



Crl.A(MD)No.214 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.09.2025

Pronounced on : 23.09.2025

CORAM :

**THE HONOURABLE Mr. JUSTICE P.VELMURUGAN
and
THE HONOURABLE Mrs. JUSTICE L.VICTORIA GOWRI**

Crl.A. (MD)No.214 of 2022

Pandi

... Appellant/Sole Accused

vs.

State represented by
The Inspector of Police,
Maraneri Police Station,
Virudhunagar District.
(Crime No.101 of 2015)

... Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374(2) of Criminal Procedure Code, against the judgment dated 26.02.2021 of the learned Fast Track Mahila Court, Virudhunagar District at Srivilliputhur passed in S.C.No.36 of 2016.

For Appellant : Mr. P.T.Ramesh Raja

For Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor



CrI.A(MD)No.214 of 2022

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JUDGMENT

(Judgment was made by **P.VELMURUGAN. J.,**)

This Criminal Appeal has been filed by the sole accused challenging the judgment of conviction and sentence dated 26.02.2021 passed by the Fast Track Mahila Court, Virudhunagar District at Srivilliputhur in S.C.No.36 of 2016.

2. Initially, the respondent police registered a case in Crime No. 101 of 2015 for accidental fire. After completion of investigation, charge sheet was filed before the learned Judicial Magistrate, Sivakasi and the same was taken on file in P.R.C.No.70 of 2015 and after completing the procedures under Section 207 Cr.P.C, the case was committed under Section 209 Cr.P.C to the file of the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputhur and the same was taken on file in S.C.No.36 of 2016. Since the offence was committed against a woman, the case was transferred to the Sessions Judge, Mahila



Crl.A(MD)No.214 of 2022

WEB COPY

Neethimandram, Srivilliputtur, and the Sessions Judge after receiving the records and completing all the required formalities, framed a charge for the offence of murder punishable under Section 302 IPC.

3. During trial, in order to substantiate the charge framed against the appellant, on the side of the prosecution, twenty three witnesses were examined as P.W.1 to P.W.23 and twelve documents were marked as Ex.P.1 to Ex.P.12. Besides that, two material objects were exhibited as M.O.1 and M.O.2. After completing the evidence of the prosecution witnesses and incriminating circumstances culled out from the evidence of the prosecution witnesses, the question was put before the appellant and he denied the same as false. On the side of the defence, no oral and documentary evidence was let-in. At the conclusion of the trial, the learned Sessions Judge found the appellant guilty for the offence under Section 302 IPC and convicted and sentenced him to undergo life imprisonment and to pay a fine of Rs.5000/-, in default to undergo six months simple imprisonment. Aggrieved over the same, the accused filed the present appeal.



Crl.A(MD)No.214 of 2022

WEB COPY

4. The learned counsel for the appellant would submit that P.W.1, the mother of the deceased deposed that while the deceased was taken to the hospital in an auto rickshaw, which was driven by P.W.5, the auto driver, the appellant had threatened the deceased that if she implicated the appellant, he would murder his children. But P.W.5 did not state anything in this regard and P.W.5 had stated that the injured had self-immolated herself. P.W.22, the Investigating Officer had stated that P.W.1 did not state anything with regard to threat made by the appellant to her daughter/victim insisting to conceal his involvement in the occurrence, while the deceased was taken to the hospital.

5. The learned counsel would further submit that the evidence of the independent witnesses P.W.5, P.W.6 and P.W.7 revealed that the deceased and the appellant were not in good terms due to which both of them had suicidal thoughts. He would also submit that in the sound state of mind the deceased had stated that the husband of the deceased threatened her by stating that he would commit suicide by leaving a suicidal note that the deceased was the reason for his death.



Crl.A(MD)No.214 of 2022

WEB COPY

6. The learned counsel for the appellant would further submit that P.W.7, Venkateshan was examined to establish the fact that the police recovered white colour kerosene bottle and in addition to that P.W.7 had stated that he was informed that the deceased self-immolated herself. The evidence of P.W.7 was completely accepted and no objection was raised by the prosecution.

