

Bail Slip:

The Appellant / Accused namely Sudhakar and the Appellant / Accused namely Seerangan, were directed to be released on bail as per order of this Court dated 10.06.2016 and 09.06.2016 respectively made in CRL.MP.No.4765 of 2016 in CRL.A.No.300 of 2016 CRL.MP.No.5209 of 2016 in CRL.A.No.340 of 2016 respectively.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

AND

THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

Criminal Appeal Nos.300, 309, 340, 516 & 612 of 2016

Sudhakar .. Appellant in Crl.A.No.300/2016
Mahendran .. Appellant in Crl.A.No.309/2016
Seerangan .. Appellant in Crl.A.No.340/2016

1.Kumar @ Senthil Kumar

2.Koothaiyan @ Perumal @
Mahe @ Maheswaran

.. Appellants in
Crl.A.No.516/2016
Moorthy .. Appellant in Crl.A.No.612/2016

सत्यमेव जयते
Vs

State represented by
its Inspector of Police,
Mettur Police Station,
Mettur Taluk,
Salem District
(Crime No.250/2008)

..Respondent in all Crl.As

Common Prayer:- Criminal Appeals filed under Section 374(2) Cr.P.C., by the appellant against the judgment in S.C.No.4 of 2010 dated 30.03.2016 on the file of the learned I Additional Sessions Judge, Salem.

In Crl.A.No.300 of 2016:-

For Appellant : Mr.K.Selvakumaraswami
For Respondent : Mr.P.Govindarajan
Additional Public Prosecutor

In Crl.A.No.309 of 2016:-

For Appellant : Mr.M.Devaraj
For Respondent : Mr.P.Govindarajan
Additional Public Prosecutor

In Crl.A.No.340 of 2016:-

For Appellant : Mr.I.Paul Noble Devakumar
For Respondent : Mr.P.Govindarajan
Additional Public Prosecutor

In Crl.A.No.516 of 2016:-

For Appellant : Mr.T.Shanmuga Boopathy
For Respondent : Mr.P.Govindarajan
Additional Public Prosecutor

In Crl.A.No.612 of 2016:-

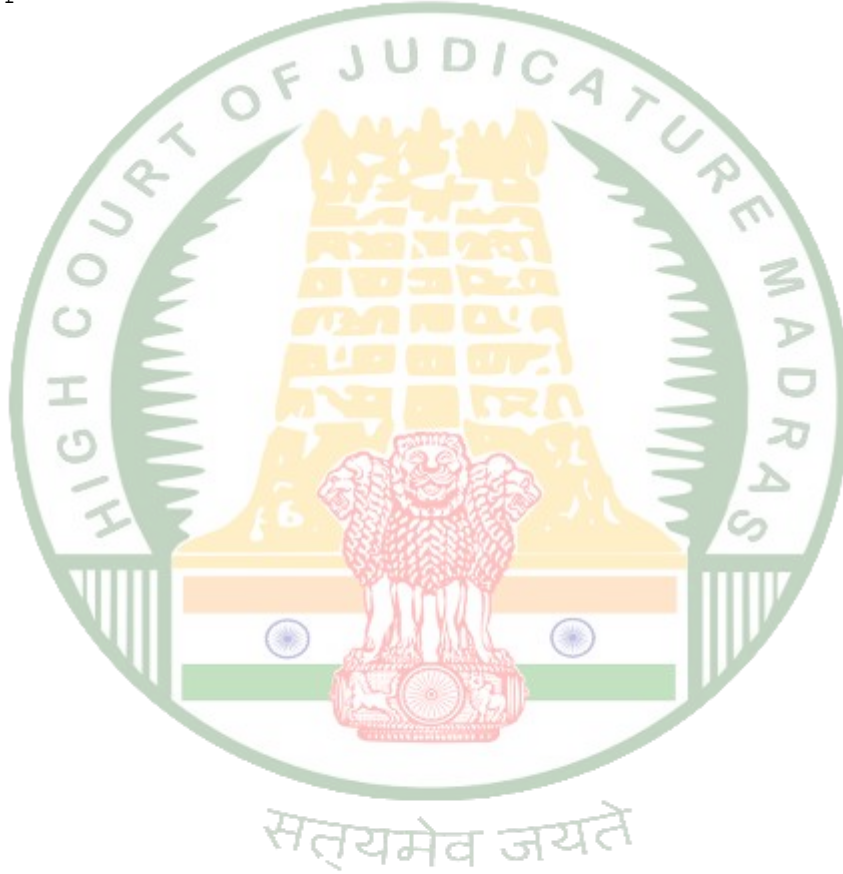
For Appellant : Mr.M.G.Udayashankar
For Respondent : Mr.P.Govindarajan
Additional Public Prosecutor

