



Crl.A.No.439 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2026

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

Crl.A.No.439 of 2019

G.Anthony
S/o.Ganesan,
Mela Theru, Nirthanamangalam,
Nagapattinam.

Appellant(s)/Accused

Vs

State represented by
The Inspector of Police,
Velankanni Police Station,
Nagapattinam District.
Crime No.252 of 2012

Respondent(s)/Complainant

Criminal Appeal filed under Section 374(2) Cr.P.C. against the judgment dated 25.06.2019 passed in S.C.No.80 of 2013 on the file of the Sessions Court, Nagapattinam and to set aside the same.



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For Appellant(s): Mrs.S.Sridevi
Legal aid Counsel

For Respondent(s): Mr.A.Damodaran
Additional Public Prosecutor
assisted by Ms.Arifa Thasneem

JUDGMENT

(delivered by M.Jothiraman, J.)

Challenging the judgment dated 25.06.2019 passed in S.C.No.80 of 2013 on the file of the Sessions Court, Nagapattinam, the appellant/accused has preferred the above appeal.

2. The prosecution story runs thus:

2.1 PW1—Rabeen, who is the brother of the deceased Robert, deposed that his father Jimmicartar was doing agricultural work and if there was no agricultural work, he would be doing some other works; on 24.07.2012, his father went to other place for work and therefore, his father left him and his brother Robert and sister in their grandmother Jothiammal's house; the said Jothiammal is the mother of Jimmicartar; on 24.07.2012, when they were sleeping in their grandmother's house after having their



dinner at 10.00 p.m.; while so, in midnight, his (PW1's) uncle, Anthony (appellant/accused) came and asked PW1 and his brother Robert to come to their house to sleep; accordingly, the accused brought them to their house and slept in front of their house; in midnight PW1 woke up on hearing the screams of his brother and saw that the accused had beaten up the head of his brother with a wooden log (M.O.1); when PW1 tried to prevent the same, the accused threatened him with dire consequences and also told him not to disclose the same to anyone; the accused also told him that his brother Robert informed his mother (PW2) about his (accused) involvement with regard to the missing of Rs.10,000/- from their house and also his (accused) chatting with the ladies and since Robert was interfering with the personal affairs, he (accused) was killing his brother; on the next day, around 6.00 a.m., when he woke up, he saw that the accused was not there and noticed that his brother's face was fully swollen and blood oozing from his nose and head; immediately, PW1 tried to inform his grandmother and at that time, the accused was standing in the backside of the house with anxiety; the accused informed him that he (PW1) should not inform his grandmother, since he had murdered his brother; he (PW1) noticed that there is a bloodstain in the T-shirt worn by the accused; thereafter, he informed the



same to his grandmother and also to his father through phone; his father came and lodged the complaint (Ex.P11) before PW10; on the next day, when he was crying unable to bear the death of his brother, his father asked him as to why he was crying, for which, he (PW1) narrated the same to his father that the accused alone has assaulted Robert; immediately, his (PW1's) father took him to Velankanni Police Station, where, the police enquired him and recorded his statements; he identified the wooden log (M.O.1), bloodstained white colour vest (M.O.2), bloodstained pillow (M.O.3), bloodstained blanket (M.O.4), bloodstained pant (M.O.5), bloodstained pillow cover (M.O.6) and bloodstained towel (M.O.7).

2.2 PW2—Usha, who is the mother of PW1 and Robert, deposed that on 26.07.2012, she saw PW1 was crying and she enquired him as to why he was crying, for which, PW1 narrated the offence committed by the accused.

2.3 PW3—Sathyavani, who is a neighbour, deposed that she knew PW1's family and the accused; Robert informed PW2 that the accused was the one, who has taken the missing amount of Rs.10,000/- from PW2's



house and also informed about the flirting of the accused with girls, due to which, the village people warned the accused.

2.4 PW4—Murugesan, deposed that on 25.07.2012 around 6.00 a.m., he came to know that Robert was dead and visited the place of occurrence, where, he saw that Robert was lying dead with blood oozing from his nose and mouth; around 10.00 a.m. PW11 visited the place of occurrence and enquired the witnesses, prepared observation mahazar (Ex.P2), in which, he (PW4) and Balu signed as the witnesses.

