

**IN THE ADDITIONAL DISTRICT AND SESSIONS COURT,  
TIRUVANNAMALAI, TIRUVANNAMALAI DISTRICT**

**PRESENT : Tr. B.C. GOPINATH, M.L.,**

**Additional District & Sessions Judge,  
Tiruvannamalai.,**

**Tuesday, the 24<sup>th</sup> day March, 2026**

**SESSIONS CASE NO. 27 of 2015**

**CNR NO: TNTM01-000101-2015**

**(P.R.C.NO.15/2014 of Judicial Magistrate No.II,Tiruvannamalai)**

**(Vettavalam Police Station , Cr.No.67/2013)**

1. Complainant : Inspector of Police,  
Vettavalam P.S.  
Crime No.67/2013
2. Name of accused : 1. Johnvictor Aged 30, S/O. Albert,  
2. Mary Stella, Aged 53, W/O. Albert,  
3. Vimala , Aged 32, W/O. Marbilio  
All are residing at Vettavalam Colony,  
Tiruvannamalai District.
3. Offence complained of : A1, A2 - U/s. 294(b), 302 of IPC  
A3 - U/s. 294(b), 302, 352 IPC.
4. Charge framed on the accused : A1, A2 - U/s. 294(b), 302 of IPC  
A3 - U/s. 294(b), 302, 352 IPC.

5. Plea of the accused : Not guilty
6. Finding of the court : A1 is found guilty of offence u/s. 302 of IPC  
 A2 is found guilty of offence u/s. 352 of IPC  
 A3 is found guilty of offence u/s. 352(2counts) of IPC  
 A1 is found not guilty of the offence under sections 294(b) of IPC and A2 & A3 are found not guilty of offence under sections 294(b) and 302 of IPC
- s7. Sentence or Order : 1) In the result, A1 is found guilty u/s. 302 of IPC and he is convicted u/s. 235(2) Cr.P.C., and sentenced to undergo Rigorous Imprisonment for life and to pay a fine of Rs. 1000/- in default 2 months simple imprisonment. The period from 03.04.2013 to 10.05.2013 undergone by the accused as remand prisoner is ordered to be set off u/s 428 Cr.P.C.
- 2) A2 is found guilty u/s. 352 of IPC and she is convicted u/s. 222(2) Cr.P.C., and to pay a fine of Rs. 500/- and in default of payment of fine, she shall undergo 2 months simple imprisonment.

3) A-3 is found guilty u/s. 352 (2 counts) of IPC and she is convicted u/s. 222 (2) Cr.P.C., and to pay a fine of Rs. 500/- under each count (total Rs.1000/- ) and in default of payment of fine, she shall undergo 2 months simple imprisonment.

4) A-1 is found not guilty of the offence under sections 294(b) of IPC and A2 & A3 are found not guilty of offence under sections 294(b), 302 of IPC and they are acquitted from those charges U/S. 235(1) Cr.P.C.,

5) The bail bonds executed by the A-1 to A-3 stands cancelled.

6) That the material object in M.O.1 to M.O.3 (C.P.No. 3/2018 ) are useless and are ordered to be destroyed after the expiry of the Appeal period or after the Appeal if any.

8. Prosecution conducted by : Tr. N. Palani, Additional Public Prosecutor, Tiruvannamalai.

9. Pleader for the accused : Thiru. P.K. Illavarasan, Advocate  
 Thiru. D.Kumar, Advocate  
 Tiruvannamalai.

**CASE SUMMARY**

- i The period of remand of the accused : Remanded on  
 A1,A2 - 03.04.2013  
 A3 - 04.04.2013  
 Released on  
 A1 - 10.05.2013  
 A2 - 11.05.2013  
 A3 - 13.05.2013
- ii The date of filing of the complaint / Final report in the court : Complaint - 01.04.2013  
 Final Report filed - 07.07.2014  
 Taken on file - 07.07.2014  
 12.02.2015
- iii The date of committal of the case to the court of sessions : 16.12.2014
- iv The date of questioning of the accused under sections 228, 240, 246 and 251 of the code of Criminal procedure, 1973, as the case may be : U/S. 228 - 29.06.2015

v	Filing of all miscellaneous petitions and their results including the results on challenge before superior courts, except routine petitions like petitions under section 317 of the code	--
vi	Date of examination in chief and cross examination of the witness	<u>Prosecution side</u>
		Chief                      Cross
		PW1 13.07.2018 13.07.2018
		20.01.2025
		PW2 13.07.2018 13.07.2018
		PW3 13.07.2018 13.07.2018
		07.02.2025
		PW4 13.07.2018 13.07.2018
		PW5 13.07.2018 13.07.2018
		PW6 23.07.2018 23.07.2018
		PW7 23.07.2018 23.07.2018
		PW8(H)03.08.2018 03.08.2018
		PW9 24.08.2018 24.08.2018
		PW10(H)23.10.2019 --
		PW11 07.01.2021 07.01.2021
		20.01.2025
		PW12 07.01.2021(H) --
		PW13 12.03.2021 12.03.2021

PW14 21.04.2022 21.04.2022

PW15 20.07.2022 20.07.2022

PW16 24.08.2022 24.08.2022

PW17 21.03.2025 21.03.2025

PW18 24.04.2025 24.04.2025

Accused Side :-

DW1- 23.10.2025 23.10.2025

DW2- 23.10.2025 23.10.2025

DW3- 05.11.2025 05.11.2025

- |      |  |            |
|------|--|------------|
| vii  | Date of examination of the accused under section 313 of the code                             | 12.06.2025 |
| viii | Details of abscondence of an accused and his appearance / production, as the case may be and | --         |
| ix   | Grant of stay by superior courts and the results thereof                                     | --         |

**J U D G M E N T**

The Inspector of Police, Vettavalam Police Station filed a final report u/s. 173(2) of Cr.Pc., in Cr.No. 67/2013 alleging that the accused John Victor (A-1) and Mary Stella (A2) were residing at Madha Koil street, Vettavalam and A-2 is the mother of A-1. A-3 Vimala is the cousin sister of A-1 Johnvictor. The PW1-Paulraj who used to assist PW-5 Vinmalardass in electrical works did

some electrical work in the house of A-1 John victor along with P.W-5 Vinmalardass. As A-1 did not pay the wages for doing that work, P.W.-1 and 5 did not continue the work in the house of A-1. On 31.03.2011 at about 6.00 pm, PW-1 Paulraj and PW-5 Vinmalardass went to the house of A-1 to collect their labour charges. When they went to the house of A-1, A-1 abused them as bastard and there was a scuffle. Driven by this enmity, all the 3 accused went to the house of deceased Charles at Nadu street in Vettavalam Colony and shouted at Paulraj to come out in obscene language. The deceased Charles, who is the younger brother of Paulraj stopped the accused from assaulting Paulraj. Irked by his intervention, A- 1 to 3 verbally abused Charles and with an intention to murder him, A-1 picked a brick and assaulted Charles on his left cheek, ears and nose. A-2 assaulted Charles using a wooden stick on the back of his chest and A-3 assaulted Charles on his head using a stick and the injuries led to the death of Charles. At the same time, A-3 assaulted PW-2 Prabhu using wooden stick on his left fist and caused a simple injury. Therefore it appears that A-1 to A-3 committed offences punishable u/s. 294(b), 302, 352 and 302 r/w34 IPC.

2) The learned Judicial Magistrate No.II, Tiruvannamalai has taken the report on file as P.R.C.No.15/2014. On appearance of the accused, copies were furnished in compliance of section 207 Cr.P.C. The offence being exclusively

triable by the Court of Sessions, the Ld. Magistrate committed the same to the Principal Sessions Court, Tiruvannamalai by an order dated 16.12.2014. Thereafter, the case was taken on file as S.C.No. 27/2015 by the Ld. Principal District and Sessions Judge who secured the accused from bail. After perusing the records and hearing both sides, on 29.06.2015, charges were framed U/s. 294(b) & 302 of IPC as against A-1 to A-3, and U/s. 352 of IPC against A3 by the Ld. Principal District and Sessions Judge. The accused pleaded not guilty and claimed to be tried. At that stage, consequent to the establishment of this Court, the Principal District and Sessions Judge, Tiruvannamalai District, made over the case to this Court for disposal in accordance with law.

3) Thereupon the prosecution has examined 18 witnesses from PW-1 to PW-18 and Exhibits in Ex.P-1 to P-29, were marked. Material Objects in M.O.-1 to M.O.-3 were also marked.

**4) Prosecution Evidence in brief :-**

(i) PW1 Paulraj is the elder brother of deceased Charles and he has been examined to speak about the motive and the occurrence. He has deposed about doing electrical works in the house of A-1 JohnVictor and how there was a tussle between them at 6pm on 31.03.2013 in the evening when they went to his house to

ask for wages. He has further deposed on how the accused came to his residence at 10.00 pm with the other accused, abused them and the deceased and how A-1 assaulted Charles with a brick and John Victor's mother/A-2 and A-3 Vimala assaulted Charles using wooden sticks. He has also deposed about how he was pushed and his brother / PW2 Prabhu was assaulted by A-3 Vimala with a wooden stick. He has further deposed about taking the injured Charles to Villupuram Govt. Hospital and then to Jipmer Hospital, Puducherry for further management.

(ii) PW-2 Prabhu, listed as an eye-witness and also an injured in the occurrence has deposed about the motive and how the accused came to their house at about 10.00 pm. on 31.03.2013 and the manner in which A-1 assaulted Charles using a brick and how the others assaulted with sticks causing injuries on nose, ear, and how he was also assaulted by A-3 Vimala. He has further deposed on how the injured Charles was taken to the Government Hospital, Villupuram and later to the Jipmer Hospital at Pondicherry where he died when he was being prepared to undergo a surgery.

