

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Judgment	Date of Pronouncing the Judgment
13.03.2019	02/04/19

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

Crl.A.(MD)Nos.197 of 2017 and 492 of 2018

and

Crl.M.P.(MD) Nos.10804 of 2017 and 8927 of 2018

Amuthaselvi : Appellant/Accused No.1
in Crl.A.(MD) No.197/2017

Manickaraj @ Manraj @ Manro : Appellant/Acused No.2
in Crl.A.(MD) No.492/2018

Vs.

State Represented by
the Inspector of Police
Vadaseri Police Station
Nagercoil
Crime No.511/2010

: Respondent in both
appeals/Respondent

COMMON PRAYER: Criminal Appeals are filed under Section 374(2) of
the Code of Criminal Procedure against the judgment dated 17.03.2017



in S.C.No.47 of 2012 on the file of the Sessions (Fast Track Mahila Court), Kanyakumari District at Nagercoil.

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For Appellants

: Mr.S.Muthalraj for A1
for M/s.A.Joseph Jawahar

Mr.R.Alagumani for A2
M/s.L.M.Vijay Boominathan,

For Respondent

:Mr.S.Chandrasekar
Additional Public Prosecutor

COMMON JUDGMENT

P.N.PRAKASH, J.

These criminal appeals have been filed against the judgment dated 17.03.2017 in S.C.No.47/2012 on the file of the Sessions (Fast Track Mahila Court), Kanyakumari District at Nagercoil. The Trial Court framed six charges, as detailed below.

Charge	Penal Provisions	Accused
1	120 (B) IPC	A1 and A2
2	468 IPC	A1 and A2
3	364 IPC	A1 and A2
4	307 IPC	A1 and A2
5	302 IPC	A1 and A2
6	201 IPC	A1 and A2

2. By Judgment dated 17.03.2017, the Trial Court convicted and sentenced the accused, as detailed below:-



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Section of Law	Accused	Sentence of imprisonment	Fine amount
302 r/w 34 IPC	A1	To undergo imprisonment for life.	Rs.10,000/-, in default to undergo rigorous imprisonment for six months.
307 r/w 109 IPC	A1	To undergo rigorous imprisonment for five years.	Rs.5,000/-, in default to undergo rigorous imprisonment for three months.
364 IPC	A1	To undergo rigorous imprisonment for five years	Rs.5,000/- in default, to undergo rigorous imprisonment for three months
420 r/w 120 (B) IPC	A1	To undergo rigorous imprisonment for two years	Rs.2,000/- in default, to undergo rigorous imprisonment for three months
302 IPC	A2	To undergo imprisonment for life.	Rs.10,000/-, in default to undergo rigorous imprisonment for six months.
307 IPC	A2	To undergo rigorous imprisonment for five years.	Rs.5,000/-, in default to undergo rigorous imprisonment for three months.
364 IPC	A2	To undergo rigorous imprisonment for five years	Rs.5,000/- in default, to undergo rigorous imprisonment for three months
420 r/w 120 (B) IPC	A2	To undergo rigorous imprisonment for two years	Rs.2,000/- in default, to undergo rigorous imprisonment for three months

The sentences were ordered to run concurrently. Challenging the said conviction and sentence, the appellants have come up in these Criminal Appeals.

3. The facts of the case, lie within a brief compass:

It is the case of the prosecution that the deceased Gnanaprakasam is the wife of Siluvaidasan (P.W.2) and they have three sons and two daughters; they had borrowed money for the marriage of their last daughter and were in debts; therefore, they approached their daughter Sudha (P.W.5) for helping them to mitigate

