



WEB COPY

Crl. A(MD)No.301 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 10.06.2026
Pronounced on : 15.06.2026

CORAM:

THE HONOURABLE Mr. JUSTICE N.ANAND VENKATESH

AND

THE HONOURABLE Mr. JUSTICE K.K.RAMAKRISHNAN

Crl. A. (MD)No.301 of 2023

Udayakumar

.. Appellant/sole accused

Vs.

The State through
The Inspector of Police,
Karur Town Police Station,
Karur District
Crime No.810/2016

..Respondent/Complainant

Appeal filed under Section 374(2) of Criminal Procedure Code, against the judgment and order dated 01.02.2022 in S.C.No.24 of 2017 on the file of the Additional District and Sessions Judge, (Fast Track Mahila Court), Karur..

For Appellant : Mr.Abudu Kumar Rajarathinam
Senior counsel for Mr.K.M.Karunakaran

For Respondent : Mr.D.Venkatesh
Counsel for State



Crl. A(MD)No.301 of 2023

WEB COPY

JUDGMENT

(Judgment of the Court was delivered by N.ANAND VENKATESH, J)

The sole accused has assailed the judgment and order of the Additional Sessions Judge, (Fast Track Mahila Court) Karur made in SC No.24 of 2017 dated 01.02.2022 in this appeal, wherein he was convicted and sentenced in the following manner:

Offences for which convicted (IPC)	Sentenced to undergo
449	10 years rigorous imprisonment and to pay fine of Rs.10,000/-, in default to undergo simple imprisonment for six months
294(b)	Three months simple imprisonment and to pay fine of Rs.1,000/- in default to undergo 15 days simple imprisonment
324	2 years simple imprisonment and to pay fine of Rs.1,000/- in default to undergo three months simple imprisonment
302	Life imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo simple imprisonment for six months
506(II)	2 years simple imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for three months

The above sentences were ordered to run concurrently.



Crl. A(MD)No.301 of 2023

WEB COPY 2. The case of the prosecution is that the deceased Sonali had proximity with the accused person for sometime. Later, she abstained herself from having proximity and as a result, the accused person became agitated and entertained animosity. The deceased was studying at Karur College of Engineering, IIIrd year BE Civil Engineering. The accused person also used to study in the same college in the same branch, but, however, due to lack of attendance, he was debarred from writing the exams and therefore he discontinued his studies. On 30.08.2016, at about 9.00 a.m., PW1 was taking classes and was instructing the students, at about 10.30 a.m., the accused person is said to have trespassed into the classroom and scolded the de-facto complainant in filthy language and assaulted the deceased on her head indiscriminately with a wooden log (MO1) and as a result, the deceased sustained grievous injuries and later succumbed to the injuries in the hospital. In the course of the same transaction, when PW1 came to the rescue of the deceased, he was also attacked by the accused person causing injury on his left wrist. Thereafter the accused person intimidated all those persons in the classroom and fled away from that place.



Crl. A(MD)No.301 of 2023

WEB COPY 3. PW1 gave a written complaint (Ex.P1) to PW30, who registered an FIR (Ex.P22) at about 12.00 hrs., in Crime No.810 of 2016 for offences under Sections 294(b), 324, 506(II) and 307 IPC.

4. PW31 took up the investigation and went to the scene of crime on the same day at about 13.00 hrs., and in the presence of witnesses (PW10 and another), prepared the observation mahazar (Ex.P11) and rough sketch Ex.P23. He thereafter examined some of the witnesses and recorded their statements under Section 161(3) Cr.P.C. The accused person was arrested at about 15.15 hrs., in the presence of PW8 and another person and based on his confession, wooden log (MO1) was recovered, apart from a light violet colour full sleeve shirt (MO3) under Athatchi Ex.P7 and Ex.P8. The accused person was remanded to judicial custody and the seized material objects were sent to the Court through Form 95.