COMMON JUDGEMENT

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

The appellant in Crl.A.No.300 of 2016 is A.5; the appellant in Crl.A.No.309 of 2016 is A.2; the appellant in Crl.A.No.340 of 2016 is A.4; the appellants in Crl.A.No.516 of 2016 are A.3 & A.6 and the appellant in Crl.A.No.612 of 2016 is A.1 in S.C.No.4 of 2010, on the file of the learned I Additional Sessions Judge, Salem. There were two other accused by name Saravanan @ Saravana Kumar and one Senthil @ Senthil Kumar. Mr.Saravanan @ Saravana Kumar died on 04.01.2010 and thus, the charge against him stood

abated. The accused Mr.Senthil @ Senthilkumar has been absconding from 25.09.2012 onwards and so, the case against him has been split up and numbered as S.C.No.145 of 2015. The said case is still pending for trial. It was informed to this Court that Mr.Senthil @ Senthilkumar has not been so far secured by the Police despite issuance of Non Bailable Warrant by the Court. Thus, these six appellants alone faced the trial as accused 1 to 6. A.1 to 3, 5 & 6 stood charged for offences under Sections 148, 302 & 341 I.P.C. A.4 stood charged for offences under Section 147, 341 and 302 r/w Section 149 I.P.C. By judgment dated 30.03.2016, the trial Court convicted all the six accused/appellants and sentenced them as detailed below:-



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Sl.No	Accused	Section of law	Conviction
1	A.1 to A.3, A.5 & A.6	148, 341 & 302 I.P.C.,	Rigorous imprisonment for three years and to pay a fine of Rs.500/- in default to undergo rigorous imprisonment for six months, for the offence under Section 148 I.P.C., Simple imprisonment for one month and to pay a fine of Rs.500/- in default to undergo simple imprisonment for 10 days for the offence under Section 341 I.P.C., Imprisonment for life and to pay a fine of Rs.1,000/- in default to undergo rigorous imprisonment for six months for the offence under Section 302 I.P.C.,

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Sl.No	Accused	Section of law	Conviction
2	A.4	147, 341, & 302 I.P.C.,	Rigorous imprisonment for two years and to pay a fine of Rs.500/- in default to undergo rigorous imprisonment for six months, for the offence under Section 147 I.P.C., Simple imprisonment for one month and to pay a fine of Rs.500/- in default to undergo simple imprisonment for 10 days for the offence under Section 341 I.P.C., Imprisonment for life and to pay a fine of Rs.1,000/- in default to undergo rigorous imprisonment for six months for the offence under Section 302 I.P.C.,

The trial Court ordered the above sentences to run concurrently. Challenging the said conviction and sentence, the appellants/A.1 to A.6 are before this Court with these Criminal Appeals.

