



Cr1.A(MD)Nos.412 & 413 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	28.10.2025
Pronounced on	17.11.2025

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Cr1.A(MD)Nos.412 and 413 of 2022

Arockiasamy

... Appellant in Cr1.A(MD)No.412/2022/ Accused No.3

1. Sasikumar

2. Dhanamary

... Appellants in Cr1.A(MD)No.413/2022/ Accused Nos.1 & 2

vs.

State Represented by
Inspector of Police,
Kallakudi Police Station,
Trichy District.

(Crime No.74/2014)

... Respondent in both appeals/Complainant

Prayer:- These Criminal Appeals are filed under Section 374 of the Criminal Procedure Code, to call for the records and set aside the judgment passed by the learned III Additional District and Sessions Judge, Tiruchirappalli, in S.C.No.330 of 2018 dated 14.06.2022 and acquit the appellants herein.



Cr1.A(MD)Nos.412 & 413 of 2022

For Appellant : Mr.R.Gandhi, Senior Counsel, for
Mr.T.A.Om Prakash
For Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor

COMMON JUDGMENT

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

These Criminal Appeals have been filed by the appellants/Accused Nos.3 and 1 & 2 respectively, to call for the records and set aside the judgment passed by the learned III Additional District and Sessions Judge, Tiruchirappalli, in S.C.No.330 of 2018 dated 14.06.2022 and acquit them.

2. The case of the prosecution is that the deceased persons namely, Dhanishlas and Napoleon are father and son. Accused No.1 is the son of the Accused 2 and 3, who are wife and husband respectively. The deceased Dhanishlas is the elder brother of A3 and there was a property dispute between the families of the accused and the deceased. On 09.04.2014, at about 06.45 p.m., there was a quarrel between them and in the quarrel, the accused had abused the family of the deceased. When the deceased had questioned the same, a fight



broke out between them. At that time, A1 by using an iron punching rod, inflicted pierced wound on the chest and head of Dhanishlas and A3 caused injury on the right shoulder of Dhanishlas by using iron rod. A1 also attacked Napoleon, who had come for the rescue of his father Dhanishlas, thereby, both Dhanishlas and Napoleon succumbed to the injuries and the accused fled away from the scene of occurrence. Based on the complaint given by one Samidurai / son of the deceased Dhanishlas, the respondent/police registered a case in Crime No. 74/2014 for the offences under Sections 302, 324, 323 and 506(ii) of IPC. After investigation, the respondent/police laid a charge sheet before the Judicial Magistrate Court, Lalgudi, and the same was taken on file in PRC.No.14 of 2018. 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, where it was taken on file in S.C.No.330 of 2018 and made over to the III Additional District and Sessions Court, Tiruchirappalli, which framed the charges for the commission of offences under Sections 302, 323 and 506(ii) of IPC. In order to substantiate the case during trial, on the side of the prosecution, totally 16 witnesses were examined as PW1 to PW16 and 24 documents



were marked as Exs.P1 to Ex.P24, besides 9 material objects were exhibited as MO1 to MO9. On the side of the defence, no oral evidence was let in and two documents were marked as Ex.D1 and Ex.D2.

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 conclusion of the trial and hearing of the arguments on either side, the trial Court convicted A1 for the offence under Section 302 and sentenced to undergo life imprisonment (two counts) for committing the murder of Dhanishlas and Napoleon, with the fine of Rs.10,000/- for each count, in default to undergo one year simple imprisonment for each count. As far as A2 is concerned, though charge under Section 302 was framed against A2, the trial Court having considered the weapon used by her and the nature of injuries she had caused, convicted her for the offence under Section 324 of IPC and sentenced to undergo one year simple imprisonment and to pay a fine of Rs.5,000/- in default to undergo one month simple imprisonment. As



regards A3, the trial Court convicted him for the offence under Section 302 of IPC and sentenced to undergo life imprisonment with fine of Rs. 10,000/- in default to undergo one year simple imprisonment. The trial Court acquitted A1 to A3 from the charge under Section 506(ii) of IPC. The sentences were ordered to be run concurrently. Aggrieved over the same, the appellants/accused 1 to 3 have filed the present appeals before this Court.