5. During the course of investigation, PW31 received an intimation that the injured died in the Apollo Hospital, Madurai, on 30.08.2016 at



Crl. A(MD)No.301 of 2023

WEB COPY

about 15.02 hrs. Hence, alteration report was filed before the Court (Ex.P24) by altering the offence to Section 302 IPC. On the same day, PW31 went to the place of occurrence and seized bloodstained cement floor, sample cement floor and bloodstained steel bench (MO2, MO4 and MO5) in the presence of PW9 and PW10 under the cover of mahazar Ex.P25.

6. On 31.08.2016, inquest was conducted over the dead body of the deceased in the Rajaji Medical College and Hospital, Madurai, between 12.10 hrs., and 14.10 hrs., in the presence of panchayatdars and inquest report (Ex.P26) was prepared. The dead body of the deceased was sent to the Government Rajaji Medical College and Hospital, Madurai through PW23 with a requisition to conduct autopsy.

7. The autopsy was conducted by the Doctor PW24, who gave an autopsy report (Ex.P18) by noting the following injuries:

“The following ante mortem injuries are noted on the body:

1. Sutured lacerated wound measuring 5cm x 1cm x bone deep noted on right parietal region.



2. *Sutured lacerated injury measuring 6cm x 1cm x bone deep noted on mid occipital region.*

3. *Punctured lacerated wound measuring 3cm x 1cm x bone deep noted just behind upper part of right pinna, 4.0cm above from right mastoid.*

4: *Contusion measuring 15cm x 5cm noted on back of upper part of left side of chest, 10cm away from midline.*

On dissection of Scalp, Skull & Dura:

Subscalpal contusion measuring 16cm x 14cm noted over whole of occipital region. Comminuted fracture noted over both side occipital region. Diffuse subdural hemorrhage and subarachnoid hemorrhage noted over both cerebral hemispheres. Laceration measuring 4cm x 2cm x 9.5cm noted on left occipital region of brain. Fracture base of both sides of anterior cranial fossa and posterior cranial fossa noted.

On dissection of Chest:

Contusion measuring 10cm x 4cm noted over posterior aspect of left side chest wall from 4 to 8 ribs. Contusion measuring 6cm x 4cm noted over lower lobe of left lung.”

8. A final opinion was given to the effect that the deceased would appear to have died due to injuries in the brain and in the skull.



Crl. A(MD)No.301 of 2023

WEB COPY 9. PW31 recorded the statements from other witnesses under Section 161(3) Cr.P.C., and he gave requisition letter to the concerned Court for sending the material objects to the Regional Forensic Sciences Laboratory. PW31 got transferred and the investigation was placed before PW32.

10. PW32, in the course of investigation, recorded further statements from the witnesses under Section 161(3) Cr.P.C. He obtained autopsy report, viscera report and serology report (Ex.P18, Ex.P31 and Ex.P32). PW32 also altered the offence by adding Section 449 IPC through an alteration report (Ex.P33). After completion of investigation, the police report was laid before the Judicial Magistrate, No.I, Karur, which was taken on file in PRC No.6/2017.

11. The committal Court, after serving copies under Section 207 Cr.P.C., committed the case under Section 209 Cr.P.C., and the case was made over to the file of the Additional Sessions Judge (Fast Track Mahila Court), Karur, which was taken on file in SC No.24 of 2017.



Crl. A(MD)No.301 of 2023

WEB COPY 12. The trial Court framed charges against the accused person under Sections 449, 294(b), 324, 302 and 506(II) IPC and when the accused person was questioned, he denied the charges.

13. The prosecution examined PW1 to PW32 and marked Ex.P1 to Ex.P33 and relied upon MO1 to MO5.

14. The incriminating evidence and circumstances were put to the accused person when he was questioned under Section 313(i)(b) Cr.P.C., and he denied the same as false.

