

Crl.A(MD)No.377 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 26.02.2025

Pronounced on : 24.03.2025

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

AND

THE HONOURABLE MS.JUSTICE R.POORNIMA

Crl.A(MD)No.377 of 2021

Marudhu Pandi

... Appellant/Sole Accused

Vs.

The State rep. by

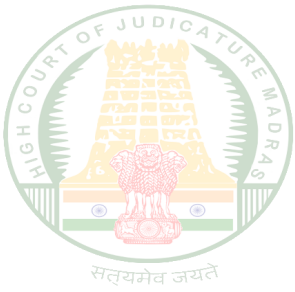
The Inspector of Police,

Parthipanur Police Station,

Ramanathapuram District.

...Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374 of the Criminal Procedure Code to call for the entire records connected to the Judgment in S.C.No.29 of 2016 on the file of the Sessions Judge, Fast Track Mahila Court, Ramanathapuram, dated 30.03.2021 and set aside the conviction and sentence imposed against the appellant.



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Crl.A(MD)No.377 of 2021

For Appellant : Mr. G.Karuppasamy Pandian

For Respondent : Mr.A.Thiruvadi Kumar,

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 30.03.2021 passed by the Sessions Judge, Fast Track Mahila Court, Ramanathapuram, in S.C.No.29 of 2016 by convicting and sentencing the appellant for the offence punishable under Section 302 IPC and sentenced him to undergo rigorous imprisonment for life and to pay a sum of Rs.3,000/- in default, to undergo two years simple imprisonment.

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

(a) The complainant has two sons and a daughter. His wife's name is Lakshmi, aged about 55 years. His eldest son Kannusamy and daughter Sivagami got married. His daughter Sivagami separated from her husband and resides with the complainant along with his



Crl.A(MD)No.377 of 2021

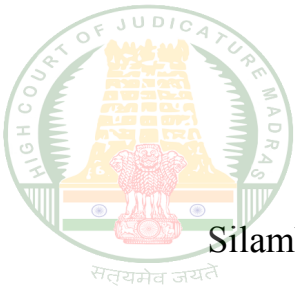
granddaughter Shanthini.

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(b) Opposite to his house one Vijayaraman constructed a house and was residing there. The family of Vijayaraman and the family of the brother of his wife had enmity for a long time. Both Vijayaraman and his son Marudhu Pandi, viz., the accused had previous enmity with the complainant and his family. They had often engaged in verbal quarrels with them.

(c) On 27.04.2014, he and his two sons went to his field, and his wife Lakshmi and granddaughter Shanthini were staying in his house. He was returning from the field, to his house and when he neared the house at 3.30 p.m., he saw his wife was doing some work near the Eastern compound wall.

(d) At that time the accused came from the Northern side took the knife that was hidden at his hip and indiscriminately stabbed his wife on her back side of the neck. His granddaughter raised an alarm, and the complainant also raised a hue and cry and rushed to the spot. The occurrence was witnessed by Boolan, his wife Alagimeenal, and



Crl.A(MD)No.377 of 2021

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Silambayee. They were also raised hue and cry. He tried to catch the accused, but he fled away from the place of occurrence and absconded.

Immediately after he returned and found his wife with injury on the back side of the neck and succumbed to her injuries. Hence, the complaint.

(e) The complaint was received on 27.04.2014 at about 16.00 hours by the P.W.19 Ganesan, Sub Inspector of Police, Parthipanur Police Station and he had registered FIR in Crime No.61/2014 for the offence under Section 302 IPC. He had sent the original FIR to the Judicial Magistrate Court and a copy to the Inspector of Police for investigation.

(f) P.W.20 Thiru.Ganapathy, Inspector of Police, after receipt of the copy of the FIR, took the case for investigation and went to the place of occurrence at about 4.30 p.m., and prepared observation mahazar - Ex.P15, rough sketch – Ex.P16 in the presence of witnesses Karuppaiah, Ramachandran and examined both the witnesses and recorded their statements.

(g) Thereafter, he conducted inquest on the dead body of the



Crl.A(MD)No.377 of 2021

deceased Lakshmi in the presence of panchayadhars Kamalahasan, Muniyandi, Ramasamy, Karuppaiah, Veerachamy between 4.30 p.m., and 6.30 p.m., and prepared inquest report Ex.P17.