4. The learned counsel for the appellants/A1 to A3 would submit that there is no valid evidence to convict A1 and A3 under Section 302 of IPC and A2 under Section 324 of IPC; the respondent/police as well as the prosecution witnesses purposely suppressed the injuries sustained by A1 and A3 which is fatal to the prosecution case; the entire occurrence took place in front of the house of the appellants which clearly established that PW1 and PW4 as well as the deceased were only the aggressors and they assaulted A1 and A3 and both of them sustained severe injuries; there was a delay in sending FIR to the Magistrate's Court; there is inconsistency in between the ocular evidence and medical evidence; arrest and recovery of material



objects is highly doubtful; material witness has not been examined;

entire statement of the prosecution witnesses reached the court belatedly and therefore the case of the prosecution itself is doubtful. Thus, he would pray for setting aside the judgment and sentence passed by the trial Court.

5. The learned Additional Public Prosecutor would submit that both the families of the appellants and the deceased are relatives and there was a property dispute between the families and due to that, the appellants' family scolded the deceased family. When the same was questioned, A1 and A3 attacked the deceased persons with deadly weapons and A2 attacked the deceased Napoleon with iron rod, due to that, the deceased persons / father and son died on the spot. The son of the deceased Dhanishlas namely, Samidurai gave the complaint based on the same, the respondent/police registered the case for the offences under Section 302 , 324, 323 and 506(ii) of IPC. After investigation, they filed the charge sheet. After completing the formalities, the same was taken on file in S.C.No.330 of 2018. In order to substantiate the case on the side of the prosecution, 16 witnesses were



examined as PW1 to PW16 and 24 documents were marked as Exs.P1 to P24, besides 9 material objects were exhibited as MO1 to MO9. On the side of the accused, no oral evidence was let in and two documents were marked. He would further submit that A1 and A3 caused fatal injury to the deceased and they have committed the offence under Section 302 of IPC and they also caused injuries to PW1 and PW4 and therefore they committed the offence under Section 323 IPC. A1 and A3 also threatened the family members of the deceased and therefore they have committed the offence under Section 506(ii) of IPC. In order to substantiate the charges, the eye witnesses PW1 & PW4 have categorically stated about the motive and also the specific overt act against the accused. A1 gave confession statement and based on that, materials were also recovered in the presence of the PW6-Village Administrative Officer. Therefore, the recovery was proved and the Doctor who gave treatment to PW1 was examined as PW10. The copy of the accident register of PW1 was marked as Ex.P6 which shows that a known person attacked due to that, she sustained injury. Therefore, the presence of PW1 is established by the prosecution and the postmortem reports Exs.P8 and P11 also clearly show that the deceased persons died



due to the injuries on the vital parts. Therefore, from the oral and documentary evidence, the prosecution has proved its case beyond reasonable doubt and the contradictions pointed out by the learned counsel for the accused in the evidence of the prosecution witnesses, are not material contradictions and the trial Court rightly appreciated the oral and documentary evidence especially, the evidence of the eye witnesses and medical evidence and convicted the appellants as stated above. Thus, he would submit that there is no merit in these appeals and the same are liable to be dismissed.

6. Heard both sides and perused the records.

7. The specific case of the prosecution is that the accused and the deceased are relatives and there was a property dispute between them which resulted in a quarrel, in which, the accused had abused the family of the deceased and when the deceased had questioned the same, a fight broke out between them. At that time, A1 by using an iron punching rod, inflicted pierced wound on the chest and head of Dhanishlas and A3 caused injury on the right shoulder of Dhanishlas by



using iron rod. A1 also attacked Napoleon, who had come for the rescue of his father Dhanishlas, thereby, both Dhanishlas and Napoleon succumbed to the injuries.

