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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11-11-2026

PRONOUNCED ON: 17-11-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL A No. 360 of 2022

CNR: {HCMA010441202022}

Kannan
S/o. Chinnappa,
Kangeyapettai, Udayarapalayam Tk,
Ariyalur District.

..Appellant(s)

Vs

State Rep By
The Inspector of Police,
Vickirimangalam PS,
Ariyalur.
Cr.No. 103/2019.

..Respondent(s)

Criminal Appeal filed under Section 374(2) of Code of Criminal Procedure, against the conviction of the appellant/sole accused and sentence imposed on him in S.C.116 of 2019 dated 16.02.2022 on the file of the learned Principal District and Sessions Judge, Ariyalur and set aside the conviction and sentence and allow this appeal.

For Appellant(s): Mr.P.Tamilavel

For Respondent(s): Ms.Sharada Vivek,
Additional Public Prosecutor

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JUDGMENT

This Criminal Appeal has been filed by the sole accused, challenging the conviction and sentence imposed upon him for the offences under Section 304 II of the IPC, vide judgment dated 16.02.2022 in S.C.No.116 of 2019, on the file of the learned Principal District and Sessions Judge, Ariyalur.

2 (i) It is a case of the prosecution that appellant was related to one Manoharan [PW4], who was the friend of the deceased-Senthil @ Soundararajan; that the deceased had supported PW4 in a property dispute between him and the appellant; that on 13.6.2019, when the appellant went to the house PW4 to discuss the property dispute and had a wordy altercation with him, the deceased, who had come to the house of PW4, intervened and enraged by the said intervention, the appellant had pushed the deceased with his hands; that thereafter, he picked up a knife, which was found in the roof of the house and stabbed the deceased on his right shoulder, left chest and left arm, indiscriminately; and thus, caused his death.

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(ii) On the complaint [Ex.P1] given by PW1, the wife of the deceased, an FIR [Ex.P9] in Cr.No.103 of 2019 was registered, for the offence under Section 302 of the IPC by the Sub-Inspector of Police [PW15]. Thereafter, the Inspector of Police [PW16] took up the investigation, went to the scene of occurrence, prepared the observation mahazar [Ex.P11] and rough sketch [Ex.P12]. He also conducted inquest on the dead body of the deceased and prepared the inquest report [Ex.P10]. He thereafter, sent the body for postmortem and after obtaining the postmortem report [Ex.P8] and examining all the other witnesses, filed the final report against the accused for the offence under Section 302 of the IPC, before the learned Judicial Magistrate No.1, Jayamkondam, which was taken on file as PRC No.16 of 2019.

(iii) On the appearance of the accused, the provisions of Section 207 Cr.P.C. were complied with, and the case was committed to the Court of Sessions i.e., Principal Sessions Court, Ariyalur. The case was made over to the learned Principal District and Sessions Judge, Ariyalur, for trial and was taken on file as S.C.No.116 of 2019. The trial Court framed the charge under Section 302 of the IPC against the accused and when questioned, the accused pleaded 'not guilty'.

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(iv) To prove its case, the prosecution had examined 16 witnesses as P.W.1 to P.W.16 and marked 15 exhibits as Exs.P1 to Ex.P15, besides 3 material objects as M.O.1 to M.O.3. When the accused was questioned, u/s.313 Cr.P.C., on the incriminating circumstances appearing against him, he denied the same. Though the accused examined his wife as DW1, he did not mark any document, on his side.

(v) On appreciation of oral and documentary evidence, the trial Court found that the prosecution had not established the offence under Section 302 IPC; that the act took place due to a sudden quarrel; that the accused had caused injuries on the deceased with the knowledge that it is likely to cause death; and therefore, guilty of offence under Section 304 II of the IPC and sentenced him to undergo rigorous imprisonment for ten years and to pay a fine of Rs.4,000/- in default to undergo simple imprisonment for six months. Hence, the accused has preferred the instant appeal challenging the said conviction and sentence.

