



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-02-2026

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**THE HONOURABLE MR JUSTICE P.VELMURUGAN
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

CRL A No.620 of 2019

Mrs.Sivagami
W/o Late Anbalagan
East Street, Porasakuruchi
Kallakuruchi Taluk
Villupuram District

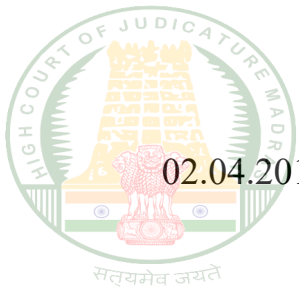
Appellant

Vs

1. State Represented by
The Inspector of Police
Varanjaram Police Station
Villupuram District
(Crime No.209 of 2017)
2. Murugan
S/o Kannan
Porasakuruchi, Kallakuruchi Taluk
Villupuram District
3. Veeramuthu
S/o Chinnasamy
Porasakuruchi, Kallakuruchi Taluk
Villupuram District

Respondents

Memorandum of Grounds of Criminal Appeal filed under Section 372 of Cr.P.C., against the judgment of acquittal passed by the learned III Additional District & Sessions Judge, Kallakurichi in S.C.No.295 of 2017 dated



02.04.2018.

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CRL A No.620 of 2019



For Appellant: Mr.S.Ganeshkumar for
M/s.G.K.Associates

For Respondents: Mr.A.Damodaran
Additional Public Prosecutor
assisted by
Ms.M.Arifa Thasneem for R1
Mr.P.Palaninathan for R2 & R3

JUDGMENT

(Judgment of the Court was made by P.Velmurugan J.)

This criminal appeal has been filed by the de-facto complainant against the judgment of acquittal passed by the learned III Additional District & Sessions Judge, Kallakurichi in S.C.No.295 of 2017 dated 13.11.2017 acquitting the private respondents 2 & 3/A1 & A2 of all the charges framed against them, namely, under Sections 294(b), 302, 506(ii) IPC & Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998 against the second respondent/first accused and under Sections 294(b), 324, 302 r/w 34 IPC & Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998 against the third respondent/second accused, respectively.

2. The first respondent Police laid the final report before the Judicial Magistrate, Kallakurichi against the private respondents/accused, based on the complaint given by the wife of the deceased and the case was registered in Crime No.209 of 2017 for the offence under Sections 294(b), 302, 506(ii) IPC



& Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998 against the first accused and under Sections 324, 506(ii), 302 r/w 34 IPC &

Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998 against the second accused, which was taken on file in PRC No.28 of 2017.

The learned Magistrate, after completing the formalities under Section 207 Cr.P.C., committed the case to the Principal District & Sessions Court, Villupuram, since the offence under Section 302 IPC was exclusively triable by the Court of Session. Accordingly, the Principal District & Sessions Court, Villupuram has taken the case on file in S.C.No.295 of 2017 and the same was made over to the learned III Additional District & Sessions Judge, Kallakurichi for disposal in accordance with law. The learned III Additional District & Sessions Judge, Kallakurichi, on going through the materials, framed the charges against the accused under Sections 294(b), 324, 302, 506(ii), 302 r/w 34 IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998. When the charges were read over to the private respondents/accused, they denied the same as false. Therefore, the learned III Additional District & Sessions Judge posted the case for trial and sent summons to the witnesses.

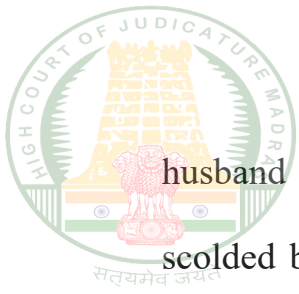
3. During the trial, in order to substantiate the above said charges, on the side of the prosecution, as many as 19 witnesses were examined as PWs.1 to 19 and 18 documents were marked as Exs.P1 to 18, besides 3 material objects were



exhibited as MOs.1 to 3. After examining the evidence of prosecution witnesses, when the private respondents/accused were questioned under Section 313 Cr.P.C with reference to the incriminating circumstances culled out from the evidence of prosecution witnesses, they denied the same as false. However, on the side of the respondents/accused, no oral and documentary evidence was let in.

4. On conclusion of trial and after hearing the arguments advanced on either side, the trial Court found the private respondents/accused not guilty of any of the offences charged and acquitted them by stating that the prosecution failed to prove its case beyond all reasonable doubt. Aggrieved by the judgment of acquittal passed by the trial Court, the de-facto complainant has filed the present appeal. For convenience, the private respondents/accused will be hereinafter referred to as arrayed before the trial Court in this judgment.

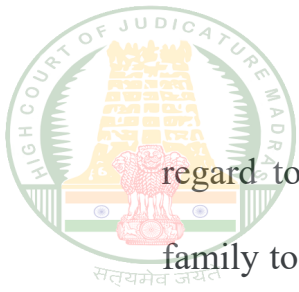
5. The brief case of the prosecution is that on 23.05.2017 at about 04.30 P.M., when the de-facto complainant Sivagami, pointing out the disputed problem existing between the two families over the place, asked the first and second accused as to why they were building the compound wall in their place without leaving any alley, the accused uttered obscene words on her and stated that they were building the compound wall only in their place. When Sivagami's



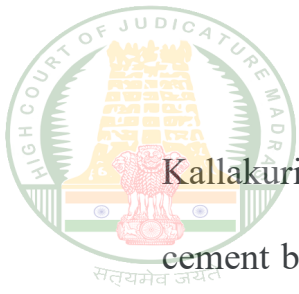
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husband Anbazhagan came home that evening hearing about his wife being scolded by the accused, on 23.05.2017 at 05.30 P.M., he stood in front of his house and asked the first and second accused present there as to the happening, the first accused scolded him in filthy language; that both the accused with a common intention to kill Anbazhagan, thereby the first accused, knowing fully well that his action would result in death, hit Anbazhagan with an iron rod on the back of his head and pushed him down; that the second accused threw a cement block on his chest and when the elder son tried to intervene, the second accused hit him with a mason karni on his forehead; that both the accused also threatened to kill him and his family members and that on account of such brutal attack, Anbazhagan died of shock and blood loss due to the head injury he sustained. Subsequently, based on the complaint, Ex.P1 preferred by the de-facto complainant, the case was registered and the final report was laid by the first respondent Police before the jurisdictional Magistrate after completion of investigation, as stated above.

