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Crl.A(MD)No.199 of



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10/03/2026

CORAM

**THE HONOURABLE MR JUSTICE N. ANAND VENKATESH
AND
THE HONOURABLE MR JUSTICE P.DHANABAL**

Crl.A(MD)No.199 of 2023

K.Chelladurai

: Appellant/Sole Accused

Vs.

State rep. By
The Inspector of Police,
Thevaram Police Station,
Theni District.
In Crime No.183 of 2017.

: Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code, against the judgment of conviction and sentence passed by the Additional District and Sessions Judge (FTC), Theni, and to set aside the same and consequently to acquit the appellant/sole accused.

For Appellant

: Mr.R.Gowrishankar

For Respondent

: Mr.A.Thiruvadi Kumar
Additional Public Prosecutor



JUDGMENT

(Judgment of the Court was made by the Hon'ble **P.DHANABAL, J.**)

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This Criminal Appeal has been preferred by the appellant as against the judgment of conviction and sentence passed in SC No.47 of 2018 by the Additional District and Sessions Judge, (FTC), Theni, dated 11/01/2023, wherein the accused was charged for the offence punishable under Sections 450, 452, 302 and 506(ii) IPC.

2.The Trial Court found guilt of the accused for the offences under Sections 302, 450 and 506(ii) IPC and acquitted the accused for the offence under Section 452 of IPC. Aggrieved by the said judgment of conviction and sentence passed by the Trial Court, the accused has preferred this appeal.

3.The case of the prosecution is that on 28/04/2017, the deceased Sakthivel along with his friend Krishnan and Karupasamy had purchased brandy for them and while returning back, they had met the accused Chelladurai and they also invited him to his house for consuming liquor. Since they had purchased only 3 liquor bottles, they had sent Karuppasamy to purchase liquor for the accused also. In the meantime, quarrel arose between the accused Chelladurai and the deceased Sakthivel regarding the misplacement of the cell phone. The cell phone of the deceased Sakthivel was hidden by the accused and



thereby, the deceased scolded the accused and immediately, the accused left the place by warning the deceased. Again, after sometime, the accused came to the house of the deceased along with one Gunasekaran, and asked about the scolding regarding the hidden of the cell phone. At that time, the deceased Sakthivel insulted the deceased alleging that the accused stolen the cell phone. Therefore, there was a wordy quarrel between them and the same was pacified by one Alagumalai. Thereafter, the accused went to the house of the father of the deceased namely Palanisamy @ Mustafa and warned him to advise his son to behave in a proper manner, otherwise he would do away the life of his son. At that time, the father of the deceased namely Palanisamy @ Mustafa pacified him.

3.1. Thereafter, at about 08.45 p.m, PW1 the father of the deceased, on suspicious went to the house of his son Sakthivel. At that time, he heard the screaming voice of his son and inside the house, he found that the accused cutting the throat of Sakthivel with a sickle. After seeing the father of the deceased, the accused threatened him and thereby unable to prevent the accused. Thereafter, the accused had severed the head of Sakthivel and had put it in a white bag along with sickle and also went to the house of Krishnan and put the severed head and sickle in front of the house of Krishnan. Thereafter, the accused fled away from that place, in the meantime, the father of the deceased also came there and thereafter, he lodged the complaint (Ex.P1) before the respondent Police.



3.2. The respondent Police, based on the complaint (Ex.P1) have registered the case in Crime No.183 of 2017 for the offences punishable under Sections 452, 302, 506(i) IPC through Ex.P5 (FIR). Thereafter, the Investigating Officer (PW24) went to the place of occurrence and prepared observation mahazar (Ex.P6) and rough sketch (Ex.P10) and thereafter, conducted inquest on the deceased body and prepared inquest report (Ex.P12) and also sent the body of the deceased for autopsy and obtained postmortem certificate (Ex.P4) from the Doctor. On 29/04/2017, the Investigating Officer prepared the rough sketch (Ex.P11) in the presence of the witnesses and also prepared mahazar (Ex.P7) and thereafter, he arrested the accused on 29/04/2017 and the accused voluntarily gave a confession statement in the presence of the witnesses and he also recovered bloodstained Shirt (MO9) based on the confession statement. The Investigating Officer (PW24) has examined the witnesses and recorded their statement and collected materials and finally filed the final report, after completion of the investigation. Thereafter, PW24 laid a charge sheet before the Judicial Magistrate, Bodinayakanur.

