



Crl. A(MD)No.223 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 04.06.2026

CORAM:

THE HONOURABLE Mr. JUSTICE N.ANAND VENKATESH

AND

THE HONOURABLE Mr. JUSTICE K.K.RAMAKRISHNAN

Crl. A. (MD)No.223 of 2024

Nagaraj

.. Appellant/sole accused

Vs.

The State rep. by
The Inspector of Police,
Srirangam Police Station,
Trichy District
Crime No.844/2022

..Respondent/Complainant

Appeals filed under Section 374(2) of Criminal Procedure Code,
against the judgment and order dated 20.12.2023 in S.C.No.171 of 2022 on
the file of the Sessions Judge, (Mahila Court), Trichy.

For Appellant
For Respondent

: Mr.M.Karunanithi
: Mr.G.Karuppasamypandian
Counsel for State



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JUDGMENT

(Judgment of the Court was delivered by N.ANAND VENKATESH, J)

The appellant has assailed the judgment passed by the Sessions Judge (Mahila Court), Trichy in SC No.171/2022 dated 20.12.2023 wherein he was convicted and sentenced in the following manner:

Offences for which convicted (IPC)	Sentenced to undergo
364	Rigorous imprisonment for seven years and to pay a fine of Rs.5,000/-, in default to undergo simple imprisonment for three months
302	Life imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo simple imprisonment for six months

The sentences are ordered to run concurrently.

2. The case of the prosecution is that the accused had a close contact and intimacy with the deceased Kalaiselvi alias Selvi. It is alleged that the accused person was forcing the deceased to live with him in conjugal relationship. Since the deceased refused, the accused person developed animosity against the deceased and decided to do away with her. On 09.07.2022, the accused person is said to have taken the deceased to Thiruvanaikaval in a bus and from there, he had engaged an auto and he



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took the deceased to Kollidam river. He thereafter attacked the deceased on the head with an iron rod repeatedly and caused her death.

3. On 11.07.2022, PW1, who is the Village Administrative Officer, got an information that a body of a woman is lying near Kollidam river. The officer along with the Assistant went to that place around 9.30 a.m. and found a woman's body in a decomposed state. Information was conveyed to the police and on enquiry, it came to light that the deceased woman was Kalaiselvi belonging to Puthuvathur Village. PW1 therefore lodged a complaint (Ex.P1) to the Inspector of Police, Srirangam Law and Order Police Station (PW17). Based on the same, an FIR came to be registered in Crime No.844/2022 (Ex.P13) under Section 174 Cr.P.C.

4. PW18 took up the investigation and he went to the place of occurrence at about 11 a.m. and prepared the observation mahazar (Ex.P2) and rough sketch (Ex.P14). He recovered blood soaked soil and ordinary soil, black colour blanket and a black colour mobile phone under Athatchi Ex.P3. The investigating officer conducted the inquest on the body of the



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deceased at about 12.30 p.m. in the presence of witnesses and prepared the inquest report (Ex.P15). The investigating officer examined witnesses and recorded their statements under Section 161(3) Cr.P.C.

5. The dead body was handed over to PW8, who brought the dead body for postmortem. The postmortem was conducted by PW13 and the postmortem certificate (Ex.P7) was issued by recording the following injuries:

*“The following ante-mortem injuries are noted over the body:-
Lacerated wounds with irregular margins and blackish discoloration noted over the following regions of scalp injuring the underlying blood vessels, nerves and muscles:*

- a. 1x1cmxbone deep, left side front top of head. placed 1cm to the left from midline obliquely placed. obliquely placed.*
- b. 5x2cmxbone deep, left side mid top of head, placed 2.5cm to the left from midline.*
- c. 6x2cmxbone deep, left side of head, placed 2cm below the wound 1(b), obliquely placed.*
- d. 4x1cmxbone deep, vertically place, mid top of head at midline.*
- e . 4x2cmxbone deep, obliquely placed, right side of head, situated 3.4cm, to the right from midline*
- f. [3x1cmxbone deep, obliquely placed, right temporal region, 3cm above right ear.*



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g. 3x2cmxbone deep, horizontally placed, left temporo-parietal region, 5.5cm above left ear. h. 1x1cmxbone deep, horizontally placed, left temporal region of scalp, placed 1cm below the above wound 1(g).

