

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23-09-2025

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**THE HONOURABLE MR JUSTICE P.VELMURUGAN
AND
THE HONOURABLE MRS JUSTICE L.VICTORIA GOWRI**

Crl.A(MD)No.318 of 2022

Kannan : Appellant/Sole Accused

Vs.

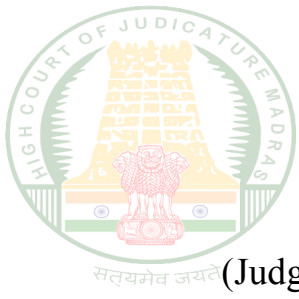
The Inspector of Police,
Keeraithurai Police Station,
Madurai District.
(Crime No.565 of 2016)

: Respondent/Complainant

PRAYER: Appeal filed under Section 374(2) of the Code of the Criminal Procedure to call for the records connected with the judgment rendered by the learned V Additional District and Sessions Judge, Madurai, in SC No.491 of 2017 dated 23/12/2021 and to set aside the same and consequently, to acquit the appellant.

For Appellant : Mr.R.Pon.Karthikeyan
(Legal Aid Counsel)

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



JUDGMENT

सत्यमेव जयते (Judgment of the Court was made by the Hon'ble **P.VELMURUGAN J.**)
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This criminal appeal is filed against the judgment of conviction passed by the learned V Additional District Sessions Judge, Madurai, in SC No. 491 of 2017 dated 23/12/2021 and to set aside the same and consequently, to acquit the appellant.

2.The respondent Police registered a case in Crime No.565 of 2016, dated 04/08/2016 for the offence punishable under Section 302 IPC against the accused. On completion of the investigation, the respondent Police laid a charge sheet before the learned Judicial Magistrate No.IV, Madurai and the same was taken on file as P.R.C No.135 of 2016. After completing the formalities, since the offence is triable exclusively by the Court of Session, the case was committed to the Principal District and Sessions Judge, Madurai and it was taken on file as SC No.491 of 2017 and thereafter the same was made over to the V Additional District and Sessions Judge, Madurai, for disposal.



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3. After completing the formalities, since there were *prima facie* materials to frame charge against the appellant, the learned V-Additional District and Sessions Judge, Madurai, framed the charge for the offence punishable under Section 302 IPC.

4. In order to prove the charge against the accused, on the side of the prosecution, 10 witnesses were examined as PW1 to PW10 and 12 documents were marked as Exs.P1 to P12, besides marking 6 material objects as MO1 to MO6.

5. When the accused was questioned under Section 313 Cr.P.C, in respect of the incriminating circumstances appearing against him on the evidence adduced by the prosecution, the accused denied the same as false. On the side of the defence, no oral or documentary evidence was adduced.

6. After completing the trial and upon hearing the arguments advanced on either side and also considering the oral and documentary evidence, the learned V Additional District and Sessions Judge, Madurai found the appellant guilty for the offence punishable under Section 302 IPC, convicted and sentenced him to undergo Life Imprisonment and to



pay a fine of Rs.5,000/-, in default to undergo one year simple imprisonment. The period of detention already undergone by the appellant was ordered to be set off under Section 428 Cr.P.C.

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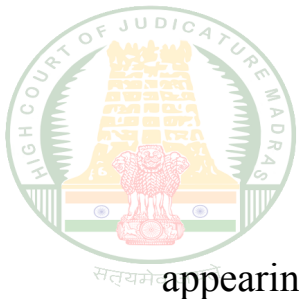
7. Aggrieved over the same, the present Criminal Appeal has been preferred by the accused, as appellant.

8. The learned counsel for the appellant would submit that there is no eye witness in this case; the prosecution has cited PW1 and PW2 as eye witnesses and they are relatives of the deceased; PW1 is none other than the mother of the deceased, PW2 is the sister-in-law of the deceased and further the presence of PW1 and PW2, at the time of the occurrence, is highly improbable. He would further submit that PW3 is also said to have cited as an eye witness, but he turned hostile and did not support the case of the prosecution; PW4 to PW6 were only hearsay witnesses and there are material contradictions in the evidence of the prosecution. He would further submit that there is contradiction between the statements made before the Police under Section 161(3) Cr.P.C and the evidence deposed before the Court and also there are in total contradictions with each other. Therefore, the evidence of the prosecution is doubtful. Further, he would submit that