15. The trial Court, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to the conclusion that the prosecution has proved the case beyond reasonable doubts and accordingly convicted and sentenced the accused person in the manner stated supra. Aggrieved by the same, the present criminal appeal has been filed before this Court.



Crl. A(MD)No.301 of 2023

WEB COPY 16. The learned Senior counsel appearing on behalf of the appellant submitted that the very identity of the accused person is in question. It is submitted that the prosecution examined PW1, PW5 and PW26 to PW29 as eyewitnesses and the only eyewitness whose evidence carry some weight will be the evidence of PW1. Many of the witnesses have either turned hostile or had not seen the actual incident. He further submitted that even insofar as PW1 is concerned, he had joined the College as Assistant Professor only 45 days prior to the incident and before the incident, he did not even know the accused person. However, he has proceeded to name the accused person in the FIR and insofar as the identity is concerned, no steps were taken to conduct test identification parade and for the first time, PW1 identifies the accused person in the Court, which is wholly unbelievable.

17. The learned Senior counsel further submitted that it is the consistent evidence of witnesses that the wooden log (MO1) was dropped in the scene of crime by the accused person, whereas, PW31, who is the investigating officer, claims that this wooden log was



Crl. A(MD)No.301 of 2023

WEB COPY

recovered after the arrest of the accused person from a bush. Therefore, even insofar as the recovery is concerned, it is unbelievable. The learned Senior Counsel pointed out to various discrepancies in the evidence of PW1, which contradicts the complaint (Ex.P1) given by PW1. The learned Senior counsel submitted that in the absence of the specific identity of the accused person, the appellant, who is innocent, cannot be made as a scapegoat and therefore, the benefit of doubt has to be given to the accused person and he must be acquitted from all the charges.

18. Per contra, learned counsel appearing on behalf of the State submitted that PW1 is an injured witness in this case and he has seen the accused person at the time of incident. PW1 has also identified the accused person in the Court. Insofar as the name of the accused person is concerned, it is clear from the evidence that he gathered the name of the accused person from other students, who knew the accused person earlier since he studied in the same college. The learned counsel therefore submitted that there is absolutely no ground to disbelieve the evidence of PW1. That apart, it is contended that the eyewitness account of PW1 is



Crl. A(MD)No.301 of 2023

WEB COPY

corroborated by the autopsy report considering the injuries that were noted down in the report. The learned counsel further submitted that the lapses in the investigation as pointed out by the learned senior counsel for the appellant by itself cannot wipe out the entire evidence of PW1 and hence, the conviction and sentence imposed by the trial Court does not warrant the interference of this Court and the learned counsel sought for the dismissal of this criminal appeal.

19. This Court has carefully considered the submissions made on either side and the materials available on record.

20. This is an unfortunate case where a girl student who used to have some proximity with the accused person chose to abstain herself for some reasons. The accused person was not able to digest this attitude of the deceased girl. It has become a trend in the recent times where a boy, who gets rejected in a relationship, thinks that a girl is bound to continue with the relationship failing which he will be justified in even killing the girl. Very many incidents of this nature has taken place in the recent past



Crl. A(MD)No.301 of 2023

WEB COPY

and this is one such case where a girl, who was studying in the third year Engineering was present in the classroom and the enraged boy barges into the classroom and attacks the girl indiscriminately on her head with a wooden log and the girl sustained grievous injuries and ultimately succumbs to the injuries. Due to the reckless gory act on the part of the boy, the life of a girl, who had dreams to make it big has been snatched away. To make things worse, this incident takes place in broad day light in the presence of other students in the classroom and the Assistant Professor, who questions the accused person is also attacked, as a result of which, he sustained injuries.

21. PW1 is the Assistant Professor working in the college and he was taking classes on 30.08.2016 and at about 10.30 a.m., he found the accused person criminally trespassing into the classroom along with a wooden log. He uses filthy language to abuse the deceased and assaulted her indiscriminately on her head, as a result of which, she falls down unconscious. PW1 describes this incident and he also states that he attempted to stop the accused person and the accused person attacked



Crl. A(MD)No.301 of 2023

WEB COPY PW1 also as a result of which he sustained injuries.

