



Crl. A(MD)No.501 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.06.2026
Pronounced on : 04.06.2026

CORAM:

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

Crl. A. (MD)Nos.501 and 824 of 2024

Crl.A(MD) No.501/2024

1.Raman
2.Selvam

.. Appellants/accused Nos.2&3

Vs.

The State through
The Inspector of Police,
Jeyamankalam Police Station,
Theni District
Crime No.219/2018

..Respondent/Complainant

Crl.A(MD) No.824/2024

Malaichamy

.. Appellant/accused No.1

Vs.

The State through
The Inspector of Police,
Jeyamankalam Police Station,
Theni District
Crime No.219/2018

..Respondent/Complainant



Crl. A(MD)No.501 of 2024

WEB COPY Appeals filed under Section 374(2) of Criminal Procedure Code, against the judgment and order dated 30.04.2024 in S.C.No.105 of 2019 on the file of the Mahila Court (Fast Track Court), Theni.

For Appellants : Mr.Ayyanar Premkumar
For Respondent : Mr.T.Leninkumar
Counsel for State

COMMON JUDGMENT

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

These criminal appeals have been filed by A1 to A3 against the judgment of the Mahila Court (FTC), Theni, made in SC No.105/2019 dated 30.04.2024, wherein, the appellants were convicted and sentenced in the following manner:

Rank of the accused	Offences for which convicted (IPC)	Sentenced to undergo
A1	294(b)	One month simple imprisonment
	302	Life imprisonment and to pay a fine of Rs. 1,000/-, in default, to undergo simple imprisonment for one month
A2 and A3	302 r/w 114 in the alternative 302 r/w 34	Life imprisonment and to pay a fine of Rs. 1,000/-, in default, to undergo simple imprisonment for one month



Crl. A(MD)No.501 of 2024

WEB COPY

The above sentences were ordered run concurrently.

2. The case of the prosecution is that A1 is the husband of the deceased and A2 and A3 are the in-laws. A1 got married to the deceased nine years prior to the incident and out of the wedlock, they had two daughters and one son. A1 was a drunkard and he always suspected his wife and used to physically subject her to cruelty. A2 and A3 also insulted the deceased. On 04.12.2018 at about 5.00 p.m., the deceased was sitting in front of the house and A1 in a drunken state scolded her stating that 'to whom you are talking and who is the person with whom she is talking'. After abusing in filthy language, A1 is said to have beaten her and caught hold of the tuft of hair and pulled the deceased inside the house. At that point of time, A2 and A3 also instigated A1 and they also abused the deceased in filthy language. A1 is said to have brought the stove and poured kerosene from that stove on the deceased and set her ablaze. The deceased sustained burn injuries and she was rushed to the Theni Government Medical College and Hospital and admitted as inpatient. The Medical Officer of the hospital made a requisition to the Judicial



Crl. A(MD)No.501 of 2024

WEB COPY

Magistrate, Andipatti (Ex.P8) stating that the deceased has sustained 50% burn injuries and the dying declaration must be recorded.

3. PW12, who was the Judicial Magistrate, received the information on 04.12.2018 at about 11.15 p.m and the Magistrate went to the Government Hospital at about 11.40 p.m. The learned Judicial Magistrate ascertaining as to whether the deceased was in conscious state of mind to give the dying declaration and gave a certificate to that effect (Ex.P7). The dying declaration was recorded from 11.55 p.m. to 12.15 midnight. In the dying declaration, the deceased had explained the manner in which the incident had taken place and the involvement of the accused persons.

4. The Sub Inspector of Police, Jeyamangalam Police Station, Theni received the information from the Government Hospital and hence reached the Government Hospital and recorded the statement of the deceased at 22.30 hrs., and registered the FIR in Crime No.219/2018 at 6.30 a.m., on 05.12.2018 for offences under Sections 294(b), 323 and 307 IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002.



Crl. A(MD)No.501 of 2024

WEB COPY 5. The investigation was taken over by PW13 and he went to the scene of crime on 05.12.2018 at about 7.45 am. and prepared the observation mahazar (Ex.P9) and rough sketch (Ex.P10) in the presence of witnesses. Under Athatchi (Ex.P11), MO1, which is the kerosene stove was seized.

6. PW13 went to the Government Hospital and recorded the statement of the deceased. On the same day, at about 15.30 hrs., A1 was arrested and he was produced before the concerned Court and was remanded to judicial custody. He also recorded the statements of some of the witnesses under Section 161(3) of Cr.P.C.