2.5 PW5—Renganathan, Village Administrative Officer, deposed that on 26.07.2012 around 5.30 p.m., he had received a phone call from PW12, Inspector of Police, to come near Kurinji Madha Koil, pursuant to which, he (PW5) and his Assistant Thirumeni gone to that place; he saw that the accused was also there and on enquiry by PW12, the accused voluntarily gave confession statement and the same has been recorded by PW12, in which, he (PW5) and his Assistant signed as the witnesses; the admissible portion of the confession statement of the appellant was marked as Ex.P4; in pursuance of the confession statement of the accused, the accused took them



to the backyard of the house of Jimmicartar, where, the accused identified the wooden log (M.O.1), bloodstained white colour vest (M.O.2) and handed over the same to PW12, which were seized under the seizure mahazar Ex.P5.

2.6 PW6—Kulothungan, Head Constable, deposed that he handed over the FIR (Ex.P12) to the Judicial Magistrate, Nagapattinam.

2.7 PW7—Dr.Saravana Madhav, deposed that on 25.07.2012, when he was working in Nagapattinam Government Hospital, he had received a requisition letter from PW12 to conduct autopsy on the body of Robert, pursuant to which, he conducted autopsy and noticed the following injuries:

“EXTERNAL INJURIES

- 1. A lacerated wound of size 2 x 0.5 cm above the right ear exposing bone.*
- 2. A Contusion over right side forehead.*
- 3. Contusion around right eye seen.*
- 4. Right eye appear swollen. Blood staining present around the ear, nose and mouth. Eyelids closed. Tongue within the mouth. Teeth intact, Thorax-Normal, Abdomen – Normally uniform, Extremities – Intact, Generation organ – Normal, Scrotum – No injury, Anal mucosa – intact.*



INTERNAL INJURIES

Peritoneal cavity – No free fluid, Stomach – Empty, liver – 1500 gm c/s congested, Spleen – 120 gm c/s congested, Lungs right 500 g c/s Left 450 g c/s congested, scalp sub dural Haemorrhage over Right parietal, temporal & frontal region, skull fracture present, fracture line extending from the right temporal region to the parietal region on right & extending up to left parietal region, about 15 x 0.5 cm; Anterior extends up to the frontal region about 10 x 0.5 cm, membrane is ruptured over right parietal region, examination of Brain – haemorrhage is seen, Brain 1400 g c/s.

He issued postmortem certificate (Ex.P6) and he also opined that the deceased would appear to have died of injury to vital organs.”

2.8 PW8—Manisekaran, Deputy Director, Regional Forensic Science Laboratory, Thanjavur, deposed that he received the material objects and internal organs of Robert from the Court concerned for examination; after examination, he issued viscera report (Ex.P7) stating that no poison was deducted in any of the internal organs; he also issued biological report (Ex.P8), in which, he stated that blood was detected on each of the material objects; he also issued serology report (Ex.P9) and came to a conclusion that



the bloodstain found in bloodstained white colour vest (M.O.2), bloodstained pillow (M.O.3), bloodstained blanket (M.O.4), bloodstained pillow cover (M.O.6) and bloodstained towel (M.O.7) was found to be human blood and group was 'O' and the bloodstain found in bloodstained pant (M.O.5) and wooden log (M.O.1) was inconclusive.

2.9 PW9—Maniarasan, Head Constable, deposed that he had received the requisition letter from PW12 and handed over the same to PW7 for conducting autopsy on the body of Robert and after conducting autopsy, he collected the dresses worn by Robert and handed over the same to PW12 under the special report (Ex.P10).

2.10 PW10—Senthilkumar, Sub-Inspector of Police, deposed that on 25.07.2012 around 8.30 a.m. one Jimmicartar lodged the written complaint (Ex.P11) and he received the same and registered a case in Crime No.252 of 2012 for the offence under Section 174 Cr.P.C. and prepared the printed FIR (Ex.P12) and placed the same before the Inspector of Police for further investigation.



