BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 02.02.2026

PRONOUNCED ON : 13.02.2026

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA

Crl.A(MD)No.76 of 2023

1.S.Muneeswaran

2.Revathi ... Appellants/Accused Nos.1 & 2

Vs.

State represented by,
The Inspector of Police,
Malli Police Station,
Virudhunagar District
(Crime No.134 of 2018) ... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 374(2) of Criminal Procedure Code, to call for the records from the lower Court and set aside the Judgment passed by the learned Fast Track Mahila Court, Virudhunagar District at Srivilliputhur in S.C.No.17 of 2019, dated 06.08.2022 by allowing this appeal.

For Appellant : Mr.M.Jegadeesh Pandian

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

JUDGMENT

(Judgment of the Court was delivered by R.POORNIMA, J.)

This Criminal Appeal is directed as against the Judgment passed in S.C.No.17 of 2019, dated 06.08.2022, on the file of the Fast Track Mahila Court, Virudhunagar District at Srivilliputhur.

2. The case of the prosecution is that the accused are husband and wife. They gave birth to a female child on 25.05.2009 and named her Sadhana. From the date of her birth, the child was suffering from a mental disorder, and as such, she was unable to maintain herself. The second accused resigned from her position as a professor at a private college in order to look after her daughter. However, she was unable to maintain the child, and the family suffered from mental distress and lack of peace of mind. Consequently, they decided to murder their mentally disordered child. While being so, on 01.10.2018, at about 6.00 p.m., they went to Kathappasamy Temple and, behind the temple, administered

Tafgor to the deceased. On hearing the noise raised by the deceased, members of the public intervened and prevented the accused from administering further poison. Immediately thereafter, the deceased was taken to the Government Hospital, Srivilliputhur, for treatment. Subsequently, she was referred to the Government Rajaji Hospital, Madurai, for higher medical care. However, on 06.10.2018, at about 9.00 a.m., she died. Based on the complaint, FIR was registered by the Malli Police Station, Virudhunagar District in Cr.No.134 of 2018 for the offences punishable under Sections 342 and 307 of IPC and thereafter, the charges were altered into Sections 342 and 302 of IPC. After completion of investigation, a final report was filed and the same has been taken cognizance by the Trial Court.

3. In order to bring the charges to home, the prosecution had examined P.W.1 to P.W.18 and marked Ex.P.1 to Ex.P.14. On the side of the accused, no witnesses were examined and no documents were produced before the Trial Court.

4.On perusal of oral and documentary evidence, the Trial Court

found both the accused guilty for the offences punishable under Sections 342 and 302 of IPC. They were sentenced to undergo one year Rigorous Imprisonment and to pay a fine of Rs.500/- each, in default, to undergo three months Rigorous Imprisonment for the offence punishable under Section 342 of IPC; they were sentenced to undergo Life Imprisonment and to pay a fine of Rs.3,000/- each in default, to undergo six months Rigorous Imprisonment for the offence punishable under Section 302 of IPC. Aggrieved by the same, the appellants have preferred the present appeal.

5. The learned counsel for the appellants submitted that the eye witnesses to the occurrence had turned hostile and did not support the prosecution case. Despite this, the Trial Court, relying solely on circumstantial evidence, failed to properly connect the appellants with the alleged crime and mechanically convicted them. Even the post-mortem report did not support the case of the prosecution. The cause of death was not due to poisoning. There was no material to show that the deceased had been administered Organophosphorus poison. In order to prove that the poison was purchased by the accused, the prosecution examined the

fertilizer shop owner as P.W.13. He deposed that the first accused had purchased the said pesticide and also issued receipt. The photo copy of the receipt was marked as Ex.P3, however, it does not even contain the signature of the P.W.13. Hence, it is not an admissible document under the Indian Evidence Act, as it is a secondary evidence, which requires corroboration. Further, though the Village Administrative Officer was allegedly informed about the occurrence on 01.10.2018 at about 06.00 p.m., the complaint was lodged only on 02.10.2018 at about 09.00 a.m., for which, no satisfactory explanation has been offered. Further, P.Ws.1 & 2 turned hostile. P.W.1 admitted that he was present at the police station on 02.10.2018 from about 06.00 a.m. to 09.00 a.m., and that the complaint was lodged only after due discussion with the police. Despite these serious infirmities, the Trial Court mechanically convicted the accused. The learned counsel further pointed out the material contradictions, omissions, and improvements in the evidence of the prosecution witnesses, which strike at the root of the prosecution case.

6. Per contra, the learned Additional Public Prosecutor appearing for the respondent submits that both the appellants are the

parents of the deceased. The prosecution has categorically proved the motive behind the crime, which is that the deceased was a mentally disordered child and, as such, the appellants decided to do away with the life of the deceased and hence, they purchased poison from the shop owned by P.W.13, took the deceased to a temple known as Kathappasamy Temple, and administered the poison by mixing it with a cool drink. P.Ws.1 and 2 witnessed the occurrence and immediately prevented the accused from administering poison to the deceased child. The deceased was thereafter taken to the hospital. In fact, the statement of the accused was duly recorded by the duty doctor, wherein, it was admitted that they had administered poison to the deceased. The said statement forms part of the Accident Register, which was marked as Ex.P2. Therefore, the Accident Register being the earliest document, the prosecution has categorically proved the charges against the appellants, and the Trial Court rightly convicted them.

