



Crl.A(MD)No.625 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.02.2026

CORAM:

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

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1.Nagarajan

2.Thirumalai

... Appellants/Accused 1 & 2

Vs.

The State rep. by
The Inspector of Police,
Thiruchuli Police Station,
Virudhunagar District.
(Crime No.196 of 2018)

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 372 of Criminal Procedure Code, to call for the records allow the appeal and acquit the appellants by setting aside the Judgment dated 06.09.2022 passed in S.C.No.77 of 2019 on the file of the Additional District and Sessions Court, Virudhunagar.

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For Appellants : Mr.R.Anand
for M/s.S.Madhakumar
For Respondent : Mr.R.M.Anbunithi,
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 appellants/accused 1 & 2 in the judgment dated 06.09.2022 made in S.C.No.77 of 2019 by the Additional District and Sessions Court, Virudhunagar, in which judgment, Accused 1 & 2 had been convicted for offence punishable under Section 302 IPC and sentenced them to undergo life imprisonment and to pay a fine of Rs.5,000/- each in default to undergo one year rigorous imprisonment.

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

(a) The accused A1 and A2, along with the juvenile accused Udhayakumar, had previous enmity with the deceased regarding the illegal consumption of water, which had been objected to by the



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deceased. On 27.09.2018, at about 7.20 p.m., the complainant was informed that A1 and A2, along with the juvenile accused, had quarrelled with his brother in connection with the administration of the village and requested him to immediately come to Udayanendal Bus Stand.

(b) Immediately, at about 7.45 p.m., the complainant and others went to the place of occurrence with a torch light and witnessed the accused quarrelling with his brother Pasupathi, and restraining him from proceeding further. When his brother attempted to proceed, A1 abused him in filthy language and attacked him with a wooden log on his right cheek, mid-scalp, and right side of the neck indiscriminately. A2 also attacked the deceased on his forehead and on the right and back side of his head. Due to the said attack, the deceased fell down.

(c) P.W.1 and other witnesses raised hue and cry and requested the accused not to attack him. On seeing the witnesses, the accused fled away from the place of occurrence. Thereafter, the complainant and others rushed to the spot and saw his brother lying with severe head injuries. When they attempted to take him to the hospital, they found that he was already dead. Immediately thereafter, the complainant informed



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their relatives about the death of his brother and subsequently lodged the complaint (Ex.P1).

(d) P.W.20 Thiru.Ashok, Sub Inspector of Police, Trichy Police Station received the complaint (Ex.P1) on 28.09.2018 at about 2.00 a.m., and registered FIR (Ex.P14) in Crime No.196 of 2018 for the offence under Sections 341, 294(b) and 302 IPC.

(e) P.W.21 Thiru.Deiveegapandian, Inspector of Police took up the case for investigation and went to the place of occurrence and prepared observation mahazar (Ex.P4), rough sketch (Ex.P15) and also recovered blood stained soil and ordinary soil and two broken pieces of wood log (M.O.4) under a recovery mahazar (Ex.P16) in the presence of witnesses Velmurugan (P.W.12), Vilraman (P.W.13). Thereafter, On 28.09.2018 at about 13.00 hours, he arrested the accused 1 and 2 and recorded their confession statement and recovered Hero Honda Motor cycle bearing Registration No.TN 58 T 2791 (M.O.8) under recovery mahazar (Ex.P10) and also recovered two wooden logs and Motor cycle bearing Registration No.TN 67 AD 6541 (M.O.9) under recovery mahazar (Ex.P12). He conducted inquest on the dead body in the



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presence of panchayadhars and witness and prepared inquest report (Ex.P17). He examined the witnesses and recorded their statements.

Medical evidence

(f) P.W.17 Dr.Jeyanthi, who conducted postmortem on the dead body and found the following injuries :

External Injuries:

(1) 5 cm x 2.5 cm lacerated wound on the forehead extending from the right eyebrow to the middle of forehead.

(2) 1 cm x 0.5 cm lacerated injury behind the right ear;

(3) 1 cm x 0.5 cm (depth) lacerated injury in the neck just below the right angle of mandible.

(4) Swelling of 10 x 10 cm (contusion) size seen on the right cheek.

She issued postmortem report and final opinion (Ex.P.13). She opined that the deceased would have died due to massive blood loss due to injury in the blood vessel in the neck. Biology report (Ex.P.18), Serology report (Ex.P.19), Toxicology report (Ex.P.20) were received .

(g) P.W.21 examined all the witnesses and recorded their statements. After completing the investigation, on 18.12.2018 he filed



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final charge sheet against the accused for the offence under Sections 341, 294(b) and 302 IPC.

