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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE OF RESERVATION: 17.03.2017

DATE OF ORDER :03.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRL.A[MD].No.180 of 2016

and

CRL.M.P (MD) No.11496 of 2016

Ramaraj @ Ramadoss

:Appellant/Sole Accused

Vs.

The State,

represented by the Inspector of Police,

Gandarvakottai Police Station,

Pudukkottai District

(Crime No.218 of 2014)

: Respondent/Complainant

PRAYER: Criminal Appeal is filed under Section 374(2) of the Code of Criminal Procedure against the Judgment of conviction dated 24.5.2016, made in S.C.No.155 of 2014 on the file of the learned Sessions Judge, Mahila Neethimandram, Pudukkottai.

For Appellant

: M/s.N.Ananthapadmanabhan

For Respondent

: Mr.K.S.Duraipandian

Additional Public Prosecutor

JUDGMENT

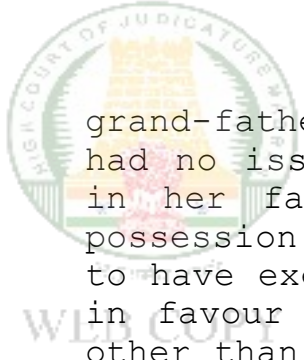
[Judgment of the Court was delivered by **P.VELMURUGAN, J**]

This Criminal Appeal has been filed against the Judgment of conviction, dated 24.5.2016, made in S.C.No.155 of 2014, on the file of the learned Sessions Judge, Mahila Neethimandram, Pudukkottai, convicting the appellant/Sole Accused for the offence under Section 302 IPC and sentenced him to undergo life imprisonment and to pay a fine of Rs.1,000/- and in default, to undergo one year rigorous imprisonment and convicted for the offence under Section 201 IPC and sentenced him to undergo 7 years rigorous imprisonment and to pay a fine of Rs.1,000/- and in default, to undergo one year rigorous imprisonment and the sentences shall run concurrently.

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

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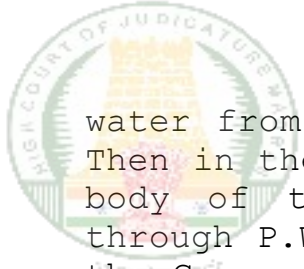
As per the charge-sheet, the case of the prosecution is that the deceased Thavamani was the second wife of the maternal



grand-father of the complainant Rangarajan. The said Thavamani had no issues. She separated from her husband and came and lived in her father's property by putting up a hut. She was in possession of two acres of lands. The deceased Thavamani alleged to have executed a sale deed in respect of the above said property in favour of her sister's daughter one Parameswari. She is none other than the wife of the accused Ramadoss. When the accused had taken steps to change the patta for the above said property in the name of his wife Parameswari, Thavamani objected for the same, stating that till her lifetime, the name should not be changed in the revenue records and insisted to execute a sale of the said property in her name. Three days prior to the date of the alleged occurrence, the accused after consuming alcohol came and quarrelled with Thavamani. Thavamani repeatedly stated that till her lifetime, the property should remain in her name. After her lifetime, the accused and his wife can take the property. The accused thought that during her lifetime he cannot enjoy the property, hence decided to kill Thavamni and came to the house of Thavamni on 17.6.2014 in the early morning at about 3.00' clock and asked her to come out of her house. After coming outside of her house, there was a quarrel between the accused and the deceased Thavamani. At that time also, Thavamani stated that till her lifetime, the property should remain in her name and not to quarrel with her. Immediately the accused took the Aruval which was hidden on his backside and made a cut towards her head by saying that if you are alive, then you will ask the land, therefore you die. When she prevented the same and the cut did not fall on her head, instead the cut fell on her left fore-arm and again he cut on her fore-head, head, chest, hands and she sustained multiple injuries all over her body. Due to the above said injuries, she died on the spot. In order to screen the murder, the accused lifted her body on his shoulder and put her body into the well in which there was no water. Therefore he has committed offence under Sections 302 and 201 IPC.

2(i). PW1 is the resident of parukkaividuthi in Pudukottai District. He is an agriculturist. On 17.06.2014, early morning at about 2.00 am, while he was going to his field for watering he saw that the accused was quarrelling with the deceased and after some times while he was returning from the field he saw that the accused went towards east with Bill hook (Aruval). Then he found the dead body of the deceased in the well which is near by the deceased house. He went to Gantharvakottai Police Station and made an oral complaint at about 15.00 hours. The Inspector of Police reduced the complaint into writing and obtained signature of the complainant. A case was registered based on the said complaint in Cr.No. 218 of 2014 for the offences under section 302 and 201 of IPC.

(ii). P.W.13, the Inspector of Police took up the case. He went to the place of occurrence, prepared observation Mahazar and a Rough Sketch in the presence of the witnesses. He recovered blood stained earth, sample earth and



water from the well where the body was recovered under a Mahazar. Then in the presence of Panchayatars, he conducted inquest on the body of the deceased and forwarded the same for post-mortem, through P.W.11 Head constable. He took and handed over the body to the Government Hospital, Pudukottai. Identified the body for post-mortem and after the postmortem handed over the body of the deceased to her relatives.

