



Crl.A.(MD).No.274 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2026

CORAM

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

Crl.A.(MD).No.274 of 2023

Alankarakumar @ Ramesh

... Appellant/Accused No.1

Vs.

The State rep by its,
The Inspector of Police,
Kariyapatti Police Station,
Virudhunagar District.
(Crime No.314 of 2017)

... Respondent/Complainant

PRAYER : Criminal Appeal is filed under Section 374(2) of the Criminal Procedure Code, to call for the records in S.C.No.67 of 2018 dated 17.02.2023 on the file of the learned Additional District and Sessions Court, Virudhunagar and to set aside the conviction passed against the appellant/Accused No.1.

For Appellant : Mr.G.Karuppasamy Pandiyan

For Respondent : Mr.A.Thiruvadikumar,
Additional Public Prosecutor



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JUDGMENT

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

The appellant/Accused No.1 in S.C.No.67 of 2018 on the file of the learned Additional District and Sessions Court, Virudhunagar has filed this appeal challenging the following conviction and sentence imposed against him in the impugned judgment dated 17.02.2023.

Sentence of law	Sentence of imprisonment	Fine
302 of IPC	To undergo life imprisonment	Rs.10,000/- i/d to undergo six months rigorous imprisonment
307 of IPC	Ten year rigorous imprisonment	Rs.10,000/- i/d to under to six months rigorous imprisonment

2. Brief facts of the prosecution case:

According to the prosecution, the deceased, Senthil Kumar, and the first accused (appellant) were working as building contractors. Prosecution Witnesses (PW) 1, 2 (Velmurugan – second accused), and PW6 were masons working under them. These workers were engaged by the first



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accused for construction work at Mudukulathur, where they had been working for about six days prior to the occurrence. During this period, the deceased approached the first accused and expressed his difficulty in completing certain construction work at Kadaladi. At his request, the first accused permitted PW1, PW2, and PW6 to assist the deceased. Accordingly, they proceeded to Kadaladi and completed the construction work entrusted by the deceased. Subsequently, when the workers were preparing to return to their native place to celebrate Vinayaga Chaturthi festival on 25.08.2017, they demanded payment of wages from the deceased on 24.08.2017. The deceased, however, refused to pay the wages, which led to a heated altercation between the deceased and the first accused. Though PW1 attempted to pacify them, the dispute remained unresolved. Thereafter, all of them proceeded to Kariyapatti village, where once again a quarrel erupted regarding the payment of wages. During the course of this altercation, the first accused challenged the deceased, stating that he would “see him” at Kariyapatti. Later, at about 11.00 p.m., all of them reached Kariyapatti. In the meantime, the deceased went to his house, obtained a sum of Rs.3,000/- from his wife, and paid the same to PW6 towards wages. Thereafter, the



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deceased, PW1, and PW6 hired an auto driven by PW3 to drop PW6 at NGO Colony. Subsequently, they assembled near the house of PW9 situated on Kariyapatti–Kallikudi Road. At that juncture, the first accused arrived from the opposite direction armed with a sickle (MO1) and attacked the deceased. When PW1 intervened, he also sustained injuries. Both the deceased and PW1 were immediately taken to the Government Hospital, Kariyapatti, and thereafter referred to the Government Rajaji Hospital, Madurai, owing to the grievous nature of their injuries. Upon receiving intimation from the hospital, PW21, the Sub-Inspector of Police attached to Kariyapatti Police Station, proceeded to the hospital at about 3.00 a.m. on 25.08.2017 and recorded the statement of PW1, the injured eyewitness. Based on the same, a case was registered in Crime No.314 of 2017 initially under Section 307 IPC, and the First Information Report was forwarded to the jurisdictional Magistrate and the Inspector of Police (PW24). PW24 took up the investigation and visited the scene of occurrence at about 6.40 a.m. on 25.08.2017. He prepared the observation mahazar (Ex.P2) and rough sketch (Ex.P14) in the presence of witnesses PW9 and PW10. He also recovered blood-stained earth (MO5) and sample earth (MO6) from the



