



Crl.A(MD) No.344 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 03.03.2026

CORAM:

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

Crl.A.(MD) No.344 of 2023

Ponnusamy

... Appellant

-vs-

The Inspector of Police
Karuppayurani Police Station
Madurai District
Crime No.306 of 2014

...Respondent

Criminal appeal filed under Section 374(2) of Cr.P.C., to call for the records and set aside the judgment and conviction dated 21.02.2023 by the learned V Additional Sessions Judge, Madurai in S.C.No.339 of 2016 and acquit the appellant.

For Appellant : Mr.G.Karuppasamy Pandian



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For Respondent : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

J U D G M E N T

P.DHANABAL, J.,

Challenging the conviction and sentence rendered by the learned V Additional Sessions Judge, Madurai in S.C.No.339 of 2016 dated 21.02.2023, the present criminal appeal has been filed by the appellant.

2.. The trial Court has convicted the appellant as follows:

Penal Provisions	Sentence of Imprisonment	Fine Amount
450 of IPC	10 years rigorous imprisonment	Rs.5,000/-i/d to under go three month simple imprisonment
302of IPC	Life Imprisonment	Rs.1000/- i/d to undergo one year simple imprisonment
307 of IPC	10 years rigorous imprisonment	Rs.5,000/-i/d to under go three month simple imprisonment



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326 of IPC	10 years rigorous imprisonment	Rs.5,000/-i/d to under go three month simple imprisonment
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3.1. The case of the prosecution is that there was dispute between the deceased Muthuraj and his wife Athilakshmi. While so, the deceased approached the appellant to compromise the matter between the deceased and his wife, but he is unable to compromise the matter. In the meantime, the deceased suspected the character of his wife and the appellant, thereby there was enmity between the appellant and the deceased. While so on 03.07.2014 at about 1.00 a.m., when the deceased was in the house of the complainant Sivakumar and Pandiammal were there at that time the appellant entered into the house of Muthurajan and assaulted the said Muthurajan with billhook saying that “ஏண்டா தாயோழி என் குடும்பத்தையே பிரிச்சிட்டியாடா “. When the said Muthurajan blocked the said blow he repeatedly assaulted on the various parts of the body of the said Muthurajan, at that time when Pandiammal



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restrained him the appellant had assaulted and attempted to kill her.

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Again when the said Sivakumar blocked him he also assaulted the said Sivakumar with billhook, thereby the said Muthurajan died on the spot itself. The said Pandiammal and Sivakumar sustained injuries all over the body, thereby the said Sivakumar lodged complaint before the respondent police.

3.2. The Sub Inspector of Police/P.W.13 registered First Information Report /Ex.P13 in Crime No.306 of 2014 for the offences under Sections 452, 324,307 and 302 of IPC. Thereafter the Investigation Officer went to the place of occurrence on the day at about 6.00 am., and prepared observation mahazhar/Ex.P.3 and rough sketch/Ex.P.14 in the presence of P.W.5/Gurusamy and one Alagarsamy. He also seized blood stained soil and ordinary soil and examined the injured witnesses P.W.1 and P.W.2. Thereafter the Investigation Officer conducted inquest of the body of the deceased and prepared inquest report/Ex.P.15. On 04.07.2014 the appellant surrendered before the Judicial Magistrate Court, Melur and he was

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taken police custody as per the order of the Court and the appellant

gave confession statement on 05.07.2014. As per the disclosure statement of the appellant the Investigation Officer seized M.O. 1/billhook through seizure mahazhar /Ex.P.10 and thereafter he also seized the two wheeler bearing Reg.No. TN 59 AV 7947 Hero Honda through Ex.P.11/mahazhar. Thereafter the appellant was remanded to judicial custody along with the material objects. The Investigation Officer obtained post mortem certificate and examined the doctor /P.W.10 who conducted post mortem and obtained certificate /Ex.P.21, thereafter due to transfer he handed over the investigation to P.W.15 and the said P.W.15 also examined the witnesses and sent the seized materials for chemical analysis and after obtaining report from the forensic lab he filed final report as against the appellant for the offences under Sections 449, 326, 307 and 302 of IPC. Thereafter the case was committed to the Court of Sessions.



