

**Bail Slip**

That the Appellant/Sole Accused viz., Perumal, S/o. Ulagu Thevar was directed to be released on bail as per order dated: 26/08/2013 made in MP(MD)No. 2 of 2013 in Cr1 A(MD)No. 194 of 2013 on the file of this Court.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.R.SHIVAKUMAR

AND

THE HONOURABLE MR.JUSTICE V.S.RAVI

Cr1.A(MD)No.194 of 2013

Perumal .. Appellant / Sole Accused

Vs.

State rep. By
The Inspector of Police,
Murappanadu Police Station,
Thoothukudi District.
(Crime No.201 of 2011)

.. Respondent / Complainant

PRAYER: Criminal Appeal filed under Section 374(2) of Cr.P.C., praying this Court, to call for the records from the Trial Court and to duly set aside the Judgment delivered in S.C.No.120 of 2012 dated 20.03.2013, on the file of the learned I Additional District and Sessions Judge, Thoothukudi District and to pass such further order as this Court may deem fit and proper under the circumstances of the case.

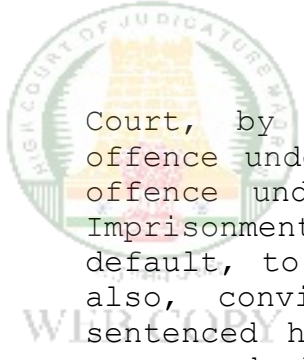
For Appellant	: Mr.K.Prabhu, Advocate
For Respondent	: Mr.K.S.Duraipandian, Additional Public Prosecutor

Judgment reserved on : 19.11.2015

Judgment pronounced on : 22.04.2016

JUDGMENT

The appellant is the sole accused in S.C.No.120 of 2012 (Crime No.201 of 2011) on the file of the learned I Additional District and Sessions Judge, Thoothukudi. The accused has been charged for the offence under Sections 294(b), 449, 302 and 506(ii) I.P.C. The Trial



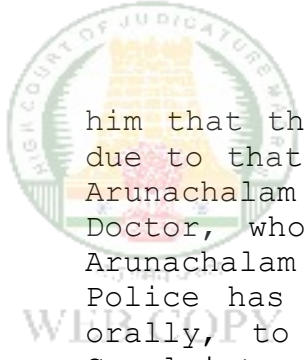
Court, by Judgment dated 20.03.2013, acquitted the accused for the offence under Section 294(b) I.P.C., but convicted the accused for the offence under Section 302 I.P.C., and sentenced him to undergo Life Imprisonment and also, imposed to pay the fine amount of Rs.1,000/- in default, to undergo Rigorous Imprisonment for the period of one year and also, convicted him for the offence under Section 449 I.P.C., and sentenced him to undergo Rigorous Imprisonment for the period of five years and also, imposed to pay the fine amount of Rs.500/- in default, to undergo Rigorous Imprisonment for the period of one year and also convicted him for the offence under Section 502(ii) I.P.C., and sentenced him to undergo Rigorous Imprisonment for the period of five years and also, imposed to pay the fine amount of Rs.500/- in default, to undergo Rigorous Imprisonment for the period of one year and the sentences have been directed to run concurrently and the remand period already undergone by the accused will be given set off under proviso to Section 428 of Cr.P.C., and the Total fine amount is Rs.2,000/-. Challenging the said conviction Judgment delivered in S.C.No.120 of 2012, the appellant/accused in Crime No.201 of 2011, is before this Court with the present appeal, praying the above mentioned relief.

2.The brief case of the prosecution is as follows;

On 04.07.2011 at 7.00 p.m., the accused Perumal is in drunken mood and he has scolded, by using filthy words, nearer to the house of Arunachalam and the said Arunachalam has questioned the accused, for talking in the said manner, and the accused has stated to him that if the said Arunachalam interferes in his matter, the said Arunachalam's life is in his hand and due to the said enmity, at 10.00 p.m., while, the said Arunachalam, has slept in Steel cot in his house, the accused has entered into his house, unlawfully, with Sickle and brutally assaulted the said Arunachalam, on his right neck, with the help of Sickle and P.W.1 Indhira and P.W.2 Ramasamy have tried to prevent the accused, and at that time, the accused has threatened them, with the said Sickle and thereafter, the accused has escaped from the scene of occurrence and the injured Arunachalam has been taken to Government Hospital, in a Sumo Car and the Doctors have examined the injured Arunachalam and they have declared that the injured Arunachalam has already expired and thereby, the appellant/accused has committed the said offences, according to the prosecution.

2.1. In order to prove the case of the prosecution, the prosecution has examined 14 witnesses as P.W.1 to P.W.14 and also marked 17 exhibits as Ex.P.1 to Ex.P.17 and also Material Objects as M.O.1 to M.O.7.