8. In this case, admittedly both the accused family and the deceased family are relatives. The evidence of PW4 clearly shows that A1 came and asked her husband/Dhanishlas to give their share in the property for which the husband also informed to take their share, despite, there was a fight between them. A1 punched on the chest of the husband of PW4 with an iron punching rod and he also punched the son of PW4 on his right side chest and the backside and also attacked the daughter in law of PW4 namely, PW1 and therefore they sustained injuries. The husband and son of PW4 died on the spot. A2 also attacked PW1 with stick and she also sustained injury. One Samidurai/son of the deceased Dhanishlas gave a complaint before the respondent/police based on that complaint, the respondent/police registered the case.



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9. The evidence of PW1 reads that due to property dispute, the accused in front of their house scolded the deceased family in filthy language. When the deceased family went there and questioned the same, A1 took an iron punching rod and attacked the husband and son of PW4 and caused grievous injuries on the vital part of the chest and backside, due to that, they died on the spot. A1 also attacked PW1 with punching rod on her left thigh and A2 attacked her with a stick and caused injuries. PW1 specifically stated that A1 used punching rod, A3 used iron rod and A2 used the stick to cause injuries to the deceased persons. Therefore, there is a specific overt act against all the accused. The evidence of PW10-Doctor who gave the first aid treatment to PW1 and also made entry in AR copy-Ex.P6 clearly shows that PW1 is the injured witness who is the occurrence witness/eye witness. During the cross examination, nothing was shattered. Therefore, the evidence of PW1 is cogent, consistent, reliable and credible and there is no reason to discard the evidence of PW1. The learned counsel for the accused would vehemently contend that the deceased were the aggressors; the occurrence took place in front of the house of the accused; the deceased family only went to the house of the accused and created problem; the



deceased and PWs.1 and 4 attacked the accused with stick in which there was a push and pull, whereby, the deceased and the witnesses sustained injuries. Therefore, only for preventing the attack made by the deceased and the witnesses, the accused prevented the same as a self-defence or in order to safeguard from receiving any injuries and hence, the accused have not committed any offence much less than the charged offences. Learned counsel for the accused would also contend that the prosecution has not explained the injuries sustained by the accused and the very same witness PW10 Doctor has clearly deposed that A1 and A3 were also admitted in the hospital on the same day at about 08.45 p.m and the hospital also informed the police and the police had not taken any steps. The above narrated facts would clearly show only the deceased were the aggressors who caused the injuries, whereas, the appellants only prevented the same and during the push and pull, the deceased sustained injuries. Therefore, the prosecution has not proved its case beyond reasonable doubt. When there are two views possible, the benefit of doubt has to be extended to the accused. Even otherwise, at the time of using the self-defence if it is excessive, the accused cannot be convicted for the offence under Section 302 of IPC since there was no



premeditation. Further, the charges are not framed for the offence under

Section 302 read with 34 of IPC which is a common intention and the trial Court failed to consider the same.

10. As far as the contention of the learned counsel for the accused that there was a wordy quarrel and push and pull is concerned, the evidence of PW1 is clear that in the morning on the date of occurrence that is, 09.04.2014 at about 09.00 a.m., there was a quarrel between one of the deceased persons namely, Dhanishlas and his brother/A3. Thereafter, between 06.00 to 06.30 p.m., all the accused persons by standing in front of their house, scolded the deceased family. Therefore, they went there and questioned the same. At that time, A1 attacked the father-in-law of PW1 with iron punching rod on his right side chest. When the same was questioned by the husband of PW1, A1 attacked him with punching rod on his right side chest and A1 also attacked PW1 through the iron rod and A2 attacked with stick. PW4 who is none other than the mother-in-law of PW1 and also one of the eye witnesses, has clearly stated that on the date of occurrence at about 06.00 to 06.30 p.m., there was a quarrel regarding the property dispute



between the families. At that time, A1 attacked her husband with punching rod and he also attacked her son with the punching rod on the right side chest, backside and also attacked the thigh of PW1. A3 also attacked all the witnesses with iron rod and A2 attacked with stick. The husband of PW4 and husband of PW1 died on the spot and PW1 and PW4 sustained injuries.

