



**CrI.A(MD)No.707 of 2023**

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

**DATED : 28.01.2026**

**CORAM:**

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

**CrI.A(MD)No.707 of 2023  
and  
CrI.M.P.(MD)No.1607 of 2026**

Kaleeswaran

... Appellant/Sole Accused

Vs.

The State rep. by  
The Inspector of Police,  
Oomachikulam Police Station,  
Madurai District.  
(Crime No.141 of 2016)

... Respondent/Complainant

**PRAYER:-** Criminal Appeal is filed under Section 374(2) of Criminal Procedure Code, to call for the records pertaining to the Judgment of conviction and sentence dated 07.07.2022 passed in S.C.No.516 of 2016

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on the file of the Sessions Judge, Mahalir Neethimandram, Madurai and set aside the same as illegal and acquit the appellant.

For Appellant : Mr.E.Satish Rajkumar,  
For Respondents : Mr.R.Meenakshi Sundaram,  
Additional Public Prosecutor

### **JUDGMENT**

**(Judgment of the Court was delivered by R.POORNIMA, J.)**

This Criminal Appeal is filed against the conviction and sentence passed against the appellant/sole accused in the judgment 07.07.2022 passed in S.C.No.516 of 2016 on the file of the Sessions Judge, Mahalir Neethimandram, Madurai, in which judgment, Accused had been convicted for offence punishable under Sections 302 and 294(b) IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) in default to undergo one years simple imprisonment for the offence punishable under Section 302 of IPC and sentenced him to undergo one month simple imprisonment for the offence punishable under Section 294(b) IPC.



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2. The case of the prosecution in brief is as follows :

(a) The complaint was given by the deceased, Meena Ponnu, who was the wife of the accused and the victim . P.W.18, Thiru. Arjunan, Sub-Inspector of Police, on receiving hospital intimation on 10.05.2016 at about 9.30 p.m., proceeded to the Government Rajaji Hospital, Madurai, where he recorded the statement of the deceased.

(b) In her statement, the deceased stated that her marriage with the accused had taken place about five years prior, and they were blessed with one daughter and one son. The accused was in the habit of consuming alcohol and frequently quarrelling with her. On 10.05.2016 at about 3.00 p.m., the accused came home in an inebriated condition. Since their son was suffering from chickenpox, she questioned him as to why he had come home intoxicated when their child was ill. This led to a quarrel, after which the accused left the house.

(c) Later, at about 7.00 p.m., the accused returned home and told her that there was no use for her to live. He then poured kerosene on her. Believing that he would not actually set her on fire, she remained there; however, the accused set her ablaze. She caught fire and raised





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Report (Ex.P14).

(f) The accused was arrested on 11.05.2016 at about 4.00 p.m., and his confession statement (Ex.P15) was recorded, pursuant to which lungi and shirt were recovered. The material objects were sent to the Court under Form 95 (Ex.P16) and a requisition was sent for forensic examination (Ex.P17). The accused was thereafter remanded to judicial custody.

(g) On 11.05.2016 at about 1.00 p.m., the Investigating Officer conducted inquest in the presence of witnesses and panchayathars and prepared the Inquest Report (Ex.P18). During investigation, kerosene cane, cane lid, burnt nighty and match box were recovered under Recovery Mahazar (Ex.P4). All material objects were forwarded to the Forensic Science Laboratory, and the Forensic Report was marked as Ex.P20.

(h) Further, Dr.Mohamed Nasim (P.W.13) conducted the postmortem examination on the body of the deceased and issued the Postmortem Certificate (Ex.P7), wherein he described the injuries found on the body :



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*“The following ante mortem injuries are noted on the body:*

*Extensive superficial burns involving the following areas:*

*Face, front, sides and back of neck, front and back of chest and back of the abdomen, left front and back of thigh and lower gluetial region. The base of the burnt area is reddish in colour. Peeling and blackening of the skin noted on all over the burnt areas in patchy manner. Partial degloving of the skin noted on both hands. Singeing of hairs noted on scalp in front, eyebrows, eyelashes, armpits and pubic region. IV drip wound noted on right foot.*

**OTHER FINDINGS:**

*Peritoneal cavity empty; Pleural cavities empty; Pericardium contains 15 ml of straw colour fluid; Heart - right side fluid blood, left side empty; Coronaries - patent; Lungs - cut section congested; Larynx & trachea-normal, cut section contains soot particles; Hyoid bone -intact; Stomach-contains 200gm of partially digested semi solid food materials, nil specific smell, mucosa normal; Liver, Spleen & kidneys cut section congested; Small intestine contains 20ml of bile stained fluid, nil specific smell, mucosa normal;*



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*Bladder - empty; Uterus - normal, cut section empty;*

*Brain- Surface vessels & cut section congested.*

*OPINION:*

*"THE DECEASED WOULD APPEAR TO HAVE DIED OF EXTENSIVE SUPERFICIAL BURNS OF ABOUT 70%".*

(i) P.W.15 Ms.Anupriya, Judicial Magistrate, recorded the dying declaration (Ex.P8) of the deceased. P.W.16 Dr.Murugaporselvi, who had first treated the deceased issued accident register (Ex.P.9). P.W. 17 Dr.Rajinihedan, issued the certificate for the mental fitness and conscious under Ex.P10.