i. 4x2cmxbone deep, obliquely placed over left side back of head, situated 4cm to the left of midline.

j. 4x2cmxbone deep, obliquely placed involving lower back of head at midline.

k. Five overlapping and intersecting lacerated wounds involving right lower back of scalp situated 2cm behind right ear of sizes 4x2cmxbone deep, 4.5x1.5cmxbone deep, 5.5x1.5cmxbone deep, 5.5x2cmxbone deep and 6.5x2cmxbone deep respectively. On dissection: Diffuse brownish black sub scalpial contusion of size 10x5x0.5cm noted all over the underlying surface of scalp. Skull: Linear vertical fracture of size 4x0.2cmxthrough and through noted over the right side of the occipital bone. Brain: Liquefied and blood tinged.

OTHER FINDINGS

Heart: Soft, Flabby, Flattened; C/s: Decomposed; Lungs: Soft, Flabby, Lost its contour; C/s: Oozes decomposed fluid; Hyoid bone and Thyroid Cartilage: Intact; Larynx and Trachea: Intact; Liver, Spleen and Kidneys: Soft, Flabby; C/s: Decomposed; Stomach: Intact; C/s: Contained 60ml of yellowish fluid with smell of decomposition; Mucosa: Decomposed; Small intestine: 20ml of decomposed fluid with smell of decomposition; Mucosa: Decomposed; Large intestine: 15ml of decomposed fluid; Bladder: Empty; Uterus: Intact; C/s: Cavity empty; External genitalis: Intact; No injuries noted; Pelvis: Intact, Spinal cord: Intact.”

6. A final opinion (Ex.P8) was given to the effect that the deceased would appear to have died due to multiple head injuries.



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WEB COPY 7. The investigating officer prepared the alteration report Ex.P16 and altered the offence to Section 302 IPC. The clothes (MO7 to MO9) were recovered from the body of the deceased and was handed over to PW8 and it was sent to the Court under Form 91 (Ex.P17).

8. The investigating officer arrested the accused person on 13.07.2022 at about 7.00 a.m. in the presence of PW1 and his assistant and based on the alleged confession given by the accused person, the iron rod (MO6) was seized.

9. The investigating officer thereafter sent requisition letters to Vodafone and Airtel to provide call details for the mobile numbers of the accused and the deceased.

10. The investigating officer recorded the statements of all the witnesses under Section 161(3) Cr.P.C., and further collected all the relevant reports from the forensic sciences laboratory and the postmortem doctor and on completion of investigation, the charge sheet was laid before the District



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Munsif cum Judicial Magistrate, Srirangam, which was taken on file in PRC No.12/2022.

11. On appearance of the accused person, copies were furnished under Section 207 Cr.P.C and the case was committed under Section 209 Cr.P.C., and it was made over to the Sessions Judge, Mahila Court, Trichy, which was taken on file in SC No.171/2022.

12. The trial Court framed charges against the accused person for offence under Sections 364 and 302 IPC. On being questioned, the accused person denied the charges.

13. The prosecution examined PW1 to PW18 and marked Ex.P1 to Ex.P22 and also relied upon MO1 to MO9.

14. The incriminating circumstances and evidence were put to the accused person when he was questioned under Section 313(i)(b) of Cr.P.C. and he denied the same as false.



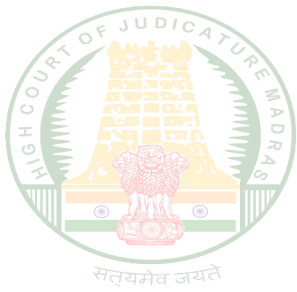
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WEB COPY 15. The accused person examined DW1 to DW3 and marked Ex.D1 and D2.

16. The trial Court, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the prosecution has proved the case beyond reasonable doubts and accordingly convicted and sentenced the accused person in the manner stated supra. Aggrieved by the same, the present appeal has been filed before this Court.

17. This Court carefully considered the submissions made on either side and materials available on record.

18. The entire case of the prosecution hinges upon the circumstantial evidence. It is now too well settled that the prosecution has to prove every circumstance and each circumstance must form a chain of evidence so complete as to exclude every hypothesis other than the guilt of the accused.