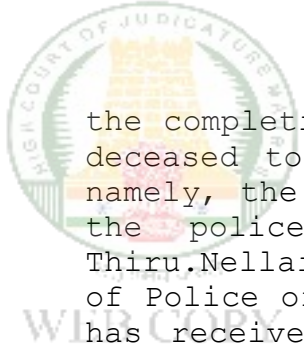
2.2. P.W.1 Indhira has stated that she knows the accused and the deceased Arunachalam is her husband and she has got one male and one female child and her husband has done agricultural work and on 04.07.2011 at 10.00 p.m., P.W.1, P.W.2, namely, her brother Ramasamy and P.W.3, namely, her brother's wife Revathi have talked to each other, in front of her house and her husband, has slept, in the Cot, inside the house and at that time, the accused Perumal has gone into the house, with Sickle and brutally assaulted her husband, namely, the deceased Arunachalam, on his right neck, with the help of Sickle and prior to that occurrence, on the same day at 7.00 p.m., the accused has scolded, by using filthy words, nearer to the house of P.W.1 and the said Arunachalam has questioned the accused for talking, in the said manner, and the accused has replied to



him that the said Arunachalam's life is in the hands of the accused and due to that enmity, the occurrence has happened and thereafter, the said Arunachalam has been taken to Government Hospital, in a Sumo Car and the Doctor, who has examined the said Arunachalam, declared that the said Arunachalam has already expired and after that, the Sub Inspector of Police has come to the said hospital and she has lodged the Complaint orally, to the said Sub Inspector of Police and he has written the Complaint and Ex.P.1 is the Complaint and P.W.5, namely, her brother-in-law Ayyappan has signed in the said Complaint and M.O.1 is the Sickie, which has been used by the accused. Further, P.W.2 Ramasamy has stated that he has resided at Trichy and P.W.1 is his sister and the deceased Arunachalam is the husband of P.W.1 and he knows the accused and on the date of occurrence, he has come to P.W.1's house and also, he has spoken about the occurrence, as stated by P.W.1, in her evidence and the light facility has been available, as per the tube light of the house of P.W.1 and after the occurrence, the said Arunachalam has been taken to Tirunelveli Government Hospital and the Doctor in the said hospital has examined the said Arunachalam and declared that the said Arunachalam has already expired and P.W.1 has lodged the Ex.P.1 Complaint.

2.3. Further, P.W.3 Revathy has stated that P.W.1 is her sister-in-law and the deceased Arunachalam is her brother and P.W.2 Ramasamy is her husband and P.W.3 and P.W.2, used to come to the house of P.W.1 and also, she has spoken about the occurrence, as stated by P.W.1 and P.W.2 in their evidences. Further, P.W.4 Kandhan has stated that he knows the accused and also, he knows the deceased Arunachalam and his house is situated nearer to the house of the said Arunachalam and on 04.07.2011 at 10.00 p.m., he, has slept in his house and at that time, he has heard the noise from the house of P.W.1 and P.W.1 has stated to him that the accused Perumal has assaulted the said Arunachalam and also, run away from the scene of occurrence and thereafter, he has gone to the house of P.W.1 and seen the injured Arunachalam and the said Arunachalam has been taken to hospital. Further, P.W.5 Iyyappan has stated that on 05.07.2011, at early morning 1.30 hours, the Inspector of Police of Murappanadu has visited the place of occurrence and the said Inspector of Police has prepared Observation Mahazar as per Ex.P.2 and also, the said Inspector of Police has recovered M.O.2 bloodstained cement floor and M.O.3 sample cement floor, in the Athatchi as per Ex.P.3 and he has signed in the said Mahazar and Athatchi. Further, P.W.6 Marimuthu has stated that he is the owner of the Sumo Car bearing Registration No.TN 59-K-8665 and on 04.07.2011 at 7 to 8 hours, he has gone to Nanalkadu, to see her uncle, belonging to the said village and he came to know that Arunachalam has been assaulted by the accused Perumal and he has taken the said Arunachalam, to Tirunelveli Government Hospital, in his Sumo Car and the Doctors, in the said hospital, have examined him and declared that the said Arunachalam has already expired.

2.4. Further, P.W.7 Thiru.Gnanaprakasam Devaraj has stated that he has served as Head Clerk of the Court of the Judicial Magistrate, Srivaikundam and the Inspector of Police has given Ex.P.4 Requisition Letter, for sending the material objects to Chemical Analysis Test and Ex.P.5 is the Court letter and Ex.P.Nos.6 and 7 are the Chemical Analysis Report and Serology Report, respectively. Further, P.W.8 Thiru.Chinnadurai has stated that he has served as Head Constable of Murappanadu Police Station and on 05.07.2011 at 9.30 hours, he has handed over the dead body of the deceased Arunachalam, in Crime No.201 of 2011, to Palayamkottai Government Hospital, for conducting Postmortem and after



