



Crl.A(MD)No.792 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2026

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

AND

THE HONOURABLE MS.JUSTICE R.POORNIMA

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Murugan @ Subbaiah

... Appellant / sole Accused

Vs.

State Represented by

The Inspector of Police,

Keelavalavu Police Station,

Melur Sub Division,

Madurai.

... Respondent / Complainant

PRAYER: Criminal Appeal filed under Section 374 of the Criminal

Procedure Code to call for the records and set aside the order of



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conviction and sentence passed in S.C.No.263 of 2015 dated 25.08.2022 on the file of the learned Sessions Judge, Mahalir Neethimandram, Madurai and allow this appeal.

For Appellant : Mr.K.Balasundharam
Senior Counsel
for Mr. AKS.Vishnu
For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

JUDGMENT

(Judgment of this 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 dated 25.08.2022 passed by the learned Sessions Judge, Mahalir Neehtimandram, Madurai, in S.C.No.263 of 2015 by convicting and sentencing the appellant for the offence punishable under Section 302 IPC and sentenced to undergo imprisonment for life and to pay a sum of



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Rs.1000/- in default, to undergo one year Simple imprisonment.

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

a) The appellant/accused is the husband of the deceased. The mother of the deceased lodged a complaint stating that the accused was in the habit of creating problems by suspecting the fidelity of the deceased. On 17.07.2010, the complainant received a phone call from one Alagarsamy informing her that her daughter had been admitted to the Government Hospital, Melur, and requesting her to come to the hospital immediately. The complainant and her son, namely Senthil Kumar, went to the hospital and found the deceased with burn injuries all over her body. First aid was given at the Government Hospital, Melur. Thereafter, for further treatment, the deceased was referred to the Government Rajaji Hospital, Madurai, where she succumbed to the injuries on 18.07.2010

(b) On the date of occurrence, the appellant locked his wife and their two children inside the house. Thereafter, the accused took a kerosene can, poured kerosene on the deceased and set her on fire.

(c) P.W.16, Thiru.Anbazhagan, Head Constable, Melur Police Station, upon receiving intimation from the Government Hospital,



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Melur, proceeded to the hospital, examined the deceased, received the complaint (Ex.P1) from P.W.1, the mother of the deceased, and registered a case in Crime No.195 of 2010 for the offence under Section 307 IPC. Thereafter, he forwarded a copy of the FIR to the Inspector of Police for investigation.

(d) P.W.18, the Inspector of Police, Melur, took up the investigation and visited the place of occurrence, prepared the Observation Mahazar (Ex.P5) and Rough Sketch (Ex.P6), and recovered the material objects viz., red colour saree, black colour inskirt and ragged blouse (M.O.3 to M.O.5). During the course of investigation, as the victim died on 18.07.2010, he altered the section of law from Section 307 IPC to Section 302 IPC under Ex.P15.

(e) On 18.07.2010, P.W.18 conducted an inquest on the dead body and prepared the Inquest Report (Ex.P16). He arrested the accused and recorded his confession statement under Ex.P17. Pursuant to the confession, the material objects, namely a kerosene can and a match box (M.O.1 and M.O.2), were recovered.

(f) P.W.11, Dr. Chandrasekar, provided first aid to the deceased



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and referred her to the Government Rajaji Hospital, Madurai, for further treatment. He also issued the Accident Register (Ex.P19).

(g) The dying declaration (Ex.P12) of the deceased was recorded by P.W.15, the learned Judicial Magistrate No.IV, Madurai.

(h) P.W.18, Mr. Ramakrishnan, Inspector of Police, took up further investigation, recorded the statements of witnesses, and after completing the investigation, filed a final report against the accused for the offence punishable under Section 302 IPC.

3. On receipt of the records, the learned Judicial Magistrate, Melur, took the case on file in P.R.C. No.29 of 2012 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.

4. Since the offence was exclusively triable by the Court of Sessions, the learned Judicial Magistrate committed the case to the learned Sessions Judge, Mahalir Neethimandram, Madurai, under Section 209 Cr.P.C. for further proceedings.



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5. The learned Sessions Judge, Mahalir Neethimandram, Madurai, on receipt of the case records, numbered the case as S.C. No. 263 of 2015 and took the case on file. Thereafter, the learned Sessions Judge framed charges against the accused under Section 302 IPC.

6. On the side of the prosecution, P.W.1 to P.W.18 were examined and Ex.P1 to Ex.P19 were marked. Material Objects M.O.1 to M.O.5 were produced. On the side of the accused, no witness was examined.

7. On conclusion of the trial, the learned Sessions Judge, Mahalir Neethimandram, Madurai, found the accused guilty of the offence under Section 302 IPC, convicted him and sentenced him to undergo imprisonment for life and to pay a fine of Rs.1,000/-, in default to undergo one year simple imprisonment. Challenging the said conviction and sentence, the present Criminal Appeal has been filed by the appellant.



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8. Mr.K.Baalasundharam, Senior Counsel appearing for the appellant assailing the judgment of conviction and sentence made the following submissions :-

(i) The judgment of the trial court is liable to be set aside on the ground that the deceased was not in a fit condition to speak at 4.00 p.m. on 17.07.2010. Contrary to the evidence on record, P.W.11 admitted that the dying declaration was recorded between 3.30 p.m. and 4.10 p.m. on 17.07.2010. Hence, there are contradictory versions regarding the condition of the deceased at the time of recording the dying declaration. Further, at the time of recording the dying declaration before the learned Magistrate, the neighbours and relatives were present with the deceased. Therefore, there was every possibility of the deceased being tutored to give a statement against the appellant. Moreover, the contents of the dying declaration have not been properly proved in this case.