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scene. Thereafter, he examined PW1, PW2, PW6, and other witnesses and recorded their statements under Section 161 Cr.P.C. On 26.08.2017, upon receiving information regarding the death of Senthil Kumar, the offence was altered from Section 307 IPC to Sections 302 and 120-B IPC, and the alteration report was forwarded to the Court. PW24 conducted inquest over the body of the deceased on the same day at about 8.00 a.m. and prepared the inquest report (Ex.P16). The body was thereafter sent for post-mortem examination. PW18 conducted the post-mortem on 26.08.2017 at about 1.00 p.m. and noted multiple injuries on the body of the deceased. During the course of investigation, PW24 arrested the accused on 27.08.2017 at about 10.05 p.m. at Karsakulam Junction in the presence of the Village Administrative Officer (PW12) and others. Based on the voluntary confession of the accused, material objects were recovered. Subsequently, on 08.09.2017 at about 6.05 a.m., the first accused was secured and interrogated. Pursuant to his voluntary confession, the weapon of offence (MO1 – sickle) and blood-stained clothes were recovered. Additionally, a motorcycle bearing Registration No. TN-67-BE-3729 was also recovered based on his disclosure statement. All the recovered material objects were



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forwarded to the Court under Form 95, and the accused were remanded to judicial custody. Thereafter, the Investigating Officer continued the investigation by forwarding the requisition for chemical examination to the Regional Forensic Science Laboratory. He also obtained the post-mortem certificate along with the final medical opinion. Further, he collected a report from the Electricity Department regarding the availability of lighting at the scene of occurrence. He examined additional witnesses, including scientific experts, and collected the biological report (Ex.P18) and the serological report (Ex.P19). Upon completion of the investigation, the Investigating Officer laid the final report before the learned Judicial Magistrate, Kariyapatti. The case was taken on file in P.R.C. No.5 of 2018. The learned Judicial Magistrate, upon taking cognizance, issued summons to the accused and furnished copies of the prosecution records in compliance with Section 207 Cr.P.C. Since the offences were triable exclusively by a Court of Sessions, the case was committed under Section 209 Cr.P.C. to the Sessions Court. Upon committal, the case was taken on file as S.C. No. 69 of 2018 on the file of the learned Sessions Judge. The learned trial Judge, upon appearance of the accused and after furnishing



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necessary documents, framed charges against them for the alleged offences.

The accused denied the charges and pleaded not guilty, thereby necessitating trial. In order to substantiate its case, the prosecution examined PW1 to PW24, marked Exs.P1 to P19, and produced Material Objects (MO1 to MO6) through relevant witnesses. After completion of the prosecution evidence, the accused were examined under Section 313 Cr.P.C. with reference to the incriminating circumstances appearing against them. The accused denied all such circumstances. No defence witnesses were examined, nor any documents were marked on the side of the defence. However, the first accused submitted a written statement under Section 313 Cr.P.C., wherein he stated that the deceased, along with PW2 and others, had undertaken certain construction work at Kadaladi and were staying there. According to him, on the relevant day, the deceased and others proceeded towards Aruppukottai, and thereafter he returned to Kariyapatti and went to his house. He denied any involvement in the alleged occurrence. Upon consideration of the oral and documentary evidence, the learned trial Judge acquitted the second accused of all charges. However, the first accused (appellant) was found guilty and convicted by impugned



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judgment for the offences charged, and was sentenced to undergo life imprisonment under Section 302 IPC, along with other sentences as stated above. Aggrieved by the said conviction and sentence, the appellant has preferred the present appeal.

