

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 13.11.2019
JUDGMENT DELIVERED ON : 10.01.2020

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH
and
THE HON'BLE Mr. JUSTICE RMT.TEEKAA RAMAN

CrI.A.No.554 of 2017

Yugadhithan

.. Appellant/A.1

... Vs ...

State through
The Inspector of Police,
Azhagapuram Police Station,
Erode District.
(Crime No.408 of 2014)

.. Respondent/Complainant

Prayer :- Appeal filed under Section 374 (2) of Cr.P.C. against the judgment dated 21.07.2016 passed by the learned II Additional District and Sessions Judge, Salem, in S.C.No.112 of 2015.

For Appellant : Mr.R.Shanmughasundaram, Senior Counsel
for M/s.Dhanalakshmi

For Respondent : Mr.K.Prabhakar,
Additional Public Prosecutor

JUDGMENT

RMT.TEEKAA RAMAN, J.

The appellant herein is the first accused in S.C.No.112 of 2015 on the file of the learned II Additional District and Sessions Judge, Salem, and he stands convicted by the learned Sessions Judge, by judgment dated 21.07.2016 for the offences under Sections 302, 449, 404 and 201 r/w. 302 IPC and sentenced him to undergo life imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo simple imprisonment for two years for the offence under Section 302 I.P.C.; sentenced him to undergo rigorous imprisonment for ten years and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for one year for the offence under Section 449 I.P.C.; sentenced him to undergo rigorous imprisonment for three years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for

six months for the offence under Section 404 I.P.C. and also sentenced him to undergo rigorous imprisonment for three years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for six months for the offence under Section 201 r/w. 302 I.P.C. All the sentences were ordered to run concurrently. Challenging the said conviction and sentence, the appellant herein / A.1 has preferred this criminal appeal before this Court.

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

(a) P.W.1 is the father of the victim girl - Ms.Thejashree. P.W.1 is residing at Vanniya nagar, Azhagapuram, Salem. P.W.2 Harini is the elder sister of the deceased. P.W.2 was formerly studying B.E (Civil Engineering) Course in a private Engineering College known as Mahindra Engineering College. The deceased was studying in a local school. A.1 was a co-student in the same college with P.W.2 and was doing B.E. Aeronautic Engineering Course. A.1 was a Senior Student. Since P.W.2 and A.1 were studying in the same college, they were known to each other. In due course, A.1 proposed his love for P.W.2., but P.W.2 rejected the same. Not stopping with that, A.1 started stalking her. Unable to bear his torture, P.W.2 informed the same to her father P.W.1. P.W.1 made a complaint to the Principal of the College against A.1. The Principal of the College called P.W.2 as well as A.1 and his family members to sort out this issue. In the end of the talks held by the Principal of the College, A.1 agreed not to interfere with the affairs of P.W.2 anymore. After completing her course, P.W.2 joined L & T Company as an Engineer. On account of the job, she was staying in Chennai.

(b) While so, two days prior to Deepavali during the year 2014, A.1 came all the way to Chennai and intercepted P.W.2. He told her that if P.W.2 did not reciprocate the love, he would kill all her family members and also P.W.2. A.1 further wanted P.W.2 to give her cell phone number and also her address. P.W.2 informed the Security Officer about the same. The Security Officer intervened and sent A.1 away. P.W.2 immediately informed the same to her father-P.W.1. P.W.1, in turn, made a complaint to the police. The police also summoned A.1 and warned him not to indulge in same kind of activity any longer.

c) It is further alleged by prosecution that on 13.11.2014, when the deceased was alone in the house, around 7.15 p.m, A.1 along with his friend A.2 came to the house of P.W.1. The house of P.W.1 is in the first floor of the building. Both of them, according to the prosecution, trespassed into the house, slit the throat of the deceased twice with knife. A.2, who was wearing a monkey cap, immediately rushed out, went to the road side and kept the motorcycle ready with the engine running.

(d) P.W.1 incidentally returned to the house and when he was climbing up the stairs, A.1 was climbing down the steps. At that time A.1 was having a helmet in his hand. But on seeing P.W.1 he wore the helmet, proceeded further and rushed towards the motorcycle, mounted the same and both A.1 and A.2 rode away from the scene of occurrence.

(e) P.W.1 rushed into his house, where the scene was so horrible that the deceased was lying in a pool of blood, but still she was alive. He cried for help and immediately the neighbours rushed in. Then all of them took her to the Government Hospital in an 108 Ambulance. On examining the deceased, the doctor declared her dead. The dead body was sent to the mortuary. Thereafter, P.W.1 went to Azhagapuram Police Station and made a complaint at 10.30 p.m on 13.11.2014. Ex.P.1 is the complaint and Ex.P.23 is the First Information Report. Since the assailants were unknown to P.W.1, he mentioned in the complaint that the assailants were not known but he could identify them.

(f) P.W.24-the Inspector of Police, took up the case for investigation. He went to the place of occurrence, prepared an observation mahazar and a rough sketch in the presence of witness. He recovered blood stained earth and sample earth from the place of occurrence. On going over to the Government Hospital, Salem, he conducted inquest on the dead body of the deceased 4 and examined P.Ws.1 to 5 and recorded their statements. Then, he forwarded the body for postmortem.

(g) P.W.14 Dr.Gokularamanan, conducted autopsy on the body of the deceased on 14.11.2014 at 10.15 a.m. He found the following injuries:

"EXTERNAL EXAMINATION:

INJURIES

1. A wide open cut injury seen on the front and sides of neck, just above the level of thyroid cartilage M-14 cms x 6 cms x bone deep, exposing underlying cut larynx, both sides muscles, blood vessels exposing the cervical vertebra with extra vasation of blood.

2. Another wide open cut injury extent from lower and outer aspect of right side of previous wound upto the nape