

**BAIL SLIP****CRL.A.(MD)Nos.270, 282, 303, 315 and 317 of 2015**

The Appellant/Accused No.8 namely, Palanivel, S/o.Karupppiah was released on bail made in MP(MD)No.1 of 2015 in Crl.A(MD) No.270/2015 dated 15.10.2015.

The Appellant/Accused No.5 namely, Viswanathan, S/o.Subbiah, was released on bail made in MP(MD)No.1 of 2015 in Crl.A(MD) No.282/2015 dated 15.10.2015.

The Appellant/Accused No.4 namely, Raja, S/o.Alagan was released on bail by this Hon'ble Court made in MP(MD)No.1 of 2015 in Crl.A(MD)No.303/2015 dated 28.10.2015.

The Appellant/Accused No.2 namely, Bala, S/o.Marimuthu was released on bail by this Hon'ble Court made in MP(MD)No.1 of 2015 in Crl.A(MD)No.315/2015 dated 01.12.2015.

The Appellants/Accused Nos.1,3,6 and 7 namely, S.Jeyaraman S/o.Subbaiah, K.Senthil S/o.Kalimuthu, S.Kumar S/o.Subbaiah, V.Periyasamy S/o.Vellaichamy were released on bail by this Hon'ble Court made in MP(MD)No.1 of 2015 in Crl.A(MD)No.317/2015 dated 01.12.2015.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.11.2016

CORAM:

THE HONOURABLE Mr.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE Mr.JUSTICE M.V.MURALIDARAN

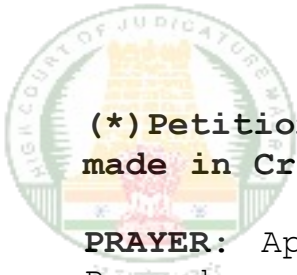
CRL.A.(MD)Nos.270, 282, 303, 315 and 317 of 2015

1. (*) S.Palanivel, S/o.K.Subbaiah	...Appellant/Accused - 8 in Crl.A.No.270/2015
2.Viswanathan, S/o.Subbiah	...Appellant/Accused - 5 in Crl.A.No.282/2015
3.Raja, S/o.Alagan	...Appellant/Accused - 4 in Crl.A.No.303/2015
4.Bala, S/o.Marimuthu	...Appellant/Accused -2 in Crl.A.No.315/2015
5.S.Jeyaraman, S/o.Subbaiah	
6.K.Senthil, S/o.Kalimuthu	
7.S.Kumar, S/o.Subbaiah	
8.V.Periyasamy, S/o.Vellaichamy	...Appellants/Accused - 1, 3, 6 & 7 in Crl.A.No.317/2015

Vs.

State, rep.by
The Inspector of Police,
Devakottai Town Police Station,
Sivagangai District.
(Crime No.237/2007)

...Respondent/Complainant
in all the Appeals



(*)Petitioner Cause title is Amended as per Order dated 10.08.2017 made in CrI MP(MD)6720/17 in CrI A(MD.270/15.

PRAYER: Appeals filed under Section 374 of the Code of Criminal Procedure against the Judgment of conviction and sentence, dated 30.09.2015, made in S.C.No.73 of 2009 on the file of the learned Sessions Judge, Sivagangai District.

For Appellants : Mr.C.Jeganathan
in CrI.A.Nos.270 &
282 of 2015

For Appellant : Mr.S.Ravi
in CrI.A.No.303/2015

For Appellant : Mr.K.Seemaraaj
in CrI.A.No.315/2015

For Appellants : Mr.T.Lajapathi Roy
in CrI.A.No.317/2015

For Respondent : Mr.K.S.Duraipandian,
Additional Public Prosecutor.

JUDGMENT

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

Appellants in all these appeals are accused Nos.1 to 8 in S.C.No.73 of 2009 on the file of the learned Sessions Judge, Sivagangai District. The trial court framed as many as six charges as against the appellants/accused, as detailed below:

Sl.No	Charge	Against
1	Under Section 120-B IPC	Accused 1 to 8
2	(a)Under Section 148 IPC (b)Under Section 147 IPC	Accused No.1 Accused 2 to 8
3	Under Section 341 IPC	Accused 1 to 8
4	Under Section 302 r/w.Sec.34 IPC	Accused 1 & 2
5	Under Section 302 r/w.Sec.149 IPC	Accused 3 to 8
6	Under Section 506(ii) IPC	Accused No.1

After trial, by judgment dated 30.09.2015, the trial court convicted all the eight appellants/accused and imposed sentences on them, as detailed below.

