



Crl.A(MD)No.267 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2026

CORAM:

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

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1.Ganesamoorthy
2.Thambidurai
3.Manikandan

... Appellants/Accused 1 to 3

Vs.

The State rep. by
The Inspector of Police,
Thiruvaiyaru Police Station,
Thanjavur District.
(Crime No.45 of 2018).

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 374 (2) of Cr.P.C., to call for the records relating to the conviction and sentence imposed by the trial Court by its judgment dated 14.03.2023 in S.C.No.2 of 2020, on the file of the II Additional District and Sessions Judge, Thanjavur and set aside the same, acquit the appellants.



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For Appellants : Mr.A.Arun Prasad

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

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.2 of 2020, dated 14.03.2020, on the file of the II Additional District and Sessions Court, Thanjavur, thereby convicting the appellants for an offence under Section 302 of IPC.

2. The case of the prosecution is that, on 03.02.2018 at about 08.30 p.m., the deceased quarreled with his mother to get money for drinking alcohol and at that time, his mother told him that she had no money. Therefore, he got angry and took the sickle and attacked his mother. Therefore, his mother was admitted in the Thanjavur Medical College Hospital for treatment. Due to the said



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incident, the first accused, who is the brother of the deceased visited their mother on 05.02.2018 at about 7.30 p.m., and he questioned the deceased as to why he assaulted their mother. Thereafter, the deceased taken by the first accused to Uppukaichipettai, north bank of Kudamuruti river near Odathurai, wherein they were accompanied by accused Nos.2 & 3, who are the friends of the first accused, where, they assaulted deceased with sickle. Therefore, the deceased sustained grievous injuries and died on the spot.

3. Based on the complaint, FIR was registered by the Inspector of Police, Thiruvaiyaru Police Station, in Cr.No.45 of 2018 for an offence punishable under Section 302 of IPC. After completion of investigation, a final report was filed and the same has been taken cognizance by the trial Court.

4. In order to bring the charges to home, the prosecution had examined P.W.1 to P.W.19 and marked Ex.P.1 to Ex.P.28. On



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the side of the accused, no witnesses were examined and no documents were produced before the trial Court. The prosecution has produced Material Objects in M.O.1 to M.O.10.

5. On perusal of oral and documentary evidence, the trial Court found the accused guilty for the offence punishable under Section 302 of IPC. They were sentenced to undergo Life Imprisonment and to impose a fine of Rs.10,000/- each, in default, to undergo one year Simple Imprisonment for the offence punishable under Section 302 of IPC. Aggrieved by the same, the appellants have preferred these appeals.

6. The learned counsel for the appellants submits that all the eye witnesses had turned hostile and no one supports the case of the prosecution. Further, the prosecution had also failed to prove the chain link in the alleged occurrence. The conviction is based on the circumstantial evidence. The trial Court convicted the appellants



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only based on the assumption without relying upon any evidence adduced by the prosecution. Therefore, the trial Court ought not to have convicted the appellants and the entire conviction and sentence imposed by the trial Court cannot be sustained and it is liable to be set aside.

7. Per contra, the learned Additional Public Prosecutor appearing for the respondent would submit that though all the witnesses turned hostile, the recovery of material objects from the accused had blood stains and the blood matched the blood group of the deceased. Therefore, the trial Court rightly convicted the appellants and it does not warrant any interference of this Court.

8. Heard the learned counsel appearing on either side and perused the materials available on record.



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9. On perusal of the records, it is revealed that all the witnesses turned hostile and no one supported the case of the prosecution. According to the prosecution P.Ws.2 to 5 happen to be eye witnesses to the occurrence and they turned hostile and did not support the case of the prosecution. Other mahazar witnesses, who were examined by the prosecution as P.W.10 and P.W.11 also turned hostile and they did not support the case of the prosecution. Therefore, the arrest and recovery of material objects were not proved by the prosecution in accordance with law. Unfortunately, the trial Court based on the statement recorded under Section 161 of Cr.P.C., convicted the appellants.

10. In view of the above, the conviction and sentence imposed on the appellants in S.C.No.2 of 2020, dated 14.03.2023, on the file of the II Additional District and Sessions Court, Thanjavur cannot be sustained and are liable to be set aside.



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11. In the result, this Criminal Appeal is allowed and the judgment made in S.C.No.2 of 2020, dated 14.03.2023, on the file of the II Additional District and Sessions Court, Thanjavur, 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.,]
13.02.2026**

NCC :Yes/No
Index :Yes/No
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- 1.The II Additional District and Sessions Judge,
Thanjavur.
- 2.The Inspector of Police,
Thiruvaiyaru Police Station,
Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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