22. The injuries sustained by PW1 is spoken by PW17, who is a Doctor at Amaravathi Nursing Home. He states that on 30.08.2016 at about 11.00 a.m., PW1 came to the nursing home stating that he has been attacked in his hand with the wooden log and he has sustained injuries. On examination, the Doctor found that PW1 has sustained injuries in his left wrist and the same was recorded in the wound certificate marked as Ex.P13.

23. It is contended that PW1 does not know the accused person before the incident took place since he had joined only 45 days prior to the incident and therefore, even without the identification of the accused person by conducting the test identification parade, PW1 could not have identified the accused person in the Court for the first time. It must be borne in mind that test identification parade is within the realm of investigation in order to help the investigating officer to proceed against the correct accused person during the course of investigation. In other



Crl. A(MD)No.301 of 2023

WEB COPY

words, it is an aid towards investigation and test identification parade has no role to play in a Court. Insofar as the Court is concerned, what is material is the identification of the accused person by the witness in the dock. Test identification parade is not mandatory in every case, where the accused person is not known to the witnesses. The Court must only see if such identification by the witness is otherwise trustworthy and reliable.

24. This Court must bear in mind that PW1 is an injured witness and it is nobody's case that PW1 sustained injury elsewhere. The injury was sustained by PW1 in the course of the same incident and the injury was caused by the accused person. Therefore, PW1 had the opportunity to look at the accused person, who attacked him in broad day light. A person, who encounters such an extreme experience is not likely to forget the face of the assailant even for a life time. The Apex Court had an opportunity to deal with this issue regarding the theory of 'memory' and as to how memory works. Useful reference can be made to the judgment in ***Pargan Singh v. State of Punjab and another*** reported in **2014 (14)**



WEB COPY **SCC 619** and the relevant portions are extracted hereunder:

“17. Let us first discuss the testimonies of PW-2 and PW-3 who are stated to be the eye-witnesses. Both of them have narrated the incident in unison and their version is almost the same. PW-2, who is the injured witness, has even in his cross-examination, narrated that deceased was attacked first by the accused and after firing the shot at him, the accused fired PW- 2 when they were flee with the bag of money. The occurrence lasted for 1½ minutes. He has further stated that few seconds after the receipt of injury, he became unconscious and regain consciousness after 4 days of receipt of the injury. The testimony of this witness is sought to be discredited by arguing that when the incident lasted for only 90 seconds, it was difficult to remember the faces of the accused persons after 7½ years of the incident, particularly in the absence of previous acquaintance.

18. Before entering upon the discussion on this aspect specific to this case, we would like to make some general observations on the theory of “memory”. Scientific understanding of how memory works is described by Geoffrey R. Loftus while commenting upon the judgment dated January 16, 2002 rendered in the case of Javier Suarez Medina v. Janie Cockrell by United States Court of Appeals, Fifth Circuit in Case No.01-10763. He has explained that a generally accepted theory of this process was first explicated in detail by Neisser (1967) and has been continually refined over the intervening quarter-century.



WEB COPY The basic tenets of the theory are as follows:

18.1 First, memory does not work like a video recorder. Instead, when a person witnesses some complex event, such as a crime, or an accident, or a wedding, or a basketball game, he or she acquires fragments of information from the environment. These fragments are then integrated with other information from other sources. Examples of such sources are:

information previously stored in memory that leads to prior expectations about what will happen, and information-both information from external sources, and information generated internally in the form of inferences- that is acquired after the event has occurred. The result of this amalgamation of information is the person's memory for the event. Sometimes this memory is accurate, and other times it is inaccurate. An initial memory of some event, once formed, is not "cast in concrete." Rather, a memory is a highly fluid entity that changes, sometimes dramatically, with the passage of time. Every time a witness thinks about some event-revisits his or her memory of it-the memory changes in some fashion. Such changes take many forms. For instance, a witness can make inferences about how things probably happened, and these inferences become part of the memory. New information that is consistent with the witness's beliefs about what must have happened can be integrated into the memory. Details that do not seem to fit a coherent story of what happened can be stripped away. In short, the memory possessed



WEB COPY

by the witness at some later point (e.g., when the witness testifies in court) can be quite different from the memory that the witness originally formed at the time of the event.