(iii) PW3 Velankanni is also another eye-witness. He has deposed about the manner in which A-1 assaulted using stones and A-2 and A-3 assaulted using sticks . He has also spoken about accompanying Charles to the hospital. PW-4

David is another eye-witness to the occurrence. He has also deposed about taking the injured for treatment to Villupuram Govt. Hospital and Jipmer Hospital. He has further deposed that PW-15 came to the hospital around 2.00 to 2.30 pm and investigated . PW-5 Vinmalardass has been examined to depose about the motive, going for electrical wiring works in the house of A-1 John Victor and how they went to the house of JohnVictor at 6.00 pm were A-1 allegedly accused PW-1 Paulraj and himself. He has further deposed that the next morning at 10.45 pm., he came to know that Charles was serious and police were investigating.

(iv) PW-6 Devasagayam is a hear-say witness who was deposed that on coming to know about that the deceased was assaulted, he went to the Jipmer Hospital , Pondicherry to see Charles who died on 02.04.201. He has also deposed on how the police arrested A-3 Vimala near the Tiruvannamalai Aakash Hotel and how A-3 gave a confession statement and he has further deposed on how the wooden stick was recovered from the backyard of A-3 house and how the police recovered it under Mahazar in Ex.P-2. She has also identified the wooden stick recovered from A-3 that was marked as M.O.-1.

(v) PW-7 Anthonyammal, listed as an eye-witness deposed about the occurrence and how Charles was beaten by A-1 to A-3. She has further deposed

on how the injured Charles was taken to the hospital and died after 2 days. PW-8 Solomon Rajkumar is a witness to the confession statement given by the accused near a tea-shop at Vettavalam, PW-9 Dr.Ambiga prasath, is the Medical officer who conducted Autopsy on the body of the deceased Charles and issuing the Post Mortem Certificate in Ex.P-7 and final Opinion in Ex.P-8. PW-10 Govindaraj who is said to be witness to the confession statement given by A-3 Vimala failed to support the prosecution case by turning hostile. PW-11 Periyamayagam has deposed about the motive between the 2 sides and about the occurrence and the manner in which Charles was assaulted and how Charles was taken to hospital for treatment. She is also the mother of the deceased Charles. She has also deposed about the Vettavalam police coming to Jipmer hospital and recording the complaint statement of the deceased in Ex.P-11.

(vi) PW-12 Vinothraj witness to the confession statement did not support the prosecution case and was and he was also treated as hostile witness. PW-13 Dr.Manoj, the then Assistant surgeon of Villupuram Government Hospital has deposed how the deceased Charles was brought for treatment at 10.30 pm on 31.03.2013 and the injuries that he noticed and the issuance of A.R. in Ex.P-16 PW-14 Johndurai is a witness to the Observation Mahazar. He has deposed to the

effect that in the month of April 2013, the Vettavalam police came to be scene of occurrence and prepared the Observation Mahazar in Ex.P-17.

(vii) PW-15 Tamilarasu the then Special Sub Inspector of police, Vettavalam P.S has deposed about going to the Jipmer hospital at Pondicherry on 2.04.2013 and recording the complaint statement of Charles and registering the case at 06.00 pm., The FIR has been marked as Ex.P-18. He has further deposed about conducting initial investigation and placing the case before PW-17 Santhalingam, the then Inspector of Police for further investigation. PW-16 Ravishankar, has deposed to the effect that when he was the Deputy Director of Regional Forensic Science Laboratory, Vellore, he received the viscera of the deceased Charles and on examination he found no alcohol or poisonous substance and accordingly, issued a toxicology report in Ex.P-23. He has also deposed about receiving a brick with blood stains and discovering blood in it and later issued the biological report in Ex.P-21 and also sent the blood gauze and the brick for serology report from the Forensic Science Department at Chennai.

(viii) PW-17 is the investigating officer. He has deposed about receiving the death intimation in Ex.P-23 from the Jipmer Hospital , Chennai and altering the case to one u/s.302 IPC. He has deposed about conducting inquest on the body of

Charles and arresting the accused John victor and A-2 Marry Stella on 03.04.2013 at 12.30 pm., He has further deposed about the confession statement and recovery of material objects. He has also deposed about arresting A-3 Vimala on 04.04.2013 and recording her confession statement and recovering a 78 cm wooden stick from the backyard of her house. He has further deposed about requesting for autopsy and sending the viscera for analysis to the Forensic Science Laboratory. PW-18 Chandrasekaran, who conducted further investigation has deposed about examining PW-16 Ravisankar, the Assistant director of Regional Forensic Science Department, Vellore.and examining the medical officer who conducted autopsy on the body of the deceased Charles and getting the Autopsy Report. He has further deposed about examining PW-13 Dr.Manoj of Villupuram Medical college hospital, who gave initial treatment to the deceased Charles.

**5. Prosecution case in brief is as follows :-**

The defacto complainant / PW1 Paulraj resides at Nadu street in Vettavalam. He is an electrician .The deceased Charles is his younger brother. A-1 John Victor was constructing a house at Madha koil street, for which PW-5 Vinmalardass was engaged to do electrical works on contract basis. PW-1 Paulraj accompanied Vinmalardass to do wiring works. But A-1 did not pay the wages to there for few days and so PW-1 and PW-5 did not go to work there. Thereafter, on 31.03.2013

evening, PW-1 & PW-5 went to the house of A-1 Johnvictor to collect the wages for the work done by them. On seeing PW-1 and PW-5, the irked A-1 abused them in obscene language leading to a scuffle between Paulraj and JohnVictor. Then PW-1 & PW-5 went home.

6) At about 10.00 pm, A-1 Johnvictor, his mother Mary Stella (A-2) and A-3 Vimala (A-1's cousin sister) came to Paulraj's house, stood outside the house, verbally abused, shouted and called him out. At that time, the deceased Charles, the younger brother of PW-1 Paulraj allegedly questioned and reprimanded the act of the accused. Irked by his intervention, the accused verbally abused Charles and attempted to assault Paulraj. When Charles intervened again, A-1 JohnVictor took a brick of  $\frac{3}{4}$ <sup>th</sup> size from the piled up brick-stones nearby and ferociously punched Charles on his left face and head. A-3 Vimala assaulted Charles on his head with a wooden stick. A-2 Mary Stella also assaulted Charles with a stick on the back of his chest. Paulraj, along with PW-4 David (another brother) stopped further assault and as people came by, the accused 1 to 3 left the scene. Thereafter the injured Charles was taken to the Government Medical College Hospital at Villupuram and was later referred to the Jipmer Hospital at Pondicherry for further management. PW-11 Periyannayagam, the mother of Charles was in the hospital when Charles was admitted.

7) Upon intimation received from Jipmer Hospital, PW-15 Tamilarasu, the then Special Sub-Inspector of Vettavalam P.S. went to the hospital and recorded the complaint statement of Charles who was undergoing treatment as an inpatient and recorded his statement. As Charles died subsequently, his statement has been marked as Ex.P-11 (with objections of the counsel for the accused) through PW-11 Periyannayagam (his mother) who was with him. The brick allegedly recovered by the investigating officer has been marked as M.O.2 and the two sticks have been marked as M.O.1 & 3.

8) PW-15 came back to the police station at 6.00 pm and registered a case in Cr.No.67/2013 u/s. 294(b), 324, 323 & 506(2) of IPC as per FIR in Ex.P18. He took up investigation and went to the scene of occurrence at 6.45 pm., and prepared an Observation Mahazar and Rough Sketch in the presence of witnesses P.W-14 Johndurai and another witness. The Rough Sketch is Ex.P-19. Thereafter P.W-15 examined the injured Charles, P.W-1 Paulraj, P.W-2 Prabhu, PW-3 Vellankanni, P.W-4 Devi, and PW7 Anthonyammal, P.W.5 Vinmalardass, P.W-14 Johndurai and recorded their statements. After sending the printed FIR and Complaint to the court concerned, P.W.-15 placed the file before P.W-17 Santhalingam for further investigation.

9) P.W.-17 Shanthalingam on taking up investigation, received death intimation from the Jipmer Hospital at Pondicherry to the effect that Charles who was admitted as an inpatient died at around 15.00 hours on 02.04.2013. The death intimation has been marked as Ex.P-23. On receiving the intimation, he altered the provisions of the case from one U/S 294 (B), 324, 323 and 506 (2) IPC to 302 IPC and prepared an Alteration Report in Ex.P-24 and sent the same to the Court. On the same day, the investigating Officer examined P.W.-11 Periyanyakam, the mother of the deceased and recorded her statement. Then he went to the mortuary of the Jipmer Hospital at Pondicherry and conducted inquest on the body of the deceased Charles in the presence of witnesses and panchayatars and the Inquest Report has been marked as Ex.P-25. Then the investigating officer deputed Head Constable 880 Selvaraj to produce the body before the medical Officer for autopsy and in the meanwhile examined the witnesses and recorded their statements.

10) He also constituted special teams to apprehend the accused and went in search for the accused in places like Vettavalam, Tirukkoilur, Veerapandi and Villupuram. On the basis of secret information, he came to the Somasipadi Mada Church at about 12:30 PM on 03.04.2013 and found A-1 John Victor and A-2 Mary Stella there and arrested them. During interrogation of the accused in the presence of P.W.-8 Solomon Raj Kumar and VinothRaj, A-1 voluntarily gave a

confession statement and stated that he will identify and produce the brick that he used for assault kept by him in a hidden place behind his house. The admissible portion of the confession statement has been marked as Ex.P-26. At 13:30 hours, A-2 Stella Mary gave a confession statement to the effect that she has kept the wooden stick used for assaulting the deceased in a hidden place in her cattle shed and promised to produce it. The admissible portion of the said confession is Ex.P-27. Thereafter the accused, witnesses and the police party proceeded to the house of John Victor at Mada Koil street where the accused John Victor took out a piece of brick weighing 1.540 kg of about 11 cm length and 9.5 cm width and there was blood stain at one end of the stone. The investigating Officer recovered the brick in the presence of witnesses under Mahazar in Ex.P-28. On the same day, they went to the house of A-2 Stella Mary and recovered the wooden stick that the accused produced from a hidden place in the cattle shed. It was about 77 cm in length and 2.5 cm wide and it had a circumference of about 9 cm. The investigating Officer recovered the same under a Mahazar in Ex.P-29. He returned to the police Station with the accused and produced the accused and the materials for judicial custody at 17.00 hours.

