

Crl. A(MD)No.847 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 08.06.2026

PRONOUNCED ON : 11.06.2026

CORAM:

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
AND
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

Crl. A. (MD) No.847 of 2022

Logidhasan

: Appellant(s)

Vs.

1.The Deputy Superintendent of Police
Andipatti Sub-division
Andipatti.

2.The Inspector of Police
Andipatti Police Station
Theni.

3.Karuppiah

: Respondent(s)

PRAYER: Criminal Appeal is filed under Section 374(2) of the Code of Criminal Procedure, to call for records pertaining to the judgment rendered by the Hon'ble Special Court for Trial of cases under Scheduled Castes and Schedule Tribes (POA) Act, Theni in Spl.S.C.No.12 of 2015 dated 09.06.2022 and set aside the same allowing the appeal.



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For Appellants	: Mr.D.Selvan
For Respondent	: Mr.C.Christopher
	Counsel for State of TN
	(Crl.Side)

J U D G M E N T

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

The sole accused has assailed the judgment and order passed by the Special Court for Trial of cases under Scheduled Castes and Schedule Tribes (POA) Act in Special S.C.No.4 of 2020, dated 09.06.2022, convicting the accused person for offence under Section 302 of IPC read with Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity hereinafter referred to as “Act”) and sentenced to undergo life imprisonment and to pay a fine of Rs.10,000 and in default to undergo one year rigorous imprisonment.

2. The case of the prosecution is that the deceased belongs to Scheduled Caste community and she had a love affair with the accused person and was insisting the accused person to marry her. It is alleged that the accused person decided to do away with the deceased and hence



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called her over phone and meet him in a remote place. Believing the words of the accused person, the deceased reached the occurrence spot at about 7:30 PM on 01.09.2011. The accused and the deceased had physical intercourse and later, the accused person is said to have strangled the deceased using her saree and killed her. This incident came to light on 02.09.2011, when the dead body was seen in an open field by many persons. The information came to the notice of PW1 and PW2, who are the father and mother of the deceased. Immediately, PW1 gave a complaint at about 7.30 AM on 02.09.2011 to PW29, who registered an FIR (Exhibit P14) in Crime No. 389 of 2011 under Section 302 of IPC.

3. The investigation was taken over by PW30 and he went to the scene of crime on 02.09.2011 at about 8:30 AM. In the presence of witnesses, he prepared the observation mahazar (Exhibit P4) and the rough sketch (Exhibit P15). He also seized material objects under various seizure mahazars, which included MO21, which is the torn condom packet and MO22, which is the torn condom from the scene of crime.



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4. The Investigation Officer conducted inquest on the dead body of the deceased at 10:15 AM and prepared the inquest report (Exhibit P16).

5. The dead body was sent for postmortem through PW22 and the postmortem was conducted by PW28, who gave the autopsy report (Exhibit P16) wherein the following injuries were noted:

“Regarding the body of a Female aged about 21 years named Jeyapratha Requisition received at 12.45 P.M. on 02.09.2011 from the Inspector of Police of Andipatti P.S. with his Letter: Cr. No:389/11 U/S 302 IPC of Dated 02-09-11 Body identified by the incharge Police Constable No: HC.1669 named Palanikumar Identification and Caste Marks:

1. A black mole over the left side of the hip.
2. A black mole over the right cheek.

The body was first seen by the undersigned at 12.50.P.M. on 02.09.2011.

Its condition then was rigor mortis present all over the body.

Post mortem commenced at 12.50. P.M. on 02.09.2011.

Appearance found at the Post-Mortem: Moderately nourished body of a female aged about 21 years. Finger and toe nails were blue. Bleeding from nostrils, mouth and both ears seen. Sub conjunctival hemorrhage of size 0.5cms x 0.5cms and 0.25cms x 0.5cms seen over the right and left eyes respectively. Ant bite marks 1cm x 1cm seen over the front of the left elbow. Ant bite marks 1cm x 1cm seen over the lateral



