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CRL.A(MD).No.226 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2026

CORAM

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
AND
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

CRL.A(MD).No.226 of 2023

Nandagopal
**(At present confined at Central Prison,
Madurai as convict prisoner)**

... Appellant

Vs.

The State rep by its,
The Inspector of Police,
Soolakarai Police Station,
Virudhunagar District.
(Crime No.57 of 2016)

... Respondent

PRAYER : Criminal Appeal is filed under Section 374(2) of the Criminal Procedure Code, to call for the records of the impugned judgment made in S.C.No.215 of 2016 on the file of the learned Additional District and Sessions Judge, Virudhunagar dated 27.09.2022 and set aside the same.

For Appellant	:	Mr.M.Jegadeesh Pandian
For Respondent	:	Mr.A.Thiruvadi Kumar, Additional Public Prosecutor



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J U D G M E N T

(Judgment of the Court was made by **K.K.RAMAKRISHNAN,J.**)

The sole accused in S.C.No.215 of 2016, on the file of the learned Additional District and Sessions Judge, Virudhunagar, has filed this appeal challenging the conviction and sentence passed against him for the offence under Section 302 IPC, sentencing him to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default to undergo six months' simple imprisonment, as per the impugned judgment dated 27.09.2022.

2.Facts of the case

The deceased was the father-in-law of the appellant. P.W.13 is the daughter of the deceased and the wife of the appellant. The appellant married P.W.13 as his second wife. After the marriage, the appellant subjected P.W.13 to continuous harassment and cruelty, and he used to assault her frequently. Due to such ill-treatment, P.W.13 lodged a complaint before the jurisdictional police. After enquiry, the appellant gave an undertaking that he would not cause any further trouble to her. However,



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despite the said undertaking, the appellant continued his abusive conduct.

Unable to bear the harassment, P.W.13 left the matrimonial home and went to reside in her sister's house at Salem. Enraged by this, the appellant developed enmity towards his father-in-law (the deceased). On 05.04.2016 at about 7.00 p.m., the appellant entered the Sri Lankan refugee camp at Kulloorsanthai, and abused the deceased, and violently hit his head against the wall of the Anganwadi building. On hearing the commotion, the public gathered at the scene, and the accused escaped from that place. P.Ws.11 and 12 took the injured/deceased to the hospital, where P.W.20, the doctor, examined him and declared him dead at about 9.45 p.m. The doctor sent intimation to the jurisdictional police under Ex.P20. On receipt of the same, P.W.21, the Sub-Inspector of Police, registered a case in Crime No.57 of 2016 under Sections 294(b), 506(ii), and 302 IPC. The FIR was marked as Ex.P15.

2.1.The case was thereafter taken up for investigation by P.W.22, the Investigating Officer. P.W.22, upon receiving the information, proceeded to the scene of occurrence at about 6.00 a.m. on 06.04.2016, prepared the



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observation mahazar and rough sketch in the presence of P.W.7 and another witness. He also recovered blood-stained soil and sample/control soil under Ex.P4, and blood-stained cement pieces under Ex.P5. Subsequently, P.W.22 went to the Government Hospital, conducted inquest over the body, and sent a requisition for post-mortem through P.W.16, the constable. P.W.15, the doctor, conducted the post-mortem on 06.04.2016 at about 12.30 p.m. and noted multiple injuries on the body of the deceased.

2.2.During the course of investigation, on 06.04.2016 at about 3.00 p.m., P.W.22 arrested the accused. The accused gave a voluntary confession in the presence of the Village Administrative Officer and his assistant (P.Ws.9 and 10). The admissible portion of the confession was marked as Ex.P18. Pursuant to the same, a blood-stained shirt worn by the accused was recovered near Muthanachi Padalai Railway Gate.

2.3.The Investigating Officer thereafter sent all the seized materials for chemical, biological, and serological examination. After examining all the witnesses and collecting the reports, he completed the



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investigation and filed the final report on 07.08.2016 under Sections 294(b) and 302 IPC before the learned Judicial Magistrate No.II, Virudhunagar.