11) In the meanwhile P.W.-9 Dr. Ambika Prasad who was on duty at the Jipmer Hospital, Pondicherry received the requisition for autopsy from Head

Constable 880 Selvaraj and conducted autopsy at 10:40 PM. She opined that the deceased would have died due to injuries on the cerebral part of the brain.

12) The investigating Officer / P.W.- 17 Shanthalingam was in search of the absconding accused A-3 Vimala. He received a tip-off that she was standing opposite to Tiruvannamalai bus stand near Akash hotel and immediately rushed to the spot at 15:30 hours on 04.04.2013 and arrested her. During interrogation, she voluntarily gave a confession statement in the presence of P.W.-10 Govinda Raj and another witness named Devasahayam. In her confession statement, the accused Vimala allegedly confessed about her involvement in the assault and stated that the wooden stick that she allegedly used for the offence was hidden in a secluded spot behind her house and she would identify and hand over the same.

13) Immediately at 17:30 hours, the investigating officer, A-3, and witnesses went to the house of the accused where she identified a wooden stick of about 78 cm length and a circumference of 12 cms and handed over the same to the Investigating Officer in the presence of witnesses. The Investigating Officer recovered it under a Mahazar in Ex.P-2. Then he returned to the police Station with the accused and sent the properties and the accused for judicial custody. Thereafter the Investigating Officer sent a letter of request to the Judicial Magistrate concerned to send the Viscera gathered during the post-mortem of the

deceased for analysis in the Forensic Sciences Laboratory. Then he examined all the witnesses and also the Head clerk of the Magistrate Court, Muneeswari who sent the properties for Forensic analysis. Then he examined the Head Constable Selvaraj who was assigned for Post-mortem duty and recorded his statement. Thereafter he examined P.W.-15 Tamilarasu who registered the case and recorded his statement. At that stage, he was transferred to some other police Station and therefore his successor PW-18 Chandrasekaran took up further investigation and examined the Scientific Officer of Forensic Science Lab and the Medical Officer who examined the deceased at the Villupuram Medical College, Villupuram and the Medical Officer who conducted autopsy at Jipmer Hospital. After obtaining the opinion of the public prosecutor, he altered the case to one U/S 302 r/w 34 IPC and filed a final report under the above section.

**14) Examination of Accused u/s.313(1)(b) Cr.P.C:**

After the evidence of the prosecution was closed, the accused were examined u/s. 313(1)(b) CrPC with regard to the incriminating portion of evidence of the witnesses and documents in the prosecution . They denied those and stated that the witnesses are letting in false evidence and opted to lead defence evidence.

15) **Defence witnesses:**

On the side of the accused, 3 witnesses were examined. DW-1 Dr. Raghukumar, the Block Medical Officer of Primary Health Center at Vettavalam was examined to speak about the fact that in the year 2013, Charles was brought for treatment to the Primary Health Center as an out-patient and was immediately referred to the Villupuram Medical College Hospital. He deposed that the out-patient card was destroyed as per Rules due to expiry of time fixed for retaining those records and hence he cannot say anything about the history of the case.

16) One David was also examined as DW-2 and he is a preacher of St. Immaculate Heart of Mary's Church at Vettavalam. Speaking from the records, he stated that on 16.02.2011, the deceased Charles married one Mary in that church and produced the extract from the Marriage Register attested by the present Pastor named Arockiyasamy. This has been produced to lay emphasis over the fact that the deceased has signed in the Register in tamil and that he habitually signed in tamil.

17) DW-3 Dr. Sunitha is a Senior Medical Officer of Jipmer Hospital at Puducherry. She was summoned to speak about the treatment given to the

deceased Charles at Jipmer Hospital. On the basis of records, she deposed that on 01.04.2013 at 12.57 am., Charles was referred from Villupuram Medical College Hospital and he was in a semi-conscious State. She has further deposed that as per records of the hospital, it has been mentioned that he had a history of being assaulted by an unknown person at 10.00pm on 31.03.2013 near his house using stones. She has further deposed that he had loss of consciousness at the time of occurrence, he vomited once and complained of bleeding in the ears. She has also deposed that the GCS (Glasgow Coma scale, indicating level of consciousness), was 15 /15 and his blood pressure was 130/70). She has also narrated the injuries found on him and that he was referred to various departments. From the Neurology Department, it was found that he suffered from internal hemorrhage in the head. He was admitted as an in-patient in the Neuro Department on 01.04.2013 and at 08.00 am., his GCS reduced to 12. Finding that the internal hemorrhage increased at 07.00 pm., the Medical team decided to go for a surgery. On 02.04.2013 , the GCS level reduced to 9 and it further deteriorated at 12.30 Pm., He was given respiratory support but however he died at 3.00 pm., The out-patient MLC ( Medico-Legal case) Form and the treatment particulars have been marked as Ex.D-2 and Ex.D-3 respectively. His death Report is Ex.D-4 and out-patient record is Ex.D-5.

**18) Submissions :-**

The learned Public Prosecutor appearing for the Complainant / State has contended that the case against the accused has been proved by the prosecution through sufficient oral and documentary evidence. He has further contended that the evidence of the eye-witnesses particularly P.W-1 Paulraj, and P.W-2 Prabhu who was also injured in the occurrence are amply corroborated, supplemented and complemented by medical evidence. Thus he has submitted that the accused are liable to be punished under the penal sections that they stand charged.

19) Per contra, the Ld. Counsel for the deceased filed argument notes u/s 314 Cr.P.C praying for acquittal of the accused, interalia raising the following points.

1. The prosecution has suppressed that the deceased initially went to the Vettavalam Primary Health Centre for treatment. There is suspicion is the very genesis of the prosecution case.
2. There is no clarity as to who assaulted the accused from the Hospital entries in the 2 hospitals in which the deceased underwent treatment. There are discrepancies with regard to the gender and persons who allegedly assaulted the deceased.

3. PW-13 Dr.Manoj has, in his Accident Registry in Ex.P16 mentioned that the patient was drowsy and hence the deceased could not have given a clear information to the Medical officer or police
4. There are contradictions with regard to the actual place of occurrence and it creates a doubt as to where the occurrence actually happened.
5. There is grave suspicion with regard to the complaint statement of the deceased allegedly given to PW-15 the Special Sub-Inspector of police as it is signed in english and Finger print has also been obtained. .
6. If the First information is to be treated as dying declaration, then it cannot be acted upon it is found to be suspicious and the Medical officer has not certified about consciousness and orientation of the statement given.
7. The police did not take any efforts to record the dying declaration of the deceased and this creates a suspicion.

8. Since the statement recorded by PW15 Tamilarasu is not endorsed with a certificate of fitness and orientation , no evidentially value can be attached to the statement in Ex.P11 complaint statement.
9. The key witnesses who have spoken about the occurrence are interested witnesses.
- 10.Recovery of material objects has not been properly proved.
- 11.The first information Report has been despatched to the court after unreasonable delay.
12. Medical evidence does not support oral testimony.
13. There can be no moral conviction.

**20)** This Court has anxiously considered rival submissions and perused the entire materials available on records.

**21)** Now the point for consideration is whether the prosecution has proved that on 31.03.2011 , A1-A3 came to the house of deceased 10.00 pm., and A1 assaulted the deceased Charles with a brick and A2 and A3 assaulted Charles with wooden sticks and caused such injuries that naturally led to his death and whether A3 assaulted PW2 Prabhu with a stick to attract the offence u/s.352 IPC beyond reasonable doubts?

22) The death of one Charles @ David Charles Aged 32 (at the time of occurrence) is the matter of concern in this case. At the risk of repetition, according to the prosecution, on 31.03.2011 at about 10.00 pm., A1 to A3 came to the house of Charles and PW-1 Paulraj at Nadu Theru. Their intention was to settle scores with PW-1 Paulraj with whom A-1 had a hand scuffle on the same day at 6.00 pm.. The further case of the prosecution is that when A-1 and A-3 attempted to assault PW-1 Paulraj, the deceased Charles, the younger brother of Paulraj intervened and questioned the accused as to why they are assaulting Paulraj and stopped them. Irked by this act, A-1 to A-3 allegedly abused him verbally and A-1 took a brick of about 1.5kgs (a brick that was broken in one end) and gave a blow on the left side of the head of Charles, ear and the face and A-2 and A-3 are said to have assaulted Charles using wooden sticks on his head and all over the body. Charles came down bleeding in his ears and nose. He was taken to the Villupuram Medical College Hospital and from there he was referred to the Jipmer Hospital at Pondicherry for better management. As his condition worsened, a surgery was planned on 02.04.2013. But during the preparation for the surgery, Charles died at 03.00 pm.

23) To establish the guilt of the accused the prosecution has examined 18 witnesses. Among them PW1 Paulraj , PW2 Prabhu, PW3 Velankanni and PW7 Anthonyammal are the eye-witness.

24) Before proceeding to appreciate and analyse the evidence of witnesses, the cause of death of Charles has to be ascertained. In this aspect the complaint, the statement of deceased himself before the police officer and the evidence of the Medical Officers who examined the deceased at the Villupuram Medical College and Hospital and the Jipmer Hospital at Pondicherry has been carefully scrutinized.

25) PW-13 Dr. Manoj is the Medical Officer of the Villupuram Medical College and Hospital who examined the deceased on the day of occurrence i.e., (31.03.2013) at 11.30 pm . On having a closer look at the Accident Register entry in Ex.P-16, it is seen that he found the following injuries

1. Lacerated Wound below (Lt) eye 1x1x1cm bleeding with contusion

(Lt) eye.

2. Complained of Vomiting three times and his ear was bleeding

He was drowsy and was referred to Higher Institution for further treatment.

26) The deceased Charles was referred to Jipmer Hospital at Pondicherry on 01.04.2015. He was admitted as an in-patient of Neurology department. But he succumbed to his head injury on 02.04.2015 at 03.00 Pm., The Post Mortem Certificate in Ex.P-7 marked through P.W-9 Dr. Ambika Prasad shows the following.

