

**IN THE COURT OF THE ADDITIONAL DISTRICT AND SESSIONS
JUDGE, DHARMAPURI.**

**Present: Tmt.U.Monica, M.L.,
Additional Sessions Judge,
Dharmapuri.**

Monday, this 30th the day of March 2026

SESSIONS CASE No.19/2023

(CNR.No.TNDP010004352023)

**(P.R.C.No.28/2022 on the file of the District Munsif cum Judicial Magistrate Court,
Pennagaram.)**

(Perumbalai Police Station, Cr.No.72/2022)

Details of the accused	Name: Gubendhiran. Age: 38/2022. Father's name: Perumal. Occupation: Farmer. Residing at Kovallikombai village, Kalapambadi post, Pennagaram Taluk, Dharmapuri District.
Details of charge	U/s.341, 302 IPC.
Plea of the accused	not guilty.
Findings of Court	Found guilty.
Sentence or Order	<p>In the result,</p> <p>1) The accused is found guilty for the offences under Section 341, 302 IPC and convicted under Section 235(2) of Cr.P.C.</p> <p>i) The accused is sentenced to undergo a imprisonment for life and to pay a fine of Rs.5,000/-, in default to undergo 2 years rigorous imprisonment u/s 302 IPC:</p> <p>ii) The accused is sentenced to undergo a simple imprisonment for one month u/s 341 IPC:</p> <p>iii) All the above sentences of imprisonment are</p>

ordered to run concurrently.

2) That the period of detention already undergone from 29.5.2022 to till date is ordered to be set off under S.428 of Cr.P.C.

3) The material objects M.O.1-Blood stained billhook machete, M.O.2-Blood stained soil, M.O.3-Sample soil, M.O.5-Blood stained blue colour strap white and blue colour slipper, M.O.6-Blood stained aluminium milk can, M.O.7-Blood stained green border Dhothi, M.O.8-Blood stained white colour half hand shirt, M.O.9- Blood stained red colour half hand shirt, M.O.10-Blue, white, brown colour checked lungi, M.O.11-Brown colour innerwear, M.O.12-Blood stained Red, white checked Towel shall be destroyed after expiry of appeal time or if any appeal is preferred after disposal of appeal.

4) M.O.13-Silver hip rope shall be returned to owner after proper verification and identification after expiry of appeal time or if any appeal is preferred after disposal of appeal. M.O.4-Blue colour TVS Wego scooty bearing Reg.No.TN 29 BE 7877 (photo) shall be kept in case records. TVS Wego scooty bearing Reg.No. TN 29 BE 7877 was given to its owner as per order in Cr.MP.No.2320/2022 dated 11.7.2022 by learned District Munsif cum Judicial Magistrate, Pennagaram and the owner is directed to retain the same after expiry of appeal time or if any appeal is preferred after disposal of appeal. Bajaj Discover two wheeler bearing

Reg.No.TN 29 AF 3588 shall be returned to owner after proper verification and identification after expiry of appeal time or if any appeal is preferred after disposal of appeal.

5) This court is inclined to grant compensation to dependents of the deceased Kandhasamy under the Victim Compensation Scheme under Section 357(A) of Cr.P.C. A copy of the judgment shall be sent to the District Legal Services Authority, Dharmapuri and the District Legal Services Authority, Dharmapuri shall decide the quantum of compensation to be awarded to the dependents of deceased Kandaswamy. The District Legal Services Authority, Dharmapuri shall also take into consideration the compensation if any already given to them. Fine paid.

This Session case coming up before this court for final hearing on 25.3.2026 in the presence of Mr.K.Sakthivel, counsel for the prosecution and Mr.A.Senthamarai, Legal Aid Defence counsel for the accused, upon hearing the arguments of both side, on perusal of entire case records and having stood over till this day for consideration, this court pronounces the following;

JUDGMENT

1. The Inspector of police, Perumbalai police station has laid final report against the accused alleging that on 29.5.2022 at 6.00 AM in the morning, due to previous enmity, at Kovallilkombai, Pennagaram to Mecheri road near Vinayagar

temple, the accused assaulted the deceased Kandhasamy who came there in a scooty two wheeler to deliver milk in the milk van on his neck with billhook machete, on seeing this, witnesses Madhammal, Santha restrained him, the accused pushed them aside, also pushed deceased to the ground with two wheeler and again assaulted him on his neck which resulted in the death of the deceased. Hence the accused is liable to be prosecuted under 341, 302 IPC.

2. Finding prima facie case is made out against accused, the learned District Munsif cum Judicial Magistrate Court, Pennagaram, Dharmapuri had taken case on file as PRC.No.28/2022 and after serving of copies as mandated by Sec.207 of Cr.P.C., had committed case to Principal District and Sessions Court, Dharmapuri as the offence involved under section 302 of IPC is exclusively triable by court of sessions.

3. The Principal District and Sessions Judge, Dharmapuri has taken the case on file as S.C.No.19/2023 and had made it over to this court for disposal in accordance with law. On appearance of the accused before this court, after opening of prosecution done by Learned Additional Public prosecutor, after hearing the accused and perusing the materials produced by prosecution on finding prima facie case, charges have been framed against accused under Section 341, 302 IPC. When the same was read over, explained, questioned with the accused, he denied the same and claimed to be tried.