(j) He examined all the witnesses and recorded their statements. After completing the investigation, the Inspector of Police filed a final charge sheet against the accused for the offence under Sections 307, 294(b) and 302 IPC.

3. On receipt of the records, the Judicial Magistrate No.V, Madurai, took up the case in P.R.C.No.62 of 2016 and issued summons to the accused. After the appearance of the accused, copies of the entire



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records were furnished to him free of cost under Section 207 Cr.P.C.

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4. Since the offence is exclusively triable by the Court of Session, the learned Judicial Magistrate committed the case records to the Principal District and Sessions Judge, Madurai. The Principal District and Sessions Judge, Madurai, received the case records and numbered it as S.C.No.516 of 2016 and made over the case to the Sessions Judge, Mahalir Neethimandram, Madurai, under Section 209(A) Cr.P.C. for further action.

5. After receipt of records, the Sessions Judge, Mahalir Neethimandram, Madurai, framed charges against the Accused under Sections 302 and 294(b) IPC. The charges were read over and explained to the accused. The accused denied the charges and claimed to be tried. Therefore, the case was posted for trial.

6. On the side of the prosecution, P.W.1 to P.W.18 were examined and Ex.P1 to Ex.P20 were marked. No Material Objects were



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produced. On the side of the accused, neither oral nor documentary evidence was examined.

7. On conclusion of trial, the learned Sessions Judge, Madurai, convicted the accused by judgment dated 07.07.2022, against which, the present Criminal Appeal has been filed by the appellant /sole accused.

8. Mr.E.Satish Rajkumar, learned counsel appearing for the appellant assailing the judgment of conviction and sentence made the following submissions :-

(i) P.W.1 to P.W.3 are not eyewitnesses. P.W.5, P.W.6, P.W.9, P.W.11 and P.W.12 were turned hostile. The trial Court failed to consider the above.

(ii) The accused said to have been arrested on 11.05.2016 at about 17.15 hours, and recovered material objects but the trial Court has not marked any material objects.

(iii) The intention to cause murder was not proved by the prosecution as it was stated that the accused poured kerosene in an



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inebriated condition. The investigation Officer failed to record the statement of the Judicial Magistrate (P.W.15), Dr.Murugaporselvi (P.W.16), Dr.Rajinihedan (P.W.17), though they claimed that they were examined under Section 161(3) Cr.P.C. and statement was recorded from them, but the copies were not supplied to the appellant.

(iv) Dr.Rajinihedan, said to have been treated the deceased on the date of admission was not examined. It was stated that the victim girl was brought to the hospital on 10.05.2016 at about 8.35 p.m., but the dying declaration was recorded at 10.15 p.m. When the deceased being the victim of 65% burn injuries it is highly probable for her to have been administered with sedatives to overcome the miseries of burn injuries, which could be established only through the Doctor who had first treated the victim girl.

(v) The trial Court failed to consider that the deceased and the accused got married 5 years back from the date of occurrence, but the inquest report has to be forwarded to the District Magistrate or Sub Divisional Magistrate. No such procedure was observed. The investigation perfunctory in nature and prayed to acquit the appellant.

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(vi) The prosecution failed to prove the case against the accused and hence, he prayed to set aside the judgment of the trial Court and to acquit the accused from all charges.

9. The learned Additional Public Prosecutor appearing for the State contended that the complaint was given by the victim girl. Based on her statement (Ex.P.12), an FIR (Ex.P.13) was registered against the accused. Subsequently, the dying declaration of the victim (Ex.P.8) was recorded by the Judicial Magistrate (P.W.15). The Doctor also certified that the victim was in a fit state of mind and was conscious and oriented at the time of recording the dying declaration. The evidence of the victim is duly corroborated by the medical evidence. The victim had no motive to falsely implicate her husband in the case. The quarrels between the deceased and the accused were spoken to by P.W.1 to P.W.5. Therefore, the prosecution has proved the case beyond all reasonable doubt. Hence, there is no merit in the criminal appeal and the same is liable to be dismissed.