the loans; Sudha (P.W.5) introduced Amuthaselvi (A1) to her parents saying that she will help them in arranging loan; Amuthaselvi (A1), whose distant relative is Manickaraj (A2) took the couple to Iyappan (P.W.6) for getting loan; Amuthaselvi (A1) and Manickaraj (A2) represented to Siluvaidasan (P.W.2) that he will be required to mortgage his property for raising the loan, for which, he agreed; accordingly, the accused (A1 & A2) took the couple to the office of the Sub Registrar, Edalakudi, for registration on 20.05.2010, where Iyappan (P.W.6) came and gave Rs.1,00,000/- as loan; instead of registering a mortgage deed, a power of attorney (Ex.P.3) was registered in the office of the Sub Registrar Edalakudi; after receiving the money from Iyappan (P.W.6), Amuthaselvi (A1) kept it with her and said that some more amount has to be given by the couple to her towards service charges and hence, she (A-1) asked the couple to come and meet her on the next day ie., on 21.05.2010 at the office of the Sub Registrar; accordingly, on 21.05.2010 around 3.30 p.m., the couple left from their village, namely, Ramanadanpudur to Edalakudi, where they met Amuthaselvi (A1) and Manickaraj (A2); at that time, Amuthaselvi (A1) gave money wrapped in a newspaper and when it was opened, the couple found only Rs.5,000/- in that; seeing that, Gnanaprakasam (deceased) asked for the balance money and shouted at Amuthaselvi (A1) and Manickaraj (A2); Amuthaselvi (A1) asked her not to shout and promised to give the money; saying so, she called an auto-rickshaw and all the four got into the auto-rickshaw and went to Aralvaimozhi Bus Stand; there Amuthaselvi (A1) and Manickaraj (A2) got down and asked the couple to wait in the auto-rickshaw saying that they would make arrangement for the money; a little later, Amuthaselvi (A1) and Manickaraj (A2) returned to the auto-rickshaw and told the couple that they were not able to arrange money and together, all of them went to Oliginacheri Bridge; Amuthaselvi (A1) and Manickaraj (A2) took the couple via a coconut grove towards a railway track; there, Amuthaselvi (A1) held the tresses of Gnanaprakasam and assaulted her; seeing that, Siluvaidasan (P.W.2) slapped Amuthaselvi (A1); Amuthaselvi (A1) exhorted Manickaraj (A2) to finish off the old man (referring to Siluvaidasan (P.W.2)) and accordingly, Manickaraj (A2) took out a knife and cut Siluvaidasan (P.W.2) on his neck; when Siluvaidasan (P.W.2) fell, he (A2) slit the throat of Gnanaprakasam; thinking that both of them have died, Amuthaselvi (A1) and Manickaraj (A2) placed their bodies across the railway track to make it look as if they died in a train accident; thereafter, Amuthaselvi (A1) and Manickaraj (A2) fled; Siluvaidasan (P.W.2) regained consciousness and managed to pull his wife (Gnanaprakasam) from the railway track and placed her body a little away in a coconut grove; he struggled and walked to Anna Bus Stand, where he was seen by Rajappa (P.W.4), a Bus Driver known to him; Rajappa (P.W.4) arranged an ambulance to send Siluvaidasan (P.W.2) to the hospital and informed Justin (P.W.1), son of Siluvaidasan (P.W.2); Justin (P.W.1) went to the Government Hospital, Nagercoil, and found that his father (P.W.2) was under treatment; he (P.W.1) went in search of his mother and found the body of his mother in the coconut grove near the railway track; on the complaint (Ex.P1), given by Justin (P.W.1), Sub



Inspector of Police (P.W.21) registered a case in Vadaseri Police Station Crime No.511 of 2010 on 22.05.2010 at 11 hrs. under Sections 302, 324 and 307 IPC and prepared the printed FIR (Ex.P21), which reached the jurisdictional Magistrate at 4.05 p.m. on 22.05.2010.

3.1. Investigation of the case was taken over by Jamal (P.W.25), Inspector of Police, who prepared the inquest report (Ex.P.33) and despatched the body of Gnanaprakasam to the Government Hospital for postmortem. Dr.Rajasekar (P.W.12) conducted autopsy on the body of the deceased and issued the postmortem certificate (Ex.P10). Dr.Rajasekar (P.W.12), in his evidence as well in the postmortem report (Ex.P10) has noted 16 ante-mortem injuries, of which, injuries No.1 and 2 are as under:

"1) 5 ½ x 3 x 3 cm deep incised wound seen over the outer aspect of right side of neck. It is 6 cm below the lower end of right external ear and 5 cm above the upper margin of right clavicle and the inner end is 1 ½ cm from the middle of front of neck. Three tags of skin hanging in the both of the ends. On examination, the underlying muscles and major vessels found out.

