



Crl.A(MD)No.557 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09/03/2026

CORAM

**THE HONOURABLE MR JUSTICE N. ANAND VENKATESH
AND
THE HONOURABLE MR JUSTICE P.DHANABAL**

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Ramar : Appellant/Sole Accused

Vs.

State rep. By
The Inspector of Police,
Seithur Rural Police Station,
Virudhunagar District.
In Crime No.98 of 2021

: Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code, against the judgment of conviction passed by the Fast Track Mahila Court, Virudhunagar District at Srivilliputhur, in SC No.183 of 2011, dated 23/10/2020 and to set aside the same and consequently to acquit the appellant.

For Appellant : Mr.E.Sathish Rajkumar

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



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JUDGMENT

(Judgment of the Court was made by the Hon'ble **P.DHANABAL, J.**)

This Criminal Appeal has been preferred by the appellant as against the judgment of conviction passed in SC No.183 of 2011 by the Fast Track Mahila Court, Virudhunagar District at Srivilliputhur, dated 23/10/2020, wherein the Trial Court has convicted the appellant/accused for the offences under Sections 449 and 302 IPC.

2.The case of the prosecution is that the de-facto complainant is the son of the deceased Saroja. The accused was residing on the eastern side of the deceased Saroja's house. There was a dispute between the accused and the deceased Saroja with respect to drainage water problem. Very often, the accused used to pick up quarrel with the deceased Saroja, while fetching water in the public tap. Due to the said dispute, the accused threatened the deceased Saroja with dire consequences. Due to the said enmity, on 05/05/2011 at about 01.30 a.m, the accused along with his friend Stephen came in an auto bearing registration No.TN-67-AV-2971 to Ganapathysundaranatchiyarpuram and trespassed into the house of the deceased Saroja and assaulted the said Saroja with billhook. When the same was prevented by her, her right hand got severed



till right wrist. Further, the accused repeatedly hacked the said Saroja on her neck and face. Due to it, she died on the spot.

3. Thereafter, the de-facto complainant, who is the son of the deceased Saroja, lodged a complaint before the respondent Police. Based on the complaint (Ex.P1), the respondent Police registered a FIR (Ex.P8) in Crime No. 98 of 2011 for the offence punishable under Sections 452 and 302 IPC. Thereafter, PW21-T.Jayakumar, Investigating Officer, went to the place of the occurrence and prepared observation mahazar (Ex.P2) and rough sketch (Ex.P9) in the presence of the witnesses namely PW14 and one Gurusamy and thereafter, he seized the bloodstained earth (MO1) and ordinary earth (MO2) under a mahazar (Ex.P3) in the presence of the same witnesses and also he conducted inquest on the body of the deceased and prepared the inquest report (Ex.P10) and thereafter, he taken steps for postmortem on the body of the deceased. Thereafter, he examined the witnesses and recorded their statements and also collected documents. On 07/05/2011 at 12.00 hours, he arrested the accused at Thoppu near Sundaranatchiyapuram Temple in the presence of the witnesses namely PW15-Tr.Vairamuthu, Village Administrative Officer and one Ramaiah and recorded the confession statement of the accused and based on the disclosure statement, he recovered the billhook (MO4) through a



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mahazar (Ex.P5). Thereafter, the accused was remanded to judicial custody.

Thereafter, the Investigating Officer examined the witnesses and recorded their statements and finally, he filed the charge sheet as against the accused under Sections 449 and 302 IPC.

4.After filing the charge sheet, the case was committed to the Principal District and Sessions Court, Virudhunagar District at Srivilliputhur, and in turn, the Principal District and Sessions Court, Virudhunagar District at Srivilliputhur, made over the case to the Fast Track Mahila Court, Virudhunagar District at Srivilliputhur, in SC No.183 of 2011. Thereafter, the Trial Court, after hearing both sides, framed charges under Sections 449 and 302 IPC as against the accused. The charges framed against the accused/appellant, were read over and explained to him and he denied the charges. Thereby, the prosecution examined the witnesses PW1 to PW27 and marked documents Exs.P1 to P11, besides produced the material objects MO1 to MO4. After completion of prosecution side evidences, the accused was examined under Section 313(1)(b) Cr.P.C, with regard to the incriminating evidence adduced against him and the same was also denied by the accused and no witness was examined and no document was marked on the defence side.



5. After hearing both sides and considering oral and documentary evidence adduced on either side, the Trial Court found the accused guilty of offences punishable under Sections 449 and 302 IPC and convicted the accused and sentenced to undergo **10 years RI** and imposed a fine of Rs.3,000/-, in default to undergo 6 months SI for the offence under **Section 449 IPC** and also convicted and sentenced him to undergo **Life Imprisonment** and imposed a fine of Rs.3,000/-, in default to undergo 6 months SI for the offence under **Section 302 IPC**. The Trial Court directed that the sentences imposed on the accused shall run concurrently and the imprisonment period already underwent by the accused shall be set off under Section 428 of Cr.P.C.