External Injuries :-

1. A more or less circular contusion of size (3cmxcm) was found over the left side cheek bone prominence.
2. Left side periorbital edema and ecchymosis with contusion over left eye lid.
3. A linear horizontal split laceration wound of size (2cm x1cm X bone-deep) was found parallel to the left lower eye-lid.

In her Final Opinion in Ex.P8, she opined that death was due to Cerebral-injuries and complications thereof.

It is also not in dispute that the Neuro team of doctors tried their best to save Charles, but he died, at 3.00 hours while he was preparing him but for the surgery. The Death Summary marked as Ex.D4 by DW-3 Dr. Sunitha is as follows.

*“ This is to certify that patient by name Mr. Charles S/O. Amal Dass 32 Yr/ Male Hospital No. F-805704 residing at 50-A Middle street, Vettavalam, Tiruvannamalai, brought to JIPMER Emergency Medical services on 01.04.2013 with Alleged history assault by some unknown person with stone on 31.03.2013 at 10.00 PM., in Vettavalam. Presented with complaints of Drowsiness since then. Pupils are bilateral equal and reacting to light Local examination s/o. Swelling and tenderness over left eye with laceration over left lower eyelid. His GCS was E4V5M6, Eye opening spontaneous, verbal response oriented and motor response obeys command. NCCT brain s/o. Left Frontotemporal contusion with left ethmoid bone fracture. He was treated with anticonvulsants, antiedema and antiemetics., On 02.04.2013 his GCS dropped and He was intubated in view of poor GCS and connected to the ventilator and repeat NCCT s/o. Increase in the fronto temporal contusion size with mass effect. His pulse was not recordable and pupils bilateral fixed and dilated and Resuscitation was done. In spite of treatment, the patient’s condition deteriorated and expired on 02.04.2013 at 0.300 pm., Cause of death Severe Head Injury.”*

27) On the basis of the Medical evidence and the oral evidence encircling the case that will be discussed infra, this court holds that the deceased Charles died as a consequence of severe head injury that he sustained.

**28) Genesis of the prosecution case:**

As mentioned supra, the complaint statement of the deceased Charles recorded by P.W.-15 Tamilarasu has set the law into motion. This statement was recorded on 01.04 2013 at 14.30 hours when the deceased was undergoing treatment at the Jipmer, Hospital at Pondicherry. The foremost contention that has been vociferously urged by the learned counsel for the accused is that in the facts and circumstances of the case, there is a very serious suspicion with regard to the very genesis of the prosecution case and in all perspective, the version projected by the prosecution appears improbable. In support of this contention, he has strongly placed reliance on the following circumstances

- 1) going by the nature of the injuries sustained by the deceased coupled with the fact that there is oral evidence to the effect that the deceased was disoriented after the occurrence, in all probabilities, the deceased would not have been in a position to give a complaint statement on the said day and time as alleged by the prosecution.

- 2) The practicability of a police officer from the Vettavalam police Station to go to the Jipmer Hospital at Pondicherry, record the statement of the deceased, come back to the police Station by 6 pm and registered a case at 18.00 hours as alleged by the prosecution cannot be true
- 3) No medical Officer has certified that the deceased, at that point of time was conscious and oriented enough to verbally narrate about the occurrence and more significantly, he has affixed his signature in English.
- 4) The deceased habitually used to sign in Tamil and the signature purported to be that of the deceased in the complaint statement could not have been that of the deceased and obtaining the thumb impression of the deceased in addition to the signature raises a germane suspicion as to whether the complaint statement could be genuine
- 5) Marking of the complaint statement as Ex.P-11 through P.W.-11, the mother of the accused is not legally sustainable and makes the document lose it's evidentiary value.

6) The fact that the deceased was taken to the Primary health Centre,

Vettavalam has been suppressed by the prosecution.

7) The FIR has been despatched to the Court after an unreasonable delay.

29) Now let us examine all these contentions with the aid of oral and documentary evidence encircling these aspects. On a close scrutiny of the complaint statement marked as Ex.P-11, it is seen that it has been written in Tamil, and the endorsement of the police officer at the foot of the statement is to the effect that it was recorded by him in the Jipmer Hospital at Pondicherry at 14.30 hours. P.W.-15 Tamilarasu, the then Special Sub- Inspector of police, has deposed that he received the intimation from the Jipmer Hospital at Pondicherry at 12.00 pm and immediately went to the said Hospital and recorded the complaint statement of the deceased who was admitted as an in-patient. He has further deposed that after recording the statement, he came back to the station at 18.00 hours and registered a case in Cr.No. 67/2013 of Vettavalam police Station.

30) On perusing the evidence of P.W.-15, it is seen that P.W-15 has been extensively cross-examined with regard to the possibility and probability of recording the statement at that particular point of time. The Ld. counsel for the accused was able to elicit that the distance between Vettavalam and Pondicherry is

about 100 kms and in normal circumstances, it would take about two hours to cover the distance and reach the hospital. However P.W.-15 has also explained that he proceeded to the hospital in a car owned by one of his friend and he proceeded after completing all the formalities like entry in the General Diary and pocket diary.

31) The cross-examination of P.W.-15 further reveals that he has been subjected to a series of questions with regard to non-compliance with the procedural requirements for recording the dying declaration of a person. The witness has in fact admitted that he did not obtain any certificate of fitness from the medical Officer and he did not obtain signature from P.W.-11/mother of the deceased and did not mention the time at which he started recording and completed it.

32) Be it as it may, it need not be over emphasised that P.W.-15 is a police officer who went to record the complaint statement of a person undergoing treatment and he is neither a judicial nor an executive Magistrate who went to record the dying declaration of the deceased. It goes without saying that P.W.-15 who recorded the statement might not have had any knowledge as to how long the patient will be alive or whether the patient will survive. During the course of cross-examination, P.W.-15 has also admitted that the complaint statement was reduced

to writing by head constable Selvaraj who accompanied him. It has further been elicited that the said the P.W.-15, Tamilarasu has made an endorsement at the foot of the complaint as if he recorded the statement. He has further stated that while examining the deceased, the said the head Constable Selvaraj was also present and the statement was reduced to writing as per his instructions.

33) This court is able to appreciate the contention of the learned counsel for the accused that P.W.-15, during the course of his chief-examination has not mentioned that the said Head Constable accompanied him while he went to the Jipmer Hospital at Pondicherry. Further, it is not proper for the Special Sub-Inspector to make an endorsement that he actually recorded the complaint statement while another Head Constable recorded it. This act may there be called as of flaw or even a misconduct by the Officer who recorded the statement. However, he has taken responsibility upon himself.

34) In this connection, this court deems it appropriate to appreciate the oral evidence of P.W.-1 Paulraj, and P.W.-2 Prabhu who shifted the deceased from the hospital at Villupuram to the Jipmer Hospital. They have unequivocally deposed that at about 02.00 pm on 01.04.2013, the policemen attached to the Vettavalam police Station came to the hospital, examined Charles and recorded his statement. P.W.-2 Prabhu, who is said to have been injured in the occurrence has, during the

course of his cross-examination very categorically stated that in the hospital at Pondicherry, the police examined the injured Charles for about 30 minutes and recorded his statement. Both the witnesses are brothers of the deceased Charles and they have specifically stated that they were present in the hospital while the police came and they have denied the suggestion that Charles was not oriented and conscious enough to give a statement.

35) Thereby the oral evidence of P.W.-1 and P.W.-2 is very clear to the effect that the deceased was conscious and oriented enough while the complaint statement was recorded by the police. Both the witnesses have, during the course of cross-examination elaborated the circumstances in which the deceased was admitted in the hospital and how the statement was recorded. The relevant excerpts from the evidence of P.W.-1 Paul Raj runs thus

" என் தம்பி சார்லஸை மருத்துவமனைக்கு யார்யாரெல்லாம் சேர்ந்து அழைத்து சென்றோம் என்றால் , நானும், என் தம்பி பிரபுவும் , வேளாங்கண்ணி, மற்றும் டேவிட் ஆகியோர்கள் அழைத்து சென்றோம் . விழுப்புரம் அரசு மருத்துவமனைக்கு என் தம்பியை அழைத்து சென்ற போது , சம்பவம் குறித்து யார் யார் மருத்துவமனைக்கு அழைத்து சென்றோம் என்றால் , சுய நினைவோடு இருந்த என் தம்பியும் சொன்னார், நாங்களும் சேர்ந்து சொன்னோம். "

" நீதிமன்றம் குறிப்பாக கேட்ட போது, ஜிப்மர் மருத்துவமனைக்கு வந்த போலிசார் யார் சார்லஸ் என்று விசாரித்து விட்டு , என் தம்பியிடமும் தன்னிடமும் விசாரித்து பதிவு செய்த வாக்குமூலமும் தன் தம்பியிடம் கையொப்பம் பெற்றும் ,கைரேகையும் பெற்று கொண்டார்கள் என்றும் , அப்போது தன்னை தனியாக விசாரிக்கவில்லை என்று சொன்னார்."

36) Similarly, P.W.-2 Prabhu was also given an opportunity by the counsel for the accused to explain and elaborate the circumstances as to how the deceased was taken to the hospital at Villupuram and Pondicherry and how the deceased was conscious enough to narrate about the occurrence to the medical Officer and also the police Officer who examined him. Excerpts from the deposition runs thus.

