



Crl.A(MD)No.283 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2026

CORAM:

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

Crl.A(MD)No.283 of 2023

K.Thangaraj @ Thangam

... Appellant/Sole Accused

Vs.

The State of Tamil Nadu,
Represented by,
The Inspector of Police,
Srivilliputhur Town Police Station,
Virudhunagar District.
(Crime No.256 of 2017).

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 374(2) of Cr.P.C to call for the records of the Judgment in S.C.No.115 of 2017 dated 23.11.2022 on the file of the learned Sessions Judge, Fast Track Mahila Court, Virudhunagar District @ Srivilliputhur and set aside the same and acquit the appellant/sole accused.



Crl.A(MD)No.283 of 2023

For Appellant : Mr.T.Thirumurugan

For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

JUDGMENT

**(Judgment of the Court was delivered by
G.K.ILANTHIRAIYAN, J.)**

This appeal arises out of the Judgment passed in S.C.No.115 of 2017 dated 23.11.2022 on the file of the learned Sessions Judge, Fast Track Mahila Court, Virudhunagar District @ Srivilliputhur, thereby convicting the appellant for the offences punishable under Sections 302 and 364 of I.P.C.

2.The case of the prosecution is that the accused and the deceased were relatives and share a brother and sister relationship. The accused had discontinued 12th standard studies and was working as a driver. During her vacation, the deceased went to her native place and, while returning to Gobichettipalayam with her mother, the accused also accompanied them. As a result, the accused and the

2/18



Crl.A(MD)No.283 of 2023

deceased became acquainted with each other and fell in love.

Thereafter, they were also in a sexual relationship. Therefore, the parents warned the accused. Twenty days before the date of the incident, the deceased was seen by another person with the intention of marrying her. This came to the knowledge of the accused and thereafter, the complainant scolded the deceased instructing her not to speak to him. The deceased then ended her relationship with the accused. Even then, the accused compelled her to marry him and tortured her in the name of love. When the deceased did not comply to his request, the accused intended to do away with the life of the deceased and purchased a knife.

3.On the date of occurrence ie., on 11.04.2017, when the deceased went by bus to Mary Jenova Hospital, Srivilliputhur, for work, the accused followed the bus in his two wheeler and called the deceased to come to VPM Jewellery shop, Srivilliputhur at about 01.15 p.m. He brainwashed her, telling her that she was going to

3/18



Crl.A(MD)No.283 of 2023

marry someone else anyway, and that until then, they could continue to chat. He compelled her to board his motorcycle and took her to Periyakulam Kanmai. Thereafter, he stopped the vehicle and compelled the deceased to marry him. It was refused by the deceased and as such, when she insisted ongoing back home, the accused assaulted her with knife on her neck. Therefore, she sustained grievous injuries and died.

4.On the complaint, the respondent registered an F.I.R in Crime No.256 of 2017 for the offences punishable under Sections 364 and 302 of I.P.C. After completion of investigation, a final report was filed and the same has been taken cognizance by the trial Court.

5.In order to bring the charges to home, the prosecution had examined P.W.1 to P.W.12 and marked Ex.P1 to P16. The prosecution had produced Material Objects M.O.1 to M.O.15. On



Crl.A(MD)No.283 of 2023

the side of the accused, no witnesses were examined and no documents were produced before the trial Court.

6.On perusal of oral and documentary evidence, the trial Court found the accused guilty for the offences punishable under Sections 302 and 364 of I.P.C. He was sentenced to undergo life imprisonment and to pay a fine of Rs.2,000/- in default, to undergo six months Rigorous Imprisonment for the offence punishable under Section 302 of I.P.C and he was sentenced to undergo life imprisonment and to pay a fine of Rs.2,000/- in default, to undergo six months Rigorous Imprisonment for the offence punishable under Section 364 of I.P.C. Aggrieved by the same, the present appeal has been preferred by the appellant.

