



Cr1.A(MD)No.476 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Reserved on	13.11.2025
Pronounced on	27.11.2025

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

and

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Cr1.A(MD)No.476 of 2022

1. Muneeswaran

2. Saravanakumar

3. Nirmalkumar @ Kutty

4. Muneeswaran

: Appellants/ A1 to A4

Vs.

The State Rep. By its

The Inspector of Police,

Bampan Police Station,

Ramanathapuram District

: Respondent/Complainant

Prayer:-This Criminal Appeal is filed under Section 374 (2) of Criminal Procedure Code, to call for the records in S.C. No.138 of 2021 dated 07.06.2022 passed by the learned Additional District and Sessions Judge, Ramanathapuram and to set aside the judgment of conviction and sentence.



Cr1.A(MD)No.476 of 2022

WEB COPY

For Appellants : Mr.G.Karuppasamy Pandian

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

J U D G M E N T

P.VELMURUGAN, J.,

This Criminal Appeal is filed against the judgment of conviction and sentence passed by the learned Additional District and Sessions Judge, Ramanathapuram in S.C. No.138 of 2021 dated 07.06.2022

2. By the above judgment, the trial Court convicted the appellant and sentenced her, as detailed below:

Offence	Sentence
304 of IPC	Life Imprisonment and fine of Rs.5,000/-, in default, to undergo six month Simple Imprisonment (each)

3. The case of the prosecution in brief:-

3.1. The deceased, who was aged about 80 years, had developed a relationship with one Valli and both of them were said to



Cr1.A(MD)No.476 of 2022

have lived together at Mandapam for nearly 20 years. There was some misunderstanding between them and hence the deceased was said to have left Valli. The accused persons herein are the relatives of the said Valli and it is stated that they developed a motive against the deceased since the deceased abandoned the said Valli. On 03.01.2021 at about 2.30 p.m., when the deceased was returning to his house from the tea shop, the accused persons were said to have picked up a wordy quarrel during which time the deceased was pushed down and the accused persons kicked him all over his body and also dragged him in the floor. As a result, the deceased died on the spot. Accordingly, FIR came to be registered in Crime No.2 of 2021 as against the accused persons for the offences under Sections 341, 294(b), 323 and 304 of IPC.

3.2. After completion of the investigation, the respondent police laid the charge sheet before the learned District Munsif cum Judicial Magistrate, Rameswaram, and the same was taken on file in P.R.C. No. 15 of 2021.



WEB COPY

3.3. On the appearance of the accused, the provisions of Section 207 of Cr.P.C. were complied with, and the case was committed to the Court of Session, where it was taken on file in S.C. No.138 of 2021 and made over to the learned Additional District and Sessions Judge, Ramanathapuram , for trial under Section 209(A) of Cr.P.C. The trial Court framed charges against the appellants for the offences under Sections 341, 294(b), 323 and 304 of IPC.

3.4. In order to substantiate the case of the prosecution, the prosecution examined 14 witnesses as P.W.1 to P.W.14, and 10 exhibits were marked as Ex.P.1 to Ex.P.10, and no material objects were marked

3.5. After examination of the prosecution witnesses, when the appellants were questioned under Section 313 of the Code of Criminal Procedure on the incriminating circumstances appearing against them, they denied the charges as false. No witness was examined on the side of the accused, nor was any document marked.



4. The trial Court, after considering the evidence on record and hearing both sides, by judgment dated 07.06.2022, convicted the appellants and sentenced them as detailed in Paragraph No.2 supra. Challenging the above-said conviction and sentence, the appellants have filed the present appeal.

5. The learned Counsel appearing for the appellants would submit that there is no evidence to show that the injuries sustained by the deceased were caused by the appellants and that the deceased died due to those injuries. Even P.W. 10 doctor in his evidence has clearly stated that the deceased died by consuming alcohol during the occurrence. Moreover, Ex.P.10 shows that the stomach, intestine, liver and kidney of the deceased contained alcohol which wholly corroborates with defence of the appellants wherein it was suggested to all the eye witnesses that the deceased fell down by himself because of the influence of the alcohol and also due to old age he died. There is no specific overt act against the appellants . Even if the case is admitted to be true it would attract the offence under Section 323 of IPC and not more than that. The genuineness of the occurrence remains highly



doubtful. Though the witnesses have stated that the accused caused injuries, P.W.13 the doctor who first saw the deceased in the hospital when the deceased was brought to the hospital for treatment declared the deceased as brought dead.