3. The learned counsel for the appellant would submit that most of the witnesses had turned hostile; that the earliest complaint was

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suppressed by the prosecution; that the occurrence did not take place in the manner alleged by the prosecution; that PW1 could not have witnessed the occurrence; that there was a delay in the lodging of the complaint and the FIR reaching the Magistrate; that DW1, the wife of the appellant, had clearly stated about the manner of the occurrence, which is corroborated by the medical evidence; that the prosecution had not explained the injuries sustained by the appellant; and that therefore, the impugned judgment is liable to be set aside.

4. The learned Additional Public Prosecutor, *per contra*, submitted that the evidence of PW1, the wife of the deceased, has clearly established the prosecution case; that even according to the appellant, there was a fight between the appellant and the deceased; that the evidence of DW1 would be of no avail as it is natural for her to support the appellant; that the trial Court had correctly convicted the appellant; and hence, prayed for dismissal of the appeal.

5. As stated above, the prosecution had examined 16 witnesses. PW1 is the wife of the deceased and the de facto complainant. PW2 and PW3, who, according to the prosecution, witnessed the occurrence and accompanied the deceased to the hospital, turned hostile. PW4, also

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turned hostile. PW5 is the mother of the deceased and is a hearsay witness. PW6 is the daughter of the deceased and would state that PW1 went in search of the deceased when he had not returned home within ten minutes, as promised by him and thereafter, she also went to the place of occurrence and heard the appellant proclaiming that he killed her father. PW7 is a relative of PW1 and is said to have written the complaint. PW8 and PW9 are the witnesses to the observation mahazar [Ex.P12], who turned hostile. PW10 and PW11, who are said to have witnessed the arrest and confession of the appellant, turned hostile. PW12 is the doctor who conducted post-mortem and issued post-mortem report [Ex.P8]. PW13 is the Constable who had taken the FIR to the learned Magistrate. PW14, a Constable, who assisted the investigating officer in his investigation. PW15 is the Sub-Inspector of Police, who had registered the FIR. PW16 is the investigating officer, who filed the final report. The appellant had examined his wife as DW1.

6. The alleged occurrence is stated to have taken place around 9 p.m. on 13.6.2019. The FIR was registered at 3.30 a.m., on 14.06.2019. There is absolutely no reason for the delay in the complaint. The FIR reached the learned Magistrate only at 9.45 a.m., on 14.06.2019. The Constable [PW13], who had taken the FIR to the Magistrate, would state

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that the Sub-Inspector [PW15] had handed over the FIR to him only at 8:45 a.m., on 14.06.2019. PW15, the Sub-Inspector who registered the FIR, had not explained the reason for the delay. It is in the light of the aforesaid evidence that the evidence of PW1 has to be appreciated.

7. The occurrence took place outside the house of PW4, who was a close friend to the deceased. The case of the prosecution is that there were property disputes between the appellant and PW4 and that the deceased, who is said to have gone with PW4 to his house for dropping him had intervened in the said dispute and the appellant attacked the deceased. Since, the deceased did not return home on time, the wife of the deceased [PW1] is said to have gone to the house of PW4 in search of him and therefore, she saw the appellant attacking the deceased. PW1 does not speak about any scuffle or physical altercation between the appellant and the deceased, prior to the appellant attacking the deceased. PW1 has also stated that the appellant proclaimed that he had caused the death of the deceased and after the deceased fell down, he stamped on the chest and hands of the deceased; that thereafter, she raised an alarm and PW2 and PW3 came to the occurrence; and that she went along with her husband, in ambulance to the Government Hospital, Ariyalur. Strangely, the

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ambulance driver was not examined by the prosecution. The presence of PW6 is highly doubtful, as none of the witnesses including PW1 had spoken about the presence of PW6.

8. The prosecution had also not collected any records at the Ariyalur Government Hospital to prove as to when the deceased was taken to the hospital and to establish that PW1 accompanied the deceased to the hospital. PW1 in her cross-examination. would state that when the appellant was taken in the ambulance, police were present. Since the records maintained at Ariyalur Government hospital, where the deceased was declared dead, were suppressed by the prosecution, it is not known as to when the intimation was sent by the hospital to the police. However, the presence of the police at the hospital much before the registration of the FIR has been probabilised by the defence.

