



Crl.A(MD)Nos.745 & 829 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.02.2026

CORAM:

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

Crl.A(MD)Nos.745 & 829 of 2023

and

Crl.M.P(MD)No.11599 of 2025

1.Crl.A(MD)No.745 of 2023:

Saravanan

... Appellant/Accused No.2

Vs.

State represented by,
The Inspector of Police,
Austinpatti Police Station,
Madurai District.

(Crime No.73 of 2016). ... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 374(2) of Cr.P.C to call for the records from the lower Court in S.C.No.562 of 2016 on the file of the learned VI Additional Sessions Judge, Madurai District and set aside the Judgment dated 07.08.2023 by acquitting the accused and by allowing the appeal.

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For Appellant : Mr.D.Anbarasu
For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

2.Crl.A(MD)No.829 of 2023:

Santhi ... Appellant/Accused No.1

Vs.

State represented by,
The Inspector of Police,
Austinpatti Police Station,
Madurai District.
(Crime No.73 of 2016). ... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 374(2) of Cr.P.C to call for the records from the lower Court in S.C.No.562 of 2016 on the file of the learned VI Additional Sessions Judge, Madurai District and set aside the Judgment dated 07.08.2023 by acquitting the accused and by allowing the appeal.

For Appellant : Mr.S.Jeyasingh
For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor



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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.562 of 2016 on the file of the learned VI Additional Sessions Judge, Madurai District, dated 07.08.2023, thereby convicting the appellants for the offence punishable under Sections 120-B, 302, 394 and 201 of I.P.C.

2.The case of the prosecution is that on 11.02.2016 at about 03.00 p.m., the first accused invited the deceased to her house and requested her to stitch a saree border using a sewing machine. While the deceased was doing the stitching work in the house of the first accused, the first accused, in pursuance of a conspiracy, covered the face of the deceased with a jute bag, dragged her inside the house and repeatedly dashed her head against the floor. Further, the first accused tightened the jute bag in order to prevent the deceased from



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breathing, as a result of which she died in the house of the first accused. Thereafter, the first accused informed the second accused and asked him come to her house. Both the accused removed a 15.800 gram gold chain, one pair of studs and one pair of anklets from the body of the deceased for unlawful gain and thereby robbed the ornaments. Further, in order to screen the evidence of the commission of the murder, both the accused had hidden the dead body in a haystack kept behind the house of the first accused. When the father of the deceased searched for his daughter, he lodged a complaint on 12.02.2016. Initially, the case was registered under 'woman missing' on the file of the respondent police.

3.On the next day, the F.I.R was altered into an offence under Section 302 of I.P.C. During investigation, both the accused were arrested on 29.02.2016 and based on their confession statements, material objects were recovered. Thereafter, an alteration report was filed for the offences punishable under Sections 120-B,



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302, 394 and 201 of I.P.C. After completion of the investigation, a final report was filed and the same was taken cognizance by the Trial Court.

4.In order to bring the charges to home, the prosecution examined P.W.1 to P.W.20 and marked Exs.P1 to P19. The prosecution also produced Material Objects M.O.1 to M.O.8. On the side of the accused, no witnesses were examined and no documents were produced before the Trial Court.

5.On perusal of the oral and documentary evidence, the trial Court found the first accused guilty for the offences punishable under Sections 302, 394 and 201 of I.P.C. She was sentenced to undergo life imprisonment and to pay a fine of Rs.10,000/- in default, to undergo one year Simple Imprisonment for the offence punishable under Section 302 of I.P.C and she was sentenced to undergo five years Rigorous Imprisonment for each offence and to



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pay a fine of Rs.5,000/- each in default, to undergo six months Simple Imprisonment for each offence for the offences punishable under Sections 394 and 201 of I.P.C. The second accused was found guilty for the offences punishable under Sections 394 and 201 of I.P.C. He was sentenced to undergo five years Rigorous Imprisonment for each offence and to pay a fine of Rs.5,000/- each in default, to undergo six months Simple Imprisonment for each offence for the offences punishable under Sections 394 and 201 of I.P.C. Aggrieved by the same, the appellants/Accused Nos.1 and 2 have filed the present Criminal Appeals.