3.3. The learned Judicial Magistrate, Bodinayakanur, also took the case in P.R.C No.10 of 2017. After completing the legal formalities served free copies to the accused and complied with under section 207 Cr.P.C and committed the case to the Court of Session, since the offences are exclusively



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triable by a Court of Session. The Principal District and Sessions Judge, Theni, took the case on file in S.C No.47 of 2018 and made it over to the Additional District and Sessions Judge (Fast Track Court, Theni. Thereafter, the Trial Court, after hearing both sides, framed the charges against the accused for the offences punishable under Sections 452, 302 and 506(ii) IPC. The charges framed against the accused/appellant, were read over and explained to him and he denied the charges. Thereby, the prosecution examined the witnesses PW1 to PW24 and marked documents Exs.P1 to P17, besides produced the material objects MO1 to MO11. After completion of prosecution side evidences, the accused was examined under Section 313(1)(b) Cr.P.C, with regard to the incriminating evidence adduced against him and the same was also denied by the accused and no witness was examined and no document was marked on the defence side.

4.After hearing both sides and considering oral and documentary evidence adduced on either side, the Trial Court found the accused guilty of offences punishable under Sections 302, 506(ii) and 450 IPC and convicted the accused and sentenced to undergo **rigorous imprisonment for life** and to pay a fine of Rs.5,000/-, in default to undergo three months SI for the offence under Section **302 IPC**; also convicted and sentenced him to undergo **10 years RI** and to pay a fine of Rs.5,000/-, in default to undergo three months SI for the offence under **Section 450 IPC** and also convicted and sentenced him to undergo **3**



years SI and to pay a fine of Rs.500/-, in default to undergo one month SI for the offence under **Section 506(ii) IPC**. The Trial Court directed that the sentences imposed on the accused shall run concurrently and the imprisonment period already underwent by the accused shall be set off under Section 428 Cr.P.C.

5. Aggrieved by the above said of judgment of conviction and sentence, the present appeal has been filed by the accused/appellant.

6. The learned counsel appearing for the appellant would submit that the de-facto complainant lodged a false complaint against the accused and based on the said complaint, the respondent Police registered the case in Crime No.183 of 2017 for the offences punishable under Sections 452, 302 and 506(ii) IPC and the respondent Police without conducting proper investigation, filed a final report and based on the final report, without any *prima facie* materials, the Trial Court also framed the charges and the the prosecution had examined 24 witnesses and marked 17 documents, besides 11 material objects. PW1 is the de-facto complainant who is said to be the eye witness to the occurrence and his evidence is highly doubtful and he cannot be the eye witness and the conduct of PW1 who is the father of the deceased, after seeing the occurrence, neither prevented the accused nor raised any alarm and immediately after seeing the occurrence, he did not inform to anybody and therefore, the above said conduct



creates doubt over the evidence of PW1 as to whether he witnessed the occurrence or not. The evidence of PW2 is highly doubtful and after having liquor, the accused came to his house, after sometime, the accused came there and allegedly put the severed head and sickle in front of the house of PW2. But the wife of PW2 who was examined as PW4, in her cross examination has stated that her husband slept due to intoxication and thereafter, she woke up her husband and therefore, the evidence of PW2 is also highly doubtful. PW3 has spoken about the purchase of alcohol and having liquor on the date of the occurrence and he is a hearsay witness and the Aalagumalai informed him about the occurrence and he is not an eye witness. The said Alagumalai was examined as PW5 and he deposed about the quarrel between the deceased and the accused. PW12, PW13 and PW16 turned hostile. PW7, PW8 and PW9 and PW11 are all the hearsay witnesses. PW10 has spoken about the carrying of severed head of the deceased.

6.1. But when the severed head was inside the bag, how could PW10 identified the head of Sakthivel has not been explained by the prosecution. Even as per the evidence of the prosecution, so many witnesses saw the accused with severed head and stickle. While so, none of the witnesses tried to catch the accused and thereby the evidence of the prosecution witnesses are highly doubtful. PW14, PW15, PW16 and PW17 are only hearsay witnesses.



PW18 is the mahazar witness, but after arrest only, PW18 went there. Therefore, his evidence is not reliable. PW19 has only deposed about the injuries sustained by the deceased and therefore, that is not sufficient to connect the accused with the said occurrence. PW24 the Investigating Officer has not conducted proper investigation and without conducting proper investigation, he filed the final report. Therefore, the prosecution witnesses have not sufficiently proved the guilt of the accused and the prosecution witnesses create serious doubt and therefore, the accused is entitled for benefit of doubt and the present appeal is to be allowed, by acquitting the appellant.

