



Crl.A(MD)No.266 of 2023

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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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R.Solairaj

... Appellant/Defacto Complainant/
PW1/Brother of deceased

Vs.

1.S.Mathankumar

2.K.Velraja

3.K.Sakthivel

4.V.Periyasamy

5.Solaiyappan

6.Ravichandran

... Respondents/Accused Nos.1 to 6

7.State represented by

The Inspector of Police,

Aruppukottai Town Police Station,

Virudhunagar District.

(In Cr.No.984 of 2011). ... 1st 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 of acquittal passed in S.C.No.39/2012, dated 14.06.2022,

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on the file of the Additional District and Sessions Judge, Virudhunagar and set aside the same in respect of the respondents/accused Nos.1,2,4,5 and 6 and convict them with appropriate charges.

For Appellant	: Mr.R.Venkateswaran
For RR 1,2	
4 to 6	: Mr.R.Gandhi
	Senior Counsel
	for Mr.B.Muneeswaran
For R – 7	: Mr.T.Senthil Kumar
	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.39 of 2012, dated 14.06.2022 by the Additional District and Sessions Judge, Virudhunagar, thereby acquitting the respondents 1 to 6 from the offences punishable under Sections 147, 148, 341, 342, 149 r/w 302, 302 r/w 34, 307, 324 and 120-B r/w 302 of IPC.



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2. The case of the prosecution is that all the accused persons are close relatives. There was a previous enmity between the families of the accused and the deceased with regard to rearing of pig. One year prior to the occurrence, the fifth accused damaged the house of P.Ws.1 & 2 and as such, there was a litigation between them. Further, the deceased assaulted the fifth accused and as such, there was an enmity between them. While being so, on 17.06.2011 at about 10.00 a.m., near flagstaff of Amman Temple, the accused Nos.4 to 6 hatched up conspiracy to do away with the life of the deceased and on the same day, at about 05.30 p.m., all the accused came to the scene of occurrence and it was also witnessed by the P.Ws.4, 13 and 14. Thereafter, all the accused came there with their respective motorcycle and way-laid the deceased while he was walking there. The accused Nos.2 & 3 caught hold the hands of the deceased and the first accused stabbed him. The second accused attempted to cut his throat with knife and caused injuries on his neck. Other accused were watching the scene of crime and made



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surveillance. Based on the complaint, the seventh respondent registered an F.I.R in Crime No.984 of 2011 for the offences punishable under Sections 147, 148, 341 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.

4.In order to bring the charges to home, the prosecution examined P.W.1 to P.W.25 and marked Exs.P1 to P37. The prosecution had produced Materials Objects M.O.1 to M.O.11. On the side of the accused, no witnesses were examined and no documents were produced before the Trial Court.

5.On perusal of oral and documentary evidence, the Trial Court found all the accused not guilty of the offences punishable under Sections 147, 148, 341, 342, 149 r/w 302, 302 r/w 34, 307, 324 and 120-B r/w 302 of IPC and acquitted them. Aggrieved by the same, the defacto complainant as appellant has preferred the present appeal.



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6. The learned counsel for the appellant submits that the occurrence was eye witnessed by the P.Ws.3,5 to 12. P.W.15 heard about the occurrence and he categorically deposed before the trial Court. Immediately after the occurrence, P.W.1 lodged a complaint and the complaint was marked as Ex.P1. On 18.06.2011 the accused Nos.1 to 3 were arrested and remanded to judicial custody. In the presence of P.Ws.18 and 19, the accused had voluntarily given their confession statement. The confession statement also led to recovery of the weapons and vehicles. However, the trial Court unfortunately acquitted the accused on the ground that P.Ws.1 & 2 are brothers and they did not even attempt to prevent the accused from assaulting the deceased and they had witnessed the occurrence from a distance of 10 ft. Therefore, the trial Court did not believe the evidence of P.Ws. 1 and 2. Further, as per their evidence, the injuries sustained by the deceased were not corroborate by the doctor, who conducted an autopsy. The doctor was examined as P.W.22. In fact, even during questioning under Section 313 of Cr.P.C., the accused did not make



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any statement denying the crime. Therefore, though there are ample evidence to convict the accused, the trial Court failed to convict the accused and acquitted them of all the charges.

7. Per contra, the learned counsels appearing for the respondents 1,2, 4 to 6 submits that the injuries in this case have not been tallied with the overt-act. P.Ws.1 & 2, who are the brother and mother of the deceased, witnessed the occurrence within 10 feet. But, they have not taken any steps to take the injured to the hospital. Normally, a close relative of the injured would first try to save the life of the injured by taking him to hospital. In this case, no such attempt was made by P.Ws.1 and 2, which causes serious doubt about the evidence of P.Ws.1 & 2 that they witnessed the occurrence. Their presence in the place of occurrence is doubtful. Further, none of the independent witnesses corroborate the evidence of P.Ws.1 and 2. Therefore, the Trial Court rightly acquitted the accused and the same does not warrant any interference of this Court.



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8. The learned Additional Public Prosecutor appearing for the seventh respondent also supported the case of the appellant and sought for conviction of the respondents 1 to 6 herein for the reason that the Trial Court failed to properly appreciate the evidence of P.W. 1, P.W.2 and P.W.22.

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

10. On perusal of the records, it is revealed that the complaint was lodged by P.W.1 and the same was marked as Ex.P1. But, on perusal of the evidence of P.Ws.1 and 2, it is revealed that they are close relatives of the deceased, and they did not support the case of the prosecution and their evidence is completely against the case of the prosecution insofar as the overt-act of the accused is concerned. P.Ws.1 & 2 deposed that the accused Nos.4 & 6 stabbed

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the deceased. However, in the final report filed by the Inspector of Police, P.Ws.1 and 2 did not state the occurrence. Further, other eye witnesses deposed that the accused Nos.1 & 2 stabbed the deceased. Therefore, the charge itself was framed as against the accused based on the materials filed along with the charge-sheet. Accordingly, the accused Nos.1 & 2 stabbed the deceased and were charged for an offence under Section 302 of IPC and accused Nos.4 to 6 stabbed the deceased and were charged for the offences under Section 120(b) r/w 302 of IPC. Therefore, the evidence of P.Ws.1 and 2 did not support the case of the prosecution. During the pendency of trial, P.W.1 filed a petition under Section 216(1) of Cr.P.C., to alter the charge and it was dismissed by the trial Court and the same was confirmed by this Court in Crl.R.C(MD)No.36 of 2022. In fact, two of the accused are juvenile and the trial has been conducted by the Juvenile Justice Board in J.C.No.82 of 2013. The prosecution did not even examine P.Ws.1 and 2 and P.W.3 & 4 had turned hostile before the Juvenile Justice Board. Therefore, the prosecution



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miserably failed to prove the charges and the very genesis of the prosecution case is doubtful. Therefore, the Trial Court rightly acquitted the respondents 1 to 6 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.

11. 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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- 1.The Additional District and Sessions Judge,
Virudhunagar.
- 2.The Inspector of Police,
Aruppukottai Town Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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