



Crl.A(MD) No.578 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	:	09.03.2026
Pronounced on	:	18.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
and
THE HONOURABLE MR.JUSTICE P.DHANABAL

Crl.A.(MD) No.578 of 2023

Muthuramalingam

... Appellant

-vs-

The Inspector of Police
Manur Police Station,
Tirunelveli District
Crime No.333 of 2019

...Respondent

Criminal appeal filed under Section 374(2) of Cr.P.C., to call for the records in judgment and sentence dated 11.08.2022 passed in SC No.270 of 2021 on the file of the learned Principal Sessions Judge, Tirunelveli and set aside the same and acquit the appellant.

For Appellant : Mr.M.Maran

For Respondent : Mr.A.Thiruvadikumar
Additional Public Prosecutor



J U D G M E N T

P.DHANABAL, J.,

Challenging the conviction and sentence rendered by the learned Principal Sessions Judge, Tirunelveli in SC No.270 of 2021 dated 11.08.2022 the present criminal appeal has been filed by the appellant.

2.. The trial Court has convicted the appellant as follows:

Penal Provisions	Sentence of Imprisonment	Fine Amount
341 of IPC	One month simple imprisonment	Rs.500/- i/d to undergo one week simple imprisonment
294(b) of IPC	Three months simple imprisonment	Rs1000/- i/d to undergo one month simple imprisonment
302 of IPC	Life Imprisonment	Rs.5000/- i/d to undergo four year rigorous imprisonment
506 (ii) of IPC	Four years rigorous imprisonment	Rs.1000/- i/d to undergo one year rigorous imprisonment

3. The case of the prosecution is that the appellant suspected the deceased that he had illegal intimacy with his wife thereby the appellant



Crl.A(MD) No.578 of 2023

scolded the wife of the deceased Therefore the wife of the deceased informed to panchayatars and thereby there is enmity between the deceased and the appellant. While so, on 08.09.2019, at about 7.45 pm., when the deceased Murugan along with PW.1 was proceeding in a two wheeler bearing Reg.No.TN 72 M7331 to attend mandala pooja in Kombumadasamy kovil situated at Madavakurichi and when he came in front of the house one Santhana thevar the appellant along with his wife Durgadevi came in a two wheeler bearing Reg.No.TN 59 AM 8314 from south to north waylaid P.W.1 and the appellant abused by saying “தேவடியா மவனே, புண்டமவனே உன் பொண்டாட்டி சொன்னான்னு சொல்லி என்னைய வந்து நீ சத்தம் போடுவியா தேவடியா மவனே” and attacked the deceased with aruval on his neck and head and when the deceased prevented the assault he sustained injuries on his finger and thereafter the deceased died due to the injuries caused by the appellant.

3.1. Thereafter P.W.1 and his son and brother of the deceased who followed the deceased vehicle had taken the deceased to the hospital through auto and already P.W.8 had informed 108 ambulance and



Crl.A(MD) No.578 of 2023

thereafter when they proceeded in the auto on the way to hospital the 108 ambulance came in the opposite direction thereafter the deceased was transferred from auto to 108 ambulance. Thereafter the deceased was taken to highground hospital at Tirunelveli where he reported dead.

3.2 Thereafter P.W.1/wife of the deceased had lodged the complaint/Ex.P.1 before the respondent Police and based on the same, First Information Report/Ex.P.17 in Crime No. 333 of 2019 was registered by P.W.21/Sub Inspector of Police . Thereafter PW.22 Inspector of Police had taken investigation and he went to the place of occurrence and prepared observation mahazhar/ Ex.P2 and rough sketch/Ex.P.18 and examined the witnesses and thereafter P.W.22 conducted inquest and prepared inquest report /Ex.P.19 and then he sent the body of the deceased for post mortem. P.W..17 had conducted autopsy in the body of the deceased and also issued post mortem certificate/Ex.P.12. The investigation officer arrested the appellant on 09.9.2019 and the appellant voluntarily gave a confession statement and the same was recorded in the presence of the witnesses. Thereafter based on the disclosure statement of



Crl.A(MD) No.578 of 2023

the appellant, P.W.22 had recovered material objects M.O.1 and M.O.2 and thereafter he arrested the appellant and remanded to judicial custody. He also obtained forensic lab report and thereafter he collected all materials and filed final report.