the completion of the Postmortem, he has handed over the dead body of the deceased to the relatives and also, he has handed over M.O.Nos.4 to 7, namely, the dresses of the deceased, which have been recovered by him, to the police station and Ex.P.8 is the Passport. Further, P.W.9 Thiru.Nellaiyappan has stated that he has served as Special Sub Inspector of Police of Murappanadu Police Station and on 04.07.2011 at 23 hours, he has received Ex.P.9 Death Intimation of the deceased Arunachalam, from Tirunelveli Hospital Outpost police station and at 23.30 hours, he has recorded the statement of P.W.1 Indhira, namely, the wife of the deceased Arunachalam and on 05.07.2011 at 00.30 hours, he has gone to the police station and registered the case in Crime No.201 of 2011 and also, he has prepared the First Information Report as per Ex.P.10 and also, he has submitted the said First Information Report to the learned Judicial Magistrate, Srivaikundam and other concerned Higher Officials.

2.5. Further, P.W.10 Dr.Sudalaimuthu has stated that he has served as Doctor in Tirunelveli Government Hospital and on 05.07.2011, as per Ex.P.11 Requisition Letter, received from the Inspector of Police of Murappanadu Police Station, he has conducted Postmortem on the male dead body of the deceased Arunachalam, aged about 56 years and he has issued Postmortem Certificate as per Ex.P.12 and in the said Postmortem Certificate, he has given his opinion that the deceased would appear to have died of heavy cut injury to the region of neck. Further, P.W.11 Thiru.Chellapandiyan has stated that he has served as Village Assistant and he knows the accused and on 19.07.2011, the police have recorded confession statement, from the accused Perumal and Ex.P.13 is the admissible portion of the said confession statement and also, they have recovered M.O.1 Sickle, in the Athatchi as per Ex.P.14, which has been hidden in the house of the accused, at Nanalkadu and P.W.11 and Pitchandi have signed in the said confession statement and Athatchi.

2.6. Further, P.W.12 Thiru.Ravi has stated that on 05.07.2011, he has served as Inspector of Police of Murappanadu Police Station and at early morning 1.00 a.m., he has taken up the case for further investigation and at 1.30 a.m., he has visited the place of occurrence and prepared Observation Mahazar and Rough Sketch as per Ex.P.Nos.2 and 15 respectively and at 2.30 a.m., he has recovered M.O.2 bloodstained cement floor and M.O.3 sample cement floor, in the Athatchi as per Ex.P.3, from the place of occurrence and also, he has prepared Inquest Report as per Ex.P.16 and also, he has recorded the statement from P.W.10 Dr.Sudalaimuthu, who has conducted Postmortem on the dead body of the deceased Arunachalam and received Ex.P.12 Postmortem Certificate and on 19.07.2011, he has recorded the confession statement, from the accused and at 19.30 hours, he has recovered M.O.1 Sickle, in the Athatchi as per Ex.P.14, which has been hidden in the house of the accused and P.W.11 Village Assistant and Pitchandi have signed in the said confession statement and Athatchi and he has handed over the material objects to the Court and thereafter, he has handed over the case records to P.W.14 Thiru.Kanagaraj, Inspector of Police, for further investigation. Further, P.W.13 Thiru.Jeganathan has stated that he has served as Head Constable of Murappanadu Police Station and on 05.07.2011 at early morning 1.00 a.m., he has received Ex.P.10 Express First Information Report and at 4 hours, he has submitted the said Express First Information Report to the learned Judicial Magistrate, at Srivaikundam and Ex.P.17 is the Passport. Further, P.W.14 Thiru.Kanagaraj has stated that he has served as Inspector of Police of Murappanadu Police Station and he has taken up the case for further investigation and he has enquired the witnesses, who

have been already enquired by P.W.12 and on 07.10.2011, he has recorded the statement from P.W.7, Head Clerk of the Court of Judicial Magistrate, Srivaikundam and on 07.10.2011, after the completion of his investigation, he has filed final report.

3. On completion of the evidences on the side of the prosecution, the accused has been questioned under Section 313 of Cr.P.C., as to the incriminating circumstances mentioned in the evidences of prosecution witnesses and he has stated that he is an innocent person and he is not involved in the said occurrence and on the side of defence, one witness has been examined as D.W.1 and one exhibit has been marked as Ex.D.1.

4. Having considered all the above materials on record, the Trial Court has convicted the accused, as mentioned in the beginning of this Judgment and challenging the said Judgment of the Trial Court, the appellant/accused has come forward with the present criminal appeal.

