

WEB COPY

Cr1.A(MD)No.529 of 2022



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	24.06.2025
Pronounced on	30.07.2025

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

and

THE HONOURABLE MS.JUSTICE R.POORNIMA

Cr1.A(MD)No.529 of 2022

Kodiarasu : Appellant/Sole Accused

Vs.

The State Rep. By its

The Inspector of Police,

Palanichettipatti Police Station,

Theni.

: Respondent/Complainant

Prayer:-This Criminal Appeal is filed under Section 374 of Criminal Procedure Code, to call for the records and to set aside the judgment passed by the Fast Track Mahila Court, Theni, dated 03/03/2017 in SC No.23 of 2015 and acquit the appellant herein.

For Appellant : Mr.M.Jegadeesh Pandian

For Respondent : Mr.A.Thiruvadikumar

Additional Public Prosecutor



J U D G M E N T

A.D.JAGADISH CHANDIRA, J.,

This Criminal Appeal is filed against the judgment of conviction and sentence passed by the Fast Track Mahila Court, Theni, in SC No.23 of 2015, dated 03/03/2017.

2. By the above judgment the trial Court had convicted the accused and sentenced him, as detailed below:

Penal Provisions	Sentence of Imprisonment	Fine Amount
302 of IPC	Life Imprisonment	Rs.1000/- i/d to under go three months rigorous imprisonment
506(ii) of IPC	Seven years Rigorous Imprisonment	Rs.1000/- i/d to under go three months rigorous imprisonment
The sentences shall run concurrently		

3.The case of the prosecution in brief:-

The deceased is the daughter of the complainant. She was married to the accused 12 years prior to the date of the occurrence. They have two children namely Aishwariya and Muthuarasi. The accused suspected that his younger brother Manikandan was having illegal affair with his wife namely Chinna Ponnu and on account of that on 28.06.2014 at about 04.30 am, there was wordy altercation

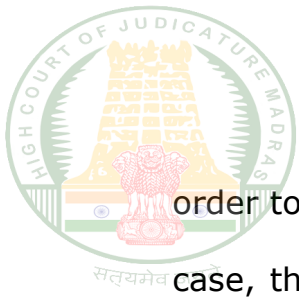


between the husband and wife. At that time, the accused caused stab injuries on his wife all over the body by knife. She was taken to the hospital, whereas she succumbed to the injuries on the way to Hospital. Upon the occurrence, on the basis of the complaint given by the complainant, a case in Crime No.436 of 2014 was registered by the respondent for the offences under sections 302 and 506(ii) IPC against the accused person.

3.1. After examining various witnesses and collecting reports from the experts, the Investigating Officer completed the investigation and filed final report in P.R.C.No.30 of 2014 before the learned Judicial Magistrate, Theni.

3.2. On appearance of the accused, the provisions of Section 207 of Cr.P.C., were complied with and the case was committed to the court Sessions and made over to the Fast Track Mahila Court, Theni in S.C.No.23 of 2015 for trial. The trial Court framed charges against the accused for the offences punishable under Sections 302 and 506(ii) of IPC

3.3. When questioned, the accused had stated that he does not know to say lies and he has pleaded guilty and admitted that he had committed the offence. However as required under law and in



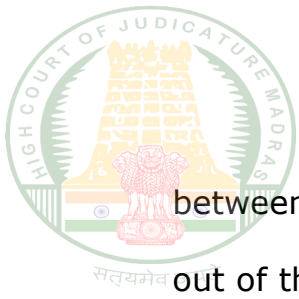
order to prove the charges the court had ordered for trial. To prove the case, the prosecution examined 22 witnesses and marked 12 exhibits and 7 material objects. On the side of the accused, no oral or documentary evidence was adduced.

3.4. After examination of witnesses when the appellant was questioned under Section 313 of the Code of Criminal Procedure on the incriminating circumstances appearing against him, he admitted the charges and pleaded guilty. No witness was examined on the side of the accused nor any document marked.

4. The Trial Court, after considering the evidence on record and hearing either side, by judgment and order dated 03.03.2017, convicted and sentenced the accused, as detailed in Paragraph No.2 supra. Challenging the above said conviction and sentence, the accused has filed the present appeal.