6. Further the deceased had stated that he was assaulted by 6 to 7 known persons which is reflected in the Ex.P7 (AR entry). The delay is not only inordinate but also remains unexplained. Even as per the case of prosecution, the occurrence took place at 02.30 p.m. on 03.01.2021, however, the complaint was given only at 05.00 p.m., whereas the distance between the place of occurrence and the police station is about 2 to 3 kms only. Further the delay in forwarding the complaint and the FIR is not acceptable. Even as per the prosecution case the FIR was registered at 05.00 p.m. on 03.01.2021 whereas it was transmitted to the jurisdictional magistrate Court at 11.10 am. on the next day. The delay in transmitting the FIR is around 18 hours. That assumes importance since the distance between the police station and the Jurisdictional Magistrate is of 10 kms and also the inordinate delay of 18 hours remains unexplained. Further even the statement recorded



by the Investigation Officer from the witnesses under Section 161 of Cr.PC., including the eye witnesses reached the jurisdictional court after a lapse of 7 months. Therefore the unexplained delay in all aspects is fatal to the case of the prosecution and there were embellishments and deliberation, therefore the prosecution has failed to prove its case beyond all reasonable doubts.

7. It is a settled proposition of law that if two views are possible, the view in favour of the appellants have to be taken into consideration.. The Trial Court appreciated the oral and documentary evidence and convicted the appellants for the offence under Section 304 of IPC which is erroneous. He would further submit that if at all the Court finds that the injuries sustained by the deceased were caused by the appellants they should have been convicted for the offence under Section 323 of IPC and not otherwise. The appreciation of evidence by the trial Court is perverse and therefore, the benefit of doubt may be extended to the appellants and the appeal is liable to be allowed and the appellants ought to be acquitted



WEB COPY

8. The learned Additional Public Prosecutor would submit that in this case the prosecution has proved the motive behind the occurrence and P.W.4 who is the neighbor to both the deceased and the appellants has clearly stated about the specific overt act and the manner in which the injuries were caused by the appellants to the injured. The deceased was aged about 80 years and he consumed alcohol and he did not die either because he consumed alcohol or due to old age. Further, the doctor /P.W.10 who conducted the post mortem has clearly stated that the cause of death was not due to consumption of alcohol and that mere self fall will not create the nature of injuries sustained by the deceased. Even the entry in the accident register also clearly show that the deceased was assaulted by unknown persons and therefore the prosecution has proved its case by oral and documentary evidence and the trial Court has also rightly appreciated the oral and documentary evidence and recorded a conviction and sentence against the appellants and therefore, there is no merit in the appeal and the same is liable to be dismissed.



WEB COPY

9. We have considered the submissions of the learned Counsel for the appellants and the learned Additional Public Prosecutor for the State, and have consciously gone through the evidence and materials on record.

10. The specific case of the prosecution is that due to a previous motive on 03.01.2021 at about 2.30 p.m., when the deceased was returning to his house from a tea shop, the accused persons picked up a wordy quarrel with the deceased and during which the deceased was pushed down and the accused persons kicked him all over his body and also dragged him in the floor. As a result, the deceased died on the spot

11. In order to substantiate the charges levelled against the appellants, on the side of the prosecution four witnesses were examined as eye witnesses. In this case, P.W.1 who is the son of the deceased has spoken about the previous enmity and cause of injury and also the overt act as against the appellants and he gave complaint and it was marked



as Ex.P.1. P.W.2 is also one of the eye witness as to the occurrence and is the brother in relation with P.W.1 also corroborated the evidence of P.W.1. P.W.3 another son of the deceased has also corroborated the evidence of P.W.1. P.W.4 who is the independent witness and neighbor has also supported the case of prosecution and also named all the appellants and has also spoken about the specific overt act as against each of the appellants. P.W.1 to P.W.4 are residing in the same locality and near to the place of occurrence and they have clearly spoken about the motive behind the attack. P.W.6 is the driver of the auto who took the injured to the hospital.

12. P.W. 13 is the doctor who had admitted the injured for treatment and found that the deceased was brought dead. He also made entries in the accident register/Ex.P.7 and also mentioned about the injuries sustained by the deceased. Though in this case a confession was recorded by the police, however pursuant to it, no recovery , therefore confession statement is not admissible in evidence, being hit by Section 25 of the Indian Evidence Act. Further P.W.10/ doctor who conducted post mortem on the body of the deceased issued Ex.P.4/Post Mortem



Certificate which clearly shows the ante mortem injuries sustained by the deceased and also gave a final opinion for the cause of death.

