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Crl.A.No.458 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2026

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

Criminal Appeal No.458 of 2019

Anbu @ Anburaj

... Appellant

Versus

State by
Inspector of Police,
Bhavani Police Station,
Erode District.
Crime No.18 of 2015.

... Respondent

Prayer:- Criminal Appeal filed under Section 374(2) of to set aside the judgment passed in SC.No.133 of 2015, dated 03.01.2018 on the file of IV Additional District and Sessions Court, Erode at Bhavani.

For Appellant : Mr.M.Rajkumar

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor
Assisted by
Ms.M.Arifa Thasneem



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J U D G M E N T

(Judgment of the Court was delivered by M.JOTHIRAMAN J.)

This appeal has been filed to set aside the judgment passed in SC.No.133 of 2015, dated 03.01.2018 on the file of IV Additional District and Sessions Court, Erode at Bhavani.

2. The brief case as per the final report laid down by the Inspector of Police, Bhavani Police Station:

i) The deceased Karthikeyan, A1/Anbu @ Anburaj, A2/Sasi @ Sasikumar (who died pending trial) and PW4 Yuvaraj, were friends. On 08.02.2015, at about 22.00 hours, they were consuming alcohol near the staircase of the Amman Digital Photo Studio. At that time, there was a wordy quarrel between the deceased and A1. The deceased scolded A1 with filthy language degrading A1's mother and A1 got grudge over the same. On the same day at 22.15 hours, A1 went to his fruit shop, and brought the MO1 knife and asked A2 to caught hold of the deceased. Accordingly, A2 caught hold of the deceased and A1 inflicted stab injuries on the chest and



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neck of the deceased by MO1. The deceased died on the spot itself. Thus, the accused committed the offence punishable under Section 302 r/w. 34 IPC.

ii) The Judicial Magistrate, Bhavani took the case on file in PRC.No.10 of 2015. On the appearance of the accused, the Court furnished copies of the documents under Sec. 207 of Cr.P.C. Thereafter, the case was committed to the Principal District and Sessions Court, Erode. Subsequently, the case was taken on file in SC.No.133 of 2015 and made over to the learned IV Additional District and Sessions Judge, Erode. The Court below framed charges under Section 302 r/w. 34 IPC. The accused denied the charge and pleaded not guilty and claimed to be tried.

3. The brief case of the prosecution is as follows:

i) PW1, Muthusamy, is the father of the deceased and PW2 is the brother of the deceased. On 08.02.2015, PW1 and PW2 came to home after closing their Salon at 10.15 p.m. PW4 came to PW1's house and informed that the deceased, A1 and A2 fighting each other. Upon hearing the same, PW1 and PW2 immediately rushed to the place of occurrence. They said that



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A2 caught hold of the deceased and A1 stabbed the deceased on his neck and also cut his neck. A1 was standing with MO.1 knife in his hand. On seeing them, the accused told that no one could do anything and they can manage everything. The deceased was lying on the ground with pool of blood. The deceased was taken to Hospital. While going to Hospital, he died and PW1 lodged Ex.P1 complaint and also identified MO.1 knife and the dress worn by the deceased as MO.2 to MO.4. PW3, Krishnaveni, is the mother of the deceased and she also stated the similar version of PW1.

ii) PW4, Yuvaraj, deposed that at about 6 p.m. to 7 p.m., the accused A1 was standing near a wine shop. PW4 asked A1, where was the deceased and A1 slapped him. Hence, PW4 went and slept in Mayura Complex. 15 Policemen came and woke him and took him to Chinthamani Super Market, where the deceased was lying. PW4 was under the impression that the deceased was lying under intoxication. PW4 was taken to Police Station and the Police also took the accused to the Police Station.

iii) PW5, Govindaraj and PW6, Raja attested the Observation Mahazar prepared by the Police and they are also witness to the Ex.P19



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Seizure Mahazar, under which blood stained tiles and without blood stained tiles recovered from the scene of occurrence.