" அப்போது அடிப்பட்டு கீழே கிடந்த என் அண்ணன் சார்லஸை மருத்துவமனைக்கு அழைத்து செல்ல ஆம்புலன்சிற்கு போன் பண்ணியதில் வர தாமதமாகும், என்று சொன்னதால் டாடா சுமோ காரில் விழுப்புரம் அரசு மருத்துவமனைக்கு இரவு 11, 11.30 மணியளவில் கொண்டு சென்று சேர்த்தோம் . அங்கு முடியாது என்று சொன்னதால் அங்கிருந்து பாண்டிச்சேரி ஜிப்மர் மருத்துவமனைக்கு எடுத்து சென்று சிகிச்சைக்கு அனுமதித்தோம் . மறு நாள் மதியம் 2 மணியளவில் வேட்டவலம் போலிசார் ஜிப்மர் மருத்துவமனைக்கு வந்து

விசாரித்தார்கள் என் அண்ணன் சார்லஸையும் விசாரித்து வாக்கு மூலம் பெற்று கொண்டார்கள். என் அண்ணன் சார்லஸ் அதில் கையொப்பம் போட்டார். "

" விழுப்புரம் அரசு மருத்துவமனைக்கு பால்ராஜ் காரிலா வந்தார் என்றால் பைக்கில் வந்தார், சார்லஸை கூடுதலாக பின்னிட்டு பால்ராஜ் தம்பியுடன் ஜிம்பர் மருத்துவமனைக்கு காரிலேயே வந்து விட்டதாக சொன்னார் . விழுப்புரம் அரசு மருத்துவமனைக்கு என் அண்ணன் சார்லஸை அழைத்து சென்ற போது அவருக்கு பேச்சு மூச்சு இல்லாமல் உடல் நிலை மிகவும் மோசமாக இருந்தது என்றால் மேல் சிகிச்சைக்காக ஜிம்பர் மருத்துவமனைக்கு அழைத்து சென்று சேர்த்தோம் என்றால் சரியல்ல. சுய நினைவோடு தான் என் அண்ணன் இருந்தார் வேட்டவலம் போலிசார் ஜிம்பர் மருத்துவமனைக்கு வந்து விசாரித்தபோது என் அண்ணன் சார்லஸ்க்கு மிகவும் முடியாததால் சம்வம் குறித்த விவரங்களை நானும், என் அண்ணன் பால்ராஜும் தான் சொன்னோம் என்றால் சரியல்ல . விழுப்புரம் அரசு மருத்துவமனையில் சார்லஸ் தான் ஏன் , ஏதனால், காயம் ஏற்பட்டது என்று கூறி இருந்தார் என்றால் சரி தான்."

"ஜிம்பர் அரசு மருத்துவமனையில் போலிசார் யார் யாரை எவ்வளவு நேரம் விசாரித்தார்கள் என்றால் முதலில் சார்லஸை சுமார் அரை மணி நேரம் விசாரித்தார்கள். சார்லஸை விசாரித்து வாக்குமூலமும் பதிவு செய்து கொண்டார்கள்

என்றால் ஆம். என்னை விசாரித்து போலீசார் அதையும் எழுதி கொண்டார்களா என்றால் சரியாக நியாயகம் இல்லை."

37) Now what is to be seen is whether medical evidence supports their oral testimony. In this context, the evidence of D.W.-3 Dr. Sunitha assumes significance. She was summoned to the Court at the instance of the accused to let in evidence on the side of the accused. She has deposed that she is a senior medical Officer at Jipmer Hospital and produced has produced the MLC form for trauma of the emergency medical services department (AR Entry), and the treatment summary captioned 'Short Stay Record' and the outpatient card as Exhibits D-2, 3 and 5 respectively. Her oral evidence and also Ex.D-2 is self-explanatory to the effect that the deceased Charles was produced by his brother named Prabhu (P.W.-2) for treatment on 01.04.2013 at 01.00 am with a history of being hit by some unknown person with stone at 10.00 PM on 31.03.2013 near his house. The Form further reveals that the GCS scale was 15/15 and the patient was conscious, but drowsy. He was referred to various departments including Neurosurgery, ENT, dental and Ophthalmology. The Medical Officer has, during her testimony very clearly stated that GCS refers to the level of consciousness according to Neurology and the maximum level is 15. Therefore, the necessary analogy is that the deceased was conscious and oriented enough to speak. Along with the report is the

AR entry issued by the Primary Health Centre, Vettavalam. Here, the evidence of P.W.-13 Dr.Manoj is relevant. He has very clearly deposed that when he was on duty on 31.03.2013, the deceased Charles was brought for treatment by Velankanni (P.W-3) and he told a history of being assaulted by two known men using bricks near his residence. P.W.13 has further deposed that Charles was unconscious and on examination, a laceration below his left eye and bleeding in the right ear was noticed. He has further deposed that he was immediately referred to a higher institution after issuance of the Accident Register in Ex.P-16.

38) During the course of his cross-examination, P.W.13, the medical Officer has also deposed that the deceased had breath smell of alcohol and remained unconscious and as he was in a very serious state, he was immediately referred to a higher institution. Here, this court glaringly finds that in the Accident Register in Ex.P-16, the Medical Officer has not specifically mentioned that the patient was unconscious or used the word unconscious. He has only mentioned that the patient was drowsy. It is ordinary prudence that 'unconscious' and 'drowsiness' are not synonymous and are referred to different levels of alertness. Hence, this court is at loss to understand as to how the Medical Officer who speaks from records orally deposes on matters not recorded in the accident register his own hand-writing. At this juncture, this court painfully observes that some medical

officers still have the practice of scribbling in the AR entry particularly in medico-legal cases, with scant regard for the consequences that may follow. As per the Medical Code, a Medical Officer who examines a patient is supposed to enter in the Accident Register as to whether the patient was conscious when brought. But without mentioning that, the medical officer, who entered into the witness box on 12.3.2021 (almost after eight years of issuing the Accident register) has given oral evidence that the patient was fully unconscious. Pertinently, the medical Officer has also issued a clear copy of the accident register in which he has mentioned that the patient was brought by the relative named Venkatesan. In the original Accident Register entered in his own handwriting, he has mentioned that he was brought by Velankanni. This speaks volumes about the commitment and significance that the medical Officer had while issuing those important records. Unfortunately, mechanical issuance of certificates still continues among certain medical officers for varied reasons. The other important aspect is that during his cross-examination, the Ld. Counsel for the accused has been able to elicit that the vomiting aspect was explained to him by the person who brought the patient. This, by itself, cannot be a circumstance to hold that all other information was furnished to the medical officer by the attendants. Hence, this court is not inclined to accept the oral evidence of P.W-13 as wholly reliable. When it comes to the Jipmer hospital at Pondicherry, it

is a referral hospital to which the deceased was referred in a critical condition. The outpatient record is also to the effect that he was admitted on 1.4.2013 by P.W.-2 Prabhu and he was conscious and the history has been shown as assault or hit by some unknown person with stone. It is no doubt true that statement before a medical Officer as to the number of persons, whether known or unknown is a very important factor in medico-legal cases. At the same time, the fact remains that a common man particularly those in villages hardly know the significance of narrating the history of assault to the medical Officer, particularly when they are accompanying a patient who is in a critical condition. Similarly, the patient himself who is in shock and pain may not know the significance of this disclosure about the history of assault. Therefore this particular piece of record cannot be taken as a standalone evidence to render any finding and it has to be read with the entirety of the evidence.

39) The accused has also taken steps to examine the medical Officer of the Vettavalam Primary Health Centre where the deceased was produced at the first instance. As such the medical Officer was examined as D.W-1 Dr.Raghukumar. He has deposed that according to the Hospital records (the originals of which have been destroyed as per Rules) Charles was brought for treatment with a history of assault and immediately he was referred to the Villupuram Medical College

Hospital and no treatment records are available. He has also clarified that he cannot say anything about the history with which he was brought for treatment. Though the medical Officer of the Primary Health Centre has deposed to so, the out-patient card issued in the Vettavalam Primary Health Centre for the deceased finds place among the records of Jipmer Hospital in the first page. This has been attested by the present Medical Officer. According to the card, the patient came to the Primary Health Centre with a history of assault and he was conscious and oriented. Bleeding was found in his eye and nose. His blood pressure was 140/90 and without recording the history of assault, he was referred to the Villupuram Medical College Hospital. From the evidence of Medical Officers of Vettavalam Primary Health Centre, Villupuram Medical College Hospital and Jipmer Hospital the following facts emerge. Going by the fact that the Primary Health Centres can only offer first-aid and that the deceased was immediately referred to Villupuram Medical College Hospital, this court holds that the non-disclosure about going to the Vettavalam Primary Health Center at the first instance cannot be taken as a ground to discredit the otherwise acceptable evidence of the witnesses concerned. The death intimation in Ex.P-23 goes to show that on 2.4.2013, intimation about the death of Charles was sent to the sub- Inspector of police, Dhanvatari Nagar

police station, Pondicherry and from there it would have reached the Vettavalam police Station.

40) Thus the necessary corollary are:

- (1) The deceased was produced for treatment before the Primary Health Centre Vettavalam at the first instance and was referred to the Medical College Hospital, Villupuram immediately. Charles was conscious and oriented while being produced before the primary health Centre but however the history of this assault was not recorded by the Medical Officer.
- (2) He had bleeding in his ears, suggestive of the fact that there was some internal haemorrhage
- (3) There was blood smell of alcohol when he was produced before the Medical Officer at Villupuram medical College Hospital and he was allegedly not conscious at that stage and a history of being assaulted by 2 known persons has been recorded by the Medical Officer / P.W.-13 Dr.Manoj. However, this court has not endorsed the procedure adopted by the Medical Officer as his oral evidence that is not in tune with the A.R issued by him.

(4) When Charles was produced at the emergency department of the Jipmer Hospital at Pondicherry, his consciousness level (GCS) was good and it was 15/15. His blood pressure and pulse rate was almost normal and according to records, the GCS (consciousness level) reduced to 12 at 8 am on 1.4.2013. The treatment summary in Ex.D-3 further exemplifies that on 01.4.2013, the deceased was conscious enough at 2 pm to give a statement and his GCS level did not go below 12.

41) Therefore there is nothing to suggest that the deceased was completely unconscious when the complaint statement was recorded by the police Officer at about 02.00 PM., on 01.04.2013.