13. The medical report shows that the deceased consumed alcohol. Ex.P.5/ final opinion reads as follows:

1	Stomach and contents	:	Detected seven hundred and seventy six (776.0) milligrams of ethyl alcohol and not other poison
2	Intestine and contents	:	Detected one hundred and Twenty seven (127.0) milligrams of ethyl alcohol and not other poison.
3	Liver	:	Detected one hundred and ninety (190.0) milligrams of ethyl alcohol and not other poison
4	Kidney	:	Detected one hundred and sixty seven (167.0) milligrams of ethyl alcohol and not other poison
5	Preservative	:	Did not detect ethyl alcohol or other poison

14. However the opinion of the doctor is not that the deceased died due to over dose of consumption of alcohol . The final opinion of the doctor reads as follows:

“ Based on autopsy findings and chemical analysis report the deceased was found to have died 18-24 hours prior to the



Cr1.A(MD)No.476 of 2022

commencement of autopsy and the opinion regarding cause of death is found to be due to vital organ injury- Brain".

15. Further even as per the post mortem report the age of the deceased is 80 years. From the evidence of P.W.1 to P.W.4 who are eye witnesses have clearly stated that the appellants had caused injuries and the deceased was brought to the hospital and the doctor declared him brought dead, therefore there is a proximate cause between the sustained injuries and death. Though he consumed alcohol it may not be a reason for his death but the doctor who did not say so. Therefore considering the facts and circumstances of the case and also the oral and documentary evidence this Court finds that the appellants caused injuries as mentioned in the Ex.P.4 and 7.

16. Though the learned counsel appearing for the appellants vehemently contended that due to age and consumption of alcohol the deceased himself fell down and thereby he sustained injuries, but, however the nature of injuries, opinion of the doctor show otherwise.



WEB COPY

17. On the side of the defence two witnesses were examined as D.W. 1 and D.W.2 and they have stated that there was a fight between the appellants and the witnesses during which they also sustained injuries. He stated that he gave a complaint but there is no such complaint on record and also he stated that he sustained injuries but he did not take any treatment. Further there is a delay in filing the complaint and sending the First Information Report to the Court and recorded the statements were also sent belatedly.

18. It is settled proposition of law mere defects or lapses in the investigation on the part of the investigating agency are not sole grounds to disbelieve the case of prosecution and also the evidence of prosecution witnesses. Further though the witnesses are relatives that is not a sole ground to discard the evidence. Even otherwise no embellishments or deliberation was established for the delay and mere delay is not fatal to the case of the prosecution.



WEB COPY

19. From the reading of the entire materials and the evidence of P.W.4, independent witness who is neighbour he has clearly stated that the appellants due to previous enmity attacked the deceased. P.W.4 was not even suggested by the defence counsel and also the presence of P.W.4 is acceptable.

20. Though the trial Court framed charge for the offence under Section 304 of IPC the trial Court has not stated reasons whether the commission of offence falls within the Section 304(i) of IPC or Section 304(ii) of IPC. However taking into consideration the nature of injuries, age of the deceased and also the medical reports showing that the deceased consumed alcohol and that the stomach and intestine contains alcoholic substances, this Court finds that the appellants have not committed the offence under Section 304(i) of IPC however the charge falls under Section 304 (ii) of IPC.

21. With the above modification, this Criminal Appeal stands partly allowed. The conviction under Section 304(i) of IPC passed by the



Cr1.A(MD)No.476 of 2022

learned Additional District and Sessions Judge, Ramanathapuram in S.C. No.138 of 2021 dated 07.06.2022 is set aside and instead, the appellants are convicted under Section 304(ii) of IPC. Accordingly, the sentence of life imprisonment passed by the Court below is set aside and the appellants are sentenced to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.5,000/-, in default, to undergo six months' simple imprisonment for the offence under Section 304(ii) of IPC. The period of sentence already undergone by the appellants shall be set off under Section 428 of Cr.P.C. as against the substantive sentence. The appellants are directed to surrender before the trial Court within a period of two weeks from the date of receipt of a copy of this order, failing which the trial Court is directed to take steps to secure them to undergo the remaining period of sentence.

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

27 .11.2025

Index : Yes/No

Internet : Yes/No

aav



Cr1.A(MD)No.476 of 2022

To

WEB COPY

- 1.The Additional District and Sessions Judge, Ramanathapuram
2. The Inspector of Police,
Bampan Police Station,
Ramanathapuram District
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Section Officer
Criminal Records,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



Cr1.A(MD)No.476 of 2022

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

aav

Cr1.A(MD)No.476 of 2022

27.11.2025