



Bail Slip

The Appellant/Accused namely Appasamy was released on bail by this Hon'ble court made in MP.(MD).No.1/2014 in CrI.A.(MD).No.259/2013 dated:11.8.2014.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.R.SHIVAKUMAR

AND

THE HONOURABLE MR.JUSTICE V.S.RAVI

CrI.A(MD)No.259 of 2013

Appasamy

.. Appellant / Accused

Vs.

The Inspector of Police,
Kabistalam Police Station,
Thanjavur District.
(Crime No.145 of 2012)

.. Respondent / Complainant

PRAYER: Criminal Appeal filed under Section 374(2) of Cr.P.C. praying this Court, to take the appeal on file, call for the records from the Lower Court, hear the learned counsel for the appellant/accused and set aside the conviction Judgment and sentence delivered in S.C.No.38 of 2013 dated 26.07.2013 on the file of the learned Principal Sessions Judge, Thanjavur and allow this appeal.

For appellant

: Mr.C. Jegannathan,

For respondent

: Mr.K.S.Durai Pandian,

Additional Public Prosecutor

Judgment reserved on

: 26.11.2015

Judgment pronounced on

: 25.02.2016

JUDGMENT

The appellant is the first accused in S.C.No.38 of 2013 (Crime No.145 of 2012) on the file of the learned Principal Sessions Judge, Thanjavur. The appellant has been charged for the offence under Sections 294(b) and 302 I.P.C. The Trial Court, by Judgment dated 26.07.2013, acquitted the accused Nos.2 and 3, but, convicted the first accused/appellant, for the offence under Section 302 I.P.C., and sentenced him to undergo Life Imprisonment and also imposed a fine amount of Rs.25,000/- and, in default, to undergo Simple Imprisonment for three months and he is not found guilty under Section 294(b) I.P.C., and hence, he is acquitted for the said offence. Challenging the conviction Judgment delivered in S.C.No.38 of 2013, the appellant/accused No.1 in Crime No.145 of 2012 has filed the present appeal, before this Court and he has been granted the suspension of sentence, as per the order dated 11.08.2014 passed by this Court.



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

P.W.1 is the son of the deceased Marimuthu and the P.W.3 is the wife of the P.W.1 and daughter-in-law of the deceased and the P.W.4 is the another son of the deceased and the P.W.1, the P.W.3 and the P.W.4 along with the deceased have lived together, at Bharathi Nagar Nayakkarpettai. One Rajammal has contested for the post of President and she has solicited vote from the P.W.1, however, he has not given consent to her request, hence, there arose an enmity between them and due to the said previous enmity, on 02.08.2012, one Arivalagan, namely, the brother-in-law of the said Rajammal has quarrelled with the P.W.3 and the P.W.3, namely, the wife of the P.W.1 has lodged a complaint to the police. On 05.08.2012, at about 6.00 a.m., the deceased Marimuthu has gone to a tea shop for the purpose of taking a tea and the P.W.1 and one Seeman have followed the deceased, and the deceased has gone by the side of the house of the first accused Appasamy, and due to the said previous enmity, the first accused has abused the deceased, by using filthy words and also, he has brutally assaulted the deceased with the help of Aruval and the P.W.1, who has followed his father, namely, the deceased, has seen the occurrence and the deceased has been taken to the Papanasam Government Hospital and thereafter, he has been transferred to Thanjavur Medical College Hospital. The P.W.1 has lodged a complaint to the police, in the hospital and on 08.08.2012, the deceased, died in the hospital, in spite of, the medical treatment. Hence, according to the prosecution, the appellant / accused No.1 in Crime No.145 of 2012, is liable to be punished under Sections 294(b) and 302 I.P.C.

2.1. In order to prove the case of the prosecution, the prosecution has examined 17 witnesses as P.W.1 to P.W.17 and also marked 19 exhibits as Ex.P.1 to Ex.P.19 and also Material Objects as M.O.1 and M.O.2.