(iii) P.W.12, the Doctor Lavanya conducted autopsy on the body of the deceased on 18.06.2014 at 12.10 PM. Ex.P.10 is the report of the Post-mortem. As per Ex.P.10, the following External injuries were found on the body of the deceased;

1. Laceration (L) side forehead 5x4x5 cm
2. Laceration in (R)side forehead 7x4x3 cm above ® ear
- 3) laceration in the chin 4x2x2 m
- 4)Laceration 4x4x2 m in the occipital region
- 5) Punctured wound below the (L) elbow
- 6)Abrasion 3x3 cm in both the knee and contusion ® and (L) breast
- 7) Multiple abrasion all over the body.

(iv). Ex.P.12 is the final opinion which read as "Final Opinion to the cause of death is Head Injury right extradural/sub dural and intra cerbal and multiple bony injuries".

(v)After obtaining permission from the Magistrate as directed by the Investigation Officer, P.W.11-Head constable handed over viscera to the Forensic Science Department, Regional Forensic Science Laboratory, Tiruchirappalli for chemical examination and also handed over the relevant Material Objects in sealed cover.

(vi) When the investigation was in progress, on 18.06.2014 at about 7.00 am the accused appeared before P.W.10, the Village Administrative Officer, Gantharvakottai and made a voluntary confession. P.W.10, Village Administrative Officer reduced the said confession, orally made by the accused into writing. EX.P.8. is the extra judicial confession, wherein he narrated the occurrence and admitted the offence. P.W.10. then took the accused to the Police Station and produced him before P.W.13 and also produced the extra judicial confession recorded by him with special report.

(vii) P.W.13 arrested the accused at 9.00 am, while in the police custody the accused made voluntary confession, in which, he disclosed that he used M.O.1 Bill hook (Aruval) for the occurrence and at the time he had worn M.O.2 and 3. In pursuant to the same, he took the P.W.13 and witnesses to the northern side of the Parukkai village near the vari and took M.O.Nos. 1 to 3 which were hidden in the thorny bushes and produced before P.W.13 in the presence of the witnesses P.W.8 and one Murugesan. P.W.13 recovered the same under recovery Mahazar in the presence of the witnesses. On retuning to the Police Station, the accused was sent to the Judicial Magistrate, Pudukottai for remand and handed over the M.O.Nos. 1 to 3 along with other material objects recovered from the scene of occurrence. At his request, the other Material Objects were sent for chemical examination. P.W.13 Collected the medical records and examined the witnesses and on completing the

investigation, laid charge sheet against the accused.

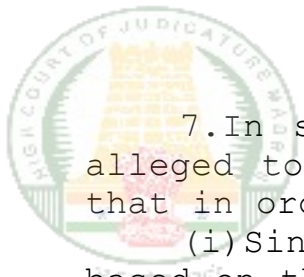
3. The Police laid charge-sheet before the learned Judicial Magistrate, Pudukkottai and the case was taken on file in P.R.C.No.36 of 2014 on the file of the Judicial Magistrate Court, Pudukkottai and committed the case to the committal Court, Pudukkottai. Then Mahila Neethimandram, Pudukkottai has taken the case on file in S.C.No.155 of 2014 and the said Court framed the charges against the accused under Sections 302 and 201 IPC.

4. In order to prove the case of prosecution, on the side of prosecution, 14 witnesses were examined as P.W.1 to P.W.14. Ex.P.1 to Ex.P.16 and MO.1 to MO.5 were marked.

5. Out of the said witnesses P.W.1 is the complainant and he has spoken about the complaint made to the Police. P.W.2 to P.W.4 and P.W.7 are the same villagers have spoken about the motive and quarrel between the accused and the deceased on 17.06.2014 and on the same day they found the body of the deceased in the well. P.W.10, the Village Administrative Officer has spoken about the Extra Judicial confession allegedly given by the accused. P.W.6 have spoken about the observation mahazar and rough sketch prepared in the place of occurrence. P.W.9 has spoken about the seizure mahazar. P.W.12 has spoken about the post-mortem report and final opinion regarding cause of death. P.W.11, the Police Head Constable has spoken about handing over the viscera and material objects before Forensic Science Laboratory as directed by the Investigating Officer. P.W.14 has spoken about biology and serology reports. P.W.13 has spoken about the registration of the FIR and the investigation done by him and filing of charge sheet.

(i) When the above incriminating materials were put to the accused u/s 313 of Cr.P.C., he denied the same as false. His defence was total denial. He neither chose to examine any witness nor marked any documents on his side. However, he submitted statement under Section 233 (2) of Cr.P.C with 4 documents.