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

The deceased in this case was one Mr.Mayilsamy. He was a resident of Kullaveeranpatti, Mettur Taluk, Salem District. P.W.2 is his father. The deceased had a sister by name Mrs.Banumathi, who was married to one Mr.Raja. The fourth accused herein Mr.Seerangan and Mr.Raja are brothers. P.W.1 is the son of Mr.Raja. The fourth accused had a son by name Mr.Venkatesh. There was a longstanding dispute between the

fourth accused Mr.Sreerangan and Mr.Raja in respect of partition of their joint family property. Some time before the occurrence, Mr.Venkatesh, the son of the fourth accused had cut a finger of Mr.Raja (the father of P.W.1) with aruval and the same resulted in a criminal case against Mr.Venkatesh. This occurrence aggravated the enmity between the two families further. Later on, Mr.Venkatesh (the son of the fourth accused) was murdered. In the said case, P.W.1 and his father Mr.Raja were arrayed as accused. P.W.1 was then a Juvenile. Mr.Raja was ultimately acquitted by the Court, in the said murder case. The case against P.W.1 was dealt with by the Juvenile Justice Board. The murder of Mr.Venkatesh allegedly by Mr.Raja and P.W.1 further aggravated the enmity between these two families. The deceased-Mr.Mayilsamy was all along supporting Mr.Raja and P.W.1, in their fight against, A.4 and Mr.Venkatesh. Thus, A.4 - Mr.Sreerangam and his family members had grudges against the deceased. These events are stated to be the motive for the occurrence.

3.It is alleged that on 19.06.2008 around 9.30 pm, P.W.1 and the deceased had gone to a shop at work shop corner and then they were returning via EB Quartres. When they were nearing the channel bank, the accused 1 to 3 suddenly emerged there. Each of them were armed with one aruval. A.2 was also present there. On seeing them menacingly advancing towards P.W.1, the deceased shouted at them and requested them to spare P.W.1. But, the fourth accused - Mr.Sreerangam, directed the accused 1 to 3 to kill the deceased also. P.W.1 managed to scale down this fence and from the other side, he was sitting and closely watching the rest of the occurrence. It is further alleged that on reaching the deceased, as directed by the fourth accused, the accused 1 to 3 attacked the deceased with aruval repeatedly one after the other. The accused 5 & 6, the deceased accused Mr.Saravanan @ Saravana Kumar and the absconding accused Mr.Senthil @ Senthil Kumar also came to the place of occurrence armed with aruval and they also cut the deceased indiscriminately. P.W.2, the father of the deceased also came to the place of occurrence and witnessed the entire occurrence. Thus, the entire occurrence was witnessed only by Pws.1 & 2. On hearing the alarm raised by P.W.2, all the eight accused fled away from the scene of occurrence.

4.P.W.1 thereafter, went to his house informed the relatives and returned to the place of occurrence. Thereafter, he proceeded to the Mettur Police station and made a complaint at 11.30 pm on 19.06.2008. Ex.P.1 is the complaint and Ex.P.16 is the F.I.R. In Ex.P.1, P.W.1 mentioned about the presence and participation of accused 1 to 3 alone and he did not state anything about either the presence or the participation of the

other accused viz., A.4 to A.6, the absconding accused (Mr.Senthil @ Senthil Kumar) and the deceased accused (Mr.Saravanan @ Saravana Kumar). Thus, Ex.P.16 F.I.R., was registered only against A.1 to A.3 as the assailants.

5.P.W.16, the then Inspector of Police, Mettur Police Station, took up the case for investigation. He went to the place of occurrence at 7.00 am on 20.06.2008 and prepared an observation mahazar and a rough sketch, in the presence of witnesses. He recovered the blood stained earth and the sample earth from the place of occurrence. He conducted inquest on the body of the deceased between 8.30 am and 11.30 am and he forwarded the body for post mortem.

6.P.W.13, - Dr.Thyagarajan, conducted autopsy on 20.06.2008 at 11.55 am on the body of the deceased and found the following injuries:-

1.A cut injury size about 8x3x 1 ½ cm over the right parietal bone. Bone exposed.

2.A cut injury extending from right occipital bone to right maxilla bone associated with upper ear lobe cut down, size about 15x5x3 ½ cm through which brain matter exposed.

3.A cut injury extending from left side of neck to left side mandible, size about 12 x 4.5 cm x 4 cm, mandible cut blood vessels are cut and exposed.

4.A cut injury size about 8x4x2 cm over it. Wrist through which tendons are cut down with left thumb is missing

5.A cut injury 2x1cm x bone deep over left wrist seen above the previous injury

6.A cut injury size about 3x4x1 ½ cm over the right shoulder.