42) The learned counsel for the accused has also examined another witness to impress upon this court that the deceased usually signed in Tamil and has produced the Marriage Register extract and therefore his signature in the complaint statement in English is not that of the deceased. It was also contended that obtaining the thumb impression after obtaining signature is an unusual conduct and it implies that the thumb impression could have been a fixed after the death of Charles. It is true that the signature of Charles is an English and the thumb impression purported to be that of Charles has also been obtained in the

complaint statement. Though it is an unusual practice, it only suggests that the police officer was doubly conscious and this court is not inclined to accept the contention that the thumb impression of Charles would have been affixed in the complaint statement after his death. It cannot be said as a general Rule that one who signs in tamil will always sign in tamil. It is also relevant to point out that his mother has clearly identified the signature of her son and therefore the complaint statement has been marked through her. The Police Officer who obtained the signature of Charles could have obtained the signature of his mother, but perhaps he thought that Charles would survive and therefore he did not deem it necessary to obtain the signature of his mother. That apart , it is a police Officer who recorded the statement and the accused has not been able to suggest anything material as to why the police official should go out of the way to prepare such a complaint statement so as to implicate the accused. Therefore, this court is not disposed to uphold the contention of the accused that the deceased was not in a sound state of disposition or was completely either unconscious or dead while the complaint statement was recorded. Hence, the statement can be treated as a dying declaration, with a pinch of salt, conscious about the circumstances in which the complaint statement came in. It is desirable to look for corroboration instead of rejecting it in toto. This principle was reiterated in the case of *Jayamma vs State*

*of Karnataka (AIR 2021 SC 2399)* in which the Hon'ble Supreme court clarified that a dying declaration might not be the sole basis for conviction if it is not corroborated with other evidence. The FIR has reached the court concerned on the next day morning and hence there is no unexplained delay as alleged. Hence the contention that there is a suspicious genesis to the prosecution case cannot be sustained.

### **43) Appreciation of Evidence :-**

#### **I. Motive**

The motive for the offence can be divided into two parts. The complaint statement in Ex.P-11 mentions about both these parts. According to the prosecution, PW-1 Paulraj used to assist PW-5 Vinmalardass in doing electric works on contract basis. Accordingly, both Vinmalardass and Paulraj did some electrical works in the house constructed by A-1 Johnvictor at Anthoniyar Street. As JohnVictor did not pay the wages for few days, Paulraj and Vinmalardass stopped going to the work. However, Paulraj and Vinmalardass wanted to collect the wages for the work done by them and so they went to the house of A-1 in the evening hours of 31.03.2013 and requested A-1 to pay the wages. At that time A-1 allegedly abused PW-1 and PW-5 Vinmalardass leading to a scuffle between A-1

and Paulraj. Thereafter they left the house of A-1. A-1 hoarded some grudges against Paulraj. This is the first limb of the motive.

44) The prosecution has examined PW-1 Paulraj and PW-5 Vinmalardass to speak about the first part of the motive. PW-1 Paulraj has cogently narrated about assisting PW-5 Vinmalardass in wiring works in the house of A-1 Johnvictor as follows.

“ சாட்சி குறிப்பாக விமலதாஸ் என்பவரிடம் ஜான்விக்டர் கூலியை எங்களுக்கு தருவதாகவும், அதன் பேரில் வேலைக்கு மீண்டும் வரசொன்னதாக சொன்னதன் பேரில் நான் மாலை 6.00 மணிக்கு அவர் வீட்டிற்கு சென்றிருந்தோம். எங்களை பார்த்தவுடன் ஜான் விக்டர் மிகவும் கோபமாக மிக மோசமான வார்த்தைகளில் தேவிடியா பையா என எங்களை திட்டினார் . இதுவரை வேலைக்கு வரவில்லை கூலி கொடுப்பதாக வந்திருக்கிறோம் என்றும் சொன்னார். என்னுடன் வந்த விமலதாஸ் ஏன் அவர் எங்களை அசிங்கமாக பேசுகிறார் என ஜான்விக்டரிடம் கேட்டார் . மீண்டும் ஜான்விக்டர் உங்களுக்கு என்ன மரியாதை வேண்டிக்கிடக்கிறது என மீண்டும் அசிங்கமான வார்த்தைகளில் பேசினார் . பிரச்சனையாகிவிட கூடாது என விமலதாஸ்

சொன்னதன் பேரில் நானும் , விமலாதாசும் ஜான்விக்டர் வீட்டிலிருந்து அவரவர் வீட்டிற்கு கிளம்பிவிட்டோம். ”

45) Similarly PW-5 has also deposed as follows,

" சுமார் 5 வருடங்களுக்கு முன்னர் ஆறுநாட்கள் ஜான்விக்டர் வீட்டில் நானும், பால்ராஜும் ஓயரிங் வேலை செய்தோம் . அவர் அதற்கான கூலி கொடுக்கவில்லை. அதனால் தொடர்ந்து 3 நாட்கள் வேலைக்கு செல்லவில்லை. அப்போது ஜான்விக்டர் எங்களை வேலைக்கு வருமாறும் காசு கொடுத்து விடுவதாகவும் சொன்னார் . நானும், பால்ராஜும் அதன் காரணமாக மாலை சுமார் 06.00 மணியளவில் ஜான்விக்டர் வீட்டிற்கு போனோம் . அப்போது ஜான்விக்டர் எங்கள் இருவரையும் " நங்கோத்தா, நங்கம்மா, " என்று கெட்ட வார்த்தைகளால் திட்டினார்.. நான் பால்ராஜை அடக்கி வைத்து வீட்டிற்கு வா என்று அழைத்து வந்து அவர் வீட்டில் விட்டுவிட்டு என் வீட்டிற்கு வந்துவிட்டேன். அதுமட்டுமே எனக்கு தெரிந்த சம்பவம் . மறுநாள் காலையில் சுமார் 10.45 மணியளவில் பால்ராஜ் போன் மூலம் சம்பவம் குறித்தும் , அதில் அடிபட்ட சார்லஸ் சீரியசாக இருப்பதாகவும் தகவல் தெரிவித்தார். "

46) Thus the occurrence on the evening of 31.03.2013 at about 06.00 Pm., at the house of A-1 Johnvictor when PW-1 and PW-5 went to collect their wages forms the first of the motive. Thus there is clear evidence to effect that there was some sort of circumstances in which A-1 Johnvictor had some scores to settle with Paulraj. During the course of the cross-examination of PW-5 Vinmalardass, he has clarified that the electrical contract was between him and Paulraj on the one side and A-1 Johnvictor on the other side. He has also denied the suggestion that they did not do any such electrical work in the house of A-1 Johnvictor. On the other hand PW-1 Paulraj has during his cross-examination stated that it was Vinmalardass who had business deal with A-1 and he was not directly involved with the contract. But however, he has denied that no electrical work was done in the house of A-1 JohnVictor. The counsel for the accused has successfully elicited that the police did not ask about the occurrence that happened at 06.00 pm. Hence this court has no reasons to reject the testimony of PW-1 and PW-5 with regard to some altercation at around 6.00 pm., in the house of A-1 Johnvictor.

47) According to the prosecution and the witnesses, due to the tussle that happened at 6.00 pm, A-1 along with his mother/ A-2 and A-3 Vimala came to the house of PW-1 Paulraj at 10.00 pm., verbally abused and called out PW-1

Paulraj , obviously to settle the scores. At that time, the deceased Charles, the younger brother of Paulraj questioned A-1 Johnvictor as to why he was abusing his brother and stopped A-1 from assaulting PW-1 Paulraj. Infuriated by his intervention, A-1 took a brick that was lying nearby and indiscriminately assaulted Charles on his left cheek, ear and nose repeatedly. A-2 Marystella and A3 Vimala allegedly assaulted Charles using sticks marked as M.O.1 & 3. The brick has been identified by PW-11 Periyamayagam the mother of the deceased (PW-11) as M.O.-2.

48) Thereby, A-1 Johnvictor came to the scene of occurrence with no direct intention to cause any injury or assault to the deceased Charles. But his intervention when they attempted to abuse and assault Paulraj irritated and infuriated A-1 to the extent that he picked a brick and assaulted him. PW-11 Periyamayagam, the mother of the deceased and P.W.- 1 Paul Raj have spoken in detail about the second part of motive and the occurrence that took place on 31.03.2013. In this aspect, the Investigating Officer who prepared the Inquest Report on the body of the deceased Charles has in column No IX -of the Inquest Report in Ex.P-25 has explained that there was a dispute with regard to the balance of payment of wages and therefore on 31.03.2013 at about 8.30 Pm., there was a wordy altercation between Paulraj, A-1 and his mother MaryStella.

Therefore they were inimically disposed towards Paulraj and they went to the house of Paulraj to give a fitting reply.

49) There has been suggestion on behalf of the accused that the deceased Charles fell down in an inebriated state and sustained injuries on his head and nose and the accused did not cause any such injuries. However, this suggestion is as bald it could be and if it is true, the accused should say where and when the deceased fell in an inebriated state. That apart, the burden is on the accused to explain as to why he was present in the Nadu theru during the occurrence. Thereby both the two parts of the motive i.e., A-1 to A-3 came to house of Paulraj to assault him and the motive for assaulting Charles is that he stopped the accused from assaulting Paulraj has been clearly and cogently explained by the witnesses examined on behalf of the prosecution. Thereby this court holds that the motive for the occurrence has been established.