iv) PW7 Kesavan, who is a Driver, deposed that at about 10.15 p.m., while he came through new bridge, Police stopped him and asked his driving license. So he went his house to bring the driving license through new bus stand. At that time, he saw A1 was going near Chinthamani Medicals with knife.

v) PW8 Ramesh, Assistant Engineer TANGEDCO issued Ex.P3 certificate stating that there was power supply from 2.45 a.m. to 07.30. a.m. on 09.02.2025.

vi) PW9 Selvam, who is the owner of the Shop in front of which the occurrence happened, deposed that on 08.02.2025, he closed the shop at 7.00 p.m. after switching on one light and came back at 9.00 a.m. on 09.02.2025 and found that tiles were broken and blood strains on the tiles.

vii) PW10, Jayaprakash, who is a photographer, took Ex.P4 series of photographs and handed over MO.5 C.D. to the Police.



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viii) PW11 Senthilkumar, who is the Village Administrative Officer, deposed that on 09.02.2025 at 09.30 p.m., the Inspector of Police, called through phone and asked him to come to Police Station. Accordingly, PW11 along with the Village Assistant went to the Police Station at 9.45 am. In the Police Station, he saw both A1 and A2 were present and witnessed that the accused voluntarily gave confession statement. The confession statement given by A1 was recorded. In pursuance of the confession statement, A1 took them to Mettur Road, near Bhavani water pumping station, where A1 identified and handed over MO.1 knife. PW15 recovered the same under Seizure Mahazar. A1 was wearing blood stained clothes and after his relatives brought new clothes, A1 handed over the blood stained clothes to PW15, after changing to new clothes. The admitted portion of the confession statement is Ex.P5. PW11 and his Assistant were signed as witnesses in the confession statement (Ex.P5) and Seizure Mahazar (Ex.P7).

ix) PW14, Sathyaseelan, the Sub Inspector of Police, received a complaint from PW1 on 09.02.2025 at 2.00 a.m. and registered a case in Crime No.48 of 2015 under Section 302 IPC and registered the First



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Information Report. A copy of the FIR was also placed before PW15

Inspector of Police for investigation.

x) PW15, Shanmugam, the then Sub-Inspector of Police deposed that he took up the investigation on 09.02.2025 and went to the place of occurrence at 2.45 a.m. and prepared Observation Mahazar (Ex.P2) and drawn Rough Sketch Ex.P21 in the presence of PW5 and PW6. He recovered tile stones with blood stains and without blood stains (MO.6 series) under Seizure Mahazar (Ex.P20). He conducted inquest over the dead body in the presence of Panchayatars and witness in the place of occurrence itself and prepared inquest report Ex.P22. Thereafter, he sent the deceased body to the Government Hospital, Bhavani for conducting autopsy.

xi) PW12, Dr. Sangeetha, who conducted autopsy of the deceased, deposed that she had received the requisition letter (Ex.P8) from PW15 to conduct autopsy over the dead body. She noticed the following injuries:

“Eyes closed, mouth closed, tongue inside the mouth. External injuries (1) cut wound about 1.5cm x 0.5 cm in anterior neck, depth about 2 cm and trachea opened 2.5 cm x 0.5 cm about 2 cm below the cricoid cartilage. (ii) cut wound about 1 cm x 0.5 cm on right side neck with depth of 2.5 cm



involving trachea and artery and trachea opened about 2cm, about 1 cm below the 1st opening. (iii) cut wound in anterior chest 2.5cm x 0.5 cm with depth of 3 cm from the skin and sternum opened about 3 cm parallel to 2nd and 3rd rib and right atrium opened about 1 cm. (iv) cut wound about 1 cm x 0.5 cm in anterior chest just about the 3rd wound with depth about 3 cm, overlying the sternal opening with right atrium opened about 1 cm near the another right atrial opening (v) cut injury 1 cm x 0.5 cm right chest depth of 4 cm in between 4th & 5th rib involving right lung opened about 1.5 cm. Ex.P9 is the post mortem certificate.”

