



Crl. A(MD)Nos.429 and 868 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **08.04.2026**

CORAM:

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

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Crl.A(MD) No.429 of 2023

Nagaraj

: Appellant/A3

Vs.

The Inspector of Police,
Rajapalayam South Police Station,
Virudhunagar District.
Crime No.616 of 2014.

: Respondent(s)

PRAYER: Criminal Appeal is filed under Section 374(2) of the Code of Criminal Procedure, to call for records and allow this appeal and set aside the conviction and sentence dated 23.03.2023 passed by the Fast Track Mahila Court, Virudhunagar District at Srivilliputhur in S.C.No. 155 of 2015 by allowing this criminal appeal.

For Appellant

: Mr.M.Jothi Basu

For Respondent

: Mr.A.Thiruvadi Kumar
Additional Public Prosecutor



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Crl.A(MD) No.868 of 2023

Pattu @ Alagupattu

: Appellant/A2

Vs.

The Inspector of Police,
Rajapalayam South Police Station,
Virudhunagar District.
Crime No.616 of 2014.

: Respondent(s)

PRAYER: Criminal Appeal is filed under Section 374(2) of the Code of Criminal Procedure, to call for records relating to the impugned judgment of conviction in S.C.No.155 of 2015 on the file of the learned Fast Track Mahila Court, Virudhunagar District at Srivilliputhur and to set aside and to acquit the appellant/accused No.2 from the charges framed.

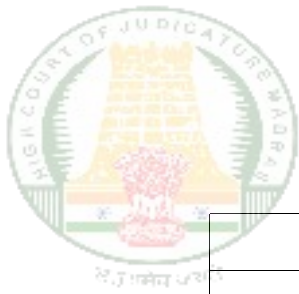
For Appellant : Mr.N.Mohideen Basha

For Respondent : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

COMMON JUDGMENT

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

These appeals have been filed assailing the judgment dated 25.03.2023 made in S.C.No.155 of 2015 on the file of the learned Fast Track Mahila Court, Virudhunagar District at Srivilliputhur, wherein the trial court has convicted and sentenced the appellants in the following manner:



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Rank	Offence	Sentence
A2	Sec. 302 of IPC	Life imprisonment and fine of Rs.5,000/-, in default to undergo 6 months rigorous imprisonment.
	Sec. 506(2) of IPC	3 years rigorous imprisonment and fine of Rs.1,000/-, in default to undergo 2 months rigorous imprisonment.
A3	Sec. 302 read with Sec. 34 of IPC	Life imprisonment and fine of Rs.5,000/-, in default to undergo 6 months rigorous imprisonment.
	Sec. 506(2) of IPC	3 years rigorous imprisonment and fine of Rs.1,000/-, in default to undergo 2 months rigorous imprisonment.

2. The case of the prosecution is that A1 had an illicit relationship with the deceased. A1 had borrowed a sum of Rs.80,000/-, A2 had borrowed a sum of Rs.1,10,000/- and A3 had borrowed a sum of Rs. 50,000/- from the deceased. They failed to repay back the amount. On 05.10.2014, at about 10.00 noon, the deceased and her sister (PW1) came to the house of A3 and shouted since the amount was not repaid back.



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Similarly, on 06.10.2014, at about 8.00 p.m., the deceased, along with PW1 and others, entered the place of A1 and took away all his belongings to sell the same and to appropriate towards the amount due and payable. In the same manner, on 07.10.2014, at about 11 a.m., the deceased went to the workshop of A2 and demanded for the amount and since it was not paid, with the help of others, the machines in the workshop were taken away.

3. In the light of the above incidents, A1 to A3 along with A4 decided to do away with the deceased. On 07.10.2014, at about 1.00 p.m., A1 called the deceased and informed her that the amount will be repaid back and asked the deceased to come to the workshop of A2 at ESI Colony. Believing the words of A1, the deceased, along with PW1, PW2, PW4 and another person, went to ESI Colony and reached the workshop at about 2.45 p.m. A3 and A4 restrained the deceased and all the accused persons abused the deceased in filthy language. Thereafter, A1 attacked the deceased with a knife on the back of her head, right cheek, right ear and right eye and on the other parts of the body. A2 also attacked the deceased with a knife on her back side, on the back of the head and at the back of the right hand. As a result, the deceased died on



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the spot. When PW1, PW2 and PW4 raised alarm, the accused persons threatened them with dire consequences.

