



Crl.A(MD)No.988 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 24.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

AND

THE HONOURABLE MS.JUSTICE R.POORNIMA

Crl.A(MD)No.988 of 2025

Chuzhiyan @ Karuppasamy

... Appellant/sole accused

Vs.

1.State of Tamil Nadu,
rep. by The Inspector of Police,
Pudhyamputhoor Police Station,
Thoothukudi District.

(Crime No.83/2009)

...Respondent No.1/ Complainant

2.The Member Secretary,
Tamil Nadu Legal Services Authority,
Chennai.

3.The Registrar (Judicial),
High Court, Madras.

4.The Registrar (Judicial)
Madurai Bench of Madras High Court,
Madurai.

... Respondents 2 to 4

(R2 to R4 are suo mottu impleaded as per order of this
Court dated 29.08.2025.)



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PRAYER : Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code to call for the entire records and set aside the conviction rendered in Judgment dated 03.04.2012 made in S.C.No.214 of 2011 on the file of the Additional District and Sessions Judge, Fast Track Court No.1, Thoothukudi, by allowing the Criminal Appeal.

For Appellant : Mr.Mithun,
Legal Aid Counsel

For Respondents : Mr.B.Nambi Selvan, - for R1
Additional Public Prosecutor
Mr.D.Sivaraman – for R4

JUDGMENT

(Judgment of this Court was delivered by **R.POORNIMA, J.**)

This Criminal Appeal is filed against the conviction and sentence passed against the appellants/accused in the judgment dated 03.04.2012 made in S.C.No.214 of 2011 by the Additional District and Sessions Judge, Fast Track Court No.1, Thoothukudi, in which judgment, Accused had been convicted for offence punishable under Section 302 of IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.1,000/- in default to undergo one year rigorous imprisonment.



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

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(a) On 05.06.2009, at about 11.00 p.m., the complainant who is the son of the deceased Muniyandi, was proceeding on his bicycle to purchase fish. At that time, he witnessed inside the compound of Pudur Pandiya Puram, near VGP Panneerpuram Real Estate that his Uncle (accused), attacked his father by holding his head and hitting against the floor, he also noticed that the watchman Paramasivan also witnessed the occurrence. Immediately thereafter he proceeded to the place of occurrence and questioned the accused regarding the reason for assaulting his father. Immediately, the accused Karuppasamy turn against him, during which time, his father succeeded in freeing himself from the clutches of the accused and ran towards eastern side of that building and fell down. At that time, his Uncle, the Accused took a stone and struck it on his head. While he was questioned about the same, he abused him, stating that his father was not giving him money for food and had even broken his leg too. He also threatened that he would also kill him. Due to fear, he ran away from the place of occurrence. After sometime, he returned and found his father's dead body lying about 20 feet distance away from the watchman room with injuries on head, face, etc. The blood that had oozed from the body of the deceased had been wiped off.



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On enquiry, the Watchman Paramasivam informed that he was the one who wiped off the blood stains. A Gold ring weighing about-3/4 sovereigns was found missing from his dead body. Immediately, he went to his village and informed the incident to his relative Manimaran (P.W.2) and lodged the complaint (Ex.P1).

(b) The complaint Ex.P1 was received at 4.00 a.m., on 06.06.2009 by PW9, Thiru.Muthu Swamy, Head Constable 1869, Puliamputhur Police Station. He registered FIR in Crime No.83 of 2009 for the offence under Sections 302, 379 and 201 IPC against Suzhian @ Karuppu Swamy and Paramasivam under Ex.P.12. He forwarded the FIR along with the complaint to the Judicial Magistrate No.1, Thoothukudi, through Constable Subbaiah-P.W.10 and submit a copy of the FIR to the Inspector of Police.

(c) P.W.14-Thiru.Karunanidhi, Inspector of Police, after receipt of the information through telephone came to the Police station and received the FIR from the Head Constable and commenced the investigation. On 06.06.2009 at about 5.30 a.m., he went to the place of occurrence and prepared observation mahazar (Ex.P.3), rough sketch (Ex.P4) in the presence of witnesses Palani Kumarasamy (P.W.4), Village Administrative Officer and one Bommu. Thereafter, he conducted



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inquest on the dead body in the presence the witnesses and prepared

inquest report Ex.P.20.

(d) Thereafter, at about 8.15 am, he recovered blood stained soil (M.O.2), ordinary soil (M.O.3), blood stained cement concrete (M.O.6) from the watchman room, ordinary cement concrete (M.O.7), pair of paragon slipper (M.O.4), blood stained shawl (M.O.5), stone (M.O.1) under a recovery mahazar-Ex.P.5. In order to know the original cause of death, he send the dead body to the Government Hospital, Thoothukudi, through a Police Constable for postmortem.