(h) He had sent the dead body of the deceased Lakshmi for postmortem through P.W.15 Tmt. Thenmozhi, Women Constable Grade-I. He recovered the blood-stained earth – M.O.2, Ordinary earth – M.O.3 under a recovery mahazar – Ex.P18 in the presence of the witnesses Karuppaiah and Ramachandran.

(i) On 28.04.2014, he recovered the dresses worn by the deceased Lakshmi namely, violet colour blouse – M.O.4, yellow, white, light green striped rose colour saree – M.O.5, sky blue colour in skirt – M.O.6 in the presence of witnesses Jeyaraj and Archunan under a recovery mahazar – Ex.P19.

(j) After receiving secret information, on the same day at about 2.30 p.m., he arrested the accused near Parthipanur Sivan Temple in the presence of witnesses Anandakumar, Pandi and recorded his confession statement Ex.P.20. He recovered knife – M.O.1 under



Crl.A(MD)No.377 of 2021

recovery mahazar – Ex.P21. Thereafter, he examined the witnesses. He

sent the accused for remand. He also sent the material objects to the

Judicial Magistrate Court under form-95 Ex.P22.

(k) He sent a requisition to the Judicial Magistrate with a request to send a viscera for chemical analysis. He examined the Forensic Officer Thiru. Vairamuthu – P.W.13, Tmt.Minitha – P.W.12, Vijeyendran, Dr Kasirajan, who had conducted the postmortem and recorded their statements.

(l) P.W.18 Dr Kasirajan in his postmortem report found the following injuries :

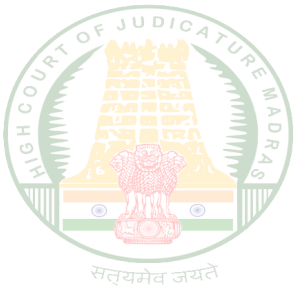
“The following antemortem injuries were noted over the body:

A moderately built body of a female lying on its back

wounds:

1. Incised wound right occipital frontal region Three cm from right auricle (ear lobe) wound size 12x2x3cm (incision of skin, subcutaneous tissue, muscles) with blood clots.

2. Incised wound occipital region to right auricle (ear lobe) 0.5 cm below the 1st wound, wound size



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Crl.A(MD)No.377 of 2021

16x3x5cm (incision of skin, subcutaneous tissue, muscles) with blood clots

3. Incised wound back of neck 0.5 cm below the 2nd wound. Extension from 5cm angle of mandible right to back of neck, size 15x4x3cm, injury skin subcutaneous tissue, muscles carotidal vessels, nerves, with clotted blood.

4. Incised wound present 0.5cm below from 3rd wound, size 7cm x 0.2x0.1 cm size with clotted blood.

5. Incised wound right back of scapular region 5cm from below spine of scapula 4x0.5x 4 cm size with clotted blood.

6. Incised wound flexor aspect of left forearm 3cm from wrist 5x2x1cm size. with Clotted blood.

Internal Exam:

Neck: Transverse cut (incision) injury 2nd cervical vertebrae 3x0.5x0.5cm size exposed to spinal cord injury with clotted blood.

Brain pale, heart and lung pale, Heart chambers empty, stomach partially digested food particles, other abdominal organ pale. uterus pale.

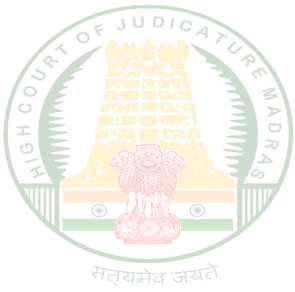
Viscera send for chemical analysis

In his final opinion Ex.P.13, he has stated as follows :

“Final Opinion :

chemical analysis report no poison.

Cause of death : multiple incised wound in the neck,



Crl.A(MD)No.377 of 2021

cut the blood vessels cause, Haemorrhage shock.”

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(m) He also examined the Police Officials and other officers and recorded their statements.

(n) After completion of the investigation, on 24.06.2014 he filed a final report against the accused for the offence under Sections 302 IPC.

3. On receipt of the records, the Judicial Magistrate, Paramakudi, took up the case in P.R.C.No.1 of 2016 and issued a 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 Sessions Court, the learned Judicial Magistrate committed the case records to the Principal District and Sessions Judge, Ramanathapuram, under Section 209(A) Cr.P.C. for further action.

