



Crl.A(MD)No. 390 of 2023

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH
COURT**

DATED: 05.02.2026

CORAM:

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

Crl.A(MD)No.390 of 2023

R.Chinna Alagu @ Nalliappan ... Appellant/Sole Accused

Vs.

The State through,
The Inspector of Police,
Natham Police Station,
(In Crime No.295/2016) ... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 374 of Criminal Procedure Code, to call for the records pertaining to the Sessions Case in S.C.No.304 of 2018, on the file of the Additional District and Sessions Judge, Dindigul dated 06.04.2023 and to acquit the appellant/accused from all the charges.



Crl.A(MD)No. 390 of 2023

For Appellant : Mr.C.M.Arumugam

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

JUDGMENT

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

This appeal is directed as against the Judgment passed in S.C.No.304 of 2018, dated 06.04.2023, on the file of the Additional District and Sessions Judge, Dindigul.

2. The case of the prosecution is that the deceased had an illegal intimacy with the wife of the accused. Therefore, there was dispute between the accused and his wife and hence, the wife of the accused left the matrimonial home and went to her parents' house. Therefore, the accused in order to do away with the life of the deceased, on 24.06.2016 at about 12.00 noon, dragged the deceased in his motorcycle bearing Registration No.TN-59-BB-5347 to Kuttoor Karanthamalai,

2/17



Crl.A(MD)No. 390 of 2023

Puthupatti, Natham Taluk to the western side of the Pillaimulungi Temple, and assaulted the deceased with sickle repeatedly and therefore, the deceased sustained grievous injuries and died.

3. Based on the complaint, FIR was registered by the Inspector of Police, Natham Police Station in Cr.No.295 of 2016 initially for an offence punishable under Section 174(3) of Cr.P.C., and subsequently it was altered into Section 302 of IPC. After completion of investigation, a final report was filed and the same has been taken cognizance by the trial Court.

4. In order to bring the charges to home, the prosecution had examined P.W.1 to P.W.10 and marked Ex.P.1 to Ex.P.21. On the side of the accused, no witnesses were examined and no documents were produced before the trial Court. The prosecution has produced Material Objects in M.O.1 to M.O.16.



Crl.A(MD)No. 390 of 2023

WEB COPY

5. On perusal of oral and documentary evidence, the trial Court found the accused guilty for the offence punishable under Section 302 of IPC. He was sentenced to undergo Life Imprisonment and to impose a fine of Rs.10,000/-, in default, to undergo three months Simple Imprisonment for the offence punishable under Section 302 of IPC. Aggrieved by the same, the appellant has preferred the present appeal.

6. The learned counsel for the appellant submits that the prosecution has not adequately established a clear motive for the crime between the accused and the deceased and therefore, the benefit of doubt goes in favour of the accused. Further, it is a case of circumstantial evidence and the chain of link between the accused and the crime is not intact, which would show serious doubt over the case of the prosecution. The prosecution mainly relied upon the evidence of P.Ws.5 & 6, who were projected as witnesses of last seen theory.



Crl.A(MD)No. 390 of 2023

However, they turned hostile and even then, the trial Court, without considering the facts and circumstances, mechanically convicted the accused. In fact, the evidences of P.Ws.5 & 6 are also bereft in nature and did not contain any date and time as to when they saw the deceased with the accused to prove the last seen theory. They did not even state the vehicle which was allegedly used by the accused to drag the deceased to the scene of crime. Further, the prosecution also relied upon the Extra Judicial Confession which was made before the Village Administrative Officer. It is a weak piece of evidence and it cannot be the sole basis for conviction. Therefore, the entire conviction and sentence imposed on the accused cannot be sustained and it is liable to be set aside.

7. Per contra, the learned Additional Public Prosecutor appearing for the respondent would submit that though it is a case of circumstantial evidence, the motive was



Crl.A(MD)No. 390 of 2023

also proved by examining the prosecution witnesses. P.Ws.5 & 6 categorically deposed that they had seen the accused and the deceased together in their motorcycle. The accused made extra judicial confession statement before P.W.7-Village Administrative Officer. P.W.7 categorically deposed to corroborate the evidence of P.Ws.5 & 6. The extra judicial confession statement was marked as Ex.P2. Therefore, the prosecution brought the charges to home with clinching evidence and the trial Court rightly convicted the accused for the offence punishable under Section 302 of IPC, therefore, it does not warrant any interference of this Court.

