

Bail Slip

The Substantive sentence of imprisonment imposed on the Petitioners/accused namely Uma Maheswari, Sampath, Appu @ Nandhakumaran and Ammu @ Govindaraj were suspended in Pursuance of the order of this Court made in M.P.No.2 & 3/2012 in Crl A Nos.314 & 317 of 2012, dated 25/9/2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.JAICHANDREN

AND

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

Criminal Appeal Nos.314 and 317 of 2012

Uma Maheswari .. Appellant in Crl.A.No.314/2012

1.Sampath

2.Appu @ Nandhakumaran

3.Ammu @ Govindaraj

.. Appellants in Crl.A.No.317/2012

-Vs-

State rep by

Inspector of Police

R-8 Vadapalani Police Station

Chennai 600 026.

... Respondent in both the appeals

These Criminal Appeals have been preferred against the judgment and order of conviction dated 30.04.2012 in S.C.No.508 of 2011 on the file of XVII Addl. District and Sessions Judge, Chennai, convicting the appellants u/s 302 and sentencing them to undergo imprisonment for life and to pay a fine of Rs.10,000/- each in default to undergo one year simple imprisonment; u/s 201 IPC to undergo 3 years R.I. and also fine of Rs.1,000/- in default 3 months S.I. to run concurrently.

For Appellant in : Mr.A.Raghunathan,
Crl.A.No.314/2012 Senior Counsel
for Mr.M.N.Balakrishnan

For Appellants in : Mr.S.Kalyanaraman
in Crl.A.No.317/2012

For Respondent : Mr.M.Maharaja
Additional Public Prosecutor

C O M M O N J U D G M E N T

(Judgment of the Court was delivered by S.NAGAMUTHU, J.)

The appellants are the accused 1 to 4 in S.C.No.508 of 2011 on the file of the learned XVII Additional District and Sessions Judge, Chennai. They stood charged for offences under Sections 120(b), 302 and 201 IPC. By judgment dated 30.04.2012, the trial Court acquitted all the accused from the charge under Section 120(b) IPC, however, convicted them under Sections 302 and 201 IPC and sentenced them to undergo imprisonment for life and to pay a fine of Rs.10,000/- each, in default to undergo simple imprisonment for one year for the offence under Section 302 IPC and to undergo rigorous imprisonment for three years and to pay a fine of Rs.1,000/- each, in default to undergo simple imprisonment for three months for the offence under Section 201 IPC. Challenging the said conviction and sentence, the accused/appellants are before this Court with these appeals.

2. The case of the prosecution, in brief, is as follows:

[a] The deceased in this case was one Mr.Prasanna. The first accused is his wife. The deceased was not earning anything to meet the family expenses, as he did not go for any work. This resulted in frequent quarrels between the first accused and the deceased. It is stated that in those circumstances, the first accused felt that it would not be worthwhile to live with the deceased and instead, killing him alone will pave way for her to lead the rest of her life peacefully. The second accused is known to her as well as to her husband. She told the second accused about her decision to kill the deceased. The second accused, out of the said request made by the first accused, agreed for the same and he engaged the accused 3 and 4, who were close to him. The second accused told the first accused that the deceased could be killed by means of electrocution. The first accused also agreed for the same. Thus, according to the prosecution, the accused 1 to 4 conspired to kill the deceased.

[b] It is further alleged that on 21.07.2011, the second accused called the first accused over phone and informed her that he was ready with the accused 3 and 4 to come to her house to kill the deceased. The first accused nodded positively. The second accused requested the first accused to keep the back door open, so that the accused 2 to 4 can enter into the house without being noticed by anybody. Accordingly, the first accused kept the back door of the house open. The deceased was sleeping in the house. Between 3.00 a.m. and 4.30 a.m., the accused 2 to 4 came to the house of the deceased through the back door. The accused 3 and 4 covered their hands with plastic gloves. Then, they connected wires to the switch box and touched the hands of the deceased with the live wire. Due to electric shock, the deceased cried for help. Then, they snapped the wires from electricity and killed him by closing his mouth and also by strangulating him. Again, the accused 3 and 4 gave electric shock to the deceased. After ensuring that the deceased was no more, the accused 2 to 4 dragged the body outside the house and laid it by the side of the electric switch box on the outer wall of the house. Then, they removed the fuse carrier, put the same in the hand of the deceased to make it appear as though, when the deceased had tried to remove the fuse carrier, he got electrocuted and died. Having done so, they left the place of occurrence.