7. The learned counsel for the appellant strenuously argued on the fact that though there had been three different version of statements of the deceased available, the prosecution wrongly relied on the third one, which was given by the deceased to the Judicial Magistrate in contrary to her earlier two statements. According to the learned counsel, the prosecution witnesses disclose three different hypothesis and on that score, the benefit of doubt has to be extended in favour of the appellant.

8. The learned counsel for the appellant would further submit that when the parents and siblings of the injured would have fed up on seeing her with burn injuries and therefore, they would have tutored her to give



Crl.A(MD)No.214 of 2022

WEB COPY

statement against the appellant and that is why the deceased gave a statement, which is totally different from the earlier statements.

9. The learned counsel for the appellant would further submit that Section 32(1) of the Indian Evidence Act relates to dying declarations, i.e., statements made by a deceased person regarding the cause of death or the circumstances leading thereto. The provision permits the admission of such statements in evidence, the underlying principle being the necessity and reliability attached to declarations made by a person in contemplation of death and not on any supposed expectancy of their passing. Section 32(1) focuses upon the nature and trust worthiness of statement made by the deceased, rather than on whether their death making any manner expedient.

10. The learned counsel for the appellant relied on the judgment of the Supreme Court of India in **Abhishek Sharma vs. State (Govt.of NCT of Delhi)** in **Criminal Appeal No.1473 of 2011**.



Crl.A(MD)No.214 of 2022

WEB COPY

11. Per contra, the learned Additional Public Prosecutor appearing for the respondent/State would submit that initially, a case was registered for accidental fire. Subsequently, during the investigation, the deceased, who was admitted in the hospital with burn injuries, gave a dying declaration before P.W.20, the learned Judicial Magistrate, in the presence of P.W.16, the Doctor, who issued the wound certificate. The Doctor stated that the injured was in a sound state of mind to give a dying declaration. As the deceased who was admitted with injuries for treatment died, based on her dying declaration, the case was altered into one under Section 307 IPC. The evidence of P.W.1, who is the mother of the deceased, would show that though initially the deceased made the statement before the police, she made such a statement due to the pressure of the mother-in-law and the injured was also admitted in the hospital by her mother-in-law and father-in-law. At that time in the presence of her mother-in-law, the deceased could not have been in a position to state the actual facts and at the earliest point of time, the injured stated before the Doctor and also the police that the kerosene lamp fell down and her dress caught fire as a result of which she



Crl.A(MD)No.214 of 2022

WEB COPY

sustained burn injuries on her neck, thigh, two hands and stomach. On seeing the same, the accused and his brother put off the fire and she was taken to the Government Hospital, Sivakasi. While she was at the hospital, the statement (Ex.P.1) was recorded by the Sub Inspector of Police. Therefore, the case was registered in Ex.P.8 for accidental fire in Crime No.101 of 2015. Thereafter, during the investigation, the deceased informed that the appellant poured kerosene on her and set fire and on the basis of the said statement of the deceased the dying declaration was obtained and the case was altered into one under Sections 498(A) and 307 IPC. Subsequently the case was also transferred to the Deputy Superintendent of Police on recording the statements. The charges were further altered into one under Sections 498A and 307(2) and 304(B) and 302 IPC since the injured died in the hospital. Subsequently the charges were altered into Section 304(B) and 302 IPC. Thereafter, the Revenue Divisional Officer's enquiry was ordered after recording the statement and report of the Revenue Divisional Officer, the case was altered into Section 302 IPC.