9. It is hard to believe the case of the prosecution that the first information was received by them only at 3.30 a.m., on the complaint given by PW1 in a case of this nature. Be that as it may. PW2, who is said to have come to the place of occurrence on hearing the cry of PW1, turned hostile. In his evidence, he has not stated that he came to the place of occurrence only on hearing the alarm raised by PW1. PW3, though

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stated that PW1 was present with the deceased when the deceased was taken in an ambulance and he accompanied PW1 to the hospital, he also does not state that he heard PW1 raising an alarm. He also turned hostile. Even their earlier versions from which they resiled do not refer to PW1's presence at the time of the occurrence. All the other witnesses, who had signed in the seizure mahazar and the confession statement, also had turned hostile.

10. DW1 is the wife of the appellant. She, on the other hand, would state that she witnessed the occurrence and the deceased at first attacked her when she interfered in the quarrel between her husband/appellant and the deceased; that when the deceased attempted to pull her saree, the appellant intervened and the deceased attacked him with a bamboo stick [fHp] and caused an injury on his right eyebrow; and that there was a scuffle and during the scuffle, the deceased fell on a sharp bamboo stick, which caused injuries and his death.

11. As stated above, the prosecution has not explained the injuries on the appellant, though the investigating officer in his cross-examination

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would admit that when the appellant was remanded, there was an injury on his right eyebrow and there were also stitches. PW1 had not stated as to how the appellant sustained the said injury. The presence of PW1 was not spoken to by any other witnesses. Since the hospital records pertaining to the admission of the deceased have been suppressed, the earliest version of the witnesses, is not known. There was no reason why the police had not recorded the first information when the deceased was taken to the hospital. The earliest complaint therefore, has been suppressed by the prosecution. PW1, had six hours time to lodge a complaint, which is said to have been registered at 3:30 a.m. on 14.06.2019. It was also not despatched to the Magistrate immediately. PW15, the Sub-Inspector of Police, who had registered the FIR has handed over the same to PW13, the Constable, only at 8.30 a.m. That apart, the doctor, PW12, who conducted the post-mortem, has also stated that if a person accidentally falls on a sharp bamboo stick, he is likely to sustain the injuries found on the deceased.

12. Further, when M.O.1-knife, which according to the prosecution, was used by the appellant, was shown to PW1, she had initially stated that the knife used by the appellant was bigger and

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thereafter, changed her version that it was the same knife shown to her. She would also state in the cross-examination that the sharp edge of the knife shown to her was new and the handle of the knife was old. She had also stated that the knife used by appellant had a wooden handle bar, thereafter changed her version that it looked like the knife shown by the prosecution. Even assuming that PW1 cannot be discredited only on this discrepancy, this Court finds that M.O.1, the knife was not sent for forensic science examination. PW16 admits that the knife did not have any blood stains. It is suggested by the defence that the prosecution had bought a new knife to falsely implicate the appellant.

13. Therefore, for the above reasons, this Court is of the view that it is highly unsafe to hold the appellant guilty of the offence on the basis of the evidence of PW1, whose presence at the scene of occurrence is highly doubtful. On the contrary, the evidence of DW1, who was not discredited in any manner except for saying that she was the wife of the appellant, appears more probable, considering the fact that the appellant also had sustained an injury. Hence, for all the aforesaid reasons, this Court is of the view that the impugned judgment holding the appellant guilty of the offence under Section 304 II of the IPC, is liable to be set

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aside.

14. In the result, this Criminal Appeal is allowed. The conviction and sentence passed in S.C.No.116 of 2019, dated 16.02.2022 on the file of learned Principal District and Sessions Judge, Ariyalur, are set aside. The appellant is acquitted of the charge. The fine amount, if any, paid by the appellant shall be refunded. Bail bond, if any, executed shall stand discharged.

17-11-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

1. The Principal District and Sessions Judge,
Ariyalur

2. The Inspector of Police,
Vickirimangalam PS,
Ariyalur.

3. The Public Prosecutor,
High Court, Madras.

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Order QR

SUNDER MOHAN, J.

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Pre-delivery judgment in
CRL A No. 360 of 2022

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