7. PW15 took over the investigation since PW13 went on leave and he received the information from the hospital that the deceased died on 24.12.2018 and he prepared the alteration report (Ex.P13) and altered the offence to Section 302 IPC. PW15 conducted the inquest in the presence of the panchayatdars on 25.12.2018 at 8.00 a.m. and prepared the inquest report (Ex.P12). The dead body was sent for postmortem and the



WEB COPY

postmortem was conducted by PW11, who issued the postmortem report marked as Ex.P4 and the following findings were recorded:

“Appearance found at the postmortem:

Moderately nourished body of a female. Finger and toe nails pale. Singeing of scalp hair noted. Infected burns seen head, face, front and back of the chest, upper part of abdomen, both arms, front of both forearm and front of left thigh. Pus materials coated over the burnt area. Base of burnt area is red in colour.

Other findings:

Heart : Normal. Vessels – patent. Hyoid bone:intact. Larynx and trachea: No soot particles present. Stomach contains 20 ml of dark brown colour. No specific smell and mucosa-congested. Small intestine:contains 10 m of dark brown colour fluid. No specific smell and mucosa-congested. Lungs: Liver, Spleen, Kidneys & Brain : Normal c/s congested. Bladder:contains 5 ml of urine. Uterus: normal c/s.empty. Viscera preserved for chemical analysis report.

8. The final opinion (Ex.P5) revealed that the deceased would have died of complications of *ante mortem* burns.



Crl. A(MD)No.501 of 2024

WEB COPY

9. PW13 once again took up the investigation and recorded the statement of some of the witnesses under Section 161(3) Cr.P.C. The clothes recovered from the body of the deceased was sent for chemical analysis by making a requisition to the Court.

10. PW13 was transferred and therefore the investigation was taken over by PW14. He recorded the statements of the postmortem Doctor, chemical analyst and collected the postmortem report, biological report and serological report and on completion of investigation, filed the police report before the Judicial Magistrate, Periyakulam, which was taken on file in PRC No.6/2019. After serving copies under Section 207 Cr.P.C., to the accused persons, the case was committed under Section 209 Cr.P.C., and was made over to the file of the Additional Sessions Judge (FTC), Theni, which was taken on file in SC No.105/2019.

11. The charges were framed against the accused persons in the following manner:

7/16



Crl. A(MD)No.501 of 2024

WEB COPY

S.No.	Rank of the accused	Offences under Sections (IPC)
1	A1	294(b) (2 counts)
2		323
3		302
4	A2 and A3	323
5		302 /w 114

The accused persons denied the charges when questioned.

12. The prosecution examined PW1 to PW15 and marked Exs.P1 to P13 and also placed reliance upon MO1.

13. The incriminating evidence and circumstances were put to the accused persons when they were questioned under Section 313(i)(b) of Cr.P.C. and they denied the same as false.

14. The accused persons did not examine any witnesses nor mark any documents.

15. The trial Court, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a



Crl. A(MD)No.501 of 2024

WEB COPY

conclusion that the prosecution has proved the case beyond reasonable doubts and accordingly convicted and sentenced the accused persons in the manner stated supra. Aggrieved by the same, the present appeals have been filed before this Court.

16. During the pendency of these appeals, it is brought to the notice of this Court that A2 died on 26.02.2026 and this information was provided by the trial Court to the Additional Registrar General of the Madras High Court, Madurai Bench on 07.04.2026. Hence, the appeal in Crl.A(MD) No. 501 of 2024 stands abated insofar as A2 is concerned. Accordingly the appeals were heard insofar as A1 and A3 are concerned.

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

18. PW1 to PW6, who were examined on the side of the prosecution, turned hostile and therefore, nothing substantial comes out of their evidence. In view of the same, the only piece of evidence that has been



Crl. A(MD)No.501 of 2024

WEB COPY

relied upon by the prosecution to substantiate the charges is the dying declaration (Ex.P7) that was recorded from the deceased by PW12 and also the medical evidence, which provided the cause of death of the deceased. It is now too well settled that the conviction can be based solely upon the dying declaration if it is found reliable and in which event, the Court need not look for corroboration. Useful reference can be made to a judgment of the Apex Court in *Bapu Vs. State of Maharashtra* reported in 2007 (2) *LW (Crl)* 643 and also the judgment of this Court in *Gurusamy v. the State* represented by the Inspector of Police, Ettayapuram Police Station, reported in 2019 (2) *LW (Crl)* 556.

