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Crl.A.(MD).No.526 of

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserved	16.12.2025
Date of Pronounced	20.02.2026

CORAM

**THE HONOURABLE MR JUSTICE G.K.ILANTHIRAIYAN
AND
THE HONOURABLE MS JUSTICE R.POORNIMA**

Crl.A(MD)No.526 of 2022

1.Ramar
2.Lakshman
3.Kannan
4.Ganapathi
5.Karuppayi

: Appellants/A1 to A5

Vs.

The State represented by
The Inspector of Police,
Naalatinpudhur Police Station,
Thoothukudi District.
(Crime No.54 of 2014)

: Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code, to call for the records in SC No.227 of 2015 on the file of the II Additional District and Sessions Judge, Tuticorin District and to set aside the judgment, dated 22.07.2022 by acquitting the accused and by allowing the appeal and to pass such other further orders.



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For Appellants

: Mr.V.Kathirvelu
Senior Counsel
for Mr.K.Prabhu

For Respondent

: Mr.T.Senthil Kumar
Additional Public Prosecutor

JUDGMENT

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

This criminal appeal is filed against the judgment of conviction and sentence passed by the II Additional District and Sessions Judge, Thoothukudi, in S.C.No.227 of 2015, dated 22.07.2022 and consequently to acquit the appellants.

2. The case of the prosecution is that the defacto-complainant and A5 had previous dispute arising out of fetching of water from the public tap. On 03.04.2014 at about 09.00 am, P.W.1 complainant after sending her children to the school, while returning back to her home, A5 allegedly abused the complainant in filthy language. The same was informed to her husband who advised her to remain patient. Thereafter, while proceeding to her place of employment, the complainant and her husband went together near the water tank. At that time, A1 to A5 allegedly came together and intercepted them and it is further alleged that A4 and A5 induced A1 to A3 to kill them. Immediately, thereafter, A1 stabbed the complainant's husband on the right chest with a knife.



A2 also stabbed on the back side of the lower region and other parts of the body.

When the complainant raised hue and cry, A3 stabbed her on the right side of the neck and stomach. Due to the injuries sustained, both of them fell down. Upon witnessing the incident, the witnesses Iyyappan and Subbiah rushed to the spot, all the accused fled away from the place of occurrence. Thereafter, they were taken by an Ambulance to the Government Hospital, Kovilpatti, while on the way, her husband succumbed to injuries. The complainant was admitted in the Government Hospital, Kovilpatti. Her statement was recorded which is marked as Ex.P1. Based on the complaint, FIR was registered in Crime No.54 of 2014 for the offences under Sections 109, 147, 148, 341, 294(b), 307 and 302 IPC as against A1 to A5 by the Naalandipudhur Police, under Ex.P22 by P.W.14 Tmt.Victoria, Sub Inspector of Police.

3. P.W.15, Thiru.Ponnarasu, Inspector of Police took up the case for investigation on 03.04.2014. He prepared the observation mahazar (Ex.P2) and rough sketch (Ex.P23) and also recovered bloodstained earth (M.O.4), ordinary earth (M.O.5), house key of P.W.1 (M.O.6), broken bangles (M.O.7) under recovery mahazar (Ex.P7).

4. He conducted inquest over the dead body and prepared the Inquest report (Ex.P24). Subsequently, on 03.04.2014, he arrested A1 to A3 recorded



their confession statements and recovered material objects under a recovery mahazar. Upon completion of the investigation, he filed the final report against the accused persons under Sections 148, 341, 302 and 307 r/w 149 IPC as against A1; under Sections 148, 341, 302 and 307 r/w 149 IPC as against A2; under Sections 148, 341, 294(b), 307 and 302 r/w 149 IPC as against A3; under Sections 294(b), 147, 341, 302 r/w 114, 307 r/w 149 IPC as against A4 and under Section 294(b), 147, 341, 302 r/w 114, 307 r/w 149 IPC as against A5.

Medical evidence

5. P.W.9 Doctor, who examined P.W.1 found the following injuries and issued accident register (Ex.P16) :

1.A cut wound measuring 7x2x1 cm on the left neck. It was found from the left jaw to the neck.

