

In the court of the Sessions Judge, Fast Track Mahila Court, Nagapattinam.
Sessions Case No. 126/2016
CNR No. TNNG09-000037-2016

Sl.No.	Particulars of Case Summary	Remarks	
1.	The period of remand of the Accused 1 and 2	A.1	Released on Anticipatory Bail as per order in CrI.O.P.No.6286/2016 dated 04.04.2016 of Honourable High Court of Judicature, Madras.
		A.2	Released on Anticipatory Bail as per order in CrI.O.P.No.28532/2015 dated 04.04.2016 of Honourable High Court of Judicature, Madras.
2.	The date of filing of the complaint / final report in the Court ;	Date of Complaint 31.12.2013	
		Date of final report 02.06.2016	
3.	The date of committal of the case to the Court of Sessions ;	12.07.2016	
4.	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 ;	05.11.2016	
5.	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 ;	CrI.M.P.No.229/2016 for recording the statement of witness u/s. 164(5) of Cr.P.C.	
6.	Date of examination in chief and Cross – examination of a witness;	From 04.01.2017 To 12.02.2021	
7.	Date of examination of the accused under Section 313 of the Code;	19.02.2021	
8.	Details of abscondence of an accused and his appearance / production, as the case may be ; and	Nil	
9.	Grant of stay by superior Courts and the results thereof.	Nil	

**IN THE COURT OF THE SESSIONS JUDGE
(FAST TRACK MAHILA COURT), NAGAPATTINAM**

Present: Thiru.T.Panneerselvam, M.B.A., M.L.,
Sessions Judge,
Fast Track Mahila Court,
Nagapattinam.

Friday, the 23rd day of July 2021

SESSIONS CASE NO. 126 of 2016

CNR No. TNNG09-000037-2016

Crime No. 2 / 2015 of CB CID, Nagapattinam

PRC No. 1/2016 of Chief Judicial Magistrate, Nagapattinam.

1. Name of the Complainant	: State by : Inspector of Police, (Crime Branch) CBCID, Nagapattinam. Crime No. 2/2015.
2. Name of the accused persons	A.1 N.S.Rajendran, the then Inspector of Police, Nagore Police Station. (Now under suspension) <u>Residential Address:</u> 831, Thiruvalluvar Nagar, Sithamalli Melpathi, Needamangalam, Thiruvarur District.
	A.2 P.Jayaraman, The then Special Sub Inspector of Police (277), Valivalam Police Station (Now under suspension) <u>Residential address:</u> Kaliyamman Koil Street, Needur, Keezhvelur Taluk, Nagapattinam District.

3. Charges against the accused persons	: Against the 1st accused u/s. 302 r/w. Sec. 34, 218, 201 and 217 of IPC Against the 2nd accused u/s. 302 r/w. 34 of IPC
4. Plea of the accused persons	: Denied the charges
5. Findings of the Judge	: That the 1st accused is found not guilty of the charges u/s.302 r/w. Sec. 34 But the 1st accused is found guilty of charges u/s. 304 Part I, 218,201 and 217 of IPC. That the 2nd accused is found not guilty of charge u/s. 302 r/w. 34 of IPC but he is found guilty of charge u/s. 304 Part I r/w. 34 of IPC.
6. Judgement of the court	In the result, the 1st and 2nd accused are found not guilty of the charges u/s.302 r/w. Sec. 34 and the accused 1 and 2 are acquitted u/s. 235(1) of Cr.P.C. of the abovesaid charge. But, the 1st accused is found guilty of offences u/s. 304 Part I, 218,201 and 217 of IPC and the 2nd accused is found guilty of charge u/s. 304 Part I r/w. 34 of IPC. The 1st accused is convicted and sentenced to undergo R.I. for a period of ten years for the offence u/s. 304 part I of IPC and to pay a fine of Rs. 5000/- (Rupees five thousand only) I/D. to undergo S.I. for a period of one month. For the offence u/s. 218 of IPC

	<p>the 1st accused is convicted and sentenced to undergo R.I. for a period of two years and to pay a fine of Rs. 5000/- (Rupees five thousand only) I/D. to undergo S.I. for a period of one month.</p> <p>For the offence u/s. 201 of IPC the 1st accused is convicted and sentenced to undergo R.I. for a period of two years and to pay a fine of Rs. 5000/- (Rupees five thousand only) I/D. to undergo S.I. for a period of one month.</p> <p>For the offence u/s. 217 of IPC the 1st accused is convicted and sentenced to undergo R.I. for a period of two years and to pay a fine of Rs. 5000/- (Rupees five thousand only) I/D. to undergo S.I. for a period of one month.</p> <p>As far as 1st accused is concerned, the period of sentence imposed on him shall run concurrently.</p> <p>The 2nd accused is convicted and sentenced to undergo R.I. for a period of ten years for the offence u/s. 304 part I r/w. 34 of IPC and to pay a fine of Rs. 5000/- (Rupees five thousand only) I/D. to undergo S.I. for a period of one month.</p> <p>Since, the accused 1 and 2 had obtained anticipatory bail, there be no order for set off u/s. 428 of Cr.P.C.</p> <p>M.O.1 series six compact discs (C.D.) produced in this case are ordered to be kept along with the case records.</p> <p>Total fine amount for the 1st accused is Rs. 20,000/- Total fine amount for the 2nd accused is Rs.5,000/-</p>
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This case coming before me for final hearing on 16.07.2021 in

the presence of Tmt. S. Ameer Beevi, Special Public Prosecutor and Tr.N.K.Krishnamoorthi, counsel for the 1st accused and Tr.T.Muthukumaresan, counsel appearing for the 2nd accused, upon hearing the arguments of both sides, upon perusal of all connected material records and having stood over for consideration till this date, this court pronounced the following

JUDGEMENT

The Inspector of Police, Crime Branch, CB CID has laid a charge sheet against the accused 1 and 2 stating that the 1st accused is the then Inspector of Police, Nagore and the 2nd accused is the then Special Sub Inspector of Police, Valivalam Police Station and both are on other duty as High Way Patrol II as per order of the Deputy Superintendent of Police, Nagapattinam, that the deceased Suresh was an auto driver by profession, that in the evening of 31.12.2013 the deceased Suresh had parked his auto in front of the shop of witness Prasanth @ Rajendran at Vanjore and sitting on the steps of the shop, that at about 07.00 p.m. the 1st accused, who was on duty came there and asked the deceased Suresh to move his auto as the same was obstructing the traffic, but the deceased got into an argument with the 1st accused and thereby an altercation arose between them, that whileso, the 1st accused had assaulted the deceased Suresh and made him to fall on the ground, that the deceased Suresh in order to regain his balance, caught hold of the uniform of 1st accused and made the 1st accused also to fell down, that the 1st accused got angry with the deceased Suresh took him to Vanjore check post with the help of 2nd accused, that in continuance of the same event the 1st and 2nd

accused on sudden provocation, with intention to cause severe body injuries, voluntarily assaulted deceased Suresh with hands all over his body and kicked on his stomach and chest, that as per direction of 1st accused, the deceased Suresh was immediately taken to Nagore Police Station in the Highway Patrol-II, vehicle No.TN 51 G 0604 by the 2nd accused with the help of witness Gowthaman, Special Sub Inspector of Police and driver Police Antony Raj and dropped the deceased Suresh near a sand stack on the right side of the Police Station, that in furtherance of the same intention, on the same day at about 07.30 p.m. to 08.00 p.m. the 1st accused with the intention of inflicting severe injuries and deprived of self control assaulted the deceased Suresh again voluntarily on his head, face and back with hand and kicked him on his abdomen with his boot legs, that at the same time and place the 1st accused voluntarily assaulted the deceased Suresh with lathi stick on his back and whole body repeatedly, that due to the brutal assault made by 1st and 2nd accused, the deceased Suresh sustained severe multiple injuries all over his body and was admitted at Nagapattinam Government Head Quarters Hospital and that though continuous treatment was given, the deceased Suresh died on 01.01.2014 at about 00.45 a.m. due to vaso vagal shock caused by the 1st and 2nd accused, that in the course of the same transaction, the 1st accused by compulsion and coercion had made witness Ragavan to prepare false complaint against the deceased Suresh and forced the witness Dhanapal, Grade I Police Constable 1271 to sign in the false complaint and there after a false case had been registered in Nagore Police Station Crime No. 466/2013 u/s. 294(b), 353 and 506(i) of IPC as against the deceased Suresh, that on the same day the 1st accused misusing his position as an Inspector and authority over the records

and documents, to hide and justify the misdeed, had tampered with the important Office record by removing one page each in General Diary Book page Nos. 6431724 and 6431725 and made overwriting in page numbers 6431725-6431726, thereby made false entries in the records to safeguard his position, that the 1st accused to misuse the law and escape from the major punishment, he disobeyed the norms of law and by compelling his subordinates, he himself had made false records for causing disappearance of evidence, that it is evident that with clear intention of causing injuries, due to grave and sudden provocation and also by deprived of self control, the 1st and 2nd accused have used unwarranted force on the deceased Suresh and thereby inflicted serious bodily injuries which lead him to death. Hence, after completing investigation the investigating agency has filed final report as against the 1st accused u/s. 304(ii), 217, 218 r/w. 201 of IPC and as against the 2nd accused u/s. 304(ii) of IPC.

2) On the above charge sheet, the learned Chief Judicial Magistrate, Nagapattinam has taken up cognizance of the offence and taken the case as PRC No. 1/2016 on his file and after appearance of the accused persons, copies of all material documents were furnished to them U/S.207 of Cr.P.C. Since, the offence involved is triable only by the Court of Sessions, the learned Chief Judicial Magistrate has subsequently committed the case U/S.209 of Cr.P.C. for trial before the District & Sessions Judge, Nagapattinam. Then, the case was made over to this court. This court has framed charges against the 1st accused u/s. 302 r/w. 34, 218, 201 and 217 of IPC and as against the 2nd accused u/s. 302 r/w. 34 of IPC and explained to the accused persons in Tamil. They denied the charges and pleaded not guilty.

When the accused persons are questioned whether they are able to engage a counsel or not, they replied that they are able to engage a counsel.

3) To prove the guilt of the accused, the prosecution has examined 83 witnesses as PW.1 to PW.83 and marked 63 documents as Exs.P.1 to P.63. Six compact discs (C.D.) are marked as M.O.1 series.

