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Crl.A.Nos.717, 718 and 719 of 2018,
and Crl.M.P.No.2029 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	15.07.2024
DELIVERED ON	25.07.2024

CORAM:

THE HON'BLE MR. JUSTICE M.S.RAMESH
and

THE HON'BLE MR. JUSTICE SUNDER MOHAN
Crl.A.Nos.717, 718 and 719 of 2018

and Crl.M.P.No.2029 of 2024 in Crl.A.No.718 of 2018

- 1.Ravichandran ... Appellant in Crl.A.No.717 of 2018/A2
2. Parameswari ... Appellant in Crl.A.No.718 of 2018 /A1
3. Sweetline
4. Gnanamurthy
5. Karthi @ Karthikeyan
6. Naresh Kumar ...Appellants in Crl.A.No.719 of 2018/A3 – A6

VS.

The State Rep. by Inspector of Police
Ramanatham Police Station,
Thittakudi – Taluk,
Cuddalore - District ...Complainant/Respondent in all cases



Crl.A.Nos.717, 718 and 719 of 2018,
and Crl.M.P.No.2029 of 2024

Common Prayer: Criminal Appeals filed under Section 374(2) Cr.P.C. seeking to set aside the judgment of conviction and sentence dated 31.07.2018 passed in S.C.No.6 of 2017 on the file of the learned III Additional District and Sessions Judge, Cuddalore at Vriddhachalam.

For Appellants

In Crl.A.No.717 of 2018 for A2 : Mr.B.Kumar,
Senior Counsel
assisted by
Mr.S.Ramachandran

In Crl.A.No.718 of 2018 for A1 : Mr. R.Karthikeyan

In Crl.A.No.719 of 2018 for A3 to A6 : Mr.B.Kumar,
Senior Counsel
assisted by
Mr.A.R.Karthick Lakshmanan

For Respondent/Complainant : Mr.E.Raj Thilak
in all cases Additional Public Prosecutor

For Intervenor/PW1 : Mr.R.Vijayakumar,
for Mr.S.Senthil/Mr.R.Anbukarasu

COMMON JUDGMENT

These Criminal Appeals have been filed by Accused Nos.1 to 6, challenging the conviction and sentences imposed upon them vide judgment dated 31.07.2018 in S.C.No.6 of 2017 on the file of the learned III Additional District and Sessions Judge, Cuddalore at Vriddhachalam.



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2. As all these appeals arise out of a common judgment of the trial Court, they are taken up together, heard and disposed of by this common judgment. For the sake of convenience, the parties are hereinafter referred to as per their ranking before the trial Court.

3(i). It is the case of the prosecution that the deceased was the husband of A1; that he married A1, fourteen years before the occurrence and they had two children, P.W.8 and P.W.9, aged about 9 and 14 years respectively; that A1 had illicit intimacy with A2; that even before A1 married the deceased, she had a love affair with A2; that the deceased questioned the illegal intimacy; that he refused to let A1 to attend her brother's marriage; that he also took away the mobile phone of A1; that A1 got infuriated by such conduct, and felt that the deceased was an hindrance to her relationship with A2 and hence, conspired with A2 to do away with the deceased; that A2 in turn contacted A10, who was his friend; that A10 in turn engaged the other accused to murder the deceased; that pursuant to the conspiracy on 09.11.2014, at about 9:45 p.m., the assailants went to the



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house of the deceased; that A1 opened the house and signaled to the other accused to come into the house; that A3 to A6 entered into the house and after ensuring that A1 had given sleeping pills to the deceased, A4 smothered the deceased with a pillow; that A4 also attacked the deceased with a sickle on the lower abdomen and thereafter A3 to A6 had attacked the deceased indiscriminately with knives and sickles; and that the other accused namely A7 to A10 had assisted the assailants by riding the two wheelers and in guarding the place.

(ii) It is further the case of the prosecution that A1 had called P.W.6/the cousin brother of the deceased and also a neighbour at about 6.15 a.m. on 10.11.2014, while he was crossing the house of the deceased and asked him to open the bedroom door as she was locked inside; that P.W.6 went into the house and saw the deceased lying dead in a pool of blood; that thereafter, he called P.W.2/the brother of the deceased, and both of them saw A1 opening the door of the bedroom by herself and coming out;



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that after hearing the alarm of P.W.2, P.W.1, another brother of the deceased came to the house and saw the deceased lying in a pool of blood.