7.A cut injury size about 2x1x1 cm seen over anterior aspect of right deltoid region

8.Two cut injuries size about 3x1x1cm seen over the middle of right upper arm.

9.A cut injury about 9x6x bone deep seen over lower 1/3 of upper arm muscles are exposed

10.A cut injury about 12x9x bone deep seen below the previous injury through which muscle tendons vessels are cut

11.A cut injury size 1x3 bone deep seen over upper 1/3 forearm just below right elbow

12.A cut injury about 3x2 cm seen below

the previous injury

13.A cut injury about 6x4xbone exposes seen over right wrist, middle finger, ring finger, little finger are hanging down with small skin tag

14.A cut injury size about 1 x ¾ cm seen over terminal phalanges of middle finger with bone loss

15.A cut injury size about 7x3 x bone deep seen over right back below to scapula

16.A cut injury size 2x2 x bone deep just below the previous injury

17.A cut injury size over 20x8x4 cm seen over right infra axillary region, 8, 9 10 ribs are cut down. Liver surfaces exposed.

18. A linear cut injury size 18cm x 3 cm x bone deep just below the previous injury

19.A cut injury seen over the right lumbar region size about 12 cm x 7cm x bone deep, with rib line surfaces exposed

20. A cut injury size 4x2x2 cm seen over right Buttock

21.A cut injury size 4x2cm x bone deep seen over right lateral aspect of knee joint

22.A cut injury size 4x3x2 cm seen over the right middle legislature

23.Parietal bone cut down over the right middle leg

24.A lacerated injury 4x3cm seen over left knee joint."

Ex.P.18 is the post mortem certificate and Ex.P.15 is the chemical analysis report conducted on the visceral organs. Ex.P.19 is the final opinion of P.W.13 regarding the cause of death of the deceased. According to him, the death of the deceased was due to shock and hemorrhage due to the multiple injuries found on the body of the deceased. He further opined that the said injuries could have been caused by weapons like Aruval and Veecharuval. P.W.16 during the course of investigation, recovered the blood stained clothes from the body of the deceased and forwarded the same to Court.

7.The accused 1 to 3 had surrendered before the learned Judicial Magistrate No.2, Salem. At request of P.W.16, the learned Judicial Magistrate ordered for custody of these three accused to the Police. Accordingly, on 02.07.2008, at 5.00 pm, P.W.16 took the custody of A.1 to A.3. On 03.07.2008, while in custody, in the presence of Village Administrative Officer, A.3-

Kumar @ Senthilkumar, made a voluntary confession, in which, he disclosed the place where he had hidden an Aruval and a Shirt. In pursuance of the same, he took the Police and witnesses to the place of hide out and produced M.O.6 (Veecharuval) & M.O.10 (Shirt).

8.Following A.3, A.2 made a voluntary confession in which, he disclosed the place where he had hidden an aruval and a shirt. In pursuance of the same he took the Police and witnesses to the place of hide out and produced M.O.11 (Veecharuval) & M.O.12 (Shirt). Similarly, A.1 made a voluntary confession in which, he disclosed the place where he had hidden an aruval and a shirt. In pursuance of the same he took the Police and witnesses to the place of hide out and produced M.O.7 (veecharuval) and M.O.13 (Shirt).

9.On returning to the Police station, P.W.16 forwarded all the three accused (A.1 to A.3) to Court for judicial remand. He altered the case into one under Sections 147, 148, 341, 307 & 302 I.P.C., on 03.07.2008 and Ex.P.25 is the said Alteration Report.

10.On 07.07.2008, the accused Mr.Saravanan @ Saravanakumar was arrested. On such arrest, he made a voluntary confession in which, he disclosed the place where he had hidden an aruval and a shirt. In pursuance of the same he took the Police and witnesses to the place of hide out and produced M.O.14 (Veecharuval) & M.O.15 (Shirt). P.W.16 then forwarded the said accused to Court for judicial remand. At his request, all the material objects were sent for chemical examination. The report revealed that there were human blood found on all material objects including all the Aruvals.