18.2. Memory researchers study how memory works using a variety of techniques. A common technique is to try to identify circumstances under which memory is inaccurate versus circumstances under which memory is accurate. These efforts have revealed four major sets of circumstances under which memory tends to be inaccurate. The first two sets of circumstances involve what is happening at the time the to-be-remembered event is originally experienced, while the second two sets of circumstances involve things that happen after the event has ended.

18.3 The first set of circumstances involves the state of the environment at the time the event is experienced. Examples of poor environmental conditions include poor lighting, obscured or interrupted vision, and long viewing distance. To the degree that environmental conditions are poor, there is relatively poor information on which to base an initial perception and the memory that it engenders to begin with. This will ultimately result in a memory that is at best incomplete and, as will be described in more detail below, is at worst systematically distorted.

18.4. The second set of circumstances involves the state of the observer at the time the event is experienced. Examples of suboptimal observer states include high stress, perceived or



WEB COPY

directly inflicted violence, viewing members of different races, and diverted attention. As with poor environmental factors, this will ultimately result in a memory that is at best incomplete and, as will be described in more detail below, is at worst systematically distorted.

18.5. The third set of circumstances involves what occurs during the retention interval that intervenes between the to-be-remembered event and the time the person tries to remember aspects of the event. Examples of memory-distorting problems include a lengthy retention interval, which leads to forgetting, and inaccurate information learned by the person during the retention interval that can get incorporated into the person's memory for the original event.

18.6. The fourth set of circumstances involves errors introduced at the time of retrieval, i.e., at the time the person is trying to remember what he or she experienced. Such problems include biased tests and leading questions. They can lead to a biased report of the person's memory and can also potentially change and bias the memory itself.

19. While discussing the present case, it is to be borne in mind that the manner in which the incident occurred and description thereof as narrated by PW-2, has not been questioned on the ground that narration should not be believed because of lapse of time. Instead, the appellants have joined issue on a very limited aspects viz. their identification on the ground that faces of



WEB COPY

the culprits could not have been remembered after 7½ years of the occurrence as memory fades by that time.

20. *We are of the opinion that under the given circumstances and keeping in view the nature of incident, 90 seconds was too long a period which could enable the eye-witness (PW-2) to watch the accused persons and such a horrible experience would not be easily forgotten. Death of a friend and near death experience by the witness himself would be etched in the memory for long. Therefore, faces of accused persons would not have been forgotten even after 7½ years.*

21. *Whether a particular event or the faces of a person could be remembered would depend upon the circumstances under which those faces are seen. One cannot lose sight of the fact that here is a case where the two accused persons are the assailants who had shot dead Varun Kumar, companion of PW-2. Thereafter, they had fired at PW-2 as well. For PW-2, it was clearly a horror scene resulting into traumatic experience. In a case like this, even when these two assailants had remained before his face for 90 seconds, these 90 seconds was sufficiently long time to observe them closely and the person encountering such an event would not forget those faces even for a life time, what to talk for 7½ years that have elapsed in between. We would like to support our hypothesis with an anecdote. Once a friend of Einstein, the renowned scientist who invented the theory of relativity, asked him to explain that theory. Mr. Newton explained it in a simple manner for common man's understanding as under:*



WEB COPY

If a boy is sitting with his girlfriend/lover, he would feel the time fly away and 60 minutes would seem as 60 seconds. On the other hand, if a person puts his finger in a hot boiling water, 60 seconds would feel like 60 minutes. This is the theory of relativity.

