



Crl. A(MD)No.469 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated 11.03.2026

CORAM:

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

AND

THE HONOURABLE Mr. JUSTICE P.DHANABAL

Crl. A. (MD)No.469 of 2023

Anandaraj

.. Appellant/Sole accused

Vs.

The State rep by
The Inspector of Police,
Andipatti Police Station,
Andipatti
Theni District.
Crime No.668/2018

..Respondent/Complainant

Appeal filed under Section 374(2) of Criminal Procedure Code, against the judgment and order dated 25.04.2023 in S.C.No.80 of 2019 on the file of the Additional District and Sessions Judge, Theni at Periyakulam.

For Appellant
For Respondent

: Mr.K.Dinesh
: Mr.A.Thiruvadikumar
Additional Public Prosecutor



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JUDGMENT

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

This criminal appeal has been filed challenging the judgment passed by the Additional District and Sessions Judge, Tirunelveli made in SC No. 80/2018 dated 25.04.2023, wherein, the appellant was convicted for offence under Section 302 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.5,000/- in default to undergo rigorous imprisonment for two years.

2. The case of the prosecution is that the deceased is the son of PW1 and PW5. The deceased after completing his SSLC joined a diploma course in a Polytechnic, but, however, he discontinued the course. He got into the habit of consuming liquor and on one such occasion, when he was consuming liquor along with his friends near Kottai Karuppasamy Temple, there was a quarrel between the deceased and the accused. As a result, there was a pervious enmity between them. On 15.10.2018, at about 10.00 p.m.,



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when the deceased was standing in front of a grocery shop at Pappammalpuram, the accused on seeing the deceased scolded him in filthy language. This led to a quarrel between the accused and the deceased and the accused is said to have stabbed the deceased with blade knife (MO1) on his right chest, stomach and back. The deceased fell down unconscious. PW1 to PW4 are said to have taken the deceased to the Government Hospital, Andipatti. PW15 Doctor provided the first aid to the deceased and recorded the Accident Register Ex.P10. The deceased was referred for further treatment to the Theni Government Medical College and Hospital at Ka.Na.Vilakku.

3. On 15.10.2018, at about 11.15 p.m., the information was sent to the Andipatti Police Station, which was recorded by PW20, who went to the hospital. He found the deceased in an unconscious state. Hence, he recorded the statement of PW1, who is the father and based on this statement (Ex.P1), PW20 registered the FIR (Ex.P13) in Crime No. 668/2018 for offences under Sections 294(b), 324 and 307 IPC.



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4. The investigation was taken up by PW21 and he went to the scene of crime on 16.10.2018 at about 6.00 a.m. and in the presence of witnesses, the observation mahazar (Ex.P12) and rough sketch (Ex.P14) were prepared. The accused person was arrested on the same day at about 4 p.m. and based on his confession, MO1 was seized under seizure mahazar (Ex.P18). The accused person was remanded to judicial custody.

5. When the investigating officer was in the process of recording the statement of the witnesses under Section 161 Cr.P.C., the Government Doctor, PW17, on 22.10.2018, had declared the deceased as dead at about 6.30 p.m. On receiving this information, an alteration report was submitted before the concerned Court by altering the offences under Sections 294(b) and 302 IPC. The inquest was conducted by the investigating officer and the inquest report (Ex.P15) was prepared in the presence of the witnesses. The dead body was sent to the Theni Medical College Hospital through PW14 - Constable. The postmortem was conducted by PW18 - Doctor and the postmortem report (Ex.P15) was given, wherein, the following injuries were recorded:



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“1) On removal of hospital dressing, Sutured wound of size 2X 0.5cm seen in lower and inner part of right side chest, it is 6cm below and inner aspect to right side nipple. On removal of suture it is 2X1.5cm X cavity deep transverse stab wound. Its right and sharp and left and blend in nature.

2) On removal of hospital dressing. Sutured wound of size 2X0.5cm seen in upper and outer aspect of left side abdomen, it is 26cm below left auxiliary line. On removal of suture it is 2 X1.5cm X cavity deep oblique stab wound. Upper and sharp and lower end blend in nature

3) Incised wound of size (dark brown colour) of size 5 x 0.2 X 0.1 cm seen in back of the center of the left side chest region.

4) Incised wound of size (dark brown colour) of size 4 X 0.2 X 0.1cm seen in the left side gluteal region.

5) in dissection of Thorax 150ml of blood stained fluid noted in right side pleural cavity and 1X 0.5 X 0.7cm size stab wound noted in front of lower part of right side lung.

6) On dissection of Abdomen: 350gm of clotted blood material and 250ml of blood stained fluid noted in the peritoneal cavity. 2 X 1.5 cm Perforated (through and through) stab injury noted in middle part of the spleen and also penetrate the splenic artery.”.

6. The investigating officer, after recording the statement of all the witnesses under Section 161 Cr.P.C. and collecting all the relevant documents and other materials, laid the police report before the concerned



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Court and after serving the copies and documents under Section 207 Cr.P.C., the case was committed to the concerned Court and made over to the file of the Additional District and Sessions Judge and the same was taken on file in SC No.80/2018.

7. The trial Court framed charges for offence under Sections 294(b) and 302 IPC and on questioning, the accused person denied the charges.