2. A blood clot measuring 3x2 cm on the left neck was found.

3.Penetrating stab wound measuring 4x3x4 cm was found in the left abdominal area.

4.Cut wound measuring 3x4x2 cm was found under the left collar bone.

6. P.W.11, who conducted postmortem found the following injuries on the dead body of the deceased and issued postmortem report and final opinion which was marked as Ex.P19.

“1.Cut wound 4 x 3 x 5 cm was found on the right chest.



2.Cut wound 1 x 1 cm was found on the right chest below the 1st wound.

3.Cut wound 3 x 2 x 5 cm was found next to the left chest.

4.Cut wound 5 x 3 x 9 cm was found next to the 3rd wound on the left chest.

5.Cut wound 2 x 1 x 5 cm was found on the left forearm.

6.Cut wound 5 x 2 x 2 cm was found on the left upper back.

7.Cut wound 5 x 3 x 10 cm was found on the left mid back.

8.Cut wound 4 x 2 x 5 cm was found on the right rib.

9.Cut wound 5 x 4 x 12 cm was found on the middle of the right back.

10.Cut wound 4 x 3 x 12 cm was found on the left hip area.

11.Cut wound 5 x 3 x 12 cm was found on the left armpit area.”

Ex.P28 Serological Report reveal the blood group in the material objects.

7. The Judicial Magistrate No.1, Kovilpatti having taken cognizance of the case in PRC No.20 of 2014 against the accused. Completed all necessary formalities. Copies of the relevant documents were furnished to the accused in compliance with Section 207 Cr.P.C. Upon satisfaction of the statutory requirements the case was committed to the Court of Sessions. Thereafter, the Principal District Judge, Tuticorin, made over the case to the II Additional District and Sessions Judge, Tuticorin.

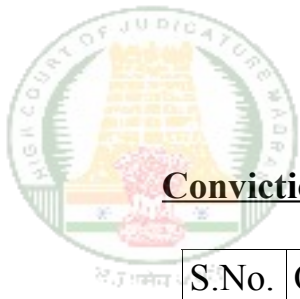


8. The learned II Additional District and Sessions Judge, after completing with the requisite formalities framed the charges against the appellants as detailed below :-

Rank of the Accused	Charges
A4 and A5	Section 147 IPC
A1 to A3	Section 148 IPC
A1 to A5	Section 341 IPC
A4 and A5	Section 302 r/w 114 IPC
A1 and A2	Section 302 r/w 34 IPC
A3	Section 302 r/w 149 IPC
A3	Section 294(b) IPC
A3	Section 307 IPC
A1, A2, A4 and A5	Section 307 r/w 149 IPC

9. Before the trial Court, on the side of the prosecution, 15 witnesses were examined as P.W.1 to P.W.15 and marked 29 documents as Exs.P1 to P29, besides 16 material objects were marked as M.O.1 to M.O.16. On the side of the defence, no oral or documentary evidence was adduced.

10. After completing the trial and hearing the arguments advanced on either side and also considering the oral and documentary evidence, the learned trial Judge found the accused guilty of the charges framed against them and convicted and sentenced them as under:-

**Conviction particulars of A1:-**

S.No.	Offence	Sentence	Fine	In default sentence
01.	148 IPC	3 Years RI	-	-
02.	341 IPC	1 Month SI	-	-
03.	302 r/w 34 IPC	Life Imprisonment	Rs.1,000/-	1 year SI
04.	307 r/w 149 IPC	10 years RI	Rs.500/-	6 months SI

Conviction particulars for A2:-

S.No.	Offence	Sentence	Fine	In default sentence
01.	148 IPC	3 Years RI	-	-
02.	341 IPC	1 month SI	-	-
03.	302 r/w 34 IPC	Life Imprisonment	Rs.1,000/-	1 years SI
04.	307 r/w 149 IPC	10 Years RI	Rs.500/-	6 months SI