2.2. P.W.1 Karunanithi has stated that the deceased Marimuthu is his father and the accused is also known, to the P.W.1 and the P.W.1 and the accused are residing in the same village. In the year 2001, one Rajammal has contested for the post of President and she has solicited vote from him. But, he has not given consent for her request, and he has stated to her that he will vote to the person, as he likes and hence, there arose an enmity between them and thereafter, the said Rajammal has not been elected. On 02.08.2012, one Arivazhagan, namely, the brother-in-law of the said Rajammal has quarrelled with P.W.1's wife, namely, the P.W.3 and hence, she has lodged a complaint to the police and on 05.08.2012, at about 6.00 a.m., the deceased Marimuthu, namely, the father of the P.W.1 has gone to the tea shop, for the purpose of taking a tea and the P.W.1 and one Seeman have followed the deceased, and the deceased has gone, nearby to the house of the first accused and at that time, all the three accused have formed together, in support of the said Arivazhagan and the first accused Appasamy has abused the deceased, by using filthy words and also, brutally assaulted the deceased, with the help of Aruval and the P.W.1 and Seeman have gone to the scene of occurrence and at that time, the second and third accused have threatened them, to attack with Iron rod and hence, they have raised the noise and the public have come to the scene of occurrence and thereafter, all the three accused have run away from the scene of occurrence. Immediately, the deceased Marimuthu has been taken to Papanasam Government Hospital, in 108 Ambulance, for medical treatment and thereafter, he has been transferred to Thanjavur Medical College and Hospital, for further

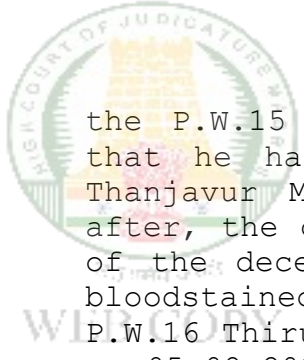


treatment and he has lodged a complaint as per Ex.P.1 to the police, in the hospital and also, he has identified Aruval as M.O.1.

2.3. Further, the P.W.2 Murugesan has stated that the deceased Marimuthu and all the three accused are known to him and on 05.08.2012 at 6.00 a.m., he has gone nearer, to the place of occurrence, in order to go to the bazaar, and also, he has seen the occurrence and he has also identified the M.O.1 Aruval. Further, the P.W.3 Sathya, namely, the wife of the P.W.1, and the P.W.4, namely, the brother of the P.W.1 have also corroborated the evidence of the P.W.1. Further, the P.W.5 Selvanayakam has stated that the deceased Marimuthu and the accused are known to him and prior to ten months, of giving his evidence before the Lower Court, he and the P.W.6 Pitchai Anandh have signed in the Observation Mahazar of Ex.P.2. Further, the P.W.7 Kannadasan has stated that on 06.08.2012, he and one Muthukumar have signed in the admissible portion of the confession statement, recorded from the first accused as per Ex.P.4 and also, they have signed in the Seizure Mahazar of Ex.P.5, for the recovery of the M.O.1 Aruval, from the first accused. Further, the P.W.8 Tmt.Jeyanthi, Head Clerk of the Court of Judicial Magistrate, Papanasam has stated that she has received the material objects and also, she has received the Ex.P.6 Requisition Letter from the Inspector of Police and on 04.09.2012, as per the directions of the learned Judicial Magistrate, she has sent the material objects to Forensic Lab, Thanjavur for Chemical Analysis Test as per Ex.P.7. Further, the P.W.6 has stated that he has signed in the Observation Mahazar of Ex.P.2.

2.4. Further, the P.W.9 Dr.Sridevi has stated that on 05.08.2012, at about 8.30 a.m., the injured Marimuthu has been brought to Papanasam Government Hospital, through 108 Ambulance and she has examined the said Marimuthu and at that time, the said Marimuthu has been seen in conscious stage and she has also issued the Accident Register as per Ex.P.8 and also, she has given first aid treatment to the said Marimuthu and she has sent the said Marimuthu to Thanjavur Medical College Hospital, for further treatment. Further, the P.W.10 Dr.Sampath has stated that on 05.08.2012, at 4.30 p.m., Marimuthu has been brought by the P.W.1, with the Ex.P.8 Accident Register of Papanasam Government Hospital and he has examined the said Marimuthu and also, he has admitted the said Marimuthu in the hospital and he has also issued the Accident Register as per Ex.P.9. Further, the P.W.11 Dr.Anbarasan has stated that on 08.08.2012, he has served as Doctor in Thanjavur Medical College Hospital and he has examined Marimuthu and found that the said Marimuthu has expired and thereafter, he has informed to the police station and concerned medical officers. Further, the P.W.12 Dr. Rajkumar has stated that on 08.08.2012, he has conducted Postmortem on the dead body of the deceased Marimuthu and also, he has issued Postmortem Certificate as per Ex.P.10 and in the said Postmortem Certificate, he has given his opinion that the deceased would appear to have died due to effects and complications of multiple injuries caused to the vital organs.