19. In the case in hand, as per Ex.P8, which was the requisition given by the Medical Officer to the Magistrate to record the dying declaration, it is seen that the deceased had sustained 50% burns. At the time of recording the dying declaration, PW12 had ensured that the deceased was in a conscious state of mind and oriented for giving dying declaration and it has been certified under Ex.P7. The deceased has explained the incident stating that she used to regularly have quarrel with her husband (A1) and on the 10/16



Crl. A(MD)No.501 of 2024

WEB COPY

date of incident, on 04.12.2018, at about 6.00 p.m., there was a big fight between the deceased and A1 and A1 is said to have abused the deceased in filthy language and poured kerosene and set fire. She further states that A1 brought her outside the house and also poured water. Insofar as A2 and A3 are concerned, she states that they instigated A1. This dying declaration was recorded from 11.55 p.m to 12.15 a.m., on 05.12.2018. PW12 in his evidence has spoken about the recording of the dying declaration and the fact that the deceased was in a fit state of mind and was oriented to give the dying declaration.

20. The learned counsel for the appellants submitted that the deceased while giving the statement to the investigating officer, had given a different version as if after the incident, her brothers Selvam and Selvaraj covered her with jute bag and foot mat and also poured water. It is submitted that this fact was not stated when the dying declaration was recorded by PW12.

21. In the considered view of this Court, the statement given by the deceased to the investigating officer is substantially the same as was stated



Crl. A(MD)No.501 of 2024

WEB COPY

to PW12, who recorded the dying declaration. The minor discrepancy as to what happened after the incident will not discredit the fact that A1 had poured kerosene and set the deceased on fire after the fight between the deceased and A1. In view of the same, this Court finds that the dying declaration that was recorded by PW12 is wholly reliable and it is not necessary for this Court to look for corroboration.

22. The deceased died after nearly 21 days, which resulted in the alteration of the FIR for offence under Section 302 IPC.

23. On carefully going through the dying declaration as well as the statement given by the deceased to the investigating officer, which was recorded and reduced into an FIR, it is quite clear that there was a big fight between A1 and the deceased and in the heat of passion, A1 seem to have poured the kerosene and set the deceased on fire. This act on the part of A1 was not as a result of any premeditation and it happened in the spur of the moment. Hence, this case can be brought within the exception I to Section 300 IPC and the act of A1 certainly amounts to culpable homicide not



Crl. A(MD)No.501 of 2024

WEB COPY

amounting to murder since A1 had the knowledge that the injury is likely to cause death. Therefore, the punishment can be awarded under Section 304(II) IPC. This Court takes into consideration the fact that there are two daughters and one son for A1, who will have to be taken care and this is considered as a mitigating factor while deciding the sentence.

24. Insofar as A2 is concerned, this Court has already recorded the fact that the appeal has abated since A2 died during the pendency of the appeal.

25. Insofar as A3 is concerned, she is the mother of A1 and mother-in-law of the deceased. The allegation made against A3 is very sketchy and A3 cannot be convicted merely based on the dying declaration and it requires some corroboration, which is absent in this case. Therefore, the benefit of doubt must go in favour of A3 and the prosecution has not established the charges as against A3.

26. In the light of the above discussions, the conviction and sentence



Crl. A(MD)No.501 of 2024

WEB COPY imposed on A3 is set aside and the conviction and sentence imposed on A1 is modified.

27. In the result,

(i) Crl.A(MD) No.501 of 2024 is allowed insofar as A3 is concerned and A3 is acquitted of all the charges. She is set at liberty. Bail bond, if any shall stand terminated. Fine amount, if any paid, shall be refunded.

(ii) As far as A2 is concerned, the appeal stands abated;

(iii) Insofar as Crl.A(MD) No.824 of 2024 is concerned, the same is partly allowed and the conviction and sentence imposed on the appellant is modified as follows:

(a) the conviction and sentence imposed on the appellant under Section 302 IPC is set aside, instead, the appellant is convicted under Section 304(II) IPC and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for one month; and

(b) Insofar as offence under Section 294(b) IPC is concerned, the



Crl. A(MD)No.501 of 2024

conviction and sentence remain unaltered.

[N.A.V, J.] & [K.K.R.K, J.]
04.06.2026

NCC : Yes

Index : Yes/No

RR

To

1.The Mahila Court (Fast Track Court), Theni.

2.The Inspector of Police,
Jeyamangalam Police Station,
Theni 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.501 of 2024

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

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Judgment made in
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