6. After hearing both sides, the trial Court has found the accused guilty under Sections 302 and 201 IPC and convicted the appellant/Sole Accused for the offence under Section 302 IPC and sentenced him to undergo life imprisonment and to pay a fine of Rs.1,000/- and in default to undergo one year rigorous imprisonment and convicted for the offence under Section 201 IPC and sentenced him to undergo 7 years rigorous imprisonment and to pay a fine of Rs.1,000/- and in default, to undergo one year rigorous imprisonment and the sentences shall run concurrently. Aggrieved by the said conviction and sentence passed by the Mahila Court, Pudukkottai, the accused has preferred the present Appeal. Since the first appellate Court is a fact finding Court, this Court cannot re-appreciate the evidence and arrive at the own independent finding on the evidence.



7. In short, the case of the prosecution is that the accused alleged to have murdered the deceased Thavamni on 17.6.2014 and that in order to screen the murder, he put the body into the well.

(i) Since there is no eye witness in this case, the case is based on the circumstantial evidence. To appreciate entire case it is useful to refer the relevant portions of the evidence of the prosecution witnesses.

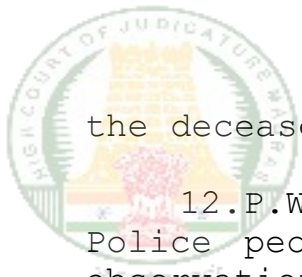
8. P.W.1, the complainant in his evidence deposed that the deceased Thavamani was his maternal grandmother. She was residing as his neighbour in the same village. There was a land dispute between the deceased and accused Ramadoss and on 17.6.2014 early morning at about 2.00' clock, there was a quarrel between the accused and the deceased regarding the land dispute. During that time, he along with his nephew Ramesh noticed the quarrel and went for watering his land. After watering, while returning from the field he saw that, the accused ran with Aruval towards east. After that, on the same day in the afternoon he saw Thavamani was lying as dead body with multiple cut injuries all over her body. He informed the same to the Inspector of Police, Gantharvakottai and the Police reduced the same into writing and obtained signature in the complaint which was marked as Ex.P1.

(i) P.W.2 deposed that the accused and the deceased are relatives. On 17.6.2014 at about 3.00' clock when he and P.W.1 returned from the field after watering their land, the accused was proceeding from south towards north with aruval. They thought regularly it would happen and left the place. On the same day at about 1.00 p.m., they found the body of the Thavamani in the well. Police came and enquired about the same.

9. P.W.3 deposed that he is the neighbor of the deceased and he knows the accused and deceased and P.W.1 and P.W.2. On 16.6.2014, at late night, he went for watering to his land and on 17.6.2014 in the early morning when he returned to his house, the accused had gone by lifting one person on his shoulder. He thought that somebody was not feeling well. Then after noon, people of the said village found the body of the deceased in the well.

10. P.W.4 deposed that he is a resident of parukkai Viduthi Village. He knows the accused, the deceased and P.W.1 to P.W.3, on 17.6.2014, in the early morning at about 3.00' clock himself and P.W.3 one Pandiarajan after watering their land, returned from the field at that time he saw the accused had gone by lifting the said Thavamani (deceased) on his shoulder. Then on the same day after noon, body of the deceased was found in the well.

11. P.W.5-Sundarraaj deposed that he is also a resident of the said village. He knows the accused, deceased and P.W.1 to P.W.4 and on 17.6.2014 at about 4.00 p.m when he was in the tea shop in that village, he was told that there was a quarrel between the accused and the deceased and later he was told that the body of



the deceased was found in the well.

12.P.W.6 deposed that on 17.6.2014 at about 7.00 p.m, the Police people came to the scene of occurrence and prepared the observation mahazars and he signed in the observation mahazars.

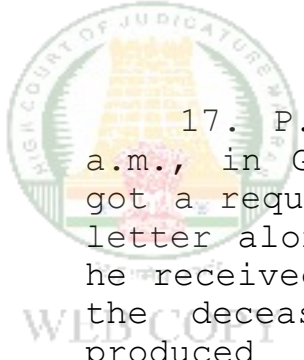
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13.P.W.7 deposed that he is also a resident of parukkai Viduthi. On 17.6.2014 at 1.00' clock in the early morning, when he was in his field for watering he saw that light was burning in the house of the deceased. At that time, he saw that the accused in front of the deceased house with Checked Lungi and half handed shirt and there was a quarrel between the accused and deceased. He thought that it was an usual quarrel between them and he left. Later on he was told that the body of the deceased Thavamani was found in the well. P.W.1 informed the same to the Village Administrative Officer and the Police. The Police came to the place of occurrence and enquired about the same.

14.P.W.8 deposed that on 18.6.2014 at about 7.00 a.m., when he was in Gandarvakottai Police Station, the Village Administrative Officer, Gandarvakottai brought the accused and produced him before the Inspector of Police. At that time when the accused was questioned, he told that if he was taken to the place as he said, he would take and produce incriminating materials. When he was taken to that place, the vari near by the well where the body of the deceased was found, he took and produced the material objects - Blood stained Bill hook (Aruval), Checked lungi and half handed white coloured shirt from thorny bushes. The police recovered the Material Objects from the accused based on the admitted portion of the confession statement. He signed in the recovery mahazar. The admitted portion of the above was marked as Ex.P.3.

