

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 16.07.2019
Delivered on : 23.07.2019

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Criminal Appeal No.627 of 2017

Sakthivel, 24 years
S/o Anniappan,
Kaliankottai,
Palayur, Royakottai,
Krishnagiri District.

... Appellant/Accused

Vs.

The State, represented by
The Inspector of Police,
Royakottai Police Station,
Krishnagiri District.
(Crime No.336 of 2011)

.. Respondent/complainant

Criminal Appeal is filed under Section 374 of Criminal Procedure Code seeking to set aside the conviction and sentence imposed in S.C.No.17 of 2013 dated 06.11.2015 on the file of Additional District and Sessions Court, Hosur, convicting the appellant/accused under Sections 363, 364, 387 and 302 IPC and sentenced to undergo 7 years rigorous imprisonment under Section 364 IPC and imposed a fine of Rs.1000/- and in default to undergo two years R.I., and sentenced to undergo 5 years R.I., under Section 387 IPC and imposed a fine of Rs.500/- and in default to undergo two years R.I., and also sentenced to undergo life imprisonment under Section 302 IPC with a fine of Rs.1000/-.

For Appellant : Mr.R.Sankarasubbu

For respondent: Mr.R.Prathap Kumar,
Additional Public Prosecutor

JUDGMENT

M.M.SUNDRESH, J.

The appellant, who is the sole accused in S.C.No.17 of 2013 on the file of Additional District and Sessions Court, Hosur,

has convicted for the offences punishable under Sections 364, 387 and 302 IPC, seeks to set aside the same in this appeal.

2. Prosecution version:-

2.1. The appellant/accused and the P.W.1-Raja, who is the father of the deceased-Ayyappan, are relatives. The appellant sought for a hand loan, which was declined by P.W.1. With the intention of extracting money, the appellant obstructed the deceased, the son of P.W.1, studying in 6th Standard. On 21.10.2011, at about 5.30p.m., the deceased while coming from the school, the appellant in his TVS-50 moped marked as M.O.5. strangled him at the place of occurrence in pursuant to the resistance made and thus, committed the offence.

2.2. P.W.4-Harish and P.W.5-Srinivasan are the school mate and classmate of the deceased. They are the witnesses, who spoke on the Last Seen Theory. On the fateful day, they saw the appellant taking the deceased on the opposite direction through M.O.5-TVS-50. They, accordingly, informed P.Ws.1 and 2 being the parents of the deceased. Thereafter, P.W.1 gave a complaint under Ex.P1 on 22.10.2011 at about 10.00a.m., before the Royakottai Police Station. The appellant was arrested at about 12.30p.m., on that day. Recovery was made in pursuant to the confessional statement given by the appellant before P.W.7-Village Administrative Officer.

2.3. P.W.10-Thangavel, who is the Inspector of Police, has registered the complaint given by the P.W.1 under Ex.P10-First Information Report in Crime No336 of 2011. Thereafter, he prepared Exs.P2 and P4-Observation Mahazars and Exs.P11 and P13-Sketches. The appellant was arrested by P.W.10 as stated above. After alteration of Ex.P12-First Information Report, Ex.P13 - Rough Sketch was prepared. Under Ex.P15, Form- 95 was prepared, after preparation of Inquest Report under Ex.P14, followed by recovery of M.O.5.

2.4. P.W.9 is the Doctor, who conducted post-mortem and gave Ex.P7- case report. P.W.11, who is the Circle Inspector, continued the investigation and filed the Final Report.

3. The appellant was placed with the incriminating materials and questioned under Section 313 -A of the Criminal Procedure Code. There was only mere denial by the appellant. Before the Trial Court, the prosecution examined the witnesses in P.Ws.1 to 11 and marked Exs.P1 to P15 and M.Os.1 to 5 in pursuant to the discovery made. M.O.No.3 is the muffler used for the offence. The appellant did not choose to examine himself or any other witness and not marked any document.

4. P.W.1, who is the father of the deceased and the author

of Ex.P1-complaint, has deposed about the motive. He has stated that after the occurrence, he saw the appellant in the police Station P.W.1 has further stated that P.Ws.4 and 5 informed him that the deceased was taken by the appellant in M.O.5-TVS-50 on 21.10.2011 at about 5.00p.m.

5. P.W.3-Balan is the relative of P.W.1 and the appellant. He has spoken about the incident leading to motive. In his cross-examination, he has stated that the appellant was arrested on the next day morning.

