



Crl.A(MD)Nos.746, 1064 of 2025 & 182 of 2026

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

DATED: 09.02.2026

CORAM:

**THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN
AND
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**Crl.A(MD)Nos.746, 1064 of 2025
and
Crl.A(MD)No.182 of 2026
and
Crl.M.P.(MD)No.2597 of 2026**

Crl.A(MD)No.746 of 2025

1.Liviston
2.Maria Jerman ... Appellants/Accused Nos.2 & 3

Vs.

The State of Tamil Nadu
rep. by The Inspector of Police,
North Police Station,
Thoothukudi.
(In Crime No.761 of 2020) ... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 415(2) of
BNSS, to call for the records relating to the judgment dated



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03.06.2025 made in S.C.No.99 of 2022, on the file of the II Additional District and Sessions Judge, Thoothukudi and set aside the conviction and sentence imposed against the appellants and allow the above appeal by acquitting appellants.

For Appellants : Mr.K.Althaf Sheriff
for M/s.Ajmal Associates

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

Crl.A(MD)No.1064 of 2025

Rebek Vedha ... Appellant/Accused No.4

Vs.

The State of Tamil Nadu
rep. by The Inspector of Police,
North Police Station,
Thoothukudi.
(In Crime No.761 of 2020) ... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 415(2) of BNSS, to call for the records relating to the judgment dated 03.06.2025 made in S.C.No.99 of 2022, on the file of the II Additional District and Sessions Judge, Thoothukudi and set



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aside the conviction and sentence imposed against the appellant and allow the above appeal by acquitting appellant.

For Appellant : Mr.K.Althaf Sheriff
for M/s.Ajmal Associates

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

Crl.A(MD)No.182 of 2026

Kissinger ... Appellant/Accused No.1

Vs.

The State of Tamil Nadu
rep. by The Inspector of Police,
North Police Station,
Thoothukudi.
(In Crime No.761 of 2020) ... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 415(2) of BNSS, to call for the records relating to the judgment dated 03.06.2025 made in S.C.No.99 of 2022, on the file of the II Additional District and Sessions Judge, Thoothukudi and set aside the conviction and sentence imposed against the appellant and allow the above appeal by acquitting appellant.



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For Appellant : Mr.M.S.Jeyakarthik

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

COMMON JUDGMENT

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

These appeals are directed as against the Judgment passed in S.C.No.99 of 2022, dated 03.06.2025, on the file of the II Additional District and Sessions Judge, Thoothukudi, thereby, convicting the accused for the offences punishable under Sections 148 and 302 of IPC.

2. The case of the prosecution is that the deceased was a habit of consuming liquor during night hours and sleeping in his boat halted in Threspuram seashore. The accused along with child-in-conflict with law were also in the habit of consuming liquor in the same seashore and hence, the deceased had objected to their act of leaving the broken pieces

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of glass liquor bottles there, which caused resentment in the minds of the accused. Therefore, on 30.08.2020 at about 08.00 p.m., the accused assembled at the back side of Thoothukudi Threspuram Madhavanair colony paid toilet and conspired together to do away with the life of the deceased. In pursuant to the conspiracy, on 31.08.2020 at about 09.30 p.m., all the accused came along with the child-in-conflict with law to consume liquor at the Threspuram seashore and when they were proceeding near Sekar tea shop at about 9.45 p.m., the deceased Kalimuthu questioned them about consuming of liquor at seashore, the accused were outraged and abused the deceased with filthy language and with an intention to do away with the life of the deceased, assaulted him with wooden reapers forcibly, thereafter, they dragged him to the sea and surrounded him. When the deceased attempted to come out from the sea, they pushed him into the sea and caused death.



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3. Based on the complaint, FIR was registered by the Inspector of Police, North Police Station, Thoothukudi in Cr.No.761 of 2020 initially for an offence punishable under Section 174 Cr.P.C., and subsequently it was altered into Sections 174 Cr.P.C., 120(B), 147, 148, 294(b) and 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.28 and marked Ex.P.1 to Ex.P.35. 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.17.

5. On perusal of oral and documentary evidence, the trial Court found the accused guilty for the offences punishable



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under Sections 148 and 302 of IPC. They were sentenced to undergo Life Imprisonment and were imposed a fine of Rs.5,000/- each, in default, to undergo six months Simple Imprisonment for an offence punishable under Section 302 of IPC. Further, they were sentenced to undergo three years Rigorous Imprisonment and were imposed a fine of Rs.1,000/- each, in default, to undergo one month simple imprisonment. Aggrieved by the same, the appellants have preferred these appeals.

