



Crl.A(MD)No.181 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2026

CORAM:

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

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1.Dhanabalan
2.Anish

... Appellants/Accused Nos.1 and 2

Vs.

The State through,
The Inspector of Police,
Kaliyakavalai Police Station,
Kanyakumari District.
(Crime No.429 of 2013). ... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 374(2) of Cr.P.C to call for the records and to set aside the Judgment of conviction dated 06.01.2023 made in S.C.No.107 of 2015 on the file of the learned Additional Sessions Court, Kuzhithurai.

For Appellants : Mr.S.C.Herold Singh

For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor



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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.107 of 2015, dated 06.01.2023, on the file of the learned Additional Sessions Judge, Kuzhithurai, thereby convicting the appellants for the offence punishable under Section 302 read with 34 of I.P.C.

2.The case of the prosecution is that the first accused is the owner cum driver of the tourist van bearing Registration No.TN-67-M-9399 and the second accused is the cleaner of the said van. The deceased was a soldier of the Indian Army. While being so, on 10.09.2013 at about 07.00 p.m., the deceased parked his two-wheeler in front of Srivatsa Automobile Agencies and at the same time, the accused attempted to park their van at the same place. This resulted in a quarrel between them regarding the parking of their

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respective vehicles. Thereafter, the deceased took his two-wheeler and proceeded from the spot. At that time, the accused allegedly drove their van at a high speed and hit the deceased's two wheeler from behind. Therefore, the deceased sustained grievous injuries and subsequently succumbed to the injuries.

3. Based on the complaint, the respondent registered an F.I.R in Crime No.62 of 2015 for the offence punishable under Section 302 read with 34 of I.P.C. After completion of the investigation, a final report was filed and the same was taken cognizance by the Trial Court.

4. In order to bring the charges to home, the prosecution examined P.W.1 to P.W.23 and marked Exs.P1 to P14. The prosecution also produced Material Objects M.O.1 to M.O.7. On the side of the accused, no witnesses were examined and no documents were produced before the Trial Court.

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5.On perusal of the oral and documentary evidence, the trial Court found both the accused guilty for the offence punishable under Section 302 read with 34 of I.P.c and sentenced them to undergo life imprisonment and imposed a fine of Rs.10,000/- each in default, to undergo one year Rigorous Imprisonment. Aggrieved by the same, the appellants have filed the present Criminal Appeal.

6.The learned counsel appearing for the appellants submitted that all the prosecution eyewitnesses turned hostile and did not support the case of the prosecution. There was absolutely no motive established against the appellants and there was no mala fide intention on their part to do away with the life of the deceased. The alleged occurrence is said to have taken place on 10.09.2013 at about 19.30 hours. However, the information was received by the respondent only on the next day ie., 11.09.2013 at about 05.30 p.m and the F.I.R was registered thereafter. The delay was not properly explained by the prosecution. It was merely an accident, which was



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later converted into a murder case. No witness supported the case of the prosecution to establish that the appellants intended to cause the death of the deceased. The appellants dashed against the two-wheeler driven by the deceased, resulting in injuries.

7.In fact, even according to the case of the prosecution, the appellants drove their tourist van and hit the deceased's vehicle from behind. Both the vehicles were subjected to motor vehicle inspection. The Motor Vehicle Inspector categorically deposed that the damages to the deceased's two-wheeler were only on the front side and there was absolutely no damage on the rear side. Therefore, the entire case of the prosecution fails. Even then, the Trial Court mechanically convicted the appellants. Even assuming that the first appellant, with an intention to cause the death of the deceased, drove the vehicle and hit the deceased's two-wheeler, the second appellant, who was only the cleaner of the van at the relevant point of time, had no role to play in the alleged crime.



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8.The mother of the deceased had deposed as P.W.1. Even according to her, there was previous enmity due to a parking dispute. However, no independent witness was examined by the prosecution to substantiate the same. Immediately after the accident, police personnel arrived at the spot and even then, no F.I.R was registered at that time. The alleged occurrence is said to have taken place on 10.09.2013 at about 19.30 hours., whereas the F.I.R was registered only on 11.09.2013 at about 05.30 p.m. Therefore, the prosecution cooked-up the case and falsely implicated the appellants by converting an accident case into a murder case. Even then, the Trial Court mechanically convicted the appellants.

9.Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that admittedly there was a parking dispute between the deceased and appellants. This fact was clearly spoken by the prosecution witnesses, though they turned



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hostile. After the parking dispute, when the deceased was proceeding in his motorcycle, the appellants, with an intention to do away with his life, drove the vehicle in a high speed and hit the two-wheeler driven by the deceased. Though there was no damage on the rear side of the two wheeler, the entire front side was damaged, which indicates that after the impact, the two-wheeler was forcibly thrown out and the deceased sustained grievous injuries, ultimately resulting in his death. Therefore, whether the damage was on the front or rear side of the vehicle is immaterial, as the death occurred only due to the accident. The prosecution also proved the motive behind the crime and the appellants deliberately used their vehicle to cause the death of the deceased. Hence, the prosecution has clearly proved the charges and the same does not warrant any interference of this Court.

