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CRL A No.444 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 22-06-2026

PRONOUNCED ON: 16-07-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL A No. 444 of 2021

and Crl.M.P.No.13257 of 2024

Muniappan
S/o. Muniappan @ Thekkapaiyan,
Chinnapandapalli Village, Aleseebam Post,
Shoolagiri Taluk, Krishangiri District.

...Appellant/Sole accused

Vs

State Rep. by
The Inspector of Police,
Uddanapalli Police Station,
Krishangiri District.
Cr.No.404 of 2017.

...Respondent

Prayer : Criminal Appeal filed under Section 374(2) of Code of Criminal Procedure, to set aside the judgment of conviction and sentence dated 13.08.2021 passed in S.C.No.80 of 2019 by the learned Sessions Judge (Fast Track Mahila Court), Krishnagiri and allow this appeal.



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For Appellant: Mr.R.Selvakumar

For Respondent: Mr.C.R.Malarvannan
Counsel for Government of Tamil Nadu
(Criminal Side)

JUDGMENT

(Judgment of the Court was delivered by Sunder Mohan J.)

This Criminal Appeal has been filed by the sole accused, who has been convicted for the offence under Section 302 of the Indian Penal Code (hereinafter referred to as “*the IPC*”) and sentenced to undergo life imprisonment and to pay a fine of Rs.1000/- each, in default, to undergo simple imprisonment for six months.

2(i) It is the case of the prosecution that the deceased Bhuvaneswari, was the wife of the accused; that they got married on 05.09.2010, pursuant to a romantic relationship; that they had two children i.e., a son aged four years and a daughter aged two years; that a few years after marriage, the accused caused cruelty to the deceased on account of dowry demand; that on 03.02.2013 a complaint was lodged before the All Women Police Station, Denkanikottai and on the advice of elders, the differences were reconciled; that thereafter also accused



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continued to cause harassment and suspected the fidelity of the deceased; that on 03.11.2017 the deceased had complained to her parents about the harassment caused by the accused; that on 07.11.2017 at about 12.00 midnight the accused had beaten up the deceased accusing her of illicit relationship with one Sattappa @ Thottapaiyan; that on 19.11.2017 between 2.00 a.m. to 6.00 a.m. caused the death of the deceased by electrocution and also by strangulation; and thus, committed the aforesaid offences.

(ii) PW1 the father of the deceased had lodged a complaint [Ex.P1] on 19.11.2017 at about 9.00 a.m., stating that he came to know from the neighbours that the accused had caused the death of the deceased by electrocution and by strangulation since he had suspected the fidelity of his wife/deceased. An FIR [Ex.P11] was registered in Cr.No.404 of 2017 by PW13, the Sub-Inspector of Police, against the accused under Section 302 of the IPC.

(iii) The investigation was taken up by PW14, the Inspector of Police, who went to the scene of occurrence, prepared the observation



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mahazar and seized certain incriminating articles from the residence including a white-coloured rope which was found on the neck of the deceased. He conducted inquest and made arrangements for postmortem examination. On 20.11.2017, the accused was arrested and on his confession, an electric wire [M.O.2] was seized from a bush near the river. Thereafter, on his transfer, PW15, the Inspector of Police, took up investigation. After examining all the witnesses and obtaining postmortem report [Ex.P4] and forensic sciences report [Ex.P3], the investigating officer-PW15 altered the offences in the FIR (the alteration report is marked as Ex.P19). Thereafter, PW15 filed the final report on 02.07.2018 against the accused for the offences under Section 302 r/w 201 of the IPC before the learned Judicial Magistrate No.II, Hosur.

(iv) On the appearance of the accused, the provisions of Section 207 Cr.P.C. were complied with. The case was committed to the Court of Sessions and was made over to the learned Sessions Judge (Fast Track Mahila Court), Krishnagiri, for trial, which was taken on file as S.C.No.80 of 2019. The trial Court framed charges against the accused for the offences under Sections 302 and 201 r/w 302 of the IPC and when questioned, the accused pleaded 'not guilty'.



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(v) To prove its case, the prosecution had examined 15 witnesses as P.W.1 to P.W.15 and marked 19 exhibits as Ex.P1 to Ex.P19, besides 11 material objects, viz., M.O.1 to M.O.11. When the accused was questioned u/s.313 Cr.P.C. on the incriminating circumstances appearing against him, he denied the same. The accused neither examined any witness nor marked any document on his side.