6. The learned counsel for the appellants submit that except the close relatives of the deceased, the prosecution had failed to examine any other independent witnesses to bring the charges to home. The testimonies of witnesses P.Ws. 1 to 5, are self-contradictory and they did not support the case of the prosecution. Though, the prosecution had failed to prove the arrest and recovery of material objects, the trial Court



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material objects from the accused. Their confession statement also led to recovery of the material objects. The injuries sustained by the deceased also corroborate with the medical evidence and hence, the prosecution proved the charge beyond any reasonable doubt. Therefore, the trial Court rightly convicted the accused and 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 prosecution mainly relied upon the witnesses P.Ws.6 to 11 as eye witnesses to the occurrence. However, P.Ws.6 & 7 turned hostile and they have not supported the case of the prosecution. P.W.8 deposed that on 31.08.2020 he had gone to the scene of occurrence in search of a goat. At that juncture, the deceased was there under the influence of Alcohol



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and was singing a song and at that time, one Murugeshwari came there. The deceased asked the said Murugeshwari where she was going. She told that she had not found the goat and she searched for the goat. At the same time, the accused were consuming liquor along with a child and the deceased warned them not to have any alcohol in that place. Immediately, the accused scolded the deceased with filthy language and attacked him with wooden reaper. The another eye witness P.W.9 deposed the very same verbatim of P.W.8. The said Murugeswari was examined as P.W.10, but she did not support the case of the prosecution. She turned hostile. P.W.11 is an eye witness, but he turned hostile and he did not support the case of the prosecution. The evidence of P.Ws.7 & 8 revealed that though they had seen the occurrence, they did not whisper about the alleged occurrence to anybody. Their statements were recorded only on 01.10.2020 ie., after a period of 30 days. In fact, all the accused were arrested on 27.09.2020 pursuant to

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the very same occurrence. There is absolutely no piece of evidence placed by the prosecution to state that on whose information, the investigating officer fixed the accused in this case. It clearly shows that only after fixing the accused even as early as on 27.09.2020, the statement of P.W.8 and P.W.11 were recorded by the respondent to strengthen their case, even though, P.Ws.10 and 11 turned hostile and they did not support the case of the prosecution. Though P.Ws.8 & 9 supported the case of the prosecution, their evidence cannot be considered for the simple reason that their statements were recorded only on 01.10.2020. The relevant portion of the cross-examination of P.W.8 is as follows:-

“..... நான் முதல்விசாரணையில் சொல்லியுள்ள காளிமுத்துவை தாக்கியதாக கூறப்படும் சம்பவம் மற்றும் நபர்களின் விவரங்களை எனது குடும்ப உறுப்பினர்களிடம் நான் சொன்னதில்லை. இந்த வழக்கில் வேறு யாரெல்லாம் இந்த சம்பவத்தை பார்த்தார்கள் என்ற விவரம் எனக்கு நேரடியாக தெரியாது என்றால் நானும், சாட்சி



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முத்துக்குமரனும் பார்த்தோம். நான் எந்த பகுதியிலிருந்து சம்பவத்தை பார்த்தோம் என்று போலீசார் விசாரணையில் சொல்லவில்லை என்றால் சரிதான். யாருடைய வல்லத்து அருகாமையில் நின்று பார்த்தோம் என்ற விவரத்தினை போலீசார் விசாரணையில் சொல்லவில்லை என்றால் சரிதான் இவ்வழக்கு சம்மந்தப்பட்ட குற்றவாளிகளை கண்டுபிடிக்கும் வரையில் இந்த வழக்கு சம்மந்தப்பட்ட விவரங்களை ரகசியமாகத்தான் வைத்திருந்தேன் என்றால் சரிதான். என்னை போலத்தான் எனது மாமா முத்துக்குமரனும் பாதுகாத்து வந்தார் என்றால் அந்த விவரம் தெரியாது. காளிமுத்து இறப்பு நிகழ்ச்சியில் நான் கலந்து கொண்டேன். அரசமருத்துவமனைக்கு அவரது சடலத்தை பார்வையிடுவதற்கு நான் அரசமருத்துவமனைக்கு வந்திருந்தாரா என்றால் நினைவில் இல்லை. சாட்சி முத்துக்குமரன் அரசமருத்துவமனையில் வைத்து இறந்துபோனவரின் உறவினர்களிடமும் என்னிடமும் போலீசார் விசாரித்தார்களா என்றால் என்னை விசாரிக்கவில்லை. அவரின் உறவினர்களிடம் விசாரித்தார்கள். என்னுடைய பெயர். முகவரியை கேட்டார்கள். என்னை காவல்துறையினர் ஒரு மாதம் கழித்து இந்த வழக்கு சம்மந்தமாக விசாரித்து வாக்குமூலம் பதிவு செய்து கொண்டார்கள். நான் தானாக காவல்நிலையம் செல்லவில்லை. என்னை 3-வது நபர்தான் காவல்நிலையம் காவல்நிலையத்திற்கு