2.5. Further, the P.W.13 Tmt.Avina, Scientific Officer of Forensic Lab, Thanjavur has stated that she has issued Chemical Analysis Report as per Ex.P.11 and Serology Reports as per Ex.P.12 and Ex.P.13. Further, the P.W.14 Thiru.Sundaramurthy, Sub Inspector of Police has stated that on 08.08.2012, he has submitted the Ex.P.14 Alteration Report to the learned Judicial Magistrate, Papanasam, at 15.20 hours. Further,



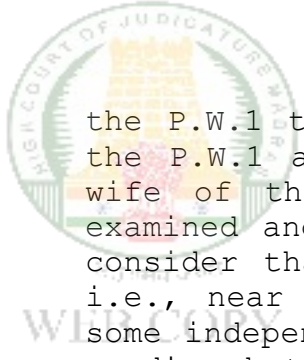
the P.W.15 Thiru.Saravana Selvam, Police Constable Grade-II has stated that he has handed over the dead body of the deceased Marimuthu to Thanjavur Medical College Hospital, for conducting the Postmortem and after, the completion of the Postmortem, he has handed over the dead body of the deceased to the relatives and also, he has recovered the M.O.2 bloodstained dhoti, in the separate Report as per Ex.P.15. Further, the P.W.16 Thiru.Irudhayaraj, Special Sub Inspector of Police has stated that on 05.08.2012, he has gone to Papanasam Government Hospital and received the Ex.P.8 Accident Register of Marimuthu and he has also gone to Thanjavur Medical College Hospital and at that time, the said Marimuthu has gone to unconscious stage and hence, he has received the Ex.P.1 complaint from the P.W.1 and on 06.08.2012 at 1.00 a.m., he has prepared the First Information Report as per Ex.P.16 and also, he has submitted the said First Information Report to the learned Judicial Magistrate at 5 hours.

2.6. The P.W.17 Thiru.Sekar, Inspector of Police has stated that on 06.08.2012 at 2.00 a.m., he has received the Ex.P.16 F.I.R., from the Sub Inspector of Police and he has taken up the case for investigation and at 3.00 a.m., he has prepared the Observation Mahazar and the Rough Sketch as per Ex.P.2 and Ex.P.17 respectively and at 6.00 a.m., he has arrested the first accused Appasamy and he has recorded the confession statement, from the first accused and the Ex.P.18 is the admissible portion of the confession statement of the first accused and also, he has recovered the M.O.1 Aruval, from the ceiling of hut in the backside of the house of the first accused, in the Seizure Mahazar as per Ex.P.5 and also, he has got the signatures from the P.W.7 and one Muthu and the first accused. Further, the P.W.17 has stated that on 08.08.2012, he has received the death intimation from Thanjavur Medical College Hospital and hence, he has prepared Ex.P.14 Alteration Report, and submitted to the Court and he has prepared the Inquest Report as per Ex.P.19 and also he has recovered M.O.2 bloodstained dhoti from the dead body of the deceased, after the completion of the Postmortem, and he has enquired the Doctors and he has received the Accident Register as per Ex.P.8 and Ex.P.9 and also, Postmortem Certificate of Ex.P.10 and also he has enquired the witnesses, in the present case and recorded their statements and finally, he has prepared the final report on 14.09.2012.

3. On completion of the evidences on the side of the prosecution, the accused have been questioned under Section 313 of Cr.P.C., as to the incriminating circumstances mentioned in the evidences of prosecution witnesses and they have stated that they are innocent persons and they are not involved in the case.

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

5. It is stated in the Grounds of Appeal, that the Trial Court is not correct in convicting the appellant for the reason that the conviction and sentence of the appellant is against the well established principles of criminal law and hence, the same is liable to be set aside. The Trial Court has committed serious error of law in convicting the appellant on the basis of the evidences adduced by the P.W.1 to P.W.4 as against the appellant. The Trial Court has considered the evidences of