Conviction particulars of A3:-

S.No.	Offence	Sentence	Fine	In default sentence
01.	148 IPC	3 Years RI	-	-
02.	341 IPC	1 month SI	-	-
03.	302 r/w 149 IPC	Life Imprisonment	Rs1,000/-	1 Year SI
04.	307 IPC	10 years RI	Rs. 750/-	6 months SI

Conviction particulars for A4:-

S.No.	Offence	Sentence	Fine	In default sentence
01.	147 IPC	2 Years RI	-	-
02.	341 IPC	1 month SI	-	-
03.	302 r/w 114 IPC	Life Imprisonment	Rs.1,000/-	1 years SI
04.	307 r/w 149 IPC	10 years RI	Rs. 500/-	6 months SI

**Conviction particulars for A5:-**

S.No.	Offence	Sentence	Fine	In default sentence
01.	147 IPC	2 years RI	-	-
02.	341 IPC	1 month SI	-	-
03.	302 r/w 114 IPC	Life Imprisonment	Rs.1,000/-	1 Year SI
04.	307 r/w 149 IPC	10 years RI	Rs. 500/-	6 months SI

11. Aggrieved over the judgment of conviction and sentence, the appellants have preferred the present appeal.

12. The learned Senior Counsel for the appellants submits that the impugned judgment of the trial Court is wholly un-sustainable in law and on facts. The prosecution has failed to explain the injuries sustained by A2, though medical evidence and testimony of P.W.9 clearly establish that he was admitted to the hospital and his statement was recorded by the police; The non-production of the earliest intimation, suppression of the counter-case, and failure to place all material documents before the Court strike at the very root of a fair investigation, thereby violating the appellants fundamental right under Article 21 of the Constitution of India.

13. It is further contended that the evidence of P.W.1 to P.W.3 is riddled with material contradictions and inconsistencies, rendering their



testimony unreliable; The versions given in the complaint (Ex.P1), dying declaration/Section 164 Cr.P.C statement (Ex.P29), and oral evidence before the Court materially differ with respect to the place of occurrence, role of each accused, nature of assault, and presence of witnesses; The trial Court failed to properly appreciate these contradictions and wrongly relied upon interested and chance witnesses, while ignoring the non-examination of an independent witness.

14. The learned Senior Counsel further submits that the trial Court adopted a selective and perverse approach by picking favourable portions of the prosecution case while discarding vital admissions elicited in cross-examination; The alleged instigation attributed to A4 and A5 is not supported by consistent evidence and does not attract Section 114 IPC.

15. In the absence of a credible motive and reliable evidence, the conviction is based on assumptions rather than proof, and therefore, the impugned judgment is liable to be set aside.

16. The learned Additional Public Prosecutor appearing for the State contended that the present case rests upon eye witness testimony. P.W.1 is both complainant and an injured witness has clearly deposed regarding the motive for



the occurrence, nature of injuries sustained by her and the overt acts committed by the accused to her husband, the deceased. Her evidence finds due corroboration from the testimonies of P.W.2 and P.W.3. The ocular evidence is further strengthen by the medical evidence. Further, the motive for the occurrence was spoken by P.W.1 to P.W.4. The prosecution proved the guilt of the accused beyond reasonable doubt and the trial Court after perusing the records held the accused guilty of the offences and there is no perversity in the judgment passed by the trial Court and there is no merit in the appeal and is liable to be dismissed.

17. Heard the learned counsel on either side and perused the material available on records.

18. The learned Senior Counsel for the appellants contended that the prosecution failed to prove the motive for the offence. In the present case, the prosecution primarily relied upon the eyewitness testimony. When the prosecution case rests on direct eyewitness evidence, proof of motive is not always essential.

19. In the case on hand, P.W.1 has clearly stated that there was a prior quarrel between herself and A5 while fetching water from the public tap. Her



evidence is duly corroborated by P.W.2, an independent witness, who deposed that P.W.1 and A5 had quarrelled during the act of fetching water, and that he intervened, pacified, and separated them. P.W.2 further stated that even on the date of occurrence, at about 11.00 a.m., P.W.1 and A5 quarrelled. Thus, the prosecution has established the existence of prior enmity between P.W.1 and A5. A1 to A3 are the sons of A5, and A4 is their father. The evidence on record indicates that A1 to A3 and A4 supported A5. Therefore, prior enmity between P.W.1 and the accused has been sufficiently established. However, it is true that prior enmity between the deceased and the accused has not been independently established by the prosecution.