[c] P.W.1 is the local municipal councillor. On 21.07.2011, according to her, at 7.00 a.m., the first accused came to her house and informed her that the accused 2 to 4 had committed murder of her husband. She further told her that since her husband had illicit intimacy with some other woman, she informed the same to the second accused and the second accused had engaged the accused 3 and 4 and killed the deceased. Thus, according to P.W.1, the first accused narrated the entire event, thereby confessing to her guilt. P.W.1 reduced the statement of the first accused to writing [vide Ex.P2]. The first accused signed the same. P.W.1 also signed, which is Ex.P1. Then, she took the first accused along with her extra judicial confession to the police and produced her before the Inspector of Police, R-8 Vadapalani Police Station.

[d] P.W.23, the then Inspector of Police, on receipt of the said Report, registered a case in Cr.No.1230 of 2011 under Section 302 IPC, against the accused 1 and 2 and two others at 7.30 a.m. Ex.P.18 is the FIR. He forwarded Exs.P1 and P18 to the Court, which were received by the learned Judicial Magistrate at 2.10 p.m. on 21.07.2011.

[e] P.W.23 took up the case for investigation. He arrested the first accused at 7.50 a.m. in the presence of P.W.1 and another witness. Keeping the first accused in police custody at the police station itself, P.W.23 proceeded to the place of

occurrence. Between 8.25 and 9.25 a.m. on the same day, he prepared an Observation Mahazar and a Rough sketch in the presence of P.W.16 and another witness. He recovered a blood stained fuse carrier, half burnt electric silk wires and other materials from the place of occurrence. Then, he conducted inquest on the body of the deceased between 9.45 a.m and 12.15p.m. in the presence of panchayatdars and prepared an Inquest Report under Ex.P20. Then, he forwarded the body for post-mortem. P.W.22 conducted autopsy on the body of the deceased on 22.07.2011 at 11.45 a.m. He found the following injuries:

"

- 1 Three semicircular abrasions each measuring 1 x 0.5 cm with a gap of 0.5 cm in the inner aspect of middle part of the upper lip with bruising of the underlying tissues.
- 2 Four numbers semicircular abrasions each measuring 1 x 0.5 cm with a gap of 0.5 cm on the inner aspect of the lower lip, with bruising of the underlying tissues.
- 3 Three number 'C' shaped abrasions each measuring 1 x 0.5 cm with a gap of 1 cm, one below the one on the right side of the neck 2 cm away from the mid line of the neck and 5cm below the angle of right mandible o/d bruising of the underlying tissues were seen.
- 4 One 'C' shaped abrasion measuring 1 x 0.5 cm on the front of left side of the neck, 3cm away from the front midline of the neck and 5cm below the angle of left mandible o/d bruising of the underlying tissues were seen.
- 5 Two number abrasions each measuring 1 x 0.5 cm on the left side of the ala nasi with bruising of soft tissues.
- 6 One abrasion measuring 1 x 0.5 cm on the right side of the nose with bruising of the tissues.
- 7 Bruising with bleeding on the inner aspect of both nose.

CONTUSIONS

- 8 8 x 5 x 1 cm on the back of upper part of right side chest.
- 9 6 x 2 x 1 cm on the back of right loin
- 10 6 x 5 x 1 cm on the front of mid line of the chest...

- 11 9 x 8 x 1 cm on the right side tempero parietal area of the scalp O/D subscalp haematoma seen
- 12 Contusion 4 x 2 cm on the top of left shoulder joint
- 13 Contusion 2 x 2 x 1 cm on the front of right shoulder joint

ELECTRICAL BURNS

- 14 Electrical burns 6 x 2 cm on the inner aspect of the lower side of the right arm.
- 15 Electrical burns 10 x 1cm on the inner aspect of upper part of right upper arm.
- 16 An oblique electrical burns 7 x 1 cm on the inner aspect of middle side of left upper arm.

INCISED WOUNDS

- 17 A linear vertical incised wound 5 x 1 cm x cartilage deep on the front of the helix of the left external ear.
- 18 An oblique incised wound 3 x 1 cm x cartilage deep on the ante helix of the left external ear."