2.4.The case was taken on file in P.R.C. No. 23 of 2016 and, since the offences were triable by the Court of Sessions, it was committed to the Principal Sessions Court, Srivilliputhur and made over to the learned Additional District and Sessions Judge, Virudhunagar, who took cognizance in S.C. No. 215 of 2016, furnished copies under Section 207 Cr.P.C., framed necessary charges, and proceeded with trial. The accused pleaded not guilty.

2.5.In order to prove its case, the prosecution examined P.Ws.1 to 23, marked Exs.P1 to P22, and produced Material Objects M.O.1 to M.O.7.

2.6.After completion of the prosecution evidence, the accused was examined under Section 313 Cr.P.C. with regard to the incriminating circumstances appearing against him. The accused denied the same as false and claimed that a false case had been foisted against him. No witness or document was produced on the side of the defence.



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2.7.The learned trial Judge, upon consideration of the entire evidence on record, found the accused guilty under Section 302 IPC and convicted and sentenced him as stated above.

2.8.Challenging the conviction and sentence imposed against him, the appellant has preferred the present appeal before this Court.

3.Submissions of the learned counsel appearing for the appellant:

The learned counsel for the appellant would submit that, though the prosecution examined several witnesses as eyewitnesses, most of them did not support the case and were declared hostile. According to him, P.W.4 and P.W.23 have partly supported the prosecution case, and they have also been treated hostile. The learned trial Judge, however, relied upon their partial testimony and convicted the accused without any legally reliable evidence. The learned counsel fairly conceded that the evidence of a hostile witness cannot be rejected in toto and that the portion of evidence



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supporting the prosecution can be relied upon if it is credible. However, in the present case, P.W.4 and P.W.23 have not clearly deposed about the involvement of the accused, and there is no consistent or cogent evidence available on record to sustain the conviction. It is further contended that the trial Court has proceeded to record a moral conviction without only legal evidence, despite all the material witnesses turning hostile. On that ground, he seeks acquittal. The learned counsel further submitted that the earliest version of the occurrence creates serious doubt about the prosecution case. P.W.11, who took the deceased to the hospital, has stated in the earliest information that the deceased was attacked by an unknown person. This version is also reflected in the medical records. Therefore, according to the learned counsel, the prosecution case implicating the appellant is an afterthought, and the benefit of doubt ought to be extended to the accused. It is also contended that the alleged recovery and other circumstances relied upon by the prosecution have not been satisfactorily proved. The learned trial Judge, without proper appreciation of evidence, has convicted the appellant mainly based on the discussion in paragraph 23 of the impugned judgment. A reading of the said paragraph, according to the learned counsel,



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does not disclose any legally admissible or reliable material to sustain the conviction under Section 302 IPC. Hence, he prayed for setting aside the impugned judgment.

4.Submissions of the learned Additional Public Prosecutor:

Per contra, the learned Additional Public Prosecutor would submit that, though several witnesses have turned hostile, the evidence of P.W.4 and P.W.23 clearly establishes that the appellant entered the refugee camp and assaulted the deceased by hitting his head against the wall of the Anganwadi building. Their evidence, though partly hostile, supports the prosecution on material particulars. It is further submitted that their testimony is corroborated by medical evidence and other surrounding circumstances. The learned trial Judge has properly appreciated the available evidence and rightly convicted the accused. Hence, he prayed for dismissal of the appeal.

5.This Court carefully considered the rival submissions made by the learned counsel appearing for the appellant and the learned Additional



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Public Prosecutor appearing for the respondent and perused the entire materials available on record.