4) **The substance of the prosecution case projected by the evidence of prosecution witnesses would be as follows:**

PW.1-Mr.Radhakrishnan is the complainant of F.I.R. in Crime No.1/2014. PW.2-Paulsimensamy, PW.3-Prasanth @ Rajendran S/o.Ramamirtham, PW.4-Rajendran S/o.Rajagopal, PW.5-Mrs.Rani, PW.6-Mathiazhagan, PW.8- Mrs.Amsavalli, PW.9-Mr.Kannan, PW.10-Mr.Prabakaran, PW.11-Muruganandam, PW.12-Mr.Manickam, PW.13-Mr.Kannan, PW.14-Mr.Vinoth, PW.15-Ragu, PW.16-Kamaraj, PW.17-E.Balamurugan, PW.18-Murugaiyan, PW.19 Mrs.Vijayalakshmi, PW.20-thiruvekatam, PW.21-Mr.Prabakaran, PW.37-Singaravelan, PW.38-Mr.Raja, PW.39-Anthonyraj, PW.40-Mr.Parasuraman, PW.42-Mr.Karmegam, PW.48-Gowthaman are the eye witnesses to the occurrence. PW.7-Raja @ Muthazhagan, PW.22-Sivakami, PW.23-Vijayan, PW.24-Mrs.Kala PW.25-Mr.Muruganandam, PW.28-Mrs.Navaneetham, PW.29-Mrs.Mallika, PW.30-Mrs. Thilagavathi, PW.31-Mr.Mthivanan, PW.32-Mrs.Renukadevi, PW.33-Mr.Singaravel, PW.41-Mr.Muruganandam, PW.43-Mrs.Rajeswari, PW.44-Mr.Anandhan, PW.45-Mr.Sankaran, PW.47-Mr.Srinivasan are the hearsay witnesses. PW.26-Mr.Chellathurai and PW.27-Mr.Selvamani are the witnesses to

rough sketch and observation mahazer. PW.34 -Mr.Danial, PW.35-Mr.David, PW.36-Mr.Pandian are the members of D.M.K. party. PW.49-Mr.Parthiban and PW.50-Mr.Kulasekaran are the witnesses to speak about medical form. PW.51 Ms.Muthulakshmi is the nurse who had assisted the Dr.Mohammed Sirajutheen who had given treatment to deceased Suresh. PW.52 is the witness to complaint and hearsay witness. PW.53-Mr.Ragavan is the witness to speak about the preparation of Complaint against deceased Suresh and hearsay witness to occurrence. PW.54-Mr.Selvaraj PW.55-Mr.Sekar PW.56-Mr.Sankaramoorthy PW.57-Ms.Sumathi are the witnesses to speak about the death of deceased Suresh in the Hospital. PW.58-Mr.Mohan is the photographer who had issued report that no photographs or videos were taken regarding death of deceased Suresh. PW.59-Mr.Babu is the witness who had issued report that on the date of occurrence there was electricity supply. PW.60-Ms.Shanmugapriya had spoken about the documents regarding persons who are working in Nagore Police Station as on date of occurrence. PW.61-Mr.Thamizharasan, Special Sub Inspector of Police had spoken that under threat of 1st accused after removal of pages in the general diary, had written in the same and heard about the occurrence. PW.62-Mr.Kaliyamoorthy is the Constable who had produced the inner parts of deceased to Thanjavur Medical College Hospital and receiving reports. PW.63-Mr.Ravichandran, Special Sub Inspector of Police had spoken about the submission of Compact Discs to Judicial Magistrate, Vedharanyam. PW.64-Dr.Mohammed Sirajutheen has spoken about the injury on the left palm of deceased Suresh and the death of deceased without responding to treatment and information given by him to PW.65. PW.65-Dr.Moitheen Abdul Kadher had

spoken about the confirmation of death of deceased Suresh. PW.66-Mr.Padmanaban, Associate Professor had spoken about the issuance of certificate after examined the heart of deceased Suresh by histopathology. PW.67-Mr.Sivadurai, Scientific Officer is the witness to speak about the issuance of viscera report of deceased Suresh. PW.68-Dr.Kathiravan, and PW.69-Dr.Rashmi are the postmortem doctors who had conducted postmortem on the dead body of deceased Suresh and issuing death certificate. PW.70-Dr.Senthilkumar is the witness to speak about the issuance of certificates regarding CCTV Camera recordings and presences of staffs on 31.12.2013 in the Nagapattinam Government Hospital. PW.71-Selvi. Vijayalakshmi, Woman Police Constable had accompanied with PW.69 for recording statements. PW.72-Tmt.Mangaiyarkarasi, Woman Police Constable is the witness who had helped to record statements of female witnesses. PW.73-Mr.Haridoss had spoken about the vehicles of Highway Patrol II, Nagore. PW.74-Mr.Manikandan, Inspector of Police had spoken about the issuance of reports on 28.03.2016 and 09.04.2016. PW.75-Mr.Shashank Sai, Assistant Superintendent of Police had spoken about the issuance of report on 15.10.2015. PW.76-Mr.Lakshmirajan is the retired Administrative Officer of District Police Department speaks about the issuing of reports regarding Crime No. 02/2015 of Velippalayam Police Station. PW.77-Anbu is the Deputy Superintendent of Police had spoken about the issuance of report on 12.03.2016. PW.78-Mr.Venkatraman, Deputy Superintendent of Police had spoken about the requisition sent by him to Chief Judicial Magistrate, Nagapattinam regarding Crime No.1/2014 of Velippalayam Police Station. PW.79-Tmt.R.Latha, Judicial Officer had spoken about the preliminary report submitted by her regarding

death of deceased Suresh. PW.80- Tmt.G.Saraswathi, Judicial Officer had spoken about the final report submitted by her on preliminary report of PW.79. PW.81-Mr.C.DiheshKumar, Judicial Officer had spoken about the recording statements of Police Officials Ms.Sumathi, Woman Sub Inspector of Police, Mr.Ragavan, Head Constable, Mr.Sekar, Head Constable, Mr.Selvaraj, Head Constable, Mr.Tamizharasan, Special Sub Inspector of Police, Mr.Dhanapal, Grade I Police Constable, Mr.Sankaramoorthy, Police Constable and submission of the same to the Chief Judicial Magistrate, Nagapattinam. PW.82-Mr.Senthilkumar, D.I.G. had spoken about the issuing of sanction of prosecution order against the accused 1 and 2. PW.83-Mr.Saravanan, Inspector of Police, CBCID had spoken about the investigation of this case and filing of final report before court.

5) On 01.01.2014 when PW.1 was working as Inspector of Police at Velippalayam Police Station had received complaint Ex.P.1 from the 1st accused at early morning 02.30 a.m. and registered a case in F.I.R. Ex.P.2 and sent the same to Judicial Magistrate, Nagapattinam and the superior officers concerned. He also informed the same to Deputy Superintendent of Police, Nagapattinam. He went to Government Hospital, Nagapattinam and helped for bringing the dead body of deceased Suresh who was under treatment. He made entry in General Diary from 31.12.2013 to 02.01.2014 and submitted the same to superior officers. He did not have the copies of the abovesaid documents with him. He did not take documents regarding Crime No. 466/2013 of Nagore Police Station. He knows about the departmental proceedings against the accused persons, as per which he came to know that the accused persons had beaten the abovesaid

Suresh. On 31.12.2013 at about 07.00 p.m. PW.2 , PW.4 and PW.5 were standing in front of shop of PW.2 at Vanjore Check Post. At that time 1st accused had informed Suresh who was under influence of alcohol, to keep the auto aside. Suresh had told that already it was boarded in the corner and he will take the auto. But, the 1st accused had beaten Suresh with stick by saying that as he protested his words and why don't he had taken the auto and pushed Suresh down. Unable to get up , Suresh caught hold the shirt of 1st accused and got up. Aggrieved by the same, the 1st accused had brought Suresh to the Check Post and there also both the accused had beaten him. PW.2 did not know what happened next. At that time Prasanth and Rajendran were present there. On the next day PW.2 heard about the death news of Suresh. PW.2 did not know why Suresh was died.

5(a) Three years back, the day before new year, Suresh had boarded the auto in front of the house of PW.3 and asked him for his wages. When PW.3 came back he saw the cycles in his shop were fell down. When enquired somebody told that there was dispute between Suresh and the Police. At that time the Police had boarded Suresh in the Patrol vehicle. When enquired by PW.3, the Police had told that came to Police Station to know about the fact. PW.3 informed the same to the wife of Suresh through phone. She told that after arrival of Suresh will consider the matter in the morning. PW.3 went to Nagore Police Station and told the Police that he want to provide food for Suresh. But, the Police informed that they had already provided food for him. When PW.3 asked the Police to send Suresh with him as the next day was the New Year, the Police informed that the case was registered and so he may approach the Court. In the next day morning

another one Auto driver informed PW.3 that Suresh was died. There was a road blockage at Palpannaicherry and PW.3 also participated in it.

5(b) PW.10, PW.11 and PW.12 had attended the patrol work on 31.12.2013 at Kangalancherry. When PW.15 and PW.16 had gone to Nagore Police Station to report about their work at Vanjore Check Post, they saw that 1st accused had beaten Suresh who was brought in the Police vehicle, taking lathi from PW.16. After that the 1st accused went out informing PW.16 and PW.17 to count the liquor bottles which were seized and take care of Suresh. When Ms.Sumathi, Sub Inspector of Police asked about Suresh at about 08.00 p.m. PW.16 and PW.17 informed that they did not know, why Suresh was beaten. Ms.Sumathi, Sub Inspector of Police had given amount for providing food to Suresh and directed PW.16 and PW.17 to provide Suresh food. Suresh had also eaten the idly given by PW.17. After that PW.16 and PW.17 were sent for check post duty. At about mid night 12.00 hours when they were on duty at check post, they heard the death news of

Suresh. PW.22 had heard about the news that auto driver Suresh was taken by Police to check post.

5(c) On 31.12.2013 when PW.23 and PW.32 were in their house at about 07.00 - 07.15 p.m. one Rajendran had informed through phone of PW.32 that there was dispute between 1st accused and Suresh regarding boarding of auto, opposite to the shop of Prasanth. On the next day morning at 06.30 a.m. Mr.Venkatraman, D.S.P. was standing on the door steps of PW.23's brother's wife i.e.,

PW.24 and informed that Suresh was died. When they saw the deceased Suresh at Government Hospital, Nagapattinam, there was foot marks on his chest and private part and his little finger was broken. Aggrieved by his death they performed a road protest. The R.D.O., Tahsildar and Superintendent of Police had compromised them. After that on petition before Honourable High Court, Chennai had received a sum of Rs.5,00,000/- as interim relief from the District Collector. The death was caused to Suresh as the 1st and 2nd accused had beaten him at check post. On 29.08.2015 the Police had visited Nagapattinam Government Hospital and prepared Ex.P.3 observation mahazer.

5(d) Three years back the day before new year, when PW.25 had gone to the house of Mahalakshmi at Vanjore, he saw that Suresh had stopped the auto in front of the house of Prasanth who is the owner of the auto driven by the deceased Suresh and painting the same and placed the number board. At that time the 1st accused under influence of alcohol had dashed his bike with the auto of Suresh. When Suresh asked the 1st accused about the same, the 1st accused had beaten Suresh with lathi. Suresh had fallen down. Unable to get up, Suresh caught hold of the hands of 1st accused and got up. At that time both the accused had beaten Suresh and put him in High Way Patrol vehicle. On the next day early morning he heard the death news of Suresh. When he saw the deceased Suresh at Government Hospital, Nagapattinam, there were injuries all over his body and his fingers were broken.

5(e) On 25.08.2015 when PW.26 was working as V.A.O. of

Nagore, along with his Assistant PW.27, the CBCID Police had visited place of occurrence and obtained their signatures in the Observation Mahazers prepared at 14.00 and 16.00 hours. Their signatures alone are marked as Exs.P.4 to P.7. PW.28 and PW.29 heard the news that due to the assault made by the Police, Suresh was died. PW.37 and PW.38 heard the death news of deceased Suresh on the next day of 31.12.2013.

5(f) During the year 2013-2014 PW.39 and PW.48 were on duty at Highway patrol on the East Coast Road from Puthur to Vanjore. Near Vanjore check post PW.39, PW.48 and the 2nd accused were present. At that time as required by the 2nd accused, PW.48 had asked PW.39 to take the Highway Patrol vehicle to Vanjore Check Post. At that time the 2nd accused and another one Police had boarded one person in the Patrol vehicle. PW.39 had driven the vehicle to Nagore Police Station. At that time after arrival of 1st accused, PW.48 had brought PW.39 from there. On the next day they heard the news that the person brought in the patrol vehicle was died in the hospital.

5(g) On 31.12.2013 PW.40 had brought the person who was arrested earlier, as directed by 1st accused along with Ms.Sumathi, Sub Inspector of Police, Mr.Sekar and Mr.Sankaramoorthy Head Constables. At that time that person was brought to Nagapattinam Government Hospital for medical examination. He heard the death news of that person through Ms.Sumathi, Sub Inspector of Police. On 31.12.2013 when PW.42 was on Coastal duty at Nagore beach at about 12.00 mid night he heard the news from Police Station that one

Suresh was died. On 31.12.2013, PW.44 had obtained the documents regarding deceased Suresh from Mr.Tamizharasan, Special Sub Inspector of Police and submitted the same to Mr.Ramakrishnan, Inspector of Police Velippalayam. PW.45 had received the summons issued by Judicial Magistrate No.1, Nagapattinam through the Inspector and served the same to the witnesses.