15.P.W.9 deposed that on 20.6.2014, when he was in duty, he received the viscera of Davamani, from Pudukkottai Government Hospital, through P.W.11 the Head Constable Gantharvakottai Police Station for chemical analysis and after examining the same, he submitted a report which was marked as Ex.P.5.

16.P.W.10 is the Village Administrative Officer deposed that on 17.6.2014 when he was in the Office of the Village Administrative Officer, Gandavarkottai at about 3.00 p.m., he was informed that a female body was found in the well in parukkai Viduthi Village. Then he went to the village and took the body with the help of the Village Assistant and villagers. Police came and prepared the observation mahazar and also rough sketch. On the next day, on 18.6.2014 morning at about 7.00 a.m., the accused came to his office and gave a extra-judicial confession statement and he recorded the same and along with the accused and statement, he produced them before the Inspector of Police Station at Gandavarkkottai, Police Station.



17. P.W.11 Head Constable deposed that on 18.6.2014 at 8.00 a.m., in Gandavarkkottai Police Station in Crime No.218/2014, he got a request letter from the Inspector of Police and submitted a letter along with the body of the deceased and after post-mortem, he received the body and handed over the same to the relatives of the deceased and also he received the material objects and produced before the Judicial Magistrate, Pudukkottai. On 27.6.2014, he received viscera of the deceased from the hospital and produced before the Regional Forensic Lab at Tiruchirappalli, for chemical analysis and also subsequently produced the Material Objects.

18.P.W.12 Dr. Lavanya deposed that when she was working as Assistant Surgeon in Government Hospital, Pudukkotai on 18.6.2014 at about 10.55 a.m., she received a body aged about 45 years named Thavamani for conducting postmortem and during the post-mortem she found the following injuries:

External injuries 1. Laceration (L) side forehead 5x4x5 cm 2. Laceration in (R)side forehead 7x4x3 cm above ® ear 3) laceration in the chin 4x2x2 m 4)Laceration 4x4x2 m in the occipital region 5) Punctured wound below the (L) elbow 6)Abrasion 3x3 cm in both the knee and contusion ® and (L) breast 7) Multiple abrasion all over the body.

Eyelid closed. Nose, mouth, ears (N) tongue inside and jaw linked. Hyoid bone intact. Thorax, Sternum intact and fracture of 6th, 7th, 8th, 9th(L) ribs. Heart (N) and 50 ml of liquid blood. Lungs congested and edematous and c/s shows frothy discharge. Abdomen:Stomach(N) and contains 100 ml of liquid. Liver, Spleen, Kidneys(N) and C/s Pate. Bladder empty. Uterus (N) and cavity empty. Skull (N) and ulnar is ® extradural hemorrhage and subdural and intercerebral in the ® temporal region. Spinal cord intact.

19.P.W.13 is the Investigating Officer (Inspector of Police) deposed that on 17.6.2014 at about 15.00 hours when he was in duty the de-facto complainant/Rangarajan appeared before him in Gandavarkottai Police Station and gave a complaint and he reduced the same into writing and a case was registered in Crime No.218/2014 under Sections 302 and 201 IPC. After registration of the First Information Report, he sent the same to the Judicial Magistrate, Pudukkottai by an express letter. Then on 17.6.2014 at about 16.00 hours, he went to the scene of occurrence where the body was lying in the well and recovered the body from the well and he conducted inquest before the Panchayatar, parukkai Viduthi Village and examined the Panchayatar. Then he prepared the observation mahazar and also a rough sketch at the place of occurrence on the same day and examined the Village Administrative Officer Muthukrishnan and the Village Assistant Karunanithi and he recovered some sample soil and water from the well where the



body was recovered and preserved the same and sent the body to Government Hospital Pudukkottai, through the Head Constable and examined the witnesses and recorded their statement and on 18.6.2014 at about 9.00 a.m. when he was in Gandavarkottai Police Station, the Village Administrative Officer P.W.10, produced the accused and the extra-judicial confession statement recorded from the accused and he arrested the accused and the accused was taken to the place as he said and accused also produced the material objects like Bill hook (Aruval), checked lungi and half handed white coloured shirt. Then he recovered the same under recovery mahazar in the presence of the witnesses. Then he sent the accused to the learned Judicial Magistrate for remanding him into judicial custody. After postmortem, viscera of the deceased was sent to the Forensic Lab through Head Constable Jayachandran. He examined the Doctor who conducted the postmortem and the witnesses and also obtained certificate and report from the Forensic Lab. Then he laid the charge-sheet under Sections 302 and 201 IPC before the learned Judicial Magistrate, Pudukkottai.

20.P.W.14 Scientific Officer deposed that he examined the material objects and submitted a report. She sent MO.1 to MO.5 for identifying the blood group, after receiving report from the Forensic Lab, she filed the final report.