6. P.Ws.4 and 5 being the friends and schoolmates of the deceased, spoke about the presence of the appellant with the deceased together going in M.O.5-TVS-50 in the opposite direction. P.W.4 has stated that he has been examined by the police while in his cross-examination, he stated that it is not stated so. P.W.5 also stated about the examination of the police. They have further deposed that they have informed P.Ws.1 and 2 about the incident involving the travelling of the appellant with the deceased. P.W.6-Nagaraj is the witness of Observation Mahazar-Ex.P4. P.W.7-Village Administrative Officer has recorded the confession statement given by the appellant followed by recovery. Arrest was stated to have been made according to P.W.7 at about 12.30p.m. He denied that the appellant was arrested in the morning. P.W.8 is the Head Constable, who handed over the dead body of the deceased to P.W.9-Doctor. P.W.9 is the Doctor, who conducted the post mortem. It is his opinion that as per Ex.P8-Viscera Certificate given by the Forensic Science Laboratory, the deceased would have died 48 hours to 72 hours prior to it.

7. P.W.10, the Investigating Officer, on the receipt of the complaint, has registered a case in Crime No.336 of 2011 under Section 363 IPC under Ex.P10-Printed First Information Report and prepared Ex.P11-Observation Mahazar and thereafter, arrested the appellant. On the basis of the confession made by the appellant, he has altered the case and prepared Ex.P12-Alteration Report for the offence punishable under Sections 363, 302 and 201 IPC and Ex.P13 Observation Mahazar. He further speaks about the recovery made in the presence of witnesses including M.O.5-TVS -50 from the house of the appellant. He had further stated that he has not examined P.Ws.4 and 5 in the school.

8. P.W.11 is the Circle Inspector, who took further investigation and filed Final Report after completion of the investigation.

9. The trial Court placing reliance upon the prosecution witnesses, especially, P.Ws.4 and 5 and Ex.P14-Post Mortem Report, convicted the appellant under Sections 363, 364, 387

and 302 IPC and sentenced to undergo 7 years rigorous imprisonment under Section 364 IPC and imposed a fine of Rs.1000/- and in default to undergo two years R.I., and sentenced to undergo 5 years R.I., under Section 387 IPC and imposed a fine of Rs.500/- and in default to undergo two years R.I., and also sentenced to undergo life imprisonment under Section 302 IPC with a fine of Rs.1000/-. The trial Court applied the Last Seen Theory while taking into consideration the recovery made under Section 27 of the Indian Evidence Act, 1872. Challenging the conviction rendered for life, the appellant has come before us.

10. The learned counsel appearing for the appellant would submit that there is a delay in giving the complaint. motive has not been established. Mere Last Seen Theory alone cannot be a ground to convict the appellant. There is contradiction in the evidence of P.Ws.4 and 5. Arrest and recovery cannot be sustained in view of the evidence of P.W.3 with specific reference to the time. The procedural mandate for arrest has not been followed by due intimation to the family member of the appellant in tune with the judgment of the Apex Court in D.K.Basu's case. Recovery has been made from the open space. There were other persons present when the appellant, police officer and the mahazar witnesses reached the place of occurrence. The case being one involving substantial evidence, link between the events has not been established. The learned counsel drew support for his arguments by placing reliance upon the following decisions.

- 1.K.A.Kotrappa Reddy and another V. Rayara Manjunatha Reddy @ N.R.Manjunatha & others (2015 AIR SCW 6079);
- 2.Arjun Marik and others Vs. State of Bihar ((1994) Supp(2) Supreme Court Cases 372);
3. Pulukuri Kotayya and others Vs. King Emperor (1947 1 MLJ 219);
- 4.Bakhshish Singh V. State of Punjab (1971 (3) Supreme Court Cases 182);
- 5.Kanhaiya Lal Vs. State of Rajasthan ((2014) 4 Supreme Court Cases 715);
- 6.Gambhir Vs. State of Maharashtra ((1982) 2 Supreme Court Cases 351);
- 7.Adambhai Sulemanbhai Ajmeri and others Vs. State of Gujarat ((2014) 2 MLJ(Cr1.) 670 (SC);

11. The learned Additional Public Prosecutor appearing for the State has submitted that the evidence adduced by P.Ws.4 and 5 coupled with the recovery would clinch the case as projected by the prosecution against the appellant. Motive has been clearly established by the evidence of P.Ws.1 to 3. There is no need for the recovery to be made only from a hidden place. What

is important is the knowledge and the information qua the accused. Therefore, Section 27 of the Indian Evidence Act certainly applies to the case on hand. The discrepancy in the evidence of P.Ws.3, 4 and 5 are minor in nature. The occurrence was on 21.10.2011 whereas the witnesses have deposed on 06.05.2015. Therefore, there is bound to be some discrepancies in the evidence adduced. It is for the appellant to satisfy the Court in view of Section 106 of the Indian Evidence Act, 1872. To buttress his submissions, the learned Additional Public Prosecutor has relied on the following decisions.