6. In order to substantiate the case of the prosecution, the de-facto complainant, who is none other than the wife of the deceased and an eye-witness to the occurrence, was examined as PW1. She has categorically deposed that she was residing in Porasakkurichi village and worked as a farm labourer. She knew the accused, as they were neighbours. There has been a problem with

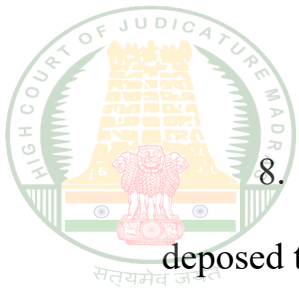


regard to the passage area between these two families for 5-6 years and her family told them not to raise a wall without measuring it. But when the accused family built a new house, they raised the wall without measuring the disputed area. On 23.05.2017, around 4.30 P.M., she asked the accused as to why they are interested in raising the wall and asked them to build it after the men in the family arrived. At that time, the second accused-Veeramuthu took off his sandals, uttered obscene words and hurled cement on her. First her eldest son came and after a while, her younger son also came. When she informed the quarrel made by the accused, they pacified and took her inside the house. After her husband, who had gone to herd goats, was informed of the incident, he came home around 5.00, 5.30 P.M. and enquired about the fight. After telling PW1 to stay inside, when PW.1's husband came out and asked why the accused spoke badly of his wife, the first accused-Murugan stating that he would speak badly of his wife, hit him on the back of his head with an iron rod, and when PW1 and her sons came nearby, he threw a cement block on her husband. When PW.1's eldest son went to lift his father, the second accused-Veeramuthu hit him on his forehead with a mason karni and caused injury. Immediately when PW1 and her sons lifted the injured, he was not breathing. When they took the injured in an auto to the Kallakurichi Government Hospital around 6.45 P.M., the doctor saw his pulse and pronounced him dead. The complaint given by PW1 before the police is Ex.P1. Inquest was conducted over the body of the deceased in the



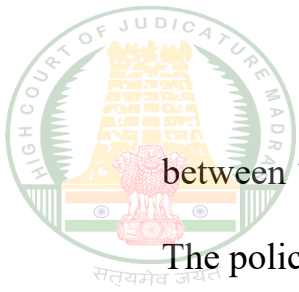
Kallakurichi Government Hospital. The weapons used by the accused, namely, cement block, mason karni and iron rod, which were shown to PW1 have been marked as M.Os.1 to 3. The police interrogated PW1 in this regard.

7. PW2 runs a Studio next to the house of the deceased. He has deposed that he knew the accused. On 23.05.2017, at about 5.00, 5.30 P.M., when he went to get cool drink for his friends in the shop of one Mani situated in front of Anbazhagan's house, around 4.00, 4.30 P.M., PW1 asked the accused as to why they were building the wall in their place, for which the first accused scolded her in filthy language. The sons of PW1 pacified PW1 to wait for their father's return and took her inside the house. Anbazhagan asked the first accused- Murugan as to why they were building the compound wall and why they quarrelled with his wife, for which the first accused replied that his wife only quarrelled with him and so saying, he hit Anbazhagan with an iron rod on the back of his head and pushed him down. The brother in law of Murugan, who was a mason, hit on Anbazhagan's chest. When Sivagami's eldest son came to his rescue, he hit him on his head with a mason karni and caused injury. Before PW2 could approach them, the accused ran away from the place. Thereafter he sent PW1, the injured Anbazhagan and her sons to Kallakurichi Government Hospital in an auto that came that way. Shortly thereafter, he heard that the injured had died. The police interrogated PW2 in this regard.



8. PW3 is an agricultural coolie in Porasakkurichi village. He has deposited that he knew the accused, as they were neighbours. He also knew PW1.

On 23.05.2017, at about 4.30 P.M., when PW1 asked the first accused Murugan as to why they were building the compound wall in their place, the first accused replied that the entire land belongs to them and how she can question him. When PW3 came out of his house after hearing the noise, since he was aware that there was a problem between the two families in this regard, he did not choose to go nearby. The sons of PW1 came and they took her inside the house stating that the matter can be enquired after their father's arrival. After Anbazhagan heard the news through somebody, he came to the house and asked the first accused-Murugan as to why he had quarrelled with his wife in his absence, for which the first accused stated that his wife only quarrelled with him first. While heated arguments were underway, the first accused Murugan got angry and took an iron rod and hit Anbazhagan on the back of his head and kicked him. The second accused Veeramuthu took a cement block lying nearby and threw it on Anbazhagan's chest. When PW4-Ayyappan came to defend the attack, the second accused hit on his head with a mason karni. Sensing the problem getting worse, PW3 and PW2 started to run. Anbazhagan was lying on the ground. The accused ran away from the place. Anbazhagan was lying breathless and speechless. Sivagami, Anbazhagan and her sons were sent to the Kallakurichi Government Hospital in an auto that was on the way. Later,

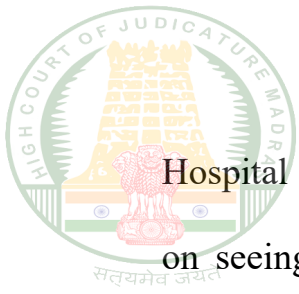


between 7.00 and 7.10 P.M., they received the news that Anbazhagan had died.