PW12 issued postmortem certificate Ex.P9, wherein she opined that the death would have occurred at about 10 to 12 hours before the autopsy. Upon receiving the Chemical Analysis Report of viscera, it was opined that the deceased died of shock and haemorrhage and injuries on the vital organs of heart and lungs and issued final opinion Ex.P11.

xii) PW15 further deposed that when he was in vehicle checkup, the accused came near the Cauvery River Bridge and on suspicion, he enquired them. They confessed the crime and he arrested and took them to the Police Station. On enquiry, A1 voluntarily gave confession statement and the same



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has been recorded by him between 10.00 a.m to 11.00 a.m. in the presence of PW11 and his Assistant, namely Sundararajan. The blood stained clothes worn by A1 and A2 were also seized after giving new clothes to them. The accused took them to the water pumping station on Mettur Road and A1 identified MO.1 knife and handed over to PW15 and the same was seized under Seizure Mahazar (Ex.P7). Then the accused were remanded to judicial custody. The case property was sent to the concerned Court.

xiii) PW13, Forensic Officer, deposed that he had received 13 items of properties and they were analysed. Out of which, in items 1 to 6 and 8 to 11 blood stains were found. The blood samples which were collected at the time of autopsy were submitted to Forensic Lab, Chennai. The blood in items 1, 3, 5, 8, 9, 10 and 11 are “B” group and the blood in items 2, 4 and 6 are human blood but its group is inconclusive. The requisition letter was marked as Ex.P13 and reports were marked as Exs.P14 to P18.

xiv) PW16, S.Ramesh, the then Inspector of Police deposed that he took investigation as PW15 was transferred to some other place. Upon investigation, he altered the charge from 302 IPC to 302 read with 34 IPC. The alteration report was marked as Ex.P24.



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4. In order to prove the charge against A1, (A2 died pending trial) the prosecution examined witnesses PW1 to PW16 and documents Exs.P1 to P24 were marked and also placed MO.1 to Mo.6. After completion of prosecution side evidence, the accused was examined under Section 313 (1) (b) of Cr.P.C. regarding the incriminating portions of the evidence found against him. The accused denied the same as false. On behalf of the accused, no witness was examined and no document was marked.

5. Upon appreciation of the oral and documentary evidence, the Court below found that the accused is found guilty for the offence under Section 302 IPC and he is sentenced to undergo imprisonment for life and also imposed a fine of Rs.1,000/-, in default, to undergo rigorous imprisonment for six months. Aggrieved over the same, the appellant/accused A1 has preferred the present appeal.

6. The learned counsel appearing for the appellant/accused would submit that, during the time of occurrence, there was no power supply. In the absence of light, PW1 and PW2 could not have seen the alleged occurrence.



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There are also material contradiction with regard to the evidence of PW1 and PW2. Additionally, the presence of PW1 and PW2 at the scene of occurrence, is highly improbable. The Court below failed to consider the fact that PW7 stated in his evidence that he saw the appellant/accused going with MO.1 knife. Though his statement was recorded by the respondent/Police on 10.02.2015, it reached the Court only on 19.02.2015. Hence, it is evident that he has been introduced in the case belatedly to fill up the lacuna. There was an inordinate delay in giving the complaint. The alleged occurrence took place on 08.02.2015 at about 10.00 p.m., whereas the Ex.P2 complaint was given only on the next day 09.02.2025 at about 2.00 a.m. and the delay was not properly explained. Further, there was also a delay in sending the FIR to the Court, which would show that a false case has been foisted against the appellant. PW2 in his evidence stated that the appellant dropped the knife MO.1 used in the commission of offence into the drainage, whereas the Police recovered the same from the appellant based on his confession is highly improbable. As per the evidence of PW1 and PW2, it is seen that the Police arrived at the scene of occurrence even before the complaint was given, which would show that the complaint was given belatedly.



