



CRL.A.(MD)No.611 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 03.02.2026

CORAM

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

Crl.A(MD)No.611 of 2022

Thirumurugan

: Appellant/Sole Accused

Vs.

The State Rep. By

The Assistant Commissioner of Police,

Perumalpuram Police Station,

Palayamkottai,

Tirunelveli District.

(Crime No.98 of 2014)

: Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code, to call for the records pertaining to the conviction and sentence passed in SC No.173 of 2014, on the file of the II Additional District and Sessions Judge, (PCR), Tirunelveli and to set aside the same and consequently, to acquit the appellant.



CRL.A.(MD)No.611 of 2022

For Appellant

: Mr.K.Althaf Sheriff
for M/s.Ajmal Associates

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 conviction and sentence passed against the appellant/sole accused in the judgment, dated 22.07.2022 made in SC No.173 of 2014 by the II Additional District and Sessions Judge, (PCR), Tirunelveli, in which judgment, the accused had been convicted for the offences punishable under Section 302 IPC and sentenced to undergo Life Imprisonment and to pay fine of Rs. 2,000/-, in default to undergo 6 months SI and also convicted him for the offence under Section 506(ii) IPC and sentenced him to undergo 2 years RI with a fine of Rs.1,000/-, in default to undergo 3 months SI.

2. The appellant/sole accused was charged under Section 302 IPC for committing the crime of murder of the deceased and under Section 506(ii) IPC for criminal intimidating the witnesses who tried to prevent him from committing the murder and also under Section 3(2) (V) of SC/ST (PoA) Act for the reason that the deceased belongs to SC/ST community.



CRL.A.(MD)No.611 of 2022

During trial, the accused was not found guilty under Section 3(2)(V) of SC/ST Act. But he found guilt under Sections 302 and 506(ii) IPC.

3. According to the prosecution, the accused was employed as a Parotta Master in the hotel owned by the *de-facto* complainant, while the deceased was working as a driver under the same establishment. On 23.02.2014, a wordy quarrel arose between the accused and the deceased. The *de-facto* complainant intervened and pacified both of them.

4. On the following day, 24.02.2014, the deceased reported for work, but the accused did not attend the hotel. When the *de-facto* complainant attempted to contact him over phone, the accused did not respond. Later, at about 05.00 p.m., the *de-facto* complainant was informed that the accused had come to the hotel in a drunken state. The *de-facto* complainant instructed him to come for work on the next day. However, on the same day at about 07.30 p.m., the *de-facto* complainant received further information that the accused had created a problem with the deceased in the kitchen of the hotel. Immediately, the *de-facto* complainant rushed to the hotel and witnessed the accused taking a knife and stabbing the deceased on the left side of the chest and the right side of the abdomen. When the



CRL.A.(MD)No.611 of 2022

de-facto complainant, along with Sundaram, Karuppasamy and Annai Mariyaraj, attempted to prevent the accused, he threatened them with dire consequences and fled from the scene on a TVS XL Heavy Duty motorcycle.

5. Thereafter, the deceased was found lying in a pool of blood. The de-facto complainant and others immediately took him in an auto-rickshaw to the High Ground Hospital for treatment, where the doctor, after examination, declared that he had been brought dead. Subsequently, the de-facto complainant lodged a complaint, which was marked as Ex.P1.

6. On receipt of the complaint, PW12 – Tmt. Annapoorani, Sub-Inspector of Police, Perumalpuram Police Station, registered a case in Crime No.98 of 2014 under Section 302 IPC and forwarded the First Information Report to the Judicial Magistrate No.I, Tirunelveli.

7. The investigation was initially taken up by PW16 – Thiru.Jeyamurugan, Inspector of Police, who visited the place of occurrence and prepared the Observation Mahazar (Ex.P13) and Rough Sketch (Ex.P14) in the presence of witnesses Jalal (PW5) and Rajakapoor. He also



CRL.A.(MD)No.611 of 2022

recovered blood-stained soil (MO8) and sample soil (MO9) under Recovery Mahazar (Ex.P15). Subsequently, he conducted inquest over the dead body at Tirunelveli Government Medical College Hospital in the presence of witnesses and panchayatdars and prepared the Inquest Report (Ex.P16).

8. Thereafter, PW18 – Thiru. G.S. Mathavan, Assistant Commissioner of Police, Palayamkottai, took up further investigation. He visited the place of occurrence, examined witnesses, and recorded their statements. During the course of investigation, he altered the section of law to Sections 302 and 506(ii) IPC and Section 3(2)(v) of the SC/ST (Prevention of Atrocities) Act, under Alteration Report (Ex.P17).