7. On the other hand, the learned Additional Public Prosecutor would submit that based on the complaint lodged by PW1, who is the father of the deceased, the respondent Police have registered a case in Crime No.183 of 2017 for the offences under Sections 452, 302 and 506(ii) IPC and thereafter, PW24 conducted fair investigation and as per his investigation, there were *prima facie* materials available to prosecute the accused and thereby, final report has been filed and the Trial Court has framed the charges after satisfying *prima facie* materials available against the accused and PW1 is the complainant as well as the eye witness to the occurrence. PW2 and PW3 have categorically deposed about the carrying of the severed head of the deceased by the accused along with stickle. The Doctor PW19 who conducted the postmortem also deposed about



the severed head and the witnesses have identified the body of the deceased with severed head. PW4 also in her evidence clearly stated that on the date of the occurrence, the accused was talking with her husband and thereby she went there and saw the accused with severed head of the deceased by saying that take your friend (இந்தாடா உன் பிரண்டு). Thereby the prosecution has established the charges against the accused beyond reasonable doubt and the Trial Court also after elaborate discussion has correctly convicted the accused and therefore, the appeal is liable to be dismissed.

8.This Court heard both sides and perused the records.

9. Now the point is whether the prosecution has proved the charges against the accused beyond reasonable doubt?

10.In this case, the accused has been charged for the offences punishable under Sections 302, 506(ii) and 450 IPC and the Trial Court convicted the accused and sentenced him to undergo rigorous imprisonment for life and to pay a fine of Rs.5,000/-, in default to undergo three months SI for the offence under Section 302 IPC; also convicted and sentenced him to undergo 10 years RI and to pay a fine of Rs.5,000/-, in default to undergo three months SI for the offence under Section 450 IPC and also convicted and sentenced him to



undergo 3 years SI and to pay a fine of Rs.500/-, in default to undergo one month SI for the offence under Section 506(ii) IPC.

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11.The point for determination in this appeal is whether the prosecution has proved the charges levelled against the accused beyond reasonable doubt and the conviction and sentence passed by the Trial Court are sustainable?

12.The case of the prosecution is that on the date of the occurrence that is on 28/04/2017, the deceased along with PW2, PW3 went for having liquor and they also purchased the liquor and on the way, they met the accused and they called the accused for company and he also accompanied with the deceased and two others for having liquor, at that time, no separate liquor bottle was available for the accused, thereby the said Krishnan went to purchase a liquor bottle for the accused, in the meantime, there was a wordy quarrel between the deceased Sakthivel and the accused in respect of hiding of the cell phone of the deceased by the accused. Due to that, the accused came along with one Gunasekaran and once again, asked about the scolding by the deceased, at that time also, the deceased once again stated that the accused stolen his cell phone. Therefore, enraged with that wordings, the accused after sometime went to the house of Sakthivel and severed his head with stickle. At that time, PW1



was reached to the spot. After seeing the occurrence by the father of the deceased namely PW1, the accused threatened him and thereafter the accused had taken the severed head of the deceased Sakthivel in a bag and the same was taken to the house of PW2 Krishnan and after reaching the house of Krishnan, the accused called the Krishnan PW2 and stated that take your friend (இந்தா உன் பிரெண்டை வைத்துக்கொள்). Thereafter, PW1 who also came there and saw the accused along with the severed head of the deceased with stickle. Apart from that, PW4 also seen the accused with severed head and stickle.

13.The PW1, father of the deceased has categorically deposed about the lodging of the complaint and seeing of occurrence. He is an eye witness to the occurrence and he categorically deposed about the occurrence. According the evidence of PW1, already the accused warned him to advice his son to behave properly, since the deceased scolded him saying that he stolen his cell phone. On suspicious he went to the place of occurrence, at that time the accused cut the neck of the deceased and after seeing the PW1, the accused threatened him, thereby he did not raise alarm. After sometime when he came to his house, on the way he saw the accused with severed head of his son in front of the house of PW2 and PW4. Therefore, the said evidence of PW1 is cogent, reliable and acceptable. Though PW1 being the father of the deceased, had not raised any alarm and not prevented the act of the accused, it is depending upon



the nature of the individual and thereby mere non-raising of the alarm and not preventing the accused cannot be a ground to disbelieve the evidence of PW1.