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7. It is his further contention that the PW1, who is the father of the deceased and PW2, who is the brother of the deceased, are interested witnesses and therefore, their statements cannot not be relied upon. Further, the reasons stated by the Court below for convicting the appellant are unsustainable in law. The learned counsel would further submit that, even assuming the allegations levelled against the appellant are admitted, the appellant has not committed an offence punishable under Section 302 IPC. The incident occurred without premeditation, in a sudden fight, in the heat of passion upon a sudden quarrel, and the same comes under the purview of Exception (4) to Section 300 IPC, and is therefore, punishable under 304 IPC and not under 302 IPC.

8. Per contra, the learned Additional Public Prosecutor submitted that the prosecution has proved the case beyond its reasonable doubt. The deceased and the accused were friends. Particularly, the presence of accused standing with MO.1 knife in his hand has been established through the evidence of PW1 and PW2, who were came together to the scene of occurrence. Even though there is no electricity, the brightness of the



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headlight in the vehicle would be sufficient to see what was happening by PW1 and PW2. PW1 and PW2 came to the spot immediately after hearing through PW4 that the accused and the deceased found scuffling. After arresting by PW15 and on enquiry, the appellant had voluntarily given confession statement and the same has been recorded in the presence of PW11 and Sundararajan. In pursuance of the confessional statement, the appellant/accused took them to the water pumping station at Mettur Road, wherein he identified MO.1 knife and handed over the same to PW15 and the same has been recovered under Seizure Mahazar.

9. The learned Additional Public Prosecutor further submitted that as per Serology Report, MO.1 knife, was found to be a human blood in “B” group and the deceased blood group is also “B” group. Therefore, the nexus between the weapon and the accused has been established. The medical evidence also corroborated to the evidence of PW1 and PW2 with regard to the injuries sustained by the deceased. The appellant/accused committed the offence with an intention of causing bodily injury and the appellant knew it would cause death and the act of appellant comes under the purview of Section 300 of IPC, punishable under Section 302 of IPC.



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10. We have considered the submissions on either side and perused the materials on record.

11. According to the prosecution, PW1 and PW2 witnessed the occurrence and they reached the place of occurrence immediately after the intimation given by PW4. PW1, who is the father of the deceased, deposed that the PW1 and PW2 came to their house after closing their shop at 10.15 p.m. At the time, PW4 came and stated that the accused and the deceased were fighting each other near the bus stand. Immediately, PW1 and PW2 went to the place of occurrence and found that the accused A2 caught hold of the deceased and A1 stabbed the deceased on his neck and chest. A1 was standing with MO.1 knife. The deceased died on the spot itself.

12. PW1 in his cross examination deposed that he did not mention about the vehicle in which PW1 and PW2 went to the scene of occurrence. However, PW1 stated that the two wheeler belongs to PW2. PW1 also admitted that there was no electricity when they reached the spot.



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13. PW2 stated the same version of PW1. PW2 deposed that when they reached the scene of occurrence, A1 was standing with blood oozing knife. PW2 deposed that A1 threw the knife into the drainage and went away. PW2 found that the deceased was lying down with stabbed injuries. PW2 in his cross examination deposed that both the accused were at the place of occurrence, when they reached and the accused was standing about 4 or 5 feet away from the deceased body. PW2 also admitted that there was no electricity, but he categorically deposed that he saw the accused in the brightness of the vehicle's headlight.

14. PW4 did not support the prosecution case. He did not say that he went to the house of PW1 and informed the occurrence. Whereas, PW4 deposed that he asked A1, where is the deceased. Suddenly, A1 beaten him, so he went to Mayura Complex and slept there. Thereafter, 15 Policemen came there and woke him and took him to Chinthamani Super Market, where the deceased was lying down. PW4 also deposed that he was under the impression that the deceased was lying under the influence of alcohol.



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15. PW7 deposed that he saw the accused was going with knife near the Chinthamani Medicals.

16. PW8, Ramesh, Assistant Engineer TANGEDCO, certified that there was power supply between 2.45 a.m. and 7.30 a.m. on 09.02.2015. The occurrence said to have been held on 08.02.2015 at 22.00 hours. However, at the time of occurrence, there was no electricity. It shows that the occurrence had taken place in the Bhavani Town and the place of occurrence is near the entrance of new bus stand of Bhavani Town. It is a busy area, where vehicles will be plying in and out of the bus stand. So vehicle would have been plying frequently. Even though there is no electricity at the relevant point of time, the brightness of the headlight in the vehicles would be sufficient enough to see what was happening in the occurrence place.