Ex.P17 is the Post-mortem Certificate. He gave opinion that the death of the deceased was due to autopsy due to strangulation and suffocation.

[f] P.W.23 examined a few more witnesses and recorded their statements. On his request, the material objects were sent for chemical examination. The Report revealed that there were blood stains on the material objects, including a portion of the fuse carrier which was recovered at the place of occurrence. On completing the investigation, P.W.23 laid charge sheet against the accused.

3. Based on the above materials, the trial Court framed charges as detailed in the first paragraph of this judgment. The accused denied the same. In order to prove the case of the prosecution, on the side of the prosecution, as many as 23 witnesses were examined and 23 documents were exhibited, besides 14 Material Objects.

4. Out of the said witnesses, P.W.1 is the local panchayat councillor. She has stated that on 21.07.2011, the first accused came to her house at 7.00 a.m. and confessed to her guilt. P.W.2 is the father of P.W.1. He has also stated about the same fact. P.W.3 has spoken only on hearsay evidence, whose evidence is of no use to the prosecution. P.W.4 is the brother of the deceased. He has also stated that he saw the dead body. He has not stated anything incriminating. P.W.5 is the daughter of the deceased. According to her, when she was sleeping at her house, early in the morning at 3.30 a.m., she was awakened by a noise. At that time, she found the first accused roaming around inside the house restlessly. She has further stated that, at that time, she found the other accused also standing there. When she asked the first accused as to why the accused 2 and 3 were there at that time, the first accused did not give any satisfactory reply. According to these witnesses, the deceased was not seen anywhere and there were blood stains here and there in the house. When P.W.5 insisted the first accused to tell her as to where the deceased had gone, the first accused told her that the deceased was no more. Then, she woke up her brother and all of them went outside the house and found the dead body of the deceased near the junction point. She has further stated that she spoke to her aunt, by name Kanchana over the cell phone of her father. P.W.6 is the son of the deceased. He is a child witness. He has stated that, on 21.07.2011, P.W.5 woke him up and told him that their mother had killed their father. He has further stated that when they went out of the house, they found the dead body of the deceased. P.W.7 has spoken about the arrest of the accused 2 and 3 on 21.07.2011 and the consequential recoveries of M.Os.1 to 3 on the disclosure statement made by the second accused and the recovery of M.O.4 on the disclosure statement made by the third accused. P.W.8 is a neighbour of the deceased. He has stated that around 4.45 a.m., on 21.07.2011, he found the children of the deceased in front of his house and they were weeping. When he enquired the children where the first accused was, they told him that she has gone to the police station. He has further stated that he found the dead body. P.W.9 has also stated that he found the dead body of the deceased at about 4.45 a.m. on 21.07.2011. P.W.10 has spoken about the arrest of the first accused on 21.07.2011 at 2.30 p.m. On such arrest, according to him, the first accused gave a voluntary statement, in which she disclosed the place where she had hidden the two cell phones. In pursuance of the same, M.Os.5 and 6 were recovered. P.W.11 has spoken about the photographs taken at the place of occurrence. P.W.12 has spoken about the fact that he took the dead body for post-mortem. P.W.13 is the Scientific Expert of the Forensic Science Lab. He has stated that he conducted chemical examination on the material objects and found blood stains on the same, including the fuse carrier. He has also stated about the group of the blood found on the material objects. P.W.14 is the