6.The question arising for consideration in this case is *whether the prosecution has established the case beyond reasonable doubt against the appellant and the conviction and sentence imposed by the learned trial Judge against the appellant can be sustained or not?*

7.In this case, the deceased is the father-in-law of the appellant. The appellant married P.W.13, the daughter of the deceased. It is the case of the prosecution that the appellant was addicted to alcohol and used to subject P.W.13 to cruelty. In this regard, P.W.13 had earlier lodged a complaint before the jurisdictional police, which has been marked as an exhibit.

8.Even thereafter, the appellant continued to harass her, and unable to bear the same, she left the matrimonial home and started residing



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with her sister at Salem. Enraged by this, the appellant developed animosity towards the deceased.

9. On 05.04.2016 at about 7.00 p.m., when the deceased was present in the refugee camp, the appellant came there, abused him stating that he was unable to live with his wife due to the conduct of the deceased, and thereafter assaulted him by violently hitting his head against the wall of the Anganwadi building. On hearing the noise, witnesses gathered at the scene, and the accused fled from the place of occurrence.

10. To prove its case, the prosecution examined several eyewitnesses, namely P.Ws. 3, 4, 5, 6, 11, 12, and 23. However, except P.W. 3, P.W. 4, and P.W. 23, the other witnesses did not support the prosecution case and were treated hostile. However, in the present case, except P.W. 4 and P.W. 23, all the other alleged eyewitnesses have not supported the prosecution case and were treated hostile. Even P.W. 3, P.W. 4, and P.W. 15 have not supported the prosecution in full and were also declared hostile.



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11.Despite this, the learned trial Judge proceeded to convict the accused by relying upon some portions of the evidence of P.W.1, P.W.4, and P.W.23. On a careful reading of the evidence of P.W.4 and P.W.23, this Court finds that they have not attributed any specific overt act against the appellant in a clear and consistent manner. At the most, P.W.23 has stated that there was a quarrel between the deceased and the appellant. Though he has, at one stage, stated that the appellant assaulted the deceased, he has subsequently retracted the same and stated that he did not even go near the Anganwadi building. In view of such contradictions, his evidence does not inspire confidence. Similarly, the evidence of other witnesses does not corroborate the alleged overt act attributed to the appellant. Thus, there is no consistent or reliable ocular evidence to connect the accused with the crime. Further, P.W.11, who took the deceased to the hospital, has clearly stated at the earliest point of time that the deceased was assaulted by an unknown person. This version finds place in the medical records as well. Even the wife of the deceased has stated that she was informed that the deceased was attacked by unknown persons. This creates a serious doubt regarding the prosecution case.



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12. Therefore, the evidence of P.W.4 and P.W.23, even if partially relied upon, is not corroborated by any other independent or material evidence. In such circumstances, it would be unsafe to base a conviction solely on such unreliable and inconsistent testimony.

13. This Court finds that the prosecution has failed to prove the case beyond reasonable doubt. The learned trial Judge, relying on the inconsistent and unreliable evidence, has convicted the appellant, which cannot be sustained in law. Accordingly, this Court is of the considered view that the conviction and sentence imposed on the appellant is liable to be set aside.

14. In the result, this Criminal appeal is allowed in the following terms:

(i) The conviction and sentence imposed on the appellant under Section 302 IPC by the learned Additional District and Sessions Judge, Virudhunagar, in S.C.No.215 of 2016 dated 27.09.2022 is hereby set aside.

(ii) The appellant is acquitted of all charges.



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(iii)The appellant shall be released forthwith, if his custody is not required in connection with any other case.

(iv) The bail bond, if any executed, shall stand cancelled. Any fine amount paid shall be refunded.

[N.A.V, J.] & [K.K.R.K,J.]
08.04.2026

NCC :Yes/No
Index :Yes/No
Internet :Yes/No
sbn

To

- 1.The Additional District and Sessions Judge, Virudhunagar.
- 2.The Inspector of Police,
Soolakarai Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai
- 4.The Section Officer,
Criminal Section (Records)
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH, J.
and
K.K.RAMAKRISHNAN, J.

sbn

Judgment made in
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