1. Pulukuri Kotayya and others Vs. King Emperor (1947 1 MLJ 219);
2. In Re: Murugan Alias Thannasi Vs. Unknown on 7 February, 1957 (AIR 1958 Madras 451);
3. Bharosa Ramdayal Vs. Emperor (1941 Criminal Law Journal 390);
4. Mohmed Inayatullah Vs. The State of Maharashtra ((1976) 1 Supreme Court Cases 828);
5. Madhu Vs. State of Kerala ((2012) 2 Supreme Court Cases 399);
6. Digamber Vaishnav Vs. State of Chhattisgarh ((2019) AIR Supreme Court 1367); and
7. State of Himachal Pradesh Vs. Jeet Singh on 15 March, 1999.

12. P.Ws.1 to 3 clearly speak about the motive part. All the parties are related to each other. P.W.1, even in his complaint has clearly stated that P.Ws.4 and 5 had informed him that the deceased was taken in M.O.5-TVS-50 by the appellant. He has searched for the deceased and thereafter, gave a complaint in the next day morning. Therefore, we do not find any delay in giving Ex.P1 complaint. The evidence of P.W.1 also supports the case of the prosecution with respect to the motive. Hence, we are of the view that the trial Court has rightly believed the evidence adduced.

13. The learned counsel for the petitioner has stated that P.W.3 has deposed that the appellant was arrested in the morning. This evidence has to be read as a whole. He was examined only with respect to the motive part. In any case, such a deposition has to be seen in tune with the statement given by other witnesses especially P.Ws.4 and 5. Therefore, we are of the view that the evidence of P.W.3 does not help the case of the defence. P.Ws.4 and 5 are the schoolmates of the deceased. The learned trial Judge put questions to them and satisfied on their capacity to understand and answer. They have clearly stated with respect to the Last Seen Theory. They have been examined by P.W.10. Merely because P.W.4 has stated in his cross examination that police has not examined him, the

statement made that the deceased and the appellant were seen by him and P.W.5 in the TVS-50 while returning from school would not be vitiated. As in the case of P.W.3 these witnesses were also examined after more than 3 ½ years.

14. P.W.7 speaks about the confession made followed by recovery. This witness along with the other witness clearly speak about the recovery of the body along with M.Os.1 to 5. The body was identified to that of the deceased. M.O.5 is the TVS-50. This was recovered from the place of appellant. There is absolutely no explanation from the appellant. Thus, we are inclined to accept the evidence of P.W.7.

15. The submission of the learned counsel for the appellant on the applicability of Section 27 of the Indian Evidence Act, 1872 being exception to Sections 26 and 27 of the Indian Evidence Act, 1872, cannot be countenanced for the following reason. A "fact deposed" is a relevant fact relatable to the "fact in issue", which in turn leads to the offence committed. Pivotal aspect to be considered is the information emerging from the "fact deposed". It is the knowledge, which assumes relevance and importance. Such a knowledge is the starting point and thus, forms part of a "mental fact". Hence, the "fact deposed" starts with a knowledge of the accused followed by the information. Such a knowledge is attributed to the accused while information is meant for the receiver. The process of recovery involves travel and identification of place and would attract Section 8 of the Indian Evidence Act being "relevant facts". This would also include the recovery coupled with knowledge. Therefore, once a recovery is made, it gets connected to knowledge and information. Therefore, such a recovery will have to be related back to the starting point-knowledge. Hence, the fact that at the time of recovery, some other person is available would be of no consequence. What is relevant is that at the time of knowledge and information no one knew about the object recovered, which completes the chain of "fact deposed". To put it differently, the recovery has to be made from the information given by the accused to the receiver and thus, from no other source. Hence, what is sufficient is that the receiver will have to receive the information leading to recovery only from the accused. But for this information, the receiver would not have known the discovered object. However, there may be some exceptions. For example, in a case, where discovery is that of a knife used in the offence alleged, which is kept along with the other knives meant for public display, it cannot be stated that the same would not come within the scope of Section 27 of the Indian Evidence Act, 1872. Therefore, just because the other persons seen the knife used for the offence, kept along with the other knives, the mandate of Section 27 of the Act cannot be avoided.