4. PW1 went to the police station at about 4.00 p.m. and gave a complaint (Ex.P1). On receiving the same, PW23 registered the FIR (Ex.P13) in Crime No.616 of 2014 for offences under Sections 294(b), 341, 302 and 506(2) of IPC.

5. PW24 took up the investigation and went to the scene of occurrence at about 5.30 p.m. and prepared the observation mahazar (Ex.P2) and rough sketch (Ex.P14) in the presence of witnesses.

6. From the scene of crime, MO6 and MO7 was collected and it was sent to the court under Form 91. The inquest was conducted on the body of the deceased in the presence of panchayathars between 19.00 hours and 21.00 hours and the inquest report (Ex.P16) was prepared.

7. The dead body was sent for postmortem at about 9.30 p.m. to Rajaji Government Hospital in an ambulance and the postmortem was



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conducted by PW18, who issued the postmortem certificate (Ex.P11).

The following injuries were noted in the postmortem report:

“External Injuries: - 1. A Horizontal laceration extending behind (L) ear to (R) ear of size 20x5x7 cm with underlying cervical vertebre seen. C2 vertebra fracture seen (2) A oblique laceration in the (R) cheek extending from (R) ear to the angle of (R) mandible 12x4x4 cm underlying mandible fracture (3) A' Horizontal cut injury extending from the outer angle of (R) eye of size 4x2x1 cm with failing wound extends till (R) ear (4) (R) ear torn (5) A laceration of size 3x2x1 cm in the (R) occipital region (6) A laceration of size 2x2x1 cm in (R) arm (7) A lacertain of size 2x2x1 cm in (R) forearm 7 cm above the wrist joint on the lateral aspect (8) A laceration 4 cm of size 2x1x1 cm in the dorsum of (R) hand (9) A oblique cut injury of size 7x2x1 cm (R) side lower back (10) A Horizontal cut injury of size 4x1x1 cm below the previous wound (11)A laceration of size 2x1x1 cm in (R) side laterall chest (12) A abrasion of size 2x2 cm in (L) knee joint.

Thorax: - No fracture rib seen lungs pale. Heart empty and pale. Hyoid bone intact. No foreign body in largnx seen Abdomen: Stomach partially digested food particles present. kidney spleen, liver pale, Intestines pale. Urinary bladder empty.

Skull:- Occipital bone fracture seen below the wound present. (R) temperol bone fracture also seen brain, a laceration of 6x2x3 cm in the occipital lobe. Intracranial bleed of about 300 ml blood present.

Cause of Death:-

The deceased would appear to have died of shock and



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haemorrhage due to multiple Injuries and fracture sustained about 18 - 24 hours prior to autopsy.”

8. The 161 statements of some of the witnesses were also recorded by the Inspector of Police.

9. On 18.10.2014, the accused persons were arrested at about 8.30 a.m. in the presence of witnesses. Based on the confession statements given by the accused persons and relying upon the admissible portion, MO1, MO2, MO8 to MO12 were seized under Athatchi Exs.P3, P7 and P9. The accused persons were produced before the court and they were remanded to judicial custody.

10. The dress worn by the deceased was collected (MO3 to MO5) and it was sent for scientific analysis through the court.

11. After the completion of recording of statements from all the witnesses and after collecting the postmortem report, the biological report and serological report and on completion of investigation, the charge sheet was filed before the Judicial Magistrate Court, Rajapalayam, which was taken on file in P.R.C. No.38 of 2014.



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12. The copies were served on the accused persons under Section 207 of Cr.P.C., and the case was committed and made over to the file of the Fast Track Mahila Court, Virudhunagar District, in S.C.No.155 of 2015.

13. The trial court framed the charges against the accused persons in the following manner:

Rank	Charges
A1 to A4	Sec. 294(b) of IPC
A1 to A4	Sec. 506(2) of IPC
A1 & A2	Sec. 302 of IPC
A3 & A4	Sec. 341 of IPC
A3 & A4	Sec. 302 read with 34 of IPC

When the accused persons were questioned, they denied the charges.

14. The prosecution examined PW1 to PW24 and marked Exhibits P1 to P24 and also relied upon MO1 to MO12.

15. The incriminating circumstances and evidence were put to the accused persons when they were questioned under Section 313(1)(b) Cr.P.C., and they denied the same as false.