Sl.No.	Accused No.	Conviction	Sentence
1.	Accused 1	U/s.148 IPC	2 years R.I. And a fine of Rs.500/-, i/d.one month R.I.

2.	Accused 1	U/s.302 r/w.34 IPC	Life imprisonment and a fine of Rs.1000/- i/d.one month R.I.
3.	Accused 2	U/s.147 IPC	1 year R.I. And a fine of Rs.500/-, i/d.one month R.I.
4.	Accused 2	U/s.302 r/w.34 IPC	Life imprisonment and a fine of Rs.1000/- i/d.one month R.I.
5.	Accused 3 to 8	U/s.147 IPC	Each 1 year R.I. and a fine of Rs.500/-, i/d.one month R.I.
6.	Accused 3 to 8	U/s.302 r/w.149 IPC	Life imprisonment and a fine of Rs.1000/- i/d.one month R.I., each.
7.	Accused 1 to 8	U/s.341 IPC	No separate sentence imposed, since sentence has been imposed for major offence.

Challenging the above said conviction and sentence, the appellants are before this Court with these appeals.

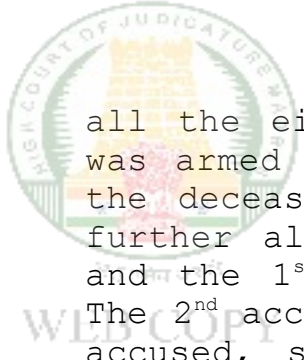
2.The case of the prosecution, in brief, is as follows:

(a)Deceased in this case is one Mr.Veerappan, who is the brother-in-law as well as son-in-law of P.W.1. He belonged to Kallar Community and he was a resident of Manthoppu Veethi, Devakottai Town. All these appellants/accused belonged to Scheduled Caste Community. On account of certain local issues between these two communities, there was a long time enmity between them. The deceased was the leader of the group belonging to Kallar Community and the 1st accused was the leader of the Scheduled Caste Community. It is stated that because of the said motive, the deceased was done to death by all these appellants/accused.

(b)It is the further case of the prosecution that on 14.04.2007, there arose a quarrel between the group lead by the deceased and the group led by the 1st accused, in respect of "Aadal, Paadal" programme conducted in respect of Chithrai festival celebrations in front of Silambani Vinayagar Temple, Devakottai Town. In the said incident, it is stated that the deceased and his men had attached the 1st accused and others. This resulted in a criminal case and this is stated to be the immediate motive for the occurrence.

(c)It is the further case of the prosecution that on 25.07.2007, around 11.00 a.m., at the house of the 1st accused at Dovakottai, these eight appellants/accused conspired to do away with the deceased.

(d)It is further alleged that in pursuance of the said conspiracy, on the same day, around 8.30 p.m., when the deceased was walking through Karuthavoorani Pillar Temple Street, and he was nearing the compound wall of one Pitchai Chettiar's house,



all the eight accused suddenly emerged there and the 1st accused was armed with a knife and others were unarmed. They surrounded the deceased and restrained him from proceeding further. It is further alleged that accused 3 to 8 caught hold of the deceased and the 1st accused stabbed him near the left ear with a knife. The 2nd accused, snatching the said knife from the hands of the 1st accused, stabbed the deceased on his chest, back of the chest, abdomen and other parts of the body. The deceased fell unconscious in a pool of blood. The occurrence was witnessed by P.Ws.1, 3 and 4 and when P.W.1 raised alarm, all the accused fled away from the scene of occurrence, with the weapon of crime, claiming that Veerappan is dead. Immediately, P.W.1 took the deceased to hospital. After examining him, the doctor declared him dead. Immediately thereafter, according to the prosecution, P.W.1 prepared a complaint in writing (Ex.P-1) and went to Devakottai Town Police Station and presented the said complaint at 10.30 p.m. on 25.07.2007. In the said complaint, P.W.1 had mentioned that as many as 11 named persons, who were already known to him, attacked the deceased and caused his death. The said 11 names, include one Senthil, son of Sevugan, PLA Anbu, PLA Bose, Iravucheri Gajendran, Jeyachandran and one Mr.Nettai Kumar. Thus, according to Ex.P-1, the total number of assailants were 11.