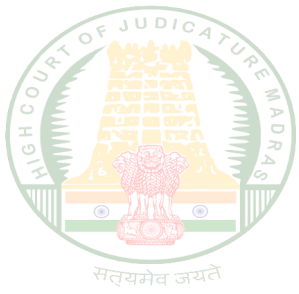


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WEB COPY 19. The chain of circumstances relied upon by the prosecution are motive, last scene theory, arrest and confession and recovery.

20. Insofar as the motive is concerned, the case of the prosecution is that the deceased had illicit intimacy with the accused person; that the accused person was compelling the deceased to live with him in a conjugal relationship and the deceased refused. With this animosity, he managed to coax the deceased who usually goes out with him regularly and this time, he had called the deceased only to do away with her. According to the prosecution, the circumstance of motive has been established by examining PW7, PW11 and PW12, who are the relatives of the deceased.

21. The learned counsel for the appellant submitted that there is no dispute that the accused person knew the deceased who was taken by him to various places to have physical intercourse for which he used to pay money. The learned counsel pointed out to the stand taken by the accused person in this regard when he was questioned under Section 313 of Cr.P.C. It is contended that this by itself cannot establish motive to commit murder, as is



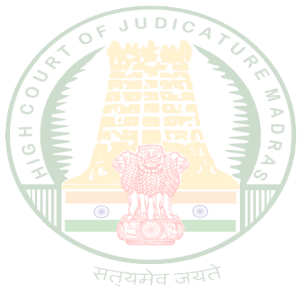
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WEB COPY sought to be projected by the prosecution.

22. The next important circumstance that is relied upon by the prosecution is the last scene theory. For this purpose, PW5 and PW6 were examined on the side of the prosecution.

23. PW5 is an Auto Driver. He has stated in his chief examination that on 09.07.2022, at about 11.30 a.m., a man and a woman asked for his service and he took them and dropped near Kollidam.

24. In the cross-examination, he states that after seeing the accused person in the auto rickshaw, he is once again seeing him for the first time in Court. He further states that at the time of travelling in the auto, the accused person had worn face mask. If that is the case, it is not known as to how PW5 was able to identify the accused in the Court. PW5 was not called by the investigating officer to identify the dead body. Likewise, even in the dock, PW5 did not identify the deceased and he merely states that a lady also got into the auto. Not even the photograph of the deceased lady was



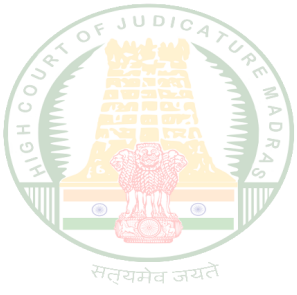
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shown to PW5. Thus, nowhere PW5 identified the deceased lady and he only states that a lady got into the vehicle without identification. *Ex consequenti*, PW5 could not have identified the accused in the dock since, according to him, he had worn a mask when he was travelling in the auto rickshaw. PW5 never identified the deceased and therefore, it is not known as to which lady had travelled in the auto rickshaw. Therefore, the evidence of PW5 to substantiate the last scene theory is not sustainable.

25. The next witness is PW6. He states in the chief examination that on 09.07.2022, around, 12 noon, he saw a man and a lady getting down from an auto at a distance of 200 feet from where he was standing. Insofar as the identity of the accused person, he identifies him for the first time in the Court. PW6 does not identify the deceased at any point of time as was the case with PW5. Therefore, the evidence of PW6 is totally unreliable.

26. A conspectus of the above discussion is that the evidence of PW5 and PW6 does not establish the last scene theory that was projected by the prosecution.



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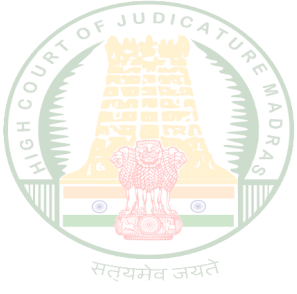
WEB COPY 27. The next circumstance that was relied upon is the arrest, confession and recovery.

28. The specific case of the prosecution is that the accused person was arrested on 13.07.2022 at 7.15 a.m. in the presence of PW1 and his Assistant. This evidence is completely belied by the evidence of PW7, PW11 and PW12.

