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Crl.A.No.962 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2026

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.A.No.962 of 2023

Mani

... Appellant

Vs.

State represented by
The Inspector of Police,
Thirupalapanthal Police Station,
Villupuram District.
Crime No.162 of 2020

... Respondent

Prayer: Criminal Appeal filed under Section 374 (2) of Criminal Procedure Code, 1973, to call for the records and set aside the conviction and sentence imposed on the appellant/accused by the learned Principal Sessions Judge, Villupuram by a judgment dated 05.08.2023 in Special Case No.9 of 2021 by allowing this appeal.

For Appellant : Mr.K.R.Samratt

For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor

JUDGMENT

This Criminal Appeal challenges the judgment of conviction and sentence imposed by the learned Principal Sessions Judge, Villupuram in Spl.S.C.No.9 of 2021 dated 05.08.2023.



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2. The appellant / Accused was convicted by the trial Court for the offences under Section 304(ii) of IPC and Section 135(1)(e) of the Electricity Act, 2003 and sentenced as follows:

Offence under Section	Sentence imposed
304(ii) of IPC	To undergo SI for 5 years and to pay a fine of Rs.1,00,000/-, in default to undergo SI for six months.
135(1)(e) of Electricity Act, 2003	To undergo SI for 1 year
The sentences to be run concurrently.	

3. The case of the prosecution is that the appellant was cultivating in a land measuring 5.00 acres; that in order to prevent damage to the crops, he erected an electric fence and had tapped electricity illegally from an electric pole near the land; and that the victim accidentally came into contact with the live wire fencing and died; and thus committed the offences under Section 135(1)(e) of the Electricity Act, 2003 and Section 304(ii) IPC.

4. The father of the victim, P.W.1 had lodged a complaint Ex.P1 on 14.04.2020. On the basis of the said complaint, P.W.8 the Sub-Inspector of



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Police registered an F.I.R. in Crime No.162 of 2020 for the offence under Section 304(ii) IPC. Thereafter, the investigation was conducted by P.W.11, who is the Inspector of Police, after examining all the witnesses filed the final report for the offences under Section 304(ii) IPC and Section 135(1)(e) of the Electricity Act, 2003.

5. The prosecution framed two charges against the appellant for the offences under Section 135(1)(e) of the Electricity Act, 2003 and Section 304(ii) IPC. The prosecution examined eleven witnesses and marked Ex.P1 to Ex.P16. The trial Court found the appellant guilty of both the offences and sentenced him as stated above.

6. The learned counsel for the appellant would submit that the impugned judgment cannot be sustained and apart from the vague deposition of P.W.1 and P.W.2 stating that the appellant was cultivating crops in the land, there is no evidence to suggest that the appellant had erected the electric fencing or tapped electricity from the nearby electric pole; that the prosecution had not examined the owner of the land, one Venkatesan; that the Village Administrative Officer would admit that he had not furnished any



documents to the Investigating Officer to prove the ownership of the land or the person who is cultivating the land; that the evidence of the Junior Engineer of the Electricity Department is also of no avail to the prosecution; that the prosecution has not established the fact that electricity was tapped by marking any photographs; that the rough sketch marked by the prosecution Ex.P11 and the document attached to the complaint of P.W.9 marked as Ex.P10 are contrary to each other; and that in the absence of any evidence to show that the appellant had erected the fence, the impugned judgment convicting the appellant for the offence under Section 135(1)(e) of the Electricity Act, 2003 or under Section 304 (ii) IPC cannot be sustained.

7. The learned Additional Public Prosecutor for the respondent, *per contra*, would submit the fact that the victim was electrocuted because of the electric fence is spoken to by P.W.1 and P.W.2, the father and brother of the victim; that the post-mortem doctor, P.W.7, had opined that the deceased died due to electrocution; and considering the evidence of P.W.1 and P.W.2 to the effect that the appellant was cultivating the crops, the impugned judgment cannot be set aside; and that there is no infirmity in the impugned judgment and prayed for dismissal of the appeal.



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8. As stated earlier the prosecution had examined eleven witnesses.

P.W1 is the father and P.W2 is the brother of the victim. P.W.3 is the uncle of the victim; P.W4 and P.W5 are the friends of the victim. P.W6 is the Village Administrative Officer, is the witness to the confession of the accused. P.W7 is the post-mortem doctor, who had issued the post-mortem report Ex.P7 and the final opinion Ex.P8. P.W8 is the Sub-Inspector, who registered the FIR; P.W9 is the Junior Electrical Engineer of the T.N.E.B, who had also lodged a complaint to his superior reporting the incident. P.W10 is the Constable who had assisted the Investigating Officer. P.W11 is the Inspector of Police, who conducted the investigation.

9. It is the case of the prosecution that the land belongs to one Venkatesan. P.W.1, P.W.2 and P.W.6 have confirmed the said fact. In fact, the Investigating Officer P.W.11, would also assert that the land belongs to one Venkatesan. However, for the reasons best known to the prosecution, the said Venkatesan was not examined as a witness. P.W.11 is unable to explain why Venkatesan was not examined as a witness, though he would state that he had recorded his statement during the investigation.



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10. It is the further case of the prosecution that an illegal line was taken from the service connection which stood in the name of one Kathirvel. P.W.11, the Investigating Officer, would admit that Kathirvel was examined during the investigation. However, he was also not examined by the prosecution. The prosecution seeks to rely upon the evidence of P.W.1 and P.W.2 to show that the appellant was cultivating the said land. In fact, P.W.1 would also state that it was the appellant who had erected the electric fencing around the said land. The Investigating Officer would admit that he had not collected any evidence to show that the appellant was a lessee and had cultivated the said land. P.W.6, the Village Administrative Officer in his cross-examination, would state that the Investigating Officer had not obtained any document from him to show as to who is the owner of the land in question where the body of the deceased was found and as to who cultivated the said land. In fact, P.W.1, in his cross-examination would state that when the Police, during the investigation, had called the owner of the land, he did not come and the accused had denied that he was cultivating in the land. In such circumstances, the Police ought to have examined the owner of the land to prove that the appellant was cultivating the land. There



is also no evidence to show that the appellant had erected an electric fence around the said land.

11. Above all, it is the prosecution case that the electricity was stolen from the connection held in the name of one Kathirvel. As stated above, Kathirvel was examined during the investigation but was not examined during the trial. P.W.1 would admit in his cross-examination that on 14.04.2020, the appellant was arrested. Therefore, the alleged seizure made pursuant to the arrest and confession of the appellant on 15.04.2020 also becomes doubtful.

12. For all the above reasons, this Court is of the view that the prosecution has failed to prove its case. The investigation as could be seen from the cross-examination of the Investigating Officer, has been conducted in a half-hearted manner. The appellant cannot be convicted on the basis of evidence adduced in this case.

13. In the result, this Criminal Appeal is allowed, and the appellant is acquitted of all the charges. The conviction and sentence passed in



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Spl.S.C.No.09 of 2021 on the file of the learned Principal Sessions Judge, Villupuram, *vide* judgment dated 05.08.2023, is set aside. The fine amount, if any, paid by the appellant shall be refunded. Bail bond, if any, executed shall stand discharged.

16.02.2026

Index : Yes/No
Speaking Order/Non Speaking Order
Mac

To

1. The Principal Sessions Judge, Villupuram
2. The Inspector of Police,
Thirupalapanthal Police Station,
Villupuram District.
3. The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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