the P.W.1 to P.W.4 and passed the conviction which is illegal, because, the P.W.1 and P.W.4 are the sons of the deceased and the P.W.3 is the wife of the P.W.1 and there is no independent witness who has been examined and given evidence in the case. The Trial Court has failed to consider that the alleged occurrence has taken place in a busy locality i.e., near bus stand and hence, the prosecution ought to have examined some independent witnesses to prove their case. There is a land dispute pending between the P.W.2 and the appellant and hence, the evidence of the P.W.2 could not be relied upon and on that ground alone, the Judgment of the Trial Court is liable to be set aside. The Trial Court ought not to have considered the evidence of the P.W.1, as the P.W.1 is the son of the deceased and at the time of alleged occurrence, if at all, he has seen the occurrence, then, he should have prevented and saved the deceased. Besides, no injuries have been found on the body of the P.W.1 and no bloodstains have been found in the body and clothes of the P.W.1. Besides the police also have not recovered any material objects from the scene of occurrence. P.W.2 and P.W.7 are the interested witnesses. The Trial Court has failed to consider that at the time of admitting Marimuthu in Papanasam Government Hospital, the P.W. 9 has stated that Marimuthu has been seen, in conscious stage, but, the police have failed to record any statement from the deceased. On the other hand, the Ex.P.1 complaint, received from the P.W.1, is doubtful. The Trial Court ought to have considered that the first accused has not given the confession statement voluntarily, in the presence of the P.W.7, and the P.W.7 has given evidence, due to previous dispute between the P.W.7 and the appellant. For the above mentioned grounds, the Judgment of Trial Court is liable to be set aside, according to the appellant herein.

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?

2) Whether the 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 appellant?

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

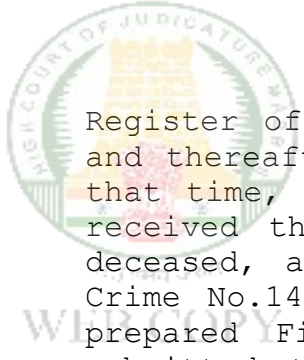
The learned counsel for the appellant has vehemently contented that the prosecution case has suffered from serious infirmities and inconsistencies. The learned counsel for the appellant has also contented that the prosecution has put forth its contention by placing reliance on the interested witnesses. The prosecution has not examined the independent witnesses. There is a serious doubt about the genuineness of the Ex.P.1 complaint. The version of the eyewitness of P.W.1 is unbelievable and he has not given clear and cogent evidence. P.W.1 has not come forward with the true version and his evidence is unreliable and the prosecution has miserably failed to prove the case beyond reasonable doubts.



8. Per contra, the learned Additional Public Prosecutor has submitted that the case of the prosecution has been established by adducing clear and consistent evidence through the eyewitnesses. The learned Additional Public Prosecutor has also contended that the occurrence has taken place, in the brutal manner and there is no serious infirmities and inconsistencies in the evidences of eyewitnesses and material records. Further, the material objects have been recovered to substantiate the case of the prosecution. The learned Additional Public Prosecutor has also submitted that though certain discrepancies have been pointed out by the defence in the prosecution case, the same would not affect the main case of the prosecution. Further, the learned Additional Public Prosecutor has pointed out that the reasons assigned by the Trial Court, for convicting and sentencing the appellant herein, are in accordance with law and hence, there is no valid grounds for interference, in the present Criminal Appeal.

9. In the present case, the prosecution has examined the P.W.1 Karunanidhi, namely, the son of the deceased Marimuthu, as an eyewitness to the occurrence. The P.W.1 has categorically deposed that, in the year 2001, one Rajammal has contested, for the local body election and the said Rajammal and one Ekambaram have requested the P.W.1, to vote for the said Rajammal and the P.W.1 has informed them, that he will exercise his right, to vote, as per his wish and thereafter, on 02.08.2012, the brother-in-law of the said Rajammal, namely, Arivazhagan has entered into the dispute with the wife of the P.W.1, namely, the P.W.3 Sathya and on 05.08.2012 at morning 6.00 a.m., the deceased Marimuthu, namely, the father of the P.W.1 has gone to the tea shop, at the Bazar street and the P.W.1 and one Seemaan have followed him and the deceased has gone, by the side of the house of the first accused Appasamy, and at that time, the first accused has abused the deceased, by using filthy language and also, assaulted the deceased with a help of M.O.1 Aruval and thereafter, the deceased has been sent to Papanasam Government Hospital, in 108 Ambulance, for medical treatment and at the time of occurrence, he has not got ready money, in his hand and hence, he has not gone along with the deceased to the hospital, in the 108 Ambulance. Further, the P.W.1 has vividly deposed that the deceased has been admitted in Papanasam Government Hospital and for further medical treatment, the deceased, namely, the father of the P.W.1 has been referred to Thanjavur Medical College and Hospital and thereafter, he has made ready the money and also, gone to Papanasam Government Hospital and seen his father and thereafter, they have admitted the father of the P.W.1, in Thanjavur Medical College Hospital and on the same date of occurrence itself, Kabisthalam Police have come to Thanjavur Medical College Hospital and seen the father of the P.W.1 and at that time, the father of the P.W.1 has got drowsiness and hence, the P.W.1 has lodged the complaint as per Ex.P.1, to the said police and on 08.08.2012 at 9.30 a.m., the said Marimuthu, died in the hospital and also, he has identified the M.O.1 Aruval.