20. In this case P.W.1 in her testimony deposed that on 03.04.2014 at about 9.00 a.m., A5 abused her in filthy language at the water-fetching area. She informed her husband, who pacified her. Subsequently, at about 11.30 a.m., when P.W.1 and her husband were proceeding towards the shop, all the accused allegedly waylaid them with the intention to commit murder. A1 and A2 stabbed her husband indiscriminately on the chest. When she attempted to intervene, A3 attacked her with a knife on her left abdomen and back. She further deposed that A4 and A5 instigated the accused to kill her husband. During the course of the incident, A3 accidentally caused injury to A2 (Ramar). P.W.1 and her husband were taken to the hospital through the 108 Ambulance service. Her testimony is



corroborated by P.W.2 and P.W.3. The medical evidence of P.W.10 (Doctor), who issued the Accident Register (Ex.P18), and P.W.11 (Doctor), who issued the Postmortem Report (Ex.P.19) to her husband also supports the ocular version of P.W.1. Though minor discrepancies are present in P.W.1's testimony, they are not fatal to the prosecution case. The occurrence took place on 03.04.2014, whereas P.W.1 was cross-examined after a considerable lapse of time. Minor contradictions are natural and do not undermine the core of the prosecution case, particularly when the ocular evidence is supported by medical evidence. Further, P.W.2 and P.W.3, who were eyewitnesses to the occurrence, consistently stated that A1 and A2 attacked the deceased and that A3 caused injuries to P.W.1.

21. Though P.W.1 stated that A4 and A5 were present at the scene and had instigated A1 to A3, but this assertion does not find place in her earliest statement recorded by the Judicial Magistrate on 03.04.2014. P.W.2 also did not speak about the presence or instigation by A4 and A5. If A4 and A5 had indeed been present and had instigated the accused, P.W.1 would have disclosed the same in her earliest statement. The omission casts serious doubt on the prosecution's case regarding their presence. Therefore, the presence of A4 and A5 at the scene is highly doubtful, and the allegation of instigation at the time of occurrence is not proved.



22. Since the presence of five or more persons is essential to constitute an unlawful assembly under Sections 147 to 149 IPC, the said charges as against A1 to A5 cannot be sustained.

23. Upon overall consideration of the evidence, it is evident that A1 to A3 had no prior enmity with the deceased. The quarrel originated between P.W.1 and A5. A1 to A3 intervened in support of their mother, while the deceased intervened in support of his wife.

24. The evidence of P.W.3 and P.W.4 who witnessed the occurrence clearly establishes that the accused did not act with premeditation or any predetermined intention to cause the death of the deceased. Both the witnesses consistently deposed that the incident originated from a sudden quarrel, which subsequently escalated into a physical fight. Their testimony further reveals that both parties engaged in the altercation during the course of the fight, A1 and A2 inflicted stab injuries on the deceased. When P.W.1 intervened, A3 caused injuries to her. The consequence of events, as spoken by the eyewitnesses, reasonably indicates that the acts were committed in the heat of passion upon sudden quarrel, rather than pursuant to any prior decision or intention.

25. For constituting offence under Section 300 IPC, the following



ingredients are essential:

“300.Murder.—Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—

Secondly.—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

Thirdly.—If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

Fourthly.—If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.”

Exception to Section 300 IPC

Exception 1- When culpable homicide is not murder- Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident.

The above exception is subject to the following provisos:-

First- That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing. or doing harm to any person.

Secondly- That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

Thirdly- That the provocation is not given by anything done in the



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lawful exercise of the right of private defense

Exception 2- Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defense of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defense without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defense.

Exception 3- Culpable homicide is not murder if the offender, being a public servant or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill-will towards the person whose death is caused.

Exception 4.- Culpable homicide is not murder if it is 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.

Exception 5- Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.”