9. On 25.02.2014, the accused was arrested and his confession statement (Ex.P19) was recorded. Based on the admissible portion of the confession, the investigating officer recovered a knife (MO1) and the accused's TVS XL Heavy Duty motorcycle bearing Registration No. TN-72-AH-4483 (MO3) under Recovery Mahazar (Ex.P20). The Investigating Officer also examined PW13 – Dr. Sridharan, who conducted the post-mortem on the body of the deceased, and obtained the community certificate of the accused from the Tahsildar, Tirunelveli (Ex.P12). The



CRL.A.(MD)No.611 of 2022

material objects were thereafter sent for chemical analysis.

WEB COPY

10. Upon completion of the investigation, a final report (charge sheet) was filed against the accused for the offences punishable under Sections 302 and 506(ii) IPC read with Section 3(2)(v) of the SC/ST (Prevention of Atrocities) Act.

11. On receipt of the records, the Judicial Magistrate No.1, Tirunelveli, took up the case in PRC No.49 of 2014 and issued summons to the accused. After the appearance of the accused, copies of the entire records were furnished to him free of cost under Section 207 Cr.P.C.

12. Since the offence is exclusively triable by a Special Court, the learned Judicial Magistrate No.1, Tirunelveli, committed the case records to the II Additional District and Sessions Judge (PCR), Tirunelveli, under Section 209(A) Cr.P.C for further action.

13. On receipt of the records, the learned II Additional District and Sessions Judge (PCR), Tirunelveli, numbered it as SC No.173 of 2014 and framed the charges against the accused under Sections 302, 506(ii) IPC



CRL.A.(MD)No.611 of 2022

and Section 3(2)(V) of SC/ST (PoA) Act. 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.

14. On the side of the prosecution, 19 witnesses were examined as PW1 to PW19 and 22 documents were marked as Exs.P1 to P22. Material Objects MO1 to MO11 were produced. On the side of the accused, no evidence was adduced, but two documents were marked as Ex.D1 and D2.

15. By judgment, dated 22.07.2022, the Trial Court convicted the accused as stated above. Against which, this criminal appeal is filed.

16. The learned counsel for the appellant submitted that the Trial Court Judge erred in convicting the appellant despite the prosecution having failed to prove its case beyond reasonable doubt. There are material contradictions with regard to the very place of occurrence, inasmuch as P.W.1 in Ex.P1 stated that the incident occurred in the kitchen, whereas the rough sketch and observation mahazar indicate the road as the place of occurrence. Further, P.W.18 also deposed inconsistently regarding the place



CRL.A.(MD)No.611 of 2022

of occurrence. He further submitted that the testimonies of the alleged eye-witnesses, namely P.W.1 to P.W.3 and P.W.17, are mutually contradictory and unreliable; P.W.3 turned hostile and P.W.17 clearly stated that P.W.1 reached the spot only after the occurrence, thereby discrediting his version as an eye-witness.

17. The learned counsel for the appellant further submitted that the prosecution failed to examine material witness Shiek, the cashier who allegedly informed P.W.1 about the quarrel, and that even the Investigating Officer admitted that the said witness was not present at the scene. It was argued that the non-production of the Accident Register and the absence of material particulars in the FIR create serious doubts about the genesis and development of the prosecution case. The learned Counsel also pointed out contradictions relating to the arrest of the accused and the alleged recovery of the knife (M.O.1), highlighting the inconsistent versions of P.W.6 and P.W.18 and the fact that P.W.7, a witness to recovery, turned hostile, thereby rendering the recovery highly doubtful.

18. It was lastly submitted that the prosecution failed to establish any motive for the alleged occurrence and that even P.W.2



CRL.A.(MD)No.611 of 2022

admitted ignorance of any prior enmity. The medical evidence showing multiple injuries was not properly explained or correlated by the prosecution. In view of these cumulative infirmities, the conviction is unsustainable in law and the appellant is entitled to acquittal and prays that the appeal has to be allowed.

19. The learned Additional Public Prosecutor submitted that P.W.1 is the de-facto complainant as well as an eye-witness to the occurrence. P.W.2, P.W.3 and P.W.7 have also witnessed the occurrence. All the eye-witnesses have clearly spoken about the motive and the overt act committed by the accused. Their testimonies corroborate each other. The medical evidence also supports the ocular evidence. The Investigating Officer conducted the investigation properly, collected the relevant materials and examined the witnesses. The knife used by the accused during the occurrence and the two-wheeler used by him to escape from the scene of crime were recovered in the presence of witnesses and the same were proved through evidence. The eye-witnesses have also identified the knife and the two-wheeler. Hence, the Trial Court, after considering all these aspects, rightly convicted the appellant and the same does not warrant interference by this Court.