17. As per the evidence of PW1 and PW2, immediately they came to the place of occurrence and found that the accused and the deceased were scuffling. PW1 and PW2 categorically deposed that the deceased was lying down and A1 was standing near the deceased. The aforesaid evidence was not discarded or disproved by the defence in their cross examination.



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18. PW3, Krishnaveni, also categorically deposed that PW4 came to her house and told about the scuffling. PW2 in his cross examination stated that he saw the accused in the brightness of the vehicle's head light and the accused were already known to PW1 and PW2, so there is no doubt with regard to identifying the accused.

19. Though PW4 did not support the prosecution case, he stated that A1 was standing before the Wine Shop and when he asked A1, where was the deceased, A1 beaten him and so he went to sleep.

20. During the examination under Section 313 Cr.P.C., the accused stated that a false case has been foisted against him, but he admitted that he had involved in a scuffling with the deceased and went to his house. Thereafter, what was happened he did not know. From the statements of the appellant/accused, it is seen that he has not denied the scuffling held between him and the deceased. Therefore, the presence of the accused at the occurrence place has been proved by the prosecution. As per the evidence of PW11 and PW15, the accused had voluntarily given confession statement. In



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pursuance of the confession statement, the accused took them near the Cauvery bridge and identified and handed over MO.1 knife. The blood stained clothes worn by the accused were also seized.

21. The evidence of PW13, Venkateshwaran, Forensic Scientific Officer and Ex.P16 and Ex.P17 Serology Reports, show that MO.1 knife contained blood stains and blood group is “B”. Similarly, the dress recovered from the deceased body also found to be human blood and “B” group. Therefore, the prosecution proved the nexus between the weapon and the accused. PW2 stated that the accused thrown out the knife (MO.1) in the drainage. Whereas as per evidence of PW15, Investigating Officer, he recovered MO.1 knife in pursuance of the confession statement of the accused, which is a minor contradiction and the same has not affected the entire case of the prosecution. It is to be noted that blood stained clothes were also recovered from the accused. There is no denial by the accused that the dress does not belong to him. Further, there is no explanation from the accused how the clothes had blood stains. This aspect also connects the accused to the crime.



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22. The deceased was in an intoxicated state, abused the accused by making derogatory remarks about the character of the accused's mother, which provoked the accused to commit the act. The offence was committed without premeditation, in the heat of passion, upon a sudden quarrel, and in an unusual manner. The act of the appellant constitutes culpable homicide not amounting to murder and falls with Exception 4 to Section 300 IPC. and the offence is punishable under 304 Part I IPC.

23. This Court is of the view that the appellant did not act with an intention to cause the death of the deceased, but the act was committed with the knowledge that was likely to cause death.

24. In view of the above findings, the conviction and sentence imposed on the appellant for the offence under Section 302 IPC are liable to be modified. The offence committed by the appellant/accused comes under the definition of Exception 4 to Section 300 IPC, and the same is punishable under Section 304 part II IPC.



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25. In the result,

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- i) The appeal is partly allowed;
 - ii) The conviction and sentence imposed on the appellant for the offence under Section 302 IPC are set aside and the appellant is convicted for the offence under Section 304(II) IPC and sentenced to undergo ten years rigorous imprisonment;
 - iii) The sentence of fine shall remain the same; and
 - iv) The Trial Court is directed to secure the custody of the appellant/accused and send him to prison to undergo the remaining period of sentence.

[P.V.,J.] [M.J.R.,J.]
04.02.2026

Index: Yes
Neutral Citation: Yes
pvs



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To

1. IV Additional District and Sessions Court,
Erode at Bhavani
2. The Public Prosecutor
High Court, Madras.

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P.VELMURUGAN, J.,
AND
M.JOTHIRAMAN, J.,

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