5(h) On 01.01.2014 as required by Inspector of Police, Velippalayam PW.46 had gone to Nagapattinam Government Hospital and taken video of inquest and postmortem and converted as compact discs at Sarmose shop. The two compact discs, three D.V.D.s and its master copy are marked as M.O.1 Series (6 in number). On 31.12.2013 at 09.50 p.m. when PW.47 was coming to Nagore Police Station, he saw a person was laid down opposite to Police Station on sand reef. Somebody told that he was an auto driver. After that he came to know that he was Suresh and he was died.

5(i) PW.48, retired Special Sub Inspector of Police when on duty at Nagore Vettar Bridge on 31.12.2013 he sent the 2nd accused along with the vehicle which was seized for drunken drive, after payment of fine by the owner, to Vanjore check post. After finishing that work, the 2nd accused informed PW.48 that the 1st accused told the 2nd accused, instructing PW.48 to come with the patrol vehicle. When PW.48 went there, the 1st accused told him to drop the person who was in a fainted stage, at Nagore Police Station. PW.48 dropped that person at Nagore Police Station. At that time, that person fell down on the sand reef. PW.48 caught hold of him and made him to sit. At that time he noticed that blood was oozing from his ear. So, he informed the 1st accused to take him hospital. But, the 1st accused,

with anger told PW.48 to do his work. So, PW.48 went out. After that he came to know that, that person namely Suresh was an auto driver and was under influence of alcohol and he caught hold of the shirt of 1st accused and it was torn and so, he was brought to Police Station for registering a case. On the next day at about 11.00 a.m. he came to know that abovesaid Suresh was died and due to that reason the accused persons were suspended.

5(j) PW.49 was Court Orderly at Velippalayam Police Station and PW.53 was the Head Constable at Nagore Police Station. On 31.12.2013 at 09.00 p.m. when PW.49 was in the bazaar PW.53 asked him through phone whether he had unfilled medical and remand forms. PW.49 told that he had only one copy and he will give Xerox copies. PW.49 informed his son PW.50 Kulasekaran to take a Xerox copy of the medical and remand forms which were kept in a bag in his residence and give the same when demanded by Nagore Police. At about 11.15 p.m. when PW.49 reached home, PW.50 informed him that PW.55-Sekar had received the abovesaid forms from PW.50.

5(k) PW.51 is the retired nurse of Nagapattinam District Government Head Quarters Hospital and PW.64 is the duty doctor on 31.12.2013. On 31.12.2013 at about 11.00 p.m. two police persons had taken Suresh for treatment as he was unwell. When he was put on bench, he fell down. He was placed on a cot by the police people and he was medically examined. PW.51 had assisted PW.64. Though intensive treatment was given, there was no progress in his health condition. PW.64 had informed PW.65 and asked him to come to the Hospital. PW.65 had given cardiological treatment. But, there was no

improvement in his health condition. After examining him PW.65 informed that he was died. The accident Register issued by PW.64 to the deceased Suresh is Ex.P.26.

5(l) PW.52 is the Grade I Police Constable of Palaiyur Police Station. On 31.12.2013 he was worked at Vanjore Check Post from 02.00 p.m. to 08.00 p.m. PW.18 and PW.20 were also worked with him. One pedestrian had informed him that there was a dispute near Rathna Medicals. PW.52 along with one Raja, Head Constable had gone to that place. At that time the 1st accused came there and asked PW.52 and Raja, Head Constable to take his vehicle and had gone to Vanjore check post. When PW.52 reached Vanjore check post there was a crowd. One person was sat there. The 1st accused was standing with lathi. When PW.52 enquired he came to know that person was Suresh and the 1st accused had asked Suresh to keep the auto aside and Suresh caught hold the shirt of 1st accused and aggrieved by the same both the accused 1 and 2 had brought Suresh to the Check Post and the first accused brought him to Nagore Police Station in the patrol vehicle. In the Nagore Police Station, as directed by the 1st accused PW.53 had prepared a complaint Ex.P.11 as the auto driver Suresh had scolded him with obscene words, prevented him to do his duty and threatened him with dire consequences. The 1st accused asked PW.52 to sign in the same. But, PW.52 refused as there was no such occurrence. But, the 1st accused compelled him to sign at 08.15 p.m. stating that he is the Inspector of Police and PW.52 has to work under him. The signature of PW.52 in the abovesaid complaint is Ex.P.8. The contents were not given by PW.52. After handing over the Tata Sumo vehicle and the liquor bottles PW.52 had gone to the

Vanjore check post. After that PW.18 had informed him to attend duty on next day from 08.00 a.m. to 02.00 p.m. On the next day morning he heard about the death of Suresh. PW.52 had given statement before Fast Track Judicial Magistrate, Nagapattinam and his signatures counting 10 are Ex.P.9 series. Human Rights Commission also had enquired him. The three signatures of PW.52 in the abovesaid statement is Ex.P.10 series. On the basis of Ex.P.11 a case in Crime No. 466/2013 was registered u/s. 294(b), 353 and 506(i) IPC. PW.53 had given statement before Fast Track Judicial Magistrate, Nagapattinam and his ten signatures are Ex.P.12 series.

5(m) When PW.54 was on duty on 31.12.2013 at 20.00 hours, the 1st accused had enquired one person that he had enquired a person on the left side of entrance of Nagore Police Station. At 10.00 p.m. as directed by the Inspector of Police he asked PW.56 to come for escorting the abovesaid person. When he was brought for producing him before Judicial Magistrate, Vedharanyam, along with PW.55-Driver and PW.57 he was taken to Government Hospital, Nagapattinam for medical examination. After that at about 12.00 mid night he came to know that, that person was died in the hospital. PW.54 had given statement before Fast Track Judicial Magistrate and his ten signatures in the statement u/s. 164(5) of Cr.P.C are Ex.P.13 series. The three signatures of PW.55 in the statement recorded by the Judicial Magistrate, Nagapattinam on 25.01.2014 are Ex.P.14 series. The 12 signatures of PW.55 in the statement recorded by the Fast Track Judicial Magistrate on 20.04.2014 are Ex.P.15 series. The three signatures of PW.56 in the statement recorded by the Judicial Magistrate No.1, Nagapattinam on 25.01.2014 are Ex.P.16 series. The

12 signatures of PW.56 in the statement recorded by the Fast Track Judicial Magistrate, Nagapattinam on 20.04.2014 are Ex.P.17 series. The three signatures of PW.57 in the statement recorded by the Judicial Magistrate No.1, Nagapattinam on 25.01.2014 are Ex.P.18 series. The 11 signatures of PW.57 in the statement recorded by the Fast Track Judicial Magistrate, Nagapattinam on 20.04.2014 are Ex.P.19 series. PW.54 to PW.57 were enquired by the Human Rights Commission and CBCID Police.

5(n) On the basis of records PW.59 had given report that there was electricity power supply around Nagapattinam Government Hospital from 31.12.2013 05.00 p.m. to 01.01.2014 08.00 a.m. at the request of Inspector of Police. The requisition letter of the Inspector of Police dated 08.10.2015 is Ex.P.20. The report given by the PW.59 on 30.10.2015 is Ex.P.21.

5(o) PW.60 is the Sub Inspector of Police of Nagore Police Station. As required by the CBCID Police on 19.09.2015 regarding General Diary for three days from 29.12.2013 to 31.12.2013 for the Crime No.466/2013 u/s. 294(b), 353 and 506(i) of IPC. As the General Diary for the abovesaid three days were not available she had submitted the copies General Diary for two days on 01.01.2014 and 02.01.2014 along with her reply. The three reply letters submitted by PW.60 are Ex.P.22 series. The true copy of General Diary for two days on 01.01.2014 and 02.01.2014 is Ex.P.23. The true copy of diary of 1st accused for two days on 29.12.2013 and 30.12.2013 is Ex.P.24.

5(p) PW.61 when on duty as Special Sub Inspector of Police, Mr.Rengarajan, D.S.P. had asked him to sign in the General diary of

Nagore Police Station. As PW.61 was not on duty at Nagore Police Station on that period, he hesitated. But, Mr.Rengarajan, D.S.P. had stated that there will be no problem and told me to sign in it and so, PW.61 had signed in the General Diary. He had given statement before Fast Track Judicial Magistrate, Nagapattinam and his ten signatures are Ex.P.25 series.

5(q) PW.62 had assisted for inquest conducted by the Judicial Magistrate, Vedharanyam on the dead body of deceased Suresh. After postmortem he received the dresses worn by the deceased and the dead body to the wife of deceased Suresh. He handed over the video cassette for recording of postmortem to the Judicial Magistrate, Vedharanyam. He also handed over the inner parts of deceased for chemical analysis to the Forensic Sciences Laboratory, Thanjavur. After a month he get the letter from the Forensic Sciences Laboratory, Thanjavur and handed over it to Mr.Ramesh, Writer of Police Station.

5(r) On 04.01.2014 at 19.30 hours PW.63 had received passport from the Inspector of Police, Velippalayam, received compact discs regarding this case and handed over the same to Judicial Magistrate, Vedharanyam. He received summons from Judicial Magistrate No.1, Nagapattinam and served the same to doctors Rashmi and Kathiravan and produced them before Judicial Magistrate.

5(s) PW.66 has chemically examined the heart of deceased Suresh. Though he had made efforts to find out whether there was heart attack or blocks in the blood vessels, as the heart was in a

decomposed stage, he is unable to find out the same. Regarding the same he had issued histopathology report Ex.P.27. PW.67 has received the inner parts of deceased Suresh in this case through PW.62 and chemically analysed the same and issued Ex.P.28 chemical analysis report. PW.68 along with PW.69 had conducted postmortem on the dead body of deceased Suresh and issued Ex.P.29 postmortem report.

5(t) PW.70 had issued Ex.P.30 reply regarding C.C.T.V. footage on 31.12.2013 at Nagapattinam Government Head Quarters Hospital as last 15 days recordings only can be taken and so 30.12.2013 to 02.01.2014 recordings cannot be taken. The particulars about the duty staff in the Emergency Section is Ex.P.31. PW.71 had assisted for recording statement of PW.69 in laptop and given a printed copy. PW.72 had assisted for enquiring the female witnesses in this case.

5(u) PW.71 had given Ex.P.32 reply regarding the drivers who were working on Highway patrol on 31.12.2013 and 01.01.2014. He had also given Ex.P.33 reply regarding the persons who were sent for security purpose to Nagore Police Station on 31.12.2013 and 01.01.2014 and Ex.P.34 reply regarding the persons who were on duty at Vanjore Check Post on 31.12.2013 and 01.01.2014. PW.74 had issued Ex.P.35 report regarding particulars about the work of Mr.Jayaraman, Special Sub Inspector of Police for the dates 28.11.2013, 29.11.2013, 01.04.2014 and 02.04.2014 by verifying the General Diary for Patrol Vehicle No.2. Further, he had also issued certificate Ex.P.36 regarding particulars in General Diary from 28.12.2013 to 01.01.2014.

5(v) PW.75 had issued Ex.P.37 Special Report regarding documents in page numbers 01 to 74 and he had mentioned about PW.39, PW.48 and Mr.Jayaraman, Police Constable, Valivalam in his Special Report as they are on duty from 31.12.2013 08.00 a.m. to 01.01.2014 08.00 a.m. PW.76 had issued Exs. P.38 to P.41 reports containing page numbers 1 to 351 as required by the Superintendent of Police, CBCID, Nagapattinam District. In Ex.P.41 he had also enclosed the order for suspension of 2nd accused.

5(w) PW.77 had issued report Ex.P.42 regarding particulars whether Mr.Jayaraman, Special Sub Inspector of Police, Valivalam was on duty in Patrol vehicle as he was sent for the abovesaid work and also had stated that the general diary and Office Records are sent to Department of Anti-corruption. PW.78 had submitted a requisition to the Chief Judicial Magistrate on 01.01.2014 for conducting judicial enquiry regarding this case. He also accompanied with other Police Officials for maintaining law and order. PW.79-Mrs.R.Latha, Judicial Officer had conducted inquest on the dead body of deceased Suresh and issued Ex.P.43 inquest report and Ex.P.44-Preliminary Report. PW.80-Mrs.G.Saraswathi, Secretary, District Legal Services Authority, Thiruvallur had conducted enquiry u/s. 176 of Cr.P.C. as per proceedings of Chief Judicial Magistrate, Nagapattinam and on 19.04.2014 issued Ex.P.45- true copy of report along with 21 annexure.