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10. Heard the learned counsel appearing on either side and perused the materials available on record.

11. The accused and the deceased are husband and wife. P.W.2 clearly stated that the accused, who is the husband of the deceased, was in the habit of creating quarrels and assaulting her. Even in the year 2011, the accused came home in an inebriated condition and stabbed his wife on her cheek with a knife. A complaint was lodged before the All Women Police Station, Thirupparankundram. Though the copy of the said complaint was not marked, the continuous quarrels between the accused and the deceased were spoken to by P.W.3, the mother of the deceased, and P.W.4.

12. As per the dying declaration of the deceased under Ex.P.12, she categorically stated that on the date of occurrence the accused came home in an inebriated condition. At that time, their son was suffering from chickenpox. When the deceased questioned him as to why he had come home in an intoxicated state, he became enraged, went outside, and

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returned at about 7.00 p.m. Thereafter, he abused her and stated that she could die. He then took kerosene, poured it on her, and set her on fire. Immediately, she raised an alarm, and the neighbours came and poured water to extinguish the fire.

13. Her version is supported by P.W.1, who is the neighbour of both the accused and the deceased. He clearly stated that on the date of occurrence he heard the alarm raised by the victim and noticed that the deceased was on fire. Immediately, he poured water and extinguished the fire. At that time, the parents of the deceased also came to the place of occurrence, and thereafter an ambulance was called and the victim was taken to the hospital.

14. His evidence is further corroborated by P.W.16, Dr. Murugaporselvi. P.W.16 stated that on 10.05.2016 at about 8.30 p.m., while she was on duty in the ICU, Pitchaiammal, who is a relative of the deceased, brought the victim to the hospital. The Doctor admitted her and provided treatment. When the victim was ready to give a dying



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declaration, a requisition letter was immediately sent to the Judicial Magistrate. The victim had sustained 65% burn injuries. She informed the Doctor that at about 8.00 p.m. her husband had poured kerosene on her and set her ablaze. The Doctor further stated that the victim was conscious and oriented. Thereafter, she was shifted to the ward where burn injury victims were treated. The Accident Register was marked as Ex.P.9.

15. Smt.Pitchaiyammal, who took the victim girl to the hospital, was examined as P.W.10. She clearly stated that the victim informed her that her husband had poured kerosene on her and set her ablaze.

16. Further, the dying declaration of the victim was recorded by P.W.15, Ms.Anupriya, Judicial Magistrate. On 10.05.2016 at about 10.00 p.m., after receiving the requisition letter, she went to the Government Hospital at about 10.15 p.m. The duty Dr.Rajinihedan (P.W.17), identified the victim and issued a certificate under Ex.P.10





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and recorded the statement of the victim under Ex.P.1. P.W.15, the Judicial Magistrate, also without any delay reached the hospital at about 10.15 p.m. and recorded her dying declaration.

19. A dying declaration alone is sufficient to convict the accused if it inspires the confidence of the Court. Even if the dying declaration is not recorded by a Judicial Magistrate, it would still be relevant considering the circumstances and time factor. In the present case, the complaint was given by the victim herself. She also informed the Doctor who initially treated her that her husband had poured kerosene on her and set her ablaze.

20. It is also evident from the evidence of P.W.2 and others that the accused had earlier attempted to kill the deceased. On the date of occurrence, after pouring kerosene and setting her ablaze, the accused did not even attempt to rescue his wife. Instead, he absconded, and the victim was taken to the hospital by P.W.1.



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21. Therefore, it clearly establishes the intention and knowledge of the accused that setting fire to his wife would cause her death. Hence, the offence under Section 300 IPC is made out against the accused and he is liable to be punished under Section 302 IPC. The Trial Court, after considering the entire evidence on record, rightly convicted the accused for the offence under Section 302 IPC. Since the prosecution has proved the guilt of the accused beyond reasonable doubt, there is no reason to interfere with the judgment of the Trial Court. Accordingly, the Criminal Appeal is devoid of merits and the same is liable to be dismissed.

22. In the result, this Criminal Appeal is dismissed and the Judgment dated 07.07.2022 passed in S.C.No.516 of 2016 on the file of the Sessions Judge, Mahalir Neethimandram, Madurai, is hereby confirmed. Consequently, connected miscellaneous petition is closed.

**[G.K.I.J.] & [R.P.J.]**  
**28.01.2026**

NCC :Yes/No  
Index :Yes/No  
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Copy to

- 1.The Sessions Judge,  
Mahalir Neethimandram,  
Madurai,
- 2.The Inspector of Police,  
Oomachikulam Police Station,  
Madurai District.
- 3.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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