stated that the same was handed over to the learned Judicial Magistrate which shows that P.W.8, handed over the FIR to the staff of the Court and not to the concerned Judicial Magistrate.

13. The learned Additional Public Prosecutor replied that the occurrence took place at about 8.30 P.M., immediately the complainant took the injured to the hospital at about 9.15 P.M. The Doctor who had initially treated the victim, referred the victim to the Government Hospital at Tenkasi, for further treatment. P.W.1, took her husband to the Government Hospital at about 10.20 P.M., for treatment, but he was declared as brought dead. Thereafter, she lodged the complaint at about 11.30 P.M., there is no inordinate delay in filing the complaint.

14. On careful verification, we find that soon after the occurrence, the injured was taken to the Government Hospital, Sengottai



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by his wife, P.W.1/complainant for treatment. P.W.13 Dr.Ganga Devi who had initially treated the victim deposed that injured Vijimon, was brought for treatment at about 9.15 P.M., by his wife, she informed that her husband was attacked by a known person at about 8.30 P.M. Since his health condition was very serious, she referred him to the Government Hospital, Tenkasi, for further treatment. The Accident Register issued by P.W.13 has been marked as Ex.P13. Her evidence was further corroborated by P.W.16 / Dr.Feroz Khan, Assistant Surgeon, Tenkasi who had further examined the victim, he submitted that the victim was brought by his wife and his son at about 10.20 P.M., in 108 ambulance with Accident Register Ex.P13. He found certain injuries on the victim, after examination, he found that the deceased was brought dead and issued Accident Register Ex.P17.

15. After death of her husband P.W.1 lodged complaint (Ex.P1) at about 23.30 hours. There is no inordinate delay in filing the complaint (Ex.P1) as stated by the learned counsel for the appellant.

16. Further the endorsement with Court seal found in FIR reveals that it was received by the District Munsif cum Judicial



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Magistrate at about 02.00 a.m., on 12.05.2015. Therefore, the argument advanced by the learned counsel for the appellant that FIR was not handed over to the concerned Judicial Magistrate, is not correct.

17. The learned counsel for the appellant further argued that the eyewitnesses P.W.1, P.W.2 are family members/interested eyewitnesses to the deceased and they are only chance witnesses, their presence is doubtful and not reliable. The evidence was not corroborated but contrary to each other. Further the prosecution failed to examine one of the important eyewitness Thiru.Sibi, son of the deceased who is alleged to have witnessed the occurrence for which the prosecution failed to offer any explanation. The independent witnesses, viz., P.W.3, P.W.17 to P.W.19 have turned hostile and not supported the prosecution case. The motive for the offence was not established by the prosecution and the prosecution totally failed to prove the case beyond all reasonable doubt.

18. In reply there to the learned Additional Public Prosecutor appearing for the State, submitted that the evidence of P.W.1 and P.W.2 corroborated with each other, and their evidence alone is sufficient to



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prove the guilt of the accused. Further the ocular evidence supported with the medical evidence. The arrest, confession and recovery was proved. The prosecution proved the case beyond all reasonable doubt and non-examination of one of the eyewitness not falsified the case of the prosecution.

19. As per the prosecution, motive for occurrence is that six months prior to the occurrence, her husband Vijimon had quarrelled with one Paramasivam, father of the accused. During the quarrel, Paramasivam had pulled and broken the gold chain from Vijimon's neck. Following this vijimon, accused him of attempt to snatch the chain with intend to commit robbery. As a result of which, the accused developed grudge against the deceased Vijimon as his father was publicly humiliated by being labelled as a thief.

20. In criminal law, motive is not always essential to prove, especially when there is direct evidence. In the judgement rendered in ***Chandan Vs. The State (Delhi Admn.)*** reported in **2024 (6) SCC 799** it has been held as follows :

“9. The argument of the defence that the prosecution has not been able to establish any motive on the accused



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for committing this dastardly act is in fact true, but since this is a case of eye- witness where there is nothing to discredit the eye-witness, the motive itself is of little relevance. It would be necessary to mention some of the leading cases on this aspect which are as under.

10. In Shivaji Genu Mohite v. State of Maharashtra, 1973 (3) SCC 219, it was held that it is a well-settled principle in criminal jurisprudence that when ocular testimony inspires the confidence of the court, the prosecution is not required to establish motive. Mere absence of motive would not impinge on the testimony of a reliable eye-witness. Motive is an important factor for consideration in a case of circumstantial evidence. But when there is direct eye witness, motive is not significant. This is what was held : (SCC pp.224-25, para 12)

“In case the prosecution is not able to discover an impelling motive, that could not reflect upon the credibility of a witness proved to be a reliable eye-witness. Evidence as to motive would, no doubt, go a long way in cases wholly dependent on circumstantial evidence. Such evidence would form one of the links in the chain of circumstantial evidence in such a case. But that would not be so in cases where there are eye-witnesses of credibility, though even in such cases if a motive is properly proved, such proof would strengthen the prosecution case and fortify the



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court in its ultimate conclusion. But that does not mean that if motive is not established, the evidence of an eye-witness is rendered untrustworthy”

11. The principle that the lack or absence of motive is inconsequential when direct evidence establishes the crime has been reiterated by this Court in Bikau Pandey v. State of Bihar, (2003) 12 SCC 616; Rajagopal vs. Muthupandi, (2017) 11 SCC 120; Yogesh Singh vs. Mahabeer Singh, (2017) 11 SCC 195.