CRL.A.(MD)No.611 of 2022

20. This Court heard the submissions made on either side and

perused the materials available on record.

21. In the present case, P.W.1 is the complainant as well as an eye-witness. According to him, on the date of occurrence he was informed that the accused had come to his hotel and quarrelled with the deceased. Immediately he rushed to the place of occurrence and witnessed the accused stabbing the deceased on the left side of the chest and on the right rib. When the witnesses raised alarm, the accused threatened them by brandishing the knife and fled from the scene on his two-wheeler. Thereafter, the injured was taken in an auto to the Government Hospital at Palayamkottai, where he was declared brought dead. Subsequently, P.W.1 lodged the complaint (Ex.P1). He also identified the knife used by the accused.

22. The evidence of P.W.1 is corroborated by P.W.2, who was also working in the hotel belonging to P.W.1. P.W.2 clearly deposed that on the date of occurrence the accused quarrelled with the deceased and stabbed him on the chest with a knife. Thereafter, the injured was taken to the Government Hospital. During cross-examination, nothing substantial was elicited to discredit his testimony.



CRL.A.(MD)No.611 of 2022

23. P.W.3 initially supported the evidence of P.W.1 and P.W.2

in his chief examination. However, when he was cross-examined later, he turned hostile and stated that he had not witnessed the occurrence.

24. P.W.4, the wife of the deceased, deposed that on the previous day her husband informed her that the accused had created trouble at the workplace. Therefore, she advised him not to go to work. Later she came to know that the accused had stabbed her husband.

25. P.W.5, the Village Administrative Officer, spoke about the preparation of the observation mahazar and rough sketch and the recovery of blood-stained and ordinary earth. P.W.6 spoke about the arrest of the accused, his confession and the recovery of material objects.

26. P.W.13, Dr.Sridharan, who conducted the post-mortem examination, noted the following ante-mortem injuries and opined that the deceased died due to the stab injuries sustained on the left side of the chest and right side of the abdomen.

27. P.W.17, another eye-witness, stated that the accused



CRL.A.(MD)No.611 of 2022

stabbed the deceased and that he took the injured to the hospital. However, during cross-examination he stated that P.W.1 reached the place of occurrence about ten minutes after the incident and that he informed P.W.1 about the attack. Thus, there is a minor contradiction between the evidence of P.W.1 and P.W.17. Nevertheless, even in the absence of the evidence of P.W.1 and P.W.17, the testimony of P.W.2 clearly establishes that the accused committed the offence. Though P.W.3 turned hostile during cross-examination, his chief examination supports the prosecution case.

28. The evidence of P.W.2 is also corroborated by the medical evidence. The prior dispute between the accused and the deceased has been spoken to by P.W.4, the wife of the deceased. There is no material to show that P.W.2 had any enmity against the accused to falsely implicate him.

29. The occurrence took place at about 19.30 hours and the FIR was registered at 22.00 hours without delay. Even in the FIR it has been clearly stated that the accused alone committed the offence. Though the Accident Register (Ex.D2) does not mention the person who brought the deceased to the hospital, it clearly records that the deceased was brought dead due to assault. The non-mentioning of the person who brought the



CRL.A.(MD)No.611 of 2022

deceased is not fatal to the prosecution case.

WEB COPY

30. The arrest of the accused and recovery of the knife have been spoken to by the Village Administrative Officer (P.W.5). Minor contradictions in the evidence and the fact that some witnesses turned hostile do not affect the core of the prosecution case. The prosecution has proved the case beyond reasonable doubt.

31. The Trial Court, on careful consideration of the entire oral and documentary evidence, has rightly convicted the appellant. This Court finds no infirmity or illegality in the judgment of conviction and sentence passed by the Trial Court.

32. In the result, this Criminal Appeal fails and the same is **dismissed**, confirming the impugned judgment of the Trial Court. The Trial Court is directed to secure the accused to undergo the remaining period sentence.

(G.K.I., J) (R.P., J)
03.02.2026

Index :Yes/No
NCC :Yes/No
er



CRL.A.(MD)No.611 of 2022

To
WEB COPY

- 1.The II Additional District Judge, (PCR),
Tirunelveli.
- 2.The Assistant Commissioner of Police,
Perumalpuram Police Station,
Palayamkottai,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CRL.A.(MD)No.611 of 2022

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

er

CrI.A(MD)No.611 of 2022

03.02.2026