



Crl.A(MD)No.131 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2026

CORAM:

**THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN
AND
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

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Yasar Arafath

... Appellant/Defacto Complainant

Vs.

1.Shahid Khan
2.Feroze Khan
3.Amjath Khan
4.Pasariya

... Respondents 1 to 4/
Accused 1 to 4

5.State through
The Inspector of Police,
Thirupulanai Police Station,
Ramanathapuram District,
Crime No.108/2014.

... 5th Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 372 of the Criminal Procedure Code, 1973, to call for the records relating to the judgment in S.C.No.11 of 2016, dated 27.08.2021, on the file of the Additional District and Sessions Court, Ramanathapuram, set aside the same and allow this appeal.

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For Appellant : Mr.Mohideen Basha
For R1 : Mr.K.E.Kunasekar
For R2 to R4 : Mr.D.Kirubakaran
For R5 : Mr.R.M.Ambunithi
Additional Public Prosecutor

JUDGMENT

**(Judgment of the Court was delivered by
G.K.ILANTHIRAIYAN, J.)**

This appeal is directed as against the Judgment passed in in S.C.No.11 of 2016, dated 27.08.2021 by the Additional District and Sessions Court, Ramanathapuram, thereby acquitting the respondents 1 to 4 from the offences punishable under Sections 294(b), 323 and 302 of IPC.

2. The case of the prosecution is that the deceased and the accused had previous enmity due to their property dispute. On 19.07.2014 at about 11.40 hours, the accused were allegedly present



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on the land belonging to the deceased. At that time, they wrongfully trespassed into the said land and abused the deceased in filthy language. However, the deceased ignored them and while the deceased was walking away, the first accused is alleged to have attacked him with a knife, inflicting injuries. The other accused are alleged to have joined in the assault and caused further injuries to the deceased. Therefore, the deceased sustained grievous injuries and died.

3. Based on the complaint, the fifth respondent registered an F.I.R in Crime No.108 of 2014 initially for the offences punishable under Sections 294(b), 341, 323, 324 and 506(ii) of IPC and thereafter, altered into Sections 294(b), 323, 324, 506(ii) and 302 of IPC. After completion of investigation, the respondent filed a final report and the same has been taken cognizance by the Trial Court.



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4. In order to bring the charges to home, the prosecution examined P.W.1 to P.W.18 and marked Exs.P1 to P20. The prosecution had produced Materials Objects M.O.1 to M.O.5. On the side of the accused, no witnesses were examined and Ex.D1 to Ex.D4 were marked before the Trial Court.

5. On perusal of oral and documentary evidence, the Trial Court found the first accused not guilty for the offences punishable under Sections 294(b) and 302 of IPC and the accused Nos.2 to 4 are not guilty for the offences punishable under Sections 294(b) and 323 of IPC and acquitted them. Aggrieved by the same, the defacto complainant as appellant has preferred the present appeal.

6. The learned counsel for the appellant submits that P.Ws. 1 to 7 have categorically deposed regarding the motive for the occurrence. In fact, P.Ws.5 to 7, who are the injured eye-witnesses,



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have clearly established the prosecution's case beyond reasonable doubt. According to them, the first accused allegedly stabbed the deceased on the left side of the stomach with M.O.1, which was recovered from the first accused based on his confession statement. The confession statement was recorded as Ex.P7. The injuries found in the dead body were also corroborated with the evidence of P.Ws.5 to 7, who are the eye witnesses to the occurrence. The cause of death stated in the postmortem was that the stab injury sustained by the deceased on his left side stomach. Further, they had also deposed about the specific overtact against the accused Nos.2 to 4 and they assaulted P.Ws.5 to 7 herein and they sustained simple injuries. Therefore, they did not take any treatment. Even then, the trial Court did not believe the evidence of P.Ws.1 to 7 and acquitted the accused from all the charges, that too, on the ground of small contradictions and discrepancies are not fatal to the case of the prosecution when the eye witnesses P.Ws.1 to 7 categorically deposed about the occurrence and also had deposed about the



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specific overtact of all the accused persons. Further, the trial Court concluded that P.W.18 had suppressed the material facts such as the injuries sustained by the accused, which are the origin and genesis of the occurrence. In fact, for the injuries sustained by the accused, a case was registered as against some of the accused in Cr.No.107 of 2014. The investigating officer found that both parties were aggressors and filed a final report. The trial Court conducted simultaneous trial and acquitted the accused in both cases. However, the trial Court concluded that the investigating officer did not follow the Police Standing Order under Order 588-A while finding out the real aggressor. Therefore, he prayed for conviction of accused.

