



Crl. A(MD)No.1001 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 09.06.2026

CORAM:

THE HONOURABLE Mr. JUSTICE N.ANAND VENKATESH

AND

THE HONOURABLE Mr. JUSTICE P.B.BALAJI

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Duraipandi

.. Appellant/sole accused

Vs.

**The State rep. by
The Inspector of Police,
Eriodu Police Station,
Dindigul District
Crime No.6/2019**

..Respondent/Complainant

**Appeal filed under Section 374(2) of Criminal Procedure Code,
against the judgment and order dated 31.01.2023 in S.C.No.6 of 2019 on
the file of the Additional District and Sessions Judge, Dindigul.**

For Appellant : Mr.M.Jegadeeshpandian

**For Respondent : Mr.G.Karuppasamypandian
Counsel for State**



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JUDGMENT

(Judgment of the Court was delivered by N.ANAND VENKATESH, J)

The sole accused has assailed the judgment of the Additional District and Sessions Judge, Dindigul, made in SC No.6 of 2019 dated 31.01.2023 convicting him for offence under Section 302 IPC and sentencing to undergo life imprisonment and to pay fine of Rs.10,000/-, in default to undergo simple imprisonment for three months.

2. The case of the prosecution is that the deceased Selvam and the accused are relatives and there was a property dispute as a result of which there was previous enmity. The accused person used to threaten the deceased stating that he will kill him, whenever he is in an inebriated state. On 03.09.2018 around 11 p.m., when PW1 and her family members were sleeping in the house, they heard some noise and they found the accused person standing and when the deceased questioned the accused person, he took a bamboo stick (MO1) and hit on the leg of the deceased Selvam. The deceased stumbled and fell down and at that point of time, the accused person took out a hidden knife and stabbed Selvam in the left



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arm and chest. On seeing the villagers coming to the scene of crime, the accused ran away.

3. PW1, who is the wife of the deceased gave a statement (Ex.P1) to PW15 in the hospital, which was reduced into writing and based on the same, FIR (Ex.P8) was registered in Crime No.300/2018 for offence under Sections 324 and 307 IPC. The treatment that was given to the deceased in the Government Rajaji Hospital, Madurai, did not yield result and the deceased died on 04.09.2018 at 5.45 a.m.

4. The investigation was taken over by PW16 and he went to the scene of crime and prepared the observation mahazar Ex.P4 and rough sketch Ex.P9. He also seized MO1, MO4 and MO5 from the scene of crime under Athatchi Ex.P5. He also recorded the statement of witnesses under Section 161(3) Cr.P.C. He received the information from the Government Hospital that the deceased died at 5.45 a.m. and hence, prepared an alteration report (Ex.P10) by altering the offence under Section 302 IPC.



5. PW16 conducted the inquest at 12.30 noon at Government Rajaji Hospital in the presence of panchayatdars and prepared the inquest report (Ex.P11). The dead body was handed over to the Head Constable, who in turn handed over the body to the Doctor PW14, who after conducting postmortem gave the autopsy report (Ex.P6) by recording the following injuries:

“The following ante mortem injuries are noted on the body:

1. Midline surgical sutured measuring 23cm x 1cm x cavity deep seen extending from xiphisternum to 2cm above pubic symphysis. Drainage wound measuring 0.5cm x 0.5cm seen over both flanks.

On dissection: Peritoneal cavity contains 100ml of fluid blood. Sutured wound measuring 1.5cm x 1.5cm x 1.5cm seen over anterior surface of stomach.

2. A transverse surgical sutured wound measuring 16cm x 1cm x cavity deep seen extending from midline to the left side of chest 0.2cm below the level of left nipple. Inter costal drainage wound measuring 2cm x 1cm seen over outer aspect of left side of chest.”

On dissection: Pericardium was found torn. Sutured wound measuring 2cm x 1cm x 1cm seen over left diaphragm. Stab injury measuring 2cm x 0.5cm x cavity deep seen over; left ventricle. Left pleural cavity



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contains 100ml of fluid blood with clots. Right pleural cavity empty.

3. An oblique stab injury measuring 3cm x 1cm x cavity deep seen over lateral aspect of left chest 7cm below and outward:: to left nipple.