5. It is stated in the Grounds of Appeal, that the Judgment of the Trial Court has to be set aside, since the prosecution witnesses are interested witnesses and P.W.2 and P.W.3 are the relatives of P.W.1 and after the occurrence, P.W.1 to P.W.3 have lifted the deceased and put the deceased in the Tata Sumo Car and their dresses have got bloodstain, but, nothing have been recovered by the Investigation Officer. Ex.P.1 Complaint has been lodged by P.W.1 and the said Complaint has been recorded in the hospital, but, the said complaint has not been attested and hence, the presence of P.W.2 and P.W.3 in the scene of occurrence, are doubtful. P.W.1 is not an eyewitness in the present case. It is the case of the prosecution that Ex.P.1 has been recorded in the hospital and printed First Information Report has been registered in the police station and whereas the printed First Information Report, contains the signature of P.W.1 and there is no possibility, to take the printed First Information Report, to the hospital for getting her signature. If the printed First Information Report, has been signed by P.W.1, in the police station, then the origin of Ex.P.1 is highly doubtful in the present case. In Ex.P.1, Iyyappan has attested, but the said Iyyappan has not stated in his evidence that he has signed as an attesting witness in Ex.P.1. P.W.1 to P.W.3 are not present, at the time of occurrence, and hence, no bloodstained dresses have been recovered from them and the origin and genesis are doubtful in the present case. The Trial Court has travelled beyond the scope of evidences. In the circumstances, the appellant has submitted to allow the present Appeal.

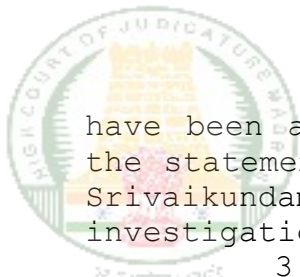
6. The points, that arise for consideration in the present Criminal Appeal, are as follows:-

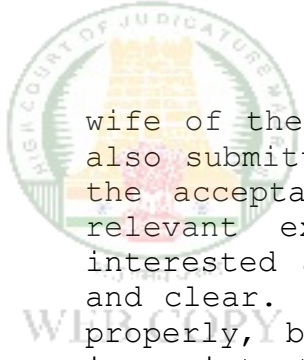
1) Whether the Lower Court has passed the impugned judgment, after properly appreciating the materials on record, in the proper perspective?

ii) Whether the said Criminal Appeal has to be allowed for the reasons and grounds stated in the Memorandum of Appeal and also, for the submissions made on behalf of the above mentioned appellant?

7. Analysis, discussions and findings with regard to the points :-

The learned counsel for the appellant has submitted that the evidence of P.W.1 is not clear and cogent. P.W.1 is none else than, the



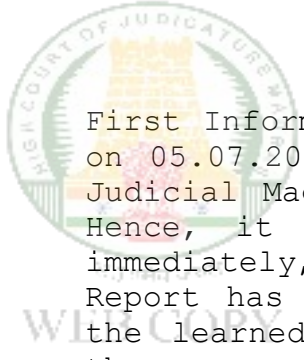


wife of the deceased. Further, the learned counsel for the appellant has also submitted that the prosecution has not proved the case by examining the acceptable and trustworthy evidences, and also, by submitting the relevant exhibits and material objects. Further, the evidences of interested and relative witnesses of P.W.Nos.1 to 3 are not trustworthy and clear. The motive aspect and also, intention have not been explained properly, by the prosecution. The investigation is incoherent and also inconsistent, which creates infirmity in the case of the prosecution. There is no acceptable and direct evidences, in the present case. The evidences let in, on behalf of the prosecution cannot be believed, due to various contradictions and infirmities. The prosecution has miserably failed to prove that the appellant has committed the offence beyond reasonable doubts.

8. On the other hand, the learned Additional Public Prosecutor for the respondent has stated that the prosecution has proved the case, against the appellant, by examining the eyewitnesses of P.W.Nos.1 to 3. Further, the material objects and exhibits have clearly established that the accused has done the said offence. There is already an enmity between the deceased and the accused. The evidences of P.W.Nos.1 to 3 are natural and trustworthy and cannot be discarded. The F.I.R has come into existence in usual manner, without any loss of time. The evidences of other witnesses have been corroborated with the evidence of P.W.1 and also, Ex.P.1 complaint and the prosecution has well substantiated the case beyond reasonable doubts. Though, there are slight variations, the evidences of the prosecution, could not affect the credibility of the prosecution witnesses.

9. In the present case, P.W.1 Indhira has been examined as an eyewitness for the occurrence. P.W.1 has admitted in her evidence that she is the wife of the deceased Arunachalam and on 04.07.2011 at 7.00 p.m., the accused has come nearer to their house and scolded them, with filthy words and at that time itself, the deceased has questioned the said accused, and at that time, the said accused has stated that the life of Arunachalam will come to an end, with his own hands. Thereafter, again, the accused has come to the house of the said Arunachalam, at 10.00 p.m., with M.O.1 Sickie in his hand and at that time, the said Arunachalam has slept in the inside portion of the house, in the cot and the accused has run, inside the house and brutally assaulted the said Arunachalam, with the help of M.O.1 Sickie, on the right side of the neck and immediately, P.W.1 and P.W.2, namely, brother of P.W.1, have taken the said Arunachalam, in Sumo Car, to Government Hospital and the Doctor in the said hospital, has examined the said Arunachalam and reported that the said Arunachalam has already expired and thereafter, the Sub Inspector of Police has come to the said hospital and P.W.1 has stated about the occurrence, orally and the said Sub Inspector of Police has written the Complaint and Ex.P.1 is the Complaint and the brother-in-law of P.W.1, namely, Iyyappan has also signed in the said Complaint.