11.On 06.08.2006, P.W.16, arrested A.5 - Mr.Sudhakar. While in custody, he made a voluntary confession but, no fact whatsoever was discovered out of the same. The accused Mr.Senthil @ Senthilkumar was surrendered before the learned Judicial Magistrate No.5, Salem. At request of P.W.16, he was handed over to the Police for custody. On 09.08.2008, while in custody, he made a voluntary confession in which, he disclosed the place where he had hidden a sum of Rs.250/-. In pursuance of the same he took the Police and witnesses to the place of hide out and produced Rs.250/-. These accused were sent to Court again for judicial remand. P.W.16 examined many more witnesses and recorded their statements. On completing investigation, he laid charge sheet against all the eight accused.

12.Based on the above materials, the trial Court framed charges as against all the appellants as stated in the first

paragraph of this judgment. The appellants/accused denied the same. In order to prove the case of the prosecution, on the side of the prosecution, as many as 16 witnesses were examined and 38 documents were exhibited, besides 15 Material Objects.

13. Out of the said witnesses, P.Ws.1 & 2 have been examined as eye witness to the occurrence. P.W.1 has stated about the presence and participation of all the eight accused including the deceased accused and the absconding accused. He has further spoken about the individual overt acts of all the accused. He has further stated about the complaint given by him to the Police. P.W.2, the father of the deceased has stated that at the time when he saw the occurrence, there were only five people. In chief examination, he has stated that the other persons who were present at the time of occurrence and participated the occurrence were not known to him and he could not identify them also. According to him, P.W.1 was not at all present at the time of occurrence. P.W.3 is the father of P.W.1. He has stated about the previous motive between him and his brother Sreerangan (A.4). He has further stated that he came to know about the occurrence, went to the place of occurrence and found the dead body. P.W.4 has spoken about the preparation of observation mahazar and rough sketch, in the place of occurrence and the recovery of all the material objects from the place of occurrence. P.Ws.5, 6 & 7 have turned hostile and they have not supported the case of the prosecution in any manner. P.W.8 - the then village Administrative Officer has spoken about the confession made by A.1 to A.3 and the consequential recoveries of material objects from their possession. P.W.9 has stated that he examined the hyoid bone recovered from the dead body of the deceased and opined that there was no fracture. P.W.10 has spoken about the chemical examination conducted on the visceral organs of the deceased. According to him there was neither alchocal nor poison found on the same. P.W.11 has spoken about the registration of the case on the complaint of P.W.1. P.W.12 has stated that Ex.P.1 and Ex.P.16 were handed over to him at 2.30 am on 19.06.2008 and he in turn handed over the same to the jurisdictional Magistrate concerned at 3.00 am on 20.06.2008. P.W.13 has spoken about the post mortem conducted and his final opinion regarding the cause of death. P.W.14 has spoken about the inquest conducted on the body of the deceased. P.W.15 has spoken about the photographs taken at the place of occurrence and P.W.16 has spoken about the investigation done and the final report filed.

14. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., they denied the same as false. However, they did not chose to examine any witness nor did they mark any documents on their side.

15. Having considered all the above, the trial Court found the appellants/A.1 to A.6 guilty under the said charges and accordingly, sentenced them as detailed in the first paragraph of this judgment. That is how the appellants/A.1 to A.6 are before this Court with these Criminal Appeals.