6.The learned counsel appearing for the appellants submitted that there are several contradictions in the complaint and the evidence. There is a delay in lodgement of the complaint and the prosecution has failed to explain the same with valid reasons. P.W.1, P.W.2, P.W.4 and P.W.5 are close relatives of the deceased and they did not support the motive behind the crime. Further, the material



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objects produced by the prosecution are not connected with the offence allegedly committed by the accused. There is no eyewitness in this case and the entire prosecution case rests upon circumstantial evidence. The circumstances from which the conclusion of guilt is drawn must be fully proved and the chain of circumstances must be complete and conclusive in nature. However, the prosecution failed to establish the circumstances so as to form a complete chain pointing to the guilt of the accused. The prosecution also failed to prove the last seen theory, since P.W.10 is a chance witness who did not give any statement within a reasonable time. He did not even state before P.W.1 that he had seen the deceased in the company of the first accused. His statement was recorded only on 29.02.2016, on the date of filing of the final report.

7.He further submitted that the first Investigating Officer, who registered the F.I.R under 'woman missing', later altered it to an offence under Section 302 of I.P.C. The first Investigating Officer



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handed over the entire investigation to the second Investigating Officer on 29.02.2016 and on the very same day, the second Investigating Officer showed the arrest of both the accused, recorded their confession statement and made recovery. The second Investigating Officer also filed the final report along with the alteration report. It is impossible for any Investigating Officer to complete the entire investigation in a single day. Therefore, the prosecution has miserably failed to prove the charges and even then, the Trial Court mechanically convicted the appellants.

8.Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that though the case is based on circumstantial evidence, P.W.10 has categorically deposed to prove the last seen theory. Initially, the complaint was registered under 'woman missing' and thereafter altered to an offence under Section 302 of I.P.C. On 29.02.2016, the accused were arrested and based on their confession statements, recovery was effected. There is



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nothing improper in filing the final report on the date of arrest itself.

The confession statements also led to recovery from the accused and as such, the prosecution has proved the charges beyond reasonable doubt. Hence, the Trial Court rightly convicted the accused and the same does not warrant any interference of this Court.

9.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

10.Both the appellants are arrayed as A.1 and A.2. Both the accused are neighbours of the deceased. On 12.02.2016, the father of the deceased lodged a complaint before the respondent stating that the deceased has been missing since 11.02.2016 from about 03.30 p.m. The same was received by the respondent and a case was registered in Crime No.73 of 2016 under 'woman missing' at about 11.15 hours. On the very next day, the father of the deceased lodged another complaint dated 13.02.2016 alleging that his daughter had



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been murdered and to take appropriate action as against the persons, who committed the offence.

11. On receipt of the same, the respondent altered the offence into Section 302 of I.P.C. The alteration report was marked as Ex.P.14. The complaints dated 12.02.2016 and 13.02.2016 did not even whisper about any allegation of robbery. The complainant had also not stated that the jewels worn by the deceased were missing.

12. The first Investigating Officer conducted an inquest on the body of the deceased on 13.02.2016 between 17.30 hours and 18.30 hours. In the inquest report, it was recorded that a two sovereigns of gold chain, one pair of studs and one pair of anklets were missing from the body. It was also recorded that due to previous motive, the first accused, in collusion with her paramour, namely the second accused, had murdered the deceased and robbed the gold chain, studs and anklets. The relevant portion of the inquest

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report is extracted as follows:

“அழகிய நிலையில் சாக்கு முடைக்குள் பிரேதம் காணப்பட்டது. இராஜலெட்குமி அணிந்திருந்த சுமார் 2 பவுன் தங்கச் செயின், தங்க தோடு ஒரு ஜோடி, வெள்ளி கொலுசு ஒரு ஜோடி ஆகியவைகளும் காணவில்லை. மேற்படி வாதியின் அண்ணன் மனைவி சாந்தி என்பவர் தனக்கு இருந்த விரோதம் காரணமாகவும், தன் கள்ளக் காதலர்களுடனான உறவுமேற்படி இராஜலெட்குமியால் வெளியில் தெரிந்துவிடும் என்ற காரணமாகவும், காணாமல் போன முன் தினம் மற்றும் காணாமல் போன அன்றும் மேற்படி சாந்தியின் வீட்டிற்கு வந்து சென்ற தன் கள்ளக்காதலன் சரவணன் என்பவருடன் சேர்ந்து இராஜலெட்குமியை கொலை செய்தும், இராஜலெட்குமி போட்டிருந்த தங்கச் செயின், தோடு, கொலுசு ஆகியவைகளையும் கொள்ளை அடித்துள்ளனர் என்பது விசாரணையில் புலனாகிறது.”

13.In fact, after the said inquest, the first Investigating Officer altered the offence into Section 302 of I.P.C. The alteration report was sent to the Court on 15.02.2016 and was marked as Ex.P.