3.Submission of the learned counsel for the appellant

The learned counsel for the appellant contended that the First Information Report is a fabricated document and lacks credibility. In support of this contention, reliance was placed on the Accident Register (AR) entries, which contains the earliest version of the occurrence. It was submitted that a perusal of Ex.P7 and Ex.P8 reveals material contradictions. In Ex.P7, it is recorded that the injured/deceased was assaulted by unknown persons and had himself gone to the hospital for treatment at about 11.55 p.m. on 24.08.2017. However, Ex.P8 indicates that PW1, the injured eyewitness, was brought to the hospital by the police at about 1.00 a.m., with an allegation that he was attacked by unknown persons with a knife. According to the learned counsel, these discrepancies between the two earliest medical records create serious doubt regarding the prosecution



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version. It was further argued that if, as per Ex.P8, PW1 was brought by the police, then the subsequent claim that the Sub-Inspector (PW21) received intimation from the hospital and recorded the statement of PW1 is not acceptable. This, according to the defence, suggests suppression of the true genesis of the occurrence and the earliest version of the incident. On this premise, it was contended that no reliance can be placed on the testimony of PW1, who is the sole injured eyewitness. Since the prosecution case substantially rests upon his evidence, the case would fall within the categories of unreliable or partly reliable witnesses as laid down in *Vadivelu Thevar v. State of Madras*. It was argued that the learned trial Judge failed to properly appreciate this principle and erred in placing reliance on the testimony of PW1 to convict the appellant. The learned counsel further submitted that there are several inconsistencies in the evidence of PW1 vis-à-vis the testimonies of the police officials, particularly PW17, PW21, and PW24, with respect to the registration of the case and the sequence of events during investigation. These contradictions, according to the defence, strike at the root of the prosecution case. It was also contended that the trial Court committed a grave error in acquitting the second accused while



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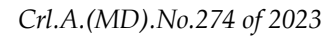
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convicting the first accused, despite the fact that both eyewitnesses attributed similar overt acts and speak about the presence of both accused.

In the absence of any clear distinction or separable evidence, such selective conviction is legally unsustainable. On the cumulative effect of these discrepancies, the learned counsel argued that the prosecution has failed to establish its case beyond reasonable doubt, and therefore, the conviction under Section 302 IPC is liable to be set aside. It was also contended that the finding regarding the alleged assault on PW1 cannot be sustained.

Without prejudice to the above submissions, the learned counsel advanced an alternative argument on the nature of the offence. It was submitted that even as per the prosecution case, the occurrence arose out of a dispute relating to non-payment of wages. The evidence indicates that the quarrel originated at Kadaladi and continued at Kariyapatti. It was argued that the appellant had, at the request of the deceased, deputed his workers to complete the deceased's construction work, giving priority to deceased's work compromising his work at Mudukulathur. In such circumstances, the deceased was under an obligation to settle the wages, which he failed to do.

This led to a sudden quarrel between the parties. In the course of the said



4.Submission of the learned Additional Public Prosecutor:

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establishes the murderous assault inflicted upon the deceased as well as the attack on him when he attempted to intervene. The said ocular evidence stands duly corroborated by the medical evidence on record. The learned Additional Public Prosecutor further submitted that the presence of the accused at the scene of occurrence has been consistently spoken to by other prosecution witnesses, whose testimonies lend further assurance to the version of PW1. The chain of circumstances, including the recovery of the weapon of offence (MO1 – sickle) pursuant to the confession of the accused, has also been duly proved and rightly relied upon by the trial Court. Insofar as the alleged discrepancies in the medical records (Accident Register entries) are concerned, it was contended that such minor inconsistencies do not go to the root of the prosecution case and cannot outweigh the reliable testimony of an injured eyewitness. The learned Additional Public Prosecutor specifically opposed the alternative plea of the appellant for conversion of the offence to one under Section 304 Part I IPC. It was submitted that the facts clearly demonstrate that the act of the accused was not the result of a sudden quarrel or grave and sudden provocation. According to the prosecution, though there was an earlier



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dispute relating to payment of wages at Kadaladi, the parties had thereafter dispersed and reached Kariyapatti. At that stage, the appellant had sufficient time for reflection. Instead of acting in the heat of passion, he went to his house, armed himself with a deadly weapon (MO1 – sickle), and thereafter returned to the scene and attacked the deceased in a calculated and intentional manner. It was further submitted that the conduct of the appellant also attacking PW1, who intervened, clearly demonstrates his intention to cause death or such bodily injury as is likely to cause death. Thus, the element of premeditation and intention is evident from the sequence of events. In view of the time gap between the earlier quarrel and the actual occurrence, the plea of sudden provocation is untenable. The prosecution therefore contended that the case does not fall within any of the Exceptions to Section 300 IPC and consequently, there is no scope for altering the conviction to Section 304 Part I or Part II IPC. Accordingly, it was submitted that the learned trial Judge has rightly appreciated the evidence in proper perspective and correctly convicted the appellant under Section 302 IPC. There are no mitigating circumstances warranting interference with the conviction or sentence, and the appeal is liable to be



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dismissed.