(iii) P.W.1/brother of the deceased went to the police station and lodged a complaint [Ex.P1] at about 8:00 a.m. on the same day. P.W.29/Sub Inspector of Police registered the case in Crime No.270 of 2014 for the offence under Section 302 IPC. The FIR was marked as Ex.P39. P.W.30/Inspector of Police took up the investigation, went to the scene of the occurrence, and prepared the Observation Mazhar [Ex.P5] and Rough Sketch [Ex.P40]. He seized the blood stained mosaic tiles and tiles that were not blood-stained, the plastic mat, and other articles [M.O.5 to M.O.12] under the Seizure Mahazar [Ex.P4]. He went to Tittakudi Government Hospital, conducted an inquest over the body of the deceased in the presence of Panchayatars, and prepared the inquest report [Ex.P41]. He made a request for a photographer and the Sniffer Dogs Squad. At about 5:00 p.m., he seized the dress materials of the deceased [M.O.31 and M.O.32] and sent it under Form - 91 to Court after the postmortem was conducted. On secret



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information, he arrested A1 at the Perangiyam bus stand and, on her confession, seized a Nokia mobile phone, [M.O.13] under Seizure Mahazar [Ex.P7] from the bureau of her house. Thereafter, he seized a phone belonging to one Nishanthini/P.W.7, which is said to have been used by A1 to communicate with A2. Thereafter, he arrested A2 and, on his confession, seized blood-stained knives and also seized SIM card [M.O.14 to M.O.16] under Seizure Mahazar [Ex.P10]. On the same day, he went to a pawn broker shop and seized a necklace [M.O.1] under Seizure Mahazar [Ex.P11]. Thereafter, he arrested the other accused, seized their mobile phones and weapons on the basis of their confessions. After recording the statements of other witnesses, handed over the investigation to P.W.32. P.W.32 conducted further investigation and filed the final report against all the accused for various offences including Sections 120(b), 302 r/w. 109, and 302 of the IPC, before the learned District Munsif cum Judicial Magistrate, Thittakudi.

(iv) On the appearance of the appellants, the provisions of Section 207 of the Criminal Procedure Code were complied with, and the case was



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committed to the Court of Sessions in S.C.No.6 of 2017 and was made over to the Additional District and Sessions Judge, Cuddalore at Vriddhachalam, for trial. The Trial Court framed charges under Sections 120 (b) r/w 302, 449, 302 r/w 34, and 302 r/w 109 as against the appellants, and when questioned, the appellants pleaded 'not guilty'.

(v) The prosecution examined 32 witnesses as P.W.1 to P.W.32, marked 63 documents as Ex.P1 to Ex.P63, and 32 material objects as M.O.1 to M.O.32. The appellants have not examined any witnesses or marked any documents. The Trial Court, after considering the oral and documentary evidence, found the appellants guilty of the following offences and sentenced them as below:

Against	Offence under IPC	Sentence imposed
A1 and A2	Section 109 r/w 302	Each of them to undergo imprisonment for life and to pay a fine of Rs.1,000/-, in default, to undergo 3 months of SI.
A3 to A6	Section 449	Each of them to undergo 3 years RI with a fine of Rs.1,000/-, in default, to undergo 3 months of SI.
	Sections 302 r/w 34	Each of them to undergo imprisonment for life with a fine of Rs.1,000/-, in default, to



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Against	Offence under IPC	Sentence imposed
		undergo 3 months of SI
The sentences for A3 to A6 were directed to run concurrently.		

Challenging the same, the appellants are before this Court.

4. Heard, Mr.B.Kumar, Senior Counsel, for A2 to A6 in Crl.A.Nos.717 and 719 of 2018; Mr.R.Karthikeyan, learned counsel for A1 in Crl.A.No.718 of 2018; Mr.R.Vijayakumar, learned counsel for PW1/Intervenor; and Mr.E.Raj Thilak, learned Additional Public Prosecutor appearing for the respondent/State.