11. From the evidence of PW1 and PW4, the prosecution has proved its case beyond reasonable doubt which is tallied with the medical evidence. PW10 and PW14 who conducted the postmortem has also clearly stated the cause of death. As far as recovery is concerned, the Village Administrative Officer-PW6 has clearly stated that the respondent/police arrested the accused on 10.04.2024 at about 09.15 p.m and arrested A1 and A2 and A1 gave confession statement based on that, recovery was effected in the presence of PW6. Though confessions made before the police officers are generally inadmissible, however, under Section 27 of the Indian Evidence Act, 1872, if such confessions led to recovery of any material evidence, that recovery portion is admissible. The admitted portion of the confession statement was marked as Ex.P4.



Therefore, from the evidence of PW6 and Ex.P4, it is proved that the

materials used for commission of offences were recovered in the manner

known to law which is admissible in evidence under Section 27 of the

Indian Evidence Act. The evidence of PW1 and PW4-eye witnesses is

corroborated with each other. PW10 Doctor also stated that PW1

sustained injury and issued Ex.P6-Accident Register. The evidence of

the postmortem Doctor PW14 clearly shows that the deceased persons

died due to the injuries caused by A1 to A3 through MO5 to MO7.

Though the defence stated that the injuries sustained by A1 and A3 were

not explained and reading of the evidence of PW10 would show that A1

and A3 were admitted in the hospital at 08.45 p.m and the occurrence

took place at 08.00 a.m., whereas PW1 went to the hospital only at 10.45

a.m., the husband and father-in-law died on the spot in front of PW1 and

she saw the incident with a naked eye and sustained injuries and then

she called PW2 who is her brother. Therefore, the mindset of PW1 to get

immediate treatment cannot be expected. Even the evidence of PW10-

Doctor clearly shows that he advised to admit PW1 in the hospital for

treatment, but she refused and at her request, she was treated as

outpatient. The evidence of PW2 also reads that PW1 called him and he



went the place of occurrence and arranged for Ambulance and then at

08.15 p.m, the son of deceased Dhanishlas gave the complaint to the police and therefore, the delay in filing the complaint and delay in sending the FIR and delay in going to the hospital is not fatal to the case of the prosecution.

12. Though the evidence of PW10 states that A1 and A3 also sustained injuries, that are not fatal injuries. Further, there is no material to show that A1 and A3 made a complaint. If at all they made a complaint against the deceased or the family members and the police did not take any steps, they have to approach the Magistrate in the manner known to law for suitable direction. They have not taken any steps and now in order to escape from the clutches of law, they have taken the defence that the deceased were the aggressors who caused injuries to the accused at first instance and in order to prevent them by way of self-defence, they caused injury only with sticks, but there is no material for the same except the evidence of PW10 that A1 and A3 went for treatment. The appellants also marked Ex.D1 and Ex.D2 which show that they only sustained simple injuries, but there is no material to show



that only the deceased or PW1 and PW4 caused those injuries to the accused. They have not examined any witnesses to prove the same. The accused need not examine any witnesses, but however, when they take a defence that the deceased were the aggressors and they only caused the injury first and only for preventing them or as a self-defence, they attacked with stick, the accused ought to have proved the said defence in the manner known to law and the trial Court also elaborately discussed about the same. In the absence of any evidence that the deceased attacked the accused with deadly weapons and in order to safeguard as a way of self-defence they attacked, the contention of the appellants cannot be accepted. A combined reading of the evidence of PW10 and PW14 and the injuries sustained by the deceased persons and the accused clearly shows that it cannot be treated as a self-defence for preventing the attack. Though the evidence of PW1 and PW4 is clear that due to property dispute, there was a quarrel between the deceased and the accused, but however, the weapons used by the accused 1 and 3 are deadly weapons and injury caused by them are fatal injuries and the evidence of the postmortem doctor and his opinion also clearly shows the cause of death and therefore, the contention of the learned counsel



for the accused is not acceptable. The contradictions and discrepancies cited by the counsel for the appellants are not material contradictions which will not go to the root of the prosecution case. In this context, the learned Additional Public Prosecutor has relied upon the judgment of the Hon'ble Supreme Court in *Kalabhai Hamirbhai Kachhot vs. State of Gujarat* reported in (2021) 19 SCC 555. The relevant portion of the said judgment is extracted hereunder:

"22. We also do not find any substance in the argument of the learned counsel that there are major contradictions in the deposition of PWs-18 and 19. The contradictions which are sought to be projected are minor contradictions which cannot be the basis to discard their evidence. The judgment of this Court in the case of Mohar relied on by the learned counsel for the respondent-State supports the case of the prosecution. In the aforesaid judgment, this Court has held that convincing evidence is required, to discredit an injured witness. Para 11 of the judgment reads as under :

"11. The testimony of an injured witness has its own efficacy and relevancy. The fact that the witness sustained injuries on his body would show that he was present at the place of occurrence and has seen the occurrence by himself. Convincing evidence would be required to discredit an injured witness. Similarly, every discrepancy in the statement of a witness cannot be treated as fatal. A discrepancy which does not affect the prosecution case materially cannot create any infirmity. In the instant case the discrepancy in the name of PW 4 appearing in the FIR and the cross-examination of PW1 has been amply clarified. In cross-examination PW 1 had clarified that his brother Ram Awadh had three sons: (1) Jagdish, PW4, (2) Jagarnath, and (3) Suresh. This witness, however, stated that Jagarjit had only one name. PW 2 Vibhuti, however, stated that at the time of occurrence the son of Ram Awadh, Jagjit @ Jagarjit was milching a cow and he was also called as Jagdish. Balli (PW3) mentioned his name as Jagjit and Jagdish. PW4 also gave his name as Jagdish."

23. Learned counsel for the respondent-State has also relied on the



judgment of this Court in the case of Naresh & Ors. In the aforesaid judgment, this Court has held that the evidence of injured witnesses cannot be brushed aside without assigning cogent reasons. Paragraphs 27 and 30 of the judgment which are relevant, read as under :

"27. The evidence of an injured witness must be given due weightage being a stamped witness, thus, his presence cannot be doubted. His statement is generally considered to be very reliable and it is unlikely that he has spared the actual assailant in order to falsely implicate someone else. The testimony of an injured witness has its own relevancy and efficacy as he has sustained injuries at the time and place of occurrence and this lends support to his testimony that he was present during the occurrence. Thus, the testimony of an injured witness is accorded a special status in law. The witness would not like or want to let his actual assailant go unpunished merely to implicate a third person falsely for the commission of the offence. Thus, the evidence of the injured witness should be relied upon unless there are grounds for the rejection of his evidence on the basis of major contradictions and discrepancies therein. (Vide *Jarnail Singh v. State of Punjab* [(2009) 9 SCC 719 : (2010) 1 SCC (Cri) 107] , *Balraje v. State of Maharashtra* [(2010) 6 SCC 673 : (2010) 3 SCC (Cri) 211] and *Abdul Sayeed v. State of M.P.* [(2010) 10 SCC 259 : (2010) 3 SCC (Cri) 1262])

30. In all criminal cases, normal discrepancies are bound to occur in the depositions of witnesses due to normal errors of observation, namely, errors of memory due to lapse of time or due to mental disposition such as shock and horror at the time of occurrence. Where the omissions amount to a contradiction, creating a serious doubt about the truthfulness of the witness and other witnesses also make material improvement while deposing in the court, such evidence cannot be safe to rely upon. However, minor contradictions, inconsistencies, embellishments or improvements on trivial matters which do not affect the core of the prosecution case, should not be made a ground on which the evidence can be rejected in its entirety. The court has to form its opinion about the credibility of the witness and record a finding as to whether his deposition inspires confidence.

"9. Exaggerations per se do not render the evidence brittle. But it can be one of the factors to test credibility of the prosecution version, when the entire evidence is put in a crucible for being tested on the touchstone of credibility."