3.3. On appearance of the appellant and compliance of Section 207 of Cr.P.C., finding that the case was exclusively triable by the Court of Sessions the learned Magistrate had committed the case to the Court of Sessions and the learned Principal Sessions Judge, Tirunelveli had taken the case on file in S.C.No.270 of 2021 for trial.

3.4. After perusing the case records and hearing both sides the trial Court has framed charges for the offences under Section 341,294(b), 302 and 506(ii) of IPC as against the appellant. The above charges were read over and explained to the appellant. The appellant denied the charges and claimed to be tried.



Crl.A(MD) No.578 of 2023

3.5. The prosecution examined P.W. 1 to P.W.22 and marked exhibits Ex.P.1 to P.26 and material objects M.O.1 to M.O.10 were produced. After completion of prosecution witnesses the appellant was examined under Section 313 (1)(b) of Cr.P.C., with regard to the incriminating circumstances appearing him and he denied the same as false. On the side of the appellant no one was examined and no documents were marked.

3.6. After analyzing the evidence and upon hearing both sides, the trial Court has convicted the appellant herein for the offences as stated supra. Aggrieved by the said judgment of conviction the present appeal has been filed by the appellant.

4. The learned counsel appearing for the appellant would submit that that the appellant has been charged for the offences under Sections 341, 294(b), 302 and 506(ii) of IPC. .P.W.1 to P.W. 4 are the eye witnesses to the occurrence and except P.W.1 and P.W.4 all other witnesses have not supported the case of prosecution. P.W.1 cannot be the eye witnesses and the evidence of PW.2 is not acceptable. According to the evidence of P.W.1

6/19



Crl.A(MD) No.578 of 2023

he saw the occurrence and she also accompanied with the deceased and after seeing the occurrence there was no raising of any alarm and the occurrence had taken place in the road where house were situated and none of the witnesses have spoken about the involvement of the appellant. Even according to the case of prosecution after leaving the two wheeler the appellant escaped from the place of occurrence , while so how could P.W.4 seen the appellant with aruval and thereby the case of the prosecution is highly doubtful. According to the evidence of P.W.1 she along with P.W.2 to P.W.4 taken the deceased to the hospital through auto and her clothes were also blood stained but those blood stained clothes were not recovered by the police and there is no evidence as to how the appellant left from the place the occurrence. More over PW.1 has not spoken about leaving behind the byke by the appellant . The trial Court convicted the appellant based on evidence of PW.1.

4.1 As per prosecution case P.W.2 and 3 have also accompanied with the deceased but they have not supported the case of prosecution and turned hostile. P.W.4 is not the eye witness to the occurrence and he had seen the appellant with aruval and the wife of the appellant stated that his

7/19



Crl.A(MD) No.578 of 2023

father sustained injuries and to take him to hospital at that the time, the appellant threatened PW.4 but P.W.4 has not sated as to whether the appellant threatened him and where he saw the deceased. According to the evidence of PW.4 he also followed the deceased. While so, whether the appellant came in the opposite side from the place of occurrence or from which place he came has to be explained by the prosecution. The prosecution has failed to prove the recovery of the material objects M.o.1 and M.O.2 and the recovery witnesses have not supported the case of prosecution and the injuries found in the post mortem report also not tallied with the evidence of P.W.1 in respect of injuries sustained by the deceased. There are so many discrepancies in the investigation. The investigation officer failed to examine the ambulance driver and the doctor who admitted the deceased initially in the hospital and thereby the prosecution failed to prove the charges levelled as against the appellant and the appellant is entitled for benefit of doubt and the prosecution has failed to prove the charges levelled against the appellant beyond all reasonable doubts and the trial Court ought to have acquitted the appellant by giving benefit of doubt, thereby the judgment of conviction and sentences are liable to be set aside.