official from the Electricity Board, who has stated that on 20.07.2011, from 9.00 p.m. onwards, for the whole of night, there was no electricity failure in the locality of the place of occurrence. P.W.15 has stated that on 20.07.2011, from about 3.00 a.m. to 3.30 a.m., these three accused were found at V.O.C. street. Then, the accused 2 to 4 had gone to the house of the first accused. Again, from about 4.00 a.m. to 4.15 a.m., all the three persons [the accused 2 to 4] returned followed by the first accused. The first accused told P.W.15, that she was proceeding to the police station to make a complaint, as she had killed her husband. P.W.17 is an Assistant Surgeon at the outpost Hospital at K.K.Nagar, Chennai. According to him, on 22.07.2011, at about 2.30 p.m., the Sub Inspector of Police had brought the third accused to him for treatment. He found a lacerated injury measuring 1 x 1 x .5 cm on the left thumb of the third accused. Ex.P15 is the Accident Register. The third accused told P.W.17, that when he attempted to commit murder of a known person, he sustained the injury [this statement of the third accused is eschewed from consideration as the same was got in the presence of the police - as it is not relevant in view of Section 23 of the Indian Evidence Act]. P.W.18 is the Nodal Officer in Bharathi Airtel Company. He has stated that on the request made by the Inspector of Police, he supplied the call details of cell phone nos.97898 68729 and 90031 32272 for the period between 15.07.2011 and 01.08.2011. P.W.19 is the Officer in the Aircel Company. He has stated that as requested by the police, he supplied the call details relating to the cell phone nos.99410 21816 and 98411 15676 for the period between 15.07.2011 and 01.08.2011. P.W.20 is the Assistant Director in the Forensic Science Lab. He has stated about the condition of the wires and fuse carrier recovered from the place of occurrence. P.W.21 has stated that on 21.07.2011 at 7.00 a.m., P.W.1 informed him that a woman had come to her in connection with a murder case. When he went to the house of P.W.1, he found the first accused. The first accused confessed to him about her guilt. Even according to him, P.W.1 took the first accused to the police station and produced. P.W.22 has spoken about the post-mortem conducted and his final opinion regarding the cause of the death. According to him, the death of the deceased was due to compression of neck and closure of nose. In other words, according to him, the death was due to asphyxia due to strangulation and smothering. P.W.23 has spoken about the registration of the case, investigation done by him and the Final Report filed by him.

5. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., they denied the same as false. On their side, they examined one Karthika as a defence witness. She is the daughter of the first accused. She has

stated that on the day of occurrence, she was at the house of the deceased. At about 3.30 a.m., the child of D.W.1 cried for milk. Therefore, she awakened the first accused, but they found the main entrance of the house kept open. She went outside the house. There, the deceased was lying unconscious. Initially, they believed that there was life. But, the watchman who was sitting in front of the house, came inside and found that the deceased had breathed his last already. Immediately, he informed the same to the police. Thus, according to this witness, the first accused has got nothing to do with the death of the deceased.

6. Having considered all the above, the trial Court convicted all the four accused as detailed in the first paragraph of this judgment. Aggrieved over the same, the accused/appellants are before this Court with these appeals. As we have already pointed out, the trial Court has acquitted all the four accused from the charge under Section 120(b) IPC.

7. We have heard the learned counsel appearing for the appellants and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

8. According to the case of the prosecution, the alleged occurrence was between 3.00 a.m. and 4.30 a.m. on 21.07.2011 at the house of the deceased. A complaint was made to the police only at 7.30 a.m. on 21.07.2011. The FIR and the complaint had reached the hands of the learned Judicial Magistrate only at 2.10 p.m. on 21.07.2011. In the complaint itself, the names of the accused 1 and 2 have been mentioned as the known assailants. Two other persons have been mentioned as unknown assailants. The learned counsel for the appellants would submit that absolutely there is no explanation in respect of the above delay. This, according to the learned counsel for the appellants, creates doubt in the case of the prosecution.

9. From the evidence of P.W.1, it is seen that at 7.00 a.m., on 21.07.2011, the first accused came to her house and informed that she had killed the deceased along with other accused. She has further stated that the first accused told her that the accused 2 to 4 came to the house through the back door, where they killed the deceased and then dragged the body outside the house and left it near the electricity junction box. P.W.1 had categorically stated that even at that time itself, the first accused mentioned the names of the accused 2 to 4 to him. That is what she has stated even in the chief examination. If that is so, in Ex.P1, nothing would have prevented P.W.1 from mentioning the names of all the four accused as the assailants. But, she has mentioned the names of only the accused 1 and 2 and

she has mentioned two others as unknown people. Absolutely, there is no explanation for the same. This creates initial doubt in the mind of the Court in respect of the evidence of P.W.1 that the first accused came to her at 7.00 a.m. and confessed to her guilt.