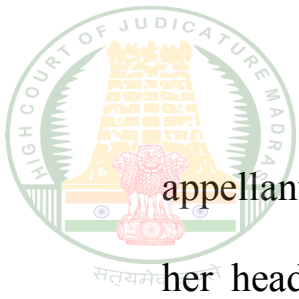
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no independent eye witness deposed against the appellant and the conviction is based on the evidence of interested witnesses; the evidence of the prosecution is not sufficient to prove the case of the prosecution and Ex.P1 complaint is not a genuine one and the same was fabricated and the real complaint has been suppressed in this case and that the medical evidence did not support the case of the prosecution and there is contradiction between the ocular evidence and the medical evidence. He would further submit that the prosecution has failed to prove the charge against the appellant beyond all reasonable doubt and it is settled proposition of law that the benefit of doubt should always be given in favour of the accused and in the present case, the trial Court has ignored all the reasonable doubts and simply stating that contradictions in the evidence of prosecution witnesses is not at all enough to affect the prosecution case and therefore, it is highly illegal and therefore, the act of the trial Court clearly shows the pre-determined mind to convict the appellant and it is highly illegal, arbitrary and therefore, the same is liable to be set aside. He would further submit that the appellant is an innocent and he was falsely implicated in the instant case and, therefore, the judgment of conviction and sentence passed by the trial Court is liable to be set aside and the appeal is to be allowed.



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9.Per contra, the learned Additional Public Prosecutor appearing on behalf of the respondent Police would submit that it is a case of intentional murder and the appellant and the deceased are husband and wife; that PW1 the de-facto complainant has lodged the complaint to set a law in motion and based on which, the case was registered and after completing the investigation, the respondent Police laid a charge sheet. He would further submit that in order to prove the case, on the side of the prosecution, PW1 and PW2, who are eye witnesses to the occurrence, were examined and their testimony has been corroborated by the medical evidence. He would further submit that the trial court has taken into consideration the medical evidence and the ocular evidence for recording a conviction against the accused. Further, he would argue that though PW1 is the mother of the deceased and PW2 is the sister-in-law of the accused, they were residing in the same village in a nearby house and even PW1 has clearly stated that in the morning before going to work, after hearing the noise she immediately went to the house of the appellant and witnessed the quarrel between the husband and wife and she advised them not to quarrel and pacified them and she further evidenced that when she returned for lunch, she heard some untoward noise from the appellant's house and therefore, she along with her daughter-in-law went to the house of the



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appellant and at that time, they saw the accused attacking the deceased on her head with window wooden log and due to which, the deceased fell down on the floor and bleeding was found in her head and subsequently, she died. Therefore it is his submission that there are clear eye witnesses namely PW1 and PW2 and though, they are relatives of the deceased, there is no reason to discard their evidence as interested witnesses and the relatives witnesses may not be treated as interested witnesses and need not be thrown, merely because, the eye witnesses are the relatives of the deceased when they have given a clear, cogent and consistent evidence. He would further submit that when the Police arrested the accused, he made a confession and though the confession statement recorded by the Police is inadmissible in evidence under Section 25 of the Evidence Act, in the cases of this nature, for the limited purpose, the confession statement can be relied on. In support of his contention, the learned Additional Public Prosecutor would rely upon the judgment of the Hon'ble Supreme Court in the case of **State of Madhya Pradesh Vs. Balveer Singh reported in (2025 SCC OnLine SC 390)**.

10.Further, the learned Additional Public Prosecutor would submit that the appellant and the deceased are husband and wife and due to



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quarrel between them, the accused attacked the deceased and due to which, she died and therefore, it is for the husband to explain the reason for the cause of the death of his wife and once, the prosecution established the foundational facts, it is for the husband to establish the possibility of foisting a false case against him and therefore, the burden is shifted upon him under Section 106 of the Evidence Act, however, in this case, the appellant has neither given any explanation nor let in any evidence to discharge his burden. He would further submit that there is no explanation for the appellant as to how his wife sustained injuries and died. In support of his contention, the learned Additional Public Prosecutor would rely upon the judgment of the Hon'ble Supreme Court in the case of **State of Madhya Pradesh Vs. Balveer Singh (2025 SCC OnLine SC 390)**, wherein the Hon'ble Supreme Court has held in paras 88, 89 and 90 as follows:-