(e)P.W.15, the then Sub-Inspector of Police, attached to respondent police station, registered a case in Crime No.237 of 2007 under Section 302 IPC, against all the 11 accused. Ex.P-15 is the FIR. He forwarded Ex.P-1 and P-15, through a special messenger, to the house of the learned Judicial Magistrate, Devakottai. It was handed over to the learned Magistrate at 5.00 a.m. on 26.07.2007.

(f)Investigation in the case was taken-up by P.W.16, the then Inspector of Police, Devakottai Taluk Police Station. He went to the Government Hospital, Devakottai, and conducted an inquest on the body of the deceased, in the presence of panchayatdars and witnesses and prepared an inquest report (Ex.P-16). He examined P.W.1, P.W.7 and some other witnesses and recorded their statements. He sent the body for postmortem, through Head Constable Mr.Rajendran.

(g)P.W.2, Dr.Jeyarani, the then Civil Surgeon in Devakottai Government Hospital, conducted autopsy on the body of the deceased at 9.00 a.m. on 26.07.2007 and found the following injuries:

"1.Stab injury of irregular edge and curve shaped 3.5 cm x 1 cm breadth and 3 cm depth present over the left side chest, 1 cm below the anterior axillary bone.

2.Irregular edged, transverse incised wound of size 7 cm x 2.5 cm x 5 cm over the left side neck directed towards the midline. On further exploration, underlying muscles & blood vessels also cut. Blood clots seen over the wound.



3. Incised wound with clean edge on one side and ragged edge on other side of size 3.5 cm x 2.5 cm x 3 cm present, 1 cm below the left ear lobe directed towards the midline on further exploration, corresponding muscles & Blood vessels also cut. Blood clots seen over the wound.

4. Large _/ shaped incised wound over the left side abdomen vertical end starts 4 cm below the coastal margin 3 cm away from the midline. Transverse end from close to the umbilicus. 60 cms of intestine with mesentery by prolapsed outside from the abdominal wall. Transverse incised wound of size 3 cm seen over the small bowl. 7 cm x 10 cm x umbilicus depth upto the peritoneal cavity opened.

5. Two abrasions each 1 cm x .5 cm over the left side chest just below the clavicle.

6. One abrasion of size 1 cm x .5 cm over the left side forehead.

7. 5 cm x 3 cm x 7 cms depth stab wound present back at the level of D10 extending from midline towards right side directed downwards on further exploration, corresponding muscle & Blood vessel also involved vertebral column also injured. Blood clots seen over the wound."

Ex.P-3 is the postmortem certificate issued by P.W.2. P.W.2 was of the opinion that the death would have occurred due to shock and haemorrhage, due to injury to vital organs. She further opined that the injuries found on the body could have been caused by a weapon like knife.

(h) After sending the body for postmortem, at 2.15 a.m. on 26.07.2007, P.W.16 visited the place of occurrence, prepared an observation mahazar (Ex.P-17), and a rough sketch (Ex.P-18) in the presence of P.W.14 and another. In the presence of same witnesses, P.W.16, recovered a bloodstained knife, without handle (M.O.1) bloodstained earth (M.O.2), sample earth and a bunch of keys with bloodstains (M.O.3) under a mahazar (Ex.P-20). He examined P.W.15 and some other witnesses and recorded their statements. Thereafter, P.W.16 handed over the investigation to the Inspector of Police, Devakottai Town Police Station.

(i) P.W.17, the then Inspector of Police, Devakottai Town Police Station, on receipt of case diary in respect of Cr.No.237/2007 from P.W.16, visited the place of occurrence and verified the correctness of the observation mahazar and the rough sketch prepared by his predecessor. On 26.07.2007, at about 12.00 Noon, he received the inner garments, removed from the body of the deceased at the time of postmortem, namely, M.Os.4 and 6, handed over by Head Constable and sent the same to the Court. Around 8.00 p.m., he examined P.W.1, P.W.7 and some other witnesses and recorded their statements.

