



Cr1.A(MD)No.671 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	04.11.2025
Pronounced on	20.11.2025

CORAM :

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

Cr1.A(MD)No.671 of 2024

Karuppasamy

... Appellant

vs.

State Represented by
The Inspector of Police,
Kadambur Police Station,
Thoothukudi District.
(Crime No.7 of 2019)

... Respondent

Prayer:- This Criminal Appeal filed under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records and set aside the judgment dated 24.06.2024 made in S.C.No.137 of 2019 on the file of the I Additional District and Sessions Court, Thoothukudi.

For Appellant : Mr.A.Jayaramachandran
For Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor



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JUDGMENT

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

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This Criminal Appeal has been filed by the appellant/A3 to call for the records and set aside the judgment passed by the learned I Additional District and Sessions Judge, Thoothukudi, in S.C.No.137 of 2019 dated 24.06.2024 and acquit him.

2. The case of the prosecution is that the deceased Annadurai, his wife/PW1 and their daughter-in-law/Premalatha were living in Melaparaipatti. A1 and the son of the deceased namely, Harikrishnan were friends and therefore, A1 used to visit the house of deceased. About 1½ years ago, Harikrishnan went abroad for job. The said Premalatha and Annadurai went to Kadambur police station on 17.09.2018 and lodged a complaint that A1 went to the house of Harikrishnan and tried to misbehave with his wife/Premalatha. Based on the said complaint, a case was registered in Crime No.126/2018 for the offences under Sections 294(b), 352, 354 and 506(ii) of IPC. Pursuant to the same, A1 was remanded to judicial custody. In the said case, A1



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was released on bail, and thereafter A1 continued to harass the said

Premalatha, due to which, she went to her relative's house at Tirunelveli.

Enraged by the act of the said Annadurai in sending A1 to jail, A1 developed enmity against the said Annadurai and with an intention to murder him, A1 along with his relatives i.e., A2 and A3 armed with billhooks trespassed into the house of Annadurai. A1 assaulted with billhook on the neck of the deceased and A2 & A3 assaulted with billhook on his neck and cheek. On hearing the noise of the deceased Annadurai, PW1, PW3 to PW7 and PW11 gathered in the place of occurrence and A1 to A3 scolded and threatened them and ran away from the place of occurrence with billhooks. Due to the cut injuries, Annadurai died on the spot. On the complaint of PW1/wife of the deceased, the respondent/police registered a case in Crime No.7 of 2019 against A1 to A3 for the offences under Section 449, 294(b), 302 and 506(ii) of IPC. After investigation, the respondent/police laid a charge sheet before the Judicial Magistrate Court No.II, Kovilpatti, and the same was taken on file in PRC.No.51 of 2019. 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.



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The learned Principal District and Sessions Judge has taken the above case on file in S.C.No.137 of 2019 and made over the case to the I Additional District and Sessions Court, Thoothukudi, which framed the charges against A1 for the commission of offences under Sections 449, 294(b), 302 and 506(ii) of IPC and against A2 & A3 for the offences under Sections 449, 302 and 506(ii) of IPC. In order to substantiate the case during trial, on the side of the prosecution, totally 22 witnesses were examined as PW1 to PW22 and 29 documents were marked as Exs.P1 to Ex.P29, besides 16 material objects were exhibited as MO1 to MO16. On the side of the defence, one witness was examined as DW1 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 to A3 for the offence under Section 449 of IPC and sentenced to undergo life



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imprisonment each with the fine of Rs.5,000/- each, in default to undergo six months simple imprisonment. The trial Court also convicted A1 to A3 for the offence under Section 302 of IPC and sentenced to undergo life imprisonment each with the fine of Rs.5,000/- each, in default to undergo six months simple imprisonment. The trial Court acquitted A1 to A3 from the charges under Sections 294(b) and 506(ii) of IPC. The sentences were ordered to be run concurrently. Aggrieved over the same, the appellant/A3 has filed the present appeal before this Court.

