



Crl.A(MD)No.368 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2025

CORAM:

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

**Crl.A(MD)Nos.368 of 2022
and
Crl.M.P.(MD)No.8675 of 2025**

Balasubramanian

... Appellant/Sole Accused

Vs.

The State rep. by its
The Inspector of Police,
Virudhunagar Bazaar Police Station,
Virudhunagar.
(Crime No.408 of 2015)

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 372 of Criminal Procedure Code, to call for the records relating to the impugned Judgment passed in S.C.No.92 of 2016 dated 23.02.2021 on the file of the Fast Track Mahila Court, Virudhunagar District at Srivilliputtur and to set aside the same.



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For Appellant : Mr.M.Jegadeesh Pandian
For Respondents : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor

JUDGMENT

(Judgment of the 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 23.02.2021 made in S.C.No.92 of 2016 by the Sessions Judge, Fast Track Mahila Court, Virudhunagar District at Srivilliputtur, in which judgment, Accused had been convicted for offence punishable under Section 302 of IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.5,000/- in default to undergo six months simple imprisonment.

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

(a) The complainant's sister Mareeswari (deceased), was married to Balasubramanian (accused) 17 years back. They were blessed with two children namely, Shanthi @ Malarselvi (P.W.3) and Suyambukumar @ Siva (P.W.4). On 03.10.2015 at about 2.30 p.m., the



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complainant and another witness, Moorthy, went to the house of the deceased. At that time, the accused was taking his lunch in the house, and his son and daughter (P.W.3 and P.W.4) were also present. The deceased returned home from the mill for lunch and, on seeing the accused eating food, started shouting at him, questioning how he could eat without going for any employment. In a fit of anger, she pulled the food plate and threw it away. Immediately, the accused shouted at her stating that she had insulted him in the presence of the children and others. He also accused her of refusing to give him money for consuming alcohol, threatened her with dire consequences, and left the house.

(b) Apprehending danger to the children, the sister of the deceased took them to the mill. Thereafter, the complainant and Moorthy returned to their house. Fearing that the accused might create trouble at the mill, they proceeded towards the mill.

(c) At about 8.00 p.m., they saw the deceased walking along Kattaiyapuram 1st Street with her children. While following them, the accused suddenly came from the opposite direction, abused the deceased stating that she had insulted him and refused to give money for alcohol,



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took out a knife concealed at his hip, and stabbed her indiscriminately on the left chest, left back, thigh, and other parts of the body.

(d) On hearing the hue and cry raised by the complainant and his son, the accused fled from the scene. The injured was taken in a 108 ambulance to the Government Hospital, Virudhunagar, and later referred to the Rajaji Hospital, Madurai. However, she was found unresponsive and was again taken to the Government Hospital, Virudhunagar, where the doctor declared her dead. Hence, the complaint.

(e) The complaint was received by P.W.16, Sub-Inspector of Police, Virudhunagar Bazaar Police Station, and a case in Crime No.408 of 2015 was registered under Section 302 IPC. The FIR (Ex.P8) was forwarded to the Judicial Magistrate.

(f) On 04.10.2015 at about 00.10 hours, P.W.22, Inspector of Police, took up the investigation, visited the scene of occurrence, prepared the observation mahazar and rough sketch (Ex.P14) and recovered bloodstained soil and sample soil under mahazar (Ex.P4). He examined P.W.1 to P.W.6 and other witnesses and recorded their statements.



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(g) At about 6.30 a.m. on the same day, the accused was arrested near Virudhunagar Bus Stand. Based on his confession (Ex.P11), the knife (M.O.1), bloodstained shirt (M.O.5), and pant (M.O.6) were recovered under mahazar (Ex.P7). An inquest was conducted, and the body was sent for post-mortem. P.W.13, the doctor who first examined the injured, noted multiple stab injuries. P.W.21, the post-mortem Doctor, opined that death was due to hemorrhagic shock resulting from multiple stab injuries to vital organs, occurring 12–16 hours prior to autopsy.

(h) After completing the investigation, the charge was altered, and a final report was filed under Sections 294(b), 324, and 302 IPC.

3. On receipt of the records, the Judicial Magistrate No.I, Virudhunagar, took up the case in P.R.C.No.6 of 2016 and issued summons to the accused. After the appearance of the accused, copies of the entire records were furnished to them free of cost under Section 207 Cr.P.C.