Therefore, mere marginal variations in the statements of a witness cannot be dubbed as improvements as the same may be elaborations of the statement made by the witness earlier. The omissions which amount to contradictions in material particulars



i.e. go to the root of the case/materially affect the trial or core of the prosecution's case, render the testimony of the witness liable to be discredited. [Vide State v. Saravanan [(2008) 17 SCC 587 : (2010) 4 SCC (Cri) 580 : AIR 2009 SC 152], Arumugam v. State [(2008) 15 SCC 590 : (2009) 3 SCC (Cri) 1130 : AIR 2009 SC 331] , Mahendra Pratap Singh v. State of U.P. [(2009) 11 SCC 334 : (2009) 3 SCC (Cri) 1352] and Sunil Kumar Sambhudayal Gupta (Dr.) v. State of Maharashtra [(2010) 13 SCC 657 : JT (2010) 12 SC 287]."

24. Further, in the case of *Narayan Chetanram Chaudhary & Anr. v. State of Maharashtra*, this Court has considered the effect of the minor contradictions in the depositions of witnesses while appreciating the evidence in criminal trial. In the aforesaid judgment it is held that only contradictions in material particulars and not minor contradictions can be a ground to discredit the testimony of the witnesses. Relevant portion of Para 42 of the judgment reads as under:

"42. Only such omissions which amount to contradiction in material particulars can be used to discredit the testimony of the witness. The omission in the police statement by itself would not necessarily render the testimony of witness unreliable. When the version given by the witness in the court is different in material particulars from that disclosed in his earlier statements, the case of the prosecution becomes doubtful and not otherwise. Minor contradictions are bound to appear in the statements of truthful witnesses as memory sometimes plays false and the sense of observation differ from person to person. The omissions in the earlier statement if found to be of trivial details, as in the present case, the same would not cause any dent in the testimony of PW 2. Even if there is contradiction of statement of a witness on any material point, that is no ground to reject the whole of the testimony of such witness."

13. Admittedly, PW1 and PW4 were also present at the time of occurrence and they are eye witnesses and also injured



witnesses. The evidence of PW1 and PW4 is consistent, cogent, credible and inspires the confidence of the Court and there is no perversity in appreciation of evidence. Mere lapse or defect in the investigation is not fatal to ignore the prosecution case.

14. If there was premeditation regarding the commission of offence, it falls under Section 302 of IPC. Even the evidence of PW1 and PW4 shows that there was a wordy quarrel and push and pull, in which due to sudden provocation, A1 and A3 attacked the deceased with weapons and caused injuries. From the materials placed, this Court finds that the commission of offence by A1 and A3 does not fall under Section 302 of IPC, whereas it falls under Section 304(i) of IPC. However, since A1 and A3 chose deadly weapons and caused fatal injuries which resulted the instantaneous death of two persons, A1 and A3 are convicted under Section 304(i) of IPC and A1 is sentenced to undergo life imprisonment (two counts) with the fine of Rs.10,000/- for each count, in default to undergo one year simple imprisonment and A3 is sentenced to undergo life imprisonment with the fine of Rs.10,000/-, in default to undergo one year simple imprisonment. The sentence



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imposed by the trial Court in respect of A1 for the offence under Section 323 of IPC is confirmed. The sentence imposed by the trial Court in respect of A2 is also confirmed.

15. With the above modification, the Criminal Appeals are dismissed.

[P.V, J.] [L.V.G, J.]
17.11.2025

Index : Yes / No
Neutral Citation : Yes / No
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To

1. The III Additional District and Sessions Judge,
Tiruchirappalli.

2. The Inspector of Police,
Kallakudi Police Station,
Trichy District.

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

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



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Cr1.A(MD)Nos.412 & 413 of 2022

P.VELMURUGAN, J.
AND
L.VICTORIA GOWRI, J.

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PRE-DELIVERY COMMON JUDGMENT MADE IN
Cr1.A(MD)Nos.412 and 413 of 2022

DATED : 17.11.2025