7. Heard the learned counsel appearing for the appellant and the learned Additional Public Prosecutor appearing for the respondent.

8. The deceased child was in the exclusive custody of her parents, namely, A1-Muneeswaran and A2-Revathi. It is admitted by the prosecution witnesses, including P.W.10, a relative of the accused, and P.W.15, Dr.Alageswari, who treated the child, that the child was a mentally retarded child.

9. On 01.10.2018 at about 08.45 hours, the child Sadhana was admitted for treatment by the accused themselves. At the time of admission, the accused informed the Doctor that they had mixed 100 ml. of Tafgor fertilizer in a cool drink and administered it to the child at Kathappasamy Temple. Further, A2, the mother of the child, informed P.W.12 that the child was mentally retarded.

10. The child was given first aid and thereafter, referred to Government Rajaji Hospital, Madurai, for further treatment. It is significant to note that no police complaint was lodged by the accused parents. The complaint was lodged only by P.W.1, the Village Administrative Officer, based on the information received from Kalimuthu, on the same day at about 6.00 p.m., stating that the accused

parents had administered poison to the child. Based on the said complaint, the police registered the FIR on the same day at about 22.00 hours, without any delay.

11. P.W.12 Dr.Palanisamy, in the Accident Register (Ex.P2), clearly recorded that the child was brought by her parents and that A2 informed that they alone mixed Tafgor poison and administered it to the child. The Accident Register further noted that the child was semi-conscious with constricted pupils, which is consistent with organophosphorus poisoning.

12. It is not the case of the defence that any third party administered poison to the child. On the contrary, it is an admitted fact that the child was administered poison while in the custody of the accused parents only.

13. This fact is further corroborated by P.W.13, the owner of the fertilizer shop from which the accused had bought the poison in question. He categorically deposed that on the date of occurrence, i.e., 01.10.2018,

A1 purchased 500 ml of "Tafgor" fertilizer from his shop for a sum of Rs. 243/-, and the bill issued to him was marked as Ex.P3. P.W.13 clearly identified A1 in the Court as the person who purchased the poison.

14. P.W.14, Dr.Sangeeth, who treated the child, elaborately described the treatment administered. He stated that the poison had spread throughout the body, causing severe respiratory distress. The child was provided with artificial respiration, administered anti-poison medication, and treated for low blood pressure, but despite medical intervention, the blood pressure did not improve. Subsequently, renal function deteriorated, and the child ultimately died on 06.10.2018 at 09:15 hours. The evidence of P.W.15 supports the testimony of P.W.14.

15. P.W.16, Dr.Alageswari, who conducted the post-mortem, initially reserved the opinion regarding cause of death pending chemical analysis. The Viscera Report (Ex.P14) revealed that no poison was detected in the stomach, intestine, liver, kidney, or blood. After receipt of the chemical analysis report, P.W.16 issued the final opinion stating that:

"*No definite opinion can be given regarding*

the cause of death, however, the history of the case, hospital records and post-mortem findings are consistent with death due to poisoning, the nature of which could not be detected chemically"

16. Now, the question before this Court is whether the absence of poison in the viscera report is fatal to the prosecution case.

17. The container sent for chemical analysis was found to contain Tafgor, and analysis confirmed the presence of Dimethoate, an organophosphorus insecticide, which is a poisonous substance. This poison was purchased by A1 from PW13, as evidenced by Ex.P3.

18. It is a settled principle of law that a negative viscera report is not automatically fatal to the prosecution case, particularly when the victim had undergone prolonged medical treatment. In cases where the victim survives for several days after consuming poison and receives treatment, the poison may be metabolized or eliminated from the body before death. Further, certain poisons are difficult to detect through routine forensic screening.

19. We rely upon the judgment rendered by the Hon'ble Supreme Court in ***Buddhadeb Saha v. State of W.B.*****, reported in (2024) 14 SCC 376 : 2023 SCC OnLine SC 1457** as follows:

> ***"29.*** *In a research article titled, "Negative viscera report and its medico-legal aspects", it has been mentioned that in many cases, the viscera report is negative on three major basis, namely, it can be procedure based, sample based or lab based. The said research paper reveals that there are circumstances in which viscera test may not reveal the presence of compounds from the following circumstances:*
>
> *1. Sample quantities received by FSL much less than those prescribed for optimal analysis;*
>
> *2. Required quantity and quality of preservative not used during sampling;*
>
> *3. Appropriate temperature, time and container not maintained for preservation of sample;*
>
> *4. Difficulty in detection of poison due to vomiting, purging or elimination from the system by the kidneys or due to prolonged stay in the hospital immediately prior to the death;*
>
> *5. Not sending stomach wash (gastric lavage) and vomit along with viscera for examination;*
>
> *6. Some organic poison decompose due to improper preservation or temperature control;*
>
> *7. Site of sample collection on the body also plays an important role;*
>
> *8. In post-mortem decomposition, many poisons present in the tissue undergo chemical changes*

which cannot be detected in routine toxicological analysis.

