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Gurusamy @ Pandi vs State Represented by

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Court : Chennai

Decided On : Nov-27-2025

Judge : Honourable Mr Justice N. Sathish Kumar,Honourable Mr.Justice M.Jothiraman

Appeal No. : CRL A/287/2025

Appellant : Gurusamy @ Pandi

Respondent : State Represented by

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-11-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR AND THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN Gurusamy @ Pandi Appellant(s) Vs State Represented By

1. The Deputy Superintendent of Police, Kottakuppam Sub Division, Villupuram District.

2. Inspector of Police, Aurovile Police Station, Villupuram District, Crime No.6 of 2017

3. Saminathan Respondent(s) Prayer This Criminal Appeal has been filed under Section 415 of BNSS to set

aside the judgment of conviction and sentence delivered by the learned Sessions Judge, Special Court for Exclusive Trial of Cases registered under the Scheduled Castes and scheduled Tribes (Prevention of Atrocities) Act 1989, Villupuram in Spl.S.C.No.11 of 2020 dated 22.11.2024. For Appellant(s): Mr. R. Thamaraiselvan for Mr. S.Kasirajan For Respondent(s): Mr. A.Damodaran, Addl. Public Prosecutor Assisted by Ms.M.Asifa Jhasneem for R1 And R2

ORDER

(Order of the Court was made by N.Sathish Kumar J.) Challenging the life imprisonment imposed under Section 302 IPC, the appellant, who is the sole accused before the Trial Court, has filed the present appeal.

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

The deceased Marisamy and the accused were working as drivers in a lorry bearing No. TN-28-AR-1816. On 22.12.2016, they loaded the glass frames from Sriperumbathu in four lorries and proceeded to Gujarat, Chakada and delivered the glass frames on 24.12.2016 in Patanur ARC Lorry Shed and received Rs.15,000/- as advance. On 02.01.2017, while returning, the deceased had taken Rs.2000/- from the said advance amount and when questioned by the accused, a quarrel arose between them. It is alleged that the accused abused the deceased by uttering his caste name, which resulted in a quarrel and the defacto complainant Saminathan and others pacified them.

(ii) On the same day, at about 10.30 p.m., the accused went in the said lorry for purchasing Pepsi. When the deceased questioned him about the same, another

quarrel ensued, during which the accused took an iron rod and attacked the deceased, who thereafter succumbed to the injuries.

(iii) P.W.1, who was also the driver of another lorry. He sent the injured deceased to JIPMER Hospital and lodged the complaint statement (Ex.P.12) before the respondent police and his signature is marked as Ex.P.1.

(iv) Upon receiving the complaint, P.W.30, Inspector of Police, registered

a case in Crime No.6 of 2017 for the offence under Section 302 IPC and prepared First Information Report(Ex.P.13) and forwarded the same to the jurisdictional Court. Thereafter, he commenced the investigation and proceeded to the scene of occurrence and prepared Observation Mahazar (Ex.P.6) and Rough Sketch (Ex.P.14) in the presence of P.W.20, Jegadeesan and one Deivasigamani. He has also seized blood stained soil(.M.O.1) and soil without blood stain(M.O.2) under Ex.P.7, Seizure Mahazar in the presence of the same witnesses. He has also recorded the statement of the witnesses. Then, he has conducted inquest on the body of the deceased in the presence of panchayatadars and prepared Inquest Report(Ex.P.15). Thereafter, he sent a requisition letter for post-morterm through a Head Constable.