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aspect of the left chest

The following ante-mortem injuries are noted over the body:-

1. Abrasions of varying sizes 0.5cm x 0.5cms., 1cm x 0.5cms., 0.25cms x 1.5cms., 0.5cms x 0.25cms seen over the back of the upper forearm.
2. Abrasion of size 8cms x 2cms seen over the medial aspect of the right upper arm.
3. Abrasions of sizes 0.5cm x 0.5cms., 0.25cm x 0.25cms., 0.3cms x 0.2cms., 0.1cms x 0.4cms seen over the back of the right knee joint.
4. Abrasions of sizes 0.5cm x 0.5cms., 0.25cm x 0.25cms., 0.3cms x 0.2cms., 0.1cms x 0.4cms seen over the back of the left knee joint.
5. Abrasion of size 0.25cm x 1cm seen over the medial aspect of the left knee joint.
6. Abrasion of size 2cm x 1cm seen over the back of the right hand.
7. Abrasion of size 0.5cms x 0.5cms seen over the medial aspect of the right thigh.
8. Abrasion of size 1cm x 1cm seen over the medial aspect of the left thigh.
9. Abrasion of size 1cm x 0.5cms seen over the right perineal regional.
10. Abrasion of size 0.5cm x 0.5cms seen over the left perineal regional.
11. Ligation mark of the length of size 32cms and breadth 1.5cms seen over the front, back and sides of the neck.

On bloodless dissection of the neck:-



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The base of the ligation mark was congested. There was extravasation of blood on the superficial and deep planes of the neck.

Fracture of size 0.5cm. x 0.5cm. x through and through seen over the middle of the vish greater horn of the hyoid with the surrounding bruise injuring the surrounding muscles, vessels and nerves.

12. Per vaginal examination:- Anterior vaginal wall was blue in colour. Hymen -not intact. Freely admits two fingers.

13. On dissection of scalp, skull and dura:-

Sub scalp contusion of size 8cms x 2cms seen over the right side of the vertex.

Other Findings:-

Peritoneal cavity and pleural cavities - empty; Pericardium contains 15ml of straw coloured fluid: Heart -right fluid blood, left side -empty; Coronaries- patent, Lungs, Spleen. Kidneys. Liver - cut section - congested, Larynx and Trachea - normal: Hyoid bone- described in the injury column; Stomach - contains 200gms cooked rice particles with nil specific smell, mucosa-normal; Small intestine- contains 20ml. of bile stained fluid, nil specific smell, mucosa-normal. Bladder - empty. Uterus- normal size, cut section. empty. Brain - surface vessels and cut section -congested.

OPINION:-

Reserved pending chemical examination report.”

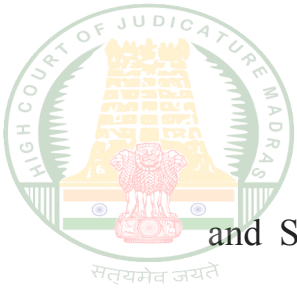
The final opinion was given to the effect that the deceased would appear to have been died of mechanical asphyxia due to ligature strangulation.



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6. The Investigation Officer recorded the statements of the witnesses under Section 161(3) of CrPC. The accused person surrendered before the Village Administrative Officer on 06.09.2011 at about 11:45 AM and he was handed over to the police station. He was arrested and based on his voluntary confession, material objects were seized under Athatchi Exhibit P18. The material objects that were seized were all sent to the court. In the course of investigation, alteration report (Exhibit P20) was prepared and the investigation was taken over by PW31 since it involved an offence under the Act. PW31 continued the investigation and collected the statements of the other witnesses under Section 161(3) of CrPC. PW31 also took steps to get the semen samples from the accused person with the help of PW28 doctor. The same was sent for analysis to PW25. The reports (Exhibits P8 and P9) were collected. PW32, who is the Sub Inspector of the Cyber Crime Branch, collected the call detail records on the mobile phone belonging to the accused and the deceased and the CDR along with the 65B certificate was collected by the Investigation Officer. On completion of investigation, the police report came to be filed before the Special Court and the Special Court framed charges against the accused person for offences under Section 302 of IPC



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and Section 3(2)(v) of the Act. When questioned, the accused person denied the charges.

7. Prosecution examined PW1 to PW32 and marked Exhibits P1 to P28 and also placed reliance upon MO1 to MO32.

8. The incriminating circumstances and evidence was put to the accused person and when he was questioned under Section 313(1)(b) CrPC., and he denied the same.

9. The accused person did not examine any witness nor did he rely upon any documents.

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



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11. The third respondent is the de facto complainant in this case and in spite of notice being served, there was no appearance either in person or through counsel. In view of the same, this Court appointed Mr.B.Fazil Kirmani, as legal aid counsel to appear on behalf of the third respondent.

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

13. The case of the prosecution hinges upon circumstantial evidence. The circumstances relied upon are:

- A. Motive behind the crime
- B. Arrest and recovery of material objects
- C. Serological report (Exhibit P9)

14. The specific case of the prosecution is that the deceased used to work in a sweet shop run by PW5 and the accused developed relationship with the deceased. They regularly used to have physical intercourse and when the deceased insisted for marriage, the accused person is said to have done away with the deceased.