3. The learned Judicial Magistrate, Aruppukottai having taken cognizance of the case in PRC No.6 of 2019 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, Virudhunagar District at Srivilliputtur made over the case to the Additional District and Sessions Judge, Virudhunagar.

4. The Additional District and Sessions Judge, Virudhunagar, after completing with the requisite formalities, framed charges against the Accused under Sections 341, 294(b) and 302 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.



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5. On the side of the prosecution, P.W.1 to P.W.21 were examined and Ex.P1 to Ex.P20 were marked. Material Objects M.O.1 to M.O.9 were produced. On the side of the accused, neither oral nor documentary evidence was produced.

6. On conclusion of trial, the learned Additional District and Sessions Judge, Virudhunagar, convicted the accused by judgment dated 06.09.2022, against which, the present Criminal Appeal has been filed by the appellants / accused 1 and 2.

7. The learned counsel appearing for the appellant contended that the prosecution has failed to prove its case beyond reasonable doubt. According to him, the witnesses have admitted that there was no electrical light at the place of occurrence and it has not been proved as to who brought the torchlight allegedly used for identifying the assailants. Further, P.W.1, P.W.4, P.W.5 and P.W.6 are close relatives and friends of the deceased and therefore they are interested witnesses.



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8. The learned counsel further submitted that the trial Court has not properly appreciated the evidence adduced by the prosecution and has taken a perverse view while evaluating the entire evidence on record. As per the evidence of P.W.1, one Shanmugavel (P.W.15) informed him that his brother Pasupathy had been attacked by the accused. However, the said witness (P.W.15) turned hostile and did not support the prosecution case. Therefore, the trial Court ought to have disbelieved the evidence of P.W.1, P.W.4, P.W.5 and P.W.6, who were alleged to have been present at the place of occurrence.

9. It was also contended that the medical evidence does not tally with the ocular evidence and therefore does not support the prosecution case. One of the alleged eyewitnesses, namely P.W.4, was declared hostile. Even during cross-examination, P.W.4 only stated that he, along with P.W.1, P.W.5 and P.W.6, saw the victim lying on the ground, but he did not state that the victim was assaulted by the accused.

10. The learned counsel further submitted that there was an



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unexplained delay in lodging the FIR. According to the prosecution, the occurrence took place on 27.09.2018 at about 7.45 p.m., whereas the FIR was lodged only on 28.09.2018 at about 2.00 a.m., and it reached the Court only at about 13.00 hours. Such delay, according to the learned counsel, has not been properly explained by the prosecution.

11. It was also pointed out that M.O.3 and M.O.4 were marked through the Investigating Officer and not through the witnesses in whose presence they were allegedly recovered. Further, there is no conclusive proof to show that the accused used M.O.8 and M.O.9. Though it was stated that the police officials reached the place of occurrence on 27.09.2018 at about 8.45 p.m., they failed to enquire any witnesses at that time. Therefore, the registration of the FIR itself creates suspicion.

12. The learned counsel also contended that the prosecution has failed to establish the motive for the occurrence. It has also not been proved that the victim was looking after the administration of the village. Hence, the prosecution has failed to prove its case beyond reasonable



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doubt. Therefore, the learned counsel prayed that the appeal may be allowed by setting aside the judgment of the trial Court, which according to him is perverse.

13. Per contra, the learned Additional Public Prosecutor appearing for the State submitted that the case of the prosecution mainly rests upon the evidence of the eyewitnesses, namely P.W.1, P.W.5 and P.W.6. Though P.W.4 was cited as an eyewitness, he turned hostile during trial.

14. The learned Additional Public Prosecutor further submitted that the motive for the occurrence has been clearly spoken to by P.W.1 and the other witnesses. With regard to the delay in lodging the FIR, it was explained by the prosecution that immediately after the occurrence, the villagers staged a dharna and demanded that the police arrest the accused immediately. The villagers also prevented the police from removing the body from the place of occurrence until their demand was addressed. Only after negotiations between the police officials and the



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villagers was the body allowed to be removed from the place of occurrence at about 2.00 a.m. Thereafter, the complaint was lodged, and thus the FIR came to be registered.

15. It was further submitted that immediately after the registration of the FIR, it was forwarded to the Court without any undue delay and it reached the Court on the next day. The ocular evidence of the eyewitnesses is fully corroborated by the medical evidence. The doctor who conducted the post-mortem examination clearly spoke about the injuries sustained by the deceased and the cause of death.

16. The learned Additional Public Prosecutor also submitted that the arrest, confession and recovery were properly spoken to by the witnesses. Though the eyewitnesses are relatives of the deceased, their evidence cannot be discarded solely on that ground. The trial Court, after carefully appreciating both the oral and documentary evidence, has rightly found the accused guilty and convicted him. Therefore, there is no perversity in the judgment of the trial Court and the appeal is devoid of



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merits and liable to be dismissed.