5(x) As per proceedings of Chief Judicial Magistrate, Nagapattinam Ex.P.46, PW.81-Mr.Dineshkumar, Judicial Officer had recorded statements of witnesses PW.57-Mrs.Sumathi, PW.53-

Mr.Ragavan, PW.55-Mr.Sekar, PW.54-Mr.Selvaraj, PW.61-Mr.Tamizharasan, PW.52-Mr.Dhanapal and PW.56-Sankaramoorthi u/s. 164(5) of Cr.P.C. The statements of abovesaid witnesses u/s. 164(5) of Cr.P.C. are Exs. P.47 to P.53.

5(y) PW.82 had examined the case records and enquired the Investigating Officer about the case particulars. As he has powers to appoint or dismiss the Inspector of Police and Special Sub Inspector of Police he found that there are sufficient cause to proceed with the criminal proceedings u/s. 197 of Cr.P.C. against the accused persons and on 25.05.2016 he had issued Ex.P.54 permission.

5(z) PW.83-Inspector of Police, CBCID had perused the records of Crime No.1/2014 u/s. 176(1) of Cr.P.C. and registered a case in Crime No.2/2015 u/s. 176(1) of Cr.P.C. of CBCID Police Station Nagapattinam and the altered First Information Report is Ex.P.55 and sent the same to Chief Judicial Magistrate, Nagapattinam. He visited the place of occurrence and prepared Ex.P.56-Observation Mahazer and Ex.P.57 Rough Sketch in the presence of witnesses. He also visited the quarters of Sub Inspector of Police of Nagore Police Quarters and also prepared Ex.P.58 - Rough Sketch and Ex.P.59 Observation mahazer in the presence of witnesses. He also visited the Nagapattinam District Government Head Quarters Hospital and also prepared Ex.P.3-observation mahazer and Ex.P.60 Rough sketch. On 09.05.2016 he altered Section of law from Sec.176(1) of Cr.P.C. to Sec.218,201 r/w. Sec.304(2) of IPC and sent Ex.P.61 Alteration Report to Court. Ex.P.62 is the Order issued by CBCID, Office of ADGP . Ex.P.63 is the F.I.R. registered against the deceased Suresh which was closed as "Charge Abates". He examined all the witnesses

and doctors in this case and recorded their statements. After completing his investigation PW.83 had filed final report as against the 1st accused u/s. 304(2), 217,218 r/w. Sec.201 and as against 2nd accused u/s. 304(2) of IPC before Chief Judicial Magistrate Court, Nagapattinam.

6) PW.6, PW.8 to PW.15, PW.17 to PW.22, PW.26 to PW.31, PW.33, PW.36, PW.37, PW.40, PW.42, PW.53 and PW.62 have not supported the prosecution case and treated as hostile.

7) When the accused persons are questioned u/s. 313(i)(b) of Cr.P.C., they denied the prosecution evidence as false. Further, they had stated that they had no evidence on their side. So, the evidence was closed. Both side oral arguments heard.

8) **The arguments advanced by the learned Special Public Prosecutor:**

The learned Special Public Prosecutor would argue that on 31.12.2013 at 07.00 p.m. as the deceased Suresh had caught hold of the shirt of 1st accused and got angry by the abovesaid act of deceased Suresh, the 1st accused along with the 2nd accused had assaulted the deceased Suresh and as per words of 1st accused, the 2nd accused had taken the deceased Suresh in the Highway Patrol Vehicle which was under his control to Nagore Police Station and there also the 1st accused had assaulted the deceased Suresh and at last both the accused had acted together to cause the death of deceased Suresh and the same is proved by the positive evidences of prosecution witnesses and so, both the accused may be punished with maximum sentence.

9) **The arguments advanced by the learned counsel for 1st accused:**

The learned senior counsel for 1st accused would argue that the 1st accused would not indulge in any criminal activity, when the 1st accused had gone to Vanjore Check Post to disburse the crowd all the people ran away, but the deceased Suresh stood there itself and scolded Mr.Dhanapal, Police Constable with filthy words, spoken wrongly about the Police people and so, the 1st accused had arrested the deceased Suresh and brought him to Police Station and sent him for judicial remand through Mrs.Sumathi, Sub Inspector of Police, and PW.51-Mrs.Muthulakshmi, Nurse in her evidence had stated that Suresh fell down in the hospital, PW.64-Dr.Sirajutheen had provided heart and lungs treatment for Suresh, PW.68-Dr.Kathiravan who had conducted postmortem of deceased Suresh had stated in his evidence that the death may be caused due to falling of Suresh in the hospital, PW.66-Dr.Padmanaban had stated that at the time of his inspection the heart of deceased was in a rotten stage and so the death of Suresh was natural one, regarding the death of Suresh in the hospital there was a road block conducted and in order to compromise the public the Inspector of Police, Velippalayam had filed false case accusing the 1st accused, the 1st accused was not the Station House Officer of Nagore Police Station and so he is not liable to maintain the General Diary, showing the natural death of deceased Suresh who is under influence of alcohol as reason, a false case has been foisted against the 1st accused and so, the 1st accused may be acquitted as he is innocent.

9(a) **The learned counsel for the 2nd accused** would argue that the 1st accused was the Inspector of Police of Nagore

Police Station, when the 2nd accused was on duty in High Way Patrol vehicle at Vanjore which came under the limits of Nagore Police Station as the same is under the control of 1st accused and so as directed by the 1st accused the 2nd accused only had brought Suresh in the High Way Patrol Vehicle to Nagore Police Station, the 2nd accused did not know what happened next to Suresh, the 2nd accused had no intention to murder Suresh and so, the 2nd accused may be acquitted as he is innocent.

10) Now the point for consideration and determination is to see whether the charges levelled against the accused 1 and 2 and guilt of the accused 1 and 2 have been proved by the prosecution beyond reasonable doubts or not?

11) **POINT:**

Both side oral and documentary evidence perused carefully. The case of prosecution is that the 1st accused is the Inspector of Police, Nagore and the 2nd accused is a Special Sub Inspector of Police, Valivalam and both are on other duty as High Way Patrol II as per order of the Deputy Superintendent of Police, Nagapattinam, that the deceased Suresh was an auto driver by profession, that in the evening of 31.12.2013 the deceased Suresh had parked his auto in front of the shop of witness Prasanth @ Rajendran at Vanjore and sitting on the steps of the shop, that at about 07.00 p.m. the 1st accused, who was on duty came there and asked the deceased Suresh to remove his auto as the same was obstructing the traffic, but the deceased got into an argument with the 1st accused and thereby an altercation arose between them, that whileso, the 1st accused had assaulted the deceased Suresh and made him to fall on the ground,

that the deceased Suresh in order to regain his balance, caught hold of the uniform of 1st accused and made the 1st accused also to fall down, that the 1st accused got angry with the deceased Suresh took him to Vanjore check post with the help of 2nd accused, that in continuance of the same event the 1st and 2nd accused on sudden provocation, with intention to cause severe body injuries, voluntarily assaulted deceased Suresh with hands all over his body and kicked on his stomach and chest, that as per direction of 1st accused, the deceased Suresh was immediately taken to Nagore Police Station in the Highway Patrol-II, vehicle No.TN 51 G 0604 by the 2nd accused with the help of witness Gowthaman, Special Sub Inspector of Police and driver Police Antony Raj and dropped the deceased Suresh near a sand stack on the right side of the Police Station, that in furtherance of the same intention, on the same day at about 07.30 p.m. to 08.00 p.m. the 2nd accused with the intention of inflicting severe injuries and deprived of self control assaulted the deceased Suresh again voluntarily on his head, face and back with hand and kicked him on his abdomen with his boot legs, that at the same time and place the 1st accused voluntarily assaulted the deceased Suresh with lathi stick on his back and whole body repeatedly, that due to the brutal assault made by 1st and 2nd accused, the deceased Suresh sustained severe multiple injuries all over his body and was admitted at Nagapattinam Government Head Quarters Hospital and that though continuous treatment was given, the deceased Suresh died on 01.01.2014 at about 00.45 a.m. due to vaso vagal shock caused by the 1st and 2nd accused, that in the course of the same transaction, the 1st accused by compulsion and coercion had made witness Ragavan to prepare false complaint against the deceased Suresh and forced the witness

Dhanapal, Grade I Police Constable 1271 to sign in the false complaint and there after a false case had been registered in Nagore Police Station Crime No. 466/2013 u/s. 294(b), 353 and 506(i) of IPC as against the deceased Suresh, that on the same day the 1st accused misusing his position as an Inspector and authority over the records and documents, to hid and justify the misdeed, had tampered with the important Office record by removing one page each in GD Book page Nos. 6431724 and 6431725 and made overwriting in page numbers 6431725-6431726, thereby made false entries in the records to safeguard his position, that the 1st accused to misguide the law and escape from the major punishment, he disobeyed the direction of law and by compelling his subordinates, he himself had made false records for causing disappearance of evidence, that it is evident that with sheer intention of causing injuries, on grave and sudden provocation and also by deprived of self control, the 1st and 2nd accused have used unwarranted force on the deceased Suresh and thereby inflicted serious bodily injuries which lead him to death. Hence, after completing investigation the investigating agency has filed final report as against the 1st accused u/s. 304(ii), 217, 218 r/w. 201 of IPC and as against the 2nd accused u/s. 304(ii) of IPC.

12) Having considered all the materials, this court has also framed charges against the 1st accused u/s. 302 r/w.34, 218, 201 and 217 of IPC and as against the 2nd accused u/s.302 r/w. 34 of IPC.

13) In order to substantiate their case, the prosecution has examined 83 witnesses and marked 63 documents. M.O.1 Series compact discs (C.D.) (6 numbers) are produced in this case.

14) On analyzing the evidences of prosecution witnesses, regarding charges u/s. 218, 201 and 217 of IPC as against the 1st accused, this court has taken the abovesaid charges together as they are interlinked with each other. When perusing the General Diary of Nagore Police Station dated 31.12.2013 carefully, it is seen that initially at 08.00 p.m. it was written as "do" and as over writing the 1st accused had made entries that Grade 1 Police Constable No.1271 namely Dhanapal had stated that there was dispute at Check Post, when he went to prevent the same the crowded people were run away, one person in the crowd belonging to Palpannaicherry namely Suresh had made dispute and spoken filthy language in the public place and prevent him from doing his duty and threatened him with dire consequences and as per his complaint Ex.P.11 the 1st accused had registered a case in Crime No.466/2013 u/s. 294(b), 353 and 506(ii) as against one Suresh of Palpannaicherry. Regarding the same PW.52- Mr.Dhanapal in his evidence had stated that the 1st accused under threat, forced him to give complaint against the deceased Suresh for the false occurrence which was not happened, that too prepared by PW.53-Mr.Ragavan, who was called for by the 1st accused through phone and under inducement of 1st accused alone. When PW.52 had refused to sign in the Ex.P.11 complaint as the occurrence was not happened, the 1st accused had threatened him that he is the Inspector of Police and PW.52 has to work under him and so PW.52 had signed in the Ex.P.11 complaint at 08.15 p.m. When the General Diary of Nagore Police Station dated 31.12.2013 the Inspector of Police i.e. the 1st accused had mentioned that at 08.00 p.m. PW.52 - Mr.Dhanapal had given Ex.P.11 complaint in Crime No.466/2013 of Nagore Police

Station. When perusing the abovesaid entries carefully, before signing of PW.52 in the Ex.P.11 complaint, in the General Diary the 1st accused had registered a case against the deceased Suresh as preordained by him, which proves the criminal intentional act of 1st accused which is strengthened by the evidence of PW.52 that he had not given the contents of Ex.P.11 complaint.