29. During cross-examination, PW7 has stated as follows:

“11ம் தேதி என் அம்மாவுக்கு காரியம் முடிந்துவிட்டது. மறுநாள் 12ம் தேதி இரவு 8.00 மணிக்கு போலிசார் ஜீப்பில் எதிரியை எங்கள் வீட்டிற்கு அழைத்துவந்தார்களா என்றால், ஆமாம் இரவு அழைத்துவந்தார்கள். நேரம் சரியாக ஞாபகம் இல்லை. அப்போது எனது பெரியப்பா சுப்ரமணி, வீரமுத்து, எனது அண்ணன் ராஜசேகர், சின்னம்மாள், அக்கா ரஞ்சிதா ஆகியோர்கள் இருந்தார்கள். அவர்களுக்கும் இந்த விவரம் தெரியும். அப்போது ஊர்க்காரர்கள் எல்லாம் கூட்டமாக வந்துவிட்டதால் ஆஜர் எதிரியை ஜீப்பில் உட்கார வைத்துவிட்டார்கள்.”

30. PW11 in his cross-examination states as follows:



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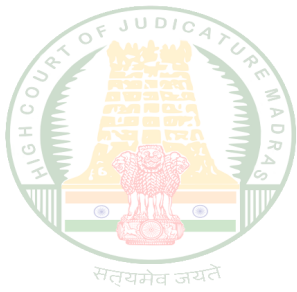
“கலைச்செல்விக்கு இறுதி சடங்கு நடந்த மறுநாள் 12.07.2022 அன்று ஸ்ரீரங்கம் நாகராஜை எங்கள் ஊருக்கு அழைத்து வந்து இவர்தான் கொலை செய்தவர் என்று சொன்னார்கள். அப்போது தான் எதிரியை பார்த்தேன்.”

31. PW12 during cross examination states as follows:

“மறுநாள் 12.07.2022 அன்று ஸ்ரீரங்கம் போலிசார் எதிரி நாகராஜை கைது செய்து கலைச்செல்வி வீட்டிற்கு அழைத்து வந்து இவர் கலைச்செல்வியை கொலை செய்தார் என்று சொன்னார். அப்போது நான் நாகராஜை பார்த்தேன். போலீஸ் வேனில் அழைத்து வந்தார்கள். அதன்பிறகு அரைமணி நேரத்தில் போலீசார் அழைத்து சென்று விட்டார்கள்.”

32. It must be borne in mind that PW7, PW11 and PW12 are relatives of the deceased. All the three witnesses consistently state that the accused person had been arrested even on the previous day on 12.07.2022 and he was brought to the house of the deceased. It is therefore clear that the version given by PW18, who is the investigating officer and PW1, who is the witness to the arrest, is patently false.

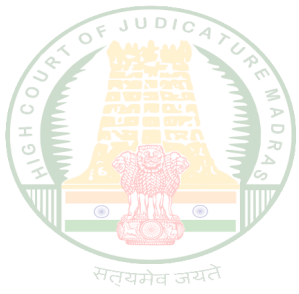
33. The next issue is with respect to the alleged recovery of the mobile phone from the scene of crime.



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WEB COPY 34. PW1 is a witness for the recovery. He had signed Ex.P2, which is the observation mahazar. On carefully going through the original document, it is seen that insofar as recovery of the mobile phone, it has been later inserted with a different ink. Same is the case with the recovery mahazar (Ex.P3), where at Column 7, there is an insertion as S.No.4 with a different ink regarding the recovery of the mobile phone.

35. PW18 admits in the cross-examination that the recovery of the mobile phone has been written with a different ink in Ex.P2 and Ex.P3. Similarly even in the rough sketch (Ex.P14), the availability of the mobile phone has been written with a different ink. However, he justifies the same by saying that the ink in the pen that was used drained and therefore a different pen was used. This explanation given by PW18 is far from satisfactory and it is quite apparent that insofar as the alleged recovery of the mobile phone is concerned, it was an insertion, which was made at a later point of time in Ex.P2, PW3 and PW4. This fact is further strengthened through Ex.D2 marked on the side of the accused person under Section 207 of Cr.P.C., which is the recovery mahazar that was served on



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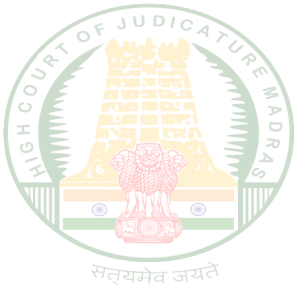
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the accused person and in this copy, there is no Serial No.4 in Column 7. It has also been spoken to by DW3, who is the Head Clerk working in the District Munsif cum Judicial Magistrate Court, Srirangam.