21.From the above said evidences of P.W.1 to 4 and 7, the prosecution has established that they are the residents of the parukkai Viduthi Village. The deceased Thavamani is the second wife of the maternal grand-father of the complainant Rangarajan. Thavamani had no issues. She was in possession of two acres of land. There were frequent quarrel between the accused and the deceased with reference to the land dispute. On the date of occurrence i.e., on 17.6.2014 in early morning in between 1 - 3 a.m., there was a quarrel between the accused and the deceased in the house of the deceased. P.W.1 to 4 and 7 have categorically stated in their evidence that on 17.06.2014 in the early morning there was a quarrel between the accused and deceased. Since there were quarrel between them regularly on earlier occasions also, they thought that as usual there was a quarrel between them with regard to land dispute. P.W.1 and P.W.2 clearly deposed that while they were returning from their land after watering they saw the accused went with Bill hook (Aruval). P.W.3 also stated that while retuning from the field, he saw the accused had gone by lifting one person on his shoulder. P.W.4 specifically stated that when he saw the accused, he had gone by lifting the deceased on his shoulder. It shows that P.W.1 to 4 had seen the accused and deceased together in the early morning on 17.6.2014 in the house of the deceased while they were quarrelling. Then they had seen the accused with Bill hook (Aruval) and later on in the after noon they had seen the body of the deceased in the well. This fact has not been shaken during the cross examination except some insignificant minor contradiction. That too, the cross examination



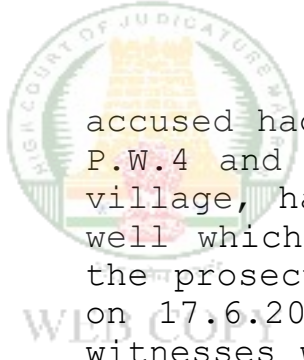
were done after a long delay.

22. It is needless to say that, it is a common practice that agriculturists/farmers in villages used to go to their field for watering their crops during the night time and it is also pertinent to state that in villages, it is a common practice that farmers used to water their land by using scheme system either from the wells or from the common channels. Some persons go to the field in late night and come in the midnight and some used to go to field in the early morning and come after completing works depends upon the scheme, availability of water and extent of land for watering. From the evidence of P.W.1 to 4 and 7, it is seen that all the witnesses are agriculturists, on that day while going to their field, at that time, they had noticed the quarrel between the accused and deceased and as stated earlier farmers go to the field for watering their land and they used to return after sometime depending upon their work in the field. Therefore the presence of the witnesses during the midnight in and around the place of occurrence cannot be doubted. The occurrence took place in the early morning, not only they had noticed the quarrel between the accused and deceased on 17.6.2014 around in between 1 - 3 a.m., but subsequently they had also noticed the accused with Aruval. They had seen the quarrel between the accused and the deceased and they had seen the accused with aruval and finally they had seen the body of the deceased in the well, in the afternoon on the same day, near by the residence of the deceased

23. We have heard the learned Counsel for the appellant and learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

(i) This is a case based on the circumstantial evidence. For establishing the circumstantial evidence, prosecution has to establish two things. One is last seen theory and another one is chain of circumstances should be complete and coherent without any break. In other words, it is well settled that in a case based on circumstantial evidence, the prosecution is bound to prove the circumstances projected by it beyond any reasonable doubt and such proved circumstances should form a complete chain without any break unerringly pointing to the guilt of the accused.

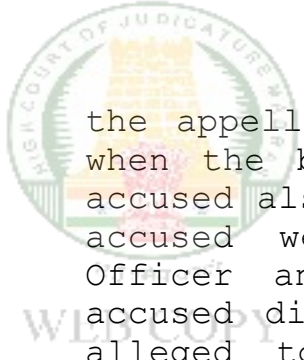
24. As far as the last seen theory is concerned, as stated earlier, the prosecution has established from the evidence of P.W.1 to 4 and 7 and the said witnesses have stated that on 17.6.2014 in the early morning around in between 1 - 3 a.m., they had seen the deceased with the accused in front of the deceased house at the time of quarrel between them. Then from the evidence of P.W.1 and P.W.2, it is evident that when they were coming from their field after watering, they saw that the accused went with ~~one person~~ ^{one person} on his shoulder. P.W.4 has specifically stated that the



accused had gone by lifting the deceased on his shoulder. P.W.1 to P.W.4 and other private witnesses also the residents of the same village, have stated that they saw the body of the deceased in the well which is situated near the house of the deceased. Therefore the prosecution has clearly established the last seen theory that on 17.6.2014 in the early morning the deceased was seen by the witnesses with the accused, none of the witnesses have stated that subsequently they had seen the said Thavamani was alive. After that they have seen only the dead body of the deceased in the well on the same day itself.