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

9. The motive behind the crime is that the wife of the accused had an illegal intimacy with the deceased. Therefore,

6/17



Crl.A(MD)No. 390 of 2023

there was a dispute between the accused and his wife and hence, the wife of the accused left the matrimonial home and went to her parents' house. Therefore, the accused decided to do away with the life of the deceased. However, no one has spoken about the motive behind the crime. The entire prosecution case is bereft of evidence and no one had spoken about the motive of the accused to commit the alleged crime. Further, there is no evidence to show how the prosecution projected the case as if, the wife of the accused had an illegal intimacy with the deceased. In fact, the prosecution also failed to examine the wife of the accused or in-laws of the accused to prove the same. The trial Court mainly convicted the appellant on the principles of last seen theory and also on the basis of the extra judicial confession statement recorded by P.W.7, who is the Village Administrative Officer. On perusal of the evidence of P.Ws.5 & 6 revealed that they did not even whisper about the date and time on which they had seen the accused and the



Crl.A(MD)No. 390 of 2023

deceased together in their two-wheeler. The relevant portion of the evidence is as follows.

“நான் மதுரை ஓடைப்பட்டியில் குடியிருந்து கூலி வேலை பார்த்து வருகிறேன். எத்தனை வருடங்கள் என்று எனக்கு ஞாபகம் இல்லை. துரைப்பாண்டி என்பவரும், எதிரி நல்லியப்பன் என்பவரும் இருசக்கர வாகனத்தில் மதுரையை நோக்கி சென்றதை பார்த்தேன். துரைப்பாண்டி கொலை செய்யப்பட்டதாக தெரிந்து கொண்டேன். இது சம்பந்தமாக போலீசார் என்னை விசாரணை செய்தார்கள்.”

10. P.W.6 was examined by the prosecution to prove the last seen theory. His deposition is as follows:-

“நான் மதுரை ஓடைப்பட்டியில் குடியிருந்து கூலி வேலை பார்த்து வருகிறேன். ஏதிரியை தெரியும். கடந்த 3, 4 வருடங்களுக்கு முன்பாக நான் ஓடைப்பட்டி பஸ் ஸ்டாப்பில் நின்று கொண்டிருந்தேன். அப்போது எதிரி இருசக்கர வாகனத்தில் துரைப்பாண்டியை ஏற்றிக்கொண்டு வந்ததை நான் பார்த்தேன். பிறகு துரைப்பாண்டியின் மனைவி, துரைப்பாண்டியை காணவில்லை என்று தேடிக்கொண்டு இருந்தார். துரைப்பாண்டி



Crl.A(MD)No. 390 of 2023

WEB COPY

இறந்துவிட்டதாக துரைப்பாண்டியின் மனைவி
கூறினார். போலீசார் என்னை விசாரித்தார்கள்.”

11. In this regard, it is relevant to rely upon the Judgment of the Hon'ble Supreme Court of India in the case of “*Arjun Marik v. State of Bihar*” [1994 Supp (2) SCC 372], wherein the Hon’ble Supreme Court of India held as follows:

“31. Even if it is accepted that they were there it would at best amount to be the evidence of the appellants having been seen last together with the deceased. But it is settled law that the only circumstance of last seen will not complete the chain of circumstances to record the finding that it is consistent only with the hypothesis of the guilt of the accused and, therefore, no conviction on that basis alone can be founded.”



Crl.A(MD)No. 390 of 2023

WEB COPY

12. According to P.W.6, he had seen both the accused and the deceased at the Odaipatti bus stop approximately three to four years earlier. The accused and the deceased were travelling together on a motorcycle. Thereafter, the deceased was missing and he heard that he was murdered. It is unfortunate that the trial court placed reliance on the testimony of P.Ws. 5 and 6 and, on that basis, held that the prosecution had successfully established the “last seen” theory against the accused, ultimately resulting in his conviction. Further, the prosecution relied upon the extra-judicial confession, which was marked as Ex.P2 and recorded by P.W.7. Although this confession led to the recovery of the two-wheeler, sickle, bag, and cap, it is well settled that an extra-judicial confession, by itself, cannot form the sole basis for conviction.