15) Further, PW.53-Mr.Ragavan had stated in his evidence that on 31.12.2013 at 08.15 p.m. the deceased Suresh was in the Nagore Police Station. But, the 1st accused had mentioned in the General diary that on 31.12.2013 at 21.30 hours he visited the place of occurrence and at 09.00 p.m. he had arrested the accused and brought him to Police Station and provided him food. So, it is clear that the Inspector of Police i.e. the 1st accused with false averments had foisted a false case against the deceased Suresh.

16) Further, when the entry made by the 1st accused in the General diary of Nagore Police Station that on 31.12.2013 at 21.00 p.m. he had arrested the deceased Suresh, brought him to Police Station and provided him food. But, PW.57-Mrs.Sumathi, Sub Inspector of Police had stated in her evidence that she had provided idly for the deceased Suresh for his dinner and the same is accepted by the 1st accused in his questioning u/s. 313 (1)(b) of Cr.P.C. So, it is clear that the 1st accused had made false entry in the General Diary as he provided food for the deceased Suresh.

17) When perusing the Ex.P.63 F.I.R. in Crime No.466/2013 of Nagore Police Station, it is found that in the 6th column, initially the complainant's name is mentioned as N.S.Rejendhiran and later it

was hidden by using whitener and mentioned as A.Dhanabalan as over writing. So, it is clear that the 1st accused had misused his official powers had threatened PW.52-Dhanabalan who is his subordinate staff and made him to sign in Ex.P.11 and suo motu the 1st accused had prepared the General Diary dated 31.12.2013 which is Police Station document and Ex.P.63 F.I.R. with false intention by violating the Order 329 of Tamil Nadu Police Standing Order had made corrections in the General Diary for the purpose of hiding the original fact, which is a criminal offence.

18) When perusing Ex.P.38 the General Diary of Nagore Police Station with naked eyes, it is evident that the page numbers 6431724 and 6431725 were not available and in page numbers 6431725 to 6431726 firstly it was written as "do" and it was re-written as 21.30. When the signature of N.S.Rajendran in the General Diary was compared with the signature put by the 1st accused when he was examined u/s. 313(1)(b) of Cr.P.C. by this court, it is clear that both are put up by a same person and the strokes are also found one and the same as that of the signature found in General Diary. So, it is clear that the 1st accused had made false entries in the general diary, misusing his powers had removed the abovesaid pages and re-written the particulars of the case registered as against the deceased Suresh by correcting the word "do", to escape from the offence.

19) Hence, this court concludes that the 1st accused had committed offences u/s. 218, 201 and 217 of IPC by correcting the documents in Police Station, forged the case as against the deceased Suresh by false entries and also violating the standing order of Police Department.

20) Regarding charge u/s. 302 r/w. 34 of IPC, this court had carefully perused the evidences of PW.2, PW.3, PW.4, PW.5, PW.16, PW.25, PW.26,, PW.27, PW.32, PW.39, PW.47, PW.48, PW.51, PW.52, PW.53, PW.54, PW.56, PW.79, PW.80, PW.68, PW.69, PW.81, and PW.63.

21) PW.2 Mr.Paul Simen Samy in his evidence had stated that on 31.12.2013 at 07.00 p.m. when he was standing on the door steps of his petty shop near Vanjore Check Post a Police was going in front of him. At that time he asked the Auto Driver Suresh to place his auto away. But, the auto driver Suresh, under influence of alcohol had stated to that Police that his auto was already placed in the corner and so he won't place his auto away. When that Police had caught hold of the shirt of Suresh, he also caught hold of the shirt of Police. So, both of them were fallen down. At once, when that Police had caught hold Suresh another one Police came from the Check post. The abovesaid evidence would go to prove that deceased Suresh was brought by the 1st and 2nd accused at 07.00 p.m. on 31.12.2013.

22) PW.3-Tr.Prasanth @ Rajendran in his evidence had stated that Suresh was sat in the stairs of his house. When he came out from his house he had seen that Suresh was caught hold by the Police and boarded in the Patrol vehicle. The abovesaid version of PW.3 was strengthened by the evidence of PW.4-Tr.Rajendran who had stated as follows:

"31.12.2013 அன்று இரவு 7.00 மணியளவில் சுரேஷ்

பிரசாந்த் கடை வாசலில் நின்றிருந்தார்.

அப்பொழுது 1வது எதிரி அங்கு வந்து ஆட்டோவை எடுக்கும்படி சுரேசிடம் கூறினார். சுரேஜ் எடுப்பதாக சொன்னார். அப்பொழுது அந்த இடத்தில் அ.சா.3 மட்டும் இருந்தார். அப்பொழுது 1வது எதிரி எடுப்பதாக சொல்லிவிட்டு ஆட்டோவை எடுக்க மாட்டேங்கிறாய் என்று சொல்லி கம்பால் சுரேஜை அடித்தார். 1வது எதிரி சுரேஜை கீழே தள்ளிவிட்டார். சுரேஜ் எழுந்திருக்க முடியாமல் 1வது எதிரியின் சட்டையைப்பிடித்து சுரேஜ் எழுந்தார். உடனே 1வது எதிரி என் சட்டையை பிடித்து விட்டாயா என்று சொல்லி சுரேஜை செக் போஸ்ட்டிற்கு இழுத்துக்கொண்டு சென்றார். அப்போது 1ம் எதிரி அங்கு வந்தார். உடனே ஆஜர் எதிரிகள் இருவரும் சுரேஜை செக் போஸ்ட்டிற்கு இழுத்து சென்று அங்கு வைத்து அடித்தார்கள்"

The above evidence of PW.3 was also corroborated by the evidence of PW.5-Tmt.Rani who had stated that ,

"எங்கள் வீட்டிற்கு பக்கத்து வீட்டில் பிரசாந்த் சைக்கிள் கடை வைத்திருந்தார். சுரேஜ் ஆட்டோவை எங்கள் வீட்டு வாசலில் நிறுத்தி வைத்திருந்தார். 1வது எதிரி அப்போது சுரேசிடம் ஆட்டோவை தள்ளிப்போடுமாறு கூறினார். சுரேஜ் அதற்கு தான் தள்ளிப்போட்டிருப்பதாக

கூறினார். உடனே 1வது எதிரி சுரேசிடம் என்னை எதிர்த்து பேசுகிறாயா என்று சொல்லி சுரேசின் சட்டையை பிடித்து அடித்தார். அந்த இடத்தில் கூட்டம் கூடிவிட்டது. சுரேசை 1வது எதிரி செக் போஸ்ட்டிற்கு அழைத்து சென்றார். 4,5 போலீசார் வந்து அழைத்து சென்றார்கள். அடுத்த நாள் காலை சுரேஜ் இறந்து விட்டதாக கேள்விப்பட்டேன்"

It is also corroborated by the evidence of PW.39- Mr.Anthonyraj that he had brought the deceased Suresh as directed by the 2nd accused in his High Way Patrol Vehicle at Nagore Police Station as the same was also admitted by the 2nd accused in his reply for the question u/s. 313(1)(b) of Cr.P.C.

23) From the abovesaid evidences it is found clear that the 1st accused had assaulted the Suresh and made him to fell down, when tried to get up Suresh caught hold of the shirt of the 1st accused and got aggrieved by the abovesaid act of Suresh, the 1st accused had assaulted the Suresh. At that time the 2nd accused had not only admitted the 1st accused to assault Suresh but also boarded the deceased Suresh in the Highway Patrol vehicle which is under his control and brought him to Nagore Police Station in a rude manner. Thereby the 2nd accused was supportive to the 1st accused in misusing his powers and in the assault made on deceased Suresh.

24) Further, the deceased Suresh who was brought to Police Station by the accused 1 and 2 and was assaulted by the 1st accused by

the lathi of PW.16-Kamaraj is proved by the evidence of PW.16-Kamaraj.

25) Further, PW.25-Mr.Muruganandam in his evidence had stated that,

" இறந்து போன சுரேஜ் ஓட்டிய ஆட்டோவின் உரிமையாளர்தான் பிரசாந்த். அன்றைய தினம் மாலையில் பிரசாந்த் வீட்டு வாசலில் சுரேஜ் ஆட்டோவை நிறுத்தி, பெயிண்ட் அடித்துக்கொண்டு, நம்பர் போர்டு மாட்டிக்கொண்டிருந்தார். அப்பொழுது 1வது எதிரி மது அருந்திய நிலையில் பைக்கில் வந்து சுரேசின் ஆட்டோவில் மோதிவிட்டார். அதனால் சுரேஜ் 1வது எதிரியிடம் கேட்டதற்கு, சுரேசை 1வது எதிரி முழங்காலில் லத்தியால் அடித்தார். சுரேஜ் கீழே விழுந்து விட்டார். அப்பொழுது சுரேஜ் எழுந்திருக்க முடியாமல் 1வது எதிரியின் கையை பிடித்து எழுந்தார். அதனால் 1வது எதிரி, சுரேசை தனது சட்டையை பிடித்து விட்டார் என்று சொல்லி, 1வது எதிரி சுரேசை அடித்தார். அதன்பிறகு சுரேசை Highway Patrol வண்டியில் ஏற்றினார்கள்"

The abovesaid evidence proves that the accused 1 and 2 had assaulted the deceased Suresh and the PW.25-Muruganandam had directly seen the same.

26) PW.26-Mr.Chellathurai, V.A.O. and PW.27— Mr.Selvamani, Village Assistant have spoken about the observation

mahazer in their evidence. PW.32-Tmt.Renukadevi in her evidence had stated that when she had seen the dead body of deceased at Nagapattinam District Government Head Quarters Hospital, there were blood injuries on his body, his little finger was broken and there were foot marks on his chest and private part.

27) When considering the fact why the 1st accused had laid down the deceased Suresh on the sand dune in front of the Police Station at 09.50 p.m. while as per General Diary on 31.12.2013 the 1st accused had arrested the deceased at 21.30 hours at Vanjore Check Post PW.47 –Mr.Srinivasan had stated in his evidence that on 31.12.2013 at 09.50 p.m. when he came to Nagore Police Station, there was a person in the sand dune in front of the Police Station, he is the deceased Suresh. While considering the abovesaid evidence, it is also clear through the evidence of PW.16-Mr.Kamaraj that the 1st accused had assaulted the deceased Suresh by taking his lathi and placed him in the sand dune in front of the Police Station. Regarding the same, the learned counsel for the 1st accused would argue that the lathi of PW.16-Kamaraj was missed at Velankanni and there was pending departmental enquiry and so at the time of occurrence there was no lathi with PW.16. When the abovesaid argument was analysed carefully, regarding the abovesaid facts, PW.16 when cross examined by the 1st accused, he denied the same. Further, there was no document filed by the 1st accused about the missing of lathi of PW.16 and about the departmental enquiry initiated against him and so, the abovesaid argument of learned counsel for the 1st accused is not accepted as per law and facts.

28) At this stage, PW.48-Gowthaman, Special Sub Inspector

of Police in his evidence had stated that he had informed the 1st accused that there was bleeding from the deceased Suresh and requested to admit him in the hospital, the 1st accused with anger had shouted at him to do only his work. From the above evidence it is clear that the 1st accused had assaulted the deceased Suresh at the Police Station, due to malaise arising out of the act of deceased caught hold of his shirt and so, the 1st accused had refused to take the deceased Suresh to hospital and provide him medical treatment.

29) PW.51-Muthulakshmi, Nurse in her evidence had stated that on 31.12.2013 at 11.00 p.m. the deceased Suresh was brought by two Police persons as he is unwell. When he was sat on the bench he was fallen down. At once he was laid on the cot and ECG was taken. Though he was given intensive treatment he was died. Further as per evidence of PW.52-Mrs.Muthulakshmi, PW.40-Mr.Parasuraman and PW.56-Mr.Sankaramoorthy had brought the deceased Suresh for medical treatment, as per evidence of PW.16- Kamaraj, it is very clear that due to the assault made by the 1st accused on the deceased Suresh, he became unwell and so PW.40 and PW.56 had brought him to hospital for medical treatment.