22. In the present case, the circumstances on which the PW-2 seen the accused persons even for 90 seconds, that was sufficient to absorb their faces. In contrast, things would be different if it is a case of some large get together where two unknown persons have a chance meeting for 90 seconds. Therefore, we reject the argument of learned counsel for the appellants that PW-2 could not recollect the face of the appellants after 7½ years and thus, he was not telling the truth. We have to keep in mind that PW-2 suffered serious injury because of the shot fired at him by the assailants and seriousness of the injury has resulted into conviction under [Section 307 IPC](#) as well. The testimony of an injured witness requires a higher degree of credibility and there have to be strong reasons to describe the same. The appellants have not been able to demonstrate that the courts below unreasonably reached the conclusion as to the admissibility of the testimony of PW-2. Apart from a very feeble submission that this witness identified the appellants 7½ years after the incident, their arguments do not address the issue of whether testimony of PW-2 was false. We are, thus, not at all impressed by this argument of the learned counsel for the appellants. Except that PW-3 is not an injured eye- witness, he has also seen the occurrence and the reasons given in support of



Crl. A(MD)No.301 of 2023

WEB COPY *attaching credibility to the statement of PW-2 would apply in his case as well.”*

25. The above judgment of the Apex Court is a classic thesis as to how memory works under different circumstances. One such circumstance that was dealt with is where a person gets attacked by an assailant and the face of that person gets deeply embedded in the memory, which sometimes cannot be forgotten even for a life time.

26. In the case that was dealt with by the Apex Court, the incident had lasted only for 90 seconds and without a test identification parade, the assailant was identified in the Court after nearly 7½ years and more particularly, when the witness never had any previous acquaintance with the accused person. The Apex Court held that in such extreme circumstances which causes life threat or someone is seen brutally attacked, the brain captures the face of the assailant and it can recall that face at any point of time.

27. In the case in hand, the assailant not only indiscriminately



Crl. A(MD)No.301 of 2023

WEB COPY

attacked the deceased, but also attacked PW1. Therefore, PW1 remembering the face of the accused person and identifying him in the Court, is a clear possibility. In the case in hand, the incident had taken place on 30.08.2016 and PW1 identified the accused person in the Court on 15.10.2018. Therefore, between the incident and the time at which the evidence was given by PW1, it was not separated by a long interval.

28. This Court must also keep in mind the fact that the testimony of an injured witness requires higher degree of credibility and there must be very strong reasons for discarding the same. Therefore, PW1 identifying the accused person in the dock after the incident, cannot be doubted and the finding of the trial Court is sustainable.

29. The learned Senior Counsel pointed out certain discrepancies between the complaint given by PW1 and the evidence tendered before the Court. The discrepancies that were pointed out by the learned Senior counsel for the appellant touched upon the colour of the dress that was worn by the accused person and which is said to be the uniform of the



Crl. A(MD)No.301 of 2023

WEB COPY

college, the manner in which the complaint was given to the police, naming the accused person in the complaint without even knowing the accused person prior to the incident etc. All these are minor discrepancies which will not discredit the evidence of PW1.

30. PW2 was also working as an Assistant Professor in the same college and he has stated that a loud noise was heard from the classroom and when he rushed to the classroom, he found the deceased in the floor unconscious with grievous head injuries. Even though PW2 would not have seen the incident, he was present immediately after the incident and ascertained that the attack had taken place and it was done by the accused person. He was one of the person who took the injured to the hospital.

31. PW3 to PW5, who were the students and were examined as eyewitnesses did not support the case of the prosecution and they were treated as hostile witnesses.