6. Aggrieved upon the above said of judgment of conviction, the present appeal has been filed by the accused/appellant.

7. The learned counsel for the appellant would submit that a false case has been foisted as against the accused and without conducting proper investigation, the respondent Police filed the final report as against the accused and the Trial Court also without *prima facie* materials, framed the charges against the accused and the prosecution witnesses have not proved the charges beyond reasonable doubt. In this case, there is no eye witness to the occurrence



and there was also no chain link to connect the accused with the crime. The

Trial Court failed to consider that there is no chain link to connect the accused with the crime and only based on the circumstantial evidence, without appreciating the evidence in a proper perspective, convicted the accused. The Trial Court failed to see that this case is based on the circumstantial evidence. The prosecution has failed to prove many circumstances and events, that many links have missed in the chain of circumstances. The motive has not been established by the prosecution. Even according to the prosecution case, dispute regarding the drainage water problem and fetching of water in the public tap, but before the occurrence, the accused vacated the premises and residing far away from the place of occurrence. The prosecution witnesses are all projected by the prosecution as witnesses to speak about the presence of the accused nearby the place of occurrence before and after the occurrence. But their evidences are not supporting to the prosecution case and most of witnesses turned hostile. PW15, who the Village Administrative Officer alleged to be the witness for recovery is wholly unreliable. The recovery of articles have not been properly proved by the prosecution. There is a delay in recording the statement of the witnesses. Therefore, the prosecution failed to prove the case beyond reasonable doubt. The Trial Court also failed to consider the same and erroneously convicted the appellant and therefore, the appeal is liable to be



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allowed and the judgment of conviction rendered by the Trial Court is liable to be set aside.

8. On the other hand, the learned Additional Public Prosecutor appearing for the respondent would submit that based on the complaint lodged by the de-facto complainant, an FIR has been registered for the offence under Sections 449 and 302 IPC. Thereafter, the Investigating Officer investigated the case properly and examined the witnesses and collected the documents. The Investigating Officer also arrested the accused in the presence of the witnesses and the accused gave confession statement and based on the confession statement, they recovered the weapon used for committing the crime. All the prosecution witnesses have categorically deposed about the involvement of the accused in this crime and therefore, the charges levelled against the accused have been proved beyond reasonable doubt and the Trial Court, after analysing all the evidences adduced on either side, has correctly convicted the appellant/accused and there is no need to interfere with the judgment of conviction passed by the Trial Court and therefore, the present appeal is liable to be dismissed.



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9.This Court heard both sides and perused the entire materials available on record.

10.The accused has been charged under Sections 449 and 302 IPC. According to the prosecution case, there was enmity between the accused and the deceased with regard to fetching of water from the public tap and drainage water problem. The accused and the deceased are neighbours. Thereby due to fetching of water from the public tap and drainage of water problem, there was enmity between them. That was the motive for the occurrence.

11.In this case, there is no eye witness to the occurrence. PW1 is the son of the deceased Saroja. He has deposed about the motive regarding the drainage water problem and fetching of water in the public tap. On the date of the occurrence i.e., on 04/05/2011, he went to his office and he was staying in the depot upto 05.30 a.m, on 05/05/2011 since it is the rest time. At that time, at about 5.00 a.m, his co-brother Muniyadi told him that his mother was murdered by the accused. Immediately, he went to the house and saw his deceased mother. Thereafter, he heard that the accused came in an auto and committed the murder of his mother. Even as per the complaint, one Poovu @ Veerappan



saw the deceased in his house and through him, others came to know about the death of the deceased. As per the complaint, there is no whisper about the accused for the commission of the above said offence. The main motive for the commission of the offence, as per the prosecution case, there was enmity between the accused and the deceased, due to drainage water problem and fetching of water in the public tap. In order to prove the previous motive no independent witnesses were examined no complaint was lodged in respect of the alleged motive, either for fetching water from the public tap or in respect of drainage water problem prior to the occurrence. First time, they introduced the said theory for motive.

12.The main witnesses to speak about the occurrence are PW2 and PW3. According to the evidence of PW2, on 04/05/2011 at about 12.30 a.m., when he came out from the house for attending natural call, his goat was missing. Therefore, to enquire about the same, he went to the neighbouring houses. At that time, in the Palpannai Street, the accused was standing there. When he questioned about his presence, he had stated that in order to eliminate the deceased Saroja, he was standing there. Thereafter, he shouted at him and went to his house. Thereafter, he came to know that Saroja died and he also saw the Saroja with injuries of her body.



13.The evidence of PW2 creates serious doubt as to how he saw the accused at 01.30 a.m. midnight and once after seeing the accused at 01.30 a.m, and when he has stated that he wants to eliminate the deceased Saroja, he was standing there, without alerting the neighbours who would have woken up Even as per the evidence of PW2, due to missing of the goat, he came out from his house and went to the neighbouring houses for enquiry. But there is no evidence whether his goat was missing and if so, whether he enquired about the same with the neighbours has to be explained by the prosecution. There is no explanation on the side of the prosecution. Therefore, the evidence of PW2 creates serious doubt and the same is unbelievable and unnatural. Further, according to the evidence of PW2, the accused was lastly standing nearby Palpannai Street. He has not spoken about the weapon and only he has stated that in order to eliminate the deceased Saroja, he was standing there. Had P.W. 2 seen the accused as alleged by him after hearing the noise of the P.W.2, the persons who are residing in the street would have heard the same and they would have woken up, but none of the witnesses residing in and around the house of the deceased have spoken about the same, the Investigation Officer also not examined any witnesses to these regard. Therefore, the evidence of PW2 is highly doubtful as to whether he had seen the accused as stated by him.