<https://hccorpus.gov.in/cases>

(j) P.W.1 appeared before P.W.17 and made a further statement, in which he stated that six persons, who were named as



assailants in the FIR, namely Bose, Anbu, Gajendran, Nettaikumar, Senthil and Jeyachandran, did not, in fact, participate in the occurrence at all. He further told that due to anxiety, he had mentioned the names of these six persons as assailants in Ex.P-1. He further told that three other persons, by name Bala, Kumar and Periyasami were actually the assailants, along with others and the names of these three persons were omitted to be mentioned in Ex.P-1, out of anxiety. (These three persons have been arrayed as accused Nos.2, 6 and 7 in the Final Report).

(k)P.W.17 continued the investigation. On 27.07.2007, around 8.30 a.m., on information, he arrested A-4 Raja, A-5 Viswanathan and A-3 Senthil at Thadayankadu Deviation Road, in the presence of P.W.12 and another. At that time, all the three accused gave separate voluntary confession statements, disclosing the places where the shirts worn by them at the time of occurrence, with bloodstains, were hidden and P.W.17 recorded those statements in the presence of same witnesses. Pursuant to their disclosure statements, marked as Exs.20, 22 and 24, respectively, all the three accused took and produced three bloodstained shirts, M.Os.6, 7 and 8 and P.W.17 recovered them under three different mahazars, marked as Exs.P-21, 23 and 25. Thereafter, P.W.17 forwarded the above three accused and the material objects to the Court and the accused were remanded to judicial custody.

(l)On 28.07.2007, P.W.17 examined P.W.12 and some witnesses and recorded their statements. P.W.17 searched for the absconding accused. He examined the photographer, who photographed the place of occurrence and recorded his statement. M.O.9 (series) are the photographs and M.O.10 (series) are negatives. On coming to know that A-1 Jeyaraman surrendered before Judicial Magistrate Court, Tirumayam, P.W.17 took him under police custody and examined him, in the presence of witnesses, at that time, he gave a voluntary confession and P.W.17 recorded the same. Pursuant to the disclosure statement (Ex.P-26) made by him, A-1 took the police party to a bush near Siva Temple Pond and produced M.O.11, bloodstained shirt, and P.W.17 recovered the same under Ex.P-27 mahazar, in the presence of same witnesses. A-1 also identified P.W.11 from whom he got the billhook used by him for cutting neem tree branch with leaves and P.W.17 recovered M.O.12, billhook, from P.W.11, under Ex.P-28, mahazar. Thereafter, he produced A-1 before Court for judicial remand. He also sent the above material objects to Court. He examined recovery witnesses and recorded their statements. He also examined P.Ws.3, 4, 8, 9, 10, 11 and some other witnesses and recorded their statements.

(m)Since it came to light from the statements of P.W.1, P.W.3 and P.W.7 that accused Senthil, S/o.Sevugan, PLA Anbu, PLA Bose, Gajendran, Jeyachandran and Nettaikumar did not involve in the occurrence, P.W.17 removed their names from the array of accused and sent a report to that effect to the Court. P.W.17 also made an application to the Court seeking permission to

include A-2 Bala, A-6 Kumar and A-7 Periyasamy (as arrayed in the final report) in the case.

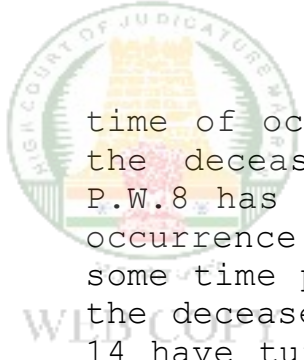
(n) P.W.17, on coming to know that A-2 Bala had surrendered before the Judicial Magistrate Court, Pudukkottai, took him into police custody and enquired him and at that time, he gave a voluntary confession. P.W.17 recorded the said confession statement. Pursuant to the disclosure statement (Ex.P-29), A-2 Bala took and produced M.O.13, handle of a knife and M.O.14, bloodstained shirt and the same were recovered by P.W.17, under Ex.P-30. Thereafter, P.W.17 produced A-2 before the Court for judicial Court and sent the material objects recovered from A-2 to court