50) **Evidence of Eye-Witnesses :-**

As mentioned supra the prosecution has examined as primarily relied upon the evidence of PW-1 to PW-7 to establish the occurrence. PW-1 Paulraj in particular has spoken about the manner in which A-1 to A-3 came outside their

house, shouted in obscene language and how the deceased Charles intervened to save his brother. He has deposed as follows,

“ என் தம்பி சார்லஸ் ஏன் அண்ணனை இவ்வாறு அசிங்கமாக கேட்டதற்கு நீ என்ன அதைப்பற்றி கேட்பது என அவனையும் அசிங்கமான வார்த்தைகளால் ஜான்விக்டர் திட்டிக்கொண்டே கீழே கிடந்த கல்லைக் கொண்டு என் தம்பி சார்லஸின் இடது கன்னத்திலும், மூக்கிலும் மாறி மாறி குத்தினார். அதற்கு பின்னர் ஜான் விக்டருடன் அங்கு ஏற்கனவே வந்திருந்த அவரது தாயார் ஸ்டெல்லாவும், 3 ம் எதிரி விமலாவும், அவர்கள் கையில் வைத்திருந்த தடியால் என் தம்பி சார்லசை தலையிலும் முதுகிலும் அடித்தார்கள். நானும் என் தம்பி விக்டர், பிரவும் அதனை தடுத்தபோது என்னையும், கீழே தள்ளிவிட்டார்கள். என் தம்பி விக்டர் பிரபுவிற்கும் அவர்கள் அடித்ததில் இடது கையில் பலத்த காயம் ஏற்பட்டது. அதற்குள் அங்கே அருகில் வசித்த சாட்சிகள் வேளாங்கண்ணி, டேவிட் ஆகியோர் வந்து சண்டையை தடுத்தார்கள். “

51) Similarly PW-2 Prabhu who was also at the scene of occurrence and also an injured witness has deposed as follows, “ அன்றிரவு 9.30, 10 மணியளவில் எதிரிகள் மூவரும் எங்கள் வீட்டருகே வந்து குறிப்பாக ஜான்விக்டர், மீண்டும மிகவும் மோசமாக வார்த்தைகளால் என் அண்ணன் பால்ராஜை திட்டி

வெளியே அழைத்தார். அப்போது ஏற்கனவே எங்கள் வீட்டிற்கு வெளியே எனது இன்னொரு அண்ணன் சார்லஸ் நின்று கொண்டிருந்தார் . அவர், ஆஜர் எதிரிகளை உள்ளே வரவிடாமல் தடுக்க சென்றார் . சத்தம் கேட்டு நாங்கள் வெளியே ஓடிவந்தோம். அப்போது ஜான்விக்டர், செங்கல்லால் என் அண்ணன் சார்லசை இடது கன்னத்தில் அடித்துக் கொண்டிருந்தார் . மற்றவர்கள் கொம்பால் தலையிலும், முதுகிலும் அடித்தார்கள் . அதில் மூக்கிலும் , வலதுகாதிலும் என் அண்ணனுக்கு காயம் ஏற்பட்டது . நான் தடுக்க வந்தபோது எதிரி விமலா அவர் கையில் வைத்திருந்த மரக்கொம்பால் , எனது இடதுகை முட்டியில் அடித்தார். என் அண்ணன் பால்ராஜையும் அடித்தார் . சார்லஸ் அதற்கு பின்னர் மயங்கி விழுந்து விட்டார். என் அண்ணன் சார்லசிற்கு காதிலும் , மூக்கிலும் ரத்தம் வந்தது . அப்போது அக்கம் பக்கம் இருந்தவர்கள் எதிரிகளை தடுக்க வந்தார்கள் . உடனே எதிரிகள் மூவரும் என்னையும் , என் அண்ணன் பால்ராஜையும் கொலை செய்யாமல் விடமாட்டோம் என்று சொல்லி ஓடிவிட்டார்கள். “

52) PW-3 Velankanni, another eye-witness has also deposed on the same lines and he resides in the same street. He is one among those persons who took the deceased for treatment to the Villupuram medical College Hospital also. Therefore, he cannot be said to be planted witness, as his presence in the scene is quite natural. PW-4 David has also deposed about the occurrence and he has

deposed that on hearing the sound he went to the spot and saw A-1 shouting from outside the house of PW-1 Paulraj and when Charles intervened, he was assaulted with a brick on his head and face. During the course of cross-examination, the credit of his testimony has been tested with suggestions that there was some animosity between Johnvictor and David due to political rivalry and therefore he was deposing in favour of the family of the deceased.

53) PW-7 Anthonyammal has also narrated about the occurrence. Her evidence and her earlier statement u/s.161(3) Cr.Pc., has been carefully perused. She is an independent witness she has naturally deposed that she used to call A-2 Marystella as her Chitti and she went to scene on hearing the sound outside the house of Charles. She saw the accused, but before she could stop them , all the three assaulted Charles and A-1 was found with a brick in his hand. She has also deposed that she tried to give water to the injured Charles but blood was oozing out. The Ld. Counsel for the accused has been able to elicit that in her statement u/s.161(3) Cr.Pc., PW-7 Anthonyammal has not stated about trying to provide drinking water to the injured Charles who fell down. Though it is an improved part of narrating the sequence of events, she can not be branded as an interested or planted witness.

54) This court takes note of the fact that the occurrence took place outside the house of the deceased at 10.00pm., where the brothers Paulraj (PW-1), Prabhu (PW-2) and PW-11 Periyamayagam would have naturally been there. The Ld. Counsel for the accused has contended that the Scene of occurrence has not been perfectly identified or fixed by the investigating officer. But however, from the beginning, there is consistent evidence that the occurrence took place outside the house of Charles. It is a small street in a Panchayat area with small houses and therefore the accused cannot be allowed to take advantage of the fact that some of the street people said that it happened outside their house. The accused has not been able to elicit that all those who spoke about the occurrence could not have been at the place of occurrence when the offence was committed. The evidence of the eye-witnesses is natural, cogent and convincing and it also inspires confidence.

55) Now it has to be seen whether oral testimony is supported by Medical evidence. As mentioned supra, P.W.-13 Dr. Manoj who examined the deceased at the first instance has narrated that the deceased was brought by PW-3 Velakanni for treatment (he has in the clear copy of the Accident Register wrongly mentioned as Venkatesan). On examination, he found a laceration of 1x1x1cm below the left eye with contusion and there was bleeding in the right ear. He was found drowsy. Now let us move to the Medical records of the Jipmer Hospital

and the Post -Mortem Certificate in Ex.P-7 and Ex.P-8. PW-9 Dr. Ambiga Prasad who conducted Autopsy at 11.30 Am., on 03.04.2015 has mentioned about all the injuries on the left side of the head and below the left eye. She has specifically stated that there was Contusion with subscalpal hemorrhage over left fronto-temporal area edematous releasing edema fluid on cut-section. She has also stated that there was subdural hematoma (130gm) over the left fronto temporo parietal area and undersurface of the left temporal lobe and contusion and laceration of abntero-lateral surface of left temporal lobe over an area of (7cmx5cm).

56) The Medical Officer given a Final Opinion that death was due to cerebral injuries and complications thereof. Now let us examine the overtact of A-1. There is cogent and consistent evidence right from the First information to the effect that A-1 took a brick (M.O-2) of 3/4th size and smashed on the face and head of deceased Charles. This court has also examined the brick and it's weight. A right power-handed man's assault with a brick in hand would naturally land on the left side of the head of the person at the receiving end. Thereby the internal hemorrhage , contusion and laceration on the left temporal lobe can directly be attributed to the assault of A-1 Johnvictor using a brick stone. The Medical Records also shows that the ethmoid bone on the left side was also fractured. This bone lies right under the forehead. Therefore this court has every reason believe

that blow of A-1 Johnvictor on the left side of the Charles and on his face has caused the internal injuries with symptoms of bleeding in the ear and that naturally led to the death of Charles. Although A-2 Mary Stella and A-3 Vimala assaulted Charles with sticks no injuries that directly reflect on the body of Charles has been noticed during autopsy, especially on the back of the chest. Similarly PW-2 Prabhu on whose fist A-3 Vimala is alleged to have hit with the wooden stick has not undergone treatment and hence no Accident Register or Wound Certificate has been produced by the prosecution.

**57) Confession and recovery:**

According to the prosecution, on the basis of secret information, P.W.-17 Santhalingam came to the Somasipadi Mada Church at about 12:30 PM on 03.04.2013 and found A-1 John Victor and A-2 Mary Stella there and arrested them. During interrogation of the accused in the presence of P.W.-8 Solomon Raj Kumar and VinothRaj, A-1 voluntarily gave a confession statement and stated that he will identify and produce the brick that he used for assault kept by him in a hidden place behind his house. The admissible portion of the confession statement has been marked as Ex.P-26. At 13:30 hours, A-2 Stella Mary gave a confession statement to the effect that she has kept the wooden stick used for assaulting the deceased in a hidden place in her cattle shed and promised to produce it. The

admissible portion of the said confession is Ex.P-27. Thereafter the accused, witnesses and the police party proceeded to the house of John Victor at Mada Koil street where the accused John Victor took out a piece of brick weighing 1.540 kg of about 11 cm length and 9.5 cm width and there was blood stain at one end of the stone. The investigating Officer recovered the brick in the presence of witnesses under Mahazar in Ex.P-28. On the same day, they went to the house of A-2 Stella Mary and recovered the wooden stick that the accused produced from a hidden place in the cattle shed. It was about 77 cm in length and 2.5 cm wide and it had a circumference of about 9 cm. The investigating Officer recovered the same under a Mahazar in Ex.P-29. The witnesses to the confession statement and recovery, namely P.W.-8 Solomon Raj Kumar was alone examined and he did not support the prosecution case and was treated as a hostile witness. Therefore the material objects allegedly seized from A-1 and 2 were marked through the investigating officer himself. In so far as the recovery from A-3 is concerned, A-3 was arrested on 4 4 2013 at 12:30 PM near the Akash Hotel opposite to the Tiruvannamalai bus stand and she gave a confession in the presence of P.W.-10 Govindaraj and another witness. But P.W.-10 Govindaraj did not support the confession and recovery and therefore his Signature in the confession statement and seizure mahazar alone were marked as Ex.P-9 and Ex.P-10 respectively. He was also

treated as a hostile witness. In such circumstances, the stick that was allegedly used to by A-3 has been marked as M.O.1 through P.W.-11 Periyannayagam, an eyewitness. On perusing the materials and the documents, it is seen that the brick that was allegedly seized by the investigating officer had bloodstains on one end and it was subjected to chemical analysis through the forensic sciences lab. The report from the forensic sciences lab suggests that blood stained was detected but however, during serological examination, the blood group could not be ascertained. This court is disposed to hold that when there is overwhelming evidence with regard to the occurrence and it has been amply supported by medical evidence, not much significance need to be attached to the confession and recovery. However it cannot be completely brushed aside either.