5. The Principal District Judge, Ramanathapuram, received



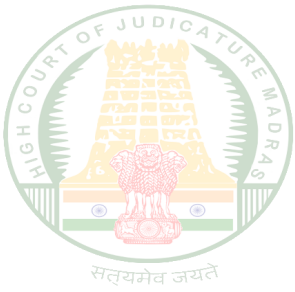
Crl.A(MD)No.377 of 2021

the case records, numbered it as S.C.No.29 of 2016 and made it over to the Sessions Judge, Fast Track Mahila Court, Ramanathapuram, for disposal according to law.

6. After receipt of the case records, the learned Sessions Judge, Fast Track Mahila Court, Ramanathapuram, framed charges against the accused under Sections 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.

7. On the side of the prosecution, P.W.1 to P.W.20 were examined and Ex.P1 to Ex.P21 were marked. Material Objects M.O.1 to M.O.6 were produced. On the side of the accused, no witness was examined and no document was marked.

8. After a full trial, the trial Court found the accused guilty of offence under Section 302 IPC and convicted the accused for the offence punishable under Section 302 IPC, and sentenced him to undergo imprisonment for life and to pay a sum of Rs.3,000/- in default, to undergo two years simple imprisonment, against which, the present Criminal Appeal has been filed on the following among other grounds:-



Crl.A(MD)No.377 of 2021

a) Further, the inquest report shows that P.W.1 who is the husband

of the deceased has been shown as after occurrence witness. So the presence of P.W1 as an eyewitness goes contra to the very prosecution case by itself.

b) That the trial court failed to consider the Evidence of P.W-18 (Doctor) who conducted the autopsy candidly stated that the occurrence (death of the deceased) could have taken place 38 hours before the postmortem. According to the prosecution case, the occurrence took place at 3.30 p.m., on 27.04.2014 and the autopsy was commenced at 10.40 a.m., on 28.04.2014. Therefore, the evidence of the Doctor regarding the time of death completely ruled out the substratum of the prosecution case. According to the evidence of the Doctor, the time of occurrence might have been much earlier than the claim of the prosecution.

c) That the trial court failed to consider the inherent case of the prosecution which claims that there was long drawn pathway dispute between the accused and the dispute. According to the evidence of P.W.2, there was a wordy quarrel between the accused and the deceased just before the occurrence. Hence, there is every possibility or likelihood of sudden provocation preceded by a sudden quarrel. So the occurrence



Crl.A(MD)No.377 of 2021

could have happened due to a sudden quarrel and sudden provocation.

Therefore, it is not a case of murder *per se* but it is a case of culpable homicide not amounting to murder.

9. The learned Additional Public Prosecutor appearing for the State argued that the prosecution case rests on eyewitnesses. PW1 husband of the complainant/deceased, PW2 granddaughter of the deceased, other independent witnesses P.W.3, P.W.4 and P.W.16 categorically deposed that the accused alone committed the offence. The defence counsel during cross-examination could not able to shake their credibility.

10. The child witness is important. She categorically stated that her grandmother was attacked by the accused and that he was the only person involved in the crime.

11. The previous enmity between the accused and the deceased family was spoken by P.W.5, P.W.6, and P.W.10.

12. The arrest, confession and recovery were spoken by P.W.11. The statement of eyewitnesses, corroborated with medical



Crl.A(MD)No.377 of 2021

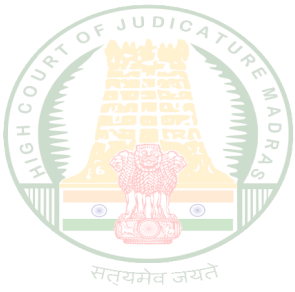
evidence. Therefore, there is no ground available to allow the Criminal Appeal and prayed to dismiss the Criminal Appeal and confirm the order of the trial Court.

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

14. Now this court has to decide whether the judgement rendered by the trial Court is proper or liable to be set aside.

15. The learned counsel for the appellant argued that, according to P.W.2, except the deceased and P.W.2, nobody was present at the scene of occurrence, P.W.1 came to the spot after only a later point to the occurrence place. The presence of P.W.1, P.W.3 and P.W.4 are highly doubtful. The learned counsel further argued that the evidence of the child witness requires high scrutiny and her evidence requires to be corroborated with other evidence of common prudence.