5.The case of the prosecution as culled out from the prosecution witnesses, is stated as follows:-

6.PW1 is the father of the deceased Chinna Ponnu. He is an Astrologer. The deceased is his third daughter and accused is the husband of the deceased and he is also an astrologer. The marriage



WEB COPY

between deceased and the accused was solemnized 12 year ago and out of the wedlock they have two female children aged about 10 and 7 respectively. From 2012 to 2014, there was a dispute between the deceased and the accused. The accused suspected that his wife having illegal intimacy with his younger brother and used to fight with her. Elders in the family used to compromise them. On 25/06/2014 and 26/06/2024, the accused had been arguing with his daughter for two days. The elders reconciled them. Again, on 27/06/2014 at about 07.30 pm, the accused argued with his wife. Again, there was a compromise by the elders. The accused and his family members were living upstairs of his house. On 28/06/2014 at about 04.30 am, when he had come out to go to the bathroom his son was also standing outside to go to the bathroom. Around 04.30 am, they heard an alarm from the house of the accused. So, he along with his son climbed the stairs and went to the house of the accused. At that time, the accused by asking his wife why she was not coming to sleep with him and asked her to go away and die and saying so stabbed her with a knife on her waist, left hand, and stomach. When he along with his son had gone to prevent the accused he had threatened them stating that if they come near he would stab them too and saying so got down the stairs and ran away. At that time, his grand-daughter Muthuarasi was at home and she was crying. So, they went down the stairs called the neighbours and took an auto to save his daughter and took her to the



Krishnammal Hospital. But on the way to the hospital, she died.

Thereafter, they had brought the body home and went to the police station and lodged the complaint under Ex.P1. He had identified the knife used by the appellant M.O.1.

7.PW2 is the brother of the deceased. He is also an Astrologer. He has deposed that the marriage between his sister and the accused took place 12 years ago. They have two daughters. The first one is Aishwariya and the second is Muthuarasi. During the year 2013 and 2014, there used to be frequent quarrel between his sister and the accused . When he had enquired the accused why he was beating his sister, he had told him that his sister was having illegal intimacy with somebody and was refusing to cohabit with him. He had further deposed that his house and the accused house were in the same street and that his sister's elder daughter would stay at his house in the night and the younger daughter was in his sister's house. On the date of the occurrence, they were sleeping upstairs in their house. He and his father used to wake up early and at about 4.30 am, his father had gone to the bathroom upstairs and he was standing outside the bathroom. At that time, he heard a noise of commotion from his sister's house. He along with his father went to the accused's house. the accused by asking his wife why she was not coming to sleep with him had asked her to go away and die and saying so



stabbed her with a knife on her waist, left hand, and stomach At that time, the accused took out a knife and stabbed in the chest, back and hand of his sister. At that time, Muthurasi was found standing next to the wall trembling . The accused came out with a blood stained knife and threatened that if he tries to apprehend him , he would stab him too. He ran down the stairs. He picked up his sister with blood and called the auto driver, who lives in their house. He, his uncle Saravanan and Sister Panchavarnam put his sister in the auto and went to the hospital. But on the way, his sister died. They brought the deceased back home. Then he went to the police station and informed the Inspector of the incident. They took the body to the K.V.Hospital for autopsy. After the autopsy, they handed over the body to his brother Manikandan.

8.PW3 is the minor daughter of the deceased and the appellant. She had deposed that she is residing in her grand-father's house and studying 3rd Standard in Palaniappa Vidyala Higher Secondary School. Her father is the accused. Her Sister name is Aishwarya. Her father namely the accused always used to fight with her mother. On the date of the occurrence, at about 4.00 am, her father abused her mother stating she is having affair with Manikandan and stabbed her mother by knife on the chest, back and hand region. At that time, she was standing near the door. When her Grand-father



and Uncle came there to prevent him, her father saying that if they come near, he would stab them too ran away from the house.

WEB COPY

9.PW4 is a neighbor. He has stated that prior to two years there used to be some minor problems between the accused and the deceased. Every time, the father of the deceased used to come and pacify them. The accused used to say that his younger brother and his wife were having an affair. On the previous day of occurrence there was a quarrel between the accused and the deceased on account of the suspicion. On the next day morning around 4.45 am, he heard a noise from the accused house. When he went to see the occurrence, he was informed that the accused had stabbed his wife with a knife and ran away.

