



Crl.A(MD)No.692 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.01.2026

CORAM:

**THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN
AND
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY**

**Crl.A(MD)No.692 of 2025
and
Crl.M.P(MD)No.7949 of 2025**

Selvaraj

... Appellant/Sole Accused

Vs.

The State of Tamil Nadu,
Through the Inspector of Police,
Chinnakovilankulam Police Station,
Tirunelveli District.
(Crime No.234 of 2020).

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the entire records connected to the Judgment in S.C.No.369 of 2021 on the file of the I Additional District and Sessions Court, Tirunelveli dated 19.07.2022 and set aside the conviction and sentence imposed against the appellant.



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For Appellant : Dr.R.Alagumani

For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

JUDGMENT

**(Judgment of the Court was delivered by
G.K.ILANTHIRAIYAN, J.)**

This appeal is directed as against the Judgment passed in S.C.No.369 of 2021, dated 19.07.2022, on the file of the I Additional District and Sessions Court, Tirunelveli, thereby convicting the appellant for the offence punishable under Section 302 of I.P.C.

2.The case of the prosecution is that on 10.10.2020 at about 06.30 p.m., when the deceased, along with his daughter and wife, was standing in their cattle shed and talking with them, the accused, who is none other than the son of the deceased, came there and demanded money from his father. The deceased refused to give money, since the accused was not regular in attending his work.



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Aggrieved by the same, the accused threatened the deceased and also assaulted him with an oak wooden log on his head. Due to the said assault, the deceased fell down and died. Based on the complaint, the respondent registered an F.I.R in Crime No.234 of 2024 for the offences punishable under Sections 294(b), 506(ii) and 302 of I.P.C. After completion of the investigation, a final report was filed and the same was taken cognizance by the Trial Court.

3.In order to bring the charges to home, the prosecution had examined P.W.1 to P.W.11 and marked Ex.P.1 to Ex.P.17. The prosecution produced Material Objects M.O.1 to M.O.6. On the side of the accused, he had examined one D.W.1 and no documents were marked before the trial Court.

4.On perusal of oral and documentary evidence, the Trial Court found the accused guilty for the offence punishable under Section 302 of I.P.C, and sentenced him to undergo life



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imprisonment. Aggrieved by the same, the appellant has preferred the present appeal.

5.The learned counsel appearing for the appellant submitted that appellant had absolutely no intention to do away with the life of the deceased. Even according to the case of the prosecution, the appellant went to the place of occurrence only to demand money from his father. When the deceased refused to give money, the appellant, being provoked and in a fit of anger, took an oak wooden log which was lying in the cattle shed and assaulted him. Already the deceased was suffering from age related ailments and had undergone medical treatments from the year 2016 to 2020. After the assault, the deceased fell down and due to his ailments, he died. Therefore, the conviction under Section 302 of I.P.C cannot be sustained and at the most, the appellant can be convicted only for the offence punishable under Section 304 Part II of I.P.C.



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6.Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that the appellant assaulted the deceased with a wooden log on his head, which clearly shows his intention to cause death. The deceased sustained a head injury and succumbed to the same. The Doctor who conducted autopsy had deposed as P.W.9 and he categorically deposed that the deceased died due to injuries sustained. Therefore, the Trial Court rightly convicted the appellant under Section 302 of I.P.C and the same does not require any interference of this Court.

7.Heard the learned counsel appearing on either side and perused the materials available on record.

8.The sister of the appellant had deposed as P.W.1 and the mother of the appellant had deposed as P.W.2. They categorically deposed that the appellant used to demand money from the deceased without attending any work. Therefore, the appellant is a



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problematic person and on the date of occurrence when P.W.1 and P.W.2, along with the deceased, were standing near the cattle shed and talking, the appellant went there and demanded money. When the deceased refused to give money, all of a sudden, the appellant took the oak wooden log which was lying in the cattle shed and assaulted the deceased with a single blow. Immediately, the deceased fell down, became unconscious and later died.

9.The only point for consideration in this appeal is whether the conviction under Section 302 of I.P.C can be sustained, in the absence of any intention on the part of the appellant to do away with the life of the deceased. When the appellant demanded money and the deceased refused to give the same, all of a sudden and in a spur of the moment, the appellant picked up the oak wooden log from the cattle shed and assaulted the deceased. Unfortunately, the deceased fell down and died.