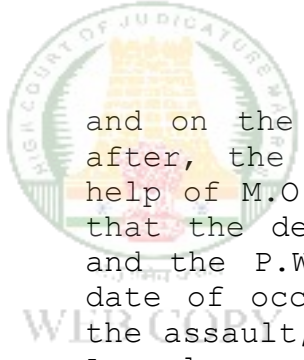
10. Further, the P.W.16 Irudhayaraj, Special Sub Inspector of Police of Kabisthalam Police Station has manifestly deposed in his evidence that on 5.08.2012, at 12.00 a.m., he has got the information and gone to Papanasam Government Hospital and he has been informed that Marimuthu has been sent to Thanjavur Medical College Hospital, for further medical treatment and he has received the Ex.P.8 Accident



Register of the injured Marimuthu, from Papanasam Government Hospital and thereafter, he has gone to Thanjavur Medical College Hospital and at that time, the injured Marimuthu has got drowsiness, and hence, he has received the Ex.P.1 complaint from the P.W.1, namely, the son of the deceased, and on 06.08.2012 at 1.00 a.m., he has registered a case in Crime No.145 of 2012 under Sections 294(b), 307 and 506(2) I.P.C., and prepared First Information Report as per Ex.P.16 and also, he has submitted the said First Information Report, to the learned Judicial Magistrate, Papanasam and concerned Higher Officials. Further, on a careful perusal of Ex.P.16 First Information Report, it is found that on 06.08.2012 at 5.00 p.m., the said First Information Report has been received by the learned Judicial Magistrate. Further, the P.W.14 Thiru.Sundaramurthy, Sub Inspector of Police has specifically deposed that on 08.08.2012, he has submitted the Ex.P.14 Alteration Report to the learned Judicial Magistrate, Papanasam at 15.20 hours.

11. Further, in the Ex.P.1 complaint also, the P.W.1 Karunanidhi has explicitly stated that one Rajammal's husband has requested him, to vote for his wife, namely, Rajammal, in the local body election, however, he has stated to him that he will exercise his right to vote, according to his wish and thereafter also, on 02.08.2012, one Arivazhagan, namely, the brother-in-law of the said Rajammal has raised a dispute, with the wife of the P.W.1, namely, P.W.3 Sathya and thereafter, on 05.08.2012 at 6.00 a.m., the deceased Marimuthu, namely, the father of the P.W.1 has gone to tea shop at the Bazaar and the deceased has gone, nearer by, to the place of the house of the first accused Appasamy and at that time, the first accused has abused the deceased, by using filthy language and brutally assaulted the deceased, with a help of M.O.1 Aruval. Further, the P.W.17 Thiru.Sekar, Inspector of Police has precisely deposed, in his evidence that on 06.08.2012, he has taken up the case for further investigation and at 3.00 a.m., he has seen the place of occurrence and prepared Observation Mahazar and Rough Sketch as per Ex.P.2 and Ex.P.17 respectively and thereafter, at 6.00 a.m., on 06.08.2012 itself, he has arrested the first accused Appasamy, nearer to Kabisthalam Palakarai bus stand and also, he has recorded the confession statement of the first accused and the Ex.P.18 is the admissible portion of the confession statement and also, he has recovered the M.O.1 Aruval, from the ceiling of the thatched house, wherein, the said Aruval has been hidden by the first accused, as per the Seizure Mahazar of Ex.P.5.

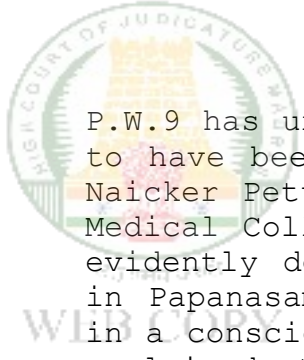
12. Further, in the present case, the P.W.2 Murugesan has been examined, to prove the case of the prosecution and the P.W.2 has specifically deposed that the deceased Marimuthu and also all the three accused are known to him and on 05.08.2012, morning at 6.00 a.m., he has proceeded from his house, to go to the bazaar street, and at that time, he has seen the accused, brutally assaulting the deceased, nearer to the house of the first accused and the first accused has assaulted the deceased, with the help of M.O.1 Aruval and thereafter, the P.W.2 has helped the injured Marimuthu, for taking him, to the hospital in the Ambulance. Further, he has categorically denied the suggestion, put forth, on behalf of the first accused, to the effect, that he has got enmity, towards the first accused, as the first accused has refused to give his house site, to the P.W.2, as per the request made by the P.W.2. Further, the P.W.3 Sathya, has specifically deposed that she is the daughter-in-law of the deceased Marimuthu and P.W.1 is her husband



