



Crl.A(MD)No.103 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.06.2025

CORAM:

THE HON'BLE MS.JUSTICE R.N.MANJULA

Crl.A(MD)No.103 of 2017
and Crl.M.P(MD) No.6939 of 2018

K.Muniyasamy

... Appellant/Accused

Vs

The Inspector of Police,
Perunazhi, Kovilangulam Ps, Kamuthi
Taluk, Ramanathapuram District.
(In Crime No.33 of 2011).

... Respondent/Complainant

Prayer: This Criminal Appeal Case filed under Section 374 of Cr.P.C to call for records relating of learned Additional District and Sessions Judge, Ramanathapuram in S.C.No.51 of 2012, dated 26.07.2013 and to set aside the conviction and sentence order, dated 26.07.2013 by acquitting the appellant.

For Appellant : Mr. B.Chandran

For Respondent : Mr.K.Gnanasekaran
Government Advocate (Crl.Side)



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JUDGMENT

The present Criminal Appeal has been filed challenging the Judgment of learned Additional District and Sessions Judge, Ramanathapuram, dated 26.07.2013 made in S.C.No.51 of 2012. The appellant is the sole accused in this case.

2.The case of prosecution as it appears from the records is that

- PW1/defacto complainant was married to the accused and the deceased, Muniyajothi, PW2 and one Arasumari are their daughters. The defacto complainant was living with her daughters separately at her father's house, due to some strained relationship with her husband/accused. The accused used to visit the house of PW1 and compelled her to come and live with him. At that time, they used to quarrel with each other and the deceased will stand in support of her mother.
- On 17.11.2011 at about 17.00 hours, the accused came to the house of PW1 and had a quarrel with PW1 and went



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back. In the evening also he came to the house of PW1 and went inside the house. At that time, the deceased was cooking in the kitchen. PW1 and PW2 were sitting outside the house. The accused shouted at the deceased that only if she died, he could live with PW1. He also assaulted the deceased with the aid of Kodukku Aruval, which was lying in the place of occurrence, due to which, the deceased sustained injuries on various parts of the body and died on the spot.

- PW1 and PW2 seeing the accused with blood stained weapon, rushed to the house and saw the deceased lying dead.
- The accused ran away from the place of occurrence, PW1 went to the police station and gave a complaint, Ex.P.1.

3. On receiving the complaint from PW1, a case in Cr.No.33 of 2011 has been registered by the respondent police. After completing the investigation, charge sheet has been filed against the accused under Section 302 IPC. After taking cognizance of the charge sheet by the learned Judicial



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Magistrate, Kamuthi in PRC No.11 of 2012 and after observing the legal mandates, the case was committed to the learned Principal Sessions Judge, Ramanathapuram. Subsequently, it was made over to the learned Additional Sessions Judge, Ramanathapuram.

4.The learned trial Judge framed charges against the accused under Section 302 IPC and questioned him. As the accused denied the involvement and claimed to be tried, trial was conducted.

5.On the side of prosecution, 11 witnesses were examined as PW1 to PW11 and 15 documents were marked as Ex.P.1 to Ex.P.15 and M.O.1 to M.O.4 were marked.

6.After observing the legal mandates, consequent to the completion of trial and hearing both sides and on appreciating the evidence on record, the learned trial Judge has found him guilty and convicted him for the lesser charge under Section 304(ii) IPC and sentenced him to undergo rigorous imprisonment for a period of 10 years and to pay a fine of Rs.5,000/- in default to undergo rigorous imprisonment for a period of 3 months.



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7. Aggrieved over that, the appellant/accused has preferred this appeal.

8. The learned counsel for the appellant submitted that PW1 and PW2 were sitting outside the house and hence, they could not be the eye witnesses to the occurrence. The accused is said to have been arrested at Kombuthi Bus Stand at 01.30p.m., by the Investigation Officer. But the Village Assistant, who has been examined as PW6 has stated that at 01.20p.m., itself when he came to the Kovilangulam Police Station, the accused was brought in the Jeep. Hence, the arrest of accused has not been done in the manner as stated by the prosecution and the alleged recovery is also not true. The weapon, Aruval, which was said to be recovered from the accused does not have blood stain, that would earn benefit of doubts in favour of the accused.

9. Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the eye witnesses have witnessed the occurrence and their evidences are acceptable and it has been properly appreciated. PW3 and PW4 have also seen the accused immediately after the occurrence and they also chased him to catch hold of him, but he ran away. The Post-mortem Certificate would show that the deceased had died due



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to hemorrhage and shock and the injuries noticed by the Doctor in the Post-mortem Certificate would also corroborate the case of prosecution. On seeing the weapon, the Doctor has also given his opinion that the alleged weapon could have caused the injuries found on the deceased.

10. Heard Mr. B.Chandran, learned counsel for the Appellant and Mr. K.Gnanasekaran, learned Government Advocate (Crl.Side) for the Respondent. I have given anxious consideration to the submissions made on either side and carefully perused the materials and records.

11.The occurrence had taken place at the house of PW1. The deceased is the daughter of PW1 and the accused. As there was misunderstanding between PW1 and the accused, PW1 was living separately along with her three daughters at her father's house. PW1 has stated in her cross examination that she had some misunderstanding with the accused and hence, she came back to her own village. The accused frequently come to the house of PW1 and quarrelled with her and he was also in the habit of consuming liquor. She has further stated that whenever the accused quarrelled with her, her elder daughter, who was the deceased used to interfere and come to rescue and even during that time, the accused tried to beat the children.



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12.On the date of occurrence, at about 05.00p.m., also he came to her house and shouted at PW1. Thereafter, he went away. Again he came back and went inside the house of PW1 and attacked the deceased, who was cooking in the kitchen.

13.According to the learned counsel for the appellant, since PW1 and PW2 were sitting outside the house, they could not have seen the occurrence, said to have been taken place inside the kitchen and hence, they are not reliable eye witnesses.

14.The evidence of PW1 and PW2 would make it clear that there was no door between the Thinnai and the inner portion of the house. Hence they could have witnessed the occurrence. PW1 and PW2 have also stated in their evidence that the accused had shouted at the deceased by telling that only if she died, he could live with PW1. By stating so, he attacked the deceased with Aruval on various parts of her body. PW1 and PW2 were witnessed the occurrence.



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15.On hearing the noise, PW3 and PW4, who were neighbours also rushed to the spot. PW3 and PW4 in their evidence have stated that on hearing the noise, they came to the place of occurrence and saw that the accused had attacked the deceased. They have chased the accused, who was running with aruval. But they could not catch hold of him. There was no motive between PW3 and PW4 against the accused to say any false evidence against him.

16.It is the contention of the learned counsel for the appellant is that PW3 and PW4 are interested witnesses and relatives of PW1; As PW1 was living with her father, it is possible that she can live with her relatives.

17.Though PW3 and PW4 are relatives, their evidence cannot be rejected. In fact, PW4 in his evidence has stated that he has clearly heard the noise and alarm raised by PW1 and seen the accused coming out of house with aruval and they chased him. So the evidence of PW1 to PW2 with regard to seeing the occurrence and the evidence of PW3 and PW4 with regard to seeing the accused with aruval are also very much incidental to the occurrence and reliable. In fact, their evidences are consistent and hence, it is right for the trial Court to rely on such strong evidence of PW1 to PW4. Their evidence cannot be thwarted during the cross examination also.



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18. The fact that the accused had misunderstanding with PW1 has been proved and he was in the habit of going to PW1's house frequently. The accused had quarrelled with PW1 to come and live with him. As his deceased elder daughter came to rescue her mother/PW1 and that was resisted by the accused. He thought that the deceased elder daughter was an obstacle for him to live with wife/PW1. Even during the occurrence, he has uttered that without getting away the deceased, he could not live with his wife.