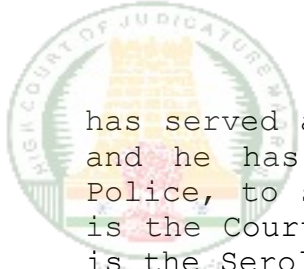
10. Further, on a perusal of Ex.P.1 Complaint, it is found that P.W.9 Thiru.Nellaiyappan, Special Sub Inspector of Police has also received the Death Intimation from Tirunelveli Government Hospital, on 04.07.2011 at 23 hours, as per Ex.P.9 and thereafter, he has recorded the statement from P.W.1 Indhira, namely, the wife of the deceased Arunachalam, at 23.30 hours and on 05.07.2011, at 00.30 hours, he has registered the case in Crime No.201 of 2011 and also, prepared First Information Report as per Ex.P.10 and also, he has submitted the said



First Information Report to the learned Judicial Magistrate, Srivaikundam on 05.07.2011 at 4.00 a.m., as per the endorsement made by the learned Judicial Magistrate, Srivaikundam, in the said First Information Report. Hence, it is seen that Ex.P.1 Complaint has been lodged by P.W.1, immediately, after the occurrence and also, the Ex.P.10 First Information Report has been registered, properly and the same has been received by the learned Judicial Magistrate, without any delay, immediately, after the occurrence. Further, P.W.1 has clearly deposed that with the help of M.O.1 Sickie only, the accused has brutally assaulted the deceased Arunachalam and P.W.1 has also identified M.O.1 Sickie, which has been used by the accused, to assault the deceased. Further, P.W.1 has particularly deposed in her evidence that at the time of occurrence, she has seen the occurrence, with the presence of light in her house.

11. Further, in Ex.P.1 Complaint, P.W.1 has stated that the accused has been seen in drunken mood, on the date of occurrence. Further, P.W.2 Ramasamy, namely, the brother of P.W.1 has particularly deposed that at the time of occurrence, he has seen the accused in liquor already taken condition and P.W.2 has also seen the occurrence of brutal assault caused by the accused, to the deceased, with the presence of light in the house, and P.W.1 has stated about the occurrence to the police, and the accused has come to their house, with M.O.1 Sickie and also, threatened P.W.1 and P.W.2 and hence, they have not gone nearer to the accused. Further, P.W.3 Revathi, namely, the wife of P.W.2, has clearly deposed that during the occurrence, they are able to see the occurrence, with the help of the presence of the light in the house and the accused has come with M.O.1 Sickie and assaulted the deceased Arunachalam, with the help of M.O.1 Sickie and there is no power cut at the time of occurrence and at the place of occurrence, the light in the house, has given light, to see the occurrence. Further, P.W.4 Kandhan, namely, the brother of the deceased Arunachalam has deposed that he has seen the deceased Arunachalam, with brutal injuries on 04.07.2011 at night 10.00 p.m., after the occurrence and he knows the accused and after the occurrence, they have got serious shock, because of the brutal assault caused by the accused, to the deceased, and, their anxiety is only to save the life of the deceased and hence, they have not thought about the lodging of the Complaint, to the police, though they have crossed the police station only, so as to reach the hospital, in order to save the life of the deceased. Thus, the evidences of P.W.Nos.1 to 3 are natural, clear and cogent, regarding the brutal assault caused to the deceased, by the appellant herein.

12. Further, P.W.5 Ayyaippan has deposed that on 05.07.2011, he has signed in the Observation Mahazar of Ex.P.2 and also, in the Athatchi of Ex.P.3, for the recovery of M.O.2 bloodstained cement floor and M.O.3 sample cement. Further, on the perusal of Ex.P.3 Athatchi, it is found that the said Ayyappan has signed in the said Athatchi, as pointed out by him in his evidence. Further, P.W.5 has categorically deposed that he has seen Ex.P.3 Athatchi and also, gone through the contents of the said Athatchi and thereafter only, he has signed in the said Athatchi. Further, P.W.6 Marimuthu has deposed that he has taken the deceased Arunachalam, to Tirunelveli Government Hospital, in his Sumo Car, immediately, after taking the deceased, to the inside portion, of the hospital, the Doctor, in the said hospital has examined the deceased and stated to them that the deceased Arunachalam, has already expired. Further, P.W.7 Thiru.Gnanaprakasam Devaraj has clearly deposed that he



has served as Head Clerk of the Court of Srivaikundam Judicial Magistrate and he has received Ex.P.4 Requisition Letter, from the Inspector of Police, to send the material objects, for chemical examination and Ex.P.5 is the Court Letter and Ex.P.6 is the Chemical Analysis Report and Ex.P.7 is the Serology Report.