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2.11 PW11—Thiyagarajan, Inspector of Police, deposed that he had received a copy of the FIR prepared by PW10 in Crime No.252 of 2012 for the offence under Section 174 Cr.P.C.; he took up the case for investigation and went to the place of occurrence and prepared observation mahazar (Ex.P2) and drawn rough sketch (Ex.P13) in the presence of Murugesan (PW4) and Balakrishnan; he also seized bloodstained blanket (M.O.4), bloodstained pillow cover (M.O.6), bloodstained pillow (M.O.3) and bloodstained towel (M.O.7) under the seizure mahazar (Ex.P3); he conducted inquest over the body of Robert in the presence of panchayatars and witnesses and prepared inquest report (Ex.P14); thereafter, he sent the requisition letter to conduct autopsy on the body of Robert through PW9; after conducting postmortem, he received the dresses worn by Robert through PW9 and sent the same to the Court concerned under Form 95.

2.12 PW12—Anbazhagan, Inspector of Police, deposed that he took up the case for further investigation and on 26.07.2012 at 10.00 a.m., he gone to the place of occurrence and enquired the witnesses; since the witnesses gave statements similar to the statements given before PW11, he



did not record the same; thereafter, around 17.30 hours, when he was in Velankanni Police Station, Jimmicartar appeared along with PW1; PW1 informed him that his brother was murdered by his maternal uncle by assaulting with the wooden log (M.O.1) and he (PW1) has witnessed the same; he recorded the statements given by Jimmicartar and PW1; in pursuance of the statement given by PW1 and Jimmicartar, he (PW12) had altered the case from one under Section 174 Cr.P.C. to one under Section 302 IPC; he sent the alteration report (Ex.P15) to the Court concerned; in continuation of his investigation, on secret information, he arrested the accused at 18.00 hours near Kuruchi Madha koil; on enquiry, the accused voluntarily gave confession statement and the same was recorded in the presence of PW5/VAO and one Thirumeni; in pursuance of the confession statement given by the accused, the accused took them to the backyard of the house of Jimmicartar, where, he handed over the wooden log (M.O.1), bloodstained white colour vest (M.O.2) and the same were seized under the seizure mahazar (Ex.P5); thereafter, he remanded the accused in judicial custody and examined the witnesses and recorded their statements; he also sent the requisition letter to the doctor to ascertain the age of the accused and as per the opinion given by the doctor, the accused was aged about 24



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years approximately; the request give by him (PW12) and the medical report issued by the doctor with regard to the age of the accused was marked as (Ex.P16); thereafter, he handed over the case records to PW13.

2.13 PW13—Sachidhanandham, Inspector of Police, deposed that he took up the case for further investigation; since the witnesses already gave statements before PWs.11 and 12, he did not record any statement.

2.14 After completing the investigation and based on the evidence collected, the Investigating Officer (PW13) filed a final report in P.R.C.No.23 of 2013 before the Judicial Magistrate No.I, Nagapattinam, against the accused for the offence under Section 302 IPC.

2.15 On appearance of the accused, the provisions of Section 207 Cr.P.C. were complied with and the case was committed to the Court of Session in S.C.No.80 of 2013 and was made over to the Sessions Court, Nagapattinam, for trial.



2.16 The trial Court framed the charge under Section 302 IPC against the accused herein. When questioned, the accused pleaded 'not guilty'.

2.17 To prove the guilt of the accused, the prosecution examined thirteen witnesses and marked sixteen exhibits and seven material objects.

2.18 After completion of prosecution side evidence, when the accused was questioned under Section 313 Cr.P.C. on the incriminating circumstances appearing against him, he denied the same. No witness was examined on the side of the defense and no document was marked.

2.19 After considering the oral and documentary evidence and upon hearing either side, the trial Court, by judgment dated 25.06.2019 in S.C.No.80 of 2013, has convicted and sentenced the accused as under:

<i>Provision under which convicted</i>	<i>Sentence</i>
Section 302 IPC	Life imprisonment and fine of Rs.1,000/-, in default to undergo three months rigorous imprisonment.