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5.This Court carefully considered the rival submissions made on either side, perused the entire materials available on record.

6.The question in this case is whether the prosecution has established the case beyond reasonable doubt against the appellant and the conviction and sentence imposed against the appellant is sustainable or not?

7.Discussion on the reliability of the injured witnesses:

7.1.It is well settled that the evidence of an injured eyewitness stands on a higher pedestal and is entitled to great weight, unless compelling reasons exist to discard the same. This Court re-captualate the following guidelines issued by the latest Hon'ble Three Judges Bench of the Supreme Court to appreciate the evidence of injured witnesses and eyewitness reported in **2023 SCC Online SC 355**.

“26.When the evidence of an injured eye-witness is to be appreciated, the under-noted legal principles enunciated by the Courts are required to be



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kept in mind: ”

(a) The presence of an injured eye-witness at the time and place of the occurrence cannot be doubted unless there are material contradictions in his deposition.

(b) Unless, it is otherwise established by the evidence, it must be believed that an injured witness would not allow the real culprits to escape and falsely implicate the accused.

(c) The evidence of injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.

(d) The evidence of injured witness cannot be doubted on account of some embellishment in natural conduct or minor contradictions.

(e) If there be any exaggeration or immaterial embellishments in the evidence of an injured witness, then such contradiction, exaggeration or embellishment should be discarded from the evidence of injured, but not the whole evidence.

(f) The broad substratum of the prosecution version must be taken into consideration and discrepancies which normally creep due to loss of memory with passage of time should be discarded.

“27.In assessing the value of the evidence of the



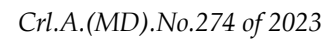
eyewitnesses”, two principal considerations are whether, in the circumstances of the case, it is possible to believe their presence at the scene of occurrence or in such situations as would make it possible for them to witness the facts deposed to by them and secondly, whether there is anything inherently improbable or unreliable in their evidence. In respect of both these considerations, circumstances either elicited from those witnesses themselves or established by other evidence tending to improbabilise their presence or to discredit the veracity of their statements, will have a bearing upon the value which a Court would attach to their evidence. Although in cases where the plea of the accused is a mere denial, the evidence of the prosecution witnesses has to be examined on its own merits, where the accused raise a definite plea or put forward a positive case which is inconsistent with that of the prosecution, the nature of such plea or case and the probabilities in respect of it will also have to be taken into account while assessing the value of the prosecution evidence.

7.1. In this case PW1 is the injured eyewitness. PW1, in his evidence, has cogently and consistently narrated the sequence of events commencing from the dispute at Kadaladi up to the occurrence at



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Kariyapatti. His testimony reveals that a quarrel arose between the deceased and the appellant in connection with payment of wages, during which the appellant not only abused but also criminally intimidated the deceased. The evidence further discloses that after leaving Kadaladi, all parties reached Kariyapatti. Even thereafter, the appellant continued to threaten the deceased, by making a phone call also which aspect finds corroboration from the testimony of the auto driver (PW6). This circumstance lends support to the prosecution case regarding motive. PW1 has further deposed, in a clear and unambiguous manner, that the appellant attacked the deceased with a sickle (MO1). When PW1 attempted to intervene and rescue the deceased, the appellant also assaulted him, causing grievous injuries. The manner of assault, as spoken to by PW1, indicates that even after the deceased fell down due to the initial attack, the appellant continued his assault, and also inflicted injuries on PW1. This conduct clearly establishes the intention. This Court finds that the testimony of PW1 inspires confidence and is free from material contradictions. His evidence stands duly corroborated by the medical evidence. The doctor (PW18) has spoken about the nature of injuries sustained by the deceased and PW1, and has



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8. Discussion on the discrepancies on the AR Copy:

With regard to the contention of the learned counsel for the appellant concerning discrepancies in the Accident Register (AR) entries, this Court finds no merit in the same. Entries in the Accident Register are primarily intended for medical treatment and not for recording a detailed or accurate account of the occurrence and the evidence of doctor who recorded the statement in the accident registered copy can neither be used for contradiction or nor for any other purpose.