4. An oblique stab injury measuring 3cm x 2cm x cavity deep seen over left side of upper abdomen 5cm below injury no.3.

5. An oblique stab injury measuring 4cm x 2cm x.cavity deep seen over left side of middle of abdomen, 6cm below from injury no.4.

Note: The margins of the wound were regular, one end sharp and other end found blunt.

6. Two reddish brown abrasions each measuring 1cm x 1cm seen over front of right knee.

7. Reddish brown abrasion measuring 1cm x 1cm seen over inner aspect of right foot.”

6. In the final report, Ex.P7, it was opined that the deceased would appear to have died of stab injury to chest and abdomen and its complications thereof.



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WEB COPY 7. PW16 arrested the accused person on 05.09.2018 and based on his confession made, in the presence of witnesses, MO2 and MO3 were seized under Athatchi Ex.P3. The accused person was thereafter remanded to judicial custody.

8. PW16 also recovered MO6 and MO7 and sent these material objects to the Court under Form 91.

9. Since PW16 was transferred, PW17 took over the investigation and he recorded the statement of the remaining witnesses under Section 161(3) Cr.P.C. and collected the reports Ex.P13 to Ex.P15 and on completion of investigation, a final report came to be laid before the Additional District Munsif cum Judicial Magistrate, Veda sandur, which was taken on file in PRC No.12 of 2018.

10. The committal Court on serving the copies under Section 207 Cr.P.C., committed the case under Section 209 Cr.P.C. and it was made over to the file of the Additional District and Sessions Judge, Dindigul.



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The same was taken on file in SC No.6/2019.

11. The trial Court framed a charge under Section 302 IPC and when questioned, the accused person denied the charge.

12. The prosecution examined PW1 to PW17 and marked Ex.P1 to Ex.P25 and relied upon MO1 to MO7.

13. The incriminating materials and evidence were put to the accused person when he was questioned under Section 313(i)(b) of Cr.P.C., and he denied the same as false.

14. The accused person did not examine any witness nor rely upon any documents.

15. The trial Court on considering the facts and circumstances of the case and on appreciation of evidence came to the conclusion that the prosecution has proved the case beyond reasonable doubts and



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accordingly convicted and sentenced the accused person in the manner stated supra.

16. The trial Court also made it clear that the sentence will run concurrently with the previous sentence passed against the accused person in SC No.118/2017 dated 07.12.2021.

17. Aggrieved by the same, the present criminal appeal has been filed before this Court.

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

18. The learned counsel for the appellant submitted that the prosecution examined PW1 (wife of the deceased), PW2 (daughter of the deceased) and PW3 (mother of the deceased) as eyewitnesses. PW4 to PW9, who were also examined as eyewitnesses, turned hostile. The learned counsel submitted that PW2 and PW3 could not have seen the



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occurrence and the same is evident from the evidence of PW1, who does not even whisper about the presence of PW2 and PW3 at the time of incident. Even PW2 in her evidence does not speak about the presence of PW3. The learned counsel submitted that the eyewitness account of PW1 cannot be relied upon in entirety since one Prabhakaran, who is said to have helped PW1 to send the body to the hospital through ambulance was not even examined on the side of the prosecution. That apart, the deceased was first sent to Dindigul Government Hospital and from there, he was shifted to Government Rajaji Hospital Madurai, where he died and not a single material has been placed with respect to sending the deceased through ambulance to two hospitals and thereafter the deceased being brought back home. It is therefore contended that the genesis of the case of the prosecution is attempted to be burked.

19. The learned counsel submitted that even the investigating officer PW16 was not able to give any convincing reason as to why the accident register from the Government Hospital was not placed before the Court. Even PW17 was not able to explain about the same. The



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learned counsel submitted that there was deliberation in fixing the accused person and the same is evident from the answer given by the investigating officer (PW17), who states that the 161 statement recorded reached the Court only at the time of filing the police report. Hence, it is contended that the benefit of doubt must go in favour of the accused person.

20. Per contra, the learned counsel appearing for the respondent submitted that there were three eyewitnesses in this case and even assuming without admitting that PW2 and PW3 could not have been present in the scene of crime, the evidence of PW1 is cogent and natural and the same has not been discredited during cross-examination. The learned counsel submitted that just because there are lapses on the side of the investigating officer in not collecting the accident register from the Government hospitals, that cannot be a ground to disbelieve the evidence of PW1. It is further submitted that the trial Court has properly appreciated the evidence and came to a conclusion that the prosecution has proved the charge and no ground has been made out by the appellant



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to interfere with the judgment of the trial Court. Accordingly, the learned counsel sought for the dismissal of this appeal.