7.The learned counsel appearing for the appellant submitted that no one has spoken about the forcible taking of the deceased by the accused to attract the charge under Section 364 of



Crl.A(MD)No.283 of 2023

I.P.C. It is a case based on circumstantial evidence and no one had seen the accused along with the deceased prior to the alleged occurrence. Only one person, a close relative of the deceased, spoke about the last seen theory. He deposed as P.W.5 and in his cross examination, he did not even state that he last saw the accused along with the deceased.

8.P.W.1 to P.W.3 and P.W.5 are close relatives of the deceased and are interested witnesses. The prosecution failed to examine any independent witness to prove the charge. The Trial Court convicted the appellant solely on the basis of the evidence of P.W.1 to P.W.3, P.W.5 and P.W.12. Their evidence is untrustworthy, since, according to their testimony, P.W.1, who is the father of the deceased alleged that the accused and deceased were in a prohibited relationship, which was opposed by him. He also refused to arrange a marriage between them. Therefore, according to the case of the prosecution, the accused kidnapped the deceased and murdered her.



Crl.A(MD)No.283 of 2023

WEB COPY

9.P.W.1 did not even mention the name of the accused in the F.I.R, though he had specifically alleged that the accused murdered the deceased. On the complaint, the respondent registered the F.I.R without naming the accused. The Trial Court convicted the accused solely on the basis of call detail records. However, the prosecution produced only the accused's cell phone, sim card and memory card to show the call details between the deceased and the accused. This evidence cannot be relied upon since the original hard disc was not produced by the prosecution. The prosecution also failed to establish a proper chain of circumstantial evidence linking the accused to the alleged occurrence. Further, there was a delay in lodgment of complaint and in sending it to the Court.

10.As per the evidence of P.W.3, he went to the scene of crime only after the arrival of P.W.1 and P.W.2. He denied the presence of the accused at the police station. P.W.1 and P.W.2,

7/18



Crl.A(MD)No.283 of 2023

however, deposed that the accused was present at the police station.

Therefore, it is submitted that the entire case was concocted by the prosecution and foisted a false case was foisted as against the accused herein.

11.The Village Administrative Officer deposed as P.W.4.

He stated that the accused was arrested on 12.04.2017 during a routine vehicle check and that he gave a confession statement in his presence. This version is unbelievable, since no prudent person would roam around the police station after committing a murder. Therefore, the arrest of the accused and the confession statements are doubtful, and the prosecution failed to prove the charge beyond reasonable doubt against the accused. Accordingly, the benefit of doubt must go in favor of the accused, and the judgment of conviction is liable to be set aside.



Crl.A(MD)No.283 of 2023

WEB COPY

12.Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that, admittedly, the accused had fallen in love with the deceased. When P.W.1 arranged a marriage for the deceased, the accused compelled her to marry him and subjected her to mental harassment. He used sweet words to influence her and dragged her on his bike to the scene of the crime, where he attempted to compel her to marry him. When she refused, he immediately stabbed her in the neck and murdered her. Therefore, the deceased fell into a pool of blood and died.

13.P.W.5 categorically deposed regarding the last-seen theory of the accused and the deceased. This testimony is also clearly corroborated by the confession statement recorded from the accused in the presence of P.W.4. More particularly, the last-seen theory is supported by the call detail records of the deceased's cell phone. The call detail records of the deceased were marked as Ex.P.15, and the call detail records of the accused were marked as

9/18



Crl.A(MD)No.283 of 2023

Ex.P.16. Both Ex.P.15 and Ex.P.16 clearly show the calls between the accused and the deceased during the relevant time. Further, these records reveal that the accused repeatedly called the deceased and dragged her on his bike to the scene of the crime. After 01.05 p.m., i.e., just before the occurrence, her phone was switched off. Thereafter, the accused committed the murder and fled the scene.

14.The cell phone of the accused was seized and produced as M.O.3. It contained the battery, SIM card, and memory card and constitutes as the main original evidence and the same is an admissible piece of evidence under Section 65(a) of the Indian Evidence Act, 1872. Hence, the prosecution has categorically proved the charges, and the Trial Court rightly convicted the accused. This conviction does not warrant any interference by this Court.