10.PW5 is the brother of P.W.1. He has deposed that the deceased is his brother's daughter. The accused is the husband of the deceased. They were married 12 years ago and have two daughters namely Muthuarasi and Aishwarya. Two years before the occurrence, the accused suspected his wife of having an illicit relationship with his brother Manikandan due to which problem had arisen. At that time, village elders got together to pacify them. On the particular day of occurrence, he heard a noise in the house of the accused. When he enquired he came to know that the accused had stabbed his wife



Chinnaponnu with a knife. When he went upstairs, he saw Chinnaponnu lying in a pool of blood with stab injuries.. He along with his brother and sister-in-law took her to Krishnammal Hospital in an auto. But on the way to the hospital, she died.

11.PW6 is the sister of the accused. She has stated that the accused is his younger brother. The marriage between his younger brother and the deceased Chinnaponnu took place 12 years back. They have two daughters. On the particular date of the occurrence, she heard the noise from the accused's house. When she went to see, his younger brother stabbed his wife in the back 6 times with a knife. She and Saravanan took her to the hospital in an auto. But on the way to the hospital, she died.

12.PW7 is another neighbour. He has stated that the accused and the deceased Chinnaponnu got married 12 years ago. The accused was suspicious of his wife and would often beat her. Two years prior to the occurrence, the accused suspected that his wife was having an affair with his younger brother. In this regard, a panchayat was held in the presence of the village elders. Even two days prior to the date of occurrence, they advised the accused. In the meantime, on the next day at 06.45 am, the accused stabbed his wife and ran away from the scene of occurrence.

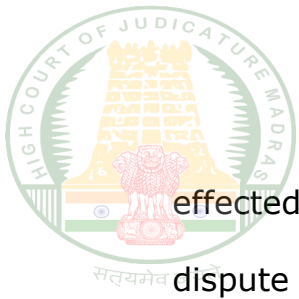


WEB COPY

13.PW8 is another neighbour. He has stated that on 28/06/2014 at about 7.15 am, he and Baburao were standing near the accused house. At that time, the police came, investigated and prepared rough sketch and observation mahazar. In the mahazar, he and Baburao signed as witnesses. The police seized the cement floor with blood stains and cement floor without blood stains from the scene.

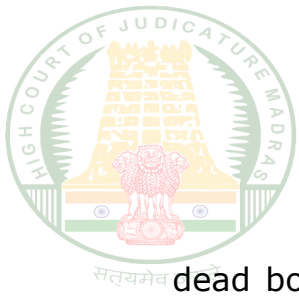
14.PW9 is the relative of the deceased. He has stated that the deceased is his sister's daughter. The accused and Chinnaponu got married 12 years ago. Two years prior to the date of the occurrence, the accused suspected that his wife was having an affair with his younger brother and there used be quarrel between them. Even two days prior to the date of the occurrence, they advised the accused. On the next day morning around 6.45 am, he had seen the accused running away towards the canal with the knife after stabbing his wife.

15.PW10 is the mother of the deceased. PW11 and PW12 are the sisters of the deceased. They have stated that the deceased got married to the accused 12 years ago and they lived happily for 10 years and have two children. There was a problem between the husband and the wife since he suspected that his wife was having an affair with his younger brother Manikandan. A compromise was



effected in the presence of the elders. On 27/06/2014, there was a dispute between the deceased and the accused. So, they went to the house of the accused and pacified them. The elder daughter of the deceased Aishwarya used to sleep at their house at night. On 28/06/2014 at about 04.30 am, they heard the crying noise in the house of the accused. The accused stabbed the deceased Chinnaponnu and ran away. She was taken to the hospital, whereas she died on the way.

16.PW13 is the Village Administrative Officer. He has stated that on 28/06/2014, when he was working as Village Administrative Officer of Veerapandi Village, at about 04.00 pm, he received an information through phone from the Inspector of Police, P.C.Patti Police station with regard to the investigation to be done in a murder that took place in P.C.Patti. So, he along with his Assistant Subburaj went to the police station, from there, they went to the place of occurrence place through the police jeep. At that time, the accused voluntarily gave a confession admitting to have murdered his wife with a knife and also confessed to having hidden the knife in a bush area. He identified and handed over the knife along with a pentax colour dothi which was worn by him. The admitted portion of confession statement is marked as Ex.A4 through Athachi Ex.A5. The pentax colour dothi was marked as MO4.