4. Since the offence is exclusively triable by the Court of Session, the learned Judicial Magistrate committed the case records to

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the Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur under Section 209(A) Cr.P.C. for further action.

5. The Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur received the case records and numbered it as S.C.No.92 of 2016 and made it over to the Fast Track Mahila Court, Virudhunagar District at Srivilliputtur.

6. On receipt of the records, the Sessions Judge, Fast Track Mahila Court, Virudhunagar District at Srivilliputtur 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.

7. On the side of the prosecution, P.W.1 to P.W.22 were examined and Ex.P1 to Ex.P16 were marked. Material Objects M.O.1 to M.O.6 were produced. On the side of the accused, neither oral nor documentary evidence was examined.



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8. By judgment dated 23.02.2021, the trial court convicted the accused, against which the present criminal appeal was filed.

9. The learned counsel appellant contended that:

a. The deceased had illicit intimacy with Moorthy (P.W.5), which was the real cause for the quarrel.

b. P.W.1 to P.W.4 were interested witnesses, and their presence at the scene was doubtful.

c. The conviction was based on contradictions, omissions, and improvements in the evidence.

d. The prosecution failed to prove the case beyond reasonable doubt.

10. The learned Additional Public Prosecutor submitted that the prosecution case was supported by eyewitnesses, medical evidence, recovery of weapons, and forensic evidence, and the conviction was proper. The trial Court after appreciating the oral evidence and documentary evidence rightly held the accused guilty of the offence and



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convicted him, which is proper, and there is no merit in appeal and the same is liable to be dismissed.

11. The learned counsel for the appellant, during arguments, restricted his submission only to reduction of sentence, contending that:

- The occurrence was due to sustained provocation;
- There was no premeditation, motive, or intention to kill.

12. Now this Court has to decide whether the occurrence was due to sustained provocation or whether falls under Section 300 IPC ?

13. The deceased and accused, were husband and wife. According to prosecution case, the accused was unemployed and addicted to alcohol, on the deceased frequently abused and scolded him for not going to employment.

14. The allegation of illicit intimacy was not supported by any evidence. The medical evidence establishes that the deceased was brought by ambulance, and her dying declaration to the doctor clearly



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implicates the accused.

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15. P.W.1, the complainant, in his evidence stated that the accused was not going for any work from the date of marriage and that frequent quarrels arose between the accused and the deceased on that issue. However, during cross-examination, P.W.1 admitted that the accused was working as a painter.

16. P.W.3, the daughter of the accused and the deceased, also admitted that the accused had earlier worked in the same mill in which the deceased was employed. Thus, the allegation that the accused was not working at all stands contradicted by the evidence of prosecution witnesses themselves.

17. It was further established that on the date of occurrence, the accused was taking lunch along with his son and daughter, P.W.2 and P.W.3. At that time, P.W.1, the brother of the deceased, and P.W.5, a friend of P.W.1, were also present in the house of the deceased. When the



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deceased, wife of the accused, came to the house and saw the accused taking food, she started shouting at him using insulting words, questioning as to why he was eating food without going for employment. She then pulled the plate containing food and threw it away. This incident was spoken to by P.W.2 and P.W.3, the son and daughter of the deceased, as well as by P.W.1, the complainant, and P.W.5, an eyewitness.

18. Immediately thereafter, the accused stated that he was insulted in the presence of the brother of the deceased and others and left the house.

19. The crucial eyewitness, P.W.3, in her chief-examination, stated that there were misunderstandings between her parents. She deposed that her mother was working in a mill and that her father also used to work in the same mill and occasionally did other jobs. She clearly stated that her mother shouted at her father while he was taking food. P.W.4, the son of the deceased, also stated that while his father was taking food, his mother abused him, pulled the food plate, and threw it



away, thereby insulting him.

20. The quarrel between the accused and the deceased immediately preceding the occurrence was also supported by the evidence of P.W.5. All the witnesses consistently stated that prior to the occurrence; the deceased insulted the accused by pulling the food plate and throwing it away.

21. It is proved that at the time of occurrence, the accused was staying home without employment for which the deceased used to scold him and insulted him for not going job.