The police interrogated him in this regard.

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9. PW4 is the son of PW1 and the deceased. He has deposed that he is engaged in centering work and PW5 is his brother. On 23.05.2017 at about 4.30 P.M., the accused were having heated arguments with PW1 regarding the place. PW4 arrived there after completing the medical examination for going abroad. He pacified PW1 and took her inside. Thereafter PW5 also arrived. PW4 came out and told the details and then took his brother into the house. When his father, who had gone to herd goats, learnt about the problem through someone, he came to the house and enquired them. When his father enquired the accused as to why they quarrelled with his wife in his absence, both the accused scolded his father in filthy language and on hearing the huge noise, PW1, PW4 & PW5 came out and at that time, his father was attacked with an iron rod on the back of his head. The second accused threw a cement block on his father's chest. When PW4 tried to stop him, the second accused hit PW4 on his head with a mason karni. All the three screamed. No one came to their rescue, except PW2 and PW3. The accused threatened PW4 by stating that like his father, they would also kill him and ran away from the place. Though they called 108 ambulance, there was no response. They stopped one auto that came on the road and PW1, PW4 & PW5 took the injured to the Kallakurichi Government



Hospital thinking that the injured was lying unconscious. However, the doctor on seeing his father, declared him dead. The police who was present in the

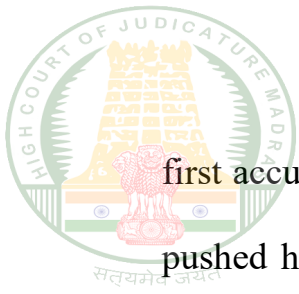
hospital took his address and PW4, PW1 and PW5 and others went to Kallakurichi Police Station on the next day at about 10.00, 11.00 A.M., where PW1 lodged the complaint. Post-mortem was conducted on the body of his father in the hospital and the investigating officer recorded his statement.

10. PW5 is the younger son of PW1. He has deposed that PW4 is his brother and he knew the accused. He was studying second year Diploma course in Easwar Polytechnic at the time of occurrence. On 23.05.2017, after attending his physics practical examination at the college, he came home around 5.15 P.M. He saw his mother/PW1 standing outside talking and quarrelling. He also noticed the cement stains on her. After hearing that the second accused was standing in their place and doing the plastering work on the wall and when the same was questioned by his mother/PW1 the accused had scolded her, he told that his father would take care of that. Thereafter, his father came home around 5.30 P.M. on hearing the incident through someone and enquired PW5 and PW1 regarding this issue. After telling them to be inside the house, his father came out and enquired the accused as to why they quarrelled with PW1 when there was no men in the house. The accused replied that PW1 only quarrelled with them. On hearing the loud noise, PW1, PW4 & PW5 came out of the house. At



that time, the first accused scolded his father in filthy language and attacked him with an iron rod on the back of his head and his father fell down breathless. The second accused took a cement slab and threw it on his father's chest. When PW4 came to lift his father, the second accused hit PW4 on his head with a mason karni. PW4 was bleeding profusely. Neither they could attend his father nor his brother at that moment. When PW2 & PW3 rushed to the place, the accused ran away stating that they would do away them also like the father. They took the injured to Kallakurichi Government Hospital in an auto that was coming on the way for treatment. Within 5 minutes, PW4 came out crying and informed the death of his father to PW5. First aid was given to PW4 for the head injury. The police enquired them on the same night and PW1, PW4, PW5, his maternal uncle Murugan and his son Sekar went to the police station, where PW1 lodged the complaint, which was written by Sekar and PW1 signed the same. Post-mortem was conducted on the body in the hospital and the investigating officer recorded his statement.

11. PW6, who was doing agriculture in Porasakkurichi village, has deposed that he knew PWs.1,4 & 5 as well as the accused. On 23.05.2017 at about 5.00, 5.30 P.M., when PW6 came to the shop of Mani to buy beedi, the occurrence happened between the two families regarding the land dispute. There were heated arguments between Anbazhagan and the first accused, where the



first accused attacked Anbazhagan with an iron rod on the back of his head and pushed him down. The second accused threw a cement block on the chest of Anbazhagan and also hit PW4 on his head with a mason karni and caused injury. Thereafter, PW1, PW4 & PW5 took the injured to the hospital in an auto. The accused ran away. After an hour, he heard the demise of Anbazhagan over phone. He was not present in Kallakurichi Government Hospital when the inquest was conducted.

12. PW7, who was doing agriculture in Porasakkurichi village, has also deposed that he knew PWs.1,4 & 5 as well as the accused. He was standing outside his house at the time of incident. On 23.05.2017 at about 4.30 P.M., verbal abuse erupted between PW1 and the accused, where the accused uttered obscene words on PW1. Thereafter, PW4 & PW5 took her inside the house. Then he heard the screaming. Anbazhagan returned home after herding the goats. After the first accused hit Anbazhagan with an iron rod on the back of his head, he fell down. The second accused threw a cement block on Anbazhagan's chest. The second accused hit eldest son/PW4 on his head. Before the general public arrived, the accused ran away from that place. Then PW1, PW4 & PW5 took Anbazhagan to Kallakurichi Government Hospital in an auto and PW7 came home. Around 7 O'clock talks about the death of Anbazhagan were going on. He saw the body at the hospital and the investigating officer enquired him.