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அழைத்து சென்றார். அந்த முன்றாவது நபரிடம் ஒருபோதும் வழக்கு சம்பவம் பற்றிய ரகசியத்தை சொன்னதில்லை என்றால் சரிதான். காவல்நிலையத்தில் என்னையும், சாட்சி முத்துகுமரனையும் ஒன்றாக விசாரித்தனரா என்றால் தனித்தனியாக விசாரித்தனர். இந்த வழக்கு சம்பந்தப்பட்ட எதிரிகளைப்பற்றிய முழு விவரங்களும் எனக்கு தெரியாது என்றால் சரிதான். காவல்துறையினர் விசாரிக்கும்போது, ஆஜர் எதிரிகளின் அப்பா பெயர். முகவரி ஆகிய விவரங்களை சொல்லவில்லை. ஆனால் எதிரிகளை கடற்கரையில் பார்த்தவகையில் தெரியும். என்னை காவல்துறையினர் விசாரிக்கும்போது 4 எதிரிகளின் பெயர்கள் குறிப்பிட்டு எனக்கு தெரியாது. நான் காவல்துறையின் விசாரணையின்போது 4 எதிரிகளின் பெயர்கள் தெரியும். இந்த வழக்கு சம்பந்தப்பட்ட எதிரிகளை 60 தாட்களுக்குப்பிறகுதான் கைது செய்தார்கள் என்றால் சரிதான். இந்த வழக்கு சம்பந்தப்பட்ட எதிரிகள் கைது செய்யப்பட்டபிறகு இவர்கள்தானா என்று அடையாளம் காண்பிப்பதற்கு போலீசார் என்னை அழைக்கவில்லை. ஏன்னை போலீசார் 01.10.2020 அன்று விசாரித்தார்கள்.....”



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10. Thus, it is clear that their statements were recorded only on 01.10.2020. It is also corroborated by the Investigating Officer, who deposed as P.W.28. The Investigating Officer deposed that only on the ground of suspicion, the accused were arrested on 27.09.2020 and 28.09.2020 respectively. In view of the evidence of P.W.28, it is clear that the prosecution cooked up the case. In order to strengthen their case, the prosecution had examined P.Ws.8 to 11. The prosecution has failed to prove the recovery of the material objects from the accused. That apart, the statement of all the witnesses were sent to the Court only along with charge sheet on 31.12.2020. In fact, the said charge-sheet was filed before the jurisdictional Magistrate Court only on 21.04.2021. Absolutely, there is no explanation on the side of the prosecution for the inordinate delay in recording the statements of the witnesses and also sending their statements to the Court.

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Therefore, the prosecution miserably failed to prove any one of the charges as against the accused and the entire conviction and sentence cannot be sustained and it is liable to set aside.

11. In view of the above, the conviction and sentence imposed on the appellants in S.C.No.99 of 2022, dated 03.06.2025, on the file of the II Additional District and Sessions Judge, Thoothukudi cannot be sustained and are liable to be set aside.

12. In the result, these Criminal Appeal is allowed and the judgment made in S.C.No.99 of 2022, dated 03.06.2025, on the file of the II Additional District and Sessions Judge, Thoothukudi, is hereby set aside and the appellants are acquitted of all the charges. The bail bond, if any, executed by the appellants shall stand cancelled. The fine amount, if any paid, shall be refunded to the appellants. The

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appellants shall be set at liberty forthwith, if they are no longer required in connection with any other case. Consequently, connected miscellaneous petition is closed.

[G.K.I.J.] & [R.V.J.]
09.02.2026

NCC : Yes/No
Index : Yes/No
am

To

1.The Inspector of Police,
North Police Station,
Thoothukudi.

2.The II Additional District and Sessions Judge,
Thoothukudi.

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

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G.K. ILANTHIRAIYAN, J.

AND

R.VIJAYAKUMAR, J.

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