2) 1 ½ x ¾ cm x bone deep (2mm) stab wound seen in the left side of fore head. 2½ cm above left eyebrow with surrounding abrasion measuring 7 x 3 cm noted."

In the final opinion, in the postmortem report, (Ex.P10), Dr.Rajasekar has opined as follows:

"the deceased would appear to have died of shock and hemorrhage due to injury No.1 and the corresponding internal injuries."

3.2. On 23.05.2010, Amuthaselvi (A1) appeared before Natarajan, (P.W.17) Village Administrative Officer and gave an extra judicial confession (Ex.P.14). Thereafter, she was produced before the Investigating Officer, who placed her under arrest. The Investigating Officer arrested Manickaraj (A2) on 24.05.2010 and pursuant to the confession statement given by him(A2), he recovered a knife (M.O.5), Rs.500 x 6 notes (M.O.13) and a newspaper (M.O.16) under a cover of mahazar (Ex.P13) in the presence of witnesses John Britto (P.W.31) and Virgil Ramesh (P.W.16). The inquest was conducted over the body of the deceased and inquest report was marked as Ex.P33.

3.3. After examining witnesses and collecting various records, the Investigating Officer (P.W.25) completed the investigation and filed final report in P.R.C.No.26/2011 before the Jurisdictional Magistrate.

3.4. On the appearance of Amuthaselvi (A1) and Manickaraj (A2), the provisions of Section 207 Cr.P.C. were complied with and the case was committed to the Court of Session in S.C.No.47/2012 and was



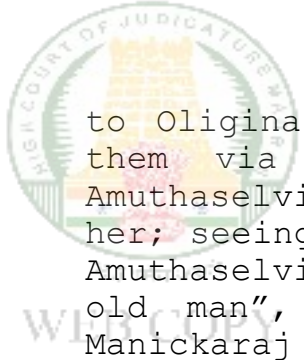
made over to the Fast Track Mahila Court, Kanyakumari District for trial.

3.5. The trial Court framed charges as stated in paragraph No.1 supra; when questioned A1 and A2 pleaded not guilty. To prove the case, the prosecution examined 32 witnesses, marked 43 exhibits and 16 material objects.

3.6. When Amuthaselvi (A1) and Manickaraj (A2) were questioned under Section 313 Cr.P.C., about the incriminating materials appearing against them, they denied the same. Amuthaselvi (A1) examined herself as D.W.1 and Manickaraj (A2) examined himself as D.W.2. In their evidence, they simply stated that they were not involved in the offence and a false case has been put on them. After considering the evidence on record and hearing either side, the trial Court, by judgment dated 17.03.2017, has convicted and sentenced the accused/appellants as stated in Paragraph No.2 cited supra, challenging which, the appellants are before this Court in these appeals.