(vi) On appreciation of oral and documentary evidence, the trial Court found the accused guilty of offence under Section 302 of the IPC and acquitted him of the offence under Section 201 r/w 302 of the IPC. and sentenced him as stated above. Hence, the accused has preferred the instant appeal challenging the said conviction and sentence.

3. Mr.R.Selvakumar, learned counsel for the appellant/accused, would submit that there are no eyewitnesses in the case; that the circumstances relied upon by the prosecution have not been conclusively proved; that there is no evidence to show that the appellant stayed in the house with the deceased on the fateful day; that motive has not been



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established by the prosecution; that the prosecution has not established the manner in which the deceased was done to death; and that the circumstances in any case do not point out only to the guilt of the accused and there are several links missing in the chain of circumstances and prayed for acquittal.

4. Mr.C.R.Malarvannan, the learned counsel for the Government of Tamil Nadu (Crl.Side) for the respondent, *per contra* submitted that the motive has been established by the prosecution; that the recovery of wire on the confession of the appellant, the fact that the accused failed to establish the defence of alibi claimed by him and that the appellant had not discharged his burden under Section 106 of the Indian Evidence Act, would point out only to the guilt of the accused and took us through the evidence of the witnesses examined by the prosecution and prayed for dismissal of the appeal.

5. As stated above, the prosecution examined 15 witnesses. PW1 is the father of the deceased. PW2 is the mother of the deceased. PW3 is the brother-in-law of the deceased. PW4 is the sister of the deceased.



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PW5 is the brother of the deceased; PW6 is the Doctor, who conducted postmortem; PW7 and PW8 are the witnesses to the seizure mahazar [Ex.P6]. M.O.1, electric wire was marked through PW7, which was also identified by PW8. PW9, is the Village Administrative Officer, who had signed as a witness in the confession of the appellant and had also witnessed the seizure of electric wire on the confession of the appellant in a bush. PW10 is the relative of the deceased and speaks about the fact that the appellant was inimical towards the deceased since he suspected that she had illicit relationship with Sattappa @ Thottapaiyan. PW11 is the Sub-Inspector of Police, who despatched the FIR to the Magistrate; PW12 is the postmortem constable; PW13 is the Sub-Inspector of Police, who had registered the FIR. PW14 and PW15 are the other investigating officers.

6. The prosecution case is based on circumstantial evidence. The prosecution relies upon the fact that the deceased suffered a homicidal death, the circumstances of motive, recovery, the false explanation by the appellant and the fact that the accused had not discharged his burden of proving the facts that were exclusively within his knowledge.



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7. The fact that the deceased suffered a homicidal death has not been seriously challenged. In fact though the charge would state that the deceased was first electrocuted and thereafter strangled by the appellant, the medical evidence of the doctor (PW6) rules out electrocution. However, there are abrasions in the cheek of the deceased and also multiple small burn wounds over the back side of both the legs below the knee region. The Doctor had opined that the deceased had died of 'asphyxia due to strangulation'. The appellant had not discredited the evidence of PW6 and her report [Ex.P4] in any manner. Therefore, the fact that the deceased suffered a homicidal death has been conclusively established by the prosecution.

8. As regards the circumstance of motive, we find that PW1 to PW5 have stated that the appellant was inimical towards the deceased as he suspected her fidelity. In fact, PW1 had stated about the complaint which was given in the year 2013 accusing the appellant of committing cruelty in connection with dowry demand. The witnesses have spoken about an incident that took place two weeks prior to the occurrence where



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the appellant is said to have beaten the deceased, accusing her of illicit intimacy with another person (Sattappa). The evidence of PW1 to PW5 would clearly establish that the relationship between the appellant and the deceased, was not cordial. In fact, apart from the facts elicited in the chief examination, the defence also suggested to the witnesses that the deceased had extra-marital relationship. Therefore, we are of the view that the prosecution had established that the appellant has suspected the fidelity of the deceased and there were frequent quarrels and he had harassed the deceased.

9. It is the specific case of the prosecution that the appellant and the deceased were together in the house where the occurrence took place on the fateful night. Though it is the claim of the appellant that he was not available at the matrimonial home on the fateful day and he had been in Bangalore, the evidence of the relatives of the deceased PW3 and PW4 would suggest that the appellant was in the habit of going to Bangalore and returning to Krishnagiri the same night. The appellant has not

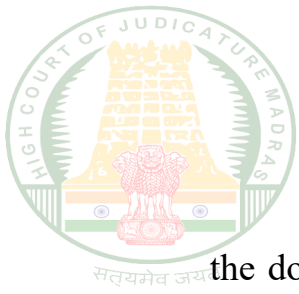


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produced any evidence to prove alibi and that he was at Bangalore when the occurrence took place.