58) **Findings:**

This court has observed supra that there is cogent and clinching evidence to the effect that A-1 John Victor assaulted the deceased indiscriminately on the left side of his head and face causing serious fractures and damage to frontal portion of the brain lobe which led to his death. In this context in a Catena of judgments it has been reiterated that Culpable homicide is murder if the act is done with the intention of causing death, or causing bodily injury deemed sufficient to cause death, or knowing the act is imminently dangerous to life. In the instant case, A-1

did not approach the house of the deceased to cause his death. But to settle scores with P.W.-1 Paul Raj. But due to the intervention of the deceased, A-1 gave such fatal blows, that he should have known that such assault on the head of a person may cause such injuries that may lead to his death. Hence, though this court was considering whether the case can be brought within the fold of culpable homicide not amounting to murder, the manner in which A-1 assaulted the deceased to cause such injury that may prove fatal, dissuades this court to discard culpable homicide and to hold that it is culpable homicide amounting to murder. Thereby, A-1 is found guilty of the charge framed U/S 302 IPC.

59) In so far as A-2 Mary Stella is concerned, she has beaten the deceased with wooden sticks. But however, no injury corresponding to her overt act is discoverable from the evidence of the prosecution. The fact remains that she assaulted the deceased and therefore this court is of the considered view that she cannot be found guilty for the charge U/S 302 IPC. However, the ingredients required to constitute an offence U/S 352 IPC has been established by the prosecution. Therefore in exercise of the powers U/S 222 Cr.P.C, after holding the accused not guilty of the charges U/S 302 IPC, this court finds A-2 guilty of a lower offence U/S 352 IPC and is liable to be punished thereunder.

60) A-3 Vimala, according to reliable evidence has assaulted the deceased on the back of his chest. But the medical officer who conducted autopsy did not mention any injuries on the back of the chest. Therefore, it is a case of assault without a corresponding injury. A-3 is also alleged to have assaulted P.W.-2 Prabhu on his right fist. But the said Prabhu has explained that as his brother Charles was in a bad condition, he did not take treatment for himself and he accompanied the deceased to the hospital. Therefore the injury caused to P.W.-2 has also not been established. But however there is clear and cogent evidence that A-3 assaulted both the deceased and P.W.-2 Prabhu. Therefore in so far as A-3 is concerned, in the absence of corresponding injury, the court finds A-3 not guilty of the charge framed U/S 302 IPC, but however by exercising the powers U/S 222 Cr.P.C, she is found guilty of causing assault to the deceased attracting the offence U/S 352 IPC. A-3 has already been charged of causing assault on P.W.-2 Prabhu and therefore A-3 is found guilty U/S 352 on two counts. In so far as the offence u/s. 294(b) IPC is concerned, the occurrence took place at 10.00 pm., and there is no evidence for public annoyance. Hence A1 to A3 are found not guilty of offence u/s.294(b) IPC.

**61) Examination of the Accused 1 to 3 on the question of sentence :**

Having found the accused guilty of the aforesaid offences, they were examined U/S 235 (2) CRPC with regard to the punishment that may be inflicted upon them. They answered as follows.

A1- " எனக்கும் இந்த வழக்கிற்கும் எந்த சம்பந்தமும் இல்லை. "

A2- " நான் சார்லசை பார்க்கவே இல்லை. நான் நிரபராதி."

A3- " நான் சண்டையை வேடிக்கை தான் பார்த்தேன். நான் பக்கத்துவீடு. "

62) The learned counsel for the accused contended that some leniency can be shown to the accused and a lesser punishment may be inflicted. This court is also considered the mitigating and aggravating circumstances. This court has also considered the fact that A1to A3 were in Judicial custody for about 2 months. A-1 who has been found guilty u/s. 302 of IPC deserves a deterrent punishment for causing the death of Charles for no obvious reasons, while some leniency can be shown to A-2 who is aged woman and also A-3 who is a woman. Accordingly, this court is of the considered view that the ends of justice will be served if A-1 is sentenced to life imprisonment and to pay a fine of Rs.1000/- in default 2 months simple imprisonment for the charge u/s. 302 of IPC and A-2 is sentenced to pay a fine of Rs.500/- for the offence u/s.352 IPC and in default 2 months simple imprisonment and A3 is sentenced to pay a fine of Rs. 500/- each for the

offence u/s. 352(2counts) IPC and in default 2 months simple imprisonment. This court it is also inclined to extend the benefit of set off u/s. 428 of Cr.Pc. The point is answered accordingly.

1) In the result, A1 is found guilty u/s. 302 of IPC and he is convicted u/s. 235(2) Cr.P.C., and sentenced to undergo Rigorous Imprisonment for life and to pay a fine of Rs. 1000/- in default 2 months simple imprisonment. The period from 03.04.2013 to 10.05.2013 undergone by the accused as remand prisoner is ordered to be set off u/s 428 Cr.P.C.

2) A2 is found guilty u/s. 352 of IPC and she is convicted u/s. 222(2) Cr.P.C., and to pay a fine of Rs. 500/- and in default of payment of fine, she shall undergo 2 months simple imprisonment.

3) A3 is found guilty u/s. 352 (2 counts) of IPC and she is convicted u/s. 222 (2) Cr.P.C., and to pay a fine of Rs. 500/- under each counts (total Rs.1000/- ) and in default of payment of fine, she shall undergo 2 months simple imprisonment.

4) A1 is found not guilty of the offence under sections 294(b) of IPC and A2 & A3 are found not guilty of offence under sections 294(b), 302 of IPC and they are acquitted from those charges U/S. 235(1) Cr.P.C.,

5) The bail bonds executed by the A1 to A3 stands cancelled.

6) That the material object M.O.1 to M.O.3 (C.P.No. 3/2018 ) are useless and are ordered to be destroyed after the expiry of the Appeal period or after the Appeal if any.

Dictated by me, to the Steno-typist and typed by her directly to my dictation in computer, corrected and pronounced by me, this, the 24<sup>th</sup> day of March 2026.

**Additional District & Sessions Judge,  
Tiruvannamalai.**

**Witnesses examined on the side of prosecution:**

- P.W. 1      Tr Paulraj  
P.W. 2      Tr. Prabhu  
P.W. 3      Tr, Velankanni  
P.W. 4      Tr. David  
P.W. 5      Tr.Vinmalardass  
P.W. 6      Tr. Devasagayam  
P.W. 7      Tr. Anthonyammal

- P.W. 8 Tr. Salaman Rajkumar
- P.W.9 Tmt. Ambikaprasath, Doctor
- P.W.10 Tr.Govindaraj
- P.W.11 Tr. Periyamayagam
- P.W.12 Tr.Vinoth raj
- P.W.13 Tr. Dr. Manoj, Doctor
- P.W.14 Tr.JohnDurai
- P.W.15 Tr.Tamilarasu, Special Sub Inspector
- P.W.16 Tr.RaviShankar, Deputy Director
- P.W.17 Tr. Santhalingam, Inspector of police
- P.W.18 Tr. Chandrasekaran, Inspector of police

**Exhibits marked on the side of the prosecution:**

- Ex.P1 04.04.2013 The admissible portion of confession statement of A3
- Ex.P2 04.04.2013 Seizure Mahazar
- Ex.P3 03.04.2013 Signature of PW8 on the Confession Statement of A1
- Ex.P4 03.04.2013 Signature of PW8 on the Confession Statement of A2
- Ex.P5 03.04.2013 Signature of PW 8 on the Seizure Mahazar

Ex.P6	03.04.2013	Signature of PW8 on the Seizure Mahazar
Ex.P7	03.04.2013	Post Mortem Certificate of Charles
Ex.P8	20.05.2013	Final Opinion Report of Charles
Ex.P9	04.04.2013	Signature of PW10 on the Confession Statement
Ex.P10	04.04.2013	Signature of PW10 on the Seizure Mahazar
Ex.P11	01.04.2013	Complaint statement
Ex.P12	03.04.2013	Signature of PW12 on the Confession Statement of A1
Ex.P13	03.04.2013	Signature of PW12 on the Confession Statement of A2
Ex.P14	03.04.2013	Signature of PW12 on the Seizure Mahazar
Ex.P15	03.04.2013	Signature of PW12 on the Seizure Mahazar
Ex.P16	31.03.2013	Copy of Accident Register of Charles
Ex.P17	01.04.2013	Observation Mahazar
Ex.P18	01.04.2013	First Information Report
Ex.P19	01.04.2013	Rough Sketch
Ex.P20	19.04.2013	Toxicology Report
Ex.P21	16.04.2013	Biology Report
Ex.P22	11.04.2013	Requisition letter to Forensic Lab, Chennai for Serology Report

Ex.P23	02.04.2013	Death Intimation
Ex.P24	02.04.2013	Section Alteration Report
Ex.P25	03.04.2013	Inquest Report
Ex.P26	03.04.2013	The admissible portion of confession statement of A1
Ex.P27	03.04.2013	The admissible portion of confession statement of A2
Ex.P28	03.04.2013	Seizure Mahazar
Ex.P29	03.04.2013	Seizure Mahazar

**Material Objects marked :**

M.O.1- Wooden log-1 ( Approximate length 78cm, base portion sharp and tip portion flat, base portion circumference approximate 12cm and tip portion approximate portion 11cm.)

M.O.2- Half Brick -1 (Approximat weight 1.540 Kilogram base portion flat and tip portion broken. Approximate length 11cm, Approximate breadth 9 1/2cm, blood stained one side tip

M.O.3- Wooden log-1 (Approximate Length 77 Cm, base breadth 2 1/2cm tip portion breadth 2cm, Weight circumference 9cm)

**Witness examined on the side of Defence:** -

D.W1- Tr. Ragukumar, Doctor

D.W2- Tr.David, Preacher

D.W3- Smt. Sunitha, Senior Doctor.

**Exhibits marked on the side of Defence:** -

Ex.D1 –16.02.2011 - Photo copy from Register of Marriage

Ex.D2 - - Copy of MLC Form of out patient of Charles issued from  
Jipmer Hospital,Pondicherry

Ex.D3- - Copy of treatment and Medical records of Charles

Ex.D4- 04.01.2023 - Death Summary of Charles

Ex.D5- - Out patient Record of deceased Charles

**Additional District & Sessions Judge,  
Tiruvannamalai.**