The evidence of PW1 also not shaken through effective cross examination.

14.PW2 and PW4 who had seen the accused with severed head and stickle, have categorically deposed about the presence of the accused with severed head. The PW2 has deposed that he along with the deceased Sakthivel, PW3/Karuppasamy went to the garden of Subbaiyah to have liquor, at that time the accused Chelladurai was standing near Sellandiyamman Temple, the Sakthivel and the Chelladurai are known to each other, thereby the accused Chelladurai also accompanied with them for having liquor, at that time, they sent PW3/Karuppasamy to purchase liquor to the accused Celladurai by paying Rs. 200/- each by Chelladurai and Sakthivel. At the time the accused Chelladurai asked the cell phone of deceased Sakthivel to make a phone call to his wife and due to poor signal unable to make phone call. After sometime, the deceased Sakthivel searched his cell phone to make call to the PW3 /Karuppasamy since he had not retuned. After search of the cell phone, he was unable to trace the cell phone. Thereby there was a wordy quarrel between the accused and the deceased. Finally the accused had the custody of the phone of the deceased, thereby both the accused and the deceased attacked each other by fistycuff. By the time the PW3-Karuppasamy also came there and he pacified the scuffle,



thereafter the, PW3-Karuppasamy and the deceased Sakthivel had the liquor. At that time, the accused Chelladurai once again came there along with one Gunasekaran and he scolded the deceased as to why assaulted the accused person and scolded as he had stolen the cell phone and the accused also stated that for fun he hid the cell phone, by the time, the brother of PW2 was also came there and scolded thereby all of them went to their houses. The PW2 also went to his house and was sleeping. At the time about 9.15 p.m, the accused Celladurai came to his house and stated that take your friend இந்தடா உன் பரண்கு. He also stated to lay with him. Immediately the accused put severed head of the Sakthivel with sickle in a Rose colour bag and shouted that he cut one person and will cut other two persons. After seeing the other persons he ran away. Thereafter, at about 2.45 a.m, the police came to the place of occurrence and matched the head and body of the deceased and he identify the deceased.

15.The above said evidence of PW2 clearly shows that the accused and the deceased along with PW2 and PW3 had liquor on the date of the occurrence and due to hiding of the cell phone of the deceased by the accused there was a scuffle between the deceased and the accused and the deceased scolded the accused that he stolen his cell phone. Enraged with the said act of the deceased, the accused severed the head of the deceased and put the severed head and the sickle at the house of PW2.



16.PW4 who is the wife of PW2 also in her evidence stated that on 28.04.2017, the PW5, who is brother of her husband told her that the accused, the deceased, PW2 and her husband and PW3-Karuppasamy had went for having liquor, at the time there was a quarrel between the deceased and the accused. At that time, PW2, her husband was laying out of the house, and she was lying inside the house with her children. At about 9.15 p.m, the accused was speaking with her husband/PW2 and after hearing the noise, she came out and saw the accused with bag by saying that take your friend (உன்னுடைய பிரண்டை வைத்து கொள்). At that time, after seeing other persons, the accused ran away. After sometime, the police came there and she identified the head of the Sakthivel and the same was fixed with the body of the Sakthivel.

17.PW3 and PW5 have also stated that after hearing the occurrence, they went to the house of PW2 and PW4 and saw the severed head of the deceased Sakthivel.

18.PW7 Gunasekaran also in his evidence stated that on the date of the occurrence, the accused Chelladurai called him by saying that the deceased had quarrelled with him and he also warned them and saw that they were under intoxication and he left there, after sometime, he heard that the accused murdered the deceased.



19.Further the PW10 also deposed that on 28.04.2017 at about 9.15 p.m, the accused crossed his house by carrying a white with rose colour bag with sickle and put the bag and the sickle in front of the house of PW2 by saying that take your sister's son and ran away from there.

20.Therefore from the above evidences, they categorically revealed that there was a quarrel between the deceased and the accused on the date of the occurrence. PW1 had seen the occurrence and the accused cut the head of the deceased, and thereafter the severed head of the deceased was carried in a bag by the accused and the same was put into the house of PW2 and the same was witnessed by PW2 and PW4. The PW3 and PW5 have also seen the severed head of the deceased and sickle at the house of PW2. The evidence of PW2, PW4 and PW10 are cogent, nature without exaggeration, thereby they cannot be discarded and are acceptable. Moreover, the evidence of PW2 and PW4 have not seen impeached through cross examination.

