



Crl.A(MD)No.1299 of 2025

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**

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Mareeswaran

... Appellant/Sole Accused

Vs.

State of Tamil Nadu Rep. by
Inspector of Police,
Muthiyahpuram Police Station,
Tuticorin District.
(Cr.No.453 of 2020)

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 415(2) of BNSS to call for the records and to set aside the Judgment of conviction dated 19.09.2024 made in S.C.No.157 of 2021 on the file of the learned II Additional District and Sessions Court, Thoothukudi, Thoothukudi District.



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For Appellant : Mr.D.Srinivasa Raghavan for
Mr.S.Senthil Sankara Natha Kumar
For Respondent : Mr.R.Meenakshi Sundaram
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.157 of 2021, dated 19.09.2024, on the file of the learned II Additional District and Sessions Judge, Thoothukudi, thereby convicting the appellant/accused for the offence punishable under Section 302 of IPC.

2.The case of the prosecution is that PW1 is the son of the deceased. The deceased was married twice and got separated from both wives and used to stay at the nights in a dismantled mahindra van, which is used for vulcanizing work by PW2, stationed at



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Mudukkukadu Village, in the Service Road, Southern Side of Bypass Road. While being so, on 18.12.2020 at about 09.30 p.m., when PW2 had gone to his shop for vulcanizing work, he found that the accused, who was working as driver under him and the deceased have involved in wordy altercation over a beedi. Therefore, PW2 did not take it seriously and as such he left to his home. On the next day at about 06.00 a.m. when PW2 had gone to the shop, he found the deceased with injuries. It was immediately informed to PW1. Thereafter, PW1 came to the scene of crime and lodged a complaint.

3.On receipt of complaint, the respondent registered the FIR in Crime No.453 of 2020 for the offence punishable under Section 302 IPC. After completion of investigation respondent filed a final report before the jurisdictional Magistrate and the same was taken cognizance by the Trial Court.



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4.In order to bring the charges to home, the prosecution examined P.W.1 to P.W.24 and marked Exs.P1 to P29. The prosecution also produced Material Objects M.O.1 to M.O.12. On the side of the accused, no one was examined and no documents were produced before the Trial Court.

5.On perusal of the oral and documentary evidence, the trial Court found the accused guilty for the offence punishable under Section 302 of IPC and sentenced him to undergo life imprisonment and imposed a fine of Rs.5,000/-, in default, to undergo six months simple Imprisonment. Aggrieved by the same, the appellant has filed the present Criminal Appeal.

6.The learned counsel for the appellant submits that it is the case of circumstantial evidence, since there was no eye witnesses to the occurrence. The prosecution ought to have proved the charge by connecting the accused without breaking the chain. The chain of



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link to connect the accused is not at all proved by the prosecution.

The deceased as well as the accused had quarrelled between them at 09.00 p.m. and thereafter, the deceased was found dead inside the van. PW2 to PW5 had seen them lastly together. Thereafter, the accused was arrested and based on his confession, the weapon, which was used for the crime, had been recovered. On the basis of which the trial Court convicted the accused for the offence punishable under Section 302 of IPC. Even according to the case of the prosecution, PW2 to PW5 had seen the deceased and accused at about 09.00 p.m. on the previous day. The dead body of the deceased was found only on the next day at about 06.00 a.m. Therefore, the prosecution failed to prove the chain of link between the occurrence and the alleged crime. Further, the last seen witnesses also turned hostile and the remaining circumstance is recovery. Mere recovery is not sufficient to convict the accused. In fact, the weapon, which was allegedly used for crime, was recovered from the open place. Therefore, the prosecution failed to prove the case beyond doubt and



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the trial Court ought not to have convicted the accused.

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7.Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that PW1 and PW2 have categorically deposed and their evidences are also corroborated by the medical evidence. The doctor who had conducted autopsy over the dead body of the deceased had deposed as PW16. He deposed about the injuries found on the body of the deceased, which was the cause for the death of the deceased. PW2 categorically deposed that he had seen the accused and the deceased together and they have also quarrelled with each other over a petty dispute of offering beedi. Therefore, the prosecution has fully established the complete chain of evidence.