2.20 Aggrieved over the same, the accused has preferred the above appeal.

3. The learned counsel appearing for the appellant/accused would submit that the Court below failed to examine the facts of the case in a proper perspective, in that, the first complaint lodged by Jimmicartar/father of Robert for suspicious death and the case was registered under Section 174 Cr.P.C. and the same was converted to under Section 302 IPC solely based on the statement given by PW1 after two days. It is seen that before the alleged occurrence, PW1 and Robert were sleeping in their grandmother Jothiammal's house and in the wee hours, the accused woke them up and went to PW1's house and that being the case, the prosecution has failed to examine Jothiammal/grandmother of PW1 and Robert, which is fatal to the case. The prosecution has failed to establish the motive for the occurrence through proper evidence that since Robert informed PW2 that the accused had stolen a sum of Rs.10,000/- and flirted with other women and in order to take revenge, the accused is alleged to have murdered Robert. Without any evidence, the Court below erroneously accepting the evidence of PW1, PW2 and PW3 and convicting the accused is unsustainable in law. Further, there



is a contradiction between the statements of PW1 and PW5 with regard to seizure of the wooden log (M.O.1). The prosecution has failed to prove the occurrence alleged to have been committed by the accused and his presence in the place of occurrence, but, the Court below erroneously shifted the burden of proof on the appellant to disprove his presence by adducing evidence to prove that he was at his native. The wooden log (M.O.1), which was allegedly to have been seized on 26.07.2012, was very well available on 25.07.2012 itself as per the evidence of PW7 and therefore, the alleged seizure of the wooden log (M.O.1) and alteration of FIR on 27.07.2012 are very well framed false case against the accused. The findings of the Court below are based on presumptions and the prosecution has failed to prove the guilt of the accused beyond all reasonable doubts.

4. *Per contra*, the learned Additional Public Prosecutor appearing for the respondent/State would submit that the evidence of PW1, who is the brother of Robert, has categorically deposed that when PW1 and Robert were sleeping in their grandmother Jothiammal's house, in midnight, the accused came there and woke them up and three of them went to Jimmicartar's house and in the midnight PW1 woke up on hearing the low



screams of his brother Robert and saw that the accused had beaten up the head of Robert with the wooden log (M.O.1). PW1 also categorically deposed that the accused threatened him with dire consequences saying that if he discloses the incident to anyone, he will kill him also, which is why, PW1 revealed the truth to his father Jimmicartar only on the next day, after which, Jimmicartar took PW1 to the police station and lodged the complaint (Ex.P11). Thereafter, the case was altered into a murder case. PW3 is an independent witness, who categorically deposed about the motive for the occurrence that since the theft of Rs.10,000/- committed by the accused and his flirting with other women were informed by Robert to his mother PW2 and in that regard, the elderly village people warned the accused, the accused committed the murder of Robert. There is no dispute with regard to identification of the accused, since the accused is the maternal uncle of PW1 and brother of PW2 and all along the accused was staying in the house of PW1. The evidence of PW1 is clear, cogent and categorically narrated the occurrence held in the midnight and saw that the accused had beaten up Robert on his head with the wooden log (M.O.1). The prosecution has proved the case beyond a shadow of a doubt and the Court below has rightly found guilty of the accused.



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

6. In order to establish the charge against the accused, the prosecution has relied upon the following circumstances:

- (a) Motive
- (b) Eye-witness
- (c) Recovery
- (d) Medical evidence

(a) Motive:

(i) As per the evidence of PW3, who is the neighbour of PW1, before the alleged occurrence deceased Robert has informed his mother/PW2 that the accused alone had taken the missing amount of Rs.10,000/- from PW2's house and also informed that the accused was frequently talking with the girls.

(ii) As per the evidence of PW1, the accused himself had stated to PW1 that since his brother Robert informed PW2 that he (accused) has



stolen the sum of Rs.10,000/- from their house and his frequent talking with girls, he has done away with Robert.

(iii) Hence, the evidence of PW3 corroborates with the evidence of PW1 with regard to the motive for the accused to commit the offence that since Robert snitched on the accused and told PW2 about the theft of Rs.10,000/- committed by the accused in PW2's house and his flirting with the girls, the accused has motive to commit the offence. The prosecution has proved the motive for the occurrence.