13. PWs.8 & 9 are the signatories to Exs.P2 & P3/Observation Mahazar prepared by the police.

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14. PW10 is the Village Administrative Officer, who was in charge of Porasakkurichi village at the time of occurrence. He has deposed that he received information that on 23.05.2017 at about 6.00 P.M., there was a problem with regard to the passage area between the accused and the deceased; that after verbal abuse erupted between PW1 and the accused over the passage area, her sons pacified and took her inside the house; that when the deceased enquired the accused over the same, the first accused hit him with an iron rod on his head and when he fell down, threw a cement block on his chest; that when the eldest son of Anbazhagan came to his rescue, the second accused hit him on his head with a mason karni and caused injury. On 24th, after the police arrested the second accused near Ganangoor government building, on receiving information from the Sub Inspector of Police, PW10 and his Assistant Mahendran went to Varanjaram Police Station and in their presence, recorded the confession statement of the second accused, the admissible portion of which is Ex.P4. The cement block and the mason karni were also recovered from the place of occurrence under the seizure mahazar, Ex.P5, which are M.Os.1 & 2. He also received information on 31.05.2017 that the police took the first accused into custody and on 01.06.2017 at about 7.00 A.M., PW10 and his Assistant went to



Varanjaram Police Station and in their presence, the police recorded the confession statement given by the first accused, the admissible portion of which is Ex.P6. No material object was produced by the first accused. PW10 signed the seizure mahazar under Ex.P7.

15. PW11 is the Village Assistant who informed PW10-Village Administrative Officer over phone about the occurrence and also accompanied PW10 to the place of occurrence. He is one of the signatories to the seizure mahazars under Exs.P5 & P8 respectively.

16. PW12 is the duty doctor who first saw the injured in the Kallakurichi Government Hospital brought by PW4 stating that his father was attacked by two persons with cement blocks near their house. He has deposed that on examination he found that the injured was unconscious, pulseless and breathless. He noticed the external injuries of 3 ½ x 2 x 1 cms on the backside of his head, 2x1 cms on his left chest and since he found him dead at 6.50 P.M., on the same day, he handed over the body and informed the police. The Accident Register issued in this regard is Ex.P9.

17. PW13 is the doctor who conducted post-mortem on the body of the deceased. He has deposed that on 24.05.2017 at about 12.35 P.M., on receipt of



requisition in Cr.No.209 of 2017 from the Head Constable 261 Ramkumar and the body, he commenced the post-mortem at 4.00 P.M. and he noted the following external injuries:-

“Two lacerated wound 1x1x0.5 cm, 1x1x1 cm over the occipital region.
Abrasion 1x1 cm, 1x0.5 cm over (L) forehead region
Abrasion 1x1cm over ® clavicle region.”

He concluded the post-mortem at 5.00 P.M., on 24.05.2017 and issued the post-mortem certificate, Ex.P11 with his opinion that the deceased would appear to have died of shock and haemorrhage due to head injury.

18. PW14 is the Sub Inspector of Police who received the complaint from PW1 on 23.05.2017 at 21.00 hours and registered the First Information Report in Cr.No.209 of 2017 under Sections 294(b), 324, 506(ii) and 302 IPC. The printed First Information Report is Ex.P12. He sent the express reports to the Court and to the higher police officials. On 17.07.2017 the Inspector of Police recorded his statement.

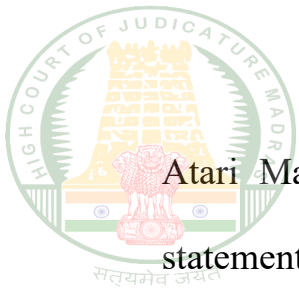
19. PW15 is the Head Constable who identified and handed over the body of the deceased along with the requisition to the doctor, PW13 for conducting post-mortem and also the hyoid bone and the intestines to the forensic laboratory and to the Court in sealed bottles for chemical analysis.



20. PW16 is the Junior Forensic Science Inspector who received the sealed bottles containing 1 stomach, 2 intestines, sputum and 4 protective fluid, from PW15 Head Constable for analysis and issued the viscera report, Ex.P13.

21. PW17 is the Assistant Professor of Medicine in Villupuram Government Medical College and Hospital who received the hyoid bone from the Head Constable, PW15 for test and issued the hyoid bone report, Ex.P10.

22. PW18 is the Inspector of Police incharge of Varanjaram Police Station at the relevant point of time. He has deposed that on receipt of the First Information Report in Cr.No.209 of 2017 for the offence under Sections 294(b), 324, 506(ii), 302 IPC, he took up investigation and proceeded to the scene of occurrence at about 23.30 hours and since it was dark, he deputed the Sub Inspector and two Police Constables to guard the place and that on 24.05.2017 at about 6.00 hours in the morning, prepared the Observation Mahazar and drew the rough sketch, Ex.P14. He examined the witnesses Ilaiyaraaja and Muthuraman and recorded their statements. Then he went to the Kallakurichi Government Hospital and conducted inquest over the body in the presence of the witnesses. The inquest report is Ex.P15. At 11.15 hours, he handed over the body to the Constable 261 Ramkumar. Then he searched for the accused and arrested the second accused Veeramuthu at around 14.00 hours in front of the



Atari Main Road-Virugavur Grama Chavadi and recorded his confessional statement in the presence of Prabhu, the Village Administrative Officer and Mahendran, the Village Assistant. He seized the cement block and the mason karni at 17.00 hours under the seizure mahazar in the presence of the same witnesses. He conducted a thorough search of the accused and remanded him to judicial custody. He also examined the witnesses Sivagami, Ilayaraja, Muthuraman, Ayyappan, Vinothkumar, Venkatesan Maniappillai, Mayakannan, Manoharan and Prabhu separately and recorded their statements. After completing the initial investigation, he handed over the case file to the Inspector of Police, Kallakurichi on 25.05.2017.