8.He further submits that, as per the doctrine of confirmation by subsequent facts, the basic idea is embedded under



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Section 27 of the Indian Evidence Act. It is found on the Principle that if any fact is discovered in a search made on the strength of any information obtained from the accused, such a discovery is guaranteed that the information supplied by the accused is true. It means that the statements made in the custody are admissible to the extent that it can be proved by the subsequent discovery of facts. Pursuant to the confession statement, there was recovery of material objects 4 and 6. M.O.6 contains complete strains of 'A' group of blood, which also tallies with the blood group of the deceased. The Serological reports are marked as Exs.P27 and P28. Therefore, there is absolutely, no ground to set aside the conviction and sentence imposed by the trial Court.

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

10.The prosecution mainly relied upon the last seen



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witnesses namely PW2 to PW5, in which PW3 to PW5 have turned hostile and did not support the case of prosecution. Perusal of the deposition of PW2 reveals that he had seen both the accused and the deceased at about 09.00 p.m., while they were quarrelling with each other for a beedi. It was also raining at that time, and as such PW2 did not even enquire them and did not take any steps to pacify them. In fact the accused was his erst while driver. The deceased used to sleep in the Mahindra van, which was used for vulcanizing the tyres. Thereafter, PW2 left the place and went to his house. On 19.12.2020, as usual, when PW2 came to the van and opened the door in order to wake the deceased up, he found the deceased, lying dead with injuries.

11.The relevant portion of the deposition of PW2 reads as follows:

"18.12.2020 அன்று மாரியப்பன், நான் கடையை
அடைத்து வைத்திருப்பதை பார்த்துவிட்டு,



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கடையை திறந்து வேலை பார்ப்போம், எனக்கு சரக்கும்(மதுபானம்), சாப்பாடும் வாங்கி தா, எனக் கூறினார். நான் இரவு 08,30 மணியளவில் சாப்பாடு, சரக்கு மற்றும் பூஜைக்கு தேங்காய், பழம் ஆகியவைகள் வாங்கி கொடுத்தேன். பிறகு அவரை படுப்பதற்காக சமார் இரவு 09.00 மணியளவில் பஞ்சர் வேனிற்கு கூட்டி சென்று விடப்போனேன். அங்கே ஏற்கனவே எதிரி மாரீஸ்வரன் இருந்தார். அப்போது அவர்கள் இருவரம் ஒரு பீடிக்காக வாக்குவாதம் செய்து கொண்டிருந்தார்கள். நான் மழை பெய்து கொண்டிருந்ததால், அவர்கள் எப்போதும் போதும், வழக்கமாக வாக்குவாதம் செய்கிறார்கள் என்று நினைத்து நான் வீட்டிற்கு போய்விட்டேன். 19.12.2020 அன்று என் மனைவியை காலை 06.00 மணியளவில் வேலைக்கு விடுவதற்காக வந்திருந்தேன். மாரியப்பனை எழுப்பிவிட்டு கடையை திறக்க சொல்வோம் என நினைத்து, பஞ்சர் வேனை கதவை திறக்கும்போது, அவர் தலையிலும், முகத்திலும் அடிப்பட்டு இரத்த வெள்ளத்தில் கிடந்தார். உடனே அங்கு உள்ள டிரைவர்களிடம் சொல்லிவிட்டு, அவருடைய மகனுக்கு அ.சா.1 ஆறுமுகத்திற்கு போன் மூலம் தகவல் சொன்னேன். அருகிலிருந்த லாரி



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டிரைவர்கள் சிலரும் வந்து பார்த்தார்கள். அவர் சிறிது நேரத்தில் வந்து பார்த்துவிட்டு, முத்தையாபுரம் காவல்நிலையத்திற்கு, நானும் அ.சா.1 ஆறுமுகம் புகார் கொடுக்க சென்றோம். அங்கு அ.சா.1 ஆறுமுகம் புகார்மனு எழுதிக்கொடுத்தார்."

12.Thus, it is clear that PW2 left the scene of occurrence at about 09.00 p.m., when the deceased and the accused were quarrelling with each other for a beedi. Thereafter, there is no evidence to show that the accused and the deceased were together. In fact the prosecution also had examined PW3 to PW5 in order to prove the last seen theory; all of them turned hostile and did not support the case of the prosecution. But their statements recorded under Section 161 of Cr.P.C. reveal that the accused and the deceased used to consume alcohol together. As usual on 18.12.2020, when they had seen the accused in the van at about 09.30 p.m. on 18.12.2020, the accused and the deceased were quarrelling with each



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other and the accused also scolded him with filthy language and they had also seen the accused strangulating the deceased. Thereafter, he had assaulted him with air pressure meter and iron rod. However, it is not corroborated with the evidence of PW2. Though PW2 had seen the accused and deceased together, PW2 did not even whisper about the words uttered by the deceased as well as the accused, while they were quarrelling with each other.