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

17. Admittedly, there was longstanding enmity between A.4 and P.W.3 - Mr. Raja, in respect of partitioning of the joint family properties between them. P.W.1 is the son of Mr. Raja. There was no controversy over the fact that on an earlier occasion, Mr. Venkatesh the son of A.4 had cut Mr. Raja (P.W.3) which resulted in a criminal case. Mr. Venkatesh was murdered subsequently. In that murder case, P.W.3 - Mr. Raja and P.W.1 were arrayed as accused. Thus, it has been clearly established that there was longstanding enmity between the families of P.Ws.1 & 3 on one part and A.4 and his son on the other part. Thus, the prosecution has clearly established the motive for the occurrence in respect of A.4. In so far as the other appellants are concerned, there is no motive for them against the deceased. They are stated to be the friends of Mr. Venkatesh, who was murdered. The deceased was all along supporting Mr. Raja (P.W.3) as his brother-in-law. It is the case of the prosecution that to take revenge for the murder of Mr. Venkatesh, these accused who are the friends of him, on the instigation made by A.4, had committed murder of the deceased, is the case of the prosecution. But, there is no evidence that these accused except A.4, are all friends of Mr. Venkatesh (deceased). Assuming that these accused except A.4 were the friends of Mr. Venkatesh (deceased), on that score, we cannot rush to the conclusion that these accused had committed the murder of the deceased - Mr. Mayilsamy.

18. In order to prove that these accused were the assailants, the prosecution would rely mainly on the evidences of P.Ws.1 & 2. The learned counsel for the appellants would point out that though it is stated that the alleged occurrence was at 9.30 pm, there were long delay in preferring the complaint and then in the complaint reaching the hands of the learned Judicial Magistrate. The learned counsel would point out that the said delay has not been explained away by the prosecution. He would further submit that the occurrence place was a lonely place where P.Ws.1 & 2 would not even present at all. It is an after

thought that due to motive, these accused would have been falsely implicated in this case, the learned counsel contended. The learned counsel would further point out that in the F.I.R., the number of assailants were mentioned only as 3 viz., A.1 to A.3. There is no explanation as to why the other accused were not mentioned in the F.I.R. The learned counsel would further point out that P.W.2 has further stated that he did not know the identity of A.4 to A.6 and the absconding accused as well as the deceased accused. For these reasons, the learned counsel would submit that the appellants/A.1 to A.6 are entitled for acquittal.

19. The learned Additional Public Prosecutor would vehemently oppose these criminal appeals. He would submit that the delay in F.I.R., is not enormous and the same would not create any doubt in the case of the prosecution and in respect of the other anomalies pointed out by the learned counsel for the appellants, they are not material however, the same has also been explained away. Hence, according to him, the well considered judgment of the trial Court need not be interfered with.

20. We have considered the above submissions.

21. As found in Ex.P.16, the distance between the Police Station and the place of occurrence is hardly half a kilo meter. The occurrence had taken place in the lonely place where, there was neither light nor any habitation. P.Ws.1 & 2 are closely related to the deceased and also were enmical towards the accused. Their presence also was by chance. When that be so, as per the settled law, unless these witnesses explained their presence at the time of occurrence, to the satisfaction of the Court, it would not be safe to rely on their evidences. Further, their evidences require close scrutiny. Applying these yardsticks, now let us go into the evidences of P.Ws.1 & 2.

22. Had it been true that P.Ws.1 & 2 were present at the time of occurrence, nothing would have prevented them either to inform the occurrence to others or to rush to the Police Station, which is situated at a distance of half a kilo meter, to make a complaint immediately. P.W.2 has admitted during chief examination that he had not seen P.W.1 at the time of occurrence at all. During the course of cross examination, he has stated that he alone was present at the time of occurrence and nobody else was present. Thus, if P.W.2's evidence is accepted so as to reject the evidence of P.W.1, it is highly doubtful that P.W.1 would have been present at the time of occurrence.

23. Even assuming that P.Ws.1 & 2 were present at the place of occurrence, going by the natural human conduct, any one of them should have gone to the Police Station to make complaint. But, the complaint in this case was made after two hours of the

occurrence for which, there is no explanation at all. If really the F.I.R., was registered at 11.30 pm on 19.06.2008, it would not have taken another 4 ½ hours for the F.I.R., to reach the hands of the learned Judicial Magistrate. It is informed that the distance between the house of the learned Judicial Magistrate and the Police station is hardly one kilo meter. P.W.12, the Constable who carried the F.I.R., to the house of the Magistrate has stated that the F.I.R., was handed over to him only at 2.30 am on 20.06.2008. If it is true that the F.I.R. was registered at 11.30 pm on 19.06.2008, it is not explained to the Court as to why it was not handed over to P.W.12 immediately and why it was handed over to him at 2.30 am on 20.06.2008. Thus, there is enormous doubt in the very origin of the F.I.R., itself. This creates initial doubt in the case of the prosecution.