4. Heard the learned counsel for the appellants and the learned Additional Public Prosecutor for the State.

5. Though the prosecution has examined 32 witnesses, the testimony of Siluvaidasan (P.W.2) assumes more importance, since he also sustained serious injuries in the attack, but providentially survived. Siluvaidasan (P.W.2), in his evidence, has stated that, after performing the marriage of his last daughter Flora, he incurred debts; he sought the help of his eldest daughter Sudha (P.W.5); Sudha (P.W.5) introduced Amuthaselvi (A1) to him and said that Amuthaselvi (A1) would make arrangements for a loan; Amuthaselvi (A1) is Sudha's neighbour; Amuthaselvi (A1) promised him (P.W.2) that she will arrange the loan and asked him (P.W.2) to come to the Sub Registrar's Office with the parent documents; accordingly, he (P.W.2) went with his wife Gnanaprakasam (deceased) to the office of the Sub Registrar at Edalakudi, where Amuthaselvi (A1) was present; Iyappan (P.W.6) gave Rs.1 lakh and the documents were executed; after that Amuthaselvi (A1) said that some more expenses have to be incurred and took the entire money from him (P.W.2) and asked him to come to the office of the Sub Registrar the next day; on the next day, around 3.30 p.m., he (P.W.2) and his wife went to the office of the Sub Registrar, where Amuthaselvi (A1) and Manickaraj (A2) were present; Amuthaselvi (A1) was having a newspaper packet, which she gave to him; when he (P.W.2) opened the packet, he found that only a sum of Rs.5,000/- was there, seeing which, his wife started shouting at Amuthaselvi (A1); Amuthaselvi (A1) pleaded with them not to create a scene and took them by an autorickshaw to Aralvaimozhi; at Aralvaimozhi Bus Stand Amuthaselvi (A1) and Manickaraj (A2) made them to wait in the autorickshaw saying that they would make arrangement for the money; a little later, Amuthaselvi (A1) and Manickaraj (A2) returned and said that they were not able to arrange money and together, all of them went



to Oliginacheri Bridge; Amuthaselvi (A1) and Manickaraj (A2) took them via a coconut grove towards the railway track; there Amuthaselvi (A1) held the tresses of Gnanaprakasam and assaulted her; seeing that he (P.W.2) slapped Amuthaselvi (A1); irked at that, Amuthaselvi (A1) exhorted Manickaraj (A2) by saying "Finish off the old man", (referring to Siluvaidasan (P.W.2)) and immediately, Manickaraj (A2) took out a knife and caused cut injuries on the neck of P.W.2; when he (P.W.2) fell, he slit the throat of his wife; thinking that both of them have died, Amuthaselvi (A1) and Manickaraj (A2) placed their bodies across the railway track to make it look as if they had died in a train accident and thereafter, they left the place.

6. In the cross-examination, Siluvaidasan (P.W.2) admitted that he was examined by the police a month later because he was not able to speak properly ; when he was asked as to whether he gave any identification particulars of the accused, he stated that since he knew the accused, there was no necessity to give any identification particulars. As regards the place of incident, he has clearly stated in the cross-examination that the incident had taken place in the coconut grove near the Railway track. The defence was not able to make any dent in the cross-examination of Siluvaidasan (P.W.2) and ultimately, it was suggested to him that he and his wife were attacked by some unknown persons, which suggestion, he denied. In the further cross-examination, he has stated that while he was under treatment in the hospital, Amuthaselvi (A1) and Manickaraj (A2) were brought there and he identified them.

7. To corroborate the evidence of Siluvaidasan (P.W.2), his daughter Sudha (P.W.5) has stated that she introduced Amuthaselvi (A1) to her father since her father wanted loan. Rajappa (P.W.4) has stated that he is working as Driver in the Transport Corporation; on 21.05.2010, he operated the bus for Ramanachanpudur to Melasoorankudi sector; around 9.45 p.m., after finishing his trip, he came to Anna Bus Stand at Nagercoil and was waiting for a bus to go home; at that time, he saw Siluvaidasan (P.W.2) with injuries around his neck; Siluvaidasan (P.W.2) was not in a position to speak, but, he was only showing signs that his neck has been slit; hence, with the help of his colleague, he called an ambulance and sent him to the hospital and thereafter, informed Justin, the son of Siluvaidasan (P.W.2).

8. Dr.Raju (P.W.13), who was on duty at the Government Hospital, Nagercoil, examined Siluvaidasan (P.W.2) on 21.05.2010 at 10.30 p.m., and issued the wound certificate (Ex.P11), wherein, he has recorded three cut injuries on the neck and injuries in the left eye. After treatment was given for the neck injuries, he was also treated by Dr.Jayalatha (P.W.14) Ophthalmologist for the eye injury.