and on the date of occurrence, she has seen the deceased, immediately after, the first accused has brutally assaulted the deceased, with the help of M.O.1 Aruval. Further, the P.W.4 Rajendran has evidently deposed that the deceased Marimuthu is his father and the P.W.1 is his brother and the P.W.3 is the wife of the P.W.1 and on 05.08.2012, namely, the date of occurrence, he has seen his deceased father, immediately, after the assault, has been caused by the first accused, with the help of M.O.1 Aruval.

13. Further, the P.W.5 Selvanayagam has manifestly deposed that the deceased and all the accused are known to him and prior to ten months, from the date of giving his evidence in the Trial Court, i.e., (01.07.2013), the police have prepared Ex.P.2 Observation Mahazar and he and P.W.6 Pitchai Anandhan have signed in the said Observation Mahazar. Further, on a perusal of the Ex.P.2 Observation Mahazar, it is found that he and the P.W.6 Pitchai Anandhan signed in the said Mahazar. Hence, it is found that the P.W.1, P.W.3 and P.W.4 are the relatives of the deceased person and the P.W.2 is not related to the deceased person. The legal proposition regarding the evidentiary value of related and interested witnesses is no doubt well settled. The evidence of a relative or interested witness cannot be simply discarded on that sole ground and at the same time, what is required in such a case, is that the evidence of relative and interested witnesses should be scrutinized with extra care and caution, keeping in mind that efforts should be taken to sift the evidence, in order to separate the chaff from the grain. Further, it has to be borne in mind that a relative of the deceased or a victim would not generally allow a real culprit to escape and falsely implicate an innocent. Keeping the above legal principle in mind, it is seen that the evidence of the said prosecution witnesses are natural and also cogent and clear to establish the case of the prosecution. Further, the P.W.7 has particularly deposed that on 06.08.2012, he and one Muthukumar have signed in the confession statement of the first accused Appasamy and the Ex.P.4 is the signature of the P.W.7, in the said confession statement and the police have recovered the M.O.1 Aruval, in the Seizure Mahazar as per Ex.P.5 and also, they have signed in the said Seizure Mahazar. Further, he has deposed that he is the son of the P.W.2. However, the P.W.7 has specifically denied the suggestion, made on behalf of the first accused to the effect that the P.W.2 has requested the first accused to sell the first accused's house site to the P.W.2 and the first accused has refused to sell the said house site and hence, there is a dispute between the P.W.2 and the first accused.

14. Further, the P.W.8 Tmt.Jeyanthi has clearly deposed that he has worked as Head Clerk of Papanasam District Munsif and Judicial Magistrate Court and on 04.09.2012, as per the Ex.P.6 requisition letter from the Inspector of Police, she has sent the material objects as per Ex.P.7, for obtaining reports, to Forensic Science Lab, Thanjavur, through the P.W.15 Saravanaselvan, Head Constable. Further, the P.W.9 Dr.Sridevi has specifically deposed that on 05.08.2012, she has served as Doctor in Papanasam Government Hospital and at 8.30 a.m., she has admitted the deceased Marimuthu in the said hospital and the deceased has informed to her, that on 05.08.2012 at 6.00 a.m., one known person has assaulted him, with the help of Aruval, near Naicker Pettai bus stand and she has examined the deceased and also, she has prepared the Accident Register as per Ex.P.8. Further, in the Ex.P.8 Accident Register, the



P.W.9 has undoubtedly stated that the patient(deceased Marimuthu) alleged to have been assaulted, by a known person with Aruval at 6.00 a.m., in Naicker Pettai bus stand and the deceased has been referred to Thanjavur Medical College Hospital, for further treatment. Further, the P.W.9 has evidently deposed that at the time of admitting the deceased Marimuthu, in Papanasam Government Hospital, she has found that the said Marimuthu in a conscious state of mind and the deceased has also spoken to her and explained, the details of the said incident.