16. According to Section 118 of the Indian Evidence Act, a child witness is a competent witnesses, if the Court believes that the child understands the nature of the oath. The Court may question the child to assess their intelligence and capacity to understand.



Crl.A(MD)No.377 of 2021

17. In ***Dattu Ramrao Sakhare Vs. State of Maharashtra***,

reported in **1997 (5) SCC 341**, in which the relevant observation reads as under:

“5. [...] A child witness if found competent to depose to the facts and reliable one such evidence could be the basis of conviction. In other words even in the absence of oath the evidence of a child witness can be considered under Section 118 of the Evidence Act provided that such witness is able to understand the questions and able to give rational answers thereof. The evidence of a child witness and credibility thereof would depend upon the circumstances of each case. The only precaution which the court should bear in mind while assessing the evidence of a child witness is that the witness must be a reliable one and his/her demeanour must be like any other competent witness and there is no likelihood of being tutored. There is no rule or practice that in every case the evidence of such a witness be corroborated before a conviction can be allowed to stand but, however as a rule of prudence the court always finds it desirable to have the corroboration to such evidence from other dependable evidence on record.” (Emphasis supplied)

18. This Court carefully scrutinized the evidence of P.W.2 who is a child witness, during the chief examination, the trial Court posed several questions to her, which she understood and answered properly. She categorically stated that on the date of occurrence, she and the deceased separating the cotton from the seeds, the accused arrived and attacked the deceased repeatedly. At that moment, P.W.1 came and shouted at the accused. The accused then fled away from the scene of occurrence with the weapon. Her grandfather chased him, but could not catch him, so he returned to home.

19. During cross-examination, she stated that upon witnessing the occurrence she raised an alarm and all other witnesses



Crl.A(MD)No.377 of 2021

came. She did not state that no one else apart from her witnessed the occurrence.

20. Therefore, the argument advanced by the learned counsel for the appellant that the evidence of P.W.2 is highly doubtful and unbelievable is not correct. We further viewed that by posing such a question, the defence implicitly admitted the presence of P.W.2 at the scene of the crime when the accused committed the crime.

21. P.W.1 deposed about the enmity between the accused and his family and a civil suit was pending in Paramakudi and Ramanathapuram Court. A decree was obtained in their favour. He returned from his field at 3.30 hours, his wife, deceased Lakshmi and granddaughter bent over, doing some work, at that time, the accused came and stabbed his wife. He tried to catch him, but he escaped. His statement was corroborated by P.W.3, P.W.4 and P.W.10. The above witnesses spoke about the previous enmity between the accused and his family.

22. We observed that soon after the occurrence, Ex.P1 complaint was lodged by P.W.1 before the Parthibanoor Police Station,



Crl.A(MD)No.377 of 2021

and the same was received by Thiru. Ganesan, Sub-Inspector of Police at

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about 16.00 hours. The complaint was lodged without any delay. If PW1 was not present at the scene of occurrence, he can't complain within 30 minutes from the time of occurrence, there is no delay in lodging the complaint. The FIR was registered at about 16.00 hours immediately after receipt of the complaint. The same was forwarded to the learned Judicial Magistrate on the same day at about 10.30 PM.

23. The counsel for the appellant argued that there was a delay in sending the FIR to the Magistrate Court. The delay in sending the complaint to the Magistrate Court is in no way prejudice to the accused. Therefore, the argument advanced by the learned counsel for the appellant is not sustainable.

24. The learned counsel for the appellant argued that the doctor mentioned in the post-mortem report that the time of death could be 38 hours before postmortem, the time of death completely ruled out the prosecution story

25. On verification of records, we found that PW 18, in his evidence categorically stated that the death could have occurred 16 to 24



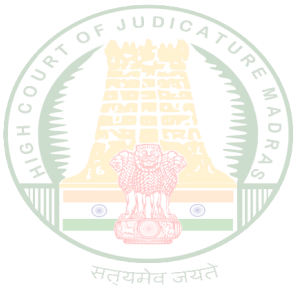
Crl.A(MD)No.377 of 2021

hours. In exhibit P 13, post mortum report no such endorsement was found and the argument advanced proved incorrect.