22. Sustained provocation means a continues or persistent cause of conduct by the deceased, which, over a period of time gradually builds up mental stress and emotional disturbance in the mind of the accused, ultimately resulting in loss of self control and commission of the act in the heat of passion without pre-meditation

“300.Murder.—Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the



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death is caused is done with the intention of causing death, or—

Secondly.—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

Thirdly.—If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

Fourthly.—If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.”

Exception to Section 300 IPC

Exception 1- When culpable homicide is not murder- Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident.

The above exception is subject to the following provisos:-

First- That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing. or doing harm to any person.

Secondly- That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.



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Thirdly- That the provocation is not given by anything done in the lawful exercise of the right of private defense

Exception 2- Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defense of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defense without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defense.

Exception 3- Culpable homicide is not murder if the offender, being a public servant or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill-will towards the person whose death is caused.

Exception 4.- Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner.

Exception 5- Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.”

23. We hold that the offence committed by the accused falls within the Fourth Exception to Section 300 of the Indian Penal Code,



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which reads as follows:

“Exception 4.—Culpable homicide is not murder if it is committed without premeditation, in a sudden fight, in the heat of passion upon a sudden quarrel, and without the offender having taken undue advantage or acted in a cruel or unusual manner.”

24. In the present case, the evidence on record clearly establishes that the accused had no intention to commit murder. The occurrence was neither premeditated nor preceded by any prior enmity or planning to cause the death of the deceased. The incident arose out of a sudden quarrel between the accused and the deceased. Owing to continuous insult and sustained provocation, the accused, being unable to tolerate the same any longer, lost self-control and committed the act in the heat of passion, without any deliberation or intention to kill.

25. Though the accused had no intention to cause death, the material on record clearly shows that he had the knowledge that his act was likely to cause death. Therefore, we hold that the offence committed



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by the accused is not punishable under Section 302 IPC, but squarely falls under the Fourth Exception to Section 300 IPC and thus comes within the purview of Section 304 Part II IPC.

26. The first part of Section 304 IPC applies where there is intention to cause death or such bodily injury as is likely to cause death, whereas the second part applies where there is no such intention, but the act is done with the knowledge that it is likely to cause death. The facts and circumstances of the present case clearly attract the latter.

27. Accordingly, we hold that the offence committed by the appellant is culpable homicide not amounting to murder, punishable under Section 304 Part II IPC. The judgment of the trial Court, therefore, warrants interference and reversal. We hold that the charges of offences under Section 304(ii) IPC is made out and therefore, accused is liable to be convicted for offence punishable under Section 304(ii) IPC.

28. We hold that the offence committed by the accused does not



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attract Section 300 IPC, but falls under Section 304(ii) IPC. Therefore, we modify the conviction of the accused from Section 302 IPC to Section 304(ii) IPC and modify the sentence of life imprisonment. We hereby sentence the accused to undergo ten (10) years rigorous imprisonment with fine of Rs.5,000/- (Rupees Five Thousand only) in default, to undergo three months simple imprisonment.

29. In the result,

(i) This Criminal Appeal is partly allowed.

(ii) The conviction under Section 302 IPC passed by the learned Sessions Judge, Fast Track Mahila Court, Virudhunagar District at Srivilliputtur dated 23.02.2021, in S.C.No.92 of 2016, is set aside and the conviction is modified to Section 304(ii) IPC.

(iii) Accordingly, the sentence of Life Imprisonment passed by the Court below is set aside and the appellant is sentenced to undergo Rigorous Imprisonment for ten (10) years and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) and in default to pay the fine amount, to undergo Simple Imprisonment for three months.



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(iv) The period of sentence already undergone by the accused/appellant shall be set off under Section 428 Cr.P.C., as against the substantive sentence.

(v) Consequently, connected miscellaneous petition is closed.

**[G.K.I.J.,] & [R.P.J.,]
10.12.2025**

NCC :Yes/No
Index :Yes/No
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Copy to

1. The Sessions Judge,
Fast Track Mahila Court,
Virudhunagar District at Srivilliputtur.

2.The Inspector of Police,
Virudhunagar Bazaar Police Station,
Virudhunagar.

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

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G.K. ILANTHIRAIYAN, J.

AND

R. POORNIMA, J.

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