8.1. The purpose of the Accident Register copy is clearly stated by the Hon'ble Supreme Court in the following cases:

<i>P. Babu v. State of A.P., (1994) 1 SCC 388</i>	<i>B. Bhadriah v. State of A.P., 1995 Supp (1) SCC 262</i>
6. .. It is a matter of common knowledge that such entry in the injury certificate does not necessarily amount to a statement. At that stage the doctor was required to fill up that column in a normal manner and it was not the duty of the doctor to enquire from the injured patient about the actual assailants and that the inquiry would be confined as to how he received the injuries namely the weapons used etc	5. .. The casual way of filling up the column in the medical certificate does not in any manner amount to recording a statement of the injured witness

8.2. The said principle has been followed by the Hon'ble division Bench of this Court in numerous cases including the judgment reported in 2021 5 CTC 305. Therefore, minor discrepancies in such entries cannot be treated as material contradictions so as to affect the core of the prosecution case.



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9. Discussion on the delay in registration of FIR:

The occurrence took place at about 11.00 p.m. on 24.08.2017, and both the injured witness and deceased were immediately taken to the Government Hospital, Kariyapatti, and thereafter referred to the Government Rajaji Hospital, Madurai, considering the seriousness of their condition. Upon receipt of intimation from the hospital, the Sub-Inspector proceeded to record the statement of PW1 at about 3.00 a.m., and the FIR was registered thereafter and promptly forwarded to the Court. Considering the distance between the hospital and the police station, as well as the medical exigencies, the time taken cannot be construed as an inordinate or unexplained delay. In such circumstances, this Court finds that the prosecution version is consistent, cogent, and supported by both ocular and scientific evidence. The objections raised by the appellant on the account of the delay in registering the case does not create any reasonable doubt so as to discredit the prosecution case.

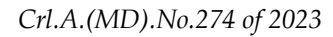


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10. Discussion on the delay in sending FIR to the Magistrate

Court:

Insofar as the contention regarding delay in forwarding the First Information Report to the Court is concerned, it is the submission of the learned counsel for the appellant that though the FIR was registered at about 6.00 a.m. on 25.08.2017, it reached the Court only at about 1.30 a.m. on 26.08.2017, creating suspicion. This Court is unable to accept the said contention. It is well settled that mere delay in forwarding the FIR to the Magistrate is not, by itself, a circumstance to disbelieve the prosecution case, particularly when the occurrence and the registration of the case are otherwise established through reliable evidence. In the present case, PW1 has clearly deposed regarding the lodging of the complaint, and there is no ambiguity or doubt with respect to the genesis of the occurrence. Even assuming that there was some delay in transmitting the FIR, the same would, at best, constitute a lapse on the part of the Investigating Officer. As per the settled legal position, such a lapse cannot enure to the benefit of the accused unless prejudice is shown to have been caused and the same was elaborately discussed and held by the Hon'ble Supreme Court in the case of



19. The obligation is on the IO to communicate the report to the Magistrate. The obligation cast on the IO is an obligation of a public duty. But it has been held by this Court that in the event the report is submitted with delay or due to any lapse, the trial shall not be affected. The delay in submitting the report is always taken as a ground to challenge the veracity of the FIR and the day and time of the lodging of the FIR.	20. ... mere delay in sending the report itself cannot lead to a conclusion that the trial is vitiated or the accused is entitled to be acquitted on this ground.	23. On delayed dispatch of FIR, some prejudice has to be proved by accused.
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11. Discussion on the acquittal of A2:

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establish his participation in the actual assault. The learned trial Judge, upon appreciation of the evidence, has rightly found that there is no sufficient material to establish the involvement of A2 either in the commission of the offence or to attract the definition of common intention under Section 34 IPC, or abetment under Section 109 IPC, nor is there any evidence to substantiate the charge of conspiracy. Consequently, A2 was acquitted. It is a settled principle of criminal jurisprudence that the acquittal of a co-accused does not automatically entitle another accused to acquittal, unless the evidence against both is inseparable and identical. The principle of parity cannot be mechanically applied in all cases. In the present case, the evidence of PW1, the injured eyewitness, insofar as it relates to the presence and participation of A2, may be doubtful. However, the same does not affect the core of the prosecution case against the appellant (A1), whose role as the assailant has been consistently and cogently established. This Court finds that the learned trial Judge has correctly applied the principle that the maxim *falsus in uno, falsus in omnibus* has no universal application in criminal law. It is the duty of the Court to separate the “grain from the chaff” and to accept that part of the testimony which is found to be credible



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and reliable. **It is an established principle of criminal law in India that only on account of detecting some falsehood in the statement of a witness who is otherwise consistent and reliable, his entire testimony should not be discarded and the same is fortified by the decision of the Hon'ble supreme Court in the case of Gangadhar Behera vs. State of Orissa reported in 2002 (8) SCC 381 and the relevant portion in paragraph No.15 as follows:**

Even if a major portion of the evidence is found to be deficient, in case residue is sufficient to prove guilt of an accused, notwithstanding acquittal of a number of other co-accused persons, his conviction can be maintained.

11.1.The said principle also reiterated by the Hon'ble Supreme Court in number of cases including in the case of Mahendran vs. State of Tamilnadu reported in 2019 5 SCC 67. Applying the said principle, even if the presence of A2 is doubtful, the consistent and reliable evidence of PW1, corroborated by medical and scientific evidence, clearly establishes that the appellant alone committed the murderous assault on the deceased and



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caused grievous injuries to PW1. Therefore, the acquittal of A2 does not in any manner weaken the prosecution case against the appellant. The conviction and sentence imposed on the appellant are sustainable notwithstanding the acquittal of the co-accused.

12.Discussion on the application of 304 part I of IPC:

With regard to the alternative submission that the offence would fall under Section 304 Part I IPC, this Court finds no substance in the said plea. The evidence on record clearly establishes that the dispute relating to wages originated at Kadaladi and continued even after the parties reached Kariyapatti. The appellant had not only quarreled with the deceased but had also criminally intimidated him, through a phone call also, as spoken to by PW6. Significantly, after issuing such threats, the appellant went to his house, armed himself with a deadly weapon (MO1 – sickle), and thereafter returned to the place of occurrence. The subsequent acts of attacking the deceased, followed by inflicting further blows even after the deceased fell down, clearly demonstrates intention. Further, when PW1 attempted to intervene, the appellant also attacked him and caused grievous injuries, and



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uttering words indicative of animosity. The manner of attack, the nature of weapon used, and the conduct of the appellant before and during the occurrence unmistakably establish that the act was intentional and not the result of a sudden quarrel or grave and sudden provocation. There was sufficient time for reflection between the earlier quarrel and the occurrence, thereby ruling out the applicability of Exception 4 to Section 300 IPC. In such circumstances, this Court finds no justification to alter the conviction from Section 302 IPC to Section 304 Part I IPC. Accordingly, this Court holds that the prosecution has proved the case against the appellant beyond reasonable doubt. The findings of the learned trial Judge are well-founded and do not warrant interference. In the result, the appeal fails and is liable to be dismissed. Accordingly, the Criminal Appeal is dismissed, and the conviction and sentence imposed on the appellant are confirmed.

[N.A.V, J.] & [K.K.R.K,J.]
25.03.2026

NCC :Yes/No
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Internet :Yes/No
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To:

- 1.The Additional District and Sessions Court,
Virudhunagar.
- 2.The Inspector of Police,
Kariyapatti 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.

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Judgment made in
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