15. Further, the P.W.10 Dr.Sampath has evidently deposed that on 05.08.2012, he has served as Doctor, in Thanjavur Medical College Hospital and at 4.30 p.m., the deceased Marimuthu has been brought to the said hospital, by his son, namely, the P.W.1, along with the Ex.P.8 Accident Register, which has been issued by Papanasam Government Hospital and he has examined the deceased and at that time, the deceased has got drowsiness and also, he has found that the injuries of the deceased and nature of injuries, are similar, to the said Accident Register of Ex.P.8 and he has admitted the deceased, as an in-patient and he has issued Accident Register as per Ex.P.9. Further, on a perusal of the Ex.P.9 Accident Register, it is found that the P.W.10 Doctor has issued the said Accident Register and also, he has stated the said details, by mentioning the Accident Register issued by Papanasam Government Hospital in A.R.No.88 dated 05.08.2012, as per the Ex.P.8. Further, the P.W.11 Dr.Anbarasan has particularly deposed that on 08.08.2012, he has served as Doctor in Thanjavur Medical College Hospital and he has examined the deceased Marimuthu in the ward and found that Marimuthu has expired and he has informed to the concerned police and medical officers, about the death of the deceased Marimuthu.

16. Further, the P.W.12 Dr.Rajkumar has specifically deposed that on 08.08.2012, he has served as Doctor in Thanjavur Medical College Hospital and he has conducted Postmortem on the dead body of the deceased Marimuthu and issued Postmortem Certificate as per Ex.P.10 and on his examination of the dead body of the deceased, he has found the external injuries and internal injuries and it is clearly stated in the said Postmortem Certificate, as follows:-

"External Injuries:

1. Sutured wound vertically 8 cm x 3 x boned depth over left front tempro-parietal region.
2. Sutured wound 5 x 3 bone depth over right parietal region.
3. Abrasion 3 x 2 cm over the right forearm.

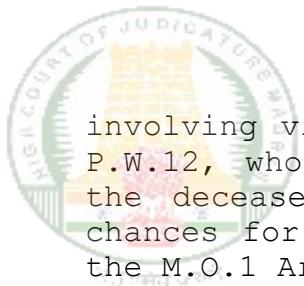
Internal Injuries:

On opening of Subscalp skin:

1. Subscalpal contusion present left and right temporo parietal region.
2. Linear fracture 18 cm length seen in left temporo parietal region.
3. Linear fracture 8 cm seen in right parietal region."

Further, the P.W.12 has distinctly given his opinion, in the said Postmortem Certificate to the effect that the deceased Marimuthu would appear to have died due to effects and complications of multiple injuries

<https://hcservices.ecoufts.gov.in/hcservices/>



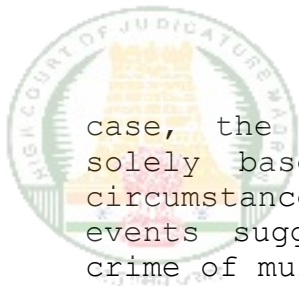
involving vital organ brain and probably caused by Aruval. Further, the P.W.12, who has conducted Postmortem, has categorically deposed that if the deceased has been assaulted, with the Aruval, then, there is the chances for causing the said injuries, to the deceased, with the help of the M.O.1 Aruval.

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17. Further, the P.W.13 Tmt.Avina, Scientific Officer of Forensic Science Lab, Thanjavur has descriptively deposed that she has issued Chemical Analysis Report as per Ex.P.11 and Serology Reports as per Ex.P.12 and Ex.P.13 respectively and the human blood has been found, in the M.O.1 Aruval and 'B' group blood has been found, in the sample blood of the deceased. From the above mentioned details, it is found that the medical evidences and material records also, have supported the evidences of the prosecution, to establish the case of the prosecution, that, only, the first accused has caused the brutal assault to the deceased, with the help of the M.O.1 Aruval. Further, the P.W.15 Thiru.Saravanaselvam, Police Constable(Grade-II) has clearly deposed that on 08.08.2012, he has handed over the dead body of the deceased to Thanjavur Medical College Hospital, for conducting Postmortem, and after the completion of the said Postmortem, he has handed over the dead body of the deceased, to the relatives and also, he has recovered the M.O.2 bloodstained Dhoti from the dead body of the deceased, after the completion of the Postmortem and handed over to the police, in the Ex.P.15 Special Report. In the Serology Report of Ex.P.13, which has been issued by the P.W.13, it is clearly pointed out that in the said Dhoti, the human blood, namely, 'B' group blood, has been found, by the said P.W.13.