13. Further, P.W.8 Thiru.Chinnathurai, Head Constable has specifically deposed that on 05.07.2011, he has handed over the dead body of the deceased Arunachalam, to the hospital, for Postmortem and after the completion of the Postmortem, he has recovered the M.O.Nos.4 to 7, namely, the dresses of the deceased and handed over to the police station and Ex.P.8 is the Passport and there is no cross examination made, with regard to the said evidence given by P.W.8. Further, in Ex.P.7 Serology Report, it has been clearly pointed out that 'A' group of human blood, has been seen, in the dresses of the deceased. Further, P.W.10 Dr.Sudalaimuthu, who has conducted Postmortem on the dead body of the deceased Arunachalam, has evidently deposed that Ex.P.11 is the requisition letter given by the police, for conducting Postmortem and he has issued the Postmortem Certificate as per Ex.P.12 and as per the report received from the Forensic Science Laboratory, the deceased has got 'A' group blood. Further, in the same manner, it has been pointed out by the Forensic Science Department Officers, that the dresses of the deceased also, have got 'A' group blood. Further, P.W.10 Postmortem Doctor has clearly pointed out in Ex.P.12 Postmortem Certificate about the injuries, he has seen in the dead body of the deceased, and the said injuries have been specifically stated as follows:-

" Antemortem Injuries

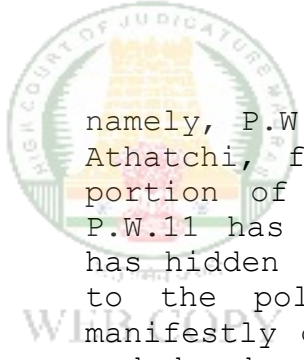
18 x 4cm x cervical bone deep heavy cut injury seen on the upper part of right side of neck. It extends from 1cm below the chin to 6cm below and behind the right mastoid. It lies on at the level lower margin of right side of mandible 2cm below right ear. Margins are regular and edges are sharp. Trailing mark noted in the back of right side of neck. Underlying muscles, major vessels, nerves, lower margin of right side of mandible bone in its front and cervical vertebra No.4 found cut at side.

Opinion as to the cause of death:

The deceased would appear to have died of heavy cut injury to the region of neck."

In such circumstances, it is seen that the medical evidence also has clearly corroborated with the evidences of the eyewitnesses of P.W.1 to P.W.3, that the accused has assaulted the deceased, with the help of M.O.1 Sickle and caused death to Arunachalam.

14. Further, P.W.11 Chellapandiyan has deposed that he is serving as Village Assistant and on 19.07.2011, P.W.11 and Village Administrative Officer have gone to the Murappanadu Police Station and at that time, they have seen the accused, in the said police station and thereafter, the Inspector of Police has recorded the confession statement, given by the accused and Ex.P.13 is the admissible portion of the confession statement and after that, the Inspector of Police has recovered M.O.1 Sickle, which has been hidden in the house, as per Athatchi of Ex.P.14 and they have signed in the said Athatchi. Further, on a perusal of Ex.P.14 Athatchi, it is found that Chellapandiyan,



namely, P.W.11 and Village Administrative Officer have signed in the said Athatchi, for the recovery of M.O.1 Sickle, based upon the admissible portion of the confession statement, given by the accused. Further, P.W.11 has clearly explained in the cross examination that the accused has hidden M.O.1 Sickle, at the backside of the Bureau and handed over to the police. Further, P.W.12 Thiru.Ravi, Inspector of Police has manifestly deposed that he has received Ex.P.10 First Information Report and he has taken up the case for investigation and he has prepared Observation Mahazar and Rough Sketch as per Ex.P.2 and Ex.P.15 respectively and also, he has prepared Inquest Report as per Ex.P.16. Further, in Ex.P.15 Rough Sketch, P.W.12 Inspector of Police has clearly pointed out the details of the place of occurrence and other material particulars. Further, P.W.12 has deposed that as per the admissible portion of the confession statement, given by the accused, M.O.1 Sickle has been recovered, in the presence of P.W.11, Village Assistant.