13. In their regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India in the case of

10/17



Crl.A(MD)No. 390 of 2023

Chandrabhan Sudam Sanap vs. State of Maharashtra

reported in (2025) 7 Supreme Court Cases 401.

“109. In [Nikhil Chandra Mondal v. State of W.B.](#), (2023) 6 SCC 605, one of us (B.R. Gavai, J.) speaking for the Court, felicitously set out the Statement of law thus:

“16. It is a settled principle of law that extra-judicial confession is a weak piece of evidence. It has been held that where an extra-judicial confession is surrounded by suspicious circumstances, its credibility becomes doubtful and it loses its importance. It has further been held that it is well-settled that it is a rule of caution where the court would generally look for an independent reliable corroboration before placing any reliance upon such extra-judicial confession. It has been held that there is no doubt that conviction can be based on extra-judicial confession, but in the very nature of things, it is a weak piece of evidence.

17. Reliance in this respect could be placed on the judgment of this Court in [Sahadevan v. State of T.N.](#) [[Sahadevan v. State of T.N.](#), (2012) 6 SCC 403 : (2012) 3 SCC (Cri) 146] This Court, in the said case,



Crl.A(MD)No. 390 of 2023

after referring to various earlier judgments on the point, observed thus : (SCC pp. 412-13, para 16)

“16. Upon a proper analysis of the above referred judgments of this Court, it will be appropriate to state the principles which would make an extra-judicial confession an admissible piece of evidence capable of forming the basis of conviction of an accused. These precepts would guide the judicial mind while dealing with the veracity of cases where the prosecution heavily relies upon an extra-judicial confession alleged to have been made by the accused:

(i) The extra-judicial confession is a weak evidence by itself.

It has to be examined by the court with greater care and caution.

(ii) It should be made voluntarily and should be truthful.

(iii) It should inspire confidence.



Crl.A(MD)No. 390 of 2023

(iv) *An extra-judicial confession attains greater credibility and evidentiary value if it is supported by a chain of cogent circumstances and is further corroborated by other prosecution evidence.*

(v) *For an extra-judicial confession to be the basis of conviction, it should not suffer from any material discrepancies and inherent improbabilities.*

(vi) *Such statement essentially has to be proved like any other fact and in accordance with law.”*

14. On perusal of Ex.P2, it is revealed by its very nature that it is a weak piece of evidence. Normally extra-judicial confessions are made to persons who enjoy the confidence and trust of the accused. From the evidence mentioned above, this Court is unable to assume that PW-7 enjoyed the confidence of the accused with regards to his



Crl.A(MD)No. 390 of 2023

safety. Further, it is not supported by the chain of cogent circumstances and it is not corroborated by any other prosecution evidence. Further, Ex.P2 was not proved by the prosecution, in accordance with law. Therefore, the extra judicial confession statement alone cannot be sole ground to convict the accused. In view of the above, the conviction and sentence cannot be sustained and it is liable to be set aside.

15. In view of the above, the conviction and sentence imposed on the appellant in S.C.No.304 of 2018, dated 06.04.2023, on the file of the Additional District and Sessions Judge, Dindigul cannot be sustained and are liable to be set aside.

16. In the result, this Criminal Appeal is allowed and the judgment made in S.C.No.304 of 2018, dated 06.04.2023, on the file of the Additional District and Sessions Judge,

14/17



Crl.A(MD)No. 390 of 2023

Dindigul, is hereby set aside and the appellant is acquitted of all the charges. The bail bond, if any, executed by the appellant shall stand cancelled. The fine amount, if any paid, shall be refunded to the appellant. The appellant shall be set at liberty forthwith, if he is no longer required in connection with any other case.

**[G.K.I.J.,] & [R.P.J.,]
05.02.2026**

NCC :Yes/No
Index :Yes/No
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Crl.A(MD)No. 390 of 2023

WEB COPY

To

1.The Inspector of Police,
Natham Police Station,
Dindigul District.

2.The Additional District and Sessions Judge,
Dindigul.

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



WEB COPY



Crl.A(MD)No. 390 of 2023

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AND
R. POORNIMA, J.

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Crl.A(MD)No.390 of 2023

05.02.2026