“88. We are of the view that the following foundational facts, duly established by the prosecution, justify the invocation of the principles enshrined under Section 106 of the Evidence Act:-

a). The offence took place inside the four walls of the house in which the respondent accused, the deceased and their 7-year-old daughter were



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living. The respondent accused has not disputed his presence in the house at the time of the alleged incident.

b).The failure on the part of the accused to inform the family members about the death of their daughter and the clandestine manner in which her body was cremated, more particularly when her family members were residing in the very same village. By the time, the Investigating Officer reached the place of incident the body of the deceased was fully burnt.

c).The dubious conduct of the respondent accused in fleeing away from home leaving behind his minor daughter of seven years age all alone.

d).The untimely death of the deceased suspicious circumstances, occurring shortly after a fight with the respondent accused two to three days before the incident, coupled with evidence of their strained relationship.

e).The respondent accused maintained complete silence. In other words, has failed to explain any of the incriminating circumstances pointing a finger against him.

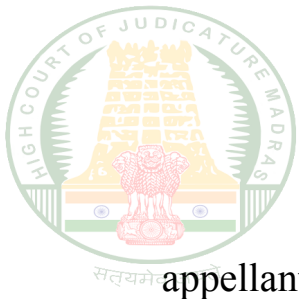


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89. *We are of the view that the aforementioned circumstances constitute more than a prima facie case to enable the prosecution to invoke Section 106 of the Evidence Act and shift the burden on the accused husband to explain what had actually happened on the day & date his wife died.*

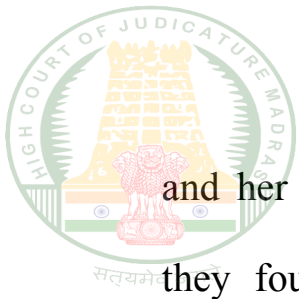
90. *This appeal reminds us of Justice V.R.Krishna Iyer's observations in Dharm Das Wadhvani Vs. State of U.P, (1974)4 SCC 267. "The rule of benefit of reasonable doubt does not imply a frail willow bending to everywhiff of hesitancy. Judges are made of sterner stuff and must take a practical view of legitimate inferences flowing from evidence, circumstantial or direct." The role of courts in such circumstances assumes greater importance and it is expected of the courts to deal with like one on hand, cases in a more realistic manner and not allow the criminals to go scot-free on account of procedural technicalities, perfunctory investigation or insignificant lacunas in the evidence as otherwise serious crimes would go unpunished. The courts are expected to be sensitive in cases involving crime against women."*



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11. Heard the learned Legal Aid counsel appearing for the appellant and the learned Additional Public Prosecutor appearing on behalf of the State and also perused the materials available on record.

12. It is the case of the prosecution that the appellant and the deceased are the husband and wife. The de-facto complainant is the mother-in-law of the appellant. The appellant is in the habit of consuming alcohol, and therefore, there were frequent quarrels between the appellant and the deceased. In the same way, on 04/08/2016 morning also, there was a wordy quarrel between the appellant and the deceased. At that time, the de-facto complainant warned the appellant and went to her work. Thereafter, on the same day at about 03.00 pm, the de-facto complainant came to her house for lunch and at that time, heard noise from her daughter's house and she went along with her daughter-in-law PW2. At that time, she saw that her daughter found lying down on the floor with blood oozing from her head. The appellant stood there with window wooden log. When the de-facto complainant and her daughter-in-law tried to prevent him, repeatedly, he attacked the deceased on her head and pushed down the de-facto complainant and her daughter-in-law and also threw the window wooden log and ran away from the scene. Subsequently, the de-facto complainant



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and her daughter-in-law moved the deceased out of the house and since they found the deceased died, the de-facto complainant preferred the complaint before the respondent Police and upon the complaint, a case in Crime No.565 of 2016 was registered by the respondent Police for the offence punishable under section 302 IPC. After investigation, the respondent Police laid the charge sheet. After committal, the trial Court completed the trial and convicted the appellant for the offence under Section 302 IPC and sentenced him to undergo Life Imprisonment and imposed a fine of Rs.5,000/-, in default to undergo one year simple imprisonment.