Crl.A(MD)No.214 of 2022

WEB COPY

12. In reply to the submission of the learned counsel for the appellant that there are multiple dying declarations, which contradict to each other and therefore, the conviction cannot be based solely on the dying declaration, the learned Additional Public Prosecutor made the following submissions:

P.W.1 in her evidence has clearly explained the reason for it and she gave the explanation that as to why her deceased daughter had informed the Doctor at the first instance at the time when an entry in the Accident Register was made and also subsequently when she made a statement (Ex.P.1) before the Sub Inspector of Police; lastly, she gave a dying declaration in the presence of the learned Judicial Magistrate, P.W.20 and in the presence of P.W.16; the Doctor who has given fitness certificate stating that the injured was found to be fit to give such a statement; even though there were three statements made by the deceased, the statement given before the learned Judicial Magistrate has to be taken into consideration; Ex.P.10 is the dying declaration recorded by the learned Judicial Magistrate after satisfying with the sound disposing state of mind and in which the deceased had clearly spoken



Crl.A(MD)No.214 of 2022

WEB COPY

about the incriminating materials against the appellant and therefore, the contention of the learned counsel for the appellant with regard to acceptance of the dying declaration is not acceptable.

13. The learned Additional Public Prosecutor would also submit that P.W.1, the mother of the deceased, had also clearly spoken about the motive for setting fire by the appellant on the deceased. P.W.9 is the father of the victim. P.W.10 is the brother. P.W.11 and P.W.12 are the sisters of the deceased and they have clearly spoken about the animosity of the appellant towards the deceased. P.W.15 is the Doctor one who made the entry in the Accident Register who had stated that the mother-in-law of the deceased and the father-in-law were present and P.W.16 is the Doctor one who gave the certificate of fitness to give the dying declaration. P.W.20 is the learned Judicial Magistrate, who recorded the statement. Ex.P.10 is the dying declaration recorded by P.W.20. The dying declaration was recorded from the injured by the learned Judicial Magistrate and the same was corroborated by the parents and siblings of the deceased. This piece of evidence cannot be thrown away simply



Crl.A(MD)No.214 of 2022

WEB COPY

because they are the relatives unless there is any valid reason to discard the same. Further the prosecution has proved its case beyond reasonable doubt and the learned Sessions Judge has accepted the case of the prosecution and found the the appellant guilty of offence punishable under Section 302 IPC and there is no merit in the appeal and the same is liable to be set aside.

14. The learned Additional Public Prosecutor relied on the following judgments of the Hon'ble Supreme Court of India:

i) In **Sita Ram and another vs. The State of Himachal Pradesh** in **Criminal Appeal No.228 of 2013**.

ii) In **Atbir vs. Government of NCT of Delhi** reported in **(2010) 9 SCC 1**.

15. Heard both sides and perused the records.

16. Admitted facts are as follows:

i) Initially case was registered for accidental fire and subsequently,



Crl.A(MD)No.214 of 2022

WEB COPY

it was altered on three occasions based on the development in the investigation and ultimately, the investigation was concluded and the appellant was charge sheeted for the offence punishable under Section 302 IPC.

ii) The appellant is the husband of the deceased.

iii) The deceased sustained burn injuries and therefore, initially she was admitted in the Government Hospital, Sivakasi and subsequently she was shifted to the Government Rajaji Hospital, Madurai.

iv) The deceased succumbed to the burn injuries.

17. According to the learned counsel for the appellant, the deceased sustained burn injuries due to accidental fire and therefore, when she was admitted in the hospital, she informed the Doctor that due to accidental fire, she sustained burn injuries. She has also given a statement (Ex.P.1) before the Sub Inspector of Police wherein she had stated that she had sustained injuries due to accidental fire. Thereafter, when her parents and siblings met the injured, due to their pressure and tutoring, she turned and made the allegations against the appellant as if



Crl.A(MD)No.214 of 2022

WEB COPY

he had poured kerosene on her and set fire in which she had sustained injuries, which is a contradictory statement and the independent witnesses on the side of prosecution have not supported the case of the prosecution and they turned hostile. Only the relative witnesses i.e parents, brothers and sisters of the deceased alone have spoken about the allegations against the appellant and no other witnesses have spoken.