5. Mr.B.Kumar, the learned Senior Counsel for A2 to A6, Mr.R.Karthikeyan, learned counsel for A1 submitted that the circumstances have not been conclusively established by the prosecution; that even assuming that the motive has been established, it is the prosecution case that A2 was not directly involved in the occurrence; that there is no evidence to show that A2 engaged the other accused to commit the murder of the deceased; that there is no evidence to show that A3 to A6 were involved in



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the occurrence; that the trial Court had acquitted A7 to A10, of all charges and acquitted the appellants of the charge under Section 120 (b) r/w 302 of the IPC and in such circumstances, there is nothing to suggest that the occurrence was committed on the abetment of A1 and A2; that the call record details [Ex.P36] was not marked through any Nodal Officer and in any case, no 65-B certificate was issued by the Inspector who had marked the documents; that the evidence of P.W.8, the child witness is highly doubtful; that he was examined belatedly and his statement reached the learned Magistrate much later; that there are material improvements in his deposition before the Court; and that the circumstances in any case do not form a complete chain so as to point out only the guilt of the accused and prayed for acquittal.

6. The learned Additional Public Prosecutor *per contra*, submitted that the motive has been established through the evidence of P.W.1 to P.W.3; that the child witness/P.W.8 is a natural witness and there is no necessity for the child to falsely implicate his own mother; that evidence of P.W.7 would



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show that her phone was used by A1 to communicate with A2 and the details of the calls made have been established through Ex.P36; that the evidence of P.W18/the pawn broker shows that gold necklace [M.O.1] was pledged by one Jayachandran on the direction of A2 and all the circumstances conclusively prove the involvement of the accused and prayed for dismissal of the appeals.

7. P.W.1, the de facto complainant, had filed an intervening petition in Crl.M.P.No.2029 of 2024 and has filed written submissions through his counsel, reiterating the prosecution case and the submissions made by the learned Additional Public Prosecutor.

8. We have carefully considered the rival submissions and perused the materials available on record.

9. (i) The prosecution, as stated earlier, has examined 32 witnesses to prove its case, which is based on circumstantial evidence. P.W.1 is the



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brother of the victim and the de facto complainant who lodged the complaint [Ex.P.1]. P.W.2 is another brother of the deceased, who speaks about A1's relationship with A2 and about the frequent quarrel between A1 and the deceased due to the same. P.W.3 is a nephew of the deceased. He stated that A1 and the deceased used to have frequent quarrels and that he visited the house of the deceased after he came to know of the occurrence. P.W.4 is another relative of the deceased who had seen some of the accused [six accused] outside the house of the deceased on 09.11.2014. P.W.5 is an employer of P.W.7, whose phone was allegedly used by A1. P.W.5 turned hostile. P.W.6 is the cousin brother of the deceased and also a neighbour, who stated that on 10.11.2014 at about 6:15 a.m., A1 called him and asked him to open her bedroom door, which was locked from outside; and that before he could take the key and open the lock, A1 had come out of the room on her own.

(ii) P.W.7 is working in a mobile shop and said to have handed over a phone to A1 for charging the battery; and that A1 had used the phone to talk



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to A2, and she identified the IBL Cell Phone [M.O.4]. P.W.8 is a child witness and the son of the deceased and A1. P.W.8 had stated that his mother/A1 had asked him to sleep inside the room on the night of the occurrence, though the deceased, A1 and P.W.8 used to sleep in the hall and also stated that he heard a sound, and when he asked his mother, she stated that it was a sound of television and asked him to go to sleep. P.W.9 is another son of A1 and the deceased, who was admittedly not in the house, at the time of the occurrence.

(iii) P.W.10 is the Seizure Mahazar witness [Ex.P4]. P.W.11 is the witness for the Observation Mahazar [Ex.P5]. P.W.12 is the witness to the arrest, confession, and recovery from A1. P.W.13 is a witness to the arrest and confession of A2, besides the recovery of jewels from P.W.18 at the instance of A1. P.W.14 is a witness to the arrest and confession of A6 to A8 and the recoveries made on their confessions.



