



Crl.A(MD)No.639 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2025

CORAM:

**THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

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Solai @ Kudukudu,
S/o.Alagappan,
Mutharaiyar Pudukudiruppu,
Kothari, Karaikudi Taluk,
Sivagangai District.

... Appellant/1st Accused

Vs.

The State represented by,
The Inspector of Police,
Pallathur Police Station,
Sivagangai District.
(Crime No.83 of 2017).

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 374 (2) of Cr.P.C to call for the records from the lower Court in S.C.No.76 of 2019 on the file of the Principal District and Sessions Court, Sivagangai, Sivagangai District and set aside the Judgment dated 22.07.2022 by acquitting the accused and by allowing the appeal.

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For Appellant : Mr.K.Prabhu
for Ms.S.Ragaventhre

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

JUDGMENT

**(Judgment of the Court was delivered by
G.K.ILANTHIRAIYAN, J.)**

This appeal is directed as against the Judgment passed in S.C.No.76 of 2019, dated 22.07.2022, on the file of the Principal District and Sessions Court, Sivagangai, Sivagangai District.

2.The case of the prosecution is that the deceased and accused are brothers and that there was a dispute between them with regard to the share of their ancestral property. While being so, on 12.08.2017 at about 06.30 p.m., when the deceased was sitting in the bridge nearby Vannangkaruppur Temple, the accused forcibly pushed him down, as a result of which the deceased fell down from the bridge and sustained injuries. Immediately, he was taken to the

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Government Hospital, Karaikudi. Thereafter, he was referred to the Government Rajaji Hospital, Madurai, for further treatment, where he died on 20.08.2017 at about 04.15 a.m. On the basis of the complaint, the respondent registered the F.I.R in Crime No.83 of 2017 initially for the offences punishable under Sections 294(b), 323 and 506(i) of I.P.C. After the demise of the deceased, the respondent altered the offences under Sections 294(b), 323, 506(ii) and 302 of I.P.C. After completion of investigation, a final report was filed and the same has been taken cognizance by the trial Court.

3.In order to bring the charges to home, the prosecution examined P.W.1 to P.W.14 and marked Exs.P1 to P10. On the side of the accused, no witnesses were examined and no documents were produced before the trial Court.

4.On perusal of oral and documentary evidence, the trial Court found the first accused guilty for the offence punishable under



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Section 302 of I.P.C and sentenced him to undergo life imprisonment and imposed a fine of Rs.5,000/-, in default to undergo two months of Simple Imprisonment. The trial Court acquitted the second accused. Aggrieved by the same, the present appeal has been preferred by the first accused.

5.The learned counsel appearing for the appellant submitted that the alleged occurrence took place on 12.08.2017 at about 18.30 hours, but the F.I.R was registered only on 14.08.2017 at about 21.00 hours. There was a delay of two days in reporting the alleged occurrence to the respondent police, which is fatal to the case of the prosecution. That apart, the F.I.R, which was registered on 14.08.2017, reached the concerned jurisdictional Magistrate Court only on 20.08.2017 and the said delay was not explained by the prosecution. Immediately after the occurrence, the deceased was taken to the Government Hospital, Karaikudi, where he was given first aid and thereafter he was referred to the Government Rajaji



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Hospital, Madurai, for further treatment. The wife of the deceased had deposed as P.W.1 and she stated before the Doctor at the Government Hospital, Karaikudi, that the deceased had fallen down from the bridge and sustained an injury on his neck since he was under the influence of alcohol. The accident register was marked as Ex.P2, which is the earliest document. Therefore, the prosecution failed to prove the charge under Section 302 of IPC as against the appellant.

6.The prosecution examined P.W.4, who is an eye witness to the occurrence. He deposed that after the occurrence, someone informed about the said occurrence to the wife and younger son of the deceased over the phone. Therefore, the younger son of the deceased, who deposed as P.W.2, could not have been an eye witness to the occurrence. Even assuming that P.W.2 was an eye witness to the occurrence, he did not even whisper about the presence of P.W.4, who is stated to be another eye witness to the alleged occurrence.



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Hence, all the witnesses are cooked up one in order to rope the appellant in a case of murder due to the previous property dispute between the appellant and the deceased.

7.The learned counsel appearing for the appellant further submitted that according to P.W.2, while he was playing cricket, he had seen the appellant pushing the deceased from the bridge. P.W.2 was playing along with nearly 30 persons, who were very much available near the place of occurrence. However, the prosecution did not examine even a single person who was playing along with P.W.2. Therefore, the prosecution miserably failed to prove the charge under Section 302 of IPC. Even then, the trial Court mechanically convicted the appellant, which cannot be sustained and is liable to be set aside.

8.Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that in order to prove the



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case, the prosecution examined P.W.1 to P.W.14. The wife of the deceased had deposed as P.W.1. The younger son of the deceased, who had witnessed the occurrence deposed as P.W.2. Another eye witness, who had witnessed the occurrence deposed as P.W.4. Initially, since the deceased had only sustained injury, P.W.1 lodged a complaint stating that he had fallen down from the bridge on his own under the influence of alcohol. There was a property dispute between the appellant and the deceased, who are brothers. Therefore, there was a delay of two days to inform about the occurrence and the said delay is not fatal to the case of the prosecution. Further, minor contradictions and discrepancies in the evidence cannot be a ground for acquittal, as they are not fatal to the case of the prosecution, that too, for an offence under Section 302 of IPC. Hence, there is absolutely no ground to interfere with the well-considered Judgment passed by the trial Court.