18. According to the prosecution, the appellant is the one who set fire on the deceased and due to that, she sustained burn injuries at 50 to 68%.The appellant absconded from the place of occurrence immediately. The in-laws only admitted the injured in the Government Hospital, Sivakasi and since at that time the injured was under the influence of the mother-in-law, she gave a statement that due to accidental fire her dress caught fire and she sustained burn injuries. When she was taking treatment, on information, the Sub Inspector of Police, Maraneri Police Station went to the hospital and at that time she made another statement. Even during that time also, the mother-in-law was present and under the influence of the mother-in-law she gave such a statement and before that



Crl.A(MD)No.214 of 2022

WEB COPY

when she was taken in auto to the hospital, the appellant threatened the victim that he would take away the life of the children and therefore, due to pressure and influence the injured gave the statement before the Doctor who made entry in the Accident Register. The Sub Inspector of Police, who recorded the statement, filed the complaint (Ex.P.1) and registered FIR. But however, later the injured informed about the occurrence to his brother P.W.10, who in turn, informed the parents and siblings and thereafter the injured also made a dying declaration before the learned Judicial Magistrate, P.W.20 in the presence of the Doctor, P.W.16 and the same is marked as Ex.A.10. On the basis of that, the prosecution has laid the charge sheet. P.W.1 and P.W.9 are the parents of the deceased. P.W.10 and P.W.11 are the brothers of the deceased and P.W.12 is the sister of the deceased. They have corroborated Ex.P.10, the dying declaration. P.W.16 had clearly stated about the disposing state of mind and the mental fitness of the injured to give such a dying declaration. P.W.20, the learned Judicial Magistrate also in the presence of P.W.16 ascertained the mental status and capacity of the injured and on satisfying with all preliminary enquiry and other formalities, the learned



Crl.A(MD)No.214 of 2022

WEB COPY

Magistrate recorded the dying declaration in which the injured had clearly stated that the appellant suspected her fidelity and there were quarrels between them frequently and on the day of occurrence, he poured kerosene over her and set fire, due to which she sustained injuries and she was admitted in the hospital. Thereafter, she succumbed to burn injuries. The learned counsel for the appellant would submit that there are multiple dying declarations and also there are contradictions between each other and therefore, the conviction cannot be recorded based on Ex.P.10 dying declaration alone. However, in the evidence of P.W.10 and P.W.11, they clearly gave the explanation for the earlier statements made by the deceased before P.W.15, the Doctor, one who made the entry in the Accident Register and also the statement/complaint made before the Sub Inspector of Police under Ex.P.1. Further, the deceased had clearly stated about the reason for sustaining burn injuries before P.W.20, the learned Judicial Magistrate. The Doctor who gave the certificate was examined as P.W.16. He had clearly stated about the mental status as well as the statement made by the injured and therefore, there is no reason to discard the evidence of P.W.16 and P.W.20.



Crl.A(MD)No.214 of 2022

WEB COPY

18. So far as the motive is concerned, P.W.1, P.W.9, P.W.10 and P.W.11, the parents, brothers and sister of the deceased have clearly stated that the appellant frequently made quarrels with the deceased suspecting her fidelity and also by stating that the child was not born through him and he had driven the deceased to her parents' house and also the family of the appellant had demanded money and subsequently the appellant set a fire on the deceased on the date of occurrence.

19. If at all there was an accidental fire and at that time the appellant was in the house, as husband, he could have taken the deceased to the hospital for treatment to save her life. But immediately he absconded and the father-in-law and the mother-in-law of the deceased alone took the injured to the hospital. Therefore, only the in-laws were present at the time of the admission in the hospital and the statement made before the police when she was taking treatment and the relatives of the husband were present and the children were also under the custody of the in-laws. In that situation, naturally, no prudent woman would make