But in this case, the motive for offence has also been spoken by P.W.3 and P.W.4 whose evidence also inspires confidence. The prosecution, therefore proved the motive for the occurrence.

21. P.W.1 Smt.Sheeba, who is the wife of the deceased in her evidence deposed that on the date of occurrence, viz., 11.05.2015 at about 12.00 noon, her husband informed her that there was a wordy quarrel between the deceased, as the accused starred on him, when he questioned the same, the accused proclaimed that he will do away him. Thereafter, one Selvam P.W.6 informed P.W.1, that he had seen the accused armed with M.O.1-knife had proclaimed that he would kill her husband. At that time, her husband gone out for attending natural call.

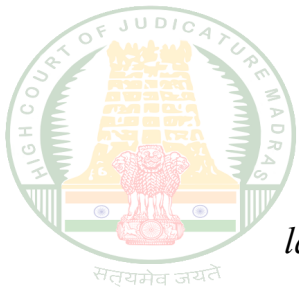


Therefore, P.W.1 (herself), her father (P.W.2,), her son Sibi were searching the nearby locality. They heard some noise coming from the compound wall of one Lakshmi. Upon reaching the spot, they found that the accused who was engaged in a quarrel with her husband. The accused abused him, took out a knife concealed at his hip and attacked her husband on the right side frontal region, right side ribs inflicting injuries with M.O.1-knife. On witnessing the incident P.W.1 and others raised alarm, following which the accused fled away from the scene of occurrence. P.W.1 evidence was duly corroborated with P.W.2/her father. The testimonies of P.W.1 and P.W.2 were consistent and free from any major contradictions or material deficiencies.

22. There was no delay in lodging the complaint. The eye witnesses to the occurrence corroborated the incident, the same was supported with medical evidence. P.W.14 Dr.Chellasamy, who conducted a postmortem on the dead body has clearly stated that he found the following injuries:-

1) Incised wound of Left side of scalp over parietal area 5 x 1cm.

2) Another incised wound over Right Lower thorax



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lateral side in the region of 9th inter costal space about 5cm x

1cm seen with pleura protruding through the wound.

*3) On the Right side liver was cleared for about 15cms
with blood rushing from the wound area.*

*He opined that the deceased would appear to have
died of injury to liver.*

23. The accused was arrested on 13.05.2015 at about 20.00 hours, and his confession Ex.P2 was recorded. Based on the confession, the investigating officer recovered the weapon (viz., knife) from the accused under a recovery mahazar (Ex.P3). The confession leading to recovery was testified by P.W.7, Thiru.Sithuraj. Ex.P12 is the Serology report which shows that the blood stains found in knife matches with the blood stains found in the dresses worn by the deceased as well as the blood stains found in the soil recovered from the place of occurrence under Ex.P20.

24. After analysing the entire evidence and records we are satisfied that the prosecution has established the guilt of the accused beyond all reasonable doubt. The trial Court, after taking into



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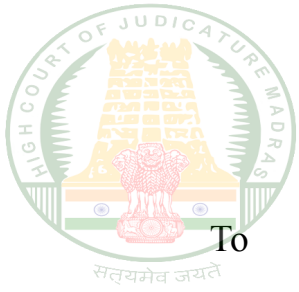
consideration the materials available on record, held that the accused was guilty of the offence under Section 302 IPC.

25. In view of the above, we do not find any reason to interfere with the judgment of the trial Court. The trial Court after carefully examining the evidence has passed the judgment of conviction.

26. Accordingly, the Criminal Appeal stands dismissed and the judgment passed in S.C.No.104 of 2016 on the file of the Additional District and Sessions Court (FTC), Tenkasi, dated 01.12.2021 is hereby confirmed.

(A.D.J.C., J.) & (R.P., J.)
17.07.2025

Index : Yes / No
NCC : Yes / No
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To

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- 1.The Additional District and Sessions Judge
(FTC), Tenkasi.
- 2.The Inspector of Police,
Sengottai Police Station,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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A.D.JAGADISH CHANDIRA, J.
AND
R.POORNIMA, J.

rm

Judgment in
Crl.A(MD)No.40 of 2022

17.07.2025