16. A recovery can be from any place. It would lead to absurdity if recovery can only be justified under Section 27 of the Act, when an object was placed in a hidden place. Even any object available in the open place would be sufficient enough to attract Section 27 of the Act. After all, ultimately the prosecution has to prove the fact discovered.

17. In the classical judgment of Bombay High Court in Pulukuri Kotayya and others Vs. King Emperor (1947 1 MLJ 219) on the scope of Section 27 of the Act, the Privy Council has held as follows:

"The second question, which involves the construction of Section 27 of the Indian Evidence Act, will now be considered. That section and the two preceding sections, with which it must be read, are in these terms:-25. No confession made to a Police officer shall be proved as against a person accused of any offence. No confession made by any person whilst he is in the custody of a Police officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person. The explanation to the section is not relevant. Provided that when any fact is deposed to as discovered in consequence of information received from a person accused of any offence in the custody of a Police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved. Section 27, which is not artistically worded, provides an exception to the prohibition imposed by the preceding section, and enables certain statements made by a person in police custody to be proved. The condition necessary to bring the section into operation is that the discovery of a fact in consequence of information received from a person accused of any offence in the custody of a Police officer must be deposed to, and thereupon so much of the information as relates distinctly to the fact thereby discovered may be proved. The section seems to be based on the view that if a fact is actually discovered in consequence of information given, some guarantee is afforded thereby that the information was true, and accordingly can be safely allowed to be given in evidence; but clearly the extent of the information admissible must depend on the exact nature of

the fact discovered to which such information is required to relate. Normally the section is brought into operation when a person in police custody produces from some place of concealment some object, such as a dead body, a weapon, or ornaments, said to be connected with the crime of which the informant is accused. Mr. Megaw, for the Crown, has argued that in such a case the "fact discovered" is the physical object produced, and that any information which relates distinctly to that object can be proved. Upon this view information given by a person that the body produced is that of a person murdered by him, that the weapon produced is the one used by him in the commission of a murder, or that the ornaments produced were stolen in a dacoity would all be admissible. If this be the effect of Section 27, little substance would remain in the ban imposed by the two preceding sections on confessions made to the police, or by persons in police custody. That ban was presumably inspired by the fear of the legislature that a person under police influence might be induced to confess by the exercise of undue pressure. But if all that is required to lift the ban be the inclusion in the confession of information relating to an object subsequently produced, it seems reasonable to suppose that the persuasive powers of the police will prove equal to the occasion, and that in practice the ban will lose its effect. On normal principles of construction their Lordships think that the proviso to Section 26, added by Section 27, should not be held to nullify the substance of the section. In their Lordships' view it is fallacious to treat the "fact discovered" within the section as equivalent to the object produced; the fact discovered embraces the place from which the object is produced and the knowledge of the accused as to this, and the information given must relate distinctly to this fact. Information as to past user, or the past history, of the object produced is not related to its discovery in the setting in which it is discovered. Information supplied by a person in custody that "I will produce a knife concealed in the roof of my house" does not lead to the discovery of a knife; knives were discovered many years ago. It leads to the

discovery of the fact that a knife is concealed in the house of the informant to his knowledge; and if the knife is proved to have been used in the commission of the offence, the fact discovered is very relevant. But if to the statement the words be added "with which I stabbed A", these words are inadmissible since they do not relate to the discovery of the knife in the house of the informant.

High Courts in India have generally taken the view as to the meaning of Section 27 which appeals to their Lordships, and reference may be made particularly to *Sukhan v. The Crown* (1929) I.L.R. 10 Lah. 283, F.B. and *Ganu Chandra v. Emperor* (1931) I.L.R. 56 Bom. 172, S.C. 34 Bom. L.R. 303 on which the appellants rely, and with which their Lordships are in agreement. A contrary view has, however, been taken by the Madras High Court, and the question was discussed at length in a Full Bench decision of that Court, *In re Athappa Goundan*, [1937] Mad. 695, F.B. where the cases were referred to. The Court, whilst admitting that the weight of Indian authority was against them, nevertheless took the view that any information which served to connect the object discovered with the offence charged was admissible under Section 27. In that case the Court had to deal with a confession of murder made by a person in police custody, and the Court admitted the confession because in the last sentence (readily separable from the rest) there was an offer to produce two bottles, a rope, and a cloth gag, which, according to the confession, had been used in, or were connected with, the commission of the murder, and the objects were in fact produced. The Court was impressed with the consideration that as the objects produced were not in themselves of an incriminating nature their production would be irrelevant unless they were shown to be connected with the murder, and there was no evidence so to connect them apart from the confession. Their Lordships are unable to accept this reasoning. The difficulty, however great, of proving that a fact discovered on information supplied by the accused is a relevant fact can afford no justification for reading into Section 27 something which is not there, and admitting in evidence a confession barred by Section 26.