10. According to P.W.1, whatever was said by the first accused was reduced to writing by her under Ex.P2. Then, according to her, she took the first accused to the police station and produced her before P.W.23 along with Ex.P2 - the extra judicial confession given by the first accused. It is also the positive case of P.W.23, the Inspector of Police, that until 7.30 a.m., when the first accused was produced by P.W.1, they were not aware of the occurrence at all. Thus, the information given by P.W.1 at 7.30 a.m. on 21.07.2011, was the earliest and also the first information to the police. But, the learned counsel appearing for the appellants would point out that, at 4.45 a.m. itself, the Inspector of Police had arrived at the scene of occurrence. The learned counsel would refer to the evidence of P.W.2, who is the uncle of the deceased. He has stated that on receiving information about the occurrence, when he went to the place of occurrence, at 6.00 a.m., the police had already come. This would go to show that on some other information, the Inspector of Police had arrived at the scene of occurrence some time before 6.00 a.m.

11. Then, comes the evidence of P.W.8, who is a neighbour of the deceased. According to his positive evidence in the chief examination itself, on 21.07.2011 at 4.45 a.m., when he was moving to the bathroom, he heard a distress call raised from the house of the deceased. Actually, the Office of P.W.8 is in the second floor of the same building, where, in the ground floor, the deceased was residing. The watchman was also standing in front of the said building. It is his further evidence that he climbed down the stairs and reached the house of the deceased. At that time, according to him, the children of the deceased were weeping and they told him that their mother, namely, the first accused had already gone to the police station. He found the dead body of the deceased. Immediately, he informed 108 ambulance service. Soon, according to him, the police came to the place of occurrence and they wanted to know whether there was any doctor available in that locality. He informed the police that there was one doctor by name, Dr.Kala. Immediately, Dr.Kala was taken by the police to the police of occurrence and after examining the dead body of the deceased, she declared him dead. Thus, even before the deceased was declared dead, the police had arrived at the scene of occurrence. He has further stated that at 5.00 a.m. itself, the police had arrived at the scene of occurrence. At that time,

Mr.Hemraj - P.W.4 had also come to the place of occurrence. From these evidences, it is crystal clear that the police had arrived even before 5.00 a.m on the day of occurrence.

12. Similarly, P.W.9 has also stated that at 4.45 a.m., the children of the deceased were weeping in front of their house and when he went to the house of the deceased, he found the deceased unconscious. Immediately, the police arrived at the scene of occurrence and ambulance also had come. But, the Doctor brought by the police, after examining the dead body, declared him dead. From these evidences, it is crystal clear that, on some information to the police around 4.45 a.m. itself, the Police Officers had arrived at the scene of occurrence before 5.00 a.m. itself. It is not known as to what was that information which was passed on to the police, which brought them to the place of occurrence. This information being the earliest information, should carry weightage. Since the said earliest information which had brought the police to the place of occurrence has been suppressed, it creates enormous doubt in the case of the prosecution.

13. Apart from that, the learned counsel for the accused would submit that Ex.P18-FIR would not have been registered at 7.30 a.m. It is his contention, had it been true that it was registered at 7.30 a.m., the same would not have taken so much time to reach the Court at 2.10 p.m. on 21.07.2011. Absolutely, there is no explanation on the side of the prosecution regarding the same. Due to this unexplained delay in forwarding the FIR to the Court, besides the fact that Ex.P1 does not contain the names of the accused 3 and 4, whereas, according to P.W.1, the first accused told the names of the accused 2 to 4 as the assailants and the fact that the police had arrived before 5.00 a.m. itself at the place of occurrence, we find it difficult to believe the case of the prosecution. If it is once held that Ex.P1 is a concocted document, then, the extra judicial confession said to have been given by the first accused to P.W.1 cannot be believed.

14. The prosecution next relies on the evidence of the children of the deceased, namely P.Ws.5 and 6. According to their evidence, at about 3.30 a.m. on 21.07.2011, P.W.5 found the first accused roaming around inside the house restlessly. At that time, according to her, she found the accused 2 to 4 also inside the house. She has further stated that her father was not seen at that time and in the course of the same transaction, the first accused informed her that she had already killed the deceased. She woke up P.W.6. Thus, according to P.Ws.5 and 6, when they came out of their home, the dead body of the deceased was lying near the electric junction box. So far as the accused 3 and 4 are concerned, they were not already known to these two witnesses. But, they

have identified these two accused also in the Court. In the absence of prior Identification Parade, the identification made by these witnesses for the first time in Court cannot be believed. Secondly, so far as their witnessing these four accused at the crucial time at the house is concerned, we find some doubt.