15. Further, P.W.13 Thiru.Jeganathan, Head Constable has clearly deposed that he has submitted the First Information Report to the learned Judicial Magistrate, Srivaikundam on 05.07.2011 at 4.00 a.m., itself. Thereafter, P.W.14 Thiru.Kanagaraj, Inspector of Police has completed the investigation and also, he has filed final report on 07.10.2011, based upon the above mentioned material evidences, clinching exhibits and also, pertinent material objects. Further, on the side of defence, Dr.Karuppasamy has been examined as D.W.1 and he has deposed that he has seen the deceased Arunachalam on 04.07.2011 at 10.40 p.m., and the deceased Arunachalam has been brought to the hospital, by P.W.1 Indhira and he has examined the deceased and also, informed to them that the deceased has already expired, and Ex.D.1 is the Accident Register, issued by him. On the perusal of Ex.D.1 Accident Register, it is found that the deceased has been brought dead, by P.W.1, to the hospital and D.W.1 Doctor, has clearly deposed that the deceased has been brought to the hospital on 04.07.2011 at 10.40 p.m., and the deceased Arunachalam has been brought dead. Hence, the evidence of the defence witness and exhibit also, have supported the case of the prosecution only.

16. Further, it is seen that the conduct of the eyewitnesses, namely, P.W.1, the wife of the deceased, P.W.2, the brother of P.W.1 and P.W.3, the wife of P.W.2, are quite natural that they have taken care, to give medical treatment to the injured person and further, there is no delay in registering the Ex.P.10 First Information Report and submitting the said First Information Report to the learned Judicial Magistrate, Srivaikundam. Further, the recovery of the material objects also have been made, on the basis of the admissible portion of the confession, given by the accused and the same is also, providing the link to the circumstances to prove the guilt of the appellant herein. Further, even if the bloodstained dresses of P.W.1 and P.W.2 have not been recovered by the police, it is only the minor error, on the part of the prosecution and at the same time, there are clinching evidences of the witnesses and trustworthy exhibits and valid material objects, to establish the guilt of the appellant beyond reasonable doubts.

17. Further, it is useful to refer the following Judgments:-

i) In the case reported in AIR 1992 SC 840, (State of U.P., V. Ashok Kumar Srivastava), it is clinchingly held as follows:-

" The circumstances relied upon must be accepted. The circumstance relied upon must be found to have been fully established and the



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cumulative effect of all the facts is established must be consistent only with the hypothesis of guilt. But this is not to say that the prosecution must be consistent only with the hypothesis of guilt. But this is not to say that the prosecution must meet each and every hypothesis put forward by the accused however far fetched and fanciful it might be. Nor does it mean that prosecution evidence must be rejected on the slightest doubt because the law permits rejection if the doubt is reasonable and not otherwise."

In the present case also, it is seen that the evidences of the above mentioned prosecution witnesses, exhibits and material objects are quite natural, reasonable, believable and acceptable to convict the appellant herein, and nothing, very much material, has been brought on record, to ignore them. There are valid, cogent, convincing and also corroborative evidences to support the case of the prosecution and also to convict the appellant herein.

ii) Further, in the case reported in (2013) 8 SCC 60, (Babu V. State of T.N.), it is precisely held as follows:-

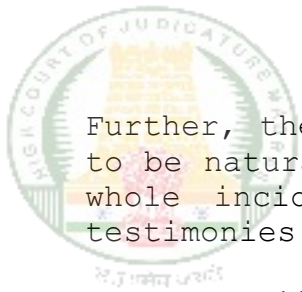
" If one of the witnesses is found to be prone to exaggeration and, hence, not reliable, the other evidence on record, if it is cogent and reliable, can be relied upon. The entire prosecution evidence does not necessarily become tainted thereby."

iii) Furthermore, in the case reported in (2011) 3 SCC 306, (Wakkar V. State of U.P.), it is significantly observed as follows:-

"Entire case depended upon evidence of P.Ws. 1, 3, 2 and 6. It is they who spoke about incriminating circumstances and chain of events. On facts, held, circumstances and chain of events, conclusively establish involvement of appellants in committing crime of murder of deceased."

In the present case also, it is seen that the prosecution has conclusively established, the involvement of the appellant herein, in the above mentioned crime of murder.

18. Further, this Court has carefully perused the oral and documentary evidences of the witnesses and it is seen that the evidences of the prosecution are consistent, cogent and natural and do not suffer from any infirmities. Further, the evidences of the witnesses and material records are clean, cogent and credible. A cumulative consideration of incriminating circumstances, forms a complete chain to prove the crime committed by the appellant. The evidence of P.W.1, is found to be cogent and clear and so, reliance can be placed on her evidence and it can be acted upon. Further, the evidences of P.W.1 to P.W.3 are quite natural and they do not suffer from any material and major infirmities and this Court can sift chaff from the corn and find out the truth from the testimonies of the witnesses and material records. The evidences of the witnesses, exhibits and material objects produced on record, do not leave any major loopholes in the case of the prosecution.