WEB COPY

17.PW17 is the Duty Doctor, who did postmortem on the dead body of the deceased Chinnaponnu on 28/06/2014 at 1.45 pm. He had found 11 injuries as noted by him in Ex.P6 (Postmortem certificate). According to him, death would occurred 8 to 12 hours prior to autopsy, as a result of shock and hemorrhage due to the injuries sustained by her.

18.PW18 who was working as Scientist in Forensic Lab, Madurai, during the relevant time, examined the articles sent to him and his report is marked as Ex.A8 and A9.

19. P.W. 19 Special Sub Inspector of Police had deposed that on the basis of the complaint, he had registered a case in Crime No. 436 of 2014 for the offences under sections 302 and 506(i) IPC on 28/06/2014 and sent the copies to higher authorities and court and handed over the case to P.W 22 for investigation. The printed FIR is marked as Ex.A9.

20. P.W. 20 is the elder daughter of the deceased and the appellant. She had deposed that her father suspected that her mother was having an illicit affair with his younger brother.



WEB COPY

21.PW22. Venkatachalapathy, is the Circle Inspector attached to P.C Patti Police Station. He had deposed about having taken up the investigation and that on 28/06/2014 at about 07.15 am, he had gone to the place of occurrence and prepared observation mahazar (Ex.P2) and sketch (Ex.P11) in the presence of the witnesses. From that place, he collected blood stained cement floor and sample cement floor under Athachi. The blood strained cement floor and normal cement floor, which are marked as MO2 and MO3. He recorded the statement of the witnesses. In continuation of investigation, he conducted inquest on the body of the deceased in the presence of the panchayadhars and other witnesses. Ex.P12 is the inquest report. Thereafter, he handed over the body to Vivekanandan Grade I PC for postmortem. Later, he recorded the statements of witnesses and after completing the recovery proceedings, he handed over the material objects to the court. He arrested the accused and enquired the accused in the presence of the Village Administrative Officer and Village Assistant. At that time, the accused voluntarily made a confession statement and pursuant to the same, the accused produced the knife (MO1) and pendex dothi (MO4), recovered from a place below the bush area. Thereafter, arrested the accused and recorded the statement of other witnesses and recorded the statement of child witness namely PW3 and PW20. After following the procedure, he sent the body for



postmortem through proper person and also sent material objects to Forensic Science Experts by giving requisition letter to the Judicial Magistrate, Theni. After recording the statement of the Doctor (PW17), who conducted postmortem and other experts and after completing the investigation, he filed a final report against the accused the accused under sections 302 and 506(ii) IPC. With that, the prosecution side evidence was closed.

22.At the conclusion of the trial, after hearing the arguments the trial court found the accused guilty, convicted and sentenced him as stated supra.

23.Assailing the judgment of conviction and sentence, this criminal appeal is preferred by the accused as appellant.

24.The learned counsel appearing for the appellant would submit that though the appellant is stated to have admitted the guilt at the time of framing charges and at the time of questioning under Section 313 of Cr.P.C., the burden is cast on the prosecution to prove its case beyond reasonable doubt. The trial Court failed to take into consideration the contradictions in the evidence of eye witnesses who are closely related to the deceased. The non examination of the brother of the appellant with whom the deceased was alleged to have



had illegal intimacy as spoken by most of the witnesses casts a suspicion on the prosecution case. In the alternative he would submit that even taking into consideration the evidence of witnesses to be true, the incident is stated to have taken place during quarrel on account of the deceased having an illicit affair with the brother of the appellant. Admittedly there were series of facts which had caused sudden provocation resulting in temporary loss of self control. As per the evidence of P.W.2, the father of the deceased and P.W 2 brother of the deceased they have admitted that there was frequent quarrel on account of suspicion of infidelity and that the deceased had refused to cohabit with him and in such circumstances the trial Court ought not to have convicted the appellant for culpable homicide amounting to murder. Further even as per the witnesses, the appellant said to have ran away immediately from the scene of occurrence and thereby there is no material available to prove the ingredients of offences under Section 506 (ii) of IPC. Further the appellant had repented for his act and by admitting to his guilt from the very beginning and at the time of questioning under section 313 Cr.P.C had expressed his remorse and would pray that taking into consideration the facts leading to the occurrence the sentence may be modified.