23. PW19-Inspector of Police, after taking up investigation from his predecessor on 26.05.2017, went to the scene of occurrence on the same day and since the witnesses reiterated the earlier version given to PW18, he did not record any separate statement from them. He later sent the internal organs of the deceased through the Constable 261 Ramkumar for analysis. In the meanwhile, he heard that the first accused Muruga had surrendered in the Vridhachalam Court. On 31.05.2017, he took the first accused into police custody for three days and brought him to Varanjaram Police Station and questioned the accused on 01.06.2017 at 7.00 A.M., and obtained his confession statement in front of the witnesses, Prabhu-Village Administrative Officer and



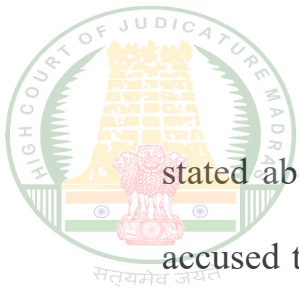
Mahendran-Village Assistant and based on his confession, the accused was taken to the place of occurrence, where he produced the iron rod, M.O.3 that was used to kill Anbazhagan, which was seized under the mahazar. He thereafter remanded the first accused to judicial custody. On 17.07.2017, he recorded the statement of Dr.Senthilraja, Assistant Professor, Government Headquarters Hospital, Kallakurichi to the effect that on 23.05.2017 at 6.45 P.M., on examination of the injured, he declared him dead. He also recorded the statement of the post-mortem doctor who issued the post-mortem certificate stating that the deceased died due to the head injuries. He also recorded the statements of the Junior Scientific Officer, Villupuram who issued the viscera report and also the doctor attached to the Government Hospital, Mundiampakkam who issued the hyoid bone report. He also examined the Head Constable 261 and the Sub Inspector of Police who registered the First Information Report in Cr.No.207 of 2019 and recorded their statements. After getting opinion from the Assistant Director, Villupuram, he filed the altered report, Ex.P18 before the Court for the offence under Sections 294(b), 324, 506(ii) 302 r/w 34 IPC and Section 4 of the Prohibition of Harassment of Woman Act against the accused. On completion of investigation, he laid the final report against the accused for the offences as stated already.

24. After completion of trial, the Court below found that the prosecution



has not proved its case beyond all reasonable doubt and therefore, acquitted the accused of all the charges giving the benefit of doubt in favour of them. Against the said judgment of acquittal, the de-facto complainant has filed the present appeal before this Court.

25. The learned counsel for the appellant would submit that PWs.1,2,3,4,5,6,7 are the eye-witnesses in this case, who have clearly spoken about the motive and also the specific overt act attributed against both the private respondents/first and second accused. PW1 is none other than the wife of the deceased. Since the private respondents encroached the land of the deceased on the date of occurrence, the same was questioned by PW1 and the first and second accused scolded her in filthy language. Therefore, PWs.4 & 5, sons of PW1, pacified PW1 by stating that their father would take care of it and took her inside the house. The deceased, on coming to know about the incident, questioned the accused, for which the first accused attacked him with an iron rod on the back side of his head and the second accused threw a cement block and when PW4 came to his rescue, the second accused hit him on his head with a mason karni and they sustained injuries. Immediately, PWs.1,4 & 5 took the deceased to the hospital and the doctor, after examining him, declared him dead and therefore, they preferred the complaint, Ex.P1 before the police. PWs.2 & 3 are the independent witnesses who saw the occurrence. They have specifically



stated about the incident and also the overt acts attributed against each of the accused to the effect that the first accused hit the deceased with an iron rod on the back of his head and the second accused threw a cement block on his chest, as a result of which the deceased sustained injuries and fell down and when PW4 came to the rescue, the second accused hit him on his head with a mason karni. PW3, being an independent witness, has also corroborated the evidence of PW2. PWs.4 & 5 are the sons of the deceased & PW1 and they were also present at the time of occurrence. Being eye-witnesses, they have specifically spoken about the overt acts attributed against both the accused. Likewise, PWs.6 & 7 are also the villagers and independent witnesses. They have spoken about the incident and also the specific overt acts against both the accused. Since the eye-witnesses, PWs.1 to 7 have specifically spoken about the occurrence and also the specific overt acts attributed against the accused, the same was corroborated with the medical evidence. PW12 is the duty doctor who first attended the deceased and on examination, he found the injuries on the head and chest and also made entries in the Accident Register, Ex.P9. PW13 is the post-mortem doctor who conducted autopsy on the body of the deceased and has recorded the three injuries sustained by the deceased, one on the backside of the head, another on the left forehead region and yet another on the right clavicle region, and has opined that the deceased would have died on account of the shock and haemorrhage due to head injury. Therefore, the medical evidence



also corroborated the ocular evidence. Similarly, PWs.10 & 11 are the Village Administrative Officer and the Village Assistant, who have spoken about the confession given by the accused and based on the admissible portion of the confession, the recovery also has been effected through the mahazar. Therefore, in this case, since the eye-witnesses, not only relatives but also independent witnesses, have spoken about the specific overt acts attributed against the accused and the medical evidence also corroborated their version, apart from the arrest and the consequent recovery have also been proved by the evidence of the Village Administrative Officer, the learned trial Judge failed to appreciate the oral and documentary evidence in the right perspective and disbelieved the case of the prosecution and chose to acquit the accused on the flimsy ground that the motive was not established and therefore, the learned counsel submitted that the judgment of the trial Court is perverse and the same is liable to be set aside and the appeal has to be allowed and the accused have to be convicted for the charged offences.