30) PW.54-Mr.Selvaraj and PW.57-Selvi Sumathi are the escorts who put the deceased Suresh for judicial remand. The fact is admitted by the 1st accused in his reply for the question u/s. 313(1)(b) of Cr.P.C.

31) PW.79-Tmt.Latha, Judicial Officer in her evidence had stated that,

" பிரேதத்தின்மேல் வெளிப்படையாக தெரியக்கூடிய காயங்களையும், அடையாளங்களையும் பகல் 11.45 மணிக்கு குறிக்கத் தொடங்கினேன். இறந்த உடல் மல்லாக்க கிடத்தப்பட்டிருந்தது. கைகள் பக்கவாட்டில் கிடந்தது. பிரேதத்தின் தலை கிழக்கு பார்த்தும், கால்கள் மேற்கு பார்த்தும் இருந்தது. முகம் அமைதியாக இருந்தது. உயரம் சுமார் 5 1/2 அடி இருக்கும். நிறம் மாநிறம் இது பிரேதத்தின் நிலை ஆகும். பிரேதத்தின் வலது மார்பில் ஒரு கருப்பு மச்சம் இருந்தது. இடது தோள்பட்டையில் கீழ் ஒரு கருப்பு மச்சம் இருந்தது. தலைமுடி சுமார் 5 செமீ நீளத்தில் கருப்பு நிறத்தில் இருந்தது. பிரேதத்தின் மீது வெளிப்படையாக தெரிந்த காயங்கள் 1. இடதுபுற காத்தில் இரத்தம் வெளியே வந்த நிலையில் இருந்தது. 2. இடதுபுற மார்பு பகுதியில் வீக்க காயம் இருந்தது. 3. இடது முண்டாகையில் கண்ணிய காயம் இருந்தது. 4. இடதுகை சுண்டுவிரலில் இரத்தம் வழிந்த நிலையில் இருந்தது. 6. இடது கால். கணுக்கால் மேற்பகுதிகளில் சிராய்ப்பு காயம் இருந்தது. 7. இடது மற்றும் வலது கால் முட்டியில் காயம் இருந்தது. 8. வலதுபுற தோள்பட்டை அருகில் சிராய்ப்பு காயம் இருந்தது. 9. வலது உள்ளங்கையில் கட்டுப்போட்ட நிலையில் மேற்பகுதியில் சிலேன் ஏற்றுவதற்கான சிரஞ்சு குத்தப்பட்ட நிலையில் அந்த பகுதியில் வீக்கமாக இருந்தது. 10. வாயில் இரத்தம் இறைந்த நிலையில் இருந்தது. பின்னர் ஆடைகள் நீக்கப்பட்ட நிலையில் பிரேதத்தின் உடலில் இருந்த காயங்கள் இறந்த நபரின் பின்புறம் பார்த்ததில் தண்டுவடத்தின் கீழ் பகுதியில் சிராய்ப்பு காயம்

இருந்தது"

From the above evidence of PW.79-Tmt.Latha, Judicial Officer, it is clear also through the evidence of PW.16-Kamaraj that the deceased Suresh who was arrested by the 1st and 2nd accused from Vanjore Check Post, was assaulted by the 1st accused and so the deceased Suresh sustained injuries by the act of 1st accused is proved by the prosecution.

32) On perusing the evidence of PW.80-Mrs.Saraswathi, Sub Judge along with her report Ex.P.45, it is evident that due to the assault of 1st accused made on the deceased Suresh, he had sustained bodily injuries and due to pain the vagus nerve was induced, the heart beat was suddenly reduced, stuck of blood circulation, due to vasi vagal shock the deceased Suresh died on 01.01.2014 at 0045 hours. For that injuries as per evidence of PW.68-Dr.Kathiravan and PW.69-Dr.Rashmi, it is clear that the injuries sustained by the deceased are caused before his death. So, the 2nd accused joined together with the 1st accused had assaulted the deceased Suresh in the Vanjore Check Post and taken him to Nagore Police Station in the Patrol vehicle which is under control of 2nd accused and also for assaulting the deceased Suresh by the 1st accused the 2nd accused also helped him, thereby both the accused are jointly liable for the injuries sustained by the deceased Suresh. Because, as per Police Standing Order the accused persons had no right to assault the accused Suresh in the Police Station. Thereby as the 2nd accused had supported the 1st accused to assault the deceased Suresh, the 2nd accused also liable for the occurrence. Because as per Ex.P.45-the statement of 2nd accused given before Tmt.Saraswathi, the Judicial Magistrate it is evident that

the deceased Suresh had no bodily injuries when he was taken to Police Station by the 2nd accused.

33) On perusing the Exs.P.46 to P.53 the statements of witnesses u/s. 164(5) of Cr.P.C. PW.61-Mr.Tamizharasan in his statement Ex.P.51 had stated that,

" நானும் தலைமைக்காவலர் 1272 திரு.சிவபாலன் என்பவரும் காரைக்கால் சென்று விட்டு திரும்ப இரவு சுமார் 11.00 மணிக்கு மேல் பழைய எஸ்.ஐ.கோர்ட்சில் இயங்கிக்கொண்டிருந்த நாகூர் காவல் நிலையத்திற்கு செல்லும்போது இரண்டு பக்கமும் மின் விளக்குகள் எரிந்து கொண்டிருந்தது. உள்ளே ஆய்வாளர் என்.எஸ்.இராஜேந்திரன் அவர்கள் இருந்தார். அப்போது ஆட்டோ டிரைவர் சுரேஜ் என்பவர் மீது வழக்கு பதிவு செய்யும் போது அடித்தல் திருத்தலுடன் ஜி.டி.யில் எழுதிவிட்டேன், அந்த ஜி.டி தாளை கிழித்துவிட்டு 6431725-ல் இரண்டாவது தாளில் அசலும் மற்றும் 6431726-ல் முதல் தாளில் நகலும் 20 மணியில் ஆட்டோ டிரைவர் சுரேஜ் என்பவர் தொடர்பான வழக்கை பதிவு செய்துவிட்டு விசாரணை செய்வதாக எழுதுகிறார். அதில் முதலில் டிட்டோ என்று போட்டு இருந்தது அதன் மேலேயே 20 மணி என்று எழுதுகிறார். 20.30மணிக்கு ஜி.டியை ஒப்படைத்தார் நான் அதை வாங்க மாட்டேங்கினேன் அதற்கு எல்லாத்துக்கும் நான்தான் பொறுப்புன்னு சொல்லி என்னை வாங்குன்னு மிரட்டுகிறார். அதற்கு அப்புறம் 20.30 மணிக்கு ஜி.டி. பொறுப்பு ஏற்றேன், அதன் பிறகு விசாரணைக்கு சென்ற

ஆய்வாளர் காவல் நிலையம் வந்து ஜி.டியை எடுத்து 21.30 மணிக்கு எதிரியை கைது செய்ததாகவும், 23.00 மணிக்கு எதிரியை ரிமாண்டிற்கு அனுப்பியதாகவும், ஜி.டியில் எழுதுகிறார். பின்னர் 23.00 மணிக்கு ஜி.டியை மறுபடிவும் என்னிடம் ஒப்படைத்தார் நான் வாங்க மறுக்கிறேன். மறுபடியும் மிரட்டுகிறார். நான் மறுபடியும் ஜி-டியை வாங்கிக்கொண்டேன். அதற்கு அப்புறம் காவல் ஆய்வாளர் ஜி.டியை எடுத்து தான் இரவு ரோந்திற்கு செல்வதாக 6431726 இரண்டாவது தாளில் அசலும், 6431727-ல் முதல் தாளில் நகலும் ஆக எழுதிவிட்டு ஜி.டியை என்னிடம் கொடுத்தார். நான் வாங்க மறுத்தேன். மறுபடியும் என்னை மிரட்டுகிறார் நான் வாங்கிக்கொண்டேன். அதற்கு பிறகு சுரேஜ் என்பவருக்கும் காவல் ஆய்வாளர் என்.எஸ்.ராஜேந்திரன் என்பவருக்கும் தள்ளு முள்ளு ஏற்பட்டு வழக்குப்பதிவு செய்ததைப்பற்றி தெரிந்து கொண்டேன்".

From the above statement, it is clear that the 1st accused had threatened PW.61-Mr.Tamizharasan, misusing his powers, torn the pages in the General Diary, corrected the documents. The above evidence of PW.61 was strengthened by the Ex.P.52 statement of PW.52-Mr.Dhanapal in which he had stated that,

" செக்போஸ்ட் வாசலில் ஒருத்தர் உட்கார்ந்து இருந்தார். பக்கத்தில் ஆய்வாளர் லத்தியை வைத்துக்கொண்டு நின்று இருந்தார். பக்கத்தில் யார் உட்கார்ந்திருப்பது என்று அருகில் இருந்தவர்களிடம் விசாரித்தேன். அதற்கு அவர் பெயர் சுரேஜ் என்றும் அவர் பிரசாந்த் கடை வாசலில்

ஆட்டோவை நிறுத்திக்கொண்டு நாகூர் இன்ஸ்பெக்டரிடம் தாராறு செய்து கொண்டு அவர் கட்டையை பிடித்து இழுத்ததாகவும், அதனால் ஆத்திரத்தில் ஆய்வாளரும் High Way Patrol SSI ஜெயராமனும் அடித்து அழைச்சிட்டு வந்து உட்கார வைச்சிருக்காங்கன்னு சொன்னாங்க. கொஞ்ச நேரம் கழித்து சுரேஜை எஸ்.எஸ்.ஐ.ஜெயராமனுடன் High Way Patrol வண்டியில் அனுப்பி விட்டு ஆய்வாளர் என்.எஸ்.ராஜேந்திரனும் தனது புல்லட்டில் பின்னே சென்றார். அந்த சமயத்தில் வாஞ்சூர் சோதனைச்சாவடியில் விடித்து வைக்கப்பட்டிருந்த மது பாட்டில்களையும், அந்த நபரையும் டாட்டா சமோவில் எடுத்துக்கொண்டு நாகூர் காவல் நிலையம் போகச்சொல்லி என்னையும் இன்னொரு வேதாரண்யம் ஹோம் கார்ட் பையனையும் அனுப்பி வைத்தார்கள். நாங்கள் இருவரும் நாகூர் காவல் நிலையத்திற்கு சுமார் 7.45 மணிக்கு சென்றோம், சுமார் 8.15 மணி வரைக்கும் அங்கு இருந்தோம். மதுபாட்டில்களையும், அந்த நபரையும் ஒப்படைக்க உள்ளே சென்ற போது HC 527 ராகவன் என் பெயரில் ஒரு கம்பளெய்ண்ட் தயார் செய்து வைத்திருந்தார். அதில் சுரேஜ் என்பவர் என்னைக்கொச்சை வார்த்தைகளில் திட்டியதாகவும், பணி செய்ய விடாமல் தடுத்ததாகவும், கொலை மிரட்டல் விடுத்ததாகவும் குறிப்பிடப்பட்டிருந்தது. அதில் என்னை கையொப்பமிட ஆய்வாளர் சொன்னதாக ராகவன் சொன்னார். அதற்கு நான் மறுத்தேன். அந்த சமயத்தில் வந்த ஆய்வாளர், " இந்த ஸ்டேசனில்தானே

வேலைப்பார்க்கிற இன்ஸ்பெக்டர் சட்டையைப்பிடிச்சு இழுக்கிறான். இதிலே கையெழுத்து போட்டா என்ன. இதற்கு அப்புறமும் இந்த ஸ்டேசனில்லேதானே வேலை பார்க்கணும். நாளைக்கு இந்த ஸ்டேசன்ல வேலைப்பார்த்துடுவியா " ன்னு கூறி என்னை மிரட்டி கையெழுத்து வாங்கினார் "

34) The above statement was also corroborated by the evidence of PW.52-Mr.Dhanapal in the court. Further PW.56-Mr.Sankaramoorthi in his Ex.P.53 statement had stated that when he brought the deceased Suresh from Police Station to Court he had noticed that there was blood injury between his left hand ring finger and little finger. So, it is clear that on 31.12.2013 at Vanjore Check Post, as the deceased caught hold of the shirt of the 1st accused, the 1st accused got angry and along with the 2nd accused had assaulted the deceased Suresh and brought him to Nagore Police Station in High Way Patrol vehicle, there also assaulted the deceased Suresh by lathi which is evident through the evidence of PW.4-Rajendran and caused PW.52 to give false complaint against the deceased Suresh by threatening him and thereby the 1st accused had misused his official powers.