30. *This Court in* ***Mahabir Mandal v. State of Bihar [(1972) 1 SCC 748]****, looked into the observations found at p. 477 of Modi's Medical Jurisprudence and Toxicology (17th Edn.) and held that under some circumstances, if the whole of the poison has disappeared from the lungs by evaporation, or has been removed from the stomach and intestines by vomiting and purging, and after absorption has been detoxified, conjugated and eliminated from the system by the kidneys and other channels, it is possible that there may not be traces of poison.*

31. *Thus, the absence of detection of poison in the viscera report alone need not be treated as a conclusive proof of the fact that the victim has not died of poison.*

32. *In Mahabir Mandal supra this Court has observed as under:-*

"35. ... Reference has been made by Mr Chari to report dated 23-12-1963 of the Chemical Examiner, according to whom no poison could be detected in the viscera of Indira deceased. This circumstance would not, in our opinion, militate against the conclusion that the death of the deceased was due to poisoning. There are several poisons, particularly of the synthetic hypnotics and vegetable alkaloids groups, which do not leave any characteristic signs as can be noticed on post-mortem examination."
(emphasis supplied)

33. *The above observation of this Court was based on the reference made in Modi's Medical Jurisprudence and Toxicology. Those references were also referred to by this Court, which are as follows:*

"35. ... 'It is quite possible that a person

may die from the effects of a poison, and yet none may be found in the body after death, if the whole of the poison has disappeared from the lungs by evaporation, or has been removed from the stomach and intestines by vomiting and purging, and after absorption has been detoxified, conjugated and eliminated from the system by the kidneys and other channels. Certain vegetable poisons may not be detected in the viscera, as they have no reliable tests, while some organic poisons, especially the alkaloids and glucosides, may by oxidation during life or by putrefaction after death, be split up into other substances which have no characteristic reactions sufficient for their identification.' "

(emphasis supplied)

34. *As pointed out by this Court in a number of cases, where the deceased dies as a result of poisoning, it is difficult to successfully isolate the poison and recognise it. Lack of positive evidence in this respect would not result in throwing out the entire prosecution case, if the other circumstances clearly point out the guilt of the accused".*

20. In such circumstances, the Court must place reliance on the clinical diagnosis and testimony of the Doctors who treated the victim while alive, rather than solely on post-mortem chemical analysis.

21. The consistent testimony of P.W.14 and P.W.15, the admission made by A2 at the time of hospital admission, and the

evidence of P.W.13, who sold the poison to A1, collectively prove that the child had consumed poison.

22. The child was in the exclusive custody of her parents, who themselves admitted the child to the hospital stating that they administered poison to her. The parents are A1 and A2 and they neither lodged any complaint nor claimed that the poisoning was accidental or caused by a third party. When a person is in the exclusive custody of the accused, it is their legal duty to explain the circumstances leading to the death. The accused have failed to offer any plausible explanation.

23. Accordingly, this Court holds that the absence of poison in the viscera report does not weaken the prosecution case. The evidence on record conclusively establishes that A1 purchased the poison from P.W.13, and A2 admitted before P.W.12 that both A1 and A2 had administered the poison to their daughter. Further, both the accused themselves informed the Doctor that poison had been administered to their child.

24. Though the prosecution examined several eyewitnesses to prove the offence, many of them turned hostile. However, the medical evidence clearly proves that the child died due to poisoning administered by the accused.

25. While this Court sympathizes with the accused parents for the difficulties they faced in bringing up the child, it must be borne in mind that the child did not come into this world on her own but was born to the accused themselves. If the law permits the parents to eliminate the children born with mental retardation, no such child would survive in this world. It is the bounden duty of the parents to take care of their child, whether the child is born with mental illness, physical disability, or without any disability at all.

26. No one has the right to take the law into their own hands and extinguish the life of another person. Even today, many parents make immense sacrifices, and even lay down their lives, for children born with disabilities. Therefore, the Trial Court rightly convicted the accused for the offence of murder. We find no perversity or illegality in the

impugned judgment. The Criminal Appeal lacks merit and the same is liable to be dismissed.

27. In the result, this Criminal Appeal is dismissed and the judgment made in S.C.No.17 of 2019, dated 06.08.2022, on the file of the Fast Track Mahila Court, Virudhunagar District at Srivilliputhur, is hereby confirmed.

[G.K.I.J.,] & [R.P.J.,]
13.02.2026

NCC :Yes/No
Index :Yes/No
rm

To

1.The Fast Track Mahila Court,
Virudhunagar District at Srivilliputhur.

2.The Inspector of Police,
Malli Police Station,
Virudhunagar District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

G.K. ILANTHIRAIYAN, J.
AND
R. POORNIMA, J.

rm

Pre-Delivery Judgment made in
Crl.A(MD)No.76 of 2023

13.02.2026