10. The appellant therefore, has failed to establish that he was not present at the matrimonial home on the fateful day. It is also in the evidence that all the relatives of the appellant viz., his brother, parents were living near the house of the appellant. The evidence of the witnesses suggests that none of them were available on the next day morning. In fact, the inquest report suggests that the deceased was first seen by the brother of the appellant, who was not examined by the prosecution. We do not fault the prosecution as it is unlikely that he would support the case of the prosecution.

11. According to the prosecution, the accused was arrested on 20.11.2017 at about 11.00 a.m. On his confession, an orange-coloured electric wire was seized and marked as M.O.2, When PW14 first visited the house on 19.11.2017 at about 11.15 a.m., he had also seized a rope which measured 209 cms in length. This rope is marked as M.O.1. The doctor had opined that the death was caused due to strangulation. Though



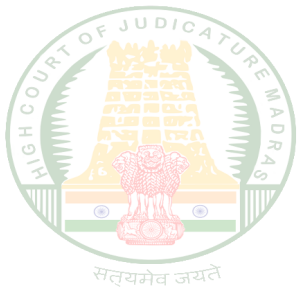
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the doctor had ruled out any possibility of electrocution, the recovery of the rope at the scene of occurrence assumes significance in the light of her opinion that the death was due to strangulation. The burn injuries on the back side of both legs also confirms that the victim/deceased was subjected to harassment prior to her death.

12. Further, as stated above, the accused had not established that he was away from the matrimonial home on the fateful day. Since the prosecution has established the circumstances pointed above, the accused ought to have explained the circumstances which led to the death of the deceased since they are exclusively within his knowledge. Section 106 of the Indian Evidence Act is only to meet such circumstances, as it could not be possible for the prosecution to establish facts which are exclusively within the knowledge of the accused. The absence of explanation would, also be a circumstance in the chain of circumstances to prove the guilt of the appellant.

13. In *State of W.B. v. Mir Mohd. Omar*, reported in (2000) 8 SCC 382, the Hon'ble Supreme Court has held as follows:

“31. The pristine rule that the burden of proof is on the



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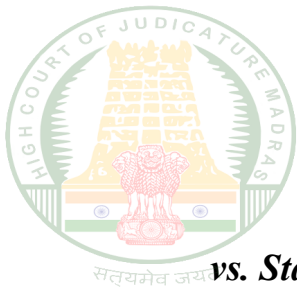
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prosecution to prove the guilt of the accused should not be taken as a fossilised doctrine as though it admits no process of intelligent reasoning. The doctrine of presumption is not alien to the above rule, nor would it impair the temper of the rule. On the other hand, if the traditional rule relating to burden of proof of the prosecution is allowed to be wrapped in pedantic coverage the offenders in serious offences would be the major beneficiaries, and the society would be the casualty.

32. In this case, when prosecution succeeded in establishing the afore narrated circumstances, the court has to presume the existence of certain facts. Presumption is a course recognised by the law for the court to rely on in conditions such as this.

33. Presumption of fact is an inference as to the existence of one fact from the existence of some other facts, unless the truth of such inference is disproved. Presumption of fact is a rule in law of evidence that a fact otherwise doubtful may be inferred from certain other proved facts. When inferring the existence of a fact from other set of proved facts, the court exercises a process of reasoning and reach a logical conclusion as the most probable position. The above principle has gained legislative recognition in India when Section 114 is incorporated in the Evidence Act. It empowers the court to presume the existence of any fact which it thinks likely to have happened. In that process court shall have regard to the common course of natural events, human conduct etc. in relation to the facts of the case.”

14. In this regard, it would also be useful to refer to the following observations of the Hon’ble Supreme Court in *Kalu alias Laxminathan*



vs. State of Madhya Pradesh, reported in 2019 (10) SCC 211.