35) When the 1st accused was examined u/s. 313(1)(b) of Cr.P.C. , he had accepted the evidence of PW.63 as true that on 31.12.2013 auto driver Suresh had made dispute at Nagore Police Station under influence of alcohol, when the 1st accused had questioned the same, Suresh had disputed with the 1st accused, so there was a case registered against Suresh, Suresh was brought to judicial custody, when obtained fitness certificate Suresh was died, so

there was a road block conducted. When the above reply of 1st accused was perused carefully, the 1st accused had accepted that Suresh had disputed with the 1st accused and so, as per evidence of PW.4-Rajendran, PW.68-Dr.Kathiravan and PW.69-Dr.Rashmi along with Ex.P.29-Postmortem report, it is clearly visible that the 1st accused due to anger had assaulted the deceased and caused him injuries. Further, when enquired u/s. 176 of Cr.P.C. the 2nd accused had mentioned that when he brought the deceased Suresh to Police Station he had no injuries and the same is also taken into consideration by this court.

36) When the evidence of PW.64-Dr.Sirajutheen was perused carefully, it is seen that the deceased Suresh had sustained lacerated injury on his left palm measuring 3X0.5X0.5 c.m. which was caused due to the assault of 1st accused in Nagore Police Station as per evidence of PW.16-Mr.Kamaraj. Further, while considering the medical evidence of PW.68-Dr.Kathiravan, who had conducted postmortem on the dead body of deceased Suresh, it is seen that

" வெளிப்படையான காயங்களாக இடது கையில் நான்கு மற்றும் 5வது விரல்களுக்கு இடையில் ரத்த கிழிந்த காயம் இருந்தது அளவு 4x1x0.5 செ.மீ இருந்தது. மேலும் முதுகுபகுதியில் 2 சிராய்ப்பு காயங்கள் 5 செ.மீ அளவிற்கு கோடு போட்டது போல் இருந்தது. அவரது உடல் உள்ளூறுப்புகளை பரிசோதனை செய்ததில் நுரையீரல் மற்றும் வயிற்று பகுதியில் எந்த வித ரத்த கசிவும் இல்லை. விலா எலும்பில் எலும்பு முறிவு இல்லை. இதயம் மற்றும் நுரையீரலில் காயங்கள் இல்லை"

When the above evidence of PW.68 was perused carefully, it is clear that the deceased Suresh had died due to vasovagal Shock arising out of Sebaceous cyst in his scrotum, congenital injury on his back (முதுகு) and injury on the membrane inside his left ear. When the abovesaid medical evidence is seen along with the evidences of PW.4-Rajendran, PW.5-Mrs.Rani and PW.16-Mr.Kamaraj, it is clear that on 31.12.2013 at 07.00 p.m. the 1st accused had assaulted the deceased Suresh at Check Post and later brought him to Nagore Police Station and there also he had assaulted the deceased Suresh.

37) PW.66-Mr.Padmanaban, Professor of Thanjavur Medical College Hospital, had stated that when the heart of deceased Suresh was received by him for chemical analysis it was in rotten stage. Since as per evidence of PW.68 -Dr.Kathiravan at the time of postmortem, the heart of deceased Suresh was in a good condition, this court concludes that due to defect in preserving the heart of deceased Suresh at the time of sending the same for chemical analysis. So, the argument of learned counsel for 1st accused that as the heart of deceased Suresh was in rotten stage at the time of chemical analysis, his death was a natural one is not acceptable.

38) The 2nd accused had admitted in his reply for the questioning u/s. 313(1)(b) of Cr.P.C. that as per words of 1st accused he had taken the deceased Suresh in the High Way Patrol which is under his control and put him at Nagore Police Station. So, if noticing any dangerous situation for Suresh, who was dropped by him at

Nagore Police Station as per words of 1st accused, the 2nd accused should inform the same either to Deputy Superintendent of Police or Superintendent of Police, Nagapattinam who are his higher officials. But, without doing so, the 2nd accused had acted infavour of 1st accused to save him. So, this court decides that the 2nd accused also liable for the death of deceased Suresh. It is made clear through perusal of documents.

39) Therefore, as per above analysis this court considers that, on 31.12.2013 at 07.30 p.m. near Vanjore Check Post, as the deceased Suresh had caught hold of his shirt, got angry due to his act, the 1st accused along with 2nd accused had assaulted the deceased Suresh who was brought by 2nd accused in Highway Patrol Vehicle which was under his control and as per evidences of PW.4-Rajendran, and PW.16-Mr.Kamaraj, which is corroborated by PW.17-Balamurugan, it is proved by the prosecution that the deceased Suresh sustained injuries due to assault of 1st and 2nd accused and due to vasovagal shock he was died and so both the accused are the reason for the death of deceased Suresh.

40) Eventhough both the accused are found cause for the death of deceased Suresh, there was no evidence putforth by the prosecution, that both the accused had intention to commit murder on deceased Suresh. Instead, out of anger only the 1st accused along with the 2nd accused had assaulted the deceased Suresh and caused him injuries which lead to the death of deceased Suresh. So, this court considers that the offence u/s. 302 r/w. 34 of IPC was not proved by the prosecution as against the accused 1 and 2. But, the prosecution had proved the offence u/s. 304 Part I of IPC as against

the 1st accused and as against the 2nd accused u/s. 304 Part I r/w. 34 of IPC as he had accompanied with the 1st accused in committing the offence which lead to the death of deceased Suresh.

41) So, on considering all these aspects from the oral and documentary evidences, this court finds that the prosecution has failed to prove the offence u/s. 302 r/w. 34 of IPC as against the 1st and 2nd accused. But, the prosecution has proved the charges as against the 1st accused u/s. 304 Part I, 218, 201 and 217 of IPC and as against the 2nd accused u/s.304 Part I r/w. 34 of IPC and this Point is answered accordingly.

When both the accused 1 and 2 are questioned u/s. 235(2) of Cr.P.C. about the punishment to be imposed on them, the 1st accused had stated that, " எனக்கு 61 வயதாகிறது. எனக்கு இரண்டு பெண் குழந்தைகள் உள்ளனர். மிகவும் கஷ்ட ஜீவனம் செய்து வருகிறேன். குறைந்தபட்ச தண்டனை வழங்க வேண்டுகிறேன். நான் செய்யாத குற்றத்திற்கு பலிகடா ஆக்கப்பட்டேன்.

the 2nd accused had stated that, " எனது குடும்பமே கஷ்ட ஜீவனம் செய்கிறது. என் ஏழ்மை நிலையை கருத்தில் கொண்டு குறைந்தபட்ச தண்டனை வழங்கிட வேண்டுகிறேன். எனது மேல் அதிகாரி A.1 சுரேசை நாகூர் Police Station-ல் விட சொன்னார். விட்டேன். வேறு குற்றம் எதுவும் செய்யவில்லை."

On considering the reply given by the accused 1 and 2 and considering the gravity of offence, this court inclined to sentence the accused 1 and 2 with suitable punishment as follows.

In the result, the 1st and 2nd accused are found not guilty of the charges u/s.302 r/w. Sec. 34 and the accused 1 and 2 are

acquitted u/s. 235(1) of Cr.P.C. of the abovesaid charge.

But, the 1st accused is found guilty of offences u/s. 304 Part I, 218, 201 and 217 of IPC and the 2nd accused is found guilty of charge u/s. 304 Part I r/w. 34 of IPC.

The 1st accused is convicted and sentenced to undergo R.I. for a period of ten years for the offence u/s. 304 part I of IPC and to pay a fine of Rs. 5000/- (Rupees five thousand only) I/D. to undergo S.I. for a period of one month.

For the offence u/s. 218 of IPC the 1st accused is convicted and sentenced to undergo R.I. for a period of two years and to pay a fine of Rs. 5000/- (Rupees five thousand only) I/D. to undergo S.I. for a period of one month.

For the offence u/s. 201 of IPC the 1st accused is convicted and sentenced to undergo R.I. for a period of two years and to pay a fine of Rs. 5000/- (Rupees five thousand only) I/D. to undergo S.I. for a period of one month.

For the offence u/s. 217 of IPC the 1st accused is convicted and sentenced to undergo R.I. for a period of two years and to pay a fine of Rs. 5000/- (Rupees five thousand only) I/D. to undergo S.I. for a period of one month.

As far as 1st accused is concerned, the period of sentence imposed on him shall run concurrently.

The 2nd accused is convicted and sentenced to undergo R.I. for a period of ten years for the offence u/s. 304 part I r/w. 34 of IPC and to pay a fine of Rs. 5000/- (Rupees five thousand only) I/D. to undergo S.I. for a period of one month.

Since, the accused 1 and 2 had obtained anticipatory bail, there be no order for set off u/s. 428 of Cr.P.C.

M.O.1 series six compact discs (C.D.) produced in this case are ordered to be kept along with the case records.

Total fine amount for the 1st accused is Rs. 20,000/-

Total fine amount for the 2nd accused is Rs.5,000/-

This judgement is dictated to the Stenographer by me, typed by her directly in computer, corrected and pronounced by me in the open court on this the 23rd day of July 2021.

Sd/T.Panneerselvam
Sessions Judge,
Fast Track Mahila Court,
Nagapattinam.

Witnesses examined on the side of prosecution :

PW.1	Mr.Radhakrishnan, Inspector of Police
PW.2	Mr.Paul Simon Samy
PW.3	Mr.Prasanth @ Rajendran
PW.4	Mr.Rajendran S/o. Rajagopal
PW.5	Mrs. Rani
PW.6	Mr.Mathiazhagan
PW.7	Mr.Raja @ Muthazhagan
PW.8	Mrs.Amsavalli
PW.9	Mr.Kannan
PW.10	Mr.Prabakaran
PW.11	Mr.Muruganandam, Home Guard
PW.12	Mr.Manickam, Home Guard
PW.13	Mr.Kannan, Head Constable
PW.14	Mr.Vinoth, Armed force
PW.15	Mr.Ragu, Grade II Constable, Armed force
PW.16	Mr.Kamaraj, Grade II Constable, Armed force
PW.17	Mr.Balamurugan, Grade II Constable, Special Wing
PW.18	Mr.Murugaiyan, Special Sub Inspector of Police
PW.19	Mrs. Vijayalakshmi, Grade I Police Constable
PW.20	Mr.Thiruvencatam, Special Sub Inspector of Police

PW.21	Mr.Prabakaran
PW.22	Mrs.Sivakami
PW.23	Mr.Vijayan
PW.24	Mrs.Kala
PW.25	Mr.Muruganandam
PW.26	Mr.Chellathurai, V.A.O.
PW.27	Mr.Selvamani, Village Menial
PW.28	Mrs.Navaneetham
PW.29	Mrs.Mallika
PW.30	Mrs.Thilagavathy
PW.31	Mr.Mathivanan
PW.32	Mrs.Renukadevi
PW.33	Mr.Singaravelu
PW.34	Mr.Daneal
PW.35	Mr.David
PW.36	Mr.Pandian
PW.37	Mr.Singaravelan, Head Constable, Coastal Police Station, Tranqubar.
PW.38	Mr.Raja, Head Constable, Special Wing, Velippalayam Police Station.
PW.39	Mr.Anthonyraj, Grade II Police Constable, Armed force, Vizhupuram District.
PW.40	Mr.Parasuraman, Driver, Armed force, Nagapattinam.
PW.41	Mr.Muruganandam, Home guard, Vedharanyam.
PW.42	Mr.Kaarmegam, Grade I Police Constable
PW.43	Mrs.Rajeswari, Grade I Police Constable, Nagore Police Station.
PW.44	Mr.Anandhan, Special Sub Inspector of Police, Sembanarkoil Police Station.
PW.45	Mr.Sankaran, Grade I Police Constable, Transports
PW.46	Mr.Saravanan
PW.47	Mr.Srinivasan
PW.48	Mr.Gowthaman, Special Sub Inspector of Police, (Retired)
PW.49	Mr.Parthiban, Special Sub Inspector of Police
PW.50	Mr.Kulasekaran