9. A perusal of the Wound Certificate (Ex.P11) shows that Siluvaidasan (P.W.2) was an inpatient from 21.05.2010 to 11.06.2010. Thus, the injuries found on Siluvaidasan (P.W.2) do corroborate his



testimony.

10. However, the learned counsel for the appellants contended that in the wound certificate (Ex.P11), it is stated that the patient was assaulted by unknown persons with unknown weapons at 9.10 p.m. on 21.05.2010, at Anna Bus Stand and he built up his arguments further by contending that Dr.Raju (P.W.13) has stated in his evidence that Siluvaidasan (P.W.2) gave this information when he was examined and that he recorded it in the wound certificate (Ex.P11). Therefore, the learned counsel submitted that Siluvaidasan (P.W.2) was attacked by some unknown persons near Anna Bus Stand and not by the appellants.

11. This Court bestowed its anxious consideration on this contention.

12. To appreciate this contention, it may be essential to reproduce the wound certificate (Ex.P11) verbatim:

"Siluvaidasan, 60/M 10.30 PM
H/o.Gnanaprakasi 202326
Ramanadhichanputhur 21.5.2010
Kumarapuram thoppu P.O.
Kanniyakumari District.

B.B. 108 Ambulance (Kottar)

I.D.M. :

- 1) A black mole in the left leg
- 2) A black mole in the right knee joint.

Alleged H/o. Assault by unknown person by unknown weapon at 09.10 p.m. on 21.05.2010 Anna Bus Stand time keeper office opposite. History by 108 ambulance people.

Patient Conscious, not able to speak.

Pulse : 76/mt BP 130/90 mmhg.
CVS S1 S2 Present
RS NVBS present Treatment given

Injuries:

- 1) Cut injury in the neck 10 x 4 x 7 cm
larynx trachea found cut.
- 2) Cut injury in neck 2 x 1 x 1 cm.
- 3) Cut injury in left cheek 7 x 2 x 1 cm
admit in ISCI

Dr.K.Raju

4) Ophthalmologist opinion:



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Traumatic dislocation of lens left eye.

ENT Opinion :

Injury No.1 is exposing
epiglottis and pyriform sinus.

Injury No.1 and 4 are grievous.

2,3 are simple in nature.

DOA 21.05.2010

DOD 11.06.2010

Sd/-

Dr.K.Raju 28.07.2010

Casualty Medical Officer

Kanyakumari Govt. Medical

College Hospital

Asaripallam, Nagercoil."

A reading of the above shows that Siluvaidasan (P.W.2) was brought to the hospital by 108 ambulance. Though he (P.W.2) was conscious, he was not able to speak. The history of the case has been given by the persons, who brought him by ambulance. Injury No.1 shows that his Larynx Trachea has suffered a cut injury measuring 10 x 4 x 7 cms. While that being so, it is indeed strange as to how Dr.Raju (P.W.13) could say that the patient gave the history of assault. The Public Prosecutor in-charge of the case should have been alert and he should have clarified this in the re-examination. Unfortunately, the Public Prosecutor has not done that.

13. The next question is what is the evidentiary value of an entry in the Accident Register or Wound certificate.

14. This question has been answered by the Supreme Court in ***P.Babu and others v. State of A.P. [(1994) (1) SCC 387]***, as follows:

"It appears that it was noted in Ex.P-6 against an entry that the injured was said to have been stabbed by somebody. Placing much reliance on this entry, P.W.10 was asked in the cross-examination as to how it was made. P.W.10 stated that the deceased stated so in the first instance. The learned counsel relying on this admission sought to contend that the deceased was not aware as to who stabbed him. We see no force in this submission. It is a matter of common knowledge that such entry in the injury certificate does not necessarily amount to a statement. At that stage the doctor was required to fill up that column in a normal manner and it was not the duty of the doctor to enquire from the injured patient about the actual assailants and that the inquiry would be confined as to how he received the injuries namely the weapons used etc." (emphasis supplied)

15. Again, a three Judge Bench of the Supreme Court in ***P.Bhadriya and others v. State of A.P. [(1995) Supp (1) SCC]***, has observed as under:



"P.W.1 who is an injured witness and P.W.4 who is also a relation of the deceased took prompt steps to shift the deceased to the hospital. P.W.1 was also examined for his injuries. Naturally, he was not expected to give a report to the doctor. The casual way of filling up the column in the medical certificate does not in any manner amount to recording a statement of the injured witness." (emphasis supplied)

16. In ***Pattipati Venkaiah v. State of A.P. [(1985) 4 SCC 80]***, the Supreme Court has held as under:

"17. Another argument advanced before us was that although P.Ws 1 and 2 were supposed to be eyewitnesses, they never cared to disclose the name of the assailant to the doctor when the body of the deceased was taken to the hospital. The argument is only stated to be rejected. A doctor is not at all concerned as to who committed the offence or whether the person brought to him is a criminal or an ordinary person, his primary effort is to save the life of the person brought to him and inform the police in medico-legal cases...." (emphasis supplied)

17. We have the evidence of Rajappa (P.W.4), who has stated that he saw Siluvaidasan (P.W.2) near Anna Bus Stand around 9.45 p.m., with injuries in his neck and that he (P.W.2) was not in a position to speak and was showing only signs and gestures. He has further stated that he arranged an ambulance and sent Siluvaidasan (P.W.2) to the hospital. Therefore, the stray statement of Dr. Raju (P.W.13) cannot have the effect of undermining the evidences of the injured witness, namely, Siluvaidasan (P.W.2), which is substantially corroborated by the evidence of Rajappa (P.W.4).

18. The learned counsel for the appellants contended that the appellants have not signed the power of attorney (Ex.P3) not even as witness and therefore, the theory of the prosecution that it was the appellants, who made arrangements for the loan has not been established.

19. It is true that the appellants have not signed even as witness in the power of Attorney (Ex.P3), but Siluvaidasan (P.W.2) and Iyappan (P.W.6) have clearly stated that Amuthaselvi (A1) was present in the Sub Registrar's Office at the time of registration of the document. It is the case of Siluvaidasan (P.W.2) that he was taken to the Sub Registrar's Office for executing a mortgage deed, but, strangely, a power of attorney was got registered by deceit. Therefore, after medical recovery, he cancelled the power of attorney on 29.11.2010 vide Ex.P4. This clearly shows the *mala fide* motive of Amuthaselvi (A1) to cheat Siluvaidasan (P.W.2). That apart, Karunakaran (P.W.7), who had signed as a witness in the power of attorney (Ex.P3) has also spoken to the presence of Amuthaselvi (A1) in the Office of the Sub Registrar on 20.05.2010.

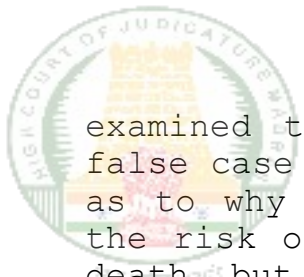


20. In the light of overwhelming evidence, the evidence of Sudha (P.W.5) that she had sought the help of Amuthaselvi (A1) to arrange loan for her father Siluvaidasan (P.W.2) cannot be brushed aside. Though we have the extra judicial confession (Ex.P.14) of Amuthaselvi (A1), yet, in this case, the evidence of Siluvaidasan (P.W.2) by itself is sufficient to fix criminal liability on Amuthaselvi (A1) and Manickaraj (A2).

21. The learned counsel for the appellants contended that the appellants did not abduct the deceased and Siluvaidasan (P.W.2) and that they had come voluntarily with them in the auto-rickshaw. There appears to be much force in this submission because Siluvaidasan (P.W.2) has clearly stated that he and his wife accompanied Amuthaselvi (A1) and Manickaraj (A2) in the auto-rickshaw on the representation of Amuthaselvi (A1) and Manickaraj (A2) that they will return them the money, which was collected by them on the previous day at the office of the Sub Registrar. The accused had not taken the deceased and P.W.2 in a vehicle pre-arranged by them. They took them in an auto-rickshaw from near the Sub Registrar's Office and at the Olinacheri bridge, the auto-rickshaw was released. Thereafter they took the couple by walk to the coconut grove where the couple were attacked. Hence, the conviction and sentence of the appellants for the offence under Section 364 IPC cannot be sustained and accordingly, they are acquitted of the said charge.