8. The prosecution examined PW1 to PW21 and marked Ex.P1 to Ex.P19 and relied upon MO1.

9. The incriminating evidence and circumstances were put to the accused person when he was questioned under Section 313 Cr.P.C., and he denied the same as false.

10. The accused person did not examine any witness nor relied upon any documents.



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11. The trial Court, on considering the facts and circumstances of the case and on appreciation of the oral and documentary evidence, came to a conclusion that the prosecution has proved the case beyond reasonable doubts insofar as the offence under Section 302 IPC is concerned and convicted and sentenced in the manner stated supra. However, acquitted the accused person for offence under Section 294(b) IPC. Aggrieved by the conviction and sentence, the present criminal appeal has been filed before this Court.

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

13. PW1 and PW5 are the parents of the deceased. PW6 is the sister of the deceased. PW1 did not see the incident and he heard about the incident and had taken the deceased to the hospital along with others and he had set the law in motion by giving a statement, which resulted in the registration of the FIR.



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14. Insofar as PW2 and PW3 are concerned, they had accompanied PW1 while taking the deceased to the hospital after the incident. They are also not the eyewitnesses to the incident.

15. The most crucial witness is PW4, who is the eyewitness. He clearly explains the manner in which the incident took place. He had stated that on 15.10.2018, when he and the deceased were talking near the shop, the accused came to that place and both of them started abusing each other and hitting each other with hands. At that time, the accused person stabbed the deceased with MO1 in his right chest, stomach and back.

16. The chief examination was recorded on 19.08.2019, whereas the cross-examination was conducted on 05.04.2022 only. In view of the same, there are certain discrepancies in the evidence of PW4 during cross-examination. In the considered view of this Court, the discrepancy does not in any way take away the credibility of the statement made by PW4 during chief examination. This is more so since the cross-examination had been deferred for more than two years. However, when a witness has been



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examined after long interval from the date of chief examination, without any proper explanation, such minor discrepancies will have to be eschewed/disregarded. The law on this issue was discussed in detail in ***Dharmaraj v. The Inspector of Police, Athanakottai Police Station*** reported in ***2015 (2) LW Crl. 458*** and ***Rasukannu @ Rengasamy and another v. State*** reported in ***2018 (1) MLJ (Crl.) 306***. Insofar as PW5 and PW6 are concerned, they are not the eyewitnesses and they had only gone to the hospital after the incident.

17. The next important witness is PW15, who is the Doctor, who gave the first aid to the deceased. The Accident Register has been marked as EX.P10. On considering this evidence, it is seen that immediately after the incident, the deceased was taken to the Andipatti Government Hospital at 10.05 p.m., and the deceased was found unconscious but had consumed alcohol and the injuries sustained by the deceased have also been recorded in the Accident Register. This clearly substantiates the evidence of PW4 since the deceased had been taken to the hospital almost immediately.



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18. The deceased ultimately died after six days and the postmortem Doctor has also spoken about the injuries and the same had been mentioned in the postmortem certificate, which was marked as Ex.P15. The final opinion, which was marked as Ex.P12 shows that the deceased would appear to have died of complications of injuries to chest and abdominal regions.

19. On recording the statement of PW1, the FIR has been registered, on 16.10.2018 at about 1.00 hrs., and it has reached the Court on the same day at 9.30 p.m. The nature of injuries that has been sustained by the deceased is capable of being caused with MO1. On a careful analysis of the evidence available on record, this Court is of the considered view that the prosecution has proved the case beyond reasonable doubts. The occurrence and the finding of the trial Court in this regard are unassailable.

20. The next issue to be gone into is as to whether with the given materials, an offence of murder is made out which is punishable under Section 302 IPC.

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21. On a careful consideration of the entire events, it is seen that the deceased and the accused were not in good terms and even on the date of occurrence, the deceased was under the influence of alcohol and PW4 specifically states that they had a wordy quarrel and they were also hitting each other with hands and ultimately, the accused with MO1 caused stab injuries on the deceased. It can thus be seen that the facts of the present case can be brought under Exception IV of Section 300 IPC.

22. This Court finds that the murder was committed without premeditation in a sudden fight between the accused and the deceased and in a heat of passion and this Court does not find that the accused person has taken undue advantage or acted in a cruel or unusual manner. In view of the same, the accused person can be convicted and sentenced under Section 304(II) of IPC.

23. In view of the above discussions, this Court is inclined to modify the conviction from Section 302 IPC to Section 304(II) IPC and the



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appellant is sentenced to undergo four years rigorous imprisonment.

24. In the result, the criminal appeal is partly allowed in the following terms:

(a) the conviction and sentence imposed on the appellant under Section 302 IPC are set aside, instead the appellant is convicted under Section 304 (II) IPC and sentenced to undergo rigorous imprisonment for four years (4 years). The fine amount imposed remains unaltered;

(b) Since the appellant is on bail, the trial Court is directed to take necessary steps to secure the appellant to undergo the remaining period of sentence;

(c) The period of sentence already undergone by the accused/appellant is ordered to be set off under Section 428 Cr.P.C.

[N.A.V, J.] & [P.D.B, J.]
11.03.2026

NCC : Yes/No

Index : Yes/No

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To

1.The Additional District and Sessions Judge,
Theni

2.The Inspector of Police,
Andipatti Police Station,
Theni 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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