4. The prosecution in order to establish its case examined 20 witnesses, marked

23 documents and 13 material objects were marked. No documents have been marked on the defence side.

5. The Gist of the prosecution case is summarised as follows:

i) PW.1 Mrs.Sagunthala is wife of the deceased Kandhasamy. There was a common pathway dispute between the accused family and PW.1 family for the past three years. On 28.5.2022 at 8.00 AM in the morning, there was a wordy quarrel between them. On the same day around 8.00 PM, the accused along with five persons had gone in a car bearing Reg.No. TN 73 D 2777 crossing brick kiln of the deceased. The deceased who has seen this had informed his wife -PW.1. On next day 29.5.2022 at 6.00 AM, the deceased had gone in his scooty two wheeler bearing Reg.No.TN 29 BE 7877 to deliver milk in a milk vehicle. The accused came in Bajaj Discover two wheeler bearing Reg.No.TN 29 AF 3588, at Kovallilkombai in Pennagaram to Mecheri road, near Vinayagar temple, restrained the deceased, took bill hook machete, assaulted the deceased on his neck and right side head. PW.2 Mrs.Santha, PW.3 Mrs.Madhammal who had also come there with milk on seeing the deadly attack, restrained the accused, but the accused pushed them aside, pushed the deceased from his scooty to the ground and assaulted him on his neck. On hearing the screaming on PW.2-Mrs.Santha, PW.3-Mrs.Madhammal, PW.4 Mr.Aarumugam, and PW.5 Mr.Vijay had come there. The deceased died with bleeding injuries in his neck and right side head. The accused immediately fled away from the scene of occurrence in his two wheeler. Upon being informed by the witnesses PW.1 had come to the spot

and found her dead body of the husband with injuries. She preferred Ex.P1-Written complaint to PW.15-Mr.Mathialagan, the then Sub Inspector of Police. PW.15 upon receipt of Ex.P1 complainant has lodged Ex.P12-First Information Report in Cr.No.72/2022 U/s.341, 302 IPC. He has forwarded the Ex.P12-F.I.R to Pennagaram, District Munsif Cum Judicial Magistrate and copies to other officials. He has placed case records to PW.18 Mr.Palanisamy, the then Inspector of Police. PW.18 upon perusal of the case records had immediately proceeded to scene of occurrence inspected it at 9.00 AM preferred Ex.P2 Observation Mahazar and Ex.P17 Rough plan in the presence of PW.9 Mr.Arunkumar and LW.14 Nagendran. He recovered M.O.1-Billhook machete, M.O.2-Blood stained soil, M.O.3-Sample soil, M.O.4-TVS Scooty bearing Reg.No.TN 29 BE 7877, M.O.5-Blood stained blue colour chappel, M.O.6-Aluminium milk can by way of Ex.P3 Recovery mahazar in the presence of same witnesses. He conducted inquest in the presence of panchayatars, Venkatesan, Naveen, Govindharaj, Saravanan, Karthi at 1.00 P.M and prepared Ex.P18 Inquest report. In order to know the cause of the death of the deceased, he gave Ex.P11 Requisition letter to Medical officer, Government Medical College and Hospital, Dharmapuri through PW.14 Mr.Ganesan, the then Special Sub Inspector of Police. PW.14 has obtained requisition letter, passport and handed over it to LW.21-Dr.Madhanraj, Assistant professor, Forensic Medicine Department, Government Medical College and Hospital, Dharmapuri. LW.20, LW.21 upon receipt of the requisition has commenced the Postmortem at 4.00 P.M on 29.5.2022, his

report reads as follows:

External injuries was antemortem in nature.

1. Chop Wound, Obliquely placed with gapping, contused margin was present over the back aspect of the neck 9x4 cm x cavity Deep.

2. Chop Wound, Obliquely placed with gapping, contused margin was present over the back and upper aspect of the neck, Total 2 in number bridged with Skin Tag, Together measured 20x5 cm x Bone deep.

3. Chop Wound, Obliquely placed, over the right Ear, underlying vault - 9x1.5x Bone deep.

4. Chop wound 2 in number obliquely placed, over the right and back aspect of the head measured 4x1cm, 6x1cm

5. Abraded contusion (reddish brown) was present over the following region above the right eye brow 3x2 cm, Below the right eye 3x3 cm, right side of the face 3x2 cm.

Dissection of Thorax and Abdomen:

- Rib cage : Intact
- Hear : Chambers and valves contained blood clots.
- Lungs : Was Oedematious c/s oozed frothy fluid.
- Stomach : Was empty.
- Liver, Kidney : Was congested on C/s.
- Spleen : Was pulpy on C/s.
- Urinary bladder : Empty.
- Pelvic Bone : Intact.
- Scalp : As mentioned above in external injuries.
- Vault : As mentioned above in external injuries.
- Brain : was Oedematious C/s was pale.
- Base : Intact.
- Hyoid : Intact.
- Spinal Column : was Fractured (C2- C3) vertebrate.

Bloodless layer Dissection of the Neck.