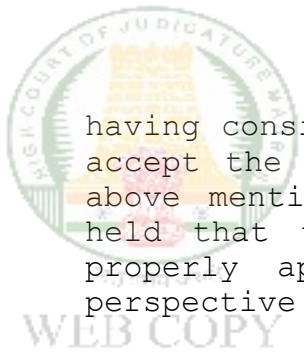


Further, the presence of P.W.1 to P.W.3 at the occurrence place are found to be natural. The eyewitnesses have given evidences, clearly, about the whole incident, as they have seen the occurrence directly and their testimonies have been corroborated by the medical evidences.

19. Further, the above mentioned circumstances, have proved that only the appellant has committed the crime and autopsy, conducted by P.W.10 Doctor, on the dead body of the deceased, has also revealed that the deceased Arunachalam has expired, due to brutal assault caused by M.O.1 Sickie. Further, the minor and insignificant variations in the case of the prosecution cannot erase the genesis of the occurrence. Further, the material evidences, exhibits and material objects have clearly substantiated the crime committed by the appellant, beyond reasonable doubts and hence, the Judgment of the Trial Court is not liable to be set aside. Further, it is pertinent to note the evidences of P.W.1 to P.W.3 are quite natural and trustworthy and the same cannot be discarded, as interested witnesses. Further, the evidences of P.W.1 to P.W.3 along with other prosecution witnesses and exhibits are consistent and also corroborative with Ex.P.1 Complaint and their evidences are also corroborated by the medical evidences. Further, the evidences of P.W.1 to P.W.3 are corroborated by other contemporaneous materials, collected during the course of investigation. Further, this Court has to ascertain as to whether the testimonies of the witnesses, inspire confidence, for holding the appellant, guilty of the offence, for which he has been prosecuted. This Court has to separate grain from the chaff.

20. Further, minor discrepancies in the depositions of witnesses which do not go to the root of the matter cannot result, in the entire prosecution case, being thrown out. The evidences on record and the manner in which the offence has been committed makes it clear, that the accused intended to murder the deceased Arunachalam. Further, the evidences of the prosecution witnesses are believable and acceptable, to convict the appellant herein, and there are no vital contradictions in the evidences of the prosecution witnesses. Further, it is seen that the view taken by the Trial Court is a reasonable view and also, a well reasoned Judgment has been passed by the Trial Court and it cannot be said that the view of the Trial Court is not a reasonable conclusion, on facts and also on law. Further, the prosecution has established the case in detail, including the motive part. Further, on a careful scrutiny of the materials available on record, it is found that the prosecution has established the nexus of the appellant herein, with the said crime. Further, the evidences of the prosecution witnesses, exhibits and material objects are believable and acceptable to convict the appellant herein and there are no vital contradictions in the evidences of the prosecution witnesses. For the above mentioned reasons, it is seen that the accused has murdered the deceased Arunachalam and no one except the accused would have committed the said offence. Further, the accused has failed to offer any proper explanation while being examined under Section 313 Cr.P.C.

21. Further, in the present case, there is tangible motive for the appellant to commit the offence as alleged by the prosecution. The arrest of the accused and recovery of material objects on the basis of the confessional statements, would connect the accused with the murder of the deceased. Based on the proper appreciation of evidences and also, the material records, the Trial Court has recorded the above mentioned, just conviction and sentence. For the above said reasons and also,



having considered the entire materials on record, this Court is unable to accept the submissions raised on behalf of the appellant herein. In the above mentioned reasons, facts and circumstances and situations, it is held that the Lower Court has delivered the impugned Judgment, after properly appreciating the materials available on record, in proper perspective and the present Criminal Appeal has to be dismissed.

22. In the result, this Criminal Appeal is dismissed and the conviction and sentence imposed on the appellant/accused/ Perumal in Crime No.201 of 2011, by the learned I Additional District and Sessions Judge, Thoothukudi, by Judgment dated 20.03.2013 delivered in S.C.No.120 of 2012 are confirmed. Consequently, the Lower Court is directed to secure the accused and commit him to undergo the remaining period of sentence and the bail bonds executed by the appellant shall stand cancelled.

Sd/
Assistant Registrar

/True Copy/

Sub Assistant Registrar.

To

1. The I Additional District and Sessions Judge, Thoothukudi.
2. Do- Thro' The Principal District and Sessions Judge, Thoothukudi.
3. The Inspector of Police, Murappanadu Police Station, Thoothukudi District.
4. The Judicial Magistrate, Srivaikundam.
5. Do-Thro' The Chief Judicial Magistrate, Srivaikundam.
6. The Superintendent, Central Prison, Palayamkottai, Tirunelveli District
7. The Director General of Police, Mylapore, Chennai-4
8. The District Collector, Thoothukudi.
9. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1CC to M/S. K.Prabhu, Advocate, SR.No. 23019

JUDGMENT
MADE IN
Crl.A. (MD) No.194 of 2013
22.04.2016

AM/GSV.MP/09.05.2016/12P/11C