22. As regards the charge under Section 420 IPC, the evidence of Siluvaidasan (P.W.2) that he was lured by Amuthaselvi (A1) on the promise of arranging a loan by mortgage and instead, he was trapped into signing a power of attorney establishes the offence of cheating. That apart, Amuthaselvi (A1) had got back the money that was given by Iyappan (P.W.6) to Siluvaidasan (P.W.2) on the promise that some more expenses have to be incurred, for which, Siluvaidasan (P.W.2) was asked to come to the Sub Registrar's Office on the next day. Siluvaidasan (P.W.2) innocently gave the money to Amuthaselvi (A1) and implicitly went with his wife on the fateful day to the Sub Registrar's Office to collect the balance money from Amuthaselvi (A1). At that time, Amuthaselvi (A1) gave only Rs.5,000/- wrapped in a newspaper to Siluvaidasan (P.W.2) by saying that she has spent the rest of the money for the expenses. On seeing this, the deceased got infuriated and started shouting, which is quite natural. To mollify both, Amuthaselvi (A1) and Manickaraj (A2) took them in an auto-rickshaw to various places and ultimately, tried to eliminate them near the railway track and make it look as if they had died in a train accident. As stated by us, if not for the providential escape of Siluvaidasan (P.W.2) from the jaws of death, this crime would not have even come to light and there is every possibility that the police would have closed the case on the reasoning that the couple had committed suicide by falling before a train due to their indebtedness.

23. As stated above, Amuthaselvi (A1) and Manickaraj (A2)



examined themselves as D.W.1 and D.W.2 and simply stated that a false case has been put on them. But, then, there is no explanation as to why Siluvaidasan (P.W.2) should falsely implicate them. At the risk of repetition, Siluvaidasan (P.W.2) went upto the jaws of death, but, managed to return and live to bring out the truth.

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24. The learned counsel for the appellants contended that the Driver of the auto-rickshaw, who had carried all the four to various places was not examined and therefore, the prosecution case stands vitiated. We are unable to persuade ourselves to agree with this submission, because, Amuthaselvi (A1) had summoned a passing auto-rickshaw and it is nobody's case that the auto-rickshaw Driver was known either to the accused or to Siluvaidasan (P.W.2).

25. In the ultimate analysis, we hold that the prosecution has proved beyond cavil that it was Amuthaselvi (A1) and Manickaraj (A2), who had caused the death of Gnanaprakasam and attempted to murder Siluvaidasan (P.W.2).

26. In view of the foregoing discussions, we find no ground to upset the well merited judgment passed by the Trial Court. As a sequitur, these criminal appeals fail and are accordingly dismissed in the following terms:

- The conviction and sentence imposed on the appellants under Section 364 IPC alone are set aside and the appellants are acquitted of the said charge;
- As regards the conviction and sentence imposed on the appellants in respect of the other offences, the same shall stand maintained.

Consequently, connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar(CS)

RR

To

1.The Sessions (Fast Track Mahila Court),
Kanyakumari District
at Nagercoil.

2.The Inspector of Police,
<https://hcservices.ecourts.gov.in/hcservices/>
Vadaseri Police Station
Nagercoil



3. The Officer Incharge,
Special Prison for Women, Tiruchy.

4. The Superintendent of Central Prison,
Palayamkottai.

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

1CC TO MR. A. JOSEPH JAWAHAR, ADVOCATE SR 58623

Common Judgment made in
Crl.A. (MD) Nos.197 of 2017 and 492 of 2018
and Crl.M.P. (MD) Nos.10804 of 2017 and 8927 of 2018
02.04.2019

DS
23/04/2019
13P/7C