Opinion as to cause of death: Could have died due to shock and haemorrhage. As a result of multiple chop wounds sustained to neck structure.

After autopsy, he has given Ex.P16 final opinion stating that he could have died

due to shock and haemorrhage, death could have happened 6 to 10 hours prior to Autopsy, based upon the Ex.P14 Viscera report that no alcohol or other poison was admitted in the internal organs. After autopsy PW.15 had handed over the dead body to the relatives of the deceased for cremation. He collected the belonging of the deceased found on his dead body namely M.O.9-Blood stained half hand shirt, M.O.10-Lungi, M.O.11-Brown colour innerwear, M.O.12-Blood stained white colour checked towel, M.O.13-Silver hip rope. He has handed over the internal organs for chemical analysis. He handed over the belongings of the deceased to PW.18 who recovered it by way of Ex.P19 form 95.

ii) PW.18 in continuation of investigation upon receiving the secret information on 29.5.2022 at 3.30 P.M near Palaiyur Checkpost, Pennagaram to Mecheri road. He enquired the accused found in his two wheeler bearing Reg.No.TN 29 AF 3588, upon enquiry he admitted his crime and arrested him. Voluntary disclosure statement of the accused was recorded in the presence of PW.10 Mr.Porkodi. Village Administrative Officer, Kalapampatty and PW.11 Sakthivel, Assistant to Village Administrative Officer, Kalapampatty. He recovered M.O.1-Billhook machete, M.O.7-Dhoti, M.O.8 White colour checked shirt and two wheeler at the instance of accused. He remanded the accused to judicial custody.

iii) He recovered material objects by way of Ex.P19-Form 95. He had examined the witnesses and recorded their statement. As he attained superannuation, he gave the records to Inspector of police Eriyur circle to PW.19-Mr.Veluthevar.

iv) PW.19 upon perusal of the case records, gave requisition to District Munsif Cum Judicial Magistrate Pennagaram to send the material objects for chemical analysis by way of Ex.P21 requisition letter. He nominated PW.13 Mr.Saravanan Grade I. Police constable for handing over the material objects to chemical analysis. He had examined LW.17-Mr.Chan Basha, the owner of two wheeler bearing Reg.no. TN 73 D 2777 and also examined LW.18 Motor Vehicle Inspector and recorded his statement. He handed over the case records to PW.20-Mr.Yuvaraj, the then inspector of police Perumbalai Police station.

v) PW.20 upon perusal of the case records, enquired witnesses and obtained Ex.P22 Serological report and Ex.P23 Biological report. After completion of investigation, he obtained ADPP opinion and filed final report against accused u/s.341, 302 IPC.

6. When the accused was questioned with reference to the incriminating evidence, found against him in the evidence of the prosecution witnesses, u/s.313(1) (b) of Cr.P.C., he denied the same. No evidence was produced on defence side.

7. Heard both side arguments. Records perused.

8. **Point for Consideration:**

Whether the prosecution has proved charges against the accused under section 341, 302 IPC beyond reasonable doubt?

9. **Point:**

9.1) It is case of prosecution that on 29.5.2022 at 6.00 AM in the morning, due to previous enmity, at Kovallilkombai, Pennagaram to Mecheri road near

Vinayagar temple, the accused assaulted the deceased Kandhasamy who came there in scooty two wheeler to deliver milk in the milk van with bill hook machette on his neck, on seeing this. witnesses Madhammal, Santha, restrained him, the accused pushed them aside, tilted the vehicle to ground, also pushed the deceased to the ground and again assaulted him on his neck which resulted in the death of the deceased. Hence the accused is liable to be prosecuted under 341, 302 IPC.

9.2) The learned prosecution counsel contended that accused had previous enmity with deceased Kandaswamy as to common pathway, all witnesses have spoken about enmity, occurrence has happened in public place witnessed by independent witnesses who have given vivid and cogent narration about incident and their evidence supported prosecution case, their evidence are trustworthy and reliable as per the established principles, so conviction can always be successfully recorded on the basis of eye witnesses. The recovery of murdered weapon billhook machete clearly pointing out the accused has been proved by prosecution. The medical evidence supports prosecution case. The false implication theory does not find any basis in the light of the evidence on record. It is a preplanned cold blooded murder and prosecution has proved guilt of accused by producing relevant evidence to convict accused. Hence the accused has to be dealt with in accordance with law.

9.3) The learned defence counsel contended that complaint was not prepared on the time as projected by prosecution and there is delay of 7 and 1/2 hours in forwarding complaint to Jurisdictional Magistrate and delay has not been explained

by prosecution, author of complaint was not examined by police, the projected eye witnesses were not at all present in scene of occurrence, they were planted to support prosecution well tutored by defacto complainant counsel, the investigation officers have not made any enquiry about car which passed through brick kiln of deceased on the night before occurrence, persons who came in car are responsible for death of deceased, there are many contradictions in the evidence of prosecution witnesses, deceased had previous enmity with accused and he has been falsely implicated in this case, prosecution has not proved the case beyond reasonable doubt.

