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Crl. A(MD)No.413 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.413 of 2023

Murugesh

.. Appellant

Vs.

The State rep by
The Inspector of Police,
Arumanai Police Station,
Kanyakumari District.
Crime No.373/2017

.. Respondent/Complainant

Appeal filed under Section 374 of Criminal Procedure Code, against the judgment and order dated 22.07.2022 in S.C.No.81 of 2018 on the file of the Additional District and Sessions Judge, Kuzhithurai, Kanyakumari District.

For Appellant
For Respondent

: Mr.R.Alagumani
: Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



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JUDGMENT

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

The sole accused assails the judgment passed by the Additional District and Sessions Court, Kuzhithurai made in SC NO.81/2018 dated 22.07.2022, wherein, he was convicted for offence under Section 302 IPC and was sentenced to undergo life imprisonment.

2. The case of the prosecution is that the de-facto complainant (PW1) was residing along with his parents and his brother Murugesh was working at Kerala. His brother Murugesh had a strained relationship with his father and was always demanding money. On 17.10.2017, the said Murugesh, who is the sole accused, came to the residence and demanded money from his father and there was a quarrel between the father and son. At that time, the accused person attacked the deceased with a stone on his head and all over his body and as a result, his father died. Based on the complaint given by PW1, FIR (Ex.P11) came to be registered in Crime No.373/2017 for



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2.1. The investigation was taken up by the Inspector of Police of Arumanai Police Station, (which was spoken to by P.W.19) who went to the scene of occurrence at about 15.45 hrs. and in the presence of the witnesses, prepared an observation mahazar (Ex.P3) and rough sketch (Ex.P12). He also recovered M.O.1, M.O.2 and M.O.3 and prepared the recovery mahazar (Ex.P6 and Ex.P17). Thereafter the inquest report was prepared in the presence of Panchayatdars (Ex.P13) on the same day between 16.45 and 18.15 hrs. The statement of some of the witnesses have also been recorded under Section 161 Cr.P.C. The dead body of the deceased was sent for postmortem and the postmortem was conducted by P.W.8, who gave the postmortem certificate marked as Ex.P7. The following injuries were noted:

THE FOLLOWING ANTE-MORTEM INTURIES NOTED:-

4 x 4 cm abraded punctured laceration seen over the right side of forehead.

1. 7 x 3 cm x bone deep laceration seen over the right eye brow and over the middle of fore head.

3. 5x2 cm abrasion seen over the outer aspect of right eye brow.



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4. 9 x 3cm abrasion seen over the right cheek.
5. 4 x 4cm abrasion seen over the dorsum of nose.
6. 9 x 4cm abrasion seen over the left cheek.
7. 2 x1x1/2 cm laceration seen over the inner aspect of middle of upper lip. Face found crushed Antero posteriorly. On Examination nasal bone, upper and lower jaw bones found fractured.
8. 15x10cm abrasion seen over centre of chest.
9. 6 x ½ cm abrasion seen over the right side of lower aspect of chest.
10. 1 x ½ cm abrasion seen over the lower half of right arm.
11. 8 x 4 cm abraded contusion seen in front of middle of left thigh.
12. 6x2cm abrasion seen qyer quter aspect of upper half of left thigh.”

The final opinion was given to the effect that the deceased would appear to have died of multiple injuries.

3. After recording the statement of all the witnesses under Section 161 of the Code of Criminal Procedure and on collecting the entire materials, the police report was filed before the Judicial Magistrate, No.I, Kuzhithurai. On furnishing copies to the accused person under Section 207 Cr.P.C., the case was committed to the file of the Additional District Judge, Kuzhithurai



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4. The prosecution examined P.W1 to P.W.19 and marked Ex.P1 to P.25 and also relied upon M.O.1 to M.O.7.

5. On completion of the examination of witnesses, on the side of the prosecution, incriminating materials were put to the accused person, when he was questioned under Section 313 Cr.P.C. and the same was denied as false.

6. The accused person did not examine any witnesses nor relied upon any documents.

7. 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 doubt and accordingly convicted the accused person for offence under Section 302 IPC and sentenced him to undergo life imprisonment.



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Aggrieved by the same, the present appeal has been filed before this Court.

8. This Court carefully considered the submissions made on either side and perused the materials available on record.

9. The evidence of P.W.1 to P.W.3 assumes a lot of significance. P.W.1 is the son of the deceased and the brother of the accused person. P.W.2 and P.W.3 are neighbours, who are residing very near to the scene of occurrence.

10. P.W.1 was not there in the scene of occurrence and only after coming to know about the incident, he rushed to the hospital and gave the complaint (Ex.P1) based on which, FIR (Ex.P11) came to be registered.