26. P.W.11 Thiru. Anandakumar, Village Administrative Officer, was deposed about the arrest, confession, and recovery of material objects from the accused on the day of the occurrence.

27. The ocular evidence supported by the medical evidence. P.W.18, Dr.Kasirajan, clearly stated about the injuries sustained by the deceased on her neck and in the final opinion, he noted the cause of death as “multiple incised wound in the neck, cut the blood vessels cause, Haemorrhage shock.”

28. The learned counsel for the appellant finally argued that if the Court concluded that the accused is responsible for the guilt, the conviction should be altered into Section 304(ii) IPC, as the evidence of P.W.2, clearly proved that there was a wordy quarrel between the accused and the deceased soon before the occurrence and there is every possibility or likely to cause provocation, proceeded by sudden quarrel, and it is not a case of murder, it would be a case of culpable homicide not amounting to murder.



Crl.A(MD)No.377 of 2021

29. It is true that during cross-examination, P.W.2 admitted

that the accused and the deceased had a wordy quarrel due to a land dispute and both abused each other.

30. Grave and sudden provocation is an exception to the crime of murder under section 300 of IPC that can reduce the charge to homicide if the accused is deprived of self-control by provocation and caused murder.

31. Now we have see whether wordy quarrel between two persons would come under the purview of sudden provocation.

32. Grave and sudden provocation means in a situation, an individual due to extreme emotional distress caused by provocative actions or circumstances, loses self-control and commits a wrongful act, potentially leading to death.

33. To prove the offence as culpable homicide not amounting to murder, there must be evidence showing that the accused was provoked by the act of the deceased lost his self-control and caused death. However, according to P.W.2, both the deceased and accused had



Crl.A(MD)No.377 of 2021

a wordy quarrel. It is not proved that the deceased provoked the accused to commit murder.

34. Furthermore, all the witnesses stated that the accused arrived at the scene of occurrence with a knife which he had concealed at his hip and inflicted injuries on the deceased, ultimately causing the death. This proven that the accused came prepared with a dangerous weapon with an intention to kill her. He targeted the neck and caused injuries which is a vital part of the body but he did not stopped with single stab attacked indiscriminately. This demonstrate that he was aware that inflicting injuries in such vital parts, endanger the victims life. Moreover it is proven that the injury inflicted by him was sufficient to cause the death in ordinary course of nature.

35. Therefore, the act of the accused amounts to murder under Section 300 IPC and does not fall under the exception or Section 304 IPC culpable homicide not amounting to murder.

36. The prosecution 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 was



Crl.A(MD)No.377 of 2021

guilty of the offence under Section 302 IPC. The Judgement of the trial

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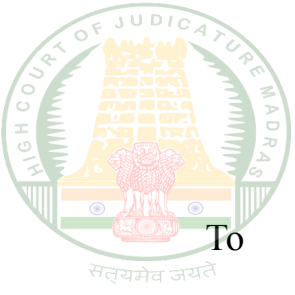
37. On careful perusal of entire records, we conclude that there is no material available to interfere with the judgment of the trial Court. The Criminal Appeal has no merit, and hence, the Criminal Appeal is liable to be dismissed.

31. Accordingly, the Criminal Appeal stands dismissed and the judgment passed in S.C.No.29 of 2016 on the file of the Sessions Judge, Fast Track Mahila Court, Ramanathapuram, dated 30.03.2021 is hereby confirmed.

(G.J., J.) & (R.P., J.)
24.03.2025

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

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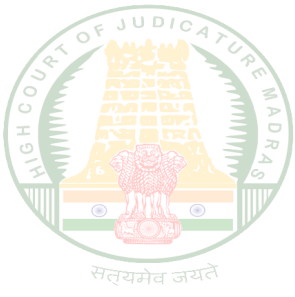


Crl.A(MD)No.377 of 2021

To

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- 1.The Sessions Judge,
Fast Track Mahila Court,
Ramanathapuram District.
- 2.The Inspector of Police,
Parthipanur Police Station,
Ramanathapuram District.
- 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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Crl.A(MD)No.377 of 2021

G.JAYACHANDRAN J.
AND
R.POORNIMA, J.

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Judgment in
Crl.A(MD)No.377 of 2021

24.03.2025