18. Further, the P.W.17 Thiru.Sekar has particularly deposed that on 08.08.2012, he has prepared the Alteration Report as per Ex.P.14 and submitted to the Court and also, he has prepared Inquest Report as per Ex.P.19 and he has enquired the Doctors and received the Ex.P.8 and Ex.P.9 Accident Registers and Ex.P.10 Postmortem Certificate and thereafter, he has filed final report on 14.09.2012. Though, the P.W.6 has been treated as hostile witness, the main case of the prosecution has not been disturbed, due to the above mentioned consistent evidence of the prosecution witnesses and also, materials on record, with regard to the complicity of the appellant, in the above mentioned crime. Further, in the Ex.P.17 Rough Sketch, the P.W.17 Investigation Officer has clearly stated about the place of occurrence and the other details. Further, on a careful scrutiny of the entire materials available on record, it is found that the P.W.17 Investigation Officer has conducted proper enquiry and collected material records and also, registered the case, under Section 302 I.P.C., as against the first accused and also, the prosecution has cogently and firmly established the case, as against the appellant/first accused, beyond reasonable doubts.

19. Further, it is the duty of the Court to arrive at a correct and just conclusion, by examining the entire materials available on record and the procedural mistakes, committed on the side of the investigation, are not vital to affect the prosecution case, as the prosecution has established the brutal attack, caused by the first accused, on the deceased, with deadly weapon, namely, M.O.1 Aruval, with the help of the medical evidences and the above mentioned relevant prosecution evidences and materials on record. Further, in the present



case, the Lower Court has not convicted the appellant/first accused solely based on recoveries and in fact, there are other relevant circumstances and materials as mentioned above and also the chain of events suggesting involvement of the first accused in committing the crime of murder of the deceased Marimuthu.

WEB COPY 20. Further, the learned counsel for the appellant has repeated contended that there are no cogent and clear evidences, to establish the case of the prosecution. However, in the present case, the Trial Court has passed the Judgment on proper appreciation of evidences and also, furnished cogent reasons for convicting the appellant/first accused herein. Therefore, there is no good reason for this Court, to interfere, with the Judgment of the Trial Court. Further, the Trial Court has furnished sufficient grounds, for not convicting, the appellant/first accused. In a murder case, like the present one, there are material consistency in the evidences of the prosecution witnesses and also, the materials available on record, with regard, to the complicity of the appellant/first accused in the above mentioned crime. Further, it is seen that the Trial Court Judgment does not suffer from any material infirmity.

21. Further, on a careful scrutiny of the entire materials available on record, it is found that the prosecution has proved the nexus of the appellant/first accused with the crime. Further, the various grounds taken, on behalf of the appellant/first accused have to be negatived for the above mentioned natural, convincing and acceptable evidences of the prosecution. Further, the prosecution has established the brutal attack made by the accused, on the deceased, with the deadly weapon of the M.O.1 Aruval, with the clinching evidences of the prosecution witnesses and materials on record. Further, in the case on hand, on a careful scrutiny of the entire materials available on record, it is found that the reason given by the Trial Court for the conviction of the first accused are fairly sound. Further, the finding given by the Trial Court is in accordance with the proper appreciation of evidence and also, the view taken by the Trial Court, is reasonable.

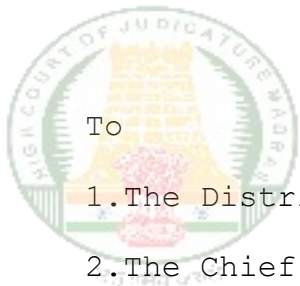
22. In the result, the Judgment of the learned Principal Sessions Judge, Thanjavur, delivered in S.C.No.38 of 2013 dated 26.07.2013 is confirmed and the Criminal Appeal(MD) No.259 of 2013 is dismissed. The Lower Court is directed to secure the appellant/accused No.1/Appasamy in Crime No.145 of 2012 in S.C.No.38 of 2013 and commit him, to undergo the remaining period of sentence and the bail bond executed by the appellant shall stand cancelled.

Sd/-

Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar



To

1.The District Munsif cum Judicial Magistrate, Papanasam

2.The Chief Judicial Magistrate, Thanjavur

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3. The Principal Sessions Judge,
Thanjavur.

4.The District Collector, Thanjavur District

5.The Director General of Police, Mylapore, Chennai-4

6. The Inspector of Police,
Kabistalam Police Station,
Thanjavur District.

7.The Superintendent, Central Prison, Tiruchirappalli

8. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.Veera Kathiravan, Advocate SR.No.11037

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PRE-DELIVERY JUDGMENT
MADE IN
Crl.A. (MD) No.259 of 2013
25.02.2016