32. PW26 is another student, who has turned hostile. PW27 is also



Crl. A(MD)No.301 of 2023

WEB COPY

a student, who describes about the incident and the attack made by the accused person on the deceased with MO1. He knows the accused person since he also studied in the same college. He states that he informed PW1 about the incident and the learned Senior counsel for the appellant submitted that in view of the evidence of PW27, PW1 could not have seen the incident. This submission is only liable to be rejected outright. PW1 is an injured witness in the same incident and therefore, one stray statement should not be blown out of proportion and the evidence of PW27 must be considered as a whole. To a large extent, the evidence of PW27 corroborates the evidence of PW1 and also the identity of the accused person. Chief examination of PW27 happened on 25.04.2019 and he was not cross-examined immediately. He was recalled and cross-examined only on 24.09.2021 and during cross-examination this witness makes a curious statement that the accused was not there at the time of incident. This Court recalls the judgment in ***Dharmaraj v. The Inspector of Police, Athanakottai Police Station, Pudhukottai District*** reported in ***2015 (2) LW (Crl.) 458*** and the judgment in ***Rasukannu @ Rengasamy and Karthik v. State through***



Crl. A(MD)No.301 of 2023

WEB COPY ***the Inspector of Police, Alangudi Police Station, Pudukottai District***

reported in **2018 (1) MLJ 306**, where it has been held that if a witness has been cross-examined after a long interval from the date of chief examination, such evidence cannot be disregarded/eschewed if there are circumstances to show that he/she might have been won over by the other side during the interregnum period.

33. In the case in hand, when PW27 had specifically deposed during chief-examination regarding the identity of the accused person and also the incident and it is quite shocking that during cross-examination conducted after nearly twenty five months, PW27 states as if the accused person was not there. Obviously PW27 has been won over and therefore, the statement made by PW27 in the cross-examination has to be necessarily eschewed.

34. Insofar as PW28 and PW29 are concerned, they specifically speak about the incident that took place in the College, but, however,



Crl. A(MD)No.301 of 2023

WEB COPY

they do not identify the accused person. Therefore, their evidence to the extent that it corroborates the incident that took place on 30.08.2016, adds weight to the case of the prosecution.

35. The ocular evidence is perfectly supported by the medical evidence in terms of the autopsy report marked through PW24. All the injuries have been sustained in the head portion of the deceased and as per the autopsy report, the final opinion states that the deceased would appear to have died of cranio cerebral injury. This is another strong evidence which corroborates the evidence of PW1.

36. A lot of hue and cry was made regarding the recovery of MO1. It is the consistent evidence of the witnesses that the accused person had dropped MO1 in the classroom before fleeing from the place of occurrence. As usual, the investigating officer, who probably does not even have the fundamental knowledge in conducting of investigation, mechanically comes up with the theory of recovery of MO1 from a bush after the arrest of the accused person. It has become a routine practice in



Crl. A(MD)No.301 of 2023

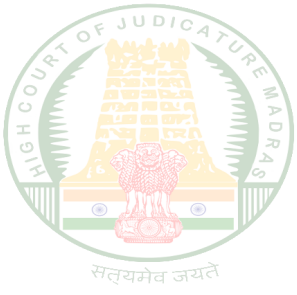
WEB COPY

all cases to show a recovery after the arrest of an accused person.

Obviously MO1 was available in the scene of crime and it has been spoken to by PW15, who was a witness to the observation mahazar Ex.P11. Just because there is a lapse on the part of the investigating officer to have shown a recovery, that by itself will not discredit the case of the prosecution since the recovery of MO1 is evident from the deposition of PW15.

37. PW24, who is the postmortem Doctor, has further confirmed in his evidence that the injuries sustained by the deceased is capable of being caused with MO1. Therefore, the identification of MO1 in this case is quite apparent and it cannot be discredited just because PW31 goofed up the investigation in a case which was otherwise a open and shut case.

1. While deciding a criminal case, common sense also plays a major role. The incident had taken place inside a classroom in a College.