9.4) It has to be decided whether the prosecution has proved the guilt of the accused through sufficient oral and documentary evidence. The case of prosecution is that deceased Kandasamy met a homicidal death. This court considered the contentions raised on behalf of both side and this court has to decide whether the evidence in the case inspires confidence, so as to hold that the accused is responsible for causing the death of the deceased Kandasamy. This is not a case based upon circumstantial evidence and there are eye witnesses in this case.

9.5) This court has to determine whether deceased Kandaswamy met homicidal death as projected by prosecution. PW.17-Dr.Sabarinathan, has proved the autopsy report (Ex.P16). From the perusal of the autopsy report, as also affirmed by PW.17, it is evident that following injuries were found:

External injuries was antemortem in nature.

1. Chop Wound, Obliquely placed with gapping, contused margin was present over the back aspect of the neck 9x4 cm x cavity Deep.

2. Chop Wound, Obliquely placed with gapping, contused margin was present over the back and upper aspect of the neck, Total 2 in number bridged with Skin Tag, Together measured 20x5 cm x Bone deep.

3. Chop Wound, Obliquely placed, over the right Ear, underlying vault - 9x1.5x Bone deep.

4. Chop wound 2 in number obliquely placed, over the right and back aspect of the head measured 4x1cm, 6x1cm

5. Abraded contusion (reddish brown) was present over the following region above the right eye brow 3x2 cm, Below the right eye 3x3cm, right side of the face 3x2cm.

Dissection of Thorax and Abdomen:

- Rib cage : Intact
 - Heart : Chambers and valves contained blood clots.
 - Lungs : Was Oedematious c/s oozed forthy fluid.
 - Stomach : Was empty.
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 - Vault : As mentioned above in external injuries.
 - Brain : was Oedematious C/s was pale.
 - Base : Intact.
 - Hyoid : Intact.
 - Spinal Column : was fractured (C2- C3) vertebrate.
- Bloodless layer Dissection of the Neck.

Opinion as to cause of death: Could have died due to shock and haemorrhage as a result of multiple chop wounds sustained to neck structure.

The autopsy was performed on 29.05.2022 at 3:55 PM and according to the opinion of P.W.17, injuries are ante mortem in nature and the deceased would have been died due to shock and hemorrhage as a result of multiple chop wounds sustained to neck structure.

9.6) P.W.17 in his chief-examination has categorically stated that the injuries

over the person of the deceased were inflicted by M.O.1-Billhook machete. It is specific answer of PW.17, medical expert that injuries were sustained only due to assault by M.O.1-Billhook machete. The clear evidence of PW.17 that injuries could have been caused by M.O.1-Billhook machete, which corroborates evidence of eye witness. This court does not find any reason to reject well founded opinion of PW.17. There is no contra material produced by defense to disprove the expert view. In view of foregoing deliberations, this court is of the view that prosecution case that deceased met with homicidal death is supported with medical evidence. Hence this court concludes that deceased met only homicidal death.

9.7) In this case PW.1-Defacto complainant, Mrs.Sagunthala, wife of deceased has set law into motion by giving Ex.P1-complaint at 8.00 A.M on 29.5.2022 to PW.15 Mr.Mathiazhagan, the then Sub Inspector of Police, Perumbalai police station. PW.15 has lodged Ex.P12-First Information report under section 341, 302 IPC in Cr.No.72/2022 at 8.00 A.M on 29.05.2022. The prompt registration of F.I.R rules out any possibility to make any concocted or fanciful story. The learned defence counsel contended that PW.12-Mr.Perumal, Grade-1 Police constable in his evidence admitted that F.I.R was given to him only at 2.00 PM. So, it is made out that F.I.R was not prepared at 8.00 AM as alleged by prosecution. The learned prosecution counsel contended that PW.12 evidence cannot be given much importance as he has stated it took time for preparation for F.I.R and related copies. This court is of the view that even accepting him for a moment that there is a delay, the same will not affect

prosecution case as it is only a lapse on the part of the investigation agency. Ex.P1-complaint has been proved as Ex.P1 by P.W.1, and in the light of their specific evidence on this aspect. The registration of Ex.P1-F.I.R. on the basis of the written report given by the PW.1 and also the registration of it has been proved by PW.15-Mr.Mathiazhagan, the then Sub Inspector of Police and no adversity is found in the deposition of PW.15. It is made out that the First Information report has been received by the Jurisdictional Magistrate at 3.20 P.M. on 29.05.2022. This 7 hours and 20 minutes delay on part of police authorities and same cannot be a sole ground to disbelieve prosecution case and it has to be considered along with other facts and circumstances of this case.