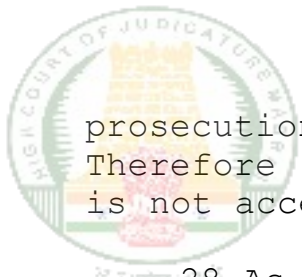
25. As far as the chain of circumstances are concerned, as stated earlier, from the evidence of P.W.1 to 4 and 7, on 17.6.2014 they have seen the quarrel of the accused with the deceased around in between 1.00 am and 3.00 a.m., in the early morning and all the witnesses have categorically stated that frequently the accused and the deceased used to quarrel with each other in respect of the land dispute. Even 3 days prior to the date of alleged occurrence also there was a quarrel between them. Therefore, they thought that as usual there was a quarrel. That is why they did not question the same and they left the place for watering their field. Thereafter on the very same day, while returning from field, they saw the accused proceeding with Bill hook (Aruval). Subsequently, on the same day in the afternoon, they had found the body of the deceased in the well which is in the same location. The prosecution has established the chain of circumstances without any break.

26. The learned counsel for the appellant would submit that the prosecution has not established the actual cause for the quarrel. There was enmity between the de-facto complainant and the accused and therefore in order to grab the property, the de-facto complainant foisted a false complaint against the accused. Investigating officer has not properly done the investigation and colluded with the de-facto complainant and registered a false case against the accused. Further he would submit that the main motive for the alleged offence is that the deceased objected to transfer the patta in the name of wife of the accused till the lifetime of the deceased. But the revenue records shows that already the patta was transferred in the name of the wife of the accused. Further there is a contradiction between the evidence of P.W.1 and P.W.2. P.W.1 has stated that the accused went towards east, whereas P.W.2 has stated that the accused went from south to north. Therefore evidence of P.W.1 and 2 cannot be believed and from the evidence of P.W.4 it is seen that the accused had gone by lifting the body of the deceased on his shoulder, but he did not question the same. Therefore the evidence of P.W.4 cannot be believed. If he had seen, he would have definitely questioned the accused about the same. Therefore the evidence of P.W.4 is also not believable. Further regarding extra judicial confession, learned counsel for



the appellant would submit that the VAO was present on 17.6.2014 when the body was removed from the well and at that time, the accused also was present. Therefore, it is not believable that the accused went and appeared before the Village Administrative Officer and has given confession statement. Whereas even the accused did not sign in the extra judicial confession statement alleged to have been recorded by the Village Administrative Officer. Under the said circumstances, the manner in which the accused appeared before the VAO and gave a statement is not believable. The prosecution has not established the case beyond reasonable doubt. Therefore the benefit of doubt should go in favour of the accused and when there are two views are possible, benefits of doubt always go in favour of the accused. But the learned trial Judge miserably failed to see the established legal proposition and wrongly came to the conclusion that the prosecution has proved its case beyond reasonable doubt and convicted the accused.

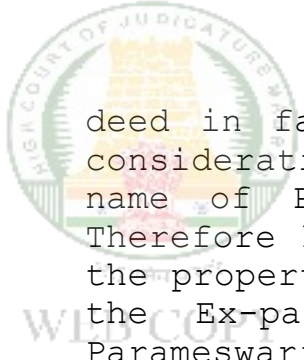
27. The learned counsel for the appellant further would submit that though no witness was examined on the side of the defence, he has filed document during 313 proceedings stating that the patta was already transferred in the name of the wife of the accused. In this regard the trial Court has observed that the patta was transferred after the death of the deceased the defence has not proved that the patta was transferred in the name of the wife of the accused during the life time of deceased. One of the disputes is that for constructing a house, the accused had continuously demanded the deceased to change the patta in his wife's name for which the deceased continuously objected. From the perusal of the rough sketch, Ex.P.15, observation mahazar also it is seen that incomplete newly constructed wall is shown nearby the hut of the deceased. The appellant has not denied the same. Further regarding the contradiction between P.W.1 and P.W.2 with reference to that at the time when they had seen the accused P.W.1 had said, accused went towards east on the other hand PW2 had said accused went from South towards North. In this regard on perusal of Ex.P.15 rough sketch, from the accused house within short distance the well is situated in the North, the new construction is in the East, when PW1 saw the accused he might have proceeded towards East, when PW2 saw the accused he might have proceeded towards North, the minor contradiction is not significant to vitiate the case of prosecution. Admittedly she had left her husband and had no issues. She was living separately in Parukkai Viduthi in the hut. Nobody was with her in the house. She had 2 acres of land in her name. The wife of the accused was the daughter of her sister. She was living with her husband, the accused Ramdoss, at Addam Kottai, Urathanadu Taluk, Thanjavur District. The deceased Thavamani alleged to have executed sale deed in favour of her sister's daughter Parameswari, the wife of the deceased. At that time of occurrence the accused was constructing new building in the said property. Further



prosecution not solely depend upon the extra judicial confession. Therefore the contention of the learned counsel for the appellant is not acceptable.