13.It is the specific case of the prosecution that the appellant and the deceased are husband and wife and there were frequent quarrels between them and the appellant is in the habit of consuming alcohol and since, there were frequent quarrels, the well wishers and the parents used to pacify them. In the same way, on 04/08/2016, there were some quarrel and due to which, the appellant attacked his wife with window wooden log and she sustained injury and died on the spot.

14.The charge against the appellant is that the appellant has



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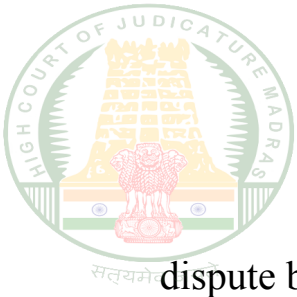
committed the offence punishable under Section 302 IPC. In order to substantiate the charge, apart from the de-facto complainant and her daughter-in-law who were examined as PW1 and PW2, five other witnesses were also examined. It is not a case of circumstantial evidence. It is the case of eye witness. Though the de-facto complainant, who is the mother of the deceased and PW2, who is the sister-in-law of the deceased, were cited as eyewitness, the learned Legal Aid counsel for the appellant vehemently contended that the presence of PW1 and PW2 at that time of occurrence was highly improbable. But, admittedly, PW1 is the mother of the deceased and she is residing in the same village in a nearby street. PW1 has clearly stated that in the morning on the date of the occurrence, when she went to see the deceased, at that time, there was wordy quarrel between the appellant and the deceased and she warned the appellant and pacified them and went for work. When she came back during the lunch hour to her house, she heard noise from the appellant's house and, therefore, she rushed to the appellant's house along with her daughter-in-law and at that time, she saw that the appellant attacking the deceased and her daughter fell down and lying on the floor with bleeding from head. At that time, the appellant was having a window wooden log in his hand and when she tried to prevent him, the appellant once again attacked the deceased.



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15.No doubt that PW1 is the mother of the deceased and PW2 is the sister-in law of the deceased. Merely because they are relatives to the deceased, they cannot be treated as interested witnesses and, therefore, their evidence cannot be ignored. Even relatives evidence can also be relied on, if their evidence is cogent and convincing. There is no reason for discarding the evidence of PW1 and PW2. The prosecution can rely on their evidence, unless there is a reason for the court to discard their evidence.

16.In this case also, the presence of the de-facto complainant namely PW1 is highly believable. PW1 has clearly stated that in the morning on the occurrence day, when she went to the house of her daughter and at that time, she witnessed that there was wordy quarrel between the appellant and the deceased and she warned the appellant and pacified them and left for work and in the afternoon, when she came to her house during lunch hours, again she heard the quarrel sound from her daughter's house. She along with her daughter-in-law went to the house of her daughter and saw the accused beating her daughter with window wooden log. PW2 who is the daughter-in-law of PW1 also corroborated the evidence of PW1. Though, PW3 is also an eye witness to the occurrence, she did not support the case of the prosecution.



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17. Normally, in villages, third party will not interfere with the dispute between the spouses or family members and, therefore, PW3 though was cited as eye witness, she did not support the case of the prosecution. There was no animosity and strained relationship between the accused and PW1 and PW2 to give false evidence. So, the Court cannot discard the evidence of PW1 and PW2. The Doctor, who conducted postmortem on the body of the deceased was, examined as PW8 and through him, Postmortem Certificate was marked as Ex.P6.

18. A combined reading of the evidence of PW8 and the Postmortem report (Ex.P6) and the evidence of PW1, the place of injury was corroborated and therefore, there is a reason for the death also as stated in the postmortem report. In Ex.P6 Postmortem report, the following injuries are mentioned:-

“1. Lacerated injury 3 cm x 1 cm x bone deep noted right parietal region.

2. Lacerated injury measuring 7 cm x 7 cm x bone deep noted on the near right eye.

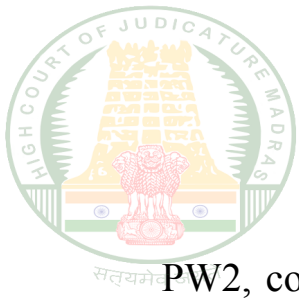
3. Lacerated injury measuring 4 cm x 1 cm x bone deep noted on the near right side of nose.”