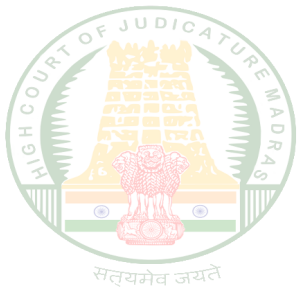
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12. In the circumstances, the onus clearly shifted on the appellant to explain the circumstances and the manner in which the deceased met a homicidal death in the matrimonial home as it was a fact specifically and exclusive to his knowledge. It is not the case of the appellant that there had been an intruder in the house at night. In Hanumant and Ors. vs. State of Madhya Pradesh, AIR 1952 SC 343, it was observed

“10. It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established, and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused....”

13. In [Tulshiram Sahadu Suryawanshi and Ors. vs. State of Maharashtra](#), (2012) 10 SCC 373, this Court observed:

“23. It is settled law that presumption of fact is a rule in law of evidence that a fact otherwise doubtful may be inferred from certain other proved facts. When inferring the existence of a fact from other set of proved facts, the court exercises a process



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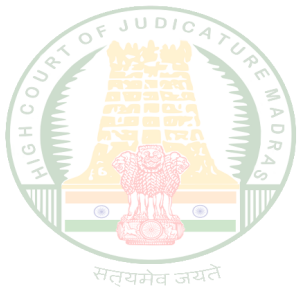


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of reasoning and reaches a logical conclusion as the most probable position. The above position is strengthened in view of [Section 114](#) of the Evidence Act, 1872. It empowers the court to presume the existence of any fact which it thinks likely to have happened. In that process, the courts shall have regard to the common course of natural events, human conduct, etc. in addition to the facts of the case. In these circumstances, the principles embodied in [Section 106](#) of the Evidence Act can also be utilised. We make it clear that this section is not intended to relieve the prosecution of its burden to prove the guilt of the accused beyond reasonable doubt, but it would apply to cases where the prosecution has succeeded in proving facts from which a reasonable inference can be drawn regarding the existence of certain other facts, unless the accused by virtue of his special knowledge regarding such facts, failed to offer any explanation which might drive the court to draw a different inference. It is useful to quote the following observation in [State of W.B. v. Mir Mohammad Omar](#)

“38. Vivian Bose, J., had observed that [Section 106](#) of the Evidence Act is designed to meet certain exceptional cases in which it would be impossible for the prosecution to establish certain facts which are particularly within the knowledge of the accused. In [Shambhu Nath Mehra v. State of Ajmer](#) the learned Judge has stated the legal principle thus:

‘11. This lays down the general rule that in a criminal case the burden of proof is on the prosecution and [Section 106](#) is certainly not



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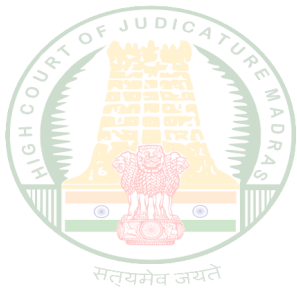
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intended to relieve it of that duty. On the contrary, it is designed to meet certain exceptional cases in which it would be impossible, or at any rate disproportionately difficult, for the prosecution to establish facts which are “especially” within the knowledge of the accused and which he could prove without difficulty or inconvenience.

The word “especially” stresses that. It means facts that are pre-eminently or exceptionally within his knowledge.”

14. In [Trimukh Maroti Kirkan vs. State of Maharashtra](#), 2006 (10) SCC 681, this Court was considering a similar case of homicidal death in the confines of the house. The following observations are considered relevant in the facts of the present case:

“14. If an offence takes place inside the privacy of a house and in such circumstances where the assailants have all the opportunity to plan and commit the offence at the time and in circumstances of their choice, it will be extremely difficult for the prosecution to lead evidence to establish the guilt of the accused if the strict principle of circumstantial evidence, as noticed above, is insisted upon by the courts. A judge does not preside over a criminal trial merely to see that no innocent man is punished. A judge also presides to see that a guilty man does not escape. Both are public duties. (See *Stirland v. Director of Public Prosecutions* — quoted with approval by Arijit Pasayat, J. in [State of Punjab v. Karnail Singh](#)). The law does not enjoin a duty on the prosecution to lead evidence of such character which is almost impossible to be led or at any rate extremely difficult to be led. The duty on the prosecution is to lead such



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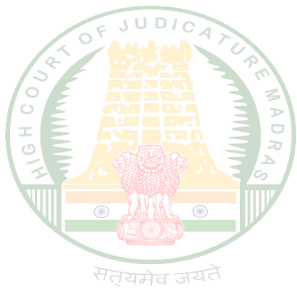
evidence which it is capable of leading, having regard to the facts and circumstances of the case. Here it is necessary to keep in mind [Section 106](#) of the Evidence Act which says that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. Illustration (b) appended to this section throws some light on the content and scope of this provision and it reads:

“(b) A is charged with travelling on a railway without ticket. The burden of proving that he had a ticket is on him.”