28. As already stated, in this case, there is no eye witness and it is not a case of murder took place on day light in-front of eye witnesses. But the alleged occurrence took place during night hours in the house of the deceased. As already stated, that in villages it is a common practice of the farmers that they used to wake up during midnight to go to their field for watering and also depending upon the scheme and availability of water in the well as well as supply of electricity or in the common channel, farmers used to water their fields from the water resources. Therefore it is not unusual that in that village, the farmers used to wake up in the early morning and go to the field. It is not in dispute that P.W.1 to P.W.4 and 7 are farmers, they had lands and that they had gone to the field for watering their crops at that time. Therefore there is no reason to disbelieve the evidence of P.W.1 to P.W.4 and P.W.7. On 17.6.2014 as stated by P.W.1 to P.W.4. while they were going for watering their field, they saw the quarrel between the accused and the deceased. They had also stated that they used to quarrel frequently with each other. Usually in village when there is a quarrel between the relatives or spouses, the villagers or neighbour will not question the same. We cannot say that because of non-questioning the same, the evidence of P.W.3 and 4 cannot be believed. Therefore as stated above, the prosecution has established the last seen theory.

29. Most of the witnesses have stated that they found the body of the deceased in the well. As per the prosecution the body of the deceased was recovered from the well. Further it is an admitted fact that the death of the deceased was an unnatural death. The evidence of Doctor P.W.12 and also the postmortem certificate-Ex.P.11 and final report-Ex.P.12 would show that the death of the deceased was not natural one. As far as the motive is concerned, it is an admitted fact that the deceased Thavamani left from the matrimonial house and came and settled in her parental place. Then she was living in the hut and the property stood in her name and she was in possession of two acres of land. As per the prosecution, the motive was that from the evidence of P.W.1, the accused got the sale deed registered in favour of his wife and he started to construct a house in the said land. She demanded the accused and his wife to re-transfer the land in her name. Further there was frequent quarrel in this regard between them and the deceased continuously told the accused that till her life time, let the property stand in her name and after her lifetime the accused and his wife can take the property and enjoy the same, for which the accused refused and continuously quarrelled with the deceased. This is the main motive in this case. Even the accused himself admitted that in his written statement submitted during 313 proceedings that on 16.07.2004, the deceased executed sale

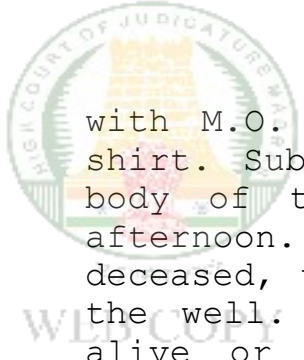


deed in favour of his wife Parameswari after receiving valuable consideration. Based on the sale deed Patta was transferred in the name of Paramaswari. The complainant did not like the same. Therefore he quarrelled with the said Thavamani. In order to grab the property he has foisted a false complaint. He produced copy of the Ex-parte decree and judgment, sale deed in favour of Parameswari, Patta stands in the name of Parameswari. But he has not established any motive between the deceased and the complainant. The deceased has not produced original patta which was transferred during the life time of the deceased. As the trial Court has pointed out the information stated in the 3rd document stated to have been printed on 05.09.2014. The same is after the occurrence. Further none of the witnesses have spoken about the dispute between the deceased and the complainant as stated by the accused. Therefore, the accused has not established his defence as stated by him in the written statement.

30. Now the question before us is as to whether the chain of circumstantial evidence relied upon by the prosecution to prove the charge is visibly complete and coherent to permit conviction of the appellant on the basis thereof without any trace of doubt.

31. In this regard at the cast of repetition as already stated that from the evidence of witness especially P.W.1 to P.W.4 and P.W.7 the prosecution has established the motive though the accused has attempted to establish some defence in this regard but he fails. The investigation further revealed that the accused was constructing new house near by the deceased house and the accused has not established the date of the transfer of the Patta in his wife's name. The place of occurrence is in the house of the deceased and the body was found in the well near from the residence of the deceased. Death of the deceased was due to the multiple cut injuries in the vital parts like brain. Further from the evidence of the Post-mortem Doctor, P.W.12 and Ex.P.11 to Ex.P.13, it is established that the death of the deceased Thavamani was unnatural. The circumstantial evidence could prove the involvement of the accused in crime or cause of death to be homicide in nature.

32. The prosecution has established three things through evidence of P.W.1 to P.W.4 and P.W.7 that they had seen the deceased with the accused on 17.06.2014 around in between 1 to 3 a.m, at that time when they saw the accused was in front of the house of the deceased and quarrelled with her. Thereafter immediately after some time P.W.3 saw the accused, had gone by lifting one person on his shoulder. P.W.4 saw the accused had gone by lifting the said Thavamani on his shoulder. On the same night at about 3' 0 clock P.W.1 and P.W.2 saw the accused with the bill
<https://hcc.madras.ecourts.gov.in/web-services/> in the same locality near by place of the occurrence. P.W.7 saw the accused on the same night at about 1' 0' clock, he quarrelled with the deceased at the time he was found



with M.O. 2 checked Lungi and M.O.3 half handed white coloured shirt. Subsequently all the witnesses and the villagers saw the body of the deceased Thavamani in the well on the same day afternoon. It means after the quarrel between the accused and deceased, they saw only the dead body of the deceased Thavamani in the well. None of the persons had seen the said Thavamani was alive or seen with the company of anybody else except the accused.