(e) Thereafter he examined the witnesses Marimuthu, Manimaran (P.W.2), Pandaram, Periyasamy (P.W.5), Palani Kumarasamy (P.W.4), Bommusamy and recorded their statements.

(f) On 07.06.2009 at about 5.00am, he arrested the accused Paramasivam near Naduvakurichi Bus stand in the presence of Periyasamy (P.W.5), Paramasivam and recovered blood stained green colour brief-M.O.11, Lungi-M.O.12 under a recovery mahazar-Ex.P21 He forwarded the material objects under Form-95 to the concerned Judicial Magistrate Court.

(g) Thereafter, he sent the accused to remand. Thereafter, he examined Periyasamy (P.W.5), Selvan and recorded their statements.



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(h) On 10.06.2009 at about 6.30 a.m., he arrested the accused

Chuzhiyan @ Karuppasamy in Samynatham Bus stop in the presence of Duraipandi (P.W.6), Ravi (P.W.7) and recorded his confession statement and recovered light green colour full hand shirt-M.O.13, gold ring weighing 4 gms (not marked) under a recovery mahazar-Ex.P.22 and sent him to judicial custody.

(i) On 08.07.2009 he handed over the files to Puthiyamputhur Inspector of Police. Thereafter, P.W.15 - Thiru. Rengasamy, took up the case for further investigation and went to the place of occurrence and examined the witnesses. On 20.08.2009, he examined the Head Constable Muthusamy (P.W.9), Constable Subbaiah (P.W.10) and recorded their statements.

(j) On 26.08.2009, he examined Dr.Selvaraj (P.W.12) who had conducted autopsy on the dead body.

(k) P.W.12-Dr.Selvaraj, issued a post-mortem report and final opinion Ex.P.16 in which he mentioned the injuries as follows:-

“APPEARANCE FOUND AT THE POSTMORTEM:

Well-nourished body of a male. Finger and toenails pale.

Dried blood-stains noted over the entire face.

Traumatic disarticulation of front 4 teeth from their socket on the upper jaw.



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Face disfigured. Lacerated wound back of scalp, 10 x 2 cm x bone deep.

Lacerated wound center of scalp, 8 x 2 cm x bone deep.

Both the maxillary bones of face found fractured comminutely.

On dissection of scalp skull and dura: Marked subscalpal contusion over the entire scalp.

Comminuted fracture of entire vault of the skull. Marked subdural and subarachnoid hemorrhage noted over both cerebral hemispheres. Laceration of cerebral hemisphere in the upper convexity. Ventricular hemorrhage noted in the lateral ventricles. Intracerebral hemorrhage also noted diffusely. Base of the skull: All the bones fractured.

Peritoneal and pleural cavities: Empty. Heart: Normal. Coronaries: Patent. Lungs: Pale. Hyoid bone: Intact. Stomach: Contains 200 gms of cooked rice food particles in early phase of digestion with nil specific smell. Mucosa: Pale. Small intestine: Contains 20 ml of bile stained fluid with nil specific smell. Mucosa: Pale. Liver, spleen and kidneys : Pale. Bladder : Empty.

Opinion as to cause of death :

The deceased would appear to have died of crush injury to head and brain.”



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WEB COPY (1) The Investigating Officer, PW15 also sent a requisition letter (Ex.P.23) with a prayer to forward the material objects for chemical analysis. After completing the investigation, on 03.11.2009, he filed a charge sheet against the accused for the offence under Sections 302, 201 and 379 IPC.

3. On receipt of the records, the Judicial Magistrate No.I. Thoothukudi, took up the case in P.R.C.No.24 of 2010 and issued summons to the accused. After the appearance of the accused, copies of the entire records were furnished to them free of cost under Section 207 Cr.P.C

4. Since the offence is exclusively triable by a Court of Session, the learned Judicial Magistrate committed the case records to the Principal District and Sessions Judge, Thoothukudi, under Section 209(A) Cr.P.C. for further action.

5. The Principal District and Sessions Judge, Thoothukudi, received the case records and numbered it as S.C.No.214 of 2011 and



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made it over to the Additional District and Sessions Judge, Fast Track Court No.1, Thoothukudi.

6. On receipt of the records, the Additional District and Sessions Judge, Fast Track Court No.1, Thoothukudi, framed charges against the accused under Sections 302 and 379 IPC. The charges were read over and explained to the accused. The accused denied the charges and claimed to be tried. Therefore, the case was posted for trial.