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

10. The deceased and the appellant are siblings. According to the case of the prosecution, there was a property dispute between them. However, the prosecution failed to produce any piece of evidence to establish the existence of such a dispute and not a single witness even whispered about the alleged property dispute.

11. The younger son of the deceased was examined as P.W.2. According to his testimony, while he was playing cricket with his friends near the scene of occurrence, he saw a quarrel between the appellant and the deceased. During the quarrel, the appellant pushed the deceased from the bridge, causing him to fall down. Immediately, thereafter P.W.2 rushed to the scene of crime, brought the deceased to the road and informed his brother and mother. However, they did not take the deceased to the hospital and instead



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went home. On the next day morning, the deceased suffered neck pain and immediately he was taken to the Government Hospital, Karaikudi.

12.The wife of the deceased gave a statement before the Medical Officer at the Government Hospital, Karaikudi, stating that the deceased had fallen down from the bridge under the influence of alcohol and sustained an injury in his neck. The same was recorded in the accident registered which was Ex.P2. The alleged fall occurred on 12.08.2017 at about 06.30 p.m. Neither P.W.1 nor P.W.2 mentioned that the deceased was pushed down by the appellant from the bridge at that time.

13.The deceased was given first aid and was referred to the Government Rajaji Hospital, Madurai, for higher treatment, where he was admitted as an inpatient. On 14.08.2017, P.W.1 made a statement and an FIR was registered in Crime No.83 of 2017



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initially for the offences punishable under Sections 294(b), 323 and 506(i) of I.P.C at about 21.00 hours on 14.08.2017. There was a delay of two days even in lodging the complaint, for which the prosecution offered no explanation.

14.That apart, when the deceased was taken to the hospital, P.W.2 was also present along with P.W.1. Even then, P.W.2 did not disclose the alleged overt act of the appellant to the Doctor. For the first time, on 14.08.2017, P.W.1 stated that the appellant had pushed the deceased from the bridge, resulting in the neck injury. It is only an afterthought, with an intention to rope the appellant in this crime.

15.Further, the elder son of the deceased was examined as P.W.5. He deposed that he received a phone call from an unknown person stating that his father had been beaten by the appellant at about 06.00 p.m on 12.08.2017. However, according to P.W.2, the alleged occurrence took place at about 06.30 p.m., on the same day.



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After registration of the F.I.R on 14.08.2017, it was forwarded to the jurisdictional Magistrate Court only on 20.08.2017, with an unexplained delay of six days.

16.From the overall circumstances, it is evident that the F.I.R itself was registered belatedly, that too after the demise of the deceased and the appellant was roped into the case for the offence under Section 302 of IPC. The deceased was admitted as an inpatient at the Government Rajaji Hospital, Madurai, and died on 20.08.2017. Therefore, after the demise of the deceased, the F.I.R was registered and forwarded to the jurisdictional Magistrate Court. The deceased, while he was alive till 20.08.2017, was very much conscious. If at all the respondent registered the F.I.R on 14.08.2017, they would have recorded the statement of the deceased, but the respondent did not even record any statement from the deceased.



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17.Further, the prosecution had examined P.W.4, who also happens to be an eyewitness to the occurrence. P.W.4 also belongs to same Village and known to the deceased. According to him, the deceased fell down from the bridge due to a kick by the appellant. However, P.W.4 did not even whisper about the presence of P.W.2 and similarly, P.W.2 also did not whisper about the presence of P.W.4 in his deposition. Therefore, the testimonies of both witnesses are inconsistent, unreliable and not trustworthy.

18.That apart, the prosecution failed to examine any independent witnesses, who were very much available in the scene of crime. Even according to P.W.2 and P.W.4, about 30 to 40 persons were present at the spot. P.W.2 stated that he was playing along with his friends near the scene of crime. But the prosecution did not examine any of the friends or persons who were playing along with P.W.2 to corroborate his version.



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19. Even according to the case of the prosecution, the deceased was under the influence of alcohol. As per the first document in respect of the occurrence, the deceased had fallen down on his own due to his inebriated condition. This fact was recorded in the accident register and marked as Ex.P.2. The Doctor, who recorded Ex.P.2, deposed as P.W.6. He categorically deposed that he was informed by P.W.1 that the deceased had fallen down from the bridge by himself and sustained an injury on his neck. Considering the overall circumstances, the prosecution miserably failed to prove the charge under Section 302 of I.P.C against the appellant.

20. In view of the above, the conviction and sentence imposed on the appellant in S.C.No.76 of 2019, dated 22.07.2022, on the file of the Principal District and Sessions Court, Sivagangai, Sivagangai District, cannot be sustained and are liable to be set aside.



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21.In the result, this Criminal Appeal is allowed and the Judgment, dated 22.07.2022 made in S.C.No.76 of 2019, dated 22.07.2022, on the file of the Principal District and Sessions Court, Sivagangai, Sivagangai District, is hereby set aside. The appellant is acquitted of all the charges. The bail bond, if any, executed by the appellant shall stand cancelled. The fine amount, if any paid, shall be refunded to the appellant. The appellant shall be set at liberty forthwith, if he is no longer required in connection with any other case.

**[G.K.I.J.] & [R.P.J.,]
16.12.2025**

NCC :Yes/No
Index :Yes/No
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To

1.The Principal District and Sessions Court,
Sivagangai,
Sivagangai District.

2.The Inspector of Police,
Pallathur Police Station,
Sivagangai District.

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



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G.K. ILANTHIRAIYAN, J.
AND
R. POORNIMA, J.

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