9.8) The learned defense counsel contended that PW.1 initially admitted that complaint was written by her, later changed her version that complaint was written by a lady in a police station, prosecution has not examined author of Ex.P1-complaint and the same affects prosecution case. It is evidence of PW.1 that complaint was written by a lady as per her instructions, however she is unable to recollect the name of the person who wrote the complaint as due to sudden death of her husband, she was under great mental pressure. It is the evidence of PW.15-Sub Inspector of police who had received complaint and lodged Ex.P12-First Information report that PW.1 gave a written complaint to him. The complaint has been given by PW.1 within two hours of the sudden death of her husband. She has gone to crime spot after having coming to know about the death of her husband and she has gone to police station

and given Ex.P1-Complaint. Due to mental trauma, she is unable to state name of author of the complaint. However it is her clear evidence that contents of the complaint were written as per her instructions. The fact that she is unable to name the author of the complaint will not affect the prosecution case, as one cannot expect a lady like PW.1 who had lost her husband all of a sudden to recollect all happenings at the time of his death in detail including name of the scribe of the complaint. The defence during cross-examination did not controvert evidence of PW.1 i.e. the complainant about her signature on the written complaint. Her evidence could not be shaken by the defence, rendering the same to be trustworthy and credible. It is obvious that PW.1 was struck with grief due to sudden death of her husband. The complaint has been lodged without much delay, therefore, there is no manipulation, ill-will, premeditation or conspiracy to incriminate the accused on the part of the complainant, she had rightly lodged complaint and under no circumstance of logical reasoning could have arisen with an intention to falsely implicate the accused. Hence the same will not affect prosecution case.

9.9) PW.1-Mrs.Sakunthala, wife of deceased/defacto complainant is not an eye witness to the incident. On careful analysis of her evidence, it is made out that she has gone to crime spot upon hearing news and she has correctly spoken about the time, date and place of occurrence. Her evidence is that on 29.5.2022 her husband left house to deliver milk in milk van and she later found her dead body of her husband in scene of occurrence is uncontradicted and supports prosecution case.

9.10) There are totally 6 eye witnesses cited by prosecution in this case namely PW.2-Mrs.Santha, P.W.3-Mrs.Madhammal, P.W.4-Mr.Arumugam, P.W.5-Mr.Vijay and P.W.6-Mr.Govindhi. This court shall now consider evidence of each witness separately.

9.11) PW.2-Mrs.Shantha and PW.3 Mrs.Madhammad deposed that three years ago, they went to pour milk in milk van, while they were chatting standing near Vinayagar Temple, at that time deceased came there with a milk can in his scooty and accused also came there in a two wheeler, accused assaulted deceased on right back side of his neck with billhook machete, they tried to caught hold of accused, but accused pushed them aside, upon hearing their screaming PW.4-Mr.Arumugham and PW.5-Mr.Vijay came there, accused took billhook machete and left the place in his two wheeler. They identified M.O.1-Billhook machete in the court. On careful perusal of cross examination of PW.2, PW.3, they denied suggestions put forth by defence counsel that accused was not present there at all and he has no connection with death of deceased. They correctly deposed about place of occurrence, manner in which accused committed offence, nothing has been elicited during their cross examination to disbelieve their testimony. They are not relatives of deceased and are acquainted with both deceased and accused.

9.12) PW.4-Mr.Arumugam and PW.5-Mr.Vijay portrayed as eye-witnesses to occurrence deposed in unison that on 29-05-2022 at 6.00 AM in the morning, while they were standing near Kovallikoombai bus stand, they heard screaming of PW2 &

PW3, immediately they rushed there, the accused assaulted the deceased on his right side of the neck with machete, they restrained him, however the accused pushed the deceased from his two wheeler assaulted again with machete and fled away with the machete in his two wheeler. They also identified M.O.1-Billhook Machete and accused in the court. PW.4 and PW.5 are relatives of deceased. The learned defendant counsel contended that the occurrence day falls on Sunday, hence there is no possibility of PW.4 and PW.5 to go to work on Sunday. It is evidence of PW.5, in order to do urgent work, he was standing at the bus stand on the occurrence day. Merely because the occurrence day falls on Sunday, it cannot be said that there is no necessity for PW.4 and PW.5 to go to job.

9.13) Another eye witness PW.6-Mrs.Govindhi deposed that three years ago around 6.00 AM near her house, PW.2 & PW.3 came there, the deceased and accused also came there, the accused assaulted the deceased with knife on his right side of his neck, on seeing the blood she sat down, the accused took the knife and fled away from the scene of occurrence.

9.14) The learned defendant counsel contended that the eye witnesses projected by prosecution were unable to state whether the accused assaulted the deceased from front side or back side. All the eye witnesses have stated that accused assaulted the deceased with MO.1-Billhook machete on his right side of neck. Merely because there is contradiction as to whether the accused assaulted the deceased from front side or back side cannot be ground to reject their evidence which

is only a minor contradiction.

9.15) On careful analysis of PW.2 to PW.6 eye witnesses evidence during their chief examination and cross examination, it is made out that their evidence is in tune with prosecution case as to murder of deceased by accused, and they have identified M.O.1-Billhook machette. PW.2 to PW.6 are not chance witnesses and admittedly they all belong to same village. PW.2 to PW.6 witnesses have stated about presence of other witnesses in the scene of occurrence. They have no enmity towards the accused. True, PW.4 & 5 are relatives of the deceased. Therefore, it can be said that they are interested in the prosecution. The question for consideration is whether on that score the evidence of these witnesses can be rejected. It is made out from PW.4, PW.5 evidence, that they are all eye witnesses to incident and they have all deposed about incident in accordance with prosecution case. These witnesses though closely related to deceased, there is no reason cited by defence to discard their evidence. There are minor contradictions in the evidence of these witnesses, however same are not to effect to disbelieve their version.