36. In the light of the above discussion, the so called recovery of mobile phone as was tried to be projected by the prosecution falls flat and the evidence on record shows that it is a cooked up story by the prosecution.

37. Counsel for the State placed strong reliance upon the Call Details Report (CDR) marked as Ex.P9 read along with the evidence of PW14 and PW15. He submitted that these details clearly established the fact that the accused person was present along with the deceased at the time of the incident.

38. This Court has already held that the recovery story that was projected by the prosecution with respect to the mobile phone of the accused person is wholly unreliable. Even insofar as the CDR relied upon by the prosecution, a careful reading of Ex.P9 shows that on 09.07.2022



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between 7.59 a.m. and 12.07 hrs., the mobile phone of the deceased had nearly 20 incoming and outgoing calls. Out of the 10 persons who had spoken to the deceased, 9 were men and one was a woman.

39. PW18 in his evidence states that he has not enquired any person whose mobile numbers were found in the mobile phone of the deceased during the relevant point of time. A detailed cross-examination has been done with PW18 on the entries found in the CDR. In view of the same, mere CDR does not in any way strengthen the case of the prosecution since the deceased seems to have had contacts with many men, who had called her during the time between 7.59 a.m. and 12.07 hrs. during which period, the murder is said to have taken place.

40. The tainted investigation that has been conducted in this case also gets exposed from the evidence of PW7, PW11, DW1 and DW2.

41. PW7 in his evidence has stated as follows:

“நாங்கள் ஸ்ரீரங்கம் காவல்நிலையத்திற்கு சென்ற போது



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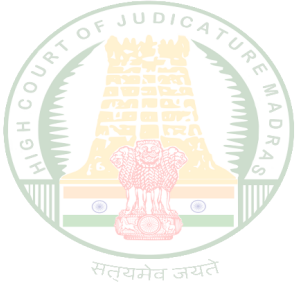
எதிரி நாகராஜை காவல்நிலையத்தில் உட்கார வைத்திருந்தார்கள். எதிரி நாகராஜ் இடம் இருந்து இரண்டு தங்க மோதிரத்தை வாங்கி அம்மா உடைய மோதிரமா என்று கேட்டார்கள். நான் இல்லை என்று சொல்லிவிட்டேன். என் அம்மா காசு என்று சொல்லி எதிரியிடம் இருந்து 20,000/- ரூபாய் வாங்கி கொடுத்தார்கள். அந்த பணத்தை என்னுடைய பெரியம்மா சின்னம்மாளிடம் கொடுத்துவிட்டேன். என் அம்மா போட்டிருந்த நகை கவரிநகை அதை என்னிடம் கொடுக்கவில்லை யாரிடம் கொடுத்தார்கள் என்று எனக்கு தெரியாது.”

42. PW11 in his evidence has stated as follows:

“அங்கு ஸ்ரீரங்கம் காவல்நிலையத்தில் எதிரிகளிடம் இருந்து ரூ.20,000- வாங்கி கொடுத்தார்கள் என்று சொன்னால் சரிதான். 12.07.2022 அன்று போலிசார் எதிரையை காட்டிவிட்டு இவர்தான் கலைச்செல்வி கொண்டு விட்டார் என்று சொல்லிவிட்டு போய்விட்டார்கள்.”

43. DW1 in his evidence states as follows:

“நான் என் ஊர்க்காரங்க பாய், எனது மனைவி என்னுடைய பேரன் எல்லோரும் காலை 9.00 மணிக்கு ஸ்ரீரங்கம் காவல்நிலையத்திற்கு போனோம். அங்கு செத்துபோன அம்மாவின் மகள் இருந்தார். அந்த பெண்ணிடம் போலீசார் இரண்டு மோதிரத்தை காட்டினார்கள். அதற்கு அந்த பெண் மோதிரம் தன்னுடையது இல்லை என்று