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10. In order to decide the pivotal question of intention, which alone would determine whether the offence falls under Section 302 or 304 Part II of I.P.C., the facts and circumstances of the case have to be examined with care and caution.

11. In this regard, it is relevant to reply upon judgement of the Hon'ble Supreme Court of India in the case of ***Pulicherla Nagaraju @ Nagaraja Reddy v. State of A.P [2007 (1) SCC (CRI) 500]***, wherein it has been observed as follows:

“18. Therefore, the court should proceed to decide the pivotal question of intention, with care and caution, as that will decide whether the case falls under Section 302 or 304 Part I or 304 Part II. Many petty or insignificant matters like plucking of a fruit, straying of cattle, quarrel of children, utterance of a rude word or even an objectionable glance, may lead to altercations and group clashes culminating in deaths. Usual motives like revenge, greed, jealousy or suspicion may be totally



absent in such cases. There may be no intention. There may be no pre-meditation. In fact, there may not even be criminality. At the other end of the spectrum, there may be cases of murder where the accused attempts to avoid the penalty for murder by attempting to put forth a case that there was no intention to cause death. It is for the courts to ensure that the cases of murder punishable under Section 302, are not converted into offences punishable under Section 304 Part I/II, or cases of culpable homicide not amounting to murder, are treated as murder punishable under Section 302. The intention to cause death can be gathered generally from a combination of a few or several of the following, among other, circumstances :

- (i) nature of the weapon used;*
- (ii) whether the weapon was carried by the accused or was picked up from the spot;*
- (iii) whether the blow is aimed at a vital part of the body;*
- (iv) the amount of force employed in causing injury;*
- (v) whether the act was in the course of sudden quarrel or sudden fight or free for all fight;*



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(vi) whether the incident occurs by chance or whether there was any pre- meditation;

(vii) whether there was any prior enmity or whether the deceased was a stranger;

(viii) whether there was any grave and sudden provocation, and if so, the cause for such provocation;

(ix) whether it was in the heat of passion;

(x) whether the person inflicting the injury has taken undue advantage or has acted in a cruel and unusual manner;

(xi) whether the accused dealt a single blow or several blows. The above list of circumstances is, of course, not exhaustive and there may be several other special circumstances with reference to individual cases which may throw light on the question of intention. Be that as it may.”

12.As stated supra, in the case on hand, the appellant had absolutely no intention to do away with the life of the deceased.

P.W.1 and P.W.2 have deposed that the appellant used to demand



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money from his father as he was not attending any job for his livelihood. On the date of occurrence also, the appellant demanded money from the deceased that too when he was conversing with P.W. 1 and P.W.2 near the cattle shed. When the deceased refused, a sudden quarrel ensued and in the heat of the moment, the appellant picked up the oak wooden log lying there in the cattle shed and assaulted the deceased. It can be seen that there was no preparation on the side of the appellant to hurt the appellant. He did not even carry a weapon with him all along. Therefore, the offence had taken place in the course of sudden quarrel or sudden fight and even according to the case of the prosecution the weapon was taken from spot. The weapon herein, i.e., the wooden log is also not a dangerous weapon on its own. It is the force that has been used by the appellant while attacking and the poor health of the deceased that had caused the death of the deceased.

13.In view of the above, the conviction and sentence



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imposed on the appellant in S.C.No.369 of 2021, dated 19.07.2022, on the file of the I Additional District and Sessions Court, Tirunelveli for the offence punishable under Section 302 of I.P.C is set aside and the appellant is convicted for the offence under Section 304 Part II of I.P.C and sentenced to undergo six years Rigorous Imprisonment.

14.Accordingly, the Criminal Appeal is partly allowed. It is made clear that if the appellant had already paid any fine, the same shall be adjusted towards the fine amount imposed by this Court. The sentences of imprisonment shall run concurrently. The period of imprisonment already undergone by the appellant shall be set off under Section 428 of Cr.P.C. Consequently, connected Miscellaneous Petition is closed.

[G.K.I.J.] & [K.R.J.]
02.01.2026

NCC :Yes/No

11/13



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Index : Yes/No
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To

- 1.The I Additional District and Sessions Court,
Tirunelveli.
- 2.The Inspector of Police,
Chinnakovilankulam Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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