15.Heard the learned counsel appearing on either side and perused the materials available on record.

10/18



Crl.A(MD)No.283 of 2023

WEB COPY

16. Admittedly, the accused and deceased were relatives and share a brother and sister relationship. However, both fell in love and were also in a physical relationship. This came to the knowledge of the deceased's parents, who arranged her marriage to another person. Upon learning about this marriage arrangement, the accused attempted to compel her to marry him, but she refused.

17. While being so, on the date of occurrence, the deceased went to Mary Jenova Hospital, Srivilliputhur for work. The accused repeatedly called her through phone and convinced her to meet him for a chat, citing the arranged marriage with another person. Thereafter, the deceased was dragged by the accused in his two-wheeler to the scene of crime. At that juncture, P.W.5 saw both the deceased and accused in the motorcycle on 11.04.2017. Though P.W. 5 had seen them, neither the accused nor the deceased noticed him. Both were known to P.W.5, as they were close relatives. Therefore, P.W.5 did not suspect that the accused intended to do away with the



Crl.A(MD)No.283 of 2023

WEB COPY

life of the deceased. Only after murdering the deceased, he came to understand that the accused had committed the crime. Though he was cross-examined, nothing was elucidated by the defence to disprove the case of the prosecution. Therefore, the prosecution clearly proved the last seen theory to connect the accused to the commission of crime.

18.The parents of the deceased had deposed as P.W.1 and P.W.2. They clearly deposed about the motive behind the crime. According to them, the accused had fallen in love with the deceased, who was actually his sister according to their relationship. Therefore, they warned both of them and arranged the marriage of the deceased with another person. Immediately after coming to know about the knowledge of the deceased with another person, the accused decided to do away with her life. Therefore, he dragged her to the scene of crime and murdered her.



Crl.A(MD)No.283 of 2023

19.It is relevant to extract the portion of the evidence of

P.W.1 as follows:

“நான் என் மகளை காலை 08.00 மணிக்கு, கிருஷ்ணன்கோவிலிருந்து திருவில்லிபுத்தூருக்கு என் மகளை பஸ் ஏற்றிவிட்டு ஊருக்கு போய்விட்டேன். என் மகள் பகல் 12.00 மணிக்கு எனக்கு போன் செய்து ஹாஸ்பிட்டலில் டாக்டரை பார்த்துவிட்டதாக போன் செய்து கூப்பிட்டபிறகு வரசொல்லி சொன்னதாக என் மகள் சொன்னார். பின்னர் மதியம் 01.00 மணிக்கு பஸ்ஸில் வருவதாக என் மகள் சொன்னாள் ஆனால், மதியம் 01.00 மணிக்கு என் மகள் வரவில்லை. அதனால், சந்தேகம் அடைந்து நானும், என் மனைவியும் திருவில்லிபுத்தூர் பஸ் ஸ்டான்டிங்கு வந்தோம். பிறகு ஆண்டாள் கோவில் பக்கம், மடவார்வளாகம் ஆகிய இடங்களில் தேடினோம். அவ்வாறு தேடிக்கொண்டிருந்த பொழுது, அந்த வழியாக சென்ற நான்கு பேர் பேசிக்கொண்டிருந்தார்கள், மடவார்வளாகம் சுடுகாட்டு பக்கத்தில் ஒரு சிறிய வயது பெண் இறந்து கிடப்பதாக பேசி கொண்டு போனார்கள். நானும் என் மனைவியும் போய் பார்த்தோம். அங்கு என் மகள் செல்வி, இடது கையில் இரத்தக் காயங்களுடனும், கழுத்து அறுபட்டும் இரத்த வெள்ளத்தில் இறந்து கிடந்தார்.”