7. On the side of the prosecution, P.W.1 to P.W.15 were examined and Ex.P1 to Ex.P23 were marked. Material Objects M.O.1 to M.O.13 were produced. On the side of the accused, neither oral nor documentary evidence was examined.

8. On conclusion of trial, the learned Additional District and Sessions Judge, Fast Track Court No.1, Thoothukudi, convicted the accused and sentenced him to undergo Life Imprisonment and to pay a fine of Rs.1,000/-, in default to undergo one year RI for the offence under Section 302 IPC. In so far the charge framed under Section 379 IPC, he was not found guilty and he was acquitted from that charge.



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9. Challenging the judgment of conviction and sentence of

the Trial Court, the present Criminal Appeal has been filed by the appellant/accused on the following among other grounds:-

(i) The learned Trial Judge failed to consider that the occurrence took place around 11.30 p.m on 05.06.2009, but to the contrary, the evidence of P.W.3 namely one Ponnuvanam deposed that P.W.I came to her house at 11.00 p.m, on 05.06.2009 and informed about the incident is totally unbelievable and fatal to the case of the prosecution.

(ii) The learned Trial Judge failed to consider the fact that the occurrence took place at 11.30 p.m, but PW.I went to the Police Station around 4.00 a.m., on 06.06.2009 the very next day and lodged the complaint, there is un-explained delay of four and half hours. Further. FIR has been reached to the Judicial Magistrate Court only on 06.06.2009 at 12.30 pm and the inordinate delay has not been explained by the prosecution.

(iii) The learned Trial Judge failed to consider the fact that the offence under Section 379 of IPC was not attracted in this case, since the ring was not stolen by the accused at any point of time; From this aspect, it is clearly revealed that the entire case was false and the accused unnecessarily roped into this case as scape goat.



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(iv) The learned Trial Judge failed to consider the fact that the witnesses P.W.5, P.W.6, P.W.7 were turned hostile and not supported the case of the prosecution; All the three witnesses stood for arrest, confession and recovery as the most important witnesses for the prosecution, but not supporting the case of the prosecution; From this aspect, it clearly reveals that the entire case is false and falsely foisted against the appellant.

(v) The learned Trial Judge failed to consider the fact that as per the evidence of P.W.1, he could not be an occurrence witnesses since he had deposed that he had seen the occurrence from the distance of 500 feet at the night time; From this vital aspect, the case projected by the prosecution is totally false and P.W.1 is planted witness.

Hence, he prayed to set aside the judgment of the trial Court and to acquit the accused from all charges.

10. The learned Additional Public Prosecutor appearing for the State contended that P.W.1 is the eyewitness to the occurrence, his evidence was supported by medical evidence under Ex.P.16. He further stated that the gold ring which was robbed by the accused was recovered from the accused under Ex.P.22 in the presence of the witnesses



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Duraipandi and Ravi and the arrest, confession, recovery was clearly proved by the prosecution. Further, the weapon (stone-M.O.1) used for the occurrence, also seized by the Police under a recovery mahazar-Ex.P. 5. He further contended that except P.W.1, no other witnesses to the occurrence, as the occurrence happened during night hours and so, there is no much possibility to the other witnesses to witness the occurrence and therefore, argued that there is no merit in the criminal appeal and the criminal appeal is liable to be dismissed.

11. Heard the learned counsel appearing on either side and perused the materials available on record.

12. Now this Court has to decide whether the prosecution has proved the guilt of the accused beyond reasonable doubt, by cogent evidence; and whether the judgment of the trial Court is right in recording the conviction or liable to be set aside?

13. We carefully analysed the entire records and evidence.

14. On a perusal of records, we found that except P.W.1 who



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is the eyewitness and son of the deceased, none of the witnesses supported the case of the prosecution. It is well settled that conviction may be recorded on the testimony of a solitary eye witness, provided the Court finds such evidence to be credible and trustworthy. In the present case, PW.1 initially lodged a complaint Ex.P.1 against two persons viz., the present appellant and Paramasivam, the Watchman. The learned Additional Public Prosecutor brought to the notice of this Court that the second accused had died before the commencement of the trial and consequently, the case now survives only against the first accused. According to the prosecution, P.W.I son of the deceased is an eye witness to the occurrence. During his chief examination, he stated that, his father had been residing in a building at VIP Panneer Kulam, and used to provide food and alcohol to the accused. The accused was also residing in the same building. On the date of occurrence, he requested the deceased, to purchase alcohol, for which the deceased refused, therefore, he assaulted him with stick, and also threatened him with dire consequences. On the date of occurrence, viz., 05.06,2009 at 11:30 pm. PW1 witnessed in the illumination of the electricity light, the accused assaulting his father and dragging him out of the room. When the same was questioned, he abused him. Immediately, his father managed to