4. The learned counsel for the appellant/A3 would submit that; the trial Court passed the judgment of conviction against the appellant without even appreciating the vital contradictions in the evidence of the prosecution witnesses; there is unexplained delay in lodging the complaint-Ex.P1 when the respondent police station is situated within 4 kms away from the place of occurrence; the trial Court failed to consider the evidence of PW1, where she had stated that she had seen the appellant and other accused at the police station and identified them that itself would prove that the accused have been made



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as patsy to help the real culprits to escape from the clutches of law; the police did not recover the bloodstained saree from PW1 to prove the presence of PW1 in the place of occurrence; when PW1 herself stated that her daughter in law/PW11 was immoral which was also questioned by the deceased, there is every possibility of the brothers of PW11 to commit the crime which the trial Court failed to take note of; PW1 who is said to be the sole eye-witness has not attributed specific overt act against the accused which creates doubt over her presence in the place of occurrence; PW2 and other prosecution witnesses did not depose that A3 had previous enmity with the deceased; though PW1 stated that in Ex.P1-complaint, PW3 stood as a witness, PW3 categorically denied the same which itself is sufficient to discard PW3's evidence; only to rope in the appellant and A1, the brothers of PW11 namely, PW7 and his brother Praveen were let off by the police without enquiring them properly; even PW9-son of the deceased himself stated that there was no enmity between the deceased and this appellant; no independent witnesses were examined to prove arrest, recovery and confession of the appellant; even PW20-VAO himself stated that his signature was obtained in the police station which creates doubt over the



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recovery and confession of the appellant; PW21-investigating officer did not take steps to recover the bloodstained dresses from the witnesses, denied the custody of the brothers of PW11, denied the evidence of PW3 that A1 made life threat to him, failed to submit ownership document relating to the two wheeler alleged to have been used by A1, thereby, the investigation conducted by PW21 is a defective one; there was a delay of five months in dispatching the statement of witnesses under Section 161 Cr.P.C which creates serious doubt over the fairness of the investigation and that there are various inconsistencies and material contradictions in the evidence of the prosecution witnesses and also there was material improvement in the version of the prosecution witnesses. Thus, the learned counsel would submit that the prosecution has not proved its case beyond reasonable doubt and therefore, the appellant is entitled to acquittal by giving benefit of doubt.

5. The learned Additional Public Prosecutor would submit that the prosecution has proved the motive by examining the eye-witness and further, the appellant also gave confession statement, based on that, recovery was effected. The doctor who conducted the



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postmortem also has clearly stated that the death of the deceased is homicide and Exs.P7-postmortem certificate shows that the deceased sustained multiple injuries on the vital parts which caused the death. Further, PW1 who is an eye-witness and none other than the wife of the deceased has clearly spoken about the specific overt act against the appellant and therefore the prosecution has proved its case beyond reasonable doubt and therefore there is no merit in this appeal.

6. Heard both sides and perused the records.

7. The specific case of the prosecution is that A1 who is the friend of the son of the deceased used to visit the house of the deceased and misbehaved with PW11-daughter-in-law of the deceased. Therefore, the deceased gave a police complaint, in which, the deceased was arrested, due to which, A1 developed enmity and after release on bail, in order to wreak vengeance, A1 along with A2 and A3 armed with deadly weapons trespassed into the house of the deceased, at that time the deceased was sleeping, even then A1 to A3 caused cut injuries on the neck and cheek of the deceased with billhooks and due to the cut



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injuries, the deceased died on the spot and thereafter the accused ran away with the weapons from the place of occurrence. Based on the complaint of PW1/wife of the deceased, a case was registered in Crime No.7/2019 for the offences under Section 449, 294(b), 302 and 506(ii) of IPC. After investigation, the police laid a charge sheet before the jurisdictional Magistrate's Court. The trial Court framed the charges against A1 for the commission of offences under Sections 449, 294(b), 302 and 506(ii) of IPC and against A2 & A3 for the commission of offences under Sections 449, 302 and 506(ii) of IPC. In order to substantiate the case during trial, on the side of the prosecution, totally 22 witnesses were examined as PW1 to PW22 and 29 documents were marked as Exs.P1 to Ex.P29, besides 16 material objects were exhibited as MO1 to MO16. On the side of the defence, the Head Clerk working in the Judicial Magistrate Court No.II, Kovilpatti, was examined as DW1 and she marked Exs.D1 and D2-FIR in Crime No.126/2018 and certified copy of the judgment in C.C.No.266/2018 dated 01.04.2021 which shows that A1 was acquitted.