(o) On 03.12.2007, A-6 Kumar and A-7 Periyasami surrendered before Judicial Magistrate Court, Pudukkottai. P.W.17 took them into police custody and on enquiry, both the accused gave voluntary confession statements and P.W.17 recorded them. Pursuant to the disclosure statements (Ex.P-31 - marked with objection and Ex.P-32), A-6 and took and produced a bloodstained shirt (M.O.15) and A-7 produced a bloodstained shirt (M.O.16) and P.W.17 recovered them under Ex.P-33. Thereafter, P.W.17, produced the accused before the Court for judicial remand and sent the material objects to court. He gave a requisition to the Court to send the material objects for chemical analysis. He examined witnesses and recorded statements. Exs.P-34 to 36, Chemical Examination Reports and Exs.P-37 and P-38, Serology Reports, were received in the Court. Thereafter, on his transfer, his successor P.W.18, continued the investigation.

(p) P.W.18, on taking charge as the Inspector of Police, Devakottai Town Police Station, went through the case file. Since A-8 Palani could not be arrested, he was shown as absconding accused. On completing investigation, he filed charge sheet against the accused.

3. Based on the above materials, the trial court framed charges against the accused as detailed in the first paragraph of this Judgment. The accused denied them as false. In order to prove the charges, the prosecution examined as many as 18 witnesses, and exhibited 38 documents and marked 16 material objects.

4. Out of the said witnesses examined, P.Ws.1, 3 and 4 claim to be eye-witnesses to the occurrence. They have stated about the alleged participation of all these eight accused and their individual overt acts. They have further stated that A-1 stabbed the deceased once and A-2 stabbed the deceased, repeatedly. They have further stated that they took the deceased to the hospital, where he was declared dead. P.W.1 has spoken about the complaint given by him. P.W.2 has spoken about the postmortem conducted on the body of the deceased and the final opinion regarding cause of death. P.W.5, Judicial Magistrate, has spoken about the recording of statements of witnesses, under Section 164 Cr.P.C. P.W.6, an official from the Tamil Nadu Electricity Board, has stated that there was no electricity failure at the



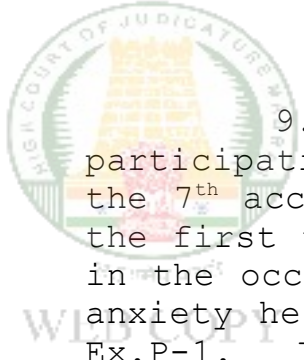
time of occurrence, near the place of occurrence. P.W.7, wife of the deceased, has spoken about the motive for the occurrence. P.W.8 has turned hostile and he has not stated anything about the occurrence. P.W.9 has stated that he saw all the eight accused some time prior to the occurrence. P.W.10 has stated that he took the deceased, along with others, to the hospital. P.Ws.11, 12 and 14 have turned hostile and they have not supported the prosecution case. P.W.13 has spoken about the preparation of observation mahazar, rough sketch and recovery of material objects from the place of occurrence. P.W.15 has spoken about registration of the case. P.W.16, P.W.17 and P.W.18, Inspectors of Police, have spoken about the investigation conducted by them and filing of final report.

5. When the above incriminating materials were put to the accused under Section 313 of the Code of Criminal Procedure, they denied the same as false. The defence of the accused was a total denial. However, they did not examine any witness nor mark any documents.

6. Having considered all the above, the trial Court found all the accused guilty, convicted and sentenced them as detailed in the first paragraph of this Judgment. Aggrieved by the same, the appellants are before this Court with these appeals.