21.The PW21, who is the mahazar witness also deposed that the police have prepared mahazar. In Ex.P6 and Ex.P7 where the severed head was placed. The PW23 also deposed about the body of the deceased found in the place of Subbaiyah garden and the Inspector of Police went to the house of PW2/Krishnan and brought the head of the deceased and after fixing the same



with the body, the same was sent for postmortem. PW24 the Investigating Officer also categorically deposed about the investigation and he found the body of the deceased at scene of occurrence No.1 and seized the sickle/MO1 and seized the head of the deceased and sickle at the scene of occurrence No.2 at the house of PW2.

22.The Doctor PW19 has deposed about the injuries sustained by the deceased and the cause of the death. He conducted postmortem on the body of the deceased and issued Postmortem report (Ex.P4) wherein the following injuries were found on the body of the deceased.

1.A circumferential cut injury noted on the front side, and back of the neck. The head found separated.

On dissection: The wound found cutting the underlying spinal cord, neck muscles, vessels, nerves, trachea (wind pipe), oesophagus (food pipe) and the lower border of C3 cervical vertebrae, seen at the root of the neck with the surrounding bruise.

2.A cut injury noted below occipital protuberance, measuring 7 cms x 3 cm x bone deep.

3.A cut injury noted 1 cm below injury



no.2 measuring 7.5 cm x 3 cm x bone deep.

4.A circumferential cut injury noted on the front, sides and back of the trunk at the level of the upper border of C4 cervical vertebrae of the trunk.

and finally the Doctor opined that the deceased would appear to have Died of Shock and Haemorrhage due to DECAPITATION TYPE OF HEAD INJURY, 10 to 14 Hours prior to the Autopsy.

23.The Investigating Officer also categorically deposed about the fair investigation. The evidence of PW1, PW2 and PW4, PW10 and the official witnesses are cogent and natural and cannot be discarded in anyway. The above said evidence of the witnesses have not been discredited through the effective cross examination. Nothing has been elicited in the cross examination to disbelieve the above said evidences. Thereby the prosecution has proved the charges levelled against the accused beyond reasonable doubt. The Trial Court also after elaborate discussion and after appreciating the evidence of the prosecution witnesses correctly convicted the accused and awarded adequate punishable.

24.As far as the offence under Section 450 IPC is concerned, the occurrence took place at the godown of one Subbaiah and thereby the accused



trespassed into the godown of the Subbaiah and committed murder punishable with death sentence. Thereby the prosecution has proved the charge under Section 450 IPC.

25. So far as the offence under Section 302 IPC is concerned, the prosecution has proved that the deceased cut the head of the deceased and thereby the deceased died and the prosecution witnesses have categorically deposed about the involvement of the accused and therefore, the charge under Section 302 IPC has been proved by the prosecution beyond reasonable doubt.

26. As far as the charge under Section 506(ii) IPC is concerned, the charge is that the accused threatened the deceased with dire consequences, but none of the prosecution witnesses have spoken about the said criminal intimidation caused by the accused. Once the accused charged for the major offence of 302 IPC, the minor charge of 506(ii) IPC is not necessary, however the trial Court framed charge under Section 506(ii) IPC, but no sufficient evidence is available to punish under Section 506(ii) IPC. However, the trial Court convicted the accused and sentenced to undergo simple imprisonment for three years and to pay a fine of Rs.500/-, in default to undergo one month simple imprisonment, for the offence under Section 506(ii) IPC, thereby the said conviction and sentence passed by the trial Court are liable to be set-aside and



accordingly set aside, the appellant/accused is acquitted for the charge under Section 506(ii) IPC and the fine amount paid by the appellant/accused for the offence under Section 506(ii) IPC is ordered to be refunded to the appellant/accused. The trial Court has also awarded punishment for the offences under Sections 302 IPC and 450 IPC and therefore, the above said judgment of conviction and sentence passed by the trial Court for the said offences are in order and warrants no interference by this Court.

27.In the result, with the above said terms, this Criminal Appeal is **dismissed.**

(N.A.V.,J) (P.D.B.,J)
10/03/2026

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To,

- 1.The Additional District Judge, (FTC),
Theni.
- 2.The Inspector of Police,
Thevaram Police Station,
Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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