24. In Ex.P.1 - complaint, P.W.1 has mentioned about the presence and participation of A.1 to A.3 alone. He has not even stated anything either about A.4 or about the other accused. But in his evidence, P.W.1 has stated that all the eight accused were present, A.4 - Mr. Seerangan instigated the other accused and all the other accused indiscriminately attacked the deceased with aruval and caused his death. The only explanation for not mentioning the presence and participation of the other accused except A.1 to A.3, offered by P.W.1 is that out of fear, he did not mention about the presence and participation of rest of the accused. This explanation is highly artificial and the same cannot be accepted at all.

25. In our considered view, had it been true that all the eight accused were present at the time of occurrence and they participated in the crime, P.W.1 would certainly mention about the presence of all the eight accused and their participation in the occurrence. The failure of P.W.1 to mention about the presence and participation of all the eight accused including the absconding accused and the deceased accused in Ex.P.1 - complaint would go to show that P.W.1 is not believable and he would not have been present at all at the time of occurrence.

26. P.W.1 has further stated that he scaled down the fence and sat on the other side and closely watched the occurrence. This, in our considered view, is an unnatural conduct of P.W.1. Had it been true that an attempt was made on him, he would not have been lying in wait on the other side of the fence and watched the entire occurrence very closely without raising any alarm. P.W.1 has further stated that A.1 commenced this attack on the deceased. He attacked the deceased with Aruval on his neck and right ear. Following him A.2 attacked the deceased on his right hand and wrist and thigh following him, A.3 attacked

the deceased with Veecharuval on his right hand and left hand repeatedly. Then A.4 was simply standing at a distance. The other accused thereafter, simultaneously attacked the deceased. The narration of events as stated by P.W.1, above would only expose its artificiality. Going by the natural human conduct, we are of the view that the alleged occurrence would not have happened in the manner projected by P.W.1.

27. Now, turning to the evidence of P.W.2, he has stated that he came there incidentally. But, even in chief examination, he has stated that he did not see P.W.1 at the place of occurrence. He has further stated that five persons namely, A.1 to A.3, the deceased accused and the absconding accused attacked the deceased. A.4 was simply present at the place of occurrence. In chief examination, he has stated that there were three more persons who attacked the deceased, thereby making the total number of assailants as 8. He has further stated that, he could not notice closely the other three assailants. He has further stated that even before he could reach the place of occurrence, the assailants had cut the deceased and escaped from the scene of occurrence. During cross examination, he has stated that when he reached the place of occurrence, except him, there was nobody else at the place of occurrence. He has further admitted that he saw only the dead body of the deceased and he did not see who cut the deceased. He has tacitly admitted that he did not see the occurrence at all. During further cross examination, he has stated that he found five people fleeing away from the scene of occurrence. Thus, from his evidence, more particularly, the admission made by him, it is crystal clear that he did not see the occurrence at all. According to his evidence, he saw only five persons fleeing away from the scene of occurrence but he has not stated as to whether those five persons are the accused in this case. Thus, the evidence of P.W.2 is highly contrary to the evidence of P.W.1. Initially, the F.I.R., contained the number of assailants as three but later, the same was improved by stating that the assailants were eight in numbers. In our considered view, having regard to the strong motive between the parties, an attempt has been made to rope in as many number of enemies as accused is this case.

28. In view of the above circumstances, we are of the view that, it is highly doubtful to believe the presence of P.Ws.1 & 2, at the place of occurrence. It is inferable that the deceased was done to death by some persons and the dead body was found lying there and thereafter only the F.I.R has been registered only after deliberation include the names of the appellants/accused as assailants in this case. Originally the number of assailants involved in this case as mentioned was 3 and later on, the number of assailants has been increased as 8 persons. Though, it is a brutal murder, in the absence of

cogent, convincing and acceptable evidence, we find it difficult to confirm the conviction and sentence imposed on the appellants/accused 1 to 6. We hold that the prosecution has failed to prove the case beyond reasonable doubt. Hence, the appellants/Accused 1 to 6 are entitled for acquittal.