7. Per contra, the learned counsels appearing for the respondents 1 to 4 submit that no witnesses had supported the case of the prosecution. The time of the alleged occurrence and the place of alleged occurrence itself are contradictory. The fifth respondent registered a counter complaint for the very same occurrence



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changing the time of occurrence in both the FIRs by way of corrections. It can be seen in the naked eye, as such, that the prosecution failed to prove the charges. Insofar as the eye witnesses to the occurrence are concerned, the prosecution had examined P.Ws.1,2,3,5 to 7, who are the close relatives of the deceased and they are interested witnesses. In fact, they were not eye witnesses to the occurrence and it is seen from their own testimony. Each of them deposed contrary to other and as such, the prosecution failed to prove any charge. The medical evidence also did not support the case of the prosecution. The doctor, who gave the first aid to the deceased, had deposed as P.W.13. The doctor, who had given treatment to the deceased, had deposed as P.W.14. He categorically deposed that the deceased was treated by one Dr.Sanjay Pandiyan, who was not even cited as witness by the prosecution and he failed to depose before the trial Court. Further, the prosecution also failed to produce any single piece of evidence to show what kind of treatment was given to the deceased and what was the injury



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sustained by the deceased. The prosecution also failed to prove the recovery. The confession statement of P.W.12 is not voluntarily and it is inadmissible under Section 27 of the Indian Evidence Act. Therefore, the trial Court rightly acquitted the accused and the same does not warrant any interference of this Court.

8. Heard the counsels appearing on either side and perused the materials available on record.

9. The complaint was marked as Ex.P1. On perusal of the complaint and the counter FIR, it is revealed that the time of occurrence of the offence and the time of receipt of the complaint are different. The prosecution has failed to provide a satisfactory explanation for these discrepancies. This raises serious doubts about the authenticity of Ex.P1, which is fatal to the case of the prosecution. Further, the investigating officer deposed as P.W.18 and he suppressed the origin and the genesis of occurrence. The place of



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occurrence was not correctly established by cogent evidence by the prosecution and there are contradictory statements by prosecution witnesses and also the documents with regard to place of occurrence. The prosecution suppressed the injuries sustained by the accused. P.Ws.1 to 7 are all belonging to the same family. Though the alleged occurrence had taken place in the public place, the prosecution failed to bring any independent witnesses. The prosecution also failed to produce any medical documents and witness to prove that P.Ws.1 to 7 had sustained injuries. According to the prosecution, the place of occurrence belongs to the deceased, which is located on the northern side of the road towards Sethukarai in Melaputhukudi, whereas, the rough sketch, which was marked as Ex.P12 shows that the place of occurrence is between Sl.Nos.1 & 3. Serial No.1 is a vacant place that belongs to Seenisahul Hameed and the Serial No.3 is the house of the deceased. According to the case of the prosecution, the scene of crime is located between the house of the deceased and the vacant place that belongs to the deceased. The accused had marked the



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rough sketch as Ex.D1. Accordingly, the place of occurrence is a common pathway, which is situated between Sl.No.4 and 5. P.W.1 went to the scene of crime after hearing the noise from the pathway. Contrary to this statement, P.Ws.4 & 6 deposed that there is a common pathway at the eastern side of the house of the deceased. Therefore, there is no clear-cut evidence from the prosecution to prove the time and place of crime. Insofar as the eye witnesses are concerned, the prosecution projected P.Ws.1 and 2, 5 to 7 as eye witnesses to the occurrence. They had deposed contrarily and as such, the trial Court rightly disbelieved the evidence of eye witness. Further, the prosecution also failed to examine any independent material witnesses, who were present at the scene of occurrence. The witnesses, who are relatives to the deceased, become interested witnesses and those witnesses require scrutiny with more care and caution, so that neither the guilty escapes nor the innocent is wrongly convicted.



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10. In the case on hand, the prosecution witnesses are contradictory to each other and failed to support the case of the prosecution. Insofar as the medical evidence is concerned, the doctor, who treated the deceased, was not even cited as a witness by the prosecution and the prosecution failed to explain the nature of the treatment given to the deceased till his demise. Therefore, non production of the records relating to the treatment given to the deceased is fatal to the case of the prosecution as there is no proof to show that the injuries caused by the accused were the cause of the death of the deceased. Hence, the benefit of doubt goes in favour of the accused and the trial Court rightly acquitted the accused.

11. Further, the confession must be voluntarily and then only it is admissible as an evidence. The Village Administrative Officer, who deposed as P.W.12, stated that the confession statement was not voluntarily made and it was the police who held the hand of the witness and made signed. Further, P.W.2 did not know about the

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recovery of the knife, which was allegedly used by the accused to commit murder. The mahazar was prepared in the police station only after the seizure of the weapon from the river bank. Therefore, it raises a clear inference of planted recovery. The mahazar was concocted by the prosecution and as such, the evidentiary value of the same is vitiated and cannot be relied upon. More over the accused sustained injury as well and the prosecution had failed to explain the injury of the accused. The investigating officer failed to register the FIR and did not conduct any enquiry on the counter complaint, despite the evidence suggesting a mutual altercation between both the groups. Therefore, the suppression of real genesis of the occurrence is amounts to fatal to the case of the prosecution. Therefore, the Trial Court rightly acquitted the respondents 1 to 4 and this Court finds no infirmity or illegality in the order passed by the Trial Court and the same does not warrant any interference of this Court.



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12. Accordingly, this Criminal Appeal fails and is dismissed.

[G.K.I.J.] & [R.V.J.]
09.02.2026

NCC : Yes/No
Index : Yes/No
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To

1. The Additional District and Sessions Court,
Ramanathapuram.
2. The Inspector of Police,
Thirupulanai Police Station,
Ramanathapuram District,
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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