14. Thus, it is clear that even on 13.02.2016 itself, the Investigating

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Officer had come to know that both the accused had murdered the deceased and had also robbed the gold ornaments. Even then, the Investigating Officer did not alter the offences to include Sections 394 and 302 of I.P.C and also failed to name the accused.

14.That apart, it is not known on whose statement, the Investigating Officer came to know that the gold ornaments worn by the deceased were missing. If any witness had made such a statement, the Investigating Officer ought to have immediately named the accused in the alteration report and altered the offences accordingly. This creates a doubt that the prosecution had cooked up the story subsequently, as if the accused had murdered the deceased for gain. Further, the first Investigating Officer handed over the entire investigation in Crime No.73 of 2016 to the second Investigating Officer on 29.02.2016. On the same day, both the accused were arrested on the basis of the statement recorded from P.W.10 as if he had last seen the deceased with the accused.

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15.P.W.10 is another neighbour residing just opposite to the house of the deceased. He is also a close relative of the deceased. He deposed that on 11.02.2016 at about 07.00 p.m., the deceased used to go to the house of the first accused for small works. He knew the accused and identified the second accused as Sekar. He further stated that he came to know that the second accused had illegal intimacy with the first accused. P.W.10 further deposed that on 11.02.2016 at about 03.00 p.m., he saw the deceased entering the house of the first accused.

16.P.W.11 deposed that on 11.02.2016 at about 07.00 or 07.30 p.m., both the accused were going towards the house of the deceased. However, the statements of these witnesses were recorded on 29.02.2016. Though they were fully aware of the death of the deceased, they did not disclose any suspicious circumstances regarding the accused to anyone. All of a sudden, their statements



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were recorded on 29.02.2016 and both the accused were arrested.

After recording their confession statements, only one pair of studs weighing 4 grams was recovered. Thereafter, the second Investigating Officer completed the investigation and filed the final report on 29.02.2016.

17.Even assuming that P.W.8, P.W.10 and P.W.11 had seen the accused in a suspicious manner near the house of the deceased on the date of occurrence, none of them had stated anything about the missing jewels allegedly worn by the deceased and the same also does not find place in either of the complaints.

18.Even assuming that the deceased had worn a two sovereign of gold chain, one pair of studs and one pair of anklets, the Investigating Officer recovered only one pair of ear studs weighing four grams. There is absolutely no explanation regarding the remaining jewels which were allegedly robbed from the

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deceased. Therefore, the prosecution has failed to establish the last seen theory so as to connect the accused with the alleged crime.

19. In fact, in the inquest conducted on 13.02.2016, the Investigating Officer had already recorded that both the accused had murdered the deceased and robbed the jewels. Further, the entire investigation was completed in a single day ie., on 29.02.2016 and a final report was filed by altering the offences from Section 302 to Sections 302, 294(b), 201 read with 120-B of I.P.C. Therefore, it appears that the prosecution had cooked up a story by implicating both the appellants as accused. The prosecution also projected the case as if A.1 and A.2 had illicit intimacy and on that basis, had conspired together to do away with the life of the deceased for gain. However, no witness has spoken about their illicit intimacy or about any conspiracy between them. Thus, the prosecution has failed to substantiate the allegation of illicit relationship by examining any material witness.



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20.Further, the prosecution case is that the deceased had informed about the illegal intimacy between A.1 and A.2 to her daughter-in-law, namely Sruthi. However, the said Sruthi was not examined by the prosecution to substantiate the same.

21.That apart, the alleged occurrence is said to have taken place in the house of the first accused and therefore, the theory of robbery itself becomes doubtful. In the overall circumstances, the prosecution has miserably failed to prove the charges as against the accused and the benefit of doubt goes in favour of the appellants.

22.In view of the above, the conviction and sentence imposed on the appellants in S.C.No.562 of 2016 dated 07.08.2023 on the file of the learned VI Additional Sessions Judge, Madurai District, cannot be sustained and are liable to be set aside.



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23.In the result, these Criminal Appeals are allowed and the Judgment made in S.C.No.562 of 2016 dated 07.08.2023 on the file of the learned VI Additional Sessions Judge, Madurai District, 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 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.P.J.,]
04.02.2026**

NCC :Yes/No
Index :Yes/No
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- 1.The VI Additional Sessions Judge,
Madurai District.
- 2.The Inspector of Police,
Austinpatti Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.K. ILANTHIRAIYAN, J.
AND
R. POORNIMA, J.

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