29. In the result, these Criminal Appeals are allowed and the conviction and sentence imposed on the appellants/A.1 to A.6 are set aside and the appellants/A.1 to A.6 are acquitted from all the charges. The fine amount, if any paid, shall be refunded to them. The bail bond, if any, executed by the appellants/A.1 to A.6, shall stand discharged.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jbm

To

1. The I Additional Sessions Judge,
Salem.

2. The Principal Sessions Judge,
Salem.

3. The Judicial Magistrate No. I,
Mettur.

4. The Chief Judicial Magistrate,
Salem.

5. The Inspector of Police,
Mettur Police Station, Salem.

6. The Superintendent,
Central Prison, Salem.

7. The Superintendent,
Central Prison,
Coimbatore.

8. The District Collector,
Salem District.

9.The District Collector,
Coimbatore District.

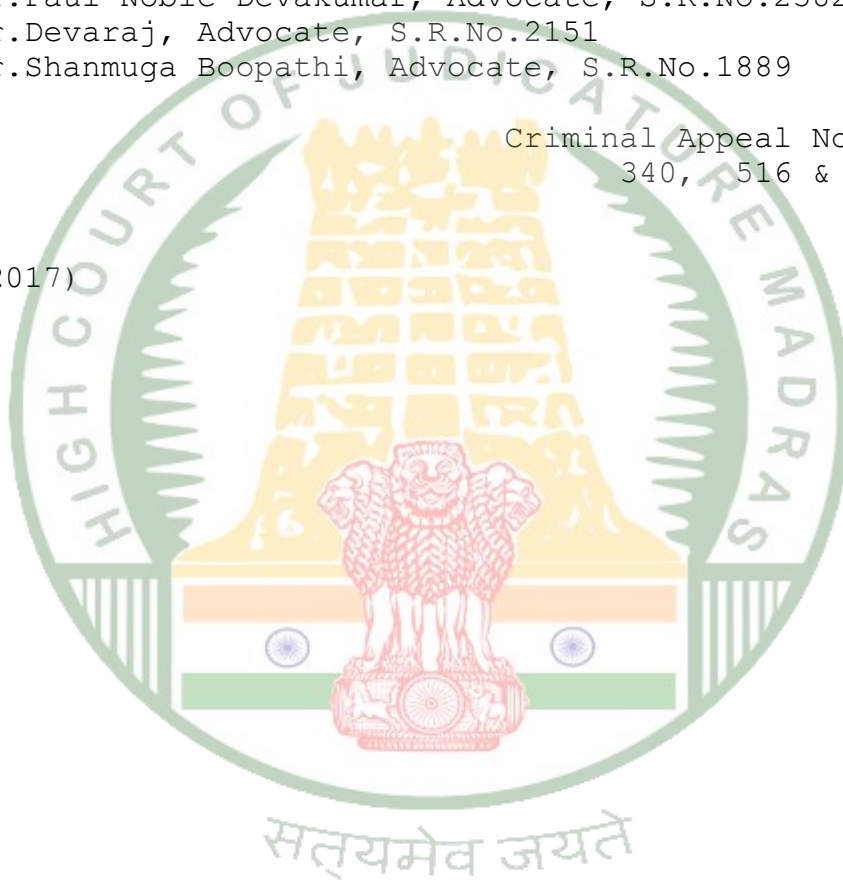
10.The Director General of Police,
Mylapore, Chennai-4.

11.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.Selvakumaraswami, Advocate, S.R.No.2463
+1cc to Mr.Paul Noble Devakumar, Advocate, S.R.No.2382
+1cc to Mr.Devaraj, Advocate, S.R.No.2151
+1cc to Mr.Shanmuga Boopathi, Advocate, S.R.No.1889

Criminal Appeal Nos.300, 309,
340, 516 & 612 of 2016

EV(CO)
RS(20/04/2017)



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