Except in cases in which the possession, or concealment, of an object constitutes the gist of the offence charged, it can seldom happen that information relating to the discovery of a fact forms the foundation of the prosecution case. It is only one link in the chain of proof, and the other links must be forged in manner allowed by law.¹¹ In their Lordships' opinion Athappa Goundar's case was wrongly decided, and it no doubt influenced the decision now under appeal."

18. The learned single Judge of this Court in *In Re: Murugan Alias Thannasi Vs. Unknown* on 7 February, 1957 (AIR 1958 Madras 451), has considered the scope of Section 8 vis a vis Section 27, which is reproduced hereunder.

"It unmistakably shows that the accused was proceeding to the felony; *Sher Mohd. v. Emperor* A.I.R. 1945 Lah 27 at p. 32 (I); *Mt. Jamunia Partap v. Emperor* A.I.R. 1936 Nag 200 : 37 Cri LJ 1047 (J); pointing out is evidence of conduct under Section 8, Indian Evidence Act. Where an accused gives information leading to discovery, and the exact spot where the ornaments were buried is shown and the articles dug out by him from beneath, the question is not so much whether the accused was in physical possession of the ornaments buried in the field, though as a matter of fact a person who buries treasure in a spot unknown to others is really in possession of it, whether it is in a field accessible to every one or in his own house.

The important point is that the circumstances and conduct of the accused point clearly to his knowledge of the exact spot where the ornaments were and, in the absence of any explanation the reasonable inference is that he put them there himself. Such conduct taken in conjunction with other evidence is enough to warrant a presumption of complicity in the offence A.I.R. 1936 Nag 200 (T). Similarly it was held in *Lachhman Singh v. State*, where though the several accused gave information that the dead bodies could be recovered in the Nala it was an indefinite information which could not lead to any discovery because the Nala was a stream which ran over several miles and it required the accused to follow it up by conducting the police to the actual spot where

parts of the two bodies were recovered and the pointing out by the accused constituted the initial pointing out contemplated under Section 27 of the Evidence Act.

This Supreme Court decision Lachhman Sing v. State (K), supersedes the Madias decisions to the contrary. Thus mere existence of other information by which discovery was facilitated does not make information under Section 27 inadmissible,. It depends on the circumstances of each case whether the discovery was really made in consequence of the information given by the accused."

19. A Division Bench of the Nagpur High Court in Bharosa Ramdayal Vs. Emperor (1941 Criminal Law Journal 390) in a similar situation was pleased to held that in the absence of any material to prove that before the information given, anybody else was aware the applicability of Section 27 cannot be avoided. The following paragraph would be apposite.

"10.It was also urged that the statement made to the police-officer resulting in the discoveries made could not be used under Section 27 of the Evidence Act, as the discovery of the body must already have been known to numerous people. It has not been proved that anybody else had seen the body or was aware where the stick had been placed until the spot was pointed out by the accused. No evidence was led on the point, neither was this elicited in cross-examination from the prosecution witnesses. Even if other people had discovered the body or the blood-stained stick after the accused had left his village to make a report at Hinganghat, that would be entirely immaterial, and the argument could only have force if it were shown that by the time the second statement was made the police were aware from other sources that the stick and the body were actually to be found in such places. There is no evidence whatever that anyone else informed the police where these things were or that the Sub-Inspector who had certainly arrived at Waldur a short time before the accused, had been shown any object connected with the crime."

20. In Madhu Vs. State of Kerala ((2012) 2 Supreme Court Cases 399), the scope and ambit of Section 27 vis a vis Sections 26 and 27 of the Indian Evidence Act, 1872 was considered in the

following manner.