(vi) P.W.23, Professor in the Department of Forensic Medicine and

Toxicology, attached to the JIPMER Hospital, Puducherry, after receiving the requisition, on 03.01.2017, conducted post-morterm on the body of the deceased and found the following external injuries:- a. Lacerated would of size 1 x 0.5 cm x scalp deep present over the right parieto - occipital region, 4 cm below the right parietal eminence. b) Fracture dislocation of all 4 incisors andl left canine of lawer jaw. c) Inverted L shaped lacerated would of size 5 x 0.5 cm x mandible bone deep present over the mid-portion of the chin. d) Multiple scratch abrasions of varying shapes and sizes ranging from 0.3 x 0.2 cm to 0.6 x 0.2 cm present over an area of size 4 x 4 cm over the right side front of neck below the level

of thyroid cartilage. e) Red coloured abrasion of size 3 x 1.3 cm present over the front of neck in the midline, 3 cm above the suprasternal notch. f) Diffuse swelling over the front of neck over an area of size 9 x 7 cm suggestive of subcutaneous emphysema and localized bleeding. g) Red coloured abrasion of size 1 x 1 cm present over the right side of chest above the middle 1/3rd of clavicle.

h) Abraded contusion of size 5 x 1 cm present over the postero- lateral aspect of right forearm 13 cm below tip of elbow. i) Red coloured abrasion of size 2 x 1 cm present on the left forearm 3 cm below the tip of elbow. j) Red coloured abrasion of size 4 x 1 cm present on the antero- lateral aspect of left leg just below the knee.

He issued Post-morterm Report, Ex.P.8 and opined that the cause of death was asphyxia arising as a result of compression of the respiratory passage due to accumulation of blood in and around the neck structures. The death had occurred between 12 -18 hours prior to post morterm examination. P.W.24 Scientific Officer, examined the Material Objects and issued a report Ex.P.9 Forensic Report.

(vii) In continuation of investigation, P.W.30 arrested the accused on 04.01.2017 and recorded his confession, Ex.P.16, in the presence of Village Administrative Officer, P.W.18 and Village Assistant, P.W.19. Based on his

confession, he recovered the blood stained iron rod(M.O.3) in the presence of the same witnesses and sent the same to the Court. Thereafter, he recorded the statements of other witnesses, and the doctor, who conducted post-morterm on the dead body of the deceased. Then, he handed over the case to the Deputy Superintendent of Police for further investigation.

(viii) P.W.32, took up the case for further investigation and recorded the statements of the wife of the deceased P.W.12, and other witnesses. He

obtained community certificate of the deceased(Ex.P.10) and the accused (Ex.P.11). Then, he recorded the statement of Tahsildars, who had given community certificates of the deceased and the accused. Thereafter, he altered the charges into 302 IPC r/w.3(2)(V) SC/ST (POA) Act and laid the final report against the accused.

3. The Trial Court, after hearing the arguments of both sides and upon

perusing the relevant records, framed a charge under Section 302 IPC r/w.3(2)(v) SC/ST(POA) Amendment Act 2015 and the same has been read over and explained to the accused. The accused has denied the charges and claimed to be tried.

4. In order to prove the case of the prosecution, on the side of the

prosecution, as many as thirty two witnesses were examined as P.Ws.1 to 32 and nineteen documents were marked as Ex.Ps.1 to 19. Besides three Material objects were marked as M.Os.1 to 3.

5. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., he denied the same as false. However, he did not choose to examine any witness nor mark any documents on his side.

6. The Trial Court, on appreciation of entire evidence on the side of the

prosecution and the exhibits marked, including the material objects, found the accused not guilty for the offence under Section 3(2)(v) of SC/ST (PoA) Act and acquitted him from the charge under Section 3(2)(v) of SC/ST(POA) Amendment Act. However, the Trial Court found that the charge against the appellant/accused under Section 302 IPC was proved and imposed life imprisonment. Challenging the said finding, the appellant has filed the present

appeal.

7. Heard both sides and perused the materials available on records carefully.

8. The Trial Court, on seeing the evidence, particularly, the evidence of

P.W.18 and P.W.19, has convicted the accused based on the confession said to have been given before P.Ws.18 and 19, and the seizure of the Iron Rod, M.O.3, and imposed life imprisonment.