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(iv) P.W.15 is the Scientific Officer in the Forensic Science Laboratory who examined the pillow and the other material objects and gave his report [Ex.P27]. P.W.16 was working as an electrician, and he is a witness to the confession of A9 and the recovery of his mobile phone and bike [M.O.28 and M.O.29]. He had identified his signature in Seizure Mahazar [Ex.P29]. P.W.17 is a witness to the confession of A5 and recovery from him M.O.13, mobile phone . He had signed in the Mahazar [Ex.P32]. P.W.18 is a pawn broker, and he stated that Jayachandran had pledged a jewel [M.O.1]; and that he was informed by the police that Jayachandran had pledged it at the instance of A2.

(v) P.W.19 was working as the Judicial Magistrate - II, Gobichettipalayam, and had conducted the Test Identification Parade for some of the witnesses to identify the accused, namely A2, A4, A6, A7, A8, A9, and A10. P.W.20 is working as a constable who collected the call details in a file marked as Ex.P36. The defence had objected to the marking of Ex.P36 as there was no 65-B certificate. P.W.21 is the postmortem doctor



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who issued the postmortem certificate [Ex.P37]. P.W.22 was working in the dog squad and has stated that the Sniffer Dog had gone from the place of the occurrence to a temple via a few streets. P.W.23 is the Forensic Science Expert who assisted the Investigating Officer and collected certain articles from the scene of occurrence. P.W.24 is the photographer who took the picture of the deceased at the hospital. P.W.25 to P.W.28 who had allegedly seen some of the accused near the house on the day of the occurrence, had turned hostile.

(vi) P.W.29 is the Sub Inspector of Police who registered the FIR. P.W.30 is the Investigating Officer who conducted the major portion of the investigation. P.W.31 was working as a Special Inspector and had collected Call Detail Records of the accused from the Telecom companies through e-mail. P.W.32 is the Investigating Officer who concluded the investigation and filed the Final Report before the learned District Munsif cum Judicial Magistrate, Thittakudi.



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10. The prosecution had examined P.W.21, the postmortem doctor who had issued Ex.P37 report, and had noted the following injuries:

“(i) Lacerated wound 9x1x0.5 cm in right frontal region

(ii) Lacerated wound abdomen 3x1x0.5 cm supero-lateral to umbilical to right side.

(iii) Lacerated injury 2.5 x 0.7 cm in size in right shoulder with abnormal mobility & swelling

(iv) Lacerated injury over occiput 2x0.5x0.5 in size.

(v) Lacerated injury 6x1x0.5cm over left parietal region.”

In his final opinion, he had opined that the deceased died due to hemorrhage, shock, and multiple head injuries and injuries to vital organs [brain]. P.W.1 and P.W.2 are the brothers of the deceased. They had seen the deceased lying in a pool of blood after the occurrence. The evidence of the postmortem doctor/P.W.21, his report [Ex.P37], and the other evidence adduced on the side of the prosecution establish that the deceased suffered a homicidal death.



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11. (i) As regards the involvement of the accused, the prosecution relies upon circumstantial evidence. The motive according to the prosecution is that A1 and A2 had illicit intimacy, which led to the deceased reprimanding A1 and also not allowing her to go out of the house and prevented her from attending the marriage of her brother; and that the above conduct of the deceased infuriated A1, which prompted her to enter into a conspiracy to cause the death of the deceased. There is no evidence to establish that the deceased prevented A1 from going to her parents' house or to attend her brother's marriage. P.W.2 had stated that the deceased and A1 quarrelled frequently since he suspected A1's association with A2. P.W.3 is a nephew of the deceased and does not specifically state the motive, though he would state that A1 and the deceased quarrelled with each other. There is no other evidence to substantiate the motive alleged by the prosecution, namely that the deceased had prevented A1 from going to her mother's house or to attend her brother's marriage, and she was confined to the house.



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(ii) P.W.8, a child witness and son of the deceased, who would state that A2 used to visit their house, and when he inquired about this to his mother/A1, she stated that he was an uncle, and that he had seen A1 giving money and jewels to A2. P.W.8 was also examined to prove the conduct of A1 on the night of 09.11.2014, when the occurrence took place. P.W.8 had stated that P.W.9 his brother was staying in a hostel; that he along with his parents were in the habit of sleeping together in the hall; that on 09.11.2014, A1 asked him to sleep along with her in the bedroom; that when P.W.8 asked A1 as to why she was doing so, A1 compelled him to sleep in the room; that he could not sleep and saw A1 walking in and out of the room; and that he also saw the main door of the house was open. He would further add that he saw four persons standing next to his father, and at that time A1 called him inside the room and told him that those persons came to speak to his father; that thereafter, he heard a noise, and his mother told him that it was a television noise. On the next morning, he saw his father lying dead, and all his relatives were at the house. The prosecution had examined P.W.8 to prove the conduct of A1 and to show that she was part of the conspiracy.