"As an exception, Section 27 of the Indian Evidence Act provides that a confessional statement made to a police officer or while an accused is in police custody, can be proved against him, if the same leads to the discovery of an unknown fact. The rationale of Sections 25 and 26 of the Indian Evidence Act is, that police may procure a confession by coercion or threat. The exception postulated under Section 27 of the Indian Evidence Act is applicable only if the confessional statement leads to the discovery of some new fact. The relevance under the exception postulated by Section 27 aforesaid, is limited "...as it relates distinctly to the fact thereby discovered....". The rationale behind Section 27 of the Indian Evidence Act is, that the facts in question would have remained unknown but for the disclosure of the same by the accused. Discovery of facts itself, therefore, substantiates the truth of the confessional statement. And since it is truth that a court must endeavour to search, Section 27 aforesaid has been incorporated as an exception to the mandate contained in Sections 25 and 26 of the Indian Evidence Act.

18. We shall now endeavour to apply the exception postulated in Section 27 of the Indian Evidence Act, to the facts of the present controversy, in order to determine whether or not the confessional statements made by Madhu-accused no.1 vide Exhibit P-10, and Sibi-accused no.2 vide Exhibit P-9, can be proved against them in view of the exception stipulated in Section 27 of the Indian Evidence Act. As already noticed hereinabove, relevance of the confessional statements would depend on the discovery of facts based on the information supplied by the accused. If any fresh facts have been discovered on the basis of the confessional statement made by the accused, the same would be relevant. If not, the confessional statement cannot be proved against the accused, to the detriment of the accused."

21. Even before us, there is absolutely no material to hold that any one else was aware before the information furnished by the appellant nor the case with P.W.10.

22. The Apex Court in Mohmed Inayatullah Vs. The State of Maharashtra ((1976) 1 Supreme Court Cases 828) has held that the expression "fact discovered" cannot be restricted to physical or material fact. The following is the relevant passage.

"13. At one time it was held that the expression "fact discovered" in the section is restricted to a physical or material fact which can be perceived by the senses, and that it does not include a mental fact (see Sukhan v. Crown, (1) Rex v. Ganee) (2). Now it is fairly settled that the expression "fact discovered" includes not only the physical object produced, but also the place from which it is produced and the knowledge of the accused as to this (see Palukuri Kotayya and ors. v. Emperor (3), Udai Bhan v. State of Uttar Pradesh.)"

23. In the recent judgment, the Apex Court in Digamber Vaishnav Vs. State of Chhattisgarh ((2019) AIR Supreme Court 1367), that what is admissible is the discovery of relevant fact, which is linked between the "fact discovery" and the crime. For better appreciation, the relevant passage is placed on record.

"29. The second circumstance relied upon by the prosecution is the evidence of recovery. Under Section 27 of the Indian Evidence Act, it is not the discovery of every fact that is admissible but the discovery of relevant fact is alone admissible."

24. Hence, we are of the view that the "fact discovered" cannot be seen on a hyper technical view. It also involves the mental fact. In such view of the matter, the contention of the learned counsel for the appellant that the discovery having been made in an open place and at the relevant point of time, few others were also present and therefore, Section 27 of the Indian Evidence Act, 1872 has got no application, deserves to be rejected.

25. Insofar as an alleged non compliance of the arrest intimation is concerned, no such plea was taken before the trial Court. Therefore, the said contention also deserves to be rejected. We find that the trial Court has rightly considered all the materials. There is absolutely no reason to disbelieve the evidence adduced, particularly, P.Ws.4 and 5. The circumstances are clearly interlinked with the existence of the chain of events, pointing out to the guilt of the appellant. The appellant was not able to discharge his burden after having

seen with the deceased travelling in the opposite direction in M.O.5-TVS-50. Thus, we do not find any reason to interfere with the conviction rendered by the trial Court. Accordingly, the conviction and sentence imposed on the appellant are confirmed and the above criminal appeal stands dismissed.

raa

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Inspector of Police,
Royakottai Police Station,
Krishnagiri District.
(Crime No.336 of 2011)

2.The Additional Public Prosecutor,
High Court, Chennai.

3.The Superintendent,
Central Prison, Vellore.

4. The Additional District and Sessions Judge,
Hosur, Krishnagiri District.

5. -Do- Thro Principal Sessions Judge,
Krishnagiri.

6. The District Munsif cum Judicial Magistrate,
Denkanikottai.

7. -Do- Thro: The Chief Judicial Magistrate,
Krishnagiri.

Copy to:-

The Section Officer,
Criminal Section,
High Court, Madras - 104.

Criminal Appeal No.627 of 2017

Kak(13/09/2019)