14.As per the evidence of PW3, on 05/05/2011 at about 02.00

a.m., when he came out from his house for attending nature's call, the accused was standing along with one person near the auto and he went inside his house and thereafter, at about 05.00 a.m, he heard about the death of the deceased Saroja. As far as the evidence of PW3 is concerned, he only stated about the presence of the accused and he has not stated where the accused was standing and what is the number of the auto and when he saw the accused in the auto, he has also not questioned about his presence at midnight hours. Therefore, his conduct creates doubt as to whether he saw the accused who was standing in the occurrence place. None of the witnesses have spoken about the last seen theory about the seeing of the accused with the deceased prior to the occurrence. Therefore, the prosecution has failed to prove the last seen theory. All other witnesses are hearsay witnesses and none of the witnesses have seen the occurrence.

15.The main witnesses relied upon by the prosecution namely PW2 and PW3 are not cogent, natural, credible and they create doubt. The evidence of PW2 and PW3 are not sufficient to prove the guilt of the accused.



16.As far as the arrest and recovery are concerned, PW21 has deposed about the arrest of the accused and recovery of MO4 billhook. PW15 has deposed about the confession statement and recovery of billhook and he has not spoken about any bloodstains in the aruval. The alleged occurrence took place on 04/05/2011 and the accused was arrested on 07/05/2011. Mere recovery of billhook (MO4) alone is not sufficient to prove the guilt of the accused and the presence of the Village Administrative Officer, PW15 itself also creates doubt over the prosecution case. Thereby, there is no cogent evidence with the chain linking to prove the guilt of the accused and the prosecution failed to prove the charges levelled against the accused. None of the witnesses have spoken about the presence of the accused near the place of occurrence.

17.The auto driver was also examined as PW9. He deposed that on 04/05/2011 at about 12.30 a.m, the accused called the auto and he dropped the accused at Ganapathysundaranatchiyapuram. Even assuming that the accused travelled in auto, there is no whisper about the weapon carried by the accused. Thereby, there is no link to connect the accused with the crime. Therefore, the evidence of PW9 also in no way helpful to the prosecution case to establish the charges levelled as against the accused. Therefore, the



prosecution has failed to prove the charges levelled against the accused with sufficient evidence.

18.The prosecution relied on the evidence of PW17 who is a Special Sub Inspector of Police, attached to the Traffic Police Wing, Rajapalayam. According to his evidence, when he was on duty on 04/05/2011 at about 91.15 a.m, an auto bearing registration No.TN-67-AV-2971 was inspected by him in which two persons were sitting and on enquiry, he came to know that the driver Marimuthu told him that he is going to Ganapathisundaranachiyarpuram and thereafter, again when the auto was returning, he enquired with the auto driver, at that time, one person alone was sitting in the auto as passenger. Apart from that, there is no link to connect the accused with the crime. Even, according to his evidence, he has not enquired about the persons, who are sitting in the auto and he has not spoken about the accused and the sickle. Therefore, his evidence alone is not sufficient to link the accused with this crime.

19.The Trial Court failed to consider the above said aspects, and erroneously convicted the appellant by believing the evidence of PW2, PW3, PW9 and PW17. Merely seeing the accused in the street by itself is not



sufficient and thereby, the judgment of the Trial Court is not sustainable. The prosecution has failed to prove the charges levelled against the accused by linking the chain of circumstances without breaking. Therefore, the accused is entitled for acquittal.

20.In so far as the offence under Section 449 IPC is concerned, there is no evidence for trespassing into the house of the deceased and committed the offence punishable with life imprisonment. As far as the offence under Section 302 IPC is concerned, there is no evidence that the accused has committed the murder of the deceased after trespassing into the house of the deceased. Therefore, the charges levelled against the accused have not been proved beyond reasonable doubt and the accused is entitled for benefit of doubt.

21.In the result, the Criminal Appeal is **allowed**. The judgment of conviction and sentence rendered by the Fast Track Mahila Court, Virudhunagar District at Srivilliputhur in Sessions Case No.183 of 2011, dated 23.10.2020 is set aside and the appellant is acquitted from all the charges. The appellant is directed to be released forthwith unless his detention is required in connection with any other case. Bail Bonds, if any, executed by the appellant



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shall stand cancelled. The fine amount, if any paid, shall be refunded to the appellant.

(N.A.V.,J) (P.D.B.,J)
09/03/2026

Index: Yes/No
Internet: Yes/No
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To,

1. The Sessions Judge,
Fast Track Mahila Court,
Virudhunagar District at Srivilliputhur.
2. The Judicial Magistrate, Rajapalayam.
3. The Inspector of Police,
Seithur Rural Police Station,
Seithur.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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AND
P.DHANABAL.J

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