Crl.A(MD)No.283 of 2023

WEB COPY

20.The above evidence is clearly corroborated by the testimony of P.W.2. P.W.1 and P.W.2 are none other than the parents of the deceased and the accused was well known to them. Further, in order to prove that the accused had taken a two-wheeler belonging to his brother to drag the deceased to the scene of occurrence, the prosecution examined the brother of the deceased as P.W.6. He deposed that M.O.12, the two-wheeler used by the accused, belonged to him, and that on the date of occurrence, the accused had taken the said two-wheeler from him.

21.That apart, Ex.P.15 and Ex.P.16 are the vital documents to connect the accused with the scene of crime. Both the documents are call detail records and it clearly revealed the phone calls between the accused and the deceased. At the relevant point of time, the calls corroborate that the accused had called and the accused dragged her to the scene of crime. When they reached the scene of crime,

14/18



Crl.A(MD)No.283 of 2023

immediately the deceased's phone was switched off and thereafter, the accused committed the murder.

22.The relevant portion of the evidence of P.W.5 is as follows:

“11.04.2017ல் மேரிஜெனவோ மருத்துவ மனைக்கு வரச்சொன்னதாக சொன்னார். அதே நாள் 11.04.2017ல் நானும், எனது சித்தப்பா முருகனும் சொந்த வேலையாக என்னுடைய டுவீலரில் இராஜபாளையம் போய்விட்டு மடவார்டுளம் பக்கத்தில் வந்துகொண்டிருந்தோம். அப்பொழுது மதியம் 1 மணி இருக்கும். கருப்பசாமி மகன் தங்கராஜ், என்னுடைய மதினி மகள் செல்வியும் அதே ரோடில் டுவீலரில் எங்களுக்கு எதிர்த்தார் போல் போய்க்கொண்டிருந்தார்கள். அவர்கள் எங்களை பார்க்கவில்லை. நான் சித்தப்பாவிடம் நம்மளை கூட கவனிக்காமல் இஷங்க இரண்டுபேரும் எங்கு போகிறார்களோ என்று சொன்னேன். அதற்கு என் சித்தப்பா முருகன், வேலைக்கு மேரிஜெனவோ ஹாஸ்பிட்டலுக்கு கேட்டு வருவதாக சொன்னாங்க. அது விசயமாக போறாங்கபோல என்று சித்தப்பா என்னிடம் பேசிக்கொண்டு வந்தார். நாங்கள் இருவரும் கோட்டையூர் வந்துவிட்டோம். எதிரியை தெரியும்.



Crl.A(MD)No.283 of 2023

எதிரியின் பெயர் தங்கராஜ். செல்வலிங்கம் தனது
மகளை காணவில்லை என்று
தேடிக்கொண்டு இருந்துவிட்டு காவல் நிலையத்தில்
கம்பிளைண்ட் கொடுத்து விட்டு தேடிப்பார்ப்பதாக
சொன்னார்.”

23.P.W.5 categorically deposed about the last seen of the accused along with the deceased. It is also corroborated with the call detail records, which were marked as Ex.P.15 and Ex.P.16.

24.In view of the above, the prosecution has categorically proved the charges under Sections 364 and 302 of I.P.C beyond any reasonable doubt and the Trial Court rightly convicted the appellant. This Court finds no infirmity or illegality in the conviction and sentence imposed by the Trial Court in S.C.No.115 of 2017 dated 23.11.2022 on the file of the learned Sessions Judge, Fast Track Mahila Court, Virudhunagar District @ Srivilliputhur. Hence, the appeal fails and is dismissed. The respondent is directed to take steps



Crl.A(MD)No.283 of 2023

to secure the accused and produce him before the Trial Court for taking further steps.

**[G.K.I.J.,] & [R.P.J.,]
03.02.2026**

NCC :Yes/No

Index :Yes/No

ps

To

1.The Sessions Judge, Fast Track Mahila Court,
Virudhunagar District @ Srivilliputhur.

2.The Inspector of Police,
Srivilliputhur Town Police Station,
Virudhunagar District.

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



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Crl.A(MD)No.283 of 2023

G.K. ILANTHIRAIYAN, J.
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ps

Crl.A(MD)No.283 of 2023

03.02.2026