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4. After filing of final report, the trial Court has framed charges for the offences under Sections 450, 294(b), 302, 307 and 326 of IPC. The above charges were read over and explained to the appellant. The appellant denied the charges and claimed to be tried.

5. The prosecution examined P.W. 1 to P.W.15 and marked exhibits Ex.P.1 to P.23 and material objects M.O.1 to M.O.6 were produced. After completion of prosecution witnesses the appellant was questioned under Section 313 (1)(b) of Cr.P.C., with regard to the incriminating circumstances appearing against him, he denied the same as false. On the side of the appellant one witness was examined.

6. After analyzing the evidence and upon hearing both sides, the trial Court has convicted the appellant for the offences as stated supra. Aggrieved by the said judgment and conviction the present appeal has been filed by the appellant.

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hospital at 2.30 and enquired PW.1 and that earliest version did not

come to surface. Even the evidence of the investigation officer/PW.

14 shows that many persons including the eye witnesses were examined in the hospital and their statements were taken down in writing and later it was typed in the computer. The statements taken over by writing was not produced before the Court. P.W.15 also spoken that the statement recorded by P.W.14 have not been produced before the Court. Therefore from the above said evidence it is clear that the earliest version did not come into surface.

7.1. The appellant had entertained suspicion about illegal intimacy between the deceased and his wife and hence there was a sustained provocation which ultimately lead to the murder of the deceased, therefore the case squarely falls with the ambit of Section 304(i) of IPC. Further the prosecution failed to prove the charges levelled against the appellant beyond all reasonable doubt, however the trial Court erroneously convicted and also sentenced the appellant.

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8. The learned Additional Public Prosecutor would submit that the defacto complainant who is also an injured witness had lodged complaint as against the appellant alleging that the appellant suspected the deceased and assaulted the deceased with bill hook and when the same was blocked by the defacto complainant and one Pandiammal, he assaulted them with billhook, due to which the defacto complainant and Pandiammal sustained injuries all over the body and the deceased died on the spot itself. Therefore the defacto complainant namely Sivakumar lodged complaint before the respondent police and registered a case in Crime No.306 of 2014 for the offences under Sections 452,324,307 and 302 of IPC.

8.1. Thereafter the investigation officer conducted proper investigation and filed final report. The trial Court has framed charges under Sections 450, 294(b), 302, 307 and 326 of IPC. In order to prove the charges levelled as against the appellant the prosecution has chosen to examine P.W. 1 to P.W.15 and marked exhibits Ex.P.1

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to P.23 and marked material objects M.O.1 to M.O.6. The prosecution witnesses have deposed about the occurrence and P.W.1 and P.W.2 are the eye witnesses and injured witnesses and they categorically deposed about the assault made by the appellant and the deceased also died on the spot itself. The Investigation Officer also conducted investigation in a proper manner and arrested the appellant. Based on the confession statement given by the appellant he seized M.O.1, M.O.5 and M.O.6 and the doctor who conducted autopsy has also deposed about the cause of death and the prosecution has proved the charges through sufficient evidence beyond reasonable doubts. Therefore the trial Court has rightly convicted the appellant and awarded sufficient punishment and the appeal is liable to be dismissed.

9. This Court heard both sides and perused the materials available on record.

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10. The case of the prosecution is that there was dispute between the deceased Muthurajan and his wife Athilakshmi. While so, the deceased approached the appellant to compromise the matter between the deceased and his wife, but he is unable to compromise the matter. In the meantime, the deceased suspected the character of his wife and the appellant, thereby there was enmity between the appellant and the deceased. While so on 03.07.2014 at about 1.00 a.m., when the deceased was in the house of the complainant Sivakumar, his mother Pandiammal, was also there, at that time the appellant entered into the house of Muthurajan and assaulted the said Muthurajan with billhook saying that “ஏண்டா தாயோழி என் குடும்பத்தையே பிரிச்சிட்டியாடா “. When the said Muthuraj blocked the said blow he repeatedly assaulted on the various parts of said Muthuraj, at that time when Pandiammal restrained him the appellant had assaulted her. Again when the said Sivakumar blocked him he also assaulted the said Sivakumar with billhook, thereby the said Muthuraj died on the spot itself. The said Pandiammal and 11/22



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Sivakumar sustained injuries all over the body, thereby the appellant has been charged for the offences under Sections 450, 294(b), 302, 307 and 326 of IPC.