15. Where an offence like murder is committed in secrecy inside a house, the initial burden to establish the case would undoubtedly be upon the prosecution, but the nature and amount of evidence to be led by it to establish the charge cannot be of the same degree as is required in other cases of circumstantial evidence. The burden would be of a comparatively lighter character. In view of [Section 106](#) of the Evidence Act there will be a corresponding burden on the inmates of the house to give a cogent explanation as to how the crime was committed. The inmates of the house cannot get away by simply keeping quiet and offering no explanation on the supposed premise that the burden to establish its case lies entirely upon the prosecution and there is no duty at all on an accused to offer any explanation.

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22. Where an accused is alleged to have committed the murder of his wife and the prosecution succeeds in leading evidence to show that shortly before the commission of crime



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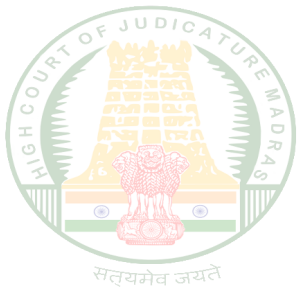


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they were seen together or the offence takes place in the dwelling home where the husband also normally resided, it has been consistently held that if the accused does not offer any explanation how the wife received injuries or offers an explanation which is found to be false, it is a strong circumstance which indicates that he is responsible for commission of the crime.”

15. In view of our conclusion that the prosecution has clearly established a prima facie case, the precedents cited on behalf of the appellant are not considered relevant in the facts of the present case. Once the prosecution established a prima facie case, the appellant was obliged to furnish some explanation under [Section 313](#), Cr.P.C. with regard to the circumstances under which the deceased met an unnatural death inside the house. His failure to offer any explanation whatsoever therefore leaves no doubt for the conclusion of his being the assailant of the deceased.”

15. The above observations are self-explanatory and would squarely apply to the facts of the instant case. The prosecution in this case has established that the deceased sustained a homicidal death; that the appellant had motive to cause the death of the deceased; and that the appellant and the deceased were residing in their matrimonial home along with their two children. Further, the appellant had failed to establish his plea of alibi and that he was at Bangalore on that night.



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16. In the light of the above circumstances, a duty is cast upon the appellant under Section 106 of the Indian Evidence Act, to explain the circumstances under which death was caused to the deceased and since the appellant has not discharged this burden, it would offer an additional circumstance in the chain of circumstances sought to be established by the prosecution. We may also note here that not only the appellant, but, his brother and other close relatives who were living nearby were not available in their respective residences on the day after the occurrence, which also can be considered as an additional circumstance in the facts and circumstances of the case, though by itself in other cases it may not have much relevance. Since all the circumstances that have been enumerated above point out only to the guilt of the accused ruling out any of the hypothesis, we see no reason to interfere with the impugned judgment.

17. In the result, the Criminal Appeal is dismissed. The conviction and sentence imposed upon the appellant/accused vide judgment dated 13.08.2021 in S.C.No.80 of 2019, on the file of the learned Sessions



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Judge (Fast Track Mahila Court), Krishnagiri, are confirmed.

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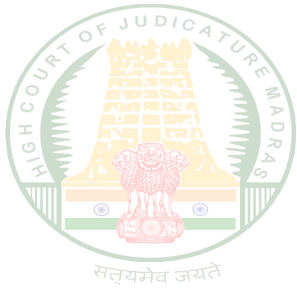
Consequently, the connected Criminal Miscellaneous Petition is closed.

(A.S.M.,J.) (S.M.,J.)
16-07-2026

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

1. The Sessions Judge,
(Fast Track Mahila Court),
Krishnagiri.
2. The Inspector of Police,
Uddanapalli Police Station,
Krishnagiri District.
3. The Superintendent of Prisons,
Central Prison, Vellore.
4. The Public Prosecutor,
High Court, Madras.



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CRL A No.444 of 2021

**DR.ANITA SUMANTH, J.
AND
SUNDER MOHAN, J.**

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**Pre-delivery Judgment in
CRL A No. 444 of 2021**

16-07-2026

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