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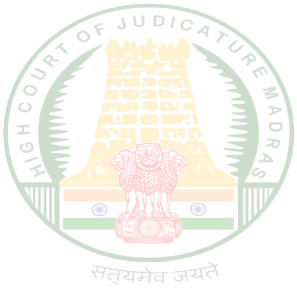
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சொல்லிவிட்டார். ஆந்த மோதிரத்தை போலீசார் என்னிடம் கொடுத்துவிட்டார். ரூபாய் 29,000/-த்தில் ரூபாய் 20,000/- ஐ செத்து போன அம்மாவின் மகளிடம் கொடுத்துவிட்டார்கள். முதி 9,000த்தில் அவர்கள் ட செலவிற்கு 500 ரூபாய் எடுத்துக்கொண்டு மீதி 8,500 ரூபாய் பணத்தை என்னிடம் கொடுத்துவிட்டார்கள். ஆன்று இரவு வரை நான் காவல்நிலையத்தில் இருந்தேன். ஆதற்கு பிறகு நான் வீட்டிற்கு போய்விட்டேன்.”

44. DW2 in his evidence states as follows:

“கலைச்செல்வியின் உறவினர்கள் மற்றும் அவரது மகள் காவல்நிலையத்திற்கு வந்திருந்தார்கள். பணத்தில் இருந்து ரூபாய் 20,000/- எடுத்து கலைச்செல்வியின் மகளிடம் கொடுத்தார். இரண்டு மோதிரத்தை கலைச்செல்வியின் மகளிடம் ஆய்வாளர் காட்டி கேட்டார். கலைச்செல்வியின் மகள் மோதிரங்கள் தன்னுடையதில்லை என்று சொல்லிவிட்டார். அதனால் இரண்டு மோதிரங்களையும் நாகராஜ் அப்பா கணேசனிடம், ஆய்வாளர் ஒப்படைத்துவிட்டார்.மீதி 9,000/- பணத்தில் ரூபாய் 500/- எடுத்துக்கொண்டு மீதி 8,500/- ஐ கணேசனிடம் கொடுத்துவிட்டார்கள்.”

45. A careful reading of the above depositions clearly establishes the fact that the accused person was not only arrested and brought to the police



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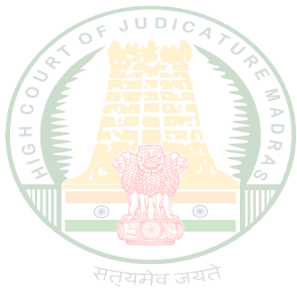
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station on 12.07.2022 but also a sum of Rs.20,000/- has been taken away from him and handed over to the relatives. This is the stature of investigation that has taken place in this case and fortunately all this has come out during the course of evidence and more particularly from the witnesses, who were examined on the side of the prosecution.

46. The upshot of the above discussions clearly establishes that the prosecution has not proved any of the circumstances and there is a snap in every link in the chain of circumstances. Unfortunately the trial Court has lost sight of these crucial factors and has erroneously arrived at a conclusion that the prosecution has proved the case beyond reasonable doubts. In the case in hand, the prosecution has miserably failed to substantiate the charges and prove the case and therefore, this Court is left with no other option except to acquit the accused person from all charges.

47. In the result, the criminal appeal is allowed and the conviction and sentence dated 20.12.2023 imposed on the appellant in S.C.No.171 of 2022 on the file of the Sessions Judge, (Mahila Court), Trichy are hereby set aside

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and the appellant is acquitted from all the charges and he is set at liberty forthwith unless his presence is required in connection with any other case.
Fine amount, if any, shall be refunded.

[N.A.V, J.] & [K.K.R.K, J.]
04.06.2026

NCC : Yes/No

Index : Yes/No

RR

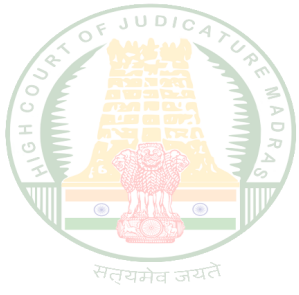
To

1.The Sessions Judge, (Mahila Court), Trichy.

2.The Inspector of Police,
Srirangam Police Station,
Trichy District.

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

4.The Section officer (English Records)
Madurai Bench of Madras High Court,
Madurai.



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**N.ANAND VENKATESH, J
AND
K.K.RAMAKRISHNAN, J.**

RR

Judgment made in
Crl. A. (MD)No.223 of 2024

04.06.2026