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WEB COPY 15. PW1 and PW2 are the parents of the deceased. On carefully going through the evidence, it is seen that they were not even aware about the relationship between the deceased and the accused person.

16. PW5, who was running the sweet shop, talks about employing the deceased in the shop and that she worked in that shop for 21 days. Similarly, PW7 to PW9 also worked in the same shop. Their evidence merely establishes the fact that the deceased worked for nearly 21 days in that shop. They do not speak about the relationship of the deceased and the accused person.

17. The prosecution examined PW11 and PW12 to establish that the SIM card for the mobile phone was purchased from the shop by the accused person and whereas both the witnesses did not support the case of the prosecution.

18. PW15, who was examined on the side of the prosecution, states that he lost his SIM card and ultimately found that the deceased was



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using the SIM card in her mobile phone. He also indicates about the love affair between the deceased and the accused person.

19. PW16 is the Village Administrative Officer who states that the accused person surrendered before one Srinivasan, who was working as the Village Administrative Officer in the year 2011 and thereafter the accused person was produced before the police and he voluntarily confessed to the commission of crime. He also speaks about athatchi Exhibit P2 through which the condom, brandy bottle and sprite plastic bottle were seized.

20. PW18 and PW19 are the mahazar witnesses. PW18 states that the material objects namely, MO2 to MO11 were seized under athatchi Exhibit P5 and it has been mentioned in the observation mahazar (Exhibit P4). PW19 also speaks about the dead body found in the open field and the material objects seized. Nothing really comes out of the evidence of PW18 and PW19.

21. The next important witness relied upon by the prosecution is PW23. He is a Scientific Officer who states that he went to the scene of



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crime and he saw the dead body of the deceased who had been strangulated with the saree. He also speaks about the torn piece of condom found near the dead body. He also speaks about the condom cover with the name “Enjoy”. During cross examination, he has stated that he is not sure as to whether the condom found was an used condom and it was found torn.

22. PW25, is the most crucial witness examined on the side of the prosecution, who states that he received a requisition from the court by sending certain material objects and he analysed the same with the sample of semen that was collected from the accused person and he submitted the report (Exhibit P9) stating that the semen found in the material objects namely, petticoat, condom and cotton swabs matched with the semen sample taken from the accused person. Even in the serological report, the traces of the semen which is stated to be present in the nail clippings of the deceased was not able to be matched and it remained inconclusive. In cross examination, he states that it is possible to subject the material objects with semen at a later point of time after collecting the same from the accused person. He further confirmed that



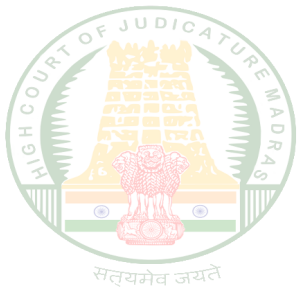
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he was not asked whether the condom was actually used by the accused person.

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23. The other crucial witness is PW32 who is said to have collected CDR and which was marked in the court as Exhibits P26 to P28 along with the certificate under Section 65B (Exhibit P25). The last set of evidence is that of the Investigating Officers, PW30 and PW31.

24. In so far as motive is concerned, there is no clinching evidence available regarding the relationship between the deceased and the accused. Even the parents of the deceased were not aware about the relationship between the deceased and the accused person. A passing remark is made by PW15 to the effect that there was a love affair between the deceased and the accused person. However, the evidence of PW15 cannot be acted upon since it is found not reliable. He states that he lost his SIM card and later found that the SIM card was used by the deceased. It is not known as to how the deceased got hold of SIM card of PW15 and PW15 is clearly a planted witness who has been brought in just because he is a distant relative of PW1.

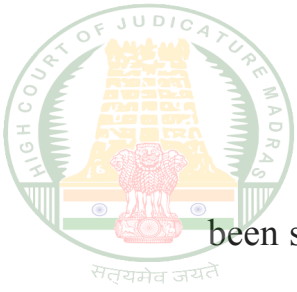


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25. The other evidence that has been relied upon by the prosecution namely, extra judicial confession of the accused person is also not believable. In any case, extra judicial confession is a very weak piece of evidence unless it is corroborated. This Court is not able to convince itself on the issue of motive, since there is no clinching evidence to establish that the deceased and the accused person had a love affair.