(ii). The trial Court failed to note that P.W.2 admitted in cross-examination that after the deceased was set on fire, the accused took a bucket of water and poured it on her body and attempted to extinguish



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the flames. If the accused had intention to murder the deceased, he would not have made any attempt to save her. Further, the evidence of P.W.7 and P.W.8 clearly establishes that the accused was not present in the house at the time of the incident and that he came there later upon hearing about the fire, which, according to the defence, was caused by the deceased committing self-immolation.

9. The learned Additional Public Prosecutor appearing for the State contended that the victim was admitted in the Government Rajaji Hospital, Madurai, where her dying declaration was recorded by P.W.15, the learned Judicial Magistrate. In the said dying declaration, the deceased clearly stated that it was the accused poured kerosene on her and set her on fire. The Doctor certified that the deceased was in a fit state of mind at the time of recording the dying declaration. Apart from this, P.W.2 and P.W.3, who are the daughters of the accused/appellant, categorically deposed about the prior incidents and further stated that on the date of occurrence, the appellant quarrelled with their mother/deceased, took a kerosene can, poured kerosene on her and set her on



11. On perusal of the entire records, it reveals that the accused had a habit of creating problems by suspecting the fidelity of the deceased. P.W.1, the mother of the deceased, who lodged the complaint, clearly deposed that from the date of the marriage, the accused continuously assaulted her daughter and demanded money for consuming alcohol. After quarrels, the deceased used to go to her parental house, and after one or two days, the accused would come,



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pacify her and take her back home.

12. On the date of the incident, a neighbour of her daughter called and informed her that her daughter had been set on fire by her husband. She immediately went to the hospital and found that her daughter had sustained severe burn injuries. The deceased was admitted to the Government Rajaji Hospital, Madurai, where she informed her mother that the appellant had poured kerosene on her and set her on fire.

13. P.W.2, the daughter of the deceased, was present at the time of the incident. She deposed that on the date of occurrence, it was a holiday for her. Her father had consumed alcohol and assaulted her mother demanding money. When the deceased stated that she did not have any money, the appellant attacked her on the shoulder, poured kerosene on her and again demanded money. When the deceased reiterated that she had no money, the accused locked her and his sister in a separate room and set her mother on fire. P.W.2 cried out and requested the accused to open the door. Thereafter, the accused poured water on her mother and opened the door. Her younger sister then called



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a neighbour, who in turn called the 108 ambulance and her mother was taken to the hospital.

14. The evidence of P.W.2 is supported by the evidence of the second daughter, P.W.3, who was a minor at the time of the incident. She also clearly stated that the appellant had the habit of consuming alcohol, assaulting her mother and demanding money, and on the date of occurrence, he poured kerosene on her mother and set her on fire.

15. The evidence of the eyewitnesses is clear, cogent and without embellishment. Further, the victim was examined by the learned Judicial Magistrate on the same day of the occurrence. Before the learned Judicial Magistrate, the deceased clearly stated that the accused had poured kerosene on her and set her on fire. She also stated that the appellant locked the door from outside after pouring kerosene and setting her on fire, thereby preventing her from escaping. Her daughters also requested their father to save their mother.



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16. The evidence of the eyewitnesses, supported by the dying declaration recorded by the learned Judicial Magistrate, clearly proves that the accused alone committed the crime. Furthermore, the previous disputes between the accused and the deceased were also spoken to by P.W.5 and the mother of the deceased.

17. Though some of the neighbours cited as eyewitnesses to the occurrence did not support the prosecution case, the evidence of the daughters and the dying declaration of the deceased are sufficient to prove the guilt of the accused. Normally, neighbours do not come forward to support the prosecution case due to fear or because they have been won over by the accused.

18. P.W.12, Ramarani, the Inspector of Police, stated that the deceased had earlier filed a complaint against the accused and raised several allegations. After conducting an enquiry and pacifying both parties, she recorded the statements of both the victim and her husband.



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19. Thus, it is clear that both the accused and the deceased had previous disputes, which provided a clear motive for the commission of the crime. The same has been proved by the prosecution. Minor contradictions in the evidence are natural due to the lapse of time.

20. A dying declaration is a statement made by a person who believes that death is imminent, regarding the cause or circumstances of what they believe to be their impending death. It holds a special status in law and is treated as an exception to the hearsay rule. Under Section 32(1) of the Indian Evidence Act, a dying declaration is admissible in evidence, as it is presumed that a person on the verge of death is unlikely to lie.

21. The prosecution has established the guilt of the accused beyond all reasonable doubt. The trial Court, after taking into consideration the materials available on record, held that the accused is guilty of the offence under Section 302 IPC.



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22. The judgment of the trial Court is proper and there are no strong grounds available to interfere with the judgment rendered by the trial Court.

23. On careful perusal of the entire records, this Court finds that there is no material available to interfere with the judgment of the trial Court. The Criminal Appeal has no merit and is liable to be dismissed.

24. Accordingly, the Criminal Appeal stands dismissed and the judgment passed in S.C.No.263 of 20215 on the file of the learned Sessions Judge, Mahalir Neethimandram, Madurai dated 25.08.2022 is hereby confirmed.

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

10.02.2026

Index : Yes / No
Internet : Yes / No
NCC : Yes / No

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To

1.The Sessions Court, Mahalir Neethimandram,
Madurai.

2.The Inspector of Police,
Keelavalavu Police Station,
Melur Sub Division,Madurai.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

4.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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

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Judgment in

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