25. The learned Additional Public Prosecutor would submit that the appellant at the time of initial questioning and during



questioning under Section 313 of Cr.P.C. has admitted to the guilt. The prosecution by examining witnesses P.W.1 to P.W.22 and marking exhibits Ex.P.1 to Ex.P.12 and material objects M.O.1 to M.O.2 proved the case beyond reasonable doubts. Though motive for murder said to be on account of suspicion of infidelity, the accused had inflicted 11 injuries knowing well that it would cause death of the victim and the trial Court rightly finding that the victim has died on account of the injuries, held the appellant guilty of the offences. The trial court upon proper appreciation of the evidence had correctly come to a finding that the appellant is guilty of the offences committed and convicted him and thereby he seeks for dismissal of the appeal.

26. We have considered the submissions of the learned counsel for the appellant and the learned Additional Public Prosecutor for the State and consciously gone through the evidence and materials on record.

27. Admittedly, there is no dispute to the fact that the incident had been committed inside the house where the appellant was living with his wife/deceased and younger daughter. Occurrence has been witnessed by P.W.1, father of the deceased, P.W.2 brother of the deceased and P.W.3 daughter of the deceased and the appellant. They have vividly spoken about the accused committing the offence and

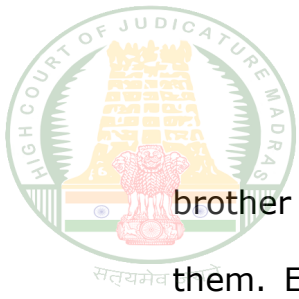


causing death of his wife. Apart from the above the case has been proved by the other witnesses who have corroborated about the occurrence and also by exhibits and material objects. In view of the above, we have no doubt that the appellant is the person who caused death of his wife.

28. The learned counsel appearing for the appellant placed alternate submission to the fact that the appellant was brooding sustained provocation on account of her illicit intimacy with his younger brother and that it had reached its peak on the date of incident due to the quarrel and the refusal of the deceased for cohabitation and the offence had been done in a fit of anger by using a knife from the house and it is also spoken by P.W.1 and P.W.2 who are witnesses to the occurrence.

29. The learned counsel further submitted that the appellant had right from the beginning had admitted the guilt and had expressed his remorse for his act.

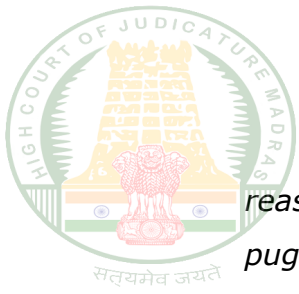
30. From the evidence, it is seen that the appellant is an astrologer and he used to go out and stay away from his family on account of his avocation and that during such time, the deceased/his wife is stated to have developed illicit intimacy with his younger



brother due to which there used to be frequent quarrels between them. Even on the date of occurrence, there was a quarrel and the deceased had refused to cohabit with him and thereby the incident had taken place due to sustained provocation which had reached its peak on the date of incident and due to temporary deprivation of power of self control. There is no evidence to show that the appellant had any premeditation or motive to commit the offence and there is evidence to show that it had been done in a fit of anger.

31. The Hon'ble Apex Court in the case of **Dauvaram Nirmalkar Vs. State of Chattisgarh (2023) 12 SCC 541** had recognized the theory of sustained provocation. The relevant paras are extracted here under:

"10. Interpreting Exception 1 to the Section 300 in K.M. Nanavati v. State of Maharashtra, 10 this Court has held that the conditions which have to be satisfied for the exception to be invoked are (a) the deceased must have given provocation to the accused; (b) the provocation must be grave; (c) the provocation must be sudden; (d) the offender, by the reason of the said provocation, should have been deprived of his power of self-control; (e) the offender should have killed the deceased during the continuance of the deprivation of power of self-control; and (f) the offender must have caused the death of the person who gave the provocation or the death of any other person by mistake or accident. For determining 10 1962 Supp (1) SCR 567. whether or not the provocation had temporarily deprived the offender from the power of self-control, the test to be applied is that of a



WEB COPY



reasonable man and not that of an unusually excitable and pugnacious individual. Further, it must be considered whether there was sufficient interval and time to allow the passion to cool. K.M. Nanavati (*supra*) succinctly observes:

"84. Is there any standard of a reasonable man for the application of the doctrine of "grave and sudden" provocation? No abstract standard of reasonableness can be laid down. What a reasonable man will do in certain circumstances depends upon the customs, manners, way of life, traditional values etc.; in short, the cultural, social and emotional background of the society to which an accused belongs. In our vast country there are social groups ranging from the lowest to the highest state of civilization. It is neither possible nor desirable to lay down any standard with precision: it is for the court to decide in each case, having regard to the relevant circumstances. It is not necessary in this case to ascertain whether a reasonable man placed in the position of the accused would have lost his self-control momentarily or even temporarily when his wife confessed to him of her illicit intimacy with another, for we are satisfied on the evidence that the accused regained his self-control and killed Ahuja deliberately.