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19. Therefore, in the case of eye witness, motive need not be established. In this case, the appellant was arrested by the respondent Police and he made a confession. Though the confession recorded by the Police is not admissible under Section 25 of the Evidence Act, for the limited purpose for proving the provocation the confession statement of the accused can be relied on, where the accused has clearly stated that the deceased used to quarrel with the appellant for flimsy reason and abused the appellant by using his lower caste name and therefore, frequent quarrel arose between them.

20. In this case, there is no material to show that the appellant had an intention to kill his wife and even from the evidence of PW1, there were frequent quarrels between the deceased and the appellant. Even on the date of occurrence also, in the morning, there was some quarrel between them and therefore, the confession made by the appellant is to be taken for the limited purpose of the motive and intention. Therefore, the judgment relied on by the learned counsel for the applicant in the case of ***Ganeshan Vs. State, represented by Inspector of Police, K.Vilakku Police Station, Theni District reported in (2011)2 MLJ (Crl) 624*** is not applicable to the present case. So, the offence committed by the appellant is only for the offence under Section 304-II and not under Section 302 IPC.

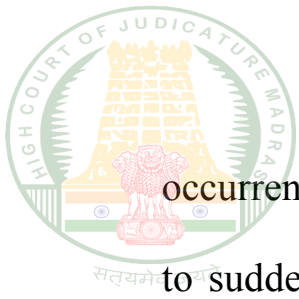


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21. Therefore, from the reading of the evidence of PW1 and PW2, coupled with the medical evidence, it is clear that the appellant had attacked on the vital part of the deceased and thereby caused injury. Reading of the evidence PW8 and the postmortem report shows that the deceased sustained grievous injury. But however, from the evidence of PW1 and PW2, there were frequent quarrels between the accused and the deceased and on the date of the occurrence also, they heard some quarrel between them.

22. Section 106 of the Evidence Act is concerned, if any act is committed within four walls between the inmates, in the absence of any other eye witnesses, it is for the person who is accused of the offence has to explain the causing of injury or death of other inmate. In this case, there are eye witnesses to the occurrence. Therefore, section 106 of the Evidence Act is not applicable to the present case. Therefore, in this case, it is not within the four walls, since PW1 and PW2 are the eye witnesses. Therefore, the judgment relied on by the appellant is not applicable to the present case.

23. Reading of the entire materials available on record, it is not a pre-planned murder or with an intention to cause death. On the date of the



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occurrence, there were some quarrel between the husband and wife and due to sudden provocation, the appellant took the window wooden log which was available at the spot and attacked his wife. From the reading of Ex.P6 Postmortem report, it is not possible to come to the conclusion that it was not established by the prosecution beyond all reasonable doubt that the appellant was intention and pre-planned. But, however, the appellant caused injuries to the wife in her vital part. Due to that, she sustained injuries and succumbed to injuries and therefore, the appellant has committed some offence which falls under Section 304-II IPC and not under Section 302 IPC. Therefore, it is held that the accused has committed the offence punishable under Section 304-II IPC. This Court, being an Appellate Court, is a fact finding Court, which has to necessarily re-appreciate the entire evidence and give an independent finding. This court finds that the appellant had caused injury to his wife. But, however, this court finds that offence under Section 302 IPC is not made out against the appellant and only the offence under Section 304-II IPC is made out against the appellant.

24.In the result, This Criminal Appeal is partly allowed. The conviction under [Section 302](#) IPC passed by the learned V Additional Sessions Judge, Madurai, dated 23/12/2021, in S.C.No.4921 of 2017 is set



aside and instead the appellant is convicted under [Section 304-II](#) IPC.

Accordingly, the sentence of Life Imprisonment passed by the Court below

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is set aside and the appellant is sentenced to undergo **Rigorous Imprisonment for 10 years** and to pay a fine of Rs.5,000/-, and in default to pay the fine amount, to undergo Simple Imprisonment for one year. The period of sentence already undergone by the appellant/accused shall be set off under [Section 428](#) Cr.P.C., as against the substantive sentence.

(P.V.,J) (L.V.G.,J)
23/09/2025

Index:Yes/No

Internet:Yes/No

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1.The V Additional District and Sessions Judge,
Madurai.

2.The Inspector of Police,
Keeraithural (L & O) Police Station,
Madurai District.

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



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