11. The evidence of P.W.2 is of great importance since he is an eyewitness. He specifically talks about the incident and the manner in which the accused person attacked the deceased with the stone (M.O.4) on his head and other parts of the body. The presence of P.W.2 cannot be



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doubted for the simple reason that he is a neighbour and his house has been specifically shown even in the rough sketch, which was been marked as Ex.P12. His evidence has not been discredited during cross-examination.

12. The same is the effect of the evidence of P.W.3, who is also a neighbour and who also speaks about the manner in which the incident took place and the overt act on the part of the accused person. He also speaks about the earlier dispute between the father and son where the son used to insist for payment of money and there used to be regular quarrel between them. He also speaks about the quarrel that took place on the date of incident, which ultimately culminated in the accused person attacking the deceased with the stone.

13. The evidence of P.W.3 has also not been discredited during cross-examination and there is nothing to disbelieve the evidence of P.W.2 and P.W.3, who are not interested witnesses and they are the neighbours, who have clearly spoken about the dispute between the father and son and the manner in which the incident had taken place.



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14. The postmortem Doctor (P.W.8) through whom Ex.P7 was marked speaks about the injuries sustained by the deceased and those injuries are perfectly in line with the oral testimony of P.W.2 and P.W.3. The reason for the death of the deceased is also due to multiple injuries that were sustained during the course of attack.

15. The learned counsel for the appellant pointed out some contradictions in the evidence of P.W.1 and what was stated in the FIR. These contradictions do not in any way dislodge the strong evidence of the eyewitness account spoken to by P.W.2 and P.W.3.

16. It is further seen that the FIR was registered on 17.10.2017 at 0.15 hrs and it had reached the Court within a reasonable time.

17. The only other ground that was raised on the side of the appellant is that a close reading of evidence of P.W.2 and P.W.3 establishes that there used to be regular quarrel between the father and son and even on the date



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of incident, there was animated quarrel, which ended in the accused person assaulting the deceased with a stone. Therefore, it was contended that the present case can be brought within the scope of a culpable homicide not amounting to murder punishable under Section 304 IPC.

18. If the death is caused and the case is covered by any of the five exceptions of Section 300 IPC, then such culpable homicide does not amount to murder. Section 304 IPC does not create an offence but provides for punishment for culpable homicide not amounting to murder. On a careful reading of Section 304 IPC, it can be seen that the said provision draws a distinction for the penalty in cases covered by one of the five exceptions when there was intention to kill a person and where there was only knowledge that death will be likely to be caused. Section 304(I) IPC will apply in a case where the prosecution proves that the accused had the intention to cause such bodily injury as is likely to cause death where it was done under grave and sudden provocation.

19. Section 304(II) IPC will be attracted when the accused had no



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intention to cause such bodily injury as was likely to cause death but had the knowledge that the injury is likely to cause death.

20. In the case on hand, the father and son had strained relationship, since the son was demanding money from the father every time. On the date of incident, there was a quarrel between the father and son. It has been spoken to by P.W.3 clearly and it ultimately resulted in the accused person attacking the deceased with a stone. The fact that the accused person attacking the deceased with a stone lying nearby shows that there was no prior intention on the part of the accused person to murder the deceased. In other words, there was no premeditation.

21. The present case can be brought within exception I of Section 300 IPC. There was a heated quarrel between the accused and the deceased and the same resulted in provocation, which was grave and sudden, which resulted in the accused person taking a nearby stone and hitting his father on his head and other parts of the body. Unfortunately, the same resulted in his death. It was not a case of single blow and the accused person had given

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multiple blows to the deceased with the stone. Therefore, the accused had the intention to cause such bodily injury as is likely to cause death.

22. In the light of the above finding, this Court holds that the facts of the present case can be brought under exception I of Section 300 IPC and hence, is punishable under Section 304(I) IPC.

23. In view of the above discussions, the conviction against the appellant under Section 302 IPC is set aside, instead, the appellant is convicted under Section 304(I) IPC and the sentence is modified in the following manner:

- a) The appellant is sentenced to undergo rigorous imprisonment for seven (7) years and to pay fine of Rs.15,000/- (Rupees fifteen thousand only) in default, to undergo simple imprisonment for six months;
- b) The period of sentence already undergone by the accused/appellant is ordered to be set off under Section 428 Cr.P.C.



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24. In the result, the criminal appeal is allowed in part to the extent indicated above.

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

NCC : Yes/No

Index : Yes/No

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To

1.The Additional District and Sessions Judge,
Kuzhithurai,
Kanyakumari District.

2.The Inspector of Police,
Arumanai Police Station,
Kanyakumari District.

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

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

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**N.ANAND VENKATESH, J
AND
P.DHANABAL, J.**

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Judgment made in
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