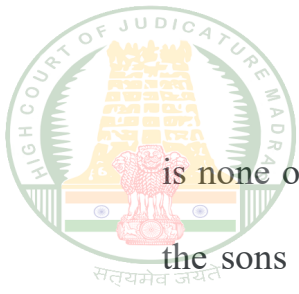
26. The learned Additional Public Prosecutor appearing on behalf of the first respondent would submit that the prosecution has proved its case beyond all reasonable doubt through both the eye-witnesses and the medical evidence and though the prosecution proved its case through oral and documentary evidence, the learned Sessions Judge failed to appreciate the materials and



disbelieved the case of the prosecution and acquitted the accused, which warrants interference.

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27. Per contra, the learned counsel appearing on behalf of the private respondents/accused would submit that the motive behind the occurrence itself is doubtful and the prosecution has not proved its case regarding the motive. Though the witnesses have stated that PW1 questioned the construction made by the accused by encroaching their extent of the land, whereas the materials would show that the construction was made much earlier and on the date of occurrence, only plastering work was going on and there was no encroachment on the date of occurrence and therefore when the allegation of questioning made by PW1 regarding encroachment itself is unbelievable, the prosecution failed to prove the motive, which falsifies the case of the prosecution. Further, he would submit that the entry in the Accident Register, Ex.P9 shows that at the time when PW4 admitted his father in the hospital, he has stated that his father was attacked by two persons with cement blocks near their house, but he has not stated that his father was attacked by the accused with iron rod. That also creates a doubt that PW1 was not an eye-witness and also the medical evidence does not corroborate the evidence of the eye-witnesses. Further he would submit that there is an unexplained delay in filing the complaint and they also registered the case, which also creates a doubt. He would also submit that PW1



is none other than the wife of the deceased and PWs.4 & 5 are none other than the sons of the deceased and they are the interested witnesses. Their evidence

cannot be taken, since there would be improvements, embellishments and also exaggerations in their version, because it shows from the first available statement, namely, Accident Register, Ex.P9 that the deceased was attacked with only cement blocks and subsequently, they made an improvement that the deceased was attacked with an iron rod and that even as per the post-mortem report, the post-mortem doctor has not stated that the deceased sustained injury on his chest, whereas the eye-witnesses have stated that the second accused threw a cement block on his chest, and there is no injury on the chest, which itself has falsified the case of the prosecution. Therefore, all the so-called eye-witnesses are not the eye-witnesses. When there is a suspicion as to their presence in the scene of occurrence, they are not the eye-witnesses at all and there are material contradictions in their evidence. He would further add that though PW4 also sustained injury, but he did not take any treatment even when he admitted the deceased in the hospital and PW12 has not stated that PW4, who sustained injury, was given treatment and there is no accident register entry or wound certificate. Therefore, in the absence of the same, the presence of PW4 either in the place of occurrence or in the hospital itself is highly doubtful and therefore the prosecution has failed to prove its case beyond reasonable doubt. Further the evidence of PWs.10 & 11 cannot be relied upon to prove the



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recovery, since the accused were already arrested by the investigating officer and they were summoned only by the police. They are all the stock witnesses and therefore the arrest, confession and the consequent recovery also have not been proved in the manner known to law. When there are material contradictions in the evidence of the eye-witnesses and the medical evidence also not corroborated their version, the arrest, confession and recovery are not proved in the manner known to law and that the prosecution has failed to prove its case beyond reasonable doubt. The trial Court rightly appreciated both the oral and documentary evidence and rightly came to the conclusion that the prosecution has failed to prove its case beyond reasonable doubt and also rightly acquitted the accused. When there is no perversity in appreciation of evidence by the trial Court, there is no reason to interfere with the judgment of the trial Court and the appeal is liable to be dismissed.

28. We have considered the submissions made by the respective learned counsel and perused the materials available on record.

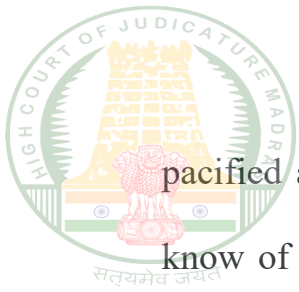
29. The specific case of the prosecution is that due to the land dispute that existed between the families of the de-facto complainant and the accused, on 23.05.2017 at about 4.30 P.M., when the de-facto complainant asked the accused as to why they were building the compound wall in their place without



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leaving any alley, the accused scolded the de-facto complainant with filthy language and when the same was questioned by the deceased, both the accused with a common intention to kill Anbazhagan, scolded him with filthy language and that the first accused hit the deceased with an iron rod on the back of his head and pushed him down; the second accused threw a cement block on his chest and when the elder son of the deceased tried to prevent the attack, the second accused hit him with a mason karni on his forehead and that on account of such brutal attack, the deceased fell down and died of shock and blood loss due to the head injuries.