11. P.W.1 and P.W.2 are the eye witnesses to the occurrence and the injured witnesses. P.W.1 who is the injured witness in his evidence had categorically deposed that he is the son of the deceased Muthuraj and P.W.2 is his mother. There is a dispute between the appellant and his wife Athilakshmi. While so, the appellant used to request the deceased to compromise their family dispute. After compromise the appellant and his wife re-united. Thereafter again due to family dispute the said Adhilakshmi left the matrimonial home and stayed in her mother's house. Again the appellant requested the deceased to compromise but he refused for that, hence there was enmity. The appellant made propaganda that the deceased had illicit intimacy with his wife. While so, on 02.07.2014 at about 9.30 p.m., while he along with his mother, brother and sister were at their house the appellant on 03.07.2014 at about 1.00 am., entered

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into house and switched on the light and when they woke up the appellant used obscene words and assaulted his father with billhook on his neck and the same was blocked by his father, the appellant assaulted his father on his head and again repeatedly assaulted on his legs and stomach and when his mother Pandiammal intercepted he also assaulted his mother on her left hand shoulder and head. When restrained the acts of the appellant he again assaulted him with same billhook on his forehead and he lost his eyesight, thereafter the appellant ran away through his two wheeler. Thereafter he along with his father and mother went to Rajaji Hospital, Madurai and thereafter the police came to the hospital and he lodged complaint.

12.The said complaint has been marked as Ex.P.1. The evidence of the victim has been corroborated by Ex.P.1 and P.W.1 also identified the appellant and M.O.1. The evidence of P.W.1 has not been discredited by the appellant through cross examination. is not shaken. Further the prosecution also examined another witness, the

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mother of P.W.1 and the wife of the deceased as P.W.2. She also in

her evidence stated that the appellant is her husband and due to family dispute the wife of the appellant left the matrimonial home and the same was informed to the deceased and the appellant requested him to compromise the dispute amicably but the same was refused by her parents. While so, on 02.07.2014 while she was along with her husband, son and daughter were at home her younger son was at the upstairs at that time on 03.07.2014 at about 1.00 a.m., the appellant entered into house and switched on the light, at that time when they woke up the appellant with bill hook assaulted her husband and when the same was blocked by her husband he sustained injuries, on left hand thumb, legs and stomach and also he assaulted on her left shoulder and right hand and her index finger was severed and he also assaulted her in the right hand wrist and head. When her son P.W.1 attempted to block the appellant he also assaulted on his for head and he lost left eye sight. Thereafter she along with her husband went out from the house and at that time one of her son who was in the upstairs came down and thereafter

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the neighbors came there and after seeing them he ran away with billhook in his two wheeler and thereafter his son called the ambulance and they were taken to Government Hospital. At that time the police came there and they narrated about the occurrence.

13. The evidence of PW.2 was not shaken through cross examination. The evidence of P.W.1 and P.W.2 are natural, cogent and trust worthy. The evidence of P.W.1 and P.W.2 cannot be discarded in any way. The doctor who treated the victim was also examined as P.W.10 and he deposed about the injuries sustained by the deceased and according to his opinion the deceased died due to shock and hemorrhage due to the injuries sustained by him and to that effect he also issued post mortem certificate/Ex.P.12. The Investigation Officer has also categorically deposed about the fair investigation conducted by him and he also arrested the appellant based on the disclosure statement and he recovered bill hook/M.O.1 and two wheeler/M.O.6. From the evidence of prosecution witness they clearly established the guilt of the appellant for the offences

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under Section 450, 294(b), 302, 307 and 326 of IPC. Therefore the prosecution has proved the charges levelled against the appellant beyond all reasonable doubts and the trial Court also after elaborate discussion convicted the appellant.