85. The Indian law, relevant to the present enquiry, may be stated thus: (1) The test of "grave and sudden" provocation is whether a reasonable man, belonging to the same class of society as the accused, placed in the situation in which the accused was placed would be so provoked as to lose his self-control. (2) In India, words and gestures may also, under certain circumstances, cause grave and sudden provocation to an accused so as to bring his act within the First Exception to of the Indian Penal Code. (3) The mental background created by the previous act of the victim may be taken into consideration in ascertaining whether the subsequent act caused grave and sudden provocation for committing the offence. (4) The fatal blow should be clearly traced



WEB COPY



to the influence of passion arising from that provocation and not after the passion had cooled down by lapse of time, or otherwise giving room and scope for premeditation and calculation.”

11. K.M. Nanavati (*supra*), has held that the mental background created by the previous act(s) of the deceased may be taken into consideration in ascertaining whether the subsequent act caused sudden and grave provocation for committing the offence. There can be sustained and continuous provocations over a period of time, albeit in such cases Exception 1 to of the IPC applies when preceding the offence, there was a last act, word or gesture in the series of incidents comprising of that conduct, amounting to sudden provocation sufficient for reactive loss of self-control. K.M. Nanavati (*supra*) quotes the definition of ‘provocation’ given by Goddard, C.J.; in R. v. Duffy,¹¹ as :

“...some act or series of acts, done by the dead man to the accused which would cause in any reasonable person, and actually causes in the accused, a sudden and temporary loss of self-control, rendering the accused so subject to passion as to make him or her for the moment not master of his own mind...[I] indeed, circumstances which induce a desire for revenge are inconsistent with provocation, since the conscious formulation of a desire for revenge means that the person had the time to think, to reflect, and that would negative a sudden temporary loss of self-control which is of the essence of provocation...”.

12. The question of loss of self-control by grave and sudden provocation is a question of fact. Act of provocation and loss of self-control, must be actual and reasonable. The law attaches great importance to two things when defence of provocation is taken under Exception 1 to of the IPC. First, whether there was an intervening period for the passion to cool and for the accused to regain dominance and control over his



WEB COPY

mind. Secondly, the mode of resentment should bear some relationship to the sort of provocation that has been given. The retaliation should be proportionate to the provocation.¹² The first part lays emphasis on whether the accused acting as a reasonable man had time to reflect and cool down. The offender is presumed to possess the general power of self-control of an ordinary or reasonable man, belonging to the same class of society as the accused, placed in the same situation in which the accused is placed, to temporarily lose the power of self-control. The second part emphasises that the offender's reaction to the provocation is to be judged on the basis of whether the provocation was sufficient to bring about a loss of self-control in the fact situation. Here again, the court ¹² See the opinion expressed by Goddar, CJ. in *R v. Duffy* (supra) would have to apply the test of a reasonable person in the circumstances. While examining these questions, we should not be short-sighted, and must take into account the whole of the events, including the events on the day of the fatality, as these are relevant for deciding whether the accused was acting under the cumulative and continuing stress of provocation. Gravity of provocation turns upon the whole of the victim's abusive behaviour towards the accused. Gravity does not hinge upon a single or last act of provocation deemed sufficient by itself to trigger the punitive action. Last provocation has to be considered in light of the previous provocative acts or words, serious enough to cause the accused to lose his self-control. The cumulative or sustained provocation test would be satisfied when the accused's retaliation was immediately preceded and precipitated by some sort of provocative conduct, which would satisfy the requirement of sudden or immediate provocation.