30. In order to substantiate the charges, during the trial, on the side of the prosecution, 19 witnesses were examined and 18 documents were marked, besides 3 material objects were exhibited. On the side of the defence, no oral and documentary evidence was let in. Out of 19 witnesses, 7 are eye-witnesses and PW1 is the wife of the deceased, on whose complaint the law was set into motion. The complaint given by PW1 was marked as Ex.P1. As per the complaint and the evidence of PW1, she has specifically stated that the accused were neighbours and there has been a problem with regard to the passage area between these families for 5 to 6 years and when the accused family built a new house, the raised the compound wall over the disputed extent and when it was questioned by PW1, the accused scolded her in filthy language and she was



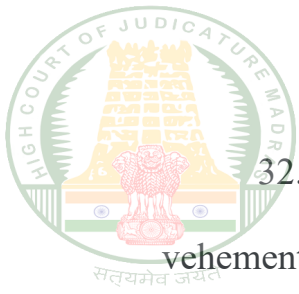
pacified and taken inside the house by her sons. When the husband came to know of the incident, he questioned the accused as to why they had a quarrel with his wife in his absence, the first accused hit her husband on the back of his head with an iron rod, the second accused threw a cement block on his chest, as a result of which he fell down and when PW4 went to lift his father, the second accused hit him with a mason karni on his forehead and caused injury. Thereafter, they took the injured in an auto to the Kallkurichi Government Hospital around 6.45 P.M., where the doctor pronounced him dead.

31. PW2 belongs to the same village and is an independent witness in the case. He has specifically stated about the overt acts against both the accused and has also corroborated the evidence of PW1. PW3 also is another independent witness, who is the neighbour of PW1, who has specifically stated about the motive and also the occurrence with specific overt act attributed against the accused while corroborating the evidence of PWs.1 & 2. PW4 is one of the sons of the deceased and PW1 and he has also spoken about the motive and also the enmity between their family and the accused and the attack caused by the second accused on his head with a mason karni. He has further stated that though they called 108 ambulance, since they could not get the same, he took his father in an auto to the Kallakurichi Government Hospital and admitted him and on examination, the doctor declared him brought dead. PW5 is also one of

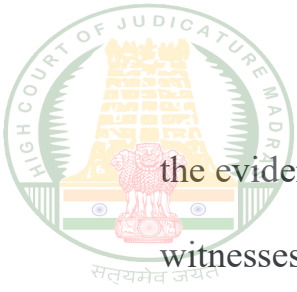


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the sons of the deceased, who has also spoken about the quarrel between the accused and his mother/PW1 and subsequently, when his father questioned the same, the first accused attacked his father with an iron rod on the back of his head and the second accused threw a cement slab on his father's chest and the second accused also attacked his brother/PW4 with a mason karni and he has corroborated the evidence of PW4. PW6 is one of the villagers who has spoken about the occurrence and also the attack made by the first accused with an iron rod on the head of the deceased, apart from the attack made by the second accused with a cement block on the chest of the deceased as well the attack made by him on the head of PW4 with a mason karni. Therefore, he has also corroborated the evidence of PWs.1,4 & 5 regarding the occurrence. PW7 is also an eye-witness of the same village, who has spoken that he knew PWs.1,4 & 5 and also the accused. On 23.05.2017, at about 4.30 P.M., there was a wordy quarrel between PW1 and the accused and thereafter, the husband of PW1 returned home knowing about the incident and when he questioned the same, the first accused attacked him with an iron rod on the back of his head and the second accused threw a cement block on his chest and that the second accused also attacked the elder son of the deceased/PW4 with a mason karni. From the evidence of PWs.1 to 7, who are the eye-witnesses to the occurrence, they have specifically spoken about the place of occurrence and time of occurrence and also the specific overt acts against the private respondents/accused.



32. Though the learned counsel for the private respondents/accused vehemently contended that PW1 is the wife and PWs.4 & 5 are the sons and are close relatives and interested witnesses and their version cannot be believed at all, however, it is seen that there are seven witnesses and the case not solely rests upon the relative witnesses alone. Even otherwise, the occurrence took place near the house of the deceased, as the deceased and accused are neighbours. Due to the land dispute, there was a quarrel between PW1 and the accused and PWs.4 & 5, being the sons, pacified PW1 and took her inside the house after saying that his father will take care of it. When the deceased, on knowing the fact that the accused quarrelled with his wife, questioned the accused, the first accused attacked the deceased with an iron rod on the back of his head and the second accused threw a cement block on his chest. Though they are relatives, considering the place of occurrence and time of occurrence and the nature of enmity, the presence of PWs.1, 4 & 5 in the scene of occurrence cannot be doubted. The deceased and the accused are known persons and there was a dispute regarding the extent of land between both the parties and therefore their evidence is consistent, cogent and reliable and there is no reason to discard their version. Apart from that, PWs.2, 3, 6 & 7 also belong to the same village and they are independent witnesses who saw the occurrence. They have also specifically stated about the specific overt acts against the accused and they have also narrated the entire events and therefore,



the evidence of PWs.1, 4 & 5 corroborated with the evidence of the independent witnesses, namely, PWs.2, 3, 6 & 7.

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33. One of the contentions raised by the learned counsel for the private respondents/accused is that when PW4 admitted his father in the hospital, he has stated before the doctor that his father was attacked by known persons with cement blocks and that he has not stated anything about the attack made by the accused with iron rod on the back of the head of his father. It is true that the accident register entry is not a substantive piece of evidence, which is not a conclusive one. When PW4 brought his injured father to the hospital after seeing him breathless and the doctor also during examination stated that the injured was brought dead, in such a situation, merely because he did not say the manner of the attack, that will not go to the root of the matter and that will not affect the case of the prosecution. In the complaint, PW1 has clearly stated that she is one of the eye-witnesses and she has spoken about the specific overt act and the other independent witnesses have also cogently and consistently stated that the first accused attacked the deceased with an iron rod on the back of his head. The post-mortem report also clearly shows that the deceased sustained injuries on the back of his head and the medical evidence also corroborated the same. Therefore, the non-mentioning of the attack made by iron rod before the doctor at the time of admitting the injured in the hospital will not affect the case



of the prosecution. When the eye-witnesses have clearly spoken about the attack and it is settled proposition that when there is any conflict/discrepancies