10.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

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11. Admittedly, the appellants and deceased were not acquainted with each other prior to the occurrence. On 10.09.2013 at about 07.30 p.m., a quarrel arose between the appellants and the deceased with regard to the parking of their respective vehicles. The appellants had their tourist van, in which the first appellant was the driver and the second appellant was the cleaner of the vehicle. After quarrel, the deceased took his two-wheeler and proceeded from the spot. After about 10 minutes, the appellants also took their tourist van and proceeded further. Thereafter, an accident occurred, as a result of which the deceased sustained grievous injuries and died.

12. The mother of the deceased deposed as P.W.1 and admittedly she is only a hearsay witness. P.W.2 is also a hearsay witness. Apart from P.W.1 and P.W.2, none of the witness spoke about the occurrence and all others turned hostile. No witness supported the case of the prosecution. In fact, P.W.1 and P.W.2 were not present during the alleged parking dispute between the



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appellants and deceased. However there was an accident, due to which the deceased sustained grievous injuries and died. According to the prosecution, while the deceased was proceeding in his two wheeler, the appellants drove their vehicle from behind and dashed against the two wheeler. The alleged occurrence took place on 10.09.2013 at about 07.30 p.m. Immediately after the accident, police personnel arrived at the spot, however, no F.I.R was registered under Sections 279 and 304-A of I.P.C. On the next day i.e., on 11.09.2013 at about 05.30 p.m., a complaint was lodged by P.W.1 and the same was registered in Crime No.429 of 2013 for the offence punishable under Section 302 of I.P.C. There was a delay in lodging the complaint and in the registration of the F.I.R, even though police personnel were very much present immediately after the accident. This clearly indicates that it was only an afterthought to implicate the appellants for the offence punishable under Section 302 of I.P.C.



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13. After registration of F.I.R, both vehicles were subjected to motor vehicle inspection. After inspection, the Motor Vehicle Inspector submitted a report which was marked as Ex.P.12. The report revealed that the entire front portion of the two-wheeler was damaged, while no damage was found on its rear side. The offending vehicle was also subjected to motor vehicle inspection and the inspection report was marked as Ex.P.13.

14. A perusal of Ex.P.13 reveals that no major damage was caused to the front side of the offending vehicle. Only a bend on the front left side bumper and damage to the front left side wheel mudguard were noted. Further inspection of the offending vehicle revealed that there was absolutely no damage to its front side. The Motor Vehicle Inspector found a minor bend, which appeared to be not a new one. Therefore, the prosecution failed to prove that the vehicle which was driven by the first appellant dashed against the deceased's two-wheeler.

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15. Even assuming that the first appellant drove the vehicle in a high speed with an intention to cause the death of the deceased and dashed against the two wheeler, the second appellant was only the cleaner of the vehicle. There is no evidence to show that the second appellant also had a common intention with the first appellant to do away with the life of the deceased. That apart, the prosecution projected the motive as a prior quarrel between the deceased and the appellants regarding parking of their respective vehicles. However, there is absolutely no evidence produced by the prosecution to substantiate the same. Therefore, the prosecution failed to prove the motive behind the crime as alleged. The prosecution also failed to establish that both the appellants acted with a common intention to cause the death of the deceased. In overall circumstances the prosecution has failed to prove the charge under Section 302 read with 34 of I.P.C against the appellants.



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16.In view of the above, the conviction and sentence imposed on the appellants in S.C.No.107 of 2015, dated 06.01.2023, on the file of the learned Additional Sessions Judge, Kuzhithurai, cannot be sustained and are liable to be set aside.

17.In the result, this Criminal Appeal is allowed and the Judgment made in S.C.No.107 of 2015, dated 06.01.2023, on the file of the learned Additional Sessions Judge, Kuzhithurai, is hereby set aside and the appellants are acquitted of all the charges. The bail bond, if any, executed by the appellants shall stand cancelled. The fine amount, if any paid, shall be refunded to the appellants. The appellants shall be set at liberty forthwith, if they are no longer required in connection with any other case.

**[G.K.I.J.] & [R.P.J.,]
27.01.2026**

NCC :Yes/No

Index :Yes/No

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To

1.The Additional Sessions Court,
Kuzhithurai.

2.The Inspector of Police,
Kaliyakavalai Police Station,
Kanyakumari District.

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



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