19. Apart from these above facts, PW1 and PW2 had seen the accused getting inside the house, where the deceased was cooking and the accused shouted at her and attacked her with aruval. On seeing the same, PW1 and PW2 raised alarm and on hearing the same, PW3 and PW4 rushed to the scene of occurrence. At that time, the accused was fleeing out of house and they tried to catch hold of him. The above evidence only confirm that the accused is the culprit and he had actually murdered his daughter. He had the motive that she stood between himself and PW1 and prevented him from living with PW1.



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20. Much ado was made about the arrest of accused on 08.11.2011

as stated by the Investigation Officer, PW11. The investigation officer has stated that he arrested the accused only at 01.30p.m., near Kombuthi bus stop, which is 4km away from Kovilangulam Police Station. It is contended that when PW6 could see the accused brought in jeep at about 01.20p.m., it is not possible for him at Kombuthi bus Stand at 01.30p.m., on 08.11.2011 as alleged by the prosecution.

21. It is not the evidence of PW6 that he was informed by the police in the morning and so he came in the evening and saw the accused, who was brought in the jeep. From the evidence of PW6, the maximum time difference between his arrival and the arrest of accused can be only 10-15 minutes. As the distance between Kovilankulam police station and the Kombuthi bus stand is 4kms, in all probability and possibility, the accused could have been brought to the police station within 10 minutes. So seeing the accused at about 01.20p.m., at the police station as he was brought in the jeep was not something impossible and hence, the minor deviation in the time statement given by PW6 cannot be considered as a serious contradiction, so as to affect the root of prosecution case and cause doubt about the involvement of accused in the occurrence.



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22.The next contention raised by the appellant is that in the material objects recovered and produced in the case, the weapon, which was said to have been used for occurrence, does not have blood stain and the evidence of PW8 Expert and the Test Report would prove the same.

23.It is true that the evidence of the Expert, PW8 would state that blood was not deducted in M.O.1, which represents the weapon alleged to have been recovered. As far as the other materials, which were recovered from the place of occurrence, the blood was very much deducted and it even found to be human blood 'B' group. It is not the contention of accused that his daughter's blood group is not 'B'.

24.The weapon used by the accused was recovered from bush, where he had concealed it. As the weapon was hidden outside, there is every possibility that the stain on the weapon would have spoilt due to contact with external objects. When other evidences are cogent and evidence of the eye witnesses also clear and strong enough to prove the involvement of the accused along with motive to commit the offence, the absence of blood stain in the weapon during the scientific examination cannot be considered to be factor defeating the case of the prosecution.



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25.The learned trial Judge has rightly dealt with the evidence on record and rightly convicted the accused for the offence under Section 304(ii) IPC. I do not find any reason for interference.

26.In fact, the learned trial Judge did not choose to convict the accused under Section 302 IPC, but has made a fine line appreciation as to intention of accused to commit the offence. The learned trial Judge has observed that as the accused had entered into the house and made use of the weapon in the kitchen and hence, it cannot be considered as the accused premeditated murder.

27.The trial Judge has concluded that because of the heated argument and quarrel arose between them, the accused would have attacked the deceased at the fist of anger. Though the accused did not have any intention to kill the deceased, the accused had attacked the deceased during the course of quarrel, with the knowledge that the attack made by him with the weapon like aruval would cause her death. Therefore, the learned trial Judge had convicted the accused for the lesser offence under Section 304(ii) IPC.



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28. In my opinion, I do not find any error in the appreciation of evidence and other materials by the trial Judge and hence would not warrant interference.

29. Accordingly,

- *this Criminal Appeal stands dismissed;*
- *the Judgment of learned Additional District and Sessions Judge, Ramanathapuram in S.C.No.51 of 2012, dated 26.07.2013 is confirmed and*
- *since the appellant was granted bail by this Court, the bail bond executed by the appellant is hereby cancelled and the trial Court is directed to take the accused into custody for serving the remaining portion of the sentence.*
- Consequently, connected miscellaneous petition is closed.

09.06.2025

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

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

2. The Inspector of Police,
Perunazhi, Kovilangulam Ps, Kamuthi
Taluk, Ramanathapuram District.
(In Crime No.33 of 2011).

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

4.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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R.N.MANJULA, J.

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