(2) Eyewitness:

(i) From the evidence of PW1, who is the brother of Robert, it is seen that on 24.07.2012, when PW1 and his siblings were sleeping in their grandmother Jothiammal's house, his uncle Anthony (appellant/accused) came and asked PW1 and his brother Robert to come to their house to sleep. Accordingly, they went to their house to sleep, where, in mid night, PW1 woke up on hearing the screams of his brother and saw that the accused had beaten up the head of his brother Robert with the wooden log (M.O.1) and when PW1 tried to prevent the same, the accused threatened him with dire



consequences and also threatened him not to disclose the same to anyone.

However, he has disclosed the incident to his father after two days and lodged the complaint (Ex.P11) and during enquiry, PW1 also identified the wooden log (M.O.1) used by the accused for committing the offence.

(ii) At the time of occurrence *i.e.* on 24.07.2012, PW1 was aged about fifteen years and the accused threatened him with dire consequences saying that not to disclose the incident to anyone and if he discloses the same, he will kill him also, afraid of which, PW1 did not disclose the offence committed by the accused to anyone. However, on the next day without bearing the death of his brother Robert, he revealed the offence committed by the accused to his father Jimmicartar. The evidence of PW1 is clear, cogent, natural and also inspires the confidence of this Court.

(3) Recovery:

(i) PW12 arrested the accused at 18.00 hours near Kuruchi Madha koil and on enquiry, the accused voluntarily gave confession statement and the same was recorded in the presence of PW5/VAO and one Thirumeni. In pursuance of the confession statement given by the accused, the accused



took them to the backyard of the house of Jimmicartar, where, he handed over the wooden log (M.O.1), bloodstained white colour vest (M.O.2) and the same were seized under the seizure mahazar (Ex.P5).

(ii) The evidence of PW5 is fully corroborated by the evidence of the PW12 with regard to the recovery of the wooden log (M.O.1) and bloodstained white colour vest (M.O.2) in pursuance of the confession statement of the accused, admissible portion of which was marked as Ex.P5.

(4) Medical evidence:

As per the opinion given by PW7, the doctor who conducted autopsy on the body of Robert, it is seen that Robert would have died of injuries to the vital organs. PW7, in his evidence, has clearly stated that the internal injuries noted by him in the body of Robert would have caused when attacked using the wooden log (M.O.1). The prosecution has proved that the death is a homicidal one.

7. During the course of cross-examination of PWs.1 to 3, the accused has taken a defence that on the date of alleged occurrence on



24.07.2012, he was away from the scene of occurrence in Thiagarajapuram Village, Thiruvarur District. Though the accused had taken a stand of *alibi*, in order to prove the same, he has not produced any documentary evidence or chosen to examine any witness. As per the evidence of PW1, his father Jimmicartar has lodged the complaint (Ex.P11) and also given statement before the police, but, during the pendency of trial, his father died due to illness, whereas, the complaint (Ex.P11) lodged by him came to be marked through PW10, Sub-Inspector of Police.

8. PW2/mother of PW1 and Robert, deposed that on the date of occurrence, she was arrested and remanded in judicial custody for selling liquor. Since PW2's husband had to go out for work, he left PW1, Robert and her daughter in the custody of his mother Jothiammal.

9. In light of the foregoing discussions, this Court is of the view that the act of the accused comes under the definition of 'Murder' under Section 300 IPC, as the accused has done the crime with an intention to cause death and the same does not fall under any of the exceptions elucidated under Section 300 IPC. *Ergo*, the prosecution has proved its case



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beyond all reasonable doubts and there is no perversity or infirmity in the findings of the trial Court warranting interference and there is no merit in this appeal and therefore, the same is liable to be dismissed.

In the result, this criminal appeal is dismissed, confirming the judgment dated 25.06.2019 passed in S.C.No.80 of 2013 on the file of the Sessions Court, Nagapattinam. The trial Court is directed to secure the custody of the accused, if he is on bail and send him to prison to undergo the remaining period of sentence.

(P.V., J.) (M.J.R., J.)
09.02.2026

nsd
Index:Yes/No
Speaking/Non-speaking order
Neutral Citation:Yes/No



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To

- 1.The Sessions Judge,
Nagapattinam.
- 2.The Superintendent, Central Prison, Puzhal, Chennai.
- 3.The Inspector of Police,
Velankanni Police Station,
Nagapattinam District.
- 4.The Public Prosecutor,
Madras High Court, Chennai – 600 104.



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