8/19



Crl.A(MD) No.578 of 2023

WEB COPY

5. The learned Additional Public Prosecutor would submit that the appellant assaulted the deceased with billhook due to enmity between the appellant and the deceased, the appellant on the date of occurrence waylaid the deceased assaulted him with billhook. The occurrence was witnessed by P.W.1 and P.W.1 has categorically deposed about the involvement of the appellant and her evidence is natural and cogent. P.W.2 and 3 are the close relatives of the deceased. However they have not supported the case of prosecution. P.W.4 who is the son of the deceased has also deposed about seeing the appellant with billhook. The doctor has also deposed about the injuries sustained by the deceased and the cause of death. P.W.13 who is village administrative Officer has spoken about the confession statement given by the appellant and the recovery of material objects. Further as per the forensic lab report the blood stains found in the material objects are human blood which belongs to 'A' group and the same is tallied with the blood group of the deceased. The Investigation Officer had deposed about the fair investigation thereby the prosecution has proved the charges levelled as against the appellant beyond all reasonable doubts. Non recovery of blood stained clothes from P.W.1 is no way affect

9/19



Crl.A(MD) No.578 of 2023

the case of prosecution. The trial Court after considering the evidence correctly convicted the appellant and there is no infirmity or illegality in the judgment passed by the trial Court and therefore the appeal is liable to be dismissed.

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

7. In this case the appellant has been charged for the offences under Sections 341, 294(b), 302 and 506(ii) of IPC. In order to prove the case the prosecution had examined P.W. 1 to P.W.22 and marked exhibits Ex.P.1 to P.26 and material objects M.O.1 to M.O.10. In this case P.W.1 is the eye witness to the occurrence and she also accompanied with the deceased at that time of occurrence. She deposed about the manner of occurrence and she categorically deposed about the involvement of the appellant and the assault made by the appellant with billhook and also identified the M.O. 1/bill hook, Immediately after the occurrence she along with his son and PW.2 had taken the deceased to the hospital through an auto and the said auto driver was examined as P.W.14 and he also deposed about taking the

10/19



deceased to the hospital and P.W.8 who is the son of the deceased also accompanied with the deceased in the auto along with P.W.1. Therefore the evidence of P.W.1 clearly established that the appellant assaulted the deceased with M.O.1/billhook, thereby he sustained injuries. Further the evidence of P.Ws.1, 8 and 14 established that the deceased was taken to hospital through auto. Thereafter the deceased was transferred to 108 Ambulance and he was brought to the Palayamkottai highground hospital through ambulance. But the investigation officer failed to examine the ambulance driver and the doctor who saw the deceased in the hospital and the accident register also has not been marked. Those discrepancies are due to the lack of investigation on the part of the investigation and the same no way affect the case of prosecution. Particularly when the evidence of P.W.1 is cogent and reliable, those discrepancies no way affect the case of prosecution.

8. Further P.W17 who conducted autopsy on the body of the deceased has noted down the following External and internal injuries;-

An oblique gaping heavy cut injury of size 10 X 3cm X cranial cavity deep on left frontal – parietal region of head. It cuts underlying



Crl.A(MD) No.578 of 2023

soft tissues, vessels, nerves and bones & brain. An oblique gaping cut injury of size 10 X 3cm X bone deep on dorsum of right index – middle

– ring – little finger. It cuts underlying soft tissues, vessels, nerves and bones.

Other Findings , Peritoneal Cavity and Pleural Cavities appear normal, heart appears normal and coronary vessels are patent. Hyoid bone found Intact. Stomach contains about 300 gm of partly digested cooked rice particles with about 100 ml of altered blood with nil specific smell and mucosa pale. Intestine contains about 100 gm of partly digested cooked rice particles with about 50 ml of altered blood with nil specific smell and mucosa pale. Lungs, Liver, Spleen and Kidneys appear normal, c/s pale, Bladder found empty. Viscera are preserved for chemical analysis.

and he opined that the deceased died due to heavy cut injury to the region of left side of head. Therefore the evidence of P.W.1 has been corroborated by the medical evidence in respect of Injuries sustained by the deceased and the cause of death.

9. From the above evidence the prosecution has clearly established the guilt of the appellant beyond all reasonable doubt and the trial Court also correctly analyzed the evidence and came to conclusion that the appellant was found guilty for the offences under Sections 341,294(b), 302 and 506(ii) of IPC.



Crl.A(MD) No.578 of 2023

WEB COPY

10. So far as offence under Section 341 of IPC is concerned as per the evidence of P.W.1 when the deceased along with PW.1 proceeding in the main road the appellant waylaid and assaulted the deceased with aruval, thereby the prosecution has clearly established the offence of wrongful restraint under Section 341 of IPC.