Crl.A(MD)No.214 of 2022

WEB COPY

any allegation against the husband and in-laws. However, in the subsequent statement made before the learned Judicial Magistrate in the presence of the Medical Officer, she had clearly stated about the occurrence as well. It was corroborated by the relatives of the deceased. Merely because the prosecution witnesses are the relatives, their evidence cannot be thrown out and discarded unless there is a specific reason. Though the appellant raised a contention that P.W.1, who is the mother of the deceased, had made a contradictory statement and stated an improved version but she is not an eye witness. However, on a reading of the entire materials, the complaint and the statement and also the dying declaration made before the learned Judicial Magistrate and the evidence of P.W.16, the evidence of P.W.20, Ex.P.10, the dying declaration and the evidence of P.W.1 and P.W.2, the parents of the deceased, P.W.10 to P.W.12, the siblings of the deceased, the prosecution has proved its case beyond all reasonable doubt. Therefore, the contention of the appellant is not acceptable. Though the appellant pointed out certain contradictions, in the considered opinion of this Court, those contradictions are not a materials contradictions. When the injured herself during sound



Crl.A(MD)No.214 of 2022

WEB COPY

disposing state of mind in the presence of the Medical Officer, who gave the wound certificate the learned Judicial Magistrate after ascertaining the fitness of the deceased recorded the dying declaration. This Court finds that the prosecution has established its case beyond all reasonable doubt.

20. The appellate court, as a final fact finding court, has to re-appreciate the evidence. While re-appreciating the evidence, this Court independently finds that the prosecution has proved its case beyond all reasonable doubt. The decisions relied upon by the learned counsel for the appellant are not applicable to the present case on hand. In the judgment relied on by the learned counsel for the appellant in **Abhishek Sharma vs. State (Govt.of NCT of Delhi) in Criminal Appeal No.1473 of 2011**, in paragraph No.21 it is held as follows:

"21. .. In case there are multiple dying declarations and there are inconsistencies between them, generally, the dying declaration recorded by the higher officer like a Magistrate can be relied upon, provided that there is no circumstance giving rise to any suspicion about its truthfulness. In case there are



Crl.A(MD)No.214 of 2022

WEB COPY

circumstances wherein the declaration had been made, not voluntarily and even otherwise, it is not supported by the other evidence, the court has to scrutinise the facts of an individual case very carefully and take a decision as to which of the declarations is worth reliance".

21. Admittedly, in the present case, at the time of giving earliest statement before the Doctor during the entry in the Accident Register and the statement before the police, the parents of the appellant were present and the appellant was absconding. Therefore, the earliest statement alleged to have been made by the deceased cannot be acted upon. However, subsequently the deceased herself gave another statement before the learned Judicial Magistrate. There is no reason to discard the said statement made before the learned Magistrate.

22. Once the court finds that the deceased was in fit state of mind at the time of making the statement, it was not the result of tutoring, prompting or imagination. Admittedly, in this case, the injured made a statement and P.W.16 made a certificate that injured was in a fit state of



Crl.A(MD)No.214 of 2022

WEB COPY

mind. P.W.20, the learned Judicial Magistrate also ascertained the same and recorded the statement based on that, charges were framed. Both the Doctor and also the learned Judicial Magistrate were also examined as prosecution witnesses as P.W.16 and P.W.20 respectively. Therefore, this Court does not find any reason to interfere with the judgment of the learned Sessions Judge, Mahalir Neethimandram, at Srivilliputtur passed in S.C.No.36 of 2016.

23. In fine, this Criminal Appeal is dismissed.

(P.V., J.) (L.V.G., J.)
23.09.2025

Index : Yes/No
Internet : Yes/No
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Crl.A(MD)No.214 of 2022

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To,

1.The Fast Track Mahila Court, Virudhunagar District
at Srivilliputhur

2.The Inspector of Police,
Maraneri Police Station,
Virudhunagar District.
(Crime No.101 of 2015)

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



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Crl.A(MD)No.214 of 2022

**P.VELMURUGAN, J
and
L.VICTORIA GOWRI, J.**

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Pre-delivery Judgment made in
Crl.A. (MD)No.214 of 2022

23.09.2025