26. In view of the foregoing discussions, this Court holds that the acts of A1 & A2 fall within the ambit of Exception 4 to Section 300 of IPC which reads as below :-

“Exception 4.- Culpable homicide is not murder if it is 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.”

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27. Accordingly, this Court is of the considered opinion that the offence committed by A1 and A2 would not attract Section 302 IPC. Instead the acts would fall within the purview of under Section 304 part II IPC, as the accused can be attributed that the injuries inflicted were likely to cause death, though without any intention to cause death.

28. Therefore, the conviction of A1 and A2 under Section 302 IPC is altered to Section 304 part II IPC, and they are sentenced to undergo 10 years of rigorous imprisonment.

29. Insofar as A3 is concerned, who stands charged under Section 307 IPC. It is well settled that to constitute an offence under the said provision the prosecution must establish the intention or knowledge of the accused to cause death. In the present case, the evidence on record does not satisfactorily prove the requisite intention or knowledge to cause death. The injury sustained by P.W.1 was inflicted when she attempted to intervene in the course of occurrence. In such circumstances, the act attributed by A3 would not attract Section 307 IPC. Rather the offence would appropriately fall under Section 324 IPC.



Accordingly, the conviction of A3 under Section 307 IPC is modified to Section 324 IPC, and he is sentenced to undergo 3 years of imprisonment.

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30. The offence under Section 341 IPC has not been proved. The evidence on record indicates that the occurrence arose out of a mutual quarrel between both parties. In such circumstances, the essential ingredients required to establish wrongful restraint are absent. Therefore, the accused cannot be held liable for the offence punishable under Section 341 IPC.

31. Regarding the injury sustained by A2, the appellant contended that the injury sustained by A2 was not properly explained by the prosecution. Ex.P14 (Accident Register) reveals that A2 sustained simple injuries on his left leg. P.W.1 deposed that the injury was accidental. P.W.2 also supported this version. The defence failed to establish that A2 was attacked by the deceased, as no complaint was lodged. Further, A2 did not offer any specific explanation during examination under Section 313 Cr.P.C. In cases involving injuries on the accused, such injuries must be considered to determine the aggressor.

32. In the present case, the consistent evidence of the eyewitnesses establishes that A1 to A3 were the aggressors. Therefore, the contention that the prosecution failed to explain A2's injuries is devoid of merit.



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33. In the result,

(i) This Criminal Appeal is partly allowed.

(ii) The conviction against A1 and A2 for the offence under Sections 302 r/w.34, 307 r/w.149, 341, 148 IPC passed by the learned II Additional District and Sessions Judge, Tuticorin District, dated 22.07.2022 made in SC No.227 of 2015, is set aside and A1 and A2 are found guilty under Section 304(ii) IPC. The conviction against A3 for the offence under Sections 302 r/w.149, 307, 341, 148 IPC is set aside and A3 is found guilty under Section 324 IPC. The conviction against A4 and A5 for the offence under Sections 147, 341, 302 r/w.114, 307 r/w.149 IPC is set aside and A4 and A5 are acquitted of all charges.

(iii) Accordingly, the sentence of Life Imprisonment passed by the Court below is set aside and the appellants 1 and 2/A1 and A2 are convicted under Section **304 Part II IPC** and sentenced them to undergo Rigorous Imprisonment for **ten (10) years** each.

(iv) A3 is convicted under Section **324 IPC** and sentenced him to undergo rigorous imprisonment for **three (3) years**.

(v) In respect of fine amount of A1 to A3 remain unaltered.

(vi) The fine amount if any paid by A4 and A5 shall be refunded to them. Bail bond if any executed by A4 and A5 shall stand



discharged.

(vii) The period of sentence already undergone by the appellants/A1 to A3 shall be set off under Section 428 Cr.P.C., as against the substantive sentence.

(G.K.I., J.) (R.P., J.)
20.02.2026

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

- 1.The II Additional District and Sessions Judge,
Thoothukudi.
- 2.The Judicial Magistrate No.1,
Kovilpatti.
- 3.The Inspector of Police,
Naalatinpudhur Police Station,
Thoothukudi District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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**G.K.ILANTHIRAIYAN., J
AND
R.POORNIMA.J**

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