8. Out of the 22 witnesses, PW1 is the eye witness who

has clearly spoken about the occurrence. PW1/wife of the deceased has spoken about the motive between the appellant and the deceased. She further stated that A1 and the son of the deceased were friends and the son of the deceased was working in Dubai. Taking advantage of the friendship and also the absence of the son of the deceased, A1 used to visit the house of the deceased frequently and developed illicit intimacy with PW11-daughter-in-law of the deceased. At one point of time, A1 harassed her and therefore, the deceased made a complaint and based on the said complaint, A1 was arrested and subsequently released on bail. A1 thought that the deceased was the cause for his arrest and also caused hindrance to meet his daughter-in-law and hence decided to kill the deceased. Accordingly, A1 to A3 armed with deadly weapons namely, billhooks trespassed into the house of the deceased and all the 3 accused caused cut injuries due to which the deceased died on the spot. PW1 raised alarm on seeing the accused assaulting the deceased with billhooks. PW2-brother-in-law of the deceased rushed to the spot and thereafter took PW1 to the police station for giving the complaint.



9. PW1 to PW3 have clearly spoken about the enmity between A1 and the deceased. Through PW9 to PW11, the prosecution established the motive behind the murder. PW1 has categorically stated that all the three accused attacked the deceased with billhooks and she raised alarm and on hearing the same, PW2 came to the spot. PW3 also clearly stated that on hearing the voice of PW1, he came to the spot, at that time, the accused threatened them and ran away with weapons. Thereafter, he along with PW1 went to the police station and gave the complaint. The police arrested the accused and they gave confession statement pursuant to which, weapons used for the commission of the offence were recovered. Exs.P10, 22 and 23 are the confession statements of the accused. Exs.12, 14 and 21 are the signatures of PW20-VAO in the confession statements. Therefore, the recovery was proved by the prosecution and the recovered materials were also sent to forensic lab for analysis. The doctor who conducted the postmortem on the body of the deceased was examined as PW16 who has spoken about the antemortem injuries. PW15-Scientific Expert working in the Forensic Science Laboratory, Tirunelveli, has issued Ex.P2-Forensic Science Lab report stating that human blood detected in the recovered materials.



10. A combined reading of the evidence of PWs.1 to 3, 9 to

11 shows that the motive has been established. Even otherwise, in this case, there is an eye-witness/PW1 who is the wife of the deceased and her evidence is consistent, cogent, reliable and credible and there is no reason to discard the evidence of PW1. The occurrence took place inside the house of the deceased and PW1 has clearly stated that all the accused including the appellant, trespassed into the house and attacked her husband with billhooks and the same were recovered in the presence of PW20-VAO based on the confession statements of the accused and the recovered materials were also sent to forensic lab for analysis.

11. The main defence taken by the appellant is that the appellant has no enmity with the deceased and the presence of the appellant is not proved and also the appellant is no way connected with this case. But however, the appellant has not stated so in 313(1)(b) Cr.P.C proceedings. The accused need not prove his innocence and it is the duty of the prosecution to prove its case, but however, the defect in the investigation is not the sole ground for disbelieving the case of the prosecution and the accused are not entitled for acquittal on that ground.



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In this case, the occurrence took place in the house of the deceased and PW1/wife of the deceased saw the occurrence and also stated about the overt act against the appellant that the appellant/A3 also attacked her husband with billhook. Therefore, there is no dispute regarding the identification of the accused by PW1. The evidence of PW1 is also corroborated by Ex.P7-postmortem certificate and the medical evidence also tallied with the ocular evidence.

12. In cases of this nature, it is not the quantity of evidence but the quality of evidence is enough to prove the case of the prosecution. Many of the prosecution witnesses have clearly spoken about the enmity between the deceased and A1 and also the involvement of this appellant in the crime. The appellant who is the friend of A1 in order to help A1 to take away the life of the deceased, accompanied with A1 and attacked the deceased with deadly weapons. The opinion of the doctor who conducted the postmortem also strengthens the case of the prosecution. The discrepancies and contradictions pointed out by the defence counsel are not material contradictions which would go to the root of the prosecution case. This



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Court as an appellate court and also a final court of fact finding while re-appreciating the entire evidence, does not find any perversity in the appreciation of evidence by the trial Court. Hence, this Court finds no reason to interfere with the judgment and sentence of the trial Court. There is no merit in this appeal.

13. Accordingly, this Criminal Appeal is dismissed.

[P.V, J.] [L.V.G, J.]
20.11.2025

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

1. The I Additional District and Sessions Judge,
Thoothukudi.

2. The Inspector of Police,
Kadambur Police Station,
Thoothukudi District.

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



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



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

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PRE-DELIVERY JUDGMENT MADE IN
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DATED : 20.11.2025