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

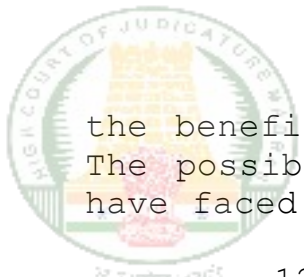
8. As we have already pointed out, in the instant case, the prosecution mainly relies on the evidence of P.Ws.1, 3 and 4. Learned counsel appearing for the appellants would submit that P.Ws.1, 3 and 4 would not have been present at all at the place of occurrence and their evidence that these eight accused participated in the occurrence and killed the deceased cannot be believed. Learned counsel would, at the outset, assail the FIR. In the FIR, P.W.1 had mentioned about the names of accused persons and their participation, including overt acts for 11 persons, totally. One Mr. Bose, Anbu, Gajendran, Nettaikumar, Senthil and Jeyachandran, were arrayed as accused in Ex.P-1. P.W.1 has mentioned about the individual overt acts of these six persons also in Ex.P-1. But, after few days of the occurrence, according to P.W.17, P.W.1 appeared before him and wanted to make a further statement. It was, during such further statement, for the first time, P.W.1 gave a twist to the case by stating that the above said six persons did not participate in the occurrence at all. He further told that out of anxiety he mentioned as though these six persons were present and they also participated in the occurrence. It is understandable that if P.W.1 had omitted to mention the names of somebody out of anxiety. But, here, in Ex.P-1, he has mentioned the names and participation of these six persons, consciously, by mentioning the overt acts of these people. The explanation offered by him that out of anxiety he wrongly mentioned that these six persons had participated in the occurrence cannot be believed and the same cannot be accepted.



9. In Ex.P-1, P.W.1 did not mention about the presence and participation of the 2nd accused Mr.Bala, 6th accused Mr.Kumar and the 7th accused Mr.Periyasami. But, in his further statement, for the first time, he disclosed that these three persons participated in the occurrence. The explanation offered by him is that out of anxiety he omitted to mention the names of these three persons in Ex.P-1. It is the case of the prosecution that it was the 2nd accused Mr.Bala who stabbed the deceased, repeatedly and caused his death. When the 2nd accused, though allegedly played vital role in the death of the deceased, by causing stab injuries with a knife, snatching away the knife from the first accused, it is highly unbelievable that out of anxiety P.W.1 would have omitted to mention the same in Ex.P-1. Similarly, P.W.1 has not stated about the presence and participation of accused Nos.6 and 7. In our considered view, the explanation offered by P.W.1 for omitting to mention the presence and participation of accused Nos.2, 6 and 7 is highly unbelievable and the same cannot be accepted.

10. From these facts, it becomes clear that P.W.1 is not a reliable witness. Admittedly, he has got motive against the accused persons. It was only out of the same, he has mentioned 11 persons as accused and omitted to mention about these three accused and their alleged overt acts. During cross examination, P.W.1 has admitted that before going to the police station, he himself sat and wrote Ex.P-1 complaint in his own hand-writing. He has further admitted that he was never induced by anyone nor instructed by anyone else either to omit names of some of the accused or to include the names of some innocent persons. He further admitted that when he went to the police station, he carried Ex.P-1, which was already prepared by him and he presented the same to the police. It is not his case at all that either police or somebody induced him or instructed him wrongly to make false allegations in Ex.P-1. This admission by P.W.1 would go a long way to show that he would not have been present at all near or in the place of occurrence at the time of occurrence and out of his own imagination, motivated by the previous enmity and probably in consultation with his group of people had prepared Ex.P-1 and presented the same to the police.

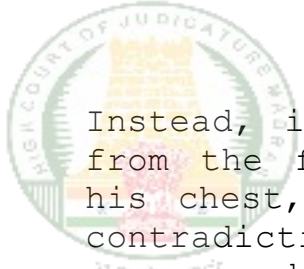
11. In a case of this nature where there are multiple number of accused and where it has been found that many of the accused have been included, falsely in the FIR and many have been omitted in the FIR, the very foundation of the case should get destroyed. FIR being the foundation of the case and if it is found that FIR is the result of motivated action on the part of the prosecution party and the same is the result of deliberations, then the entire case of the prosecution should be doubted and unless the said doubts are cleared by the prosecution, giving the benefit of doubt to the accused, the accused are to be acquitted. In this case, as we have already discussed, the doubts arising out of Ex.P-1 have not been obviated by the prosecution. Therefore,



the benefit of such doubt should be extended to all the accused. The possibility of false implication of some of the accused, who have faced trial, cannot be ruled out.