15. P.W.8 is the neighbour of the deceased. He was in his house in the second floor of the building, where the deceased was residing in the ground floor. Their watchman was also available. According to his evidence, at 4.45 a.m., he heard the distress call raised by P.Ws.5 and 6. P.W.9 has also stated so. When P.W.8 went down to the house of the deceased, according to him, he found P.Ws.5 and 6 weeping. But at that time, they did not say anything about the occurrence. They only said that their mother had gone to the police station.

16. P.W.9 is a Software Engineer. He is also residing in an apartment in the same building. According to him, at 4.45 a.m., on 21.07.2011, he found the dead body of the deceased and P.Ws.5 and 6 were weeping. The police also arrived. At that time, P.Ws.5 and 6 did not say anything about the occurrence to him also. Even the relatives of the deceased, who had arrived at the scene of occurrence were not informed anything about the occurrence by these witnesses.

17. P.W.4 - Hemraj is the brother of the deceased. He came to the place of occurrence at 6.30 a.m. Had it been true that P.Ws.5 and 6 had seen the occurrence, by all means, they would not have omitted to disclose the same at least to P.W.4. Thus, the conduct of P.Ws.5 and 6 in not being instantaneous or at least, within a reasonable time, to inform either P.W.4 or others, about the occurrence would create enormous doubt in their evidence.

18. D.W.1 - yet another daughter of the deceased has stated that she was also present on the day of occurrence in the house of the deceased. She has stated that early in the morning, since her child cried for milk, she woke up. At that time, she found the door open and outside the house the deceased was lying unconscious. The evidence of D.W.1 also carries weightage.

19. In the light of the fact that P.Ws.5 and 6 did not say anything about the occurrence to anybody and in the light of the evidence of D.W.1, we find it difficult to accept the evidence of P.Ws.5 and 6. It is well known that a child witness is prone for tutoring. Such tutoring of P.Ws.5 and 6 cannot be ruled out. For these reasons, we reject the evidence of these witnesses.

20. Now turning to the motive, according to the case of prosecution, the deceased was not going for any work and earned nothing to maintain the family. It is stated that because of the same, the first accused decided to kill the deceased. Then, the first accused informed the same to the second accused. It is stated that the second accused readily agreed for the same and engaged the accused 3 and 4 to commit the murder. It is highly unbelievable that the accused 2 to 4 would have agreed to kill the deceased, as they had neither enmity against the deceased, nor had they any proximity or closeness to the first accused. The motive alleged for the first is also so flimsy.

21. It is not the case of the first accused that she was not even present at the house on the day of occurrence. She has filed a detailed statement under Section 313 Cr.P.C. wherein, she has stated that on the night of 20.07.2011, she, along with her children, was sleeping in the house. D.W.1 also was with them. At about 3.30 a.m., D.W.1's child cried for milk. D.W.1 woke up the first accused. At that time, they found that the main door of the house was kept open. When they went outside the house, they found the deceased lying unconsciously. This was stated by D.W.1. Then only, P.Ws.5 and 6 woke up. Then, the first accused went to the police station at 4.30 a.m. itself. She was made to sit in the police station and immediately, police had gone to the place of occurrence. This defence of the first accused is substantiated by the evidence of D.W.1 and other evidences which we have already dealt with, wherein, it has been established that the police arrived at the place of occurrence at 4.45 a.m. Thus, the alternative theory which is inconsistent with the guilt of the accused, has not been ruled out by the prosecution.

22. Now, turning to the cause of death, according to the Doctor, the death was due to compression, smothering and manual strangulation. The dead body was found outside the house of the deceased. The electric wire was in the hands of the deceased. According to so-called confession given by the first accused, by using gloves, the accused 3 and 4 connected the wires to the switch box and with the live wire, they gave electric shock to the deceased. The deceased woke up and shouted and immediately, they strangulated the deceased. This narration of facts also sounds unnatural. When the electric wire was live, it would not have been possible for these accused to strangulate and smother the deceased, when he was still under electrocution. Above all, the death was also not due to electrocution.