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

18. The present case rests upon the evidence of the eyewitnesses. P.W.1, the complainant and an eyewitness to the occurrence, clearly spoke about the motive for the offence. He deposed that the deceased had prevented the accused from illegally drawing water from the village lake and had informed the same to the village head, who in turn stopped the accused from taking water. Owing to the said incident, the accused had previous enmity with the deceased.

19. On the date of occurrence, at about 7.30 p.m., P.W.1 along with P.W.4 to P.W.7 was informed by one Shanmugavel (P.W.15) that the accused and the deceased had quarrelled near the Udayanenthal bus stop. Immediately, they rushed to the place of occurrence. At that time, A1 and A2 attacked the deceased, who was the brother of P.W.1, on his head and

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neck with wooden logs. When the witnesses raised a hue and cry, the accused fled away from the scene of occurrence on a two-wheeler. The deceased sustained severe injuries on his head. Immediately, P.W.1 called the 108 ambulance service and the police also came to the place of occurrence.

20. P.W.1 also spoke about the motive for the occurrence, which was corroborated by P.W.2 and P.W.3, the parents of the deceased. The evidence of the above witnesses was further corroborated by P.W.5 and P.W.6, who are independent eyewitnesses.

21. All the eyewitnesses categorically stated that the accused alone attacked the deceased with wooden logs on his head, particularly on the backside of the head (parietal region). P.W.7 also supported their evidence by deposing that soon after the occurrence he saw the deceased with head injuries.

22. Though P.W.4 was cited as an eyewitness, he did not



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support the prosecution case and turned hostile. However, he stated that he had been informed that the accused and the deceased had a fight and that when he reached the place of occurrence, he found the deceased lying with injuries and both the accused leaving the place on a two-wheeler.

23. The main defence raised by the appellants is that there was no electricity available at the place of occurrence and therefore it would not have been possible for the eyewitnesses to witness the incident. It was further contended that the witnesses had not stated who brought the torchlight. However, the said contention is not fatal to the prosecution case. The occurrence took place in the year 2018 and the witnesses have clearly deposed before the Court that they witnessed the occurrence with the aid of torchlight as well as the light from their mobile phones, which is quite possible. At present, most persons carry mobile phones with torch facilities. Therefore, the defence taken by the appellants does not seriously affect the prosecution case and is unsustainable.



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24. Further, the ocular evidence is duly supported by the medical evidence. P.W.17, the Doctor who conducted the post-mortem, clearly stated the injuries sustained by the deceased as follows:

External Injuries:

- (1) 5 cm x 2.5 cm lacerated wound on the forehead extending from the right eyebrow to the middle of forehead.*
- (2) 1 cm x 0.5 cm lacerated injury behind the right ear,*
- (3) 1 cm x 0.5 cm (depth) lacerated injury in the neck just below the right angle of mandible.*
- (4) Swelling of 10 x 10 cm (contusion) size seen on the right cheek.*

25. The accused were arrested soon after the occurrence, as spoken to by P.W.21, the Investigating Officer, who also recovered the weapons used for the offence from the accused. There was no inordinate delay in lodging the complaint. The occurrence took place at about 7.45 p.m., whereas the complaint was lodged at about 2.00 a.m. in the early morning hours. The delay has been properly explained by the witnesses, who stated that soon after the death of the deceased, the villagers and relatives staged a dharna demanding the immediate arrest of the accused.



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Upon assurance given by the police, they allowed the police to proceed with the investigation, which caused the delay in lodging the complaint. However, the FIR was registered immediately and it reached the Magistrate Court on the same day. The seal found in the FIR and the complaint also confirms the same.

26. The material objects recovered from the accused were found to tally with the blood group of the deceased. Thus, the evidence and material objects collected during investigation clearly establish that the accused alone were involved in the occurrence. Upon proper appreciation of the evidence, the trial Court held the accused guilty and liable for punishment. The arrest and recovery have also been clearly established by the prosecution.

27. In the present case, the prosecution has proved the case beyond all reasonable doubt. The trial Court, after considering the entire material on record, rightly held the accused guilty and punished them accordingly. We do not find any perversity in the judgment of the trial



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Court. Hence, the Criminal Appeal lacks merit and is liable to be dismissed.

28. In the result, this Criminal Appeal is dismissed and the Judgment dated 16.06.2022 passed in S.C.No.98 of 2020 on the file of the Principal District and Sessions Judge, Pudukkottai, is hereby confirmed.

[G.K.I.J.] & [R.P.J.]
19.02.2026

NCC :Yes/No
Index :Yes/No

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Copy to

1.The Additional District and Sessions Court,
Virudhunagar.

2.The Inspector of Police,
Thiruchuli Police Station,
Virudhunagar 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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