PW.51	Ms.Muthulakshmi, Retired Nurse
PW.52	Mr.Dhanapal, Grade I Police Constable, Palaiyur
PW.53	Mr.Ragavan, Head Constable, Thittacherry Police Station (Retired)
PW.54	Mr.Selvaraj
PW.55	Mr.Sekar, Head Constable, Velippalayam Police Station
PW.56	Mr.Sankaramoorthi, Grade I Police Constable, Pasupathypalayam, Karur District.
PW.57	Mrs.Sumathi, Sub Inspector of Police, Valivalam
PW.58	Mr.Mohan, Senior Grade Photographer, District Police Office
PW.59	Mr.Babu, Junior Engineer, TNEB, Velankanni
PW.60	Mrs.Shanmugapriya, Sub Inspector of Police, Velippalayam
PW.61	Mr.Tamizharasan, Special Sub Inspector of Police, Thittacherry Police Station
PW.62	Mr.Kaliyamoorthy, Special Sub Inspector of Police, Kariyapattinam Police Station
PW.63	Mr.Ravichandran, Special Sub Inspector of Police, Perambur Police Station
PW.64	Dr.Mohammed Sirajutheen, Government District Head Quarters Hospital, Nagapattinam.
PW.65	Dr.Moitheen Abdul Kadhar, Government District Head Quarters Hospital, Nagapattinam.
PW.66	Dr.K.G.Padmanathan, Assistant Professor, Thanjavur Medical College Hospital,
PW.67	Mr.Sivadurai, Mobile Forensic Sciences Laboratory, Nagapattinam.
PW.68	Dr.Kathiravan, Assistant Professor, Government Medical College Hospital, Dharmapuri
PW.69	Dr.Reshmi, Assistant Professor, Private Medical College, Bangalore
PW.70	Dr.Senthilkumar, Retired Superintendent, Nagapattinam District Government Head Quarters Hospital.
PW.71	Mrs.Vijayalakshmi, Woman Constable 28124, C.B.C.I.D.
PW.72	Mrs.Mangaiyarkarasi, Woman Constable 484,

	C.B.C.I.D.
PW.73	Mr.Haridoss, Inspector of Police, Armed Force, Nagapattinam District.
PW.74	Mr.Manikandan, Deputy Superintendent of Police, Crime Branch, Q-Section, Trichy
PW.75	Mr.Sasang Sai, Superintendent of Police, Cyber Crime Branch, Chennai
PW.76	Mr.Lakshmirajan, Administrative Officer, (Retired), Nagapattinam District Police Department.
PW.77	Mr.Anbu, Additional Superintendent of Police, Salem District
PW.78	Mr.Venkatraman, Superintendent of Police (Now under Suspension)
PW.79	Mrs.Latha, Additional Subordinate Judge, Kallakurichi (Through Video Conference)
PW.80	Tmt.G.Saraswathi, Secretary, District Legal Services Authority, Thiruvallur.
PW.81	Mr.C.Dinesh Kumar, District Munsif-Cum-Judicial Magistrate, Kodaikkanal
PW.82	Mr.Senthilkumar, Commissioner of Police, Salem District
PW.83	Mr.Saravanan, Inspector of Police, C.B.C.I.D. , Nagapattinam.

Documents marked on the side of prosecution :

Ex.P.1	01.01.2014	Complaint given by 1st accused	Original
Ex.P.2	01.01.2014	First Information Report in Crime No.1/2014 of Velippalayam Police Station	Original
Ex.P.3	29.08.2015	Observation mahazer (12.00 hours)	Original
Ex.P.4	25.08.2015	Signature of PW.26 in the observation mahazer (14.00 hours)	Original
Ex.P.5	25.08.2015	Signature of PW.26 in the observation mahazer (16.00 hours)	Original
Ex.P.6	25.08.2015	Signature of PW.27 in the observation mahazer (14.00 hours)	Original
Ex.P.7	25.08.2015	Signature of PW.27 in the observation	Original

		mahazer (16.00 hours)	
Ex.P.8	31.12.2013	Signature of PW.52 in the complaint given by PW.52	Original
Ex.P.9	21.04.2016	Ten signatures of PW.52 in the statement u/s. 164(5) of Cr.P.C.	Original
Ex.P.10	25.01.2014	Statement of PW.15 given before the Judicial Magistrate No.1, Nagapattinam.	Original
Ex.P.11	31.12.2013	Complaint given by PW.52	Original
Ex.P.12 Series	20.04.2016	Ten Signatures of PW.53 in the statement u/s. 164(5) of Cr.P.C.	Original
Ex.P.13 Series	20.04.2016	Ten Signatures of PW.54 in the statement u/s. 164(5) of Cr.P.C.	Original
Ex.P.14 Series	25.01.2014	Three signatures of PW.55 in the statement recorded by Judicial Magistrate, Nagapattinam.	Original
Ex.P.15 Series	20.04.2016	Ten Signatures of PW.55 in the statement u/s. 164(5) of Cr.P.C.	Original
Ex.P.16	25.01.2014	Statement of PW.56 recorded by Judicial Magistrate No.1, Nagapattinam.	Original
Ex.P.17 Series	21.04.2016	Ten Signatures of PW.56 in the statement u/s. 164(5) of Cr.P.C.	Original
Ex.P.18	26.01.2014	Statement of PW.57 recorded by Judicial Magistrate No.1, Nagapattinam.	Original
Ex.P.19 Series	20.04.2016	Eleven Signatures of PW.57 in the statement u/s. 164(5) of Cr.P.C.	Original
Ex.P.20	08.10.2015	Requisition given by the Inspector, C.B.C.I.D., Nagapattinam to the Assistant Engineer, T.N.E.B., Nagapattinam	Original
Ex.P.21	30.10.2015	Reply given by the Assistant Engineer, T.N.E.B., Nagapattinam to the Inspector, C.B.C.I.D., Nagapattinam	Original
Ex.P.22 Series	15.10.2015	Letters of Inspector of Police, Nagore Circle (three in number)	Original
Ex.P.23	01.01.2014 & 02.01.2014	General Diary of Nagore Police Station	True copy
Ex.P.24	29.12.2013	Daily diary of 1st accused	True copy

	& 30.12.2013		
Ex.P.25 Series	21.04.2016	Ten Signatures of PW.61 in the statement u/s. 164(5) of Cr.P.C.	Original
Ex.P.26	31.12.2013	Accident Register of Deceased Suresh	Original
Ex.P.27	01.01.2014	Histopathology Report of Deceased Suresh	Original
Ex.P.28	29.01.2014	Viscera Report of Deceased Suresh	Original
Ex.P.29	01.01.2014	Postmortem Certificate of Deceased Suresh	Original
Ex.P.30	03.11.2015	Reply given by the Superintendent, District Head Quarters Hospital, Nagapattinam.	Original
Ex.P.31	04.12.2015	Reply given by the Superintendent, District Head Quarters Hospital, Nagapattinam.	Original
Ex.P.32	22.09.2015	Letter written by the Superintendent of Police, District Police Office, Nagapattinam regarding vehicle driver's daily diary	Original
Ex.P.33	12.10.2015	Copy of General Diary and roll call statement along with covering letter	Original
Ex.P.34	15.10.2015	Letter written by the Inspector of Police, Armed Force, Nagapattinam regarding duty chart at Vanjore Check Post	Original
Ex.P.35	28.03.2016	Copy of General Diary dated 28.12.2013 to 01.01.2014 along with letter from Inspector of Police, Velippalayam Police Station	Original
Ex.P.36	09.04.2016	Copy of General Diary dated 28.11.2013, 29.11.2013, 01.01.2014 and 02.01.2014 along with letter from Inspector of Police, Velippalayam Police Station	Original
Ex.P.37 Series	15.10.2015	Letter of Assistant Superintendent of Police, Nagapattinam Subdivision, Nagapattinam to the Inspector of Police, Q-Branch, Crime Branch, Nagapattinam	Original

		along with the copy of particulars about the presence of N.D.S. Gowthaman, Sub Inspector of Police, Velippalayam Special Police Station and Mr.Jayaraman, Special Sub Inspector of Police, Valivalam Police Station and driver Police 1261 namely Anthonyraj.	
Ex.P.38 Series	Particulars in page 1 to 351 of the report of PW.761	Original
Ex.P.39 Series	04.03.2016	Copy of transfer proceedings regarding 1st accused and memorandum of suspension	Original
Ex.P.40	07.03.2016	Memorandum of Superintendent of Police, District Police Office, Nagapattinam regarding submission of case records to Deputy Superintendent of Police, Thanjavur	Original
Ex.P.41	13.05.2016	Copy of transfer proceedings regarding 1st accused and memorandum of suspension	Original
Ex.P.42	12.03.2016	Report of Deputy Superintendent of Police, Nagapattinam	Original
Ex.P.43	01.01.2014	Inquest report of Judicial Magistrate No.2, Nagapattinam	Original
Ex.P.44	10.01.2014	Preliminary Report (Recorded subject to objection through video conference)	Original
Ex.P.45	19.04.2014	Copy of report u/s. 176 Cr.P.C. submitted to the Chief Judicial Magistrate, Nagapattinam.	Original
Ex.P.46	07.04.2016	Proceedings of Chief Judicial Magistrate, Nagapattinam.	Original
Ex.P.47	20.04.2016	The statement of PW.57 u/s. 164(5) of Cr.P.C.	Original
Ex.P.48	20.04.2016	The statement of PW.53 u/s. 164(5) of Cr.P.C.	Original
Ex.P.49	20.04.2016	The statement of PW.55 u/s. 164(5) of Cr.P.C.	Original
Ex.P.50	20.04.2016	Statement of PW.54 u/s. 164(5) of Cr.P.C.	Original

Ex.P.51	21.04.2016	Statement of PW.61 u/s. 164(5) of Cr.P.C.	Original
Ex.P.52	21.04.2016	Statement of PW.52 u/s. 164(5) of Cr.P.C.	Original
Ex.P.53	21.04.2016	Statement of PW.56 u/s. 164(5) of Cr.P.C.	Original
Ex.P.54	25.05.2016	Proceedings of the Deputy Inspector General of Police, Thanjavur	Original
Ex.P.55	25.08.2015	First Information Report in Crime No.2/2015 , CBCID, Nagapattinam	Original
Ex.P.56	25.08.2015	Observation mahazer (14.00 hours)	Original
Ex.P.57	25.08.2015	1st Rough sketch (CBCID)	Original
Ex.P.58	25.08.2015	2nd rough sketch (CBCID)	Original
Ex.P.59	25.08.2015	3rd observation mahazer	Original
Ex.P.60	29.08.2015	3rd rough sketch	Original
Ex.P.61	10.05.2016	Section Alteration Report	Original
Ex.P.62	05.08.2015	Orders issued by Additional Director General of Police, Chennai	Original
Ex.P.63	19.04.2014	First Information Report in Crime No.466/2013 of Nagore Police Station which was closed as charge abated.	Original

Material Objects marked on the side of prosecution:

M.O.1 (series) Compact Discs (C.D.) (6 numbers)

(Kept along with the case records)

Defence side witness, documents and material objects

NIL

Sd/T.Panneerselvam
Sessions Judge,
Fast Track Mahila Court,
Nagapattinam.

//True Copy//