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The trial court had acquitted A1 and others for the charge of conspiracy, and there is no challenge to the said finding.

(iii) Be that as it may. If this conduct of A2 has to be believed, then this Court can infer abetment by conspiracy if other circumstances are established. The question is whether P.W.8, who speaks about this conduct, and about the relationship of A1 and A2 can be believed. After the occurrence, P.W.8 was taken care of by P.W.1 and is living with him. The Investigating Officer had not examined P.W.8 for nearly two months after the occurrence, which was admitted by him in his chief examination. The records indicate that his Section 161 Cr.P.C., statement was sent to the Magistrate on 01.04.2015. The belated examination of the child witness raises a serious doubt as to the reliability of his version. That apart, P.W.8 has not stated about the fact that he saw four people standing next to his father and talking to him in his statement before the police. P.W.8 had also not stated about the conduct of A1 that she called him into the room and forced him to sleep in the room, that he saw the main door open, etc., in his



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Section 161 Cr.P.C., statement. The relevant portion of the cross-examination of P.W.32 is extracted hereunder for better understanding:

“அ.சா.8 ஆதீஸ் எனது விசாரணையில், எப்போதும் கூடத்தில்தானே தூங்குவோம் ஏன் ரூமிற்கு அழைக்கிறீர்கள் என்று கேட்டதாகவும், தனக்கு கெட்ட கணவு வருவதாகவும் அதனால், ரூமில் சென்று படுக்கலாம் என தனது தாயார் அழைத்தார் என்றும், தன்னை படுக்குமாறு வற்புறுத்தினார் என்றும், தான் விழித்திக்கொண்டிருந்ததாகவும், தனது தாயார் ரூமிற்கு உள்ளேயும், வெளியேயும், சென்று வந்தார் என்றும், பிரதான கதவு திறக்கும் சத்தம் கேட்டதாகவும், தான் வெளியில் வந்து பார்த்ததாகவும், தன் தந்தையை சுற்றி 4 பேர் நின்றனாக்கொண்டிருந்ததாகவும், எனது தாயார் என்னை ரூமிற்குள் அழைத்து வந்துவிட்டார் என எனது விசாரணையில் சொல்லவில்லை. மேலும் தனது வாக்குமூலத்தில் எனது தந்தை காப்பாற்றுமாறு கத்தினார் என சொல்லவில்லை. முதல் நாள் நடந்த விபரங்கள் அனைத்தும் மறுநாள் தனது அண்ணாண்டிடம் தான் சொன்னதாக எனது விசாரணையில் சொல்லவில்லை என்றால் சரிதான். மேற்கண்ட சாட்சி எனது வாக்குமூலத்தில் ரவிச்சந்திரன் யார் என்று தனது தாயாரிடம் கேட்டபோது, மாமா என்றும், தனது தாயார் 2வது எதிரியிடம் நகை



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மற்றும், பணம் கொடுத்திருக்கிறார் என்றும், எதற்கு கொடுக்கிறீர்கள் என்றும் கேட்டதற்கு, மாமா பாவம் அப்பாவிடம் சொல்லக்கூடாதென்றும், என் தந்தை நகை மற்றும் பணம் காணவில்லை என கேட்டபோது, எனது தாயார் தன்னையும், தனது சகோதரரையும், தாண்டி சத்தியம் செய்தார் என குறிப்பிடவில்லை”

The above extracted portion would indicate that P.W.8 was not only examined belatedly by the Police, but his deposition in Court suffers from material improvement, suggesting that his version is tutored to suit the prosecution case.

12.The other conduct of A1 relied upon by the prosecution is that she called P.W.6 to open the door of the bedroom, as it was locked from outside, and that even before he could open it, she came out of her own, thereby suggesting that she was not locked inside the room. P.W.6, however, had not stated that A1 had come out on her own in his statement before the police. The cross examination of P.W.30 confirms the said fact. The relevant portion of P.W.30 is extracted below for better understanding.