26. The next circumstance relied upon is the arrest and recovery. The specific case of the prosecution is that a torn condom was found near the body of the deceased and it was seized by PW30 along with the condom packet namely, “Enjoy”. The photographer/PW21, who was examined on the side of the prosecution, specifically states that at the time of taking photographs, there was no condom available in the scene of crime. Unfortunately, the photographs taken by PW21 were not marked on the side of the prosecution. This is a very crucial piece of evidence, since the photographs were taken at the earliest point of time.

27. In the case in hand, it is quite curious that a lot of reliance has been placed on the torn condom and condom packet that is said to have

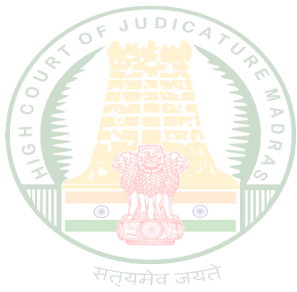


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been seized from the scene of crime. The accused person was arrested on 06.09.2011 and based on his confession, once again another condom was seized along with an empty brandy bottle and a sprite plastic bottle. MO27 to MO32 were also seized under athatchi Exhibit P18.

28. PW28, who is the doctor, states that he collected sperm sample from the accused person and handed over the same to the police on 09.09.2011. That was sent to FSL for matching it with the sperm sample found in the material objects. PW25 categorically states in the cross examination that it is possible to use the sperm sample collected in the material objects. When such an eventuality is possible, it will be very unsafe to purely rely upon the serological report and come to the conclusion that the prosecution has proved the case beyond reasonable doubts.

29. As held by this Court supra, the very love affair between the accused and the deceased has not been properly established by the prosecution. In such a scenario, invoking the provisions of the Act also become unsustainable and consequently, charge under Section 3(2)(v) is not made out.



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WEB COPY 30. Insofar as the CDR marked through PW32, it does not improve the case of the prosecution in any manner. It is clear that the prosecution was not able to substantiate that the mobile numbers actually stood in the name of the accused person and deceased. In such a case, no useful purpose will be served by relying upon the CDR.

31. In the considered view of this Court, even if the case of the prosecution is believed to the hilt, at the best, it only creates a strong suspicion. It is now too well settled that a strong suspicion cannot be a substitute for proving the case beyond reasonable doubts by the prosecution. In the case in hand, the prosecution wants to prove the entire case with the serological report. It is only one of the circumstance and the other main circumstance namely, motive has not been established by the prosecution. Thus, there is a snap at every link in the chain of circumstances. In view of the same, the benefit of doubt has to necessarily go in favour of the accused person.

32. The trial court failed to appreciate the evidence in proper perspective and went wrong in coming to the conclusion that the



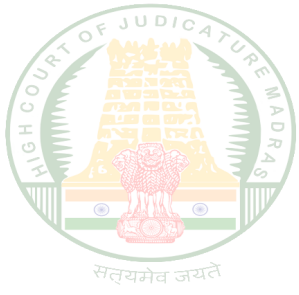
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prosecution has proved the case beyond reasonable doubts. Such finding suffers from perversity and illegality and it warrants the interference of this court. Accordingly, the judgment in Spl.S.C.No.12 of 2015, dated 09.06.2022 on the file of the learned Special Court for Trial of cases under Scheduled Castes and Schedule Tribes (POA) Act, is hereby set aside and the criminal appeal is allowed. Bail bond shall stand terminated. Fine amount paid, if any, is ordered to be refunded.

33. This Court places on record its appreciation for the assistance rendered by the legal aid counsel who was directed to appear on behalf of the defacto complainant. For the services rendered by Mr.B.Fazil Kirmani, there shall be a direction to the Legal Aid Service Authority, to pay a remuneration of Rs.5,000/-.

[N.A.V., J.] [S.S.Y., J.]
11.06.2026

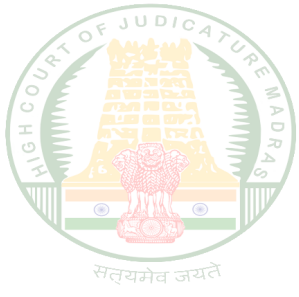
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- To
- 1.The Special Court for Trial of cases under Scheduled Castes and Schedule Tribes (POA) Act, Theni.
 - 2.The Deputy Superintendent of Police
Andipatti Sub-division
Andipatti.
 - 3.The Inspector of Police
Andipatti Police Station
 - 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH, J.
AND
S.SRIMATHY, J.

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Judgment made in
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