12. Now turning to the evidence of P.Ws.3 and 4, they claim to have been present at the time of occurrence, by chance. They have stated that they were coming in a motor cycle and at that time they found a group of people and then witnessed the entire occurrence. P.W.4, even in the chief examination, has stated that after the occurrence, he went to his house and he came to know that the deceased was declared dead in the hospital. He has further admitted that thereafter, for 20 days, he did not whisper anything to anyone and only after 20 days, he appeared before the police and claimed that he witnessed the occurrence. But, a perusal of his evidence would show that there is no explanation for such an inordinate delay. This conduct of P.W.4 is highly unnatural. If really he had seen the occurrence, he would have informed the same either to police or to anyone else who is closely related. Apart from that, P.W.1, during cross examination, has stated that nobody else had witnessed the occurrence except himself. From these facts, in our considered view, it is difficult to believe P.W.4. Further, P.W.4 is not an independent witness. He also belonged to the group of the deceased. Similarly, P.W.3 has also stated that after the occurrence, he simply went back to his house and then he came to know that the deceased died and thereafter he went to the hospital. But, he did not whisper anything about his presence and witnessing the occurrence to anyone. He was also examined after several days from the date of occurrence. During cross examination, he has stated that he had written notes when he was taken to the learned Judicial Magistrate for giving statement under Section 164 of the Code of Criminal Procedure and only by reading the said written statement, he made the statement before the learned Judicial Magistrate. This would go to show that this witness has also been planted by the prosecution, as if he witnessed the occurrence. At this juncture, it needs to be repeated that P.W.1 has admitted, during cross examination, that neither P.W.3 nor P.W.4 was present at the time of occurrence. Thus, the presence of P.Ws.3 and 4, in the place of occurrence at the time of occurrence is highly doubtful and it is clear that these two witnesses have been planted as an after thought, belatedly, by the prosecution.

13. As per Ex.P-1, it was the 8th accused Mr. Palani, who snatched the knife from the first accused and stabbed the deceased, repeatedly, on his chest, back of the chest and abdomen and other parts of the body; whereas, now, there is a complete change in the story during the trial as well as in the final report filed by the police and the evidence let in before the Court, the 8th accused Palani did not attack the deceased at all and he simply held the deceased.



Instead, it was only the 2nd accused Bala who snatched the knife from the first accused and stabbed the deceased, repeatedly, on his chest, back of the chest and the abdomen. This is a major contradiction in the case of the prosecution. This also creates enormous doubts in the prosecution case.

14. In view of the foregoing discussion, we find it difficult to sustain the conviction of these appellants/accused and we hold that the prosecution has failed to prove its case beyond reasonable doubts and thus, the appellants are entitled for acquittal.

15. In the result, all the appeals are allowed, the conviction and sentence imposed on the appellants by the trial court in S.C.No.73 of 2009, are set aside and the appellants are acquitted. The appellants are directed to be released forthwith, unless their presence is required in connection with any other case. If they are on bail, the bail bonds executed by them shall stand terminated. Fine amount, if any, paid by them is ordered to be refunded.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To

()Corrected order to go in the place of Order already despatched on 15/12/16.**

1. THE DISTRICT AND SESSIONS JUDGE, SIVAGANGAI DISTRICT, SIVAGANGAI.
2. THE CHIEF JUDICIAL MAGISTRATE, SIVAGANGAI.
3. -DO-THRO' THE JUDICIAL MAGISTRATE, DEVAKOTTAI.
4. THE DISTRICT COLLECTOR, SIVAGANGAI DISTRICT.
5. THE DIRECTOR GENERAL OF POLICE, MYLAPORE, CHENNAI-4.
6. THE INSPECTOR OF POLICE, DEVAKOTTAI TOWN POLICE STATION, SIVAGANGAI DISTRICT.
7. THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.



8. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1cc to M/s.T.Lajapathi Roy, Advocate in SR.66129
+1cc to M/s.C.Baskar, Advocate in SR.66510
+1cc to M/s.P.Thilakkumar, Advocate in SR.66229
+1cc to M/s.N.Sethuraman, Advocate SR.No.28629

CRL.A.(MD)Nos.270, 282,303, 315
and 317 of 2015
Dated:04.11.2016

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