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escape and ran away from the place, however, the accused picked up a stone and attacked his father on his head. Since the accused threatened him with dire consequences, PWI by weeping, ran away from the place of occurrence and went to Velayudha Puram, where he informed his brother-in-law Mani Maran and Mandaram. All of them came to the place of occurrence and found the dead body of his father lying there. Watchman Paramasivam was also present in the place of occurrence. Thereafter, all of them went to lodge the complaint (Ex.P1). He identified the gold ring of his father.

15. The accused is none other than his father-in-law of the deceased. During cross-examination, PWI admitted that the wall situated on the western side of place of occurrence obstructed the view and that wall nothing on the eastern side could be seen visible from that point.

16. Further, Manimaran with whom PW1 claimed to have informed about the alleged occurrence was examined as P.W.2. However, he did not support the prosecution case and completely turned hostile stating that he did not know the deceased Muniyandi or anything about the occurrence. Hence, the version of the PW1 was not supported



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by PW2.

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17. Further, P.W.3, the wife of the deceased and mother of PWI stated that his son PWI informed her about the occurrence at 11.00 p.m. She further deposed that they went to the place and saw the dead body only the next day. However, PWI not stated that immediately after the occurrence, he went to his home and informed his mother.

18. P.W.8 the daughter of the accused stated that on the date of occurrence at about 11.00 p.m., her husband PW1 came and informed her that her father attacked and murdered his father. She further deposed that she went to the occurrence place and witnessed the dead body. However, P.W.1 has not stated in the complaint or in his evidence that his wife came to the place of occurrence on being informed by him.

19. Further, the evidence of P.W.3 is contrary to the evidence of P.W.I. According to P.W.1, he witnessed the occurrence only at 11.30 p.m. and thereafter went to his village and informed to PW2 and one Pandaram. On the contrary, PW3 and PW8 have stated that, PW1, informed about the occurrence at 11.00 p.m. itself, which is even prior to



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the occurrence. PW2 further stated that although her son informed her at 11.00 pm, she went and saw the dead body only on the next day morning.

She did not lodge any complaint before the police station nor did she go to the place of occurrence and see the dead body immediately after the incident. During cross examination, she admitted that a Wall is situated on the western side of the occurrence and that it was not possible to see anything from that location. The conduct of the eye witness, read in conjunction with the evidence of PW3 and PW8 raises significant suspicious regarding the prosecution case. If really PW1, son of the deceased truly witnessed the occurrence, he would ordinarily brought someone immediately to the spot to protect the victim. Instead, he stated that he went to his village and brought PW2 and Pandaram, however, PW2 not supported the prosecution case, and the another person namely Pandaram was not examined by the prosecution. PW3, deposed that her son informed her much earlier than the time of occurrence, yet she went and saw the dead body only on the next day. The complaint was made only the next day morning 4.00 am, and it was received by the Judicial Magistrate later at 12.30 p.m. The FIR (Ex.P12) thus, reached the Court after a delay of nine hours, which has not been properly explained by the Investigating Officer.



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20. Further, the contents of the complaint and the evidence of PW1 before the trial Court are contradictory. This Court is not satisfied about the credibility, consistency, and reliability of that witness.

21. Further the medical evidence did not support the ocular version. P.W.12-Dr.Selvaraj, noted number of well defined injuries with regular margins over the head, on the front and middle portions of both side of the face. During cross examination, PW12 admitted that all these injuries are possible by sharp-edged weapon or an instrument having a proper cutting edge. The seizure Mahazar (Ex.P5) showed that the stone MO1 recovered by the Investigating Officer is an irregular improper edged stone. Such an object could not have caused with the clean and regular margin and the injuries noted by the Doctor. Hence, the injuries are inconsistent with the use of an improper edged stone. In addition, P.W.5 recovery witness denied the recovery of material objects from the place of occurrence.

22. Therefore, this Court of the opinion that the presence of P.W.1 is highly doubtful at the time of occurrence, as his evidence is not supported with medical evidence, there was a delay in registering FIR,



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and also there was delay in sending the FIR to the concerned Judicial Magistrate and also the arrest, confession and recovery of the accused were not proved. The motive for the occurrence was also not clearly proved.