23. In effect, the prosecution has succeeded only in creating suspicion against the first accused. On mere suspicion, she cannot be convicted. As it has been guaranteed

under Article 21 of the Constitution of India, the life and liberty of an individual cannot be deprived of without following the procedure established by law. The Courts of law, cannot convict an accused on mere surmises and conjectures. Suspicion, however strong it may be, shall not take the place of proof. In this case, as we have already pointed out, the prosecution has succeeded only in establishing suspicion, but not establishing the guilt of the accused. In a case based on circumstantial evidence, it is needless to point out that the prosecution has to prove the circumstances projected by it beyond reasonable doubts and all such proved circumstances, should form a complete chain without any break, so as to unerringly point to the guilt of the accused and there should not be any other hypothesis, which is inconsistent with the guilt of the accused.

24. Here in this case, the prosecution has failed to prove the guilt of the accused beyond reasonable doubts. The hypothesis that the deceased would have been killed by somebody else and the body would have been laid outside the house cannot be ruled out. In view of the same, we find it difficult to sustain the conviction. We hold that the prosecution has failed to prove the case beyond all reasonable doubts.

In the result, the appeals are allowed and the conviction and sentence imposed on the appellants/accused nos.1 to 4 by the trial Court are set aside and all the four accused are acquitted of all the charges. The fine amount, if any paid by the accused, shall be refunded to them. The bail bonds, if any executed, shall stand discharged.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The XVII Additional District Judge,
(Fast Track Court-III), Chennai.

2.The Superintendent,
Central Prison,
Puzhal,
Chennai.

3.The Additional District and Sessions Judge
Chennai.

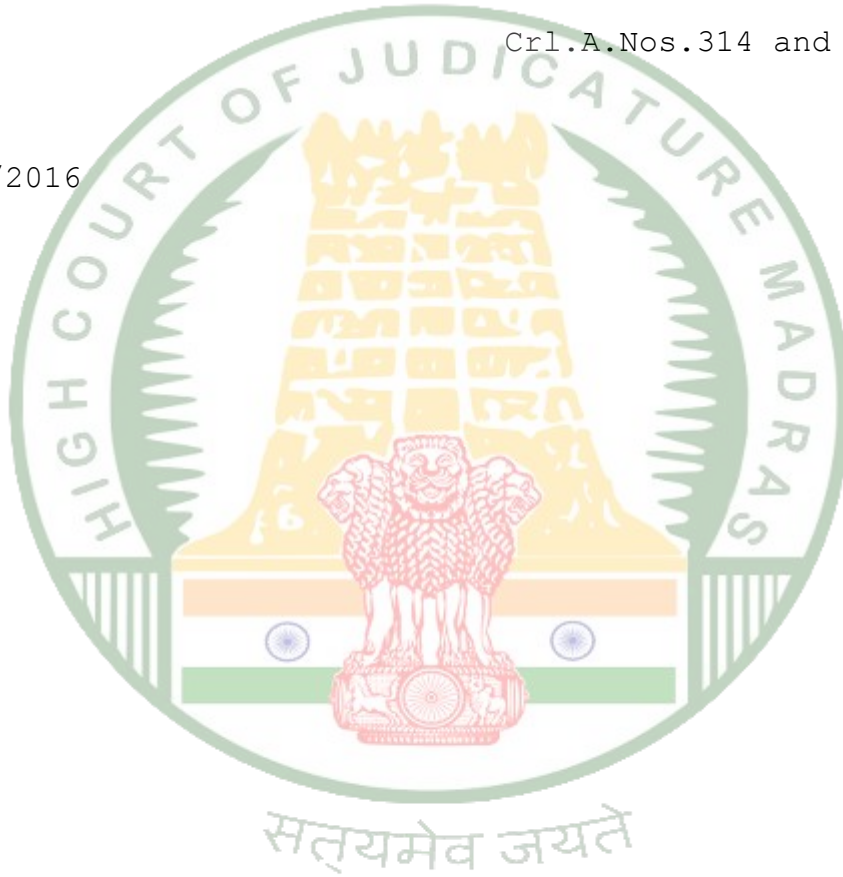
4. Inspector of Police
R-8 Vadapalani Police Station
Chennai 600 026.

5.The Public Prosecutor,
Madras High Court, Chennai.

+2cc to M/S.M.N.Balakrishnan, Advocate Sr.19842 & 19843

Crl.A.Nos.314 and 317 of 2012

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