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“சாட்சி ராஜேந்திரன் எனது விசாரணையில் எனது வாக்குமூலத்தில் முதல் எதிரிவீட்டுக்கு சென்று பார்த்தபோது இறந்திருப்பதாகவும் திரும்பி நான் வெளியே வந்து ஐன்னை வழியாக சத்தம் போட்டு கேட்டபோது கணபதி அங்கு வந்தார் என்றும் சாவி எங்கே என கேட்டதற்கு தங்கராசு தலையணை அருகில் இருக்கும் என கூறினால் என சாவி எடுத்த திறப்பதற்குள் முதல் எதிரி அறையில் இருந்த திறுந்துகொண்டு வந்தால் என்று எனது விசாரணையில் சொல்லவில்லை. அதே போல் இரண்டாம் எதிரி தங்கராசு வீட்டுக்கு இரு சக்கர வாகனத்தில் வருவார். அவ்வாறு இரண்டு முறை பார்த்திருப்பதாக எனது விசாரணையில் சொல்லவில்லை.”

Further, P.W.1, in his complaint [Ex.P1], which is based on the information given by P.W.6, stated that he opened the bedroom door with a key. This version is therefore contrary to the depositions of P.W.1 and P.W.6. P.W.1 and P.W.6 therefore made improvements in their versions. We are of the view that this is a material improvement that has been made only to suit the prosecution case. Therefore, this conduct of A1 has also not been established.



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13. Admittedly, A2 was not present at the scene of the occurrence.

This is confirmed by the evidence of P.W.32, which reads as follows:

“நீதிமன்ற கேள்வி — 2ம் எதிரி ரவிச்சந்திரன்
எனது விசாரணையில் அவர் சம்பவ இடத்தில் இருந்தாரா?
பதில் — எனது விசாரணையில் 2ம் எதிரி
ரவிச்சந்திரன் சம்பவ இடத்தில் இல்லை என
தெரியவந்தது.”

Therefore, unless there is evidence to show that A2 had engaged the other accused to murder the deceased, the other circumstances would be of no avail to the prosecution. That apart, it is the evidence of P.W.18 that the jewel recovered from him was pledged by one Jayachandran. The said Jayachandran was not examined by the prosecution. It is the prosecution case that A2 had pledged the jewels to P.W.18 through the said Jayachandran. P.W.18 admitted that he was not aware that A2 had pledged the jewels through the said Jayachandran and only the police told him so. There is no other evidence to show that Jayachandran pledged the jewels on behalf of A2. Thus, the prosecution has not established that the jewels were pledged by A2 through Jayachandran.



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14. The prosecution relied upon the evidence of P.W.4 to show that six accused were seen outside the house of the deceased on 09.11.2014, evening. However, P.W.4 had strangely not stated this fact to the police when they questioned him the next day. He informed the police only on 11.11.2014. He had also not informed the said fact to P.W.1 and P.W.2, the brothers of the deceased. In our view, the evidence of P.W.4, is also an afterthought, and if really P.W.4 had seen some strangers near the house, he would have certainly informed P.W.1 and P.W.2, who were closely related to him, about the said fact after he came to know of the death of the deceased. Even though, he identified A3, A5, A7, and A8 in the Test Identification Parade, his evidence, in our view, does not inspire confidence. P.W.25 to P.W.28 who were examined by the prosecution to prove the circumstance of the accused seen outside the house turned hostile. Further, the trial Court had acquitted A7 and A8 of the offences charged against them.