13.In pursuant to the confession statement, M.O.4 was recovered, which is nothing but a screw driver, which is used for repairing puncture. On perusal of postmortem report, it is revealed that the deceased had sustained 32 injuries. The injuries sustained by the deceased are not inflicted through M.O.4. Therefore, the prosecution failed to connect M.O.4 to the injuries sustained by the deceased. Moreover, all the statements of PW2 to PW5 were recorded by the Investigating Officer after a period of nearly two months from the date of occurrence. All the statements were also



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sent along with the final report. There is absolutely no explanation by the prosecution to explain the inordinate delay to record the statements from the witnesses and also sending the same to the Court. The Investigating Officer had deposed as PW23.

14. It is relevant to extract the evidence of PW23.

"26.01.2021 ஆம் தேதி சாட்சிகள் செல்வராஜ், சாந்திராமர், செந்தில்வேல், மகாலிங்கம் என்ற ஐ.ஆர்.எஸ்.மணி ஆகியோர்களை விசாரித்து தனித்தனியாக வாக்குமூலம் பதிவு செய்தேன். 30.01.2021 ஆம் தேதி சாட்சிகள் முத்துக்குமார், பாலமுருகன், செல்லக்குட்டி ஆகியோர்களை தனித்தனியாக விசாரித்து வாக்குமூலம் பதிவு செய்தேன். 05.02.2021 ஆம் தேதி சாட்சி சரவணகுமார் என்பவரை விசாரித்து தனியாக வாக்குமூலம் பதிவு செய்தேன். 10.02.2021 ஆம் தேதி சாட்சி அகிலா சங்கர், சிம்சன், ஆகியோர்களை விசாரித்து வாக்குமூலம் பதிவு செய்தேன். 01.03.2021 ஆம் தேதி சாட்சிகள் உதவி இயக்குநர் பாலமுருகன், அறிவியல் அலுவலர் வேல்முருகன் ஆகியோர்களை விசாரித்து தடய அறிவியல் சான்று பெற்றும்,



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அவர்களை தனித்தனியாக விசாரித்து சான்று
பெற்றேன்."

15.Thus, it is clear that the witnesses, who were relied upon by the prosecution in order to prove the last seen theory, were examined by the investigating officer after a period of nearly two months from the date of occurrence; Some of the other witnesses were even examined after three months. But, the accused was arrested as early as on 07.01.2021. There is no evidence to fix the accused in this case on 07.01.2021. No one has spoken about the presence of the accused in the scene of crime before 07.01.2021. Therefore, the entire case of the prosecution is only based on the evidence of PW2 and recovery.

16.As stated supra, M.O.4, the weapon, which was used for the alleged occurrence, failed to match the injuries sustained by the deceased. In over all circumstances, the prosecution ought to have



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proved the circumstances from which the conclusion of guilt was drawn beyond reasonable doubt. The facts that are established by the prosecution should be consistent with the hypothesis of culpability and should not explain any other hypothesis. The prosecution must rule out all other reasonable hypotheses except the one that needs to be proved. Further, the circumstances must be of an all-conclusive nature and tendency. Finally, the chain of evidence must be so believed that it does not leave any basis with the accused for evidencing. Therefore, the prosecution miserably failed to prove those circumstances to connect the accused to this case.

17.In view of the above, the conviction and sentence imposed on the appellants in S.C.No.157 of 2021, dated 19.09.2024, on the file of the learned II Additional District and Sessions Court, Thoothukudi, cannot be sustained and are liable to be set aside.

18.In the result, this Criminal Appeal is allowed and the



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Judgment made in S.C.No.157 of 2021, dated 19.09.2024, on the file of the learned II Additional District and Sessions Court, Thoothukudi, 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
TM

To

- 1.The II Additional District and Sessions Court, Thoothukudi.
- 2.The Inspector of Police,
Muthiyahpuram Police Station,
Tuticorin District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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