



**Crl. A(MD)No.559 of 2023**

**WEB COPY** BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated 05.03.2026

CORAM:

**THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH**

**AND**

**THE HONOURABLE Mr. JUSTICE P.DHANABAL**

**Crl. A. (MD)No.559 of 2023**

Mohammed Mydeen @ Mydeen

.. Appellant/Sole accused

Vs.

The State rep by  
The Inspector of Police,  
Pettai Police Station,  
Tirunelveli District.  
Crime No.279/2015

..Respondent/Complainant

Appeal filed under Section 374(2) of Criminal Procedure Code,  
against the judgment and order dated 31.01.2023 in S.C.No.603 of 2016 on  
the file of the I Additional District and Sessions Judge, Tirunelveli.



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

**JUDGMENT**

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

This criminal appeal has been filed challenging the judgment of the I Additional District and Sessions Judge, Tirunelveli made in SC No. 603/2016 dated 31.01.2023, wherein, the appellant was found guilty and convicted and sentenced in the following manner:

| S.No. | Offences under IPC | Conviction and Sentence                                                                                                                   |
|-------|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| 1     | 449                | To undergo rigorous imprisonment for Five years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for one month |
| 2     | 294(b)             | To undergo simple imprisonment for one month                                                                                              |
| 3     | 302                | To undergo imprisonment for life.                                                                                                         |

The sentences were ordered to run concurrently.



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2. The case of the prosecution is that the accused person was residing just adjacent to the house of the deceased. The deceased used to play his television with high decibel levels and the accused person questioned the same on various occasions. Hence, there were previous occasions, where both the deceased and the accused had quarreled on this issue. On 14.06.2015, at about 9.30 p.m., the deceased had kept the decibel level of the television very high and the accused person is said to have trespassed into the house of the deceased and abused him in filthy language and had attacked him with hands on his face. Thereafter the accused person is said to have stabbed the deceased in the left chest. The deceased succumbed to the injuries on 17.06.2015 at about 4.30 p.m.

3. Immediately after the incident, the father and mother and other neighbours of the deceased took the deceased to the Tirunelveli Hospital. PW10, who is the Head Constable, got the information from the hospital on 17.06.2015 at about 16.30 hrs that the deceased died. In the meantime, on the date of occurrence, ie. On 14.06.2015, PW9 had gone to the hospital and



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recorded the statement of the deceased, who narrated about the incident and it was reduced into writing (Ex.P1 and P2). PW19 received the complaint statement recorded by PW9 and had lodged the FIR in Crime No.279/2015 for offences under Sections 294(b), 452, 323, 307 and 506(II) IPC (Ex.P17)

4. PW20, who is the investigating officer, took up the investigation and he went to the spot on 15.06.2015 at 2.00 a.m., and prepared the observation mahazar (Ex.P5) and rough sketch (Ex.P18). PW20 recorded the statement of some of the witnesses under Section 161 Cr.P.C. The accused person was arrested in the course of investigation on 15.06.2015 at about 10 am. The knife (MO1) was also recovered under Ex.P4.

5. After the information was received that the deceased died on 17.06.2015, the investigating officer took efforts to file an alteration report and altered the Sections to 294(b), 452, 323, 302 and 506(II) IPC.

6. PW20 handed over the CD file to the Inspector of Police, Junction Police Station and on 18.06.2015, the said police officer conducted inquest



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in the presence of the panchayatdars. The inquest report (Ex.P21) was also prepared. Once again on 19.06.2015, PW20 took up the investigation and the dead body of the deceased was handed over to PW12 Head Constable, who took the dead body to the Medical College Hospital, Tirunelveli for postmortem. The postmortem was conducted by PW16 and the postmortem certificate (ExP13) was issued, wherein, the following injuries were recorded:

**“ANTEMORTEM INJURIES**

1) Crescentric scratch abrasions (nail marks) of size 0.5x0.2cm seen over left side of middle of neck, 0.5x0.2cm seen over front of left side of neck and of size 0.3x0.1cm (3 in number 1cm apart) seen over front of right side of neck.

2) 8cm oblique sutured wound seen over left side of front of chest 1cm above noted outer to left nipple (stapler) Un removal of sutures it was thoracic cavity deep stab wound. Upper and lower margins were regular Inner end was blunt and outer end was sharp. Inner part of stab wound was thoracic cavity deep and outer part was muscle deep

3) 17cm long horizontal sutured wound seen over front and outer aspect of left side of chest 3cm wbelow left nipple (Stapler). It extends from 4cm outer to anterior midline to 7cm below to left axilla. On



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removal of sutures it was thoracic cavity deep incised wound (Surgical procedure).

4) 12cm long horizontal sutured wound seen over front and outer aspect of left side chest. 2Cm below left nipple. It was thoracic cavity deep incised wound (Surgical procedurē).

5) 23cm long vertical sutured wound seen over front of middle of chest. Extends from supra sterna notch to 5cm below xiphisternum and 1cm right to anterior midline. On removal of sutures it was thoracic cavity deep incised wound (Surgical procedure).

6) 1.5x0.5cmx Thoracic cavity deep horizontal incised (surgical procedure for Intercostal tube drainage) seen over outer aspect of left side of chest in anterior axillary line of 6th intercostal space.

7) 2x1cmx Thoracic cavity deep incised wound (surgical procedure) seen over outer aspect of right side chest in anterior axillary line of 4 intercostal space, 16cm below to right axilla. On dissection of chest and abdomen: Contusion upper part of left side anterior chest wall. Underlying muscles of anterior chest wall in 3rd intercostal space found sutured. Sternum found sutured with metal wire Retro sternal bruise noted. On removal of metal sutures, sternum found divided and muscles in 4th inter costal space found divided. Thoracic cavity contains about 100ml of blood stained fluid. Both side internal mammary arteries found ligated (Surgical procedure).