33. From the evidence of the P.W.8 and recovery mahazars Ex.P.4 and Ex.P.16 Serology report and evidence of P.W.7 connect the accused with the offence. P.W.7 had stated that he saw the accused with the MO.2 and 3 at the time of quarrel with the deceased on the date of occurrence, P.W.8 had stated that based on the admitted portion of the confession statement, accused took the MO 1 to MO 3 and produced the same to the P.W.13 in his presence. The Ex.P.16 Serology report shows that human blood was detected on Item No. 3 (MO.1) bill hook (Aruval), Item No.4 (MO.2) shirt and Item no. 5 (MO.3) Lungi. Especially in his shirt 'A' Group blood was detected. The evidence of PW7 and PW8 Ex.P4 and P16 serious, connect the accused with the offence. So the alleged recovery of incriminating items at the instance of the accused supported by witness P.W.8 who signed the seizure list. The seizure articles including Aruval and clothing of the accused sent to Forensic Science Laboratory, the evidence of P.W.13 and serology report have proved the involvement of the accused in this case. The presence of the human blood on bill hook (Aruval) cannot be said to be not reliable as circumstances against the accused only because serological test result of grouping test is in conclusive. But blood in the bill hook was detected as human blood.

34. Moreover the evidence in the present case firmly proves from a chain of circumstances so complete as to unerringly point towards the guilt of the appellant/accused he alone and none else, could have committed murder of the deceased Thavamani. Chain of circumstance against the appellant/accused cannot be said to have any missing links and rule out every single hypotheses that may be compatible with his innocence.

35. Minor contradiction, inconsistencies or insignificant embellishments do not affect the case of the prosecution and cannot be taken as ground to reject prosecution evidence and all the statements recorded during investigations from the witnesses and exhibits were sent to the Court on the same days itself.

36. As recently as in the case of, **Sujit Biswas Vs. State of Assam** reported in **2013 12 SCC 406** and in the case of **Raja @ Rajendra Vs. State of Haryana** reported in **2015 11 SCC 43**, The

<https://hccourts.org/judicial-services/> Court held that

"in scrutinizing the circumstantial evidence, a Court is



required to evaluate it to ensure that the chain of event is established clearly and completely to rule out any reasonable likelihood of innocence of the accused. It was underlined that whether the chain is complete nor would depend on the facts of each case emanating from the evidence and no universal yardstick should ever be attempted. That in judging the culpability of the accused, the circumstance adduced when collectively considered, must lead only to the irresistible conclusion that the accused alone is the perpetrator of the crime alleged. That the circumstances established must be of a conclusive nature consistent only with the hypothesis of the guilt of the accused, was emphatically propounded."

37. Tested on the touchstone of the above judicially laid parameters, defining the quality and content of the circumstantial evidence, essential to bring home the guilt of an accused person on criminal charge, we are of the considered opinion that the chain of circumstantial evidence relied upon by the prosecution to prove the charge is visibly complete and coherent to permit conviction of the appellant.

38. As far as the offence under Section 201 IPC is concerned, in order to screen the murder as stated from the evidence, it is stated that the body was found in the well and recovered from the well. So in order to screen the murder the accused put the body into the well. Therefore screening of the murder is also proved. Therefore the accused is found guilty under Sections 302 and 201 IPC.

39. Therefore from the available materials and also from the perusal of the judgement of the trial Court, the trial Court has correctly come to the conclusion that the prosecution has proved the case beyond reasonable doubt and convicted the accused under Sections 302 and 201 IPC. Therefore, in view of the above, the judgement of the trial Court is not suffering from any infirmity or irregularity and there is no reason to interfere with the conviction and sentence passed by the trial Court and hence the judgement of the trial Court does not call for any interference.

40. For the foregoing reasons, the Criminal Appeal fails and accordingly the same stands dismissed and the conviction and sentence dated 24.5.2016, made in S.C.No.155 of 2014 passed by the learned Sessions Judge, Mahila Neethimandram, Pudukkottai are confirmed. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar (RTI)

/True copy/



To

1. The Sessions Judge,
Mahalir Neethimandram,
Pudukkottai.

2. Through The Principal District Judge, Pudukkottai
3. The Judicial Magistrate, Pudukkottai.
4. The Chief Judicial Magistrate, Pudukkottai
5. The District Collector, Pudukkottai
6. The Director General of Police, Mylapore, Chennai.
7. The Superintendent, Central Prison, Tiruchirappalli,
with a request to serve copy of order of the accused.

8. The Inspector of Police,
Gandarvakkottai Police Station,
Pudukkottai District.

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

VSN/DSK

PSM/RR/SAR4/28.04.2017/16P/10C

Pre-delivery Judgment made in
CRL.A[MD].No.180 of 2016
03.04.2017