11. So far as offence under Section 294 (b) of IPC is concerned as per the evidence of PW.1, it reveals that the appellant used obscene words by saying that “தேவடியா மவனே, புண்டமவனே உன் பொண்டாட்டி சொன்னான்று சொல்லி என்னைய வந்து நீ சத்தம் போடுவியா தேவடியா மவனே” and he used the above said obscene words in the public place, and annoyed the complainant P.W.1 and thereby the prosecution has established the guilt of the appellant for the offence under Section 294(b) of IPC.

12. So far as offence under Section 506(ii) of IPC is concerned the appellant threatened the witnesses with dire consequences and the same has been clearly spoken by PW.1 and P.W.8 about the criminal

13/19



Crl.A(MD) No.578 of 2023

intimidation thereby the prosecution has established the charge under Section 506(ii) of IPC.

13. So far as offence under Section 302 of IPC is concerned the prosecution witnesses have established that the appellant assaulted the deceased with billhook on his head, neck and other vital parts of the body and thereby he sustained injuries. The doctor also in the post mortem report stated about the injuries found on the body of the deceased and cause of death, thereby the prosecution has established the charge under Section 302 of IPC.

14. So far as the arguments of the learned counsel appearing for the appellant that the prosecution failed to examine the auto driver and the doctor who admitted the deceased in the hospital and non recovery of blood stains clothes of PW.1 are concerned, it is true that the investigation officer failed to examine the auto driver and the ambulance driver.



Crl.A(MD) No.578 of 2023

15. In this context the learned Additional Public Prosecutor appearing for the respondent police would submit that non examination of blood stained clothes of P.W.1, non examination of ambulance driver, the doctor who initially admitted the deceased in the hospital is not a ground to disbelieve the ocular testimony of the eye witness and PW.1 has categorically deposed about the manner of accident and thereby the said discrepancy will no way affect the case of prosecution.

16. In support of his contention, he relied on the judgment of the Hon'ble Apex Court in the case of *Balu Sudam Khalde and another .vs. State of Maharashtra reported in (2023)13 SCC 365, thereby the prosecution has established the charge under Section 506(ii) of IPC,* wherein it is held as follows:

In assessing the value of the evidence of the eyewitnesses, two principal considerations are whether, in the circumstances of the case, it is possible to believe their presence at the scene of occurrence or in such situations as would make it possible for them to witness the facts deposed to by them and secondly, whether there is anything inherently improbable or unreliable in their evidence. In respect of both these considerations,



CrI.A(MD) No.578 of 2023

circumstances either elicited from those witnesses themselves or established

by other evidence tending to improbabilise their presence or to discredit the

veracity of their statements, will have a bearing upon the value which a

Court would attach to their evidence. Although in cases where the plea of

the accused is a mere denial, the evidence of the prosecution witnesses has

to be examined on its own merits, where the accused raise a definite plea or

put forward a positive case which is inconsistent with that of the

prosecution, the nature of such plea or case and the probabilities in respect

of it will also have to be taken into account while assessing the value of the

prosecution evidence.

17 . In the case on hand also, the eyewitness/PW.1 has categorically deposed about the manner of accident and also identified the material objects and the recovery of material objects also proved through witnesses. Keeping the above said principal of law this Court has to give importance to the evidence of PW.1 and the evidence of P.W.1 is cogent and trust worthy and the evidence of PW.1 cannot be discarded in any way. Therefore mere non recovery of blood stains and obtaining of accident register copy and examination of ambulance driver will no way affect the case of prosecution.



Crl.A(MD) No.578 of 2023

18. In view of the above discussion, this Court is of the opinion that the prosecution has clearly proved the guilt of the appellant and has correctly found the appellant guilty, convicted and awarded adequate sentence, thereby this Court need not interfere with the well reasoned judgment and conviction of the trial Court and this Court finds no merit in the appeal and the same is liable to be dismissed.

19. In the result, the Criminal Appeal stands dismissed confirming the judgment of the trial Court.

[N.A.V.,J] [P.D.B.,J]
18 .03.2026

Internet : Yes / No

Index : Yes / No

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Crl.A(MD) No.578 of 2023

To

1. The Principal Sessions Judge, Tirunelveli
2. The Inspector of Police
Manur Police Station,
Tirunelveli District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Record keeper
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai



Crl.A(MD) No.578 of 2023
N. ANAND VENKATESH, J.
and
P.DHANABAL, J.

aav

Crl.A.(MD) No.578 of 2023

18.03.2026