between the ocular evidence and the medical evidence and the version of the eye-witnesses are reliable, that will prevail over the medical evidence. In this case, though PW4 did not mention about the attack made by the first accused with an iron rod before the doctor, however, a reading of the entire oral evidence of all the eye-witnesses PWs.1 to 7 and the evidence of the post-mortem doctor, PW13, this Court finds that the prosecution has proved its case beyond reasonable doubt that due to the attack made by the accused with iron rod and cement block respectively, the deceased died due to the head injury. Further, so far as the recovery is concerned, the evidence of PWs.10 & 11 clearly shows that the investigating officer arrested the accused and at that time, they gave the confession, the admissible portion of which is marked as Ex.P6 and in pursuance of which they also took the investigating officer to the place of occurrence and in the presence of PWs.10 & 11, handed over the weapons, M.Os.1 to 3.

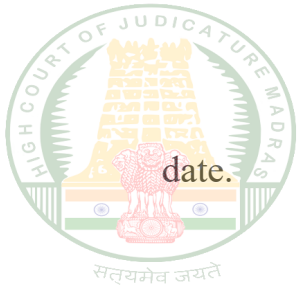
34. A reading of the oral evidence of the eye-witnesses and the documentary evidence through Exs.P9 & 11 issued by PWs.12 & 13 and also the recovery witnesses, PWs.10 & 11 through the seizure mahazars, Exs.P5, P7 & P8 coupled with the admissible portion of the confession, Ex.P6 for recovery



of the M.Os.1 & 2 under Ex.P5, this Court finds that the prosecution has proved its case beyond reasonable doubt. However, the learned trial Judge failed to

appreciate the oral and documentary evidence of all the witnesses and simply acquitted the accused giving the benefit of doubt. Therefore, the appreciation of evidence by the trial Court is perverse and this Court, as an appellate Court and fact-finding Court, while re-appreciating the evidence, finds that there is only one possible view that the accused alone attacked the deceased and due to that, he sustained injuries and succumbed thereafter.

35. In the light of the above, this Court finds that the respondents 2 & 3/accused 1 & 2 have committed the charged offences, namely, under Sections 294(b), 302, 506(ii) IPC & Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998 so far as the second respondent/first accused is concerned and under Sections 294(b), 324, 302 r/w 34 IPC & Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998 so far as the third respondent/second accused is concerned, and hence this appeal is allowed and the judgment of the trial Court is hereby set aside. Since the appeal is against acquittal and a reversal judgment, the accused have to be heard before the pronouncement of sentence. Therefore, the respondents 2 & 3/accused 1 & 2 are directed to appear before this Court on 26.02.2026, failing which the first respondent Police shall secure them and produce before the Court on the said



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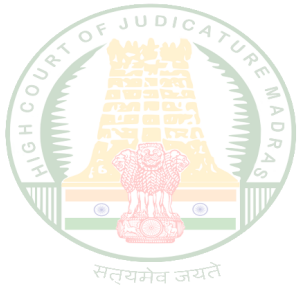
(P.VELMURUGAN J.) (M.JOTHIRAMAN J.)
18-02-2026

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

ss

To

1. The III Additional District &
Sessions Judge
Kallakurichi
2. The Inspector of Police
Varanjaram Police Station
Villupuram District
(Crime No.209 of 2017)
3. The Public Prosecutor
High Court, Madras



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CRL A No.620 of 2019



**P.VELMURUGAN J.
AND
M.JOTHIRAMAN J.**

SS

CRL A No. 620 of 2019



18-02-2026

Crl.A.No.620 of 2019**P.VELMURUGAN, J.****and****M.JOTHIRAMAN, J.**

(Order of the Court was made by P.VEMURUGAN, J.)

This is the appeal filed by the defacto complainant against the judgment of acquittal made by the trial Court. This Court vide its judgment dated 18.02.2026 found A1 & A2, who are the respondents 2 & 3 herein guilty for the charged offences and hence the matter was directed to be listed on 26.02.2026 under the caption for “question of sentence”.

2 Today, both the accused (A1 & A2) appeared before us. On questioning regarding sentence, they have stated that they have not committed any offence and false case has been foisted against them.

3 Considering the facts and circumstances of the case and the nature of offence committed by the accused and their submissions, both the accused are hereby convicted and sentenced to undergo life imprisonment and fine of Rs.1,000/-, each, in default, to undergo rigorous imprisonment for a further period of six months for the offence under Section 302 and 302 r/w Section 34 IPC respectively and since major punishment of life imprisonment has been



awarded, which will meet the ends of justice, no separate sentence is awarded for other charged offences.

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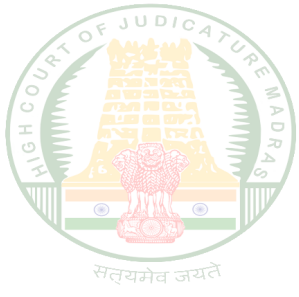
4 Further, since it is a reversal judgment, in order to provide an opportunity to the accused to prefer an appeal before the Hon'ble Supreme Court, the sentence of imprisonment alone is suspended for both the accused till the appeal period is over.

5 After expiry of the appeal period, if no appeal is filed and no order of stay or any other fruitful order in favour of the accused by the Hon'ble Supreme Court, the trial Court is directed to secure both the accused to undergo the sentence awarded by this Court.

[PVJ] [MJRJ]
26.02.2026

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Note: IT on 26.02.2026



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CRL A No.620 of 2019



P.VELMURUGAN, J.
and
M.JOTHIRAMAN, J.

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Crl.A.No.620 of 2019

26.02.2026