21. This Court has carefully considered the submissions on either side and the materials available on record.

22. The motive behind the crime is the property dispute between the deceased and the accused person. The same has been spoken to by PW1 to PW3. On 03.09.2018, the accused person had barged into the house at about 11 p.m., and attacked the deceased on the leg with MO1 and when the deceased stumbled and fell down, he was attacked with knife. This incident has been spoken to by PW1, who is none other than the wife of the deceased. Her evidence has not been discredited in the cross-examination and in fact, even during the cross-examination, the place where the incident took place, namely, in front of the house of PW1 has been properly explained by PW1. It is submitted that PW1 does not speak about the presence of PW2 and PW3 in the scene of crime at the time of incident. This factor by itself will not discredit the evidence of



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PW1 and at the best, it may create doubt on the presence of PW2 and PW3 at the time of the incident. The evidence of PW2 and PW3 is quite categoric regarding their presence immediately after the incident.

23. PW1 states that one Prabakaran had helped in getting the ambulance in which the deceased was shifted to the hospital. Just because the prosecution has not examined Prabhakaran as a witness, that will not in any case discredit the evidence of PW1.

24. The next ground raised is with respect to not marking any document from the hospital to which the deceased was taken. This was clearly a lapse on the part of the investigating officer and such lapses will not automatically result in dislodging the evidence of PW1. This witness is an eyewitness to the incident and PW1 has cogently explained the incident and her evidence is very natural and convincing.

25. The ocular evidence of PW1 has been corroborated by the medical evidence of PW14 and the autopsy report marked as Ex.P6. The



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injuries noted down in the postmortem certificate is perfectly in line with the evidence of PW1.

26. The learned counsel for the appellant submitted that the incident had taken place at 11 p.m., but, however, the FIR came to be registered only on 04.09.2018 at 5.30 a.m., even though the police station was hardly 3 kms from the place of occurrence. It was sent to Court on 04.09.2018 only at 4.20 p.m., and this delay has not been explained.

27. In the considered view of this Court, the delay in registering the FIR or the FIR reaching the Court with delay by itself will not vitiate the investigation, if there are other materials and particularly the eyewitness account, which is wholly reliable.

28. In the case in hand, even though PW17 makes a very general statement during evidence that the 161 statement recorded reached the Court only at the time of filing final report, while going through the original records, it is seen that the statement of PW1 to PW3 were



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WEB COPY recorded on 04.09.2018 and it has reached the Court on 05.09.2018.

Therefore, there is no question of deliberation to fix the accused person and the time taken for registering the FIR, the same reaching the Court and the time taken for the 161 statements reaching the Court are very reasonable and there is no exorbitant delay.

29. It is now too well settled that it is the quality of witness which really matters and not the number of witnesses examined on the side of the prosecution. The quality of the evidence of PW1 is sterling and it is cogent and natural and it has not been discredited in any manner. Therefore, this Court can entirely rely upon the evidence of PW1 to sustain the conviction and sentence against the accused person.

30. This Court also finds that the evidence of PW1 is corroborated by the medical evidence and also biological and serological reports which confirm the fact that all the bloodstained material objects matched with the blood group of the deceased.



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WEB COPY 31. In the light of the above discussions, this Court does not find any ground to interfere with the judgment passed by the trial Court and the same is hereby sustained. The trial Court already made it clear that the sentence imposed against the accused person will run concurrently with the previous sentence imposed in SC No.118 of 2017 dated 07.12.2021 and the same is reaffirmed.

32. In the result, the criminal appeal is dismissed.

[N.A.V, J.] & [P.B.B., J.]
09.06.2026

NCC : Yes/No

Index : Yes/No

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To

1.The Additional District and Sessions Judge,
Dindigul.

2.The Inspector of Police,
Eriodu Police Station,
Dindigul District.

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

4.The Section officer (English Records)
Madurai Bench of Madras High Court, Madurai.

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**N.ANAND VENKATESH, J
AND
P.B.BALAJI, J.**

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Judgment made in
Crl. A. (MD)No.1001 of 2023

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