9. Though P.Ws.1 to 4 are eye-witnesses to the occurrence, when

examined by the prosecution, none of them supported the prosecution case. Even, P.W.12,wife, P.W.13,daughter, P.W.14,son, P.W.15,brother in law, who are the family members of the deceased, are only hearsay witnesses. No evidence is available on record to show who caused the death of the deceased. Absolutely, there is no evidence as to whether deceased was accompanied by A1 or any other person.

10. P.W.22, ambulance driver, has only taken the deceased to the hospital,

and he has only spoken about with the regard to the injuries on the deceased. P.W.23, Medical Officer, has stated only regarding the injuries on the deceased. The Trial Court has, in fact, precipitantly relied upon the evidence of P.Ws.18 and 19, who are alleged to be the witnesses to the confession made by the accused on 04.01.2017 and the seizure of iron rod, M.O.3.

11. On perusal of the evidence of P.Ws.18 and 19, it is clear that they

have not spoken about any blood stains having been found in M.O.3., and they had not even stated any description of the rod. Further, the serology report clearly indicates that the blood group does not tally. Absolutely there is no material whatsoever on record to connect the accused with the offence. The evidence of P.W.1 clearly indicate that on 03.11.2017, his signature was obtained in Ex.P.12 complaint. In the First Information Report itself, the police determined only the accused killed the deceased. Therefore, the very filing of the FIR is doubtful.

12. In the entire evidence, absolutely, there is no material to connect the

accused with the crime. All the eye-witnesses turned hostile and even in the cross examination, nothing has been brought out by the prosecution. P.W.2 and P.W.3, who are eye witnesses, turned hostile and they have also clearly stated that the accused was produced by the owner before the police station. Therefore, the very arrest of the accused appears to be doubtful and the recording of the so-called confession is also highly doubtful.

13. The Trial Court, mainly relied upon the evidences of P.W.18 and

P.W.19, who had not even spoken anything about the nature of the weapon or whether the weapon contained any bloodstains, and thereafter, imposed life imprisonment.

14. The Trial Court has recorded conviction mechanically even without

appreciating any evidence. On seeing the judgment of the Trial Court, it is evident that the learned Trial judge has ignored the fundamental principles of criminal law and has extracted only the prosecution version and recorded conviction as if the bloodstained iron rod, M.O.3, has been proved by the prosecution. The serology report clearly show that it is not established by the prosecution.

15. In the absence of any legal evidence, we find that the

appellant/accused has been mechanically convicted and imposed life imprisonment. The entire judgment indicates that the Trial Judge has abdicated his responsibility and has mechanically passed the order. As there is no legal evidence, the judgment is nothing, but clear non application of mind.

16. This Criminal Appeal is allowed and the judgment of conviction and

sentence passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases registered under SC/ST (POA) Act, Villupuram,

dated 22.11.2024 in Spl.S.C.No.11 of 2020, is set aside. The appellant/accused is acquitted of the charges framed against him. The fine amount, if any, paid by the appellant shall be refunded to him. The appellant/accused shall be set at liberty forthwith,

unless his custody is required in connection with any other case. (N.SATHISH KUMAR J.) (M.JOTHIRAMAN J.) 27-11-2025 Index:Yes/No

Speaking/Non-speaking order

Internet:Yes Neutral Citation:Yes/No mrp To

1. The Sessions judge, Special Court for Exclusive Trial of Cases registered under the Scheduled Castes and Scheduled Tribes (POA) Act, Villupuram.

2. The Deputy Superintendent of Police, Kottakuppam Sub Division, Villupuram District.

3. Inspector of Police, Aurovile Police Station, Villupuram District,

The Deputy Superintendent Of Police, Kottakuppam Sub Division, Villupuram District. 2.Inspector Of Police, Aurovile Police Station, Villupuram District. Crime No.6 Of 2017 3.SAMINATHAN S/o.Ramasamy, Sillanatham, Ottapidaram Tk, Thoodhukudi District. N.SATHISH KUMAR J. AND M.JOTHIRAMAN J. mrp 27-11-2025

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