Crl. A(MD)No.301 of 2023

WEB COPY

It is impossible for a total stranger to get into a college and enter a classroom during the working hours. The security arrangements are such that no one will be allowed inside the college without proper identity. The accused in this case was a student in the same college. He was debarred from writing examination for some reasons. He is said to have entered the college by wearing the college uniform. Therefore, there was a smooth entry for the accused person into the college and he specifically gets into the classroom in which the deceased was present. This also shows that the accused person is well aware of the topography of the college. Hence, there is no reason for some rank third party to get into the college and attack the deceased without a motive. The motive in this case is the broken relationship between the deceased and the accused and the disgruntled accused person barged into the college and attacked the deceased. This perfectly falls in line with the case projected by the prosecution and there is absolutely no reason to doubt this version given by the prosecution.

2.



Crl. A(MD)No.301 of 2023

WEB COPY 39. This Court has to necessarily express its disappointment on the attitude of the students, who were examined as eyewitnesses and who had chosen to become hostile witnesses. In the first place, no attempt was made by any student to prevent the accused person from carrying out the attack. Even after the incident, no attempt was made by the students to overpower the accused person. Even if the students were not forthcoming to act in this manner, the minimum they should have done is to have spoken the truth before the Court. All their statements were recorded under Section 164 Cr.P.C and they chose to depose to the contrary in the dock. The student community must understand that it is only a matter of time that a similar incident may happen to any student in a college in such a gruesome fashion. There is no use in merely expressing dissent and expressing views in social media and it has to translate itself into action or else the students will only become paper tigers in real life. This Court had to express it strongly since it is quite disappointing that the students who saw the incident happening in front of their eyes chose to give a different version in the Court. Unless and otherwise acts of this nature is identified and the assailant is punished



Crl. A(MD)No.301 of 2023

WEB COPY

with the active cooperation of all concerned, it is only bound to continue in future. With a heavy heart, this Court has to hold that the students had let down the deceased by not supporting the case of the prosecution and thus they failed in their duty to uphold truth. This is the type of attitude that was exhibited by the so called educated students, who were doing Engineering Course. The education did not really build up a character to the students and rather each of the student, who turned hostile exhibited pusillanimity.

40. In the light of the clinching evidence available in the form of PW1, which has also been corroborated sufficiently, minor discrepancies do not really touch the core of the matter and it does not in any way discredit the case of the prosecution. Rather the evidence established a strong substratum to the case of the prosecution and there is no reason to interfere with the judgment of the trial Court. The trial Court has considered the entire evidence in a proper perspective and has rightly convicted and sentenced the accused person in the manner stated supra.



Crl. A(MD)No.301 of 2023

WEB COPY 41. The upshot of the above discussion leads to a only conclusion that this criminal appeal deserves to be dismissed. Accordingly, the criminal appeal stand dismissed and the judgment and order dated 01.02.2022 passed in S.C.No.24 of 2017 on the file of the Additional District and Sessions Judge, (Fast Track Mahila Court), Karur, is hereby confirmed. The trial Court shall take steps to secure the presence of the accused person to undergo the remaining period of sentence.

[N.A.V, J.] & [K.K.R.K, J.]
15.06.2026

NCC : Yes
Index : Yes

RR



Crl. A(MD)No.301 of 2023

WEB COPY

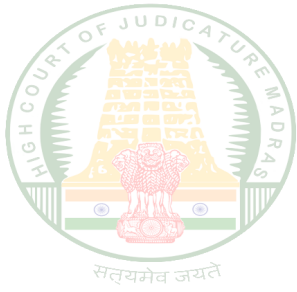
To

1.The Additional District and Sessions Judge,
(Fast Track Mahila Court),
Karur

2.The Inspector of Police,
Karur Town Police Station,
Karur District.

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

4.The Section officer (English Records)
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl. A(MD)No.301 of 2023

**N.ANAND VENKATESH, J
AND
K.K.RAMAKRISHNAN, J.**

RR

Judgment made in
Crl. A. (MD)No.301 of 2023

15.06.2026