23. The prosecution failed to establish the crime against the accused beyond all reasonable doubt. Hence, the benefit of doubt is given to the appellant/accused and accordingly, the impugned judgment of the trial Court is liable to be set aside. Since the prosecution has failed to prove that the appellant/accused committed the crime or facilitated the killing of the deceased, the punishment awarded under Section 302 IPC is liable to be set aside and the appellant/accused is hereby acquitted of all the charges.

24. Accordingly, this Criminal Appeal stands allowed and the judgment, dated 03.04.2012 made in S.C.No.214 of 2011 on the file of the Additional District and Sessions Judge, Fast Track Court No.1. Thoothukudi, is hereby set aside. The appellant/Accused is acquitted of the charge. The appellant/Accused is directed to be set at liberty forthwith, unless his custody is required in connection with any other



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case. The bail bonds executed, if any, shall stand cancelled. The fine amount, if any paid, shall be refunded to the appellant/Accused.

25. This Court observed that the accused has been in judicial custody from the date of conviction till date, it appears that the Advocates appointed by him did not properly conduct the case, but passed away. Thereafter, he did not pursue the matter.

26. The State Legal Services Authority is duty bound to visit the jail periodically and ensure that competent legal assistance is provided to the under trial prisoners, and the convict who are not financially capable of engaging the Counsel on their own.

27. Article 21 of the Constitution of India ensures the right to life and personal liberty, which includes legal aid and access to justice. Article 22(1) of the Constitution of India also ensures a person's right to consult and be defended by a Legal Practitioner of choice.

28. Under the Legal Services Authorities Act, 1987, the National, State and District Legal Services Authority are obliged to



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provide free legal service to (a) persons in custody; (b) person unable to afford legal representation; and (c) victims of injustice, need representation. SLSA and DLSA must conduct regular visits to prison, interact with prisoners to identify legal needs and maintain records of pending cases, unfilled appeals, and any issues relating to custodial violation. To make the prisoner aware of their right to be represented by a legal practitioner of their own choice and to ensure that experience and capable advocates are engaged to effectively represent them in legal proceedings.

29. It is the duty of the Secretary of SLSA and DLSA to monitor the performance of the Counsel who are engaged to appear on behalf of the prisoners, and to ensure that the Legal Aid Counsel are not merely appointed on paper, but should actively represent the prisoner.

30. The Member Secretary of State Legal Service Authority and the Chairman of the District Legal Services Authority is duty bound to conduct camp inside the Court, explain the prisoners about their rights to file appeal, revision, and to explain rules, remission policy, and availability of legal aid.



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31. The Jail Authority also inform prisoners of their right to free legal services facilitate the interactions between legal aid lawyers and prisoners; Provide necessary documents for filing appeals.

32. It has been repeatedly emphasized that it is the responsibility of the Member Secretary of State Legal Services Authority as well as Chairman and Secretary of District Legal Services Authority to verify whether any convict has been incarcerated for a long period without filing any appeal. If such cases are identified, they shall ensure that the conduct is provided with necessary legal assistance through Legal Service Authority. However, no such steps were taken in the present case.

33. It is noted that the Jail Authorities also failed to properly guide the prisoner regarding the legal remedies available to him. Such lapses are unacceptable and must be avoided in future.

34. Therefore, this Court issues the following directions to the Member Secretary of State Legal Service Authority and the District Legal Services Authority:-



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1. The Member Secretary of State Legal Service Authority, Chairman as well as the Secretary, District Legal Services Authority, are hereby directed to ensure strict adherence to the mandate of providing effective legal assistance to all eligible prisoners. This shall include periodical jail visits to prison and verification of eligibility for preparing appeal, filing bail application and availing the legal remedies.

2. All the Jail Superintendents shall hereafter ensure that convicts are properly informed and guided regarding their legal rights and available remedies.

3. The above directions shall be placed before the Hon'ble Chief Justice, who is the Patron-in-Chief of the District Legal Services Authority, and upon obtaining approval, the same shall be circulated to all concerned authorities for strict compliance in future.

(P.V., J.) & (R.P., J.)
24.11.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No

RM



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Copy to

- 1.The Additional District and Sessions Judge,
Fast Track Court No.1, Thoothukudi.
- 2.The Member Secretary,
Tamil Nadu Legal Services Authority,
Chennai.
- 3.The Registrar (Judicial),
High Court, Madras.
- 4.The Registrar (Judicial)
Madurai Bench of Madras High Court,
Madurai.
- 5.The Inspector of Police,
Pudhyamputhoor Police Station,
Thoothukudi District.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 7.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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P.VELMURUGAN, J.
AND
R.POORNIMA, J.

RM

Judgment in
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24.11.2025