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16. The accused persons did not examine any witnesses nor did they rely upon any documents.

17. 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 convicted and sentenced all the accused persons in the manner as stated supra. A1 and A4 died. These appeals have been filed by A2 and A3.

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

19. In the case on hand, PW1 and PW2 are the only eyewitnesses who have supported the case of the prosecution. PW1 is the brother of the deceased and PW2 is the nephew of the deceased. PW3 is the son of the deceased and he heard about the incident only after the incident.



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20. PW1, in his evidence, has spoken about the incident and the manner in which the deceased was attacked by the accused persons. PW1 has spoken about the specific overt act of A1 and A2 and the manner in which they attacked the deceased with MO1 and MO2.

21. Insofar as A3 is concerned, the only allegation made by PW1 is that he, along with other accused persons, abused the deceased in filthy language and nothing more.

22. Unfortunately, in this case, PW1 was not even cross-examined on the side of the accused person and therefore, the evidence of PW1 stands uncontroverted along with Ex.P1 which was the complaint given by PW1 after the incident.

23. The other important evidence is that of PW2. PW2 also deposed almost in the same manner in which PW1 had deposed. Even though PW2 was cross-examined, there is nothing to discredit the evidence of PW2.



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24. PW3 is the son of the deceased and he was not an eyewitness.

He heard about the incident and later came to the scene of crime. He is more in the nature of hearsay witness, who had said what was told to him to the effect that it was A1 and A4 who attacked the deceased and A2 and A3 were also present at the time of incident.

25. The learned counsel for A2 by taking advantage of the above deposition of PW3 submitted that PW3 had not stated about the attack made by A2. Admittedly, PW3 is a hearsay witness and he has not seen the incident. Therefore, whatever was told to him after the incident cannot form the basis to conclude the manner in which the incident took place and the overt act attributed to the accused persons.

26. The evidence of PW18 (postmortem doctor), read along with the autopsy report (Ex.P11), corroborates the eyewitness account in terms of the overt act attributed against A1 and A2 and the injuries that were noted in the postmortem report. As per the final opinion of the postmortem doctor, the cause of death was shock and haemorrhage due to multiple injuries and fracture sustained.



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27. Even in terms of the registration of FIR, the incident had taken place around 2.45 p.m. on 07.10.2014 and the FIR was registered at about 4.00 p.m. and the express FIR reached the court at 1.50 a.m. on 08.10.2014. There isn't much of delay that would vitiate the case of the prosecution.

28. On the conspectus of the above evidence, it is clear that insofar as A2 is concerned, the prosecution has proved the case beyond reasonable doubts. This is more so, since A2 did not even cross-examined PW1 and evidence of PW1 remains uncontroverted.

29. Insofar as A3 is concerned, no specific overt act has been attributed against A3. On a closer reading of the complaint and evidence of PW1 and PW2, it is seen that nothing specific has been stated against A3. That apart, the trial court on appreciation of evidence, has acquitted A3 from the charge under Section 341 of IPC. If A3 has not restrained the deceased, there is nothing to show that A3 has acted in furtherance of the common intention, which is a *sine qua non* to sustain the charge under Section 302 read with 34 of IPC. The trial court has acquitted A3 for offence under Section 294(b) of IPC. If that is so, there is no logic in



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convicting A3 for offence under Section 506(2) of IPC. Therefore, A3 will be entitled for acquittal even for the charge under Section 506(2) of IPC.

30. In the light of the above discussion, Criminal Appeal (MD) No. 868 of 2023 is dismissed and the judgment of the trial court dated 23.03.2023 is sustained. As a result, conviction of A2 is confirmed. Criminal Appeal No.429 of 2023 is allowed. The conviction and sentence imposed on the appellant/A3 in S.C.No.155 of 2015 by the the Fast Track Mahila Court, Virudhunagar District at Srivilliputhur is set aside and he is acquitted from all charges and set at liberty. Bail bond shall stand terminated. Fine amount paid, if any, is ordered to be refunded.

[N.A.V., J.] [K.K.R.K., J.]
08.04.2026

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
PKN



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- To
1. Fast Track Mahila Court,
Virudhunagar District at Srivilliputhur.
 2. The Inspector of Police,
Rajapalayam South Police Station,
Virudhunagar District.
 3. The Additional Public Prosecutor
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
Crl.A.(MD)Nos.429 and 868 of 2023

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