OPINION AS TO THE CAUSE OF DEATH: THE DECEASED WOULD APPEAR TO HAVE DIED OF STAB INJURY TO THE REGION OF LEFT SIDE OF CHEST AND ITS COMPLICATIONS”.



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7. The Doctor opined that the cause of death of the deceased was due to stab injuries on the left side chest and its complications.

8. PW20, after recording the statements of all the witnesses under Section 161 of the Code of Criminal Procedure and after collecting all the materials, laid the police report before the Judicial Magistrate, No.V, Tirunelveli. The copies were served on the accused person under Section 207 Cr.P.C. and the case was committed to the I Additional District and Sessions Judge, Tirunelveli, which was taken on file in SC No.603/2016.

9. The trial Court framed charges against the accused person for offence under Sections 449, 294(b) and 302 IPC and when questioned, the accused person pleaded not guilty.

10. The prosecution examined PW1 to PW20, and marked Ex.P1 to Ex.P24 and also relied upon MO1 to MO3.



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11. After the witnesses for the prosecution were examined and the accused was questioned under Section 313 Cr.P.C., regarding the incriminating evidence, he denied the same as false.

12. The accused person did not let in any evidence or relied upon any documents.

13. The trial Court, on considering the facts and circumstances of the case and on appreciation of evidence, came to the conclusion that the prosecution has proved the case beyond reasonable doubts and accordingly convicted and sentenced the accused person in the manner stated supra. Aggrieved by the same, the present appeal has been filed before this court.

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

15. In the case in hand, the deceased, after sustaining injuries, had given a statement in the hospital to PW9, which was recorded and which



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resulted in the FIR registered in Crime No.279/2015. This is the earliest version that was available immediately after the incident on 14.06.2015.

16. PW2, who is the wife of the deceased, has clearly spoken about the incident and the manner in which it took place. The evidence of PW2 has not been discredited in the cross-examination. Therefore, a combined reading of the statement given by the deceased when he was in the hospital read along with the evidence of PW2 clearly establishes the occurrence that took place on 14.06.2015 and also the manner in which it had taken place.

17. PW1 was the close friend of the deceased and he has also spoken about the wordy quarrel that took place between the deceased and the accused and the attack on the deceased by the accused person with the knife.

18. PW3 to PW5 are the mother, father and brother of PW2. These witnesses speak about taking the deceased to the Tirunelveli Government Hospital for treatment.



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19. The other important witness is PW14, who is the Doctor, who gave treatment to the deceased and he has specifically stated in his evidence that the deceased was conscious till his ultimate demise on 17.06.2015.

20. PW9 is the Special Sub Inspector of Police, who recorded the statement of the deceased in the hospital and got his signatures and handed it over to PW19, who is the Sub Inspector, who registered the FIR.

21. PW20 is the investigating officer, who speaks about various steps that were taken in the course of investigation.

22. Even though the learned counsel for the appellant pointed out some discrepancies in the statement of the witnesses, the fact remains that the occurrence as well as the manner in which the entire incident took place has been clearly established by the prosecution and more particularly, through PW2 and also the statement that was given by the deceased to PW9, which ultimately resulted in the registration of the FIR by PW19.



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23. The evidence of the postmortem Doctor and also the postmortem certificate assumes significance since the injuries that have been recorded in the postmortem certificate and the cause of death also establish that the deceased sustained stab injuries due to attack with the knife marked as MO1.

24. The only other issue that was urged by the learned counsel for the appellant is that there was no premeditation and even as per the evidence of PW1 and PW2, there was a wordy quarrel for more than one hour, which also resulted in exchange of blows and it ultimately ended in the deceased being stabbed by the accused person. In view of the same, the learned counsel submitted that the present case will fall under Exception 4 to Section 300 IPC.

25. The deceased and the accused persons were neighbours and the same is clearly seen from the rough sketch that has been marked as EX.P18. The house of the deceased and the accused person is separated by a tin sheet wall and there was already a problem due to the loud noise from the



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television of the deceased, which very often irked the accused person. On the date of occurrence, the accused person barged into the house of the deceased and there was a wordy quarrel and fight and the accused person stabbed the deceased.

26. In the case in hand, based on the evidence let in by the prosecution, it is seen that it squarely falls under Exception 4 to Section 300 IPC. To bring the case within exception 4, the facts must establish that the murder was committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner. All these ingredients perfectly fits in to the facts of the case.

27. Once the case falls within Exception 4, Section 304(II) IPC is attracted since the accused had no intention to cause such bodily injury as was likely to cause death, but had the knowledge that the injury was likely to cause death. That is evident from the fact that the accused had stabbed the deceased with the knife on his left chest and the same did not result in

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instantaneous death. The deceased was taking treatment in the hospital and consequently died on 17.06.2015. Hence, it can only be concluded that the accused at the best had the knowledge that the injuries were likely to cause death.

28. 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 appellant is sentenced to undergo 3½ years rigorous imprisonment. As far as the conviction and sentence imposed on the appellant with regard to offences under Sections 294(b) and 449 IPC are concerned, the same is sustained.

29. 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 three and a half years (3½ years) ;



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(b) Insofar as the offences under Sections 449 and 294(b) IPC are concerned, the conviction and sentenced imposed on the appellant stands confirmed;

(c) The sentences are ordered to run concurrently;

(d) 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;

(e) 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.]**  
**05.03.2026**

**NCC : Yes/No**

**Index : Yes/No**

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To

1.The I Additional District and Sessions Judge,  
Tirunelveli

2.The Inspector of Police,  
Pettai Police Station,  
Tirunelveli 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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AND  
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**RR**

Judgment made in  
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