9.16) PW.7-Mr.Palaniswami (brother of deceased) and PW.8-Mr.Shiva (son of deceased) have been arrayed as inquest witnesses. These witnesses are only hearsay witnesses.

9.17) PW.9-Mr.Arun Kumar has been cited as witness to Ex.P2 observation mahazar and Ex.P3-Seizure mahazar. He clearly deposed that on 29-02-2022 at 9.00 A.M, police made spot inspection and he along with Nagendran signed as witnesses

in Observation mahazar and Seizure mahazar. He also identified M.O.2-blood stained soil, M.O.3-Sample soil, M.O.4-Blue colour TVS Wego scooty bearing Reg.No.TN 29 BE 7877, M.O.5-blue colour slipper. and M.O.6-Aluminium milk can. His evidence supports the prosecution case of preparation of Observation mahazar in the scene of occurrence and Seizure mahazar for recovery of material object.

9.18) PW.10-Mrs.Porkodi, PW.11-Mr.Sakthivel have been portrayed as witnesses to confession statement of accused and recovery mahazar. As PW.10 has not supported the prosecution case, she has been treated hostile by prosecution. PW.11 deposed that on 29.05.2022 at 3.00 P.M, police directed them to come to Pazhayur check post, he went there along with PW.10, accused gave voluntary disclosure statement, based upon Ex.P7-Admitted portion of voluntary disclosure statement, police recovered M.O.1-Billhook machete, MO.7-Blood stained green border Dhothi, MO.8-white color checked half hand shirt, bajaj discover two wheeler bearing registration number TN 29 AF 3588 at the instance of accused. His evidence supports the prosecution case.

9.19) PW.18-Mr.Palaniswami, PW.19-Mr.Veludevar and PW.20-Mr.Yuvaraj have deposed about the investigation conducted by them in this case. The investigation officers have not chosen to recover the car alleged to have passed near the brick kiln of deceased on the day before occurrence. There is also a delay in sending FIR to court. These lapses committed on part of investigation officers and same will not give any advantage to defence case, as prosecution has proved this

case through eye witness.

9.20) The another plea raised by the accused that since the parties are on inimical terms, as per statement of P.W.1 and also as per the version of F.I.R. itself, a possibility of false implication of the accused cannot be thrown out completely. This court places reliance upon **Bikau Pandey Vs. State of Bihar (2003) 12 SCC 616**, wherein it has been held that when the direct evidence establishes the crime, motive is of no significance and pales into insignificance.

9.21) The defence counsel has cross examined prosecution witnesses to effect that accused was not at all present at the scene of occurrence. But no specific suggestion covering the time of his absence from scene of occurrence as also commission of alleged offence was offered to the prosecution side witnesses. Accused has not pleaded any such alibi specifically during his examination under section 313 Cr. P.C. There are corroborative evidence and circumstances on record to conclusively prove his presence at the scene of occurrence at the material point of time. Having scanned, the evidence and circumstances on record led on behalf of both sides, this court is of definite view that accused has miserably failed to establish the plea of alibi.

9.22) On carefully examining the entire evidence and after considering the submissions of counsel on both sides, this Court is of the considered view that the following chain of circumstances have been proved by the prosecution beyond reasonable doubt:

Motive:

There was enmity between accused and deceased as to pathway. Hence, it is evident that the accused had motive to commit murder of the deceased .

Recovery of the M.O.1 Machete:

Recovery of the M.O.1-Billhook machete has been proved by prosecution.

The conduct of the accused:

The accused has left the place immediately and has not taken any steps to inform about the death to the police which proves his complicity in the crime. The medical evidence proves that the cause of death was due to chop injury.

Effect of testimony of Eye witnesses:

PW.2 to 6 are eye witnesses to crime. On cumulative consideration of evidence of these witnesses, they point out guilt of accused and accused only.

9.23) The prosecution has proved the identity of the accused, the manner in which the offence has been committed, place of commission of the offence, the investigation including the documents prepared. There is nothing which could shatter the veracity of the prosecution witnesses or falsify the claim of the prosecution. This Court is of the view that the aforesaid circumstances fully establish the guilt of the accused. In fact, the chain of evidence is so complete and points out the accused committed offence. The aforesaid circumstances show that the act of murder had been done by the accused. The prosecution has been able to prove the manner in which the occurrence took place. For all the above mentioned reasons, this court concludes that the prosecution has proved the guilt of the accused beyond reasonable

doubt.

9.24) Having come to the conclusion that it was this accused, who caused the death of the deceased, now this court has to examine as to what was the offence that was committed by the accused. The prosecution counsel contended that murder was a planned one and hence accused should be convicted under S.302 IPC. It appears from the case of the prosecution, proved by Medical evidence, that the murder was pre-meditated. The manner in which accused brutally attacked the deceased in a public place takes the offence totally outside the purview of any of the Exceptions to Section 300IPC or even otherwise to be considered culpable homicide not amounting to murder. The attack of accused proves that his intention was to kill deceased.

9.25) In view of the foregoing deliberations, this court is of the view that the prosecution has proved beyond reasonable doubt the charge under Section 341, 302 IPC against accused, hence, the accused is found guilty under Section 341, 302 IPC and is liable to be punished under Section 341,302 IPC.