13. Thus, the gravity of the provocation can be assessed by taking into account the history of the abuse and need not be confined to the gravity of the final provocative act in the form of



WEB COPY



acts, words or gestures. The final wrongdoing, triggering off the accused's reaction, should be identified to show that there was temporary loss of self-control and the accused had acted without planning and premeditation. This has been aptly summarised by Ashworth¹³ in the following words: "[T]he significance of the deceased's final act should be considered by reference to the previous relations between the parties, taking into account any previous incidents which add colour to the final act. This is not to argue that the basic distinction between sudden provoked killings and revenge killings should be blurred, for the lapse of time between the deceased's final act and the accused's retaliation should continue to tell against him. The point is that the significance of the deceased's final act and its effect upon the accused – and indeed the relation of the retaliation to that act – can be neither understood nor evaluated without reference to previous dealings between the parties." Exception 1 to Section 300 recognises that when a reasonable person is tormented continuously, he may, at one point of time, erupt and reach a break point whereby losing self-control, going astray and committing the offence. However, sustained provocation principle does not do away with the requirement of immediate or the final provocative act, words or gesture, which should be verifiable. Further, this defence would not be available if there is evidence of reflection or planning as they mirror exercise of calculation and premeditation.

14. Following the view expressed in *K.M. Nanavati* (supra), this Court in observed that in the test for application of Exception 1 to f the IPC, the primary obligation of the court is to examine the circumstances from the point of view of a person of reasonable prudence, if there was such grave and sudden provocation, as to reasonably conclude that a person placed in



WEB COPY



such circumstances can temporarily lose self-control and commit the offence in the proximity to the time of provocation. A significant observation in (supra) is that the provocation may be an act or series of acts done by the deceased to the accused resulting in inflicting of the injury. The idea behind this exception is to exclude the acts of violence which are premeditated, and not to deny consideration of circumstances such as prior animosity between the deceased and the accused, arising as a result of incidents in the past and subsequently resulting in sudden and grave provocation. In support of the aforesaid proposition and to convert the conviction from Section 302 to Section 304 Part I of the IPC in Budhi Singh (supra), the Court also relied upon Rampal Singh v. State of Uttar Pradesh”.

32. Though during the incident the appellant had inflicted eleven stab injuries during the occurrence, from the evidence it is seen it was sudden in the heat of passion and fit of anger and was not a premeditated one. The Hon'ble Apex Court in the case of **Surain Singh .vs State of Punjab**, reported in **(2017)5 SCC 796**, has held that number of wounds caused during the occurrence is not a decisive factor but what is important is that the occurrence must have been sudden and unpremeditated and the offender must have acted in a fit of anger. Of course, the offender must not have taken any undue advantage or acted in a cruel manner. Further after the incident though the appellant is said to have threatened P.W.1 and P.W.2 not to



apprehend him he had immediately ran away from the place of occurrence and thereby we find that the ingredients of Section 506(ii) of IPC is not attracted.

33. Thus, in entirety, considering the factual scenario of the case on hand, the legal evidence on record and in the background of legal principles laid down by this Court in the cases referred to supra, the inevitable conclusion is that the act of the appellant-accused was not on account of premeditation and the accused did not take undue advantage of the deceased. The occurrence had taken place in the heat of passion and the accused had sudden temporary loss of self control and did not have time to reflect which seems to be actual and reasonable and thereby all the requirements under Exception 4 under Section 300 of IPC has been satisfied. Therefore, the benefit of Exception 4 under Section 300 of IPC is attracted to the fact situation and the appellant-accused is entitled to this benefit.

34. In the result:

i) This Criminal Appeal is partly allowed.

ii) The conviction under Section 302 of IPC passed by the Fast Track Mahila Court, Theni, in SC No.23 of 2015, dated 03/03/2017 is modified into one under Section 304(ii) of IPC and the appellant is sentenced to undergo 10 years rigorous imprisonment



with a fine of Rs.1000/- in default to undergo three months rigorous imprisonment.

WEB COPY

iii) The appellant is acquitted from the charge under Section 506(ii) of IPC. Fine amount, if paid, by the appellant thereunder shall be refunded to the appellant.

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

(A.D.J.C.,J.) (R.P.J.,)

30.07.2025

Index : Yes/No
Internet : Yes/No
aav

Note: Registry is directed to issue order copy today (31.07.2025)



Cr1.A(MD)No.529 of 2022

To,

1.The Sessions Judge,
Fast Track Mahila Court,
Theni.

2.The Inspector of Police,
Palanichettipatti Police Station,
Theni 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.

5. The Superintendent
Central Prison, Madurai



WEB COPY



CrI.A(MD)No.529 of 2022

A.D.JAGADISH CHANDIRA,J.

and

R.POORNIMA,J.

aav

CrI.A(MD)No.529 of 2022

30.07.2025