14. The main contention urged by the learned counsel appearing for the appellant is that the occurrence said to have taken place on 03.07.2014 at 1.00 a.m., and the complain was recorded by P.W.13 after receiving the same from P.W.1 at 3.45 a.m. and the First Information Report was registered at 4.30 a.m., There is a delay in registering the First Information Report and immediately after the occurrence they were taken to hospital and thereafter the police came there and examined P.W.1 and he lodged complaint. Therefore there is a delay in registering the First Information Report. This Court carefully perused the records and seen that the First Information Report came be registered at 4.30 a.m., and it was transmitted to the Court around 12.50 p.m., It is admitted fact that within 25 minutes the police can reach the Court but the First Information Report has

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been sent to the Court only at 12.50 pm., there is a delay of 8.30 hours but it is not a sole ground to disbelieve the prosecution case when the evidence of eye witnesses are cogent and natural. Mere delay in sending the First Information Report to the Court cannot vitiate the proceedings and no prejudice would be caused to the appellant therefore the contention raised by the learned counsel appearing for the appellant has no merits.

15. Another contention raised by the learned counsel appearing for the appellant is that as per evidence of P.W.1 who is the son had already came to the hospital at 10.30a.m., and on enquiry P.W.1 recorded the statement that the earliest version did not come to surface. In this context it is relevant to mention that the occurrence took place at 01.00 a.m., and the complaint was recorded from P.W.1 at about 3.45 a.m., While so it is between 2.30 -3.45 pm., and the witnesses stated about the statements recorded in the hospital, therefore it cannot be stated that the earliest version did not come to surface.

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17. Another contention raised by the learned counsel
 18. for the appellant that the appellant had entertained



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suspicion regarding illegal intimacy between the deceased and his wife and there was a sustained provocation which ultimately lead to cause death of the deceased. In this context it is relevant to point out that the appellant entered into the house of the deceased at mid night at about 1.00 a.m., trespassed in to the house with billhook assaulted the deceased. Further he assaulted the wife and son of the deceased and caused injuries to them and thereby it cannot be said that sustained provocation.

18. So far as charge under Section 450 of IPC is concerned the appellant trespassed into the house of the deceased and committed murder and the said offence is punishable up to death, thereby the prosecution has proved the charge under Section 450 of IPC.

19. So far as offence under Section 294(b) of IPC is concerned there is no evidence to attract the provision under Section 294(b) of IPC, thereby the trial Court acquitted the appellant from the above said charge.

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20. So far as offence under Section 302 of IPC is concerned the prosecution has proved that the appellant had assaulted the deceased with bill hook and he died due to the injuries sustained by him, thereby committed murder.

21. So far as offence under Section 307 of IPC is concerned the appellant assaulted the victim/P.W.2, Pandiammal with intention to commit the murder on her. The appellant also caused injuries on the vital parts of the body, thereby attempted to commit murder.

22. So far as offence under Section 326 of IPC is concerned the appellant assaulted the victim/P.W.1, Sivakumar on his fore head and he lost his eye eight and sustained grievous injuries. Therefore the prosecution has proved the charges levelled against the appellant beyond all reasonable doubts and correctly found the appellant guilty and awarded adequate sentence and this Court need not interfere with the well reasoned judgment and conviction of the trial
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Court and this Court finds no merit in the appeal and the same is liable to be dismissed.

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23. In the result, the Criminal Appeal stands dismissed confirming the judgment and conviction of the trial Court.

[N.A.V.,J] [P.D.B.,J]
03.03.2026

Internet : Yes / No

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To

1. The V Additional Sessions Court, Madurai

2. The Inspector of Police
Karuppayurani Police Station
Madurai District

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

4. The Record keeper
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai

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