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15. The other evidence relied upon by the prosecution to show that A1, A2, and the other accused called each other on their mobile phones is that of P.W.20/the head constable, who was working in the Cyber Cell Division at Cuddalore. According to the prosecution, he collected Call Detail Records of the mobile numbers belonging to the accused from Telecom companies and handed over Ex.P36 file containing the Call Detail Records to the Investigating Officer. First of all, P.W.20 has not given any 65-B certificates. Secondly, this Court is unable to comprehend how the said document, which was collected during investigation can be marked through P.W.20, who had obtained the same on behalf of the Investigating Officer. The Nodal Officers of the Telecom Companies were not examined by the prosecution. It is a basic rule of evidence that the documents generated by the Telecom Companies have to be proved through their Nodal Officers or any other employee who was in charge of maintaining those documents. The e-mails through which the document was said to have been sent were also not marked by the prosecution. Further, P.W.20 admitted that the printouts of Ex.P36 were taken in his office. Hence, we are of the view that Ex.P36 is



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of no use to the prosecution. P.W.32, the Investigating Officer had admitted that the Nodal Officers, were not examined. The relevant portion reads as follows:

“இந்த வழக்கில் செல்போன் சர்வீஸ் புரொவைடர் நோடல் ஆபிசரை விசாரிக்கவில்லை என்றால், சரிதான். காவலர் பழனிச்சாமி இந்த வழக்கில் என்ன உதவி செய்தார் என்றால், ஒவ்வொரு எதிகளும் இந்த வழக்கில் சம்மந்தப்பட்டுக்கிறார்கள் என கால் டெடியில்ஸ் வைத்து, அவர் இந்த வழக்கில் உதவி செய்துள்ளார். ஆனால் என்னிடம் கொடுத்த வாக்குமூலத்தில் எதிரிகள் எங்கிருக்கிறார்கள் என்று கண்டறிய உதவி செய்ததாகத்தான் சொல்லியுள்ளார் என்றால், சரிதான். மேற்கண்ட பழனிசாமி இந்த வழக்கில், புலன் விசாரணை செய்ய உதவி புரிந்தார் என்பதற்கு அவர் அறிக்கை எதுவும் தரவில்லை. 11.11.2014 அன்று முதல் பழனிசாமி இந்த வழக்கில் புலன் விசாரணை அதிகாரிக்கு உதவி புரிந்துள்ளார். ஆசா.ஆ.36ஐ தயாரித்து காவலர் பழனிசாம்தான்.



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அந்த ஆவணத்தில் பழனிசாமியின் கையெழுத்து
இல்லை என்றால் சரிதான்.”

Therefore, we are of the view that the prosecution has not established that there were calls made between the accused around the time of the occurrence.

16. Interestingly, we find that though A2 was not involved in the offence, the prosecution has shown a recovery of blood stained knife from his possession. In the report, Ex.P27, it is stated that bloodstains were detected in the tile, lock of the house, pillow, mat, hair, and dhoti of the deceased, however, no blood stains were found in the knives or the bill hooks seized from the accused. Therefore, these recoveries are also of no use to the prosecution.

17. Hence, even if we were to consider the motive of A1 as established, we are of the view that the prosecution has miserably failed to establish the other circumstances. In any case, the circumstances established by the prosecution do not form a complete chain so as to point out only the



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guilt of the accused, ruling out any other hypothesis. Therefore, we are of the view that the prosecution has failed to establish its case beyond reasonable doubt, and hence, the appellants are entitled to acquittal.

18. As a result, **Crl.A.Nos.717 to 719 of 2018** are allowed. The conviction and sentence imposed on the appellants/accused 1 to 6, in S.C.Nos.6 of 2017 on the file of the learned III Additional District and Sessions Judge vide judgment dated 31.07.2018, are set aside. The appellants [A1 to A6], are acquitted of all charges levelled against them, and they are directed to be released forthwith unless their presence is required in connection with any other case. The fine amount, if any, paid by the appellants shall be refunded. Bail bond, if any, executed shall stand discharged. Consequently, the connected Criminal Miscellaneous Petition is closed.

(M.S.R., J.) (S.M., J.)
25.07.2024



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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No.
dk

To

1. III Additional District and Sessions Judge,
Cuddalore at Vriddhachalam.
- 2.The Inspector of Police
Ramanatham Police Station,
Thittakudi – Taluk, Cuddalore - District
3. The Superintendent of Prisons,
Central Prison for Women, Vellore.
- 4.The Superintendent of Prisons,
Central Prison, Cuddalore.
5. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.



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M.S.RAMESH, J.
and
SUNDER MOHAN, J.

dk

Pre-delivery Common judgment in
Crl.A.Nos.717, 718 and 719 of 2018
and Crl.M.P.No.2029 of 2024
in Crl.A.No.718 of 2018

25.07.2024