9.26) As accused is found guilty under Section 341, 302 IPC, he was examined under Section 235(2) Cr.P.C. regarding question of sentence and his answer is as follows:

accused:"குறைந்தபட்ச தண்டனை வேண்டும். பிள்ளைகள் இருக்கிறார்கள்".

9.27) The question that arises for consideration is sentence to be given to the accused. In the present case there has been homicidal death. There is no record placed

by the prosecution to conclude that the accused is likely to commit a crime in future or incapable of being reformed. It is a settled position of law that death penalty should be given in the rarest and rarest of cases. The only sentences that can be imposed for an offence U/s. 302 IPC is life imprisonment or death. There is no circumstance to bring the case under the head of the rarest of rare cases to impose the sentence of death. Hence the accused can be sentenced to imprisonment for life and to pay fine.

In the interest of justice in this case, taking into consideration, facts and circumstances of case, this court is inclined to grant compensation to dependents of the deceased Kandhasamy under the Victim Compensation Scheme under Section 357(A) of Cr.P.C. A copy of the judgment shall be sent to the District Legal Services Authority, Dharmapuri and the District Legal Services Authority, Dharmapuri shall decide the quantum of compensation to be awarded to the dependents of deceased Kandaswamy. The District Legal Services Authority, Dharmapuri shall also take into consideration the compensation if any already given to them.

In the result,

1) The accused is found guilty for the offences under Section 341, 302 IPC and convicted under Section 235(2) of Cr.P.C.

i) The accused is sentenced to undergo a imprisonment for life and to pay a fine of Rs.5,000/-, in default to undergo 2 years rigorous imprisonment u/s 302 IPC:

ii) The accused is sentenced to undergo a simple imprisonment for one month u/s 341 IPC:

iii) All the above sentences of imprisonment are ordered to run concurrently.

2) That the period of detention already undergone from 29.5.2022 to till date is ordered to be set off under S.428 of Cr.P.C.

3) The material objects M.O.1-Blood stained billhook machete, M.O.2-Blood stained soil, M.O.3-Sample soil, M.O.5-Blood stained blue colour strap white and blue colour slipper, M.O.6-Blood stained aluminium milk can, M.O.7-Blood stained green border Dhothi, M.O.8-Blood stained white colour half hand shirt, M.O.9- Blood stained red colour half hand shirt, M.O.10-Blue, white, brown colour checked lungi, M.O.11-Brown colour innerwear, M.O.12-Blood stained Red, white checked Towel shall be destroyed after expiry of appeal time or if any appeal is preferred after disposal of appeal.

4) M.O.13-Silver hip rope shall be returned to owner after proper verification and identification after expiry of appeal time or if any appeal is preferred after disposal of appeal. M.O.4-Blue colour TVS Wego scooty bearing Reg.No.TN 29 BE 7877 (photo) shall be kept in case records. TVS Wego scooty bearing Reg.No. TN 29 BE 7877 was given to its owner as per order in Cr.MP.No.2320/2022 dated 11.7.2022 by learned District Munsif

cum Judicial Magistrate, Pennagaram and the owner is directed to retain the same after expiry of appeal time or if any appeal is preferred after disposal of appeal. Bajaj Discover two wheeler bearing Reg.No.TN 29 AF 3588 shall be returned to owner after proper verification and identification after expiry of appeal time or if any appeal is preferred after disposal of appeal.

5) This court is inclined to grant compensation to dependents of the deceased Kandhasamy under the Victim Compensation Scheme under Section 357(A) of Cr.P.C. A copy of the judgment shall be sent to the District Legal Services Authority, Dharmapuri and the District Legal Services Authority, Dharmapuri shall decide the quantum of compensation to be awarded to the dependents of deceased Kandaswamy. The District Legal Services Authority, Dharmapuri shall also take into consideration the compensation if any already given to them. Fine paid.

Dictated by me, typed by the Steno-typist, corrected and pronounced by me in Open Court on this the 30th day of March 2026.

//Sd.Tmt.U.Monica.,M.L.,//
Additional Sessions Judge,
Dharmapuri

Annexure:

List of prosecution witnesses:

Rank	Name	Nature of Evidence
P.W.1	Mrs.Sagunthala.	Complainant.
P.W.2	Mrs.Santha	Eye witness.
P.W.3	Mrs.Madhammal	Eye witness.

P.W.4	Mrs.Arumugam	Eye witness.
P.W.5	Mr.Vijay.	Eye witness.
P.W.6	Mr.Govindhi	Eye witness.
P.W.7	Mr.Palanisamy.	Inquest witness.
P.W.8	Mr.Siva.	Inquest witness.
P.W.9	Mr.Arunkumar.	Observation and seizure mahazar.
P.W.10	Mr.Porkodi	Confession and Seizure Mahazar.
P.W.11	Mr.Sakthivel	Confession and Seizure Mahazar.
P.W.12	Mr.Perumal.	Other witness.
P.W.13	Mr.Saravanan.	Other witness.
P.W.14	Mr.Ganesan.	Other witness.
P.W.15	Mr.Mathiyalagan.	Duty officer.
P.W.16	Mr.Pasupathi.	Other witness.
P.W.17	Dr.Sabarinathan	Additional witness.
P.W.18	Mr.Palanisamy.	Investigation Officer.
P.W.19	Mr.Veluthevan.	Investigation Officer.
P.W.20	Mr.Yuvaraj.	Investigation Officer.

List of Prosecution Exhibits

Sl.No	Exhibit No	Description	Marked through
1.	Ex.P1	Complaint.	PW.1
2.	Ex.P2	Observation Mahazar.	PW.9
3.	Ex.P3	Seizure Mahazar.	PW.9
4.	Ex.P4	First signature in the confession statement.	PW.10
5.	Ex.P5	First Signature in the seizure mahazar.	PW.10
6.	Ex.P6	First signature in the seizure mahazar.	PW.11
7.	Ex.P7	Second signature in the confession statement.	PW.11
8.	Ex.P8	Seizure mahazar.	PW.11
9.	Ex.P9	Photos of vehicle.	PW.11
10.	Ex.P10	Seizure mahazar.	PW.17

11.	Ex.P11	Requisition letter to conduct Post mortem.	PW.14
12.	Ex.P12	First Information Report.	PW.15
13.	Ex.P13	Requisition letter to examine Dr.Sabarinathan as witness.	PW.17
14.	Ex.P14	Viscera Report.	PW.17
15.	Ex.P15	Post Mortem Certificate.	PW.17
16.	Ex.P16	Final opinion.	PW.18
17.	Ex.P17	Rough Sketch.	PW.18
18.	Ex.P18	Inquest Report.	PW.18
19.	Ex.P19	Form 95	PW.18
20.	Ex.P20	Special Report.	PW.19
21.	Ex.P21	Requisition letter to conduct chemical analysis.	PW.19
22.	Ex.P22	Serological Report.	PW.20
23.	Ex.P23	Biological report.	PW.20

List of Material Objects

Sl.No	Material Object No	Description	Marked through
1.	M.O.1	Blood stained billhook machete	P.W.2
2.	M.O.2	Blood stained soil.	P.W.9
3.	M.O.3	Sample soil.	P.W.9
4.	M.O.4	Blue colour TVS Wego scooty TN 29 BE 7877 (photo)	PW.9.
5.	M.O.5	Blood stained blue colour strap white and blue colour slipper.	PW.9.
6.	M.O.6	Blood stained aluminium milk can.	PW.9
7.	M.O.7	Blood stained green border Dhoti.	PW.11
8.	M.O.8	Blood stained white colour half hand shirt.	PW.11
9.	M.O.9	Blood stained red colour half hand shirt.	PW.14.
10.	M.O.10	Blue, white, brown colour checked lungi.	PW.14.
11.	M.O.11	Brown colour innerwear	PW.14.

12.	M.O.12	Blood stained Red, white checked Towel.	PW.14
13.	M.O.13	Silver hip rope	PW.14

Accused side witness: Nil.

Accused side Exhibits: Nil.
Copy Submitted to

- 1) The Registrar High Court of Chennai – through
The Principal District Judge, Dharmapuri
- 2) The Principal District Judge, Dharmapuri

Copy of digitally signed Judgment sent through email to:

- 1). The District Munsif Cum Judicial Magistrate, Pennagaram Court, Dharmapuri.
- 2). The District Collector, Dharmapuri
- 3). The Superintendent of Police, Dharmapuri
- 4). Investigating Agency through Additional Public Prosecutor, Dharmapuri

//Sd.Tmt.U.Monica.,M.L.,//
Additional Sessions Judge,
Dharmapuri

Annexure Sheet.
S.C.No.19 of 2023

Date of occurrence	29.5.2022
Date of complaint	29.5.2022
Date of apprehension	29.5.2022
The period of remand of the accused	29.5.2022 to till date.
The date of filing of the complaint/final report in the court	29.5.2022/2.12.2022
The date of committal of the case to the court of sessions	11.1.2023
The date of questioning of the accused under sections 228, 240, 246	6.1.2023

and 251 of the code of criminal procedure, 1973 as the case may be;	
Filing of all miscellaneous petitions and their results including the results on challenge before superior courts; except routine petitions like petitions under section 311 of the code;	--
Date of examination in-chief and cross-examination of a witness;	PW.1 to PW.6. - 5.11.2025. PW.7, PW.8. - 10.11.2025. PW.9. - 12.11.2025. PW.10. - 8.12.2025. PW.11 to PW.13. - 17.2.2025. PW.14, PW.15. - 19.12.2025. PW.16. - 5.1.2026. PW.17. - 9.1.2026. PW.18. - 16.2.2026. PW.19 and PW.20. - 9.3.2026.
Date of examination of the accused under section 313 of the code;	16.3.2026
Details of abscondence of an accused and his appearance/production, as the case may be; and	--
Grant of stay by superior courts and the results thereof.	--
Date of Judgment	30.3.2026
Date of service of copy of Judgment to accused	30.3.2026

//Sd.Tmt.U.Monica.,M.L.,//
Additional Sessions Judge,
Dharmapuri.

//True copy//

**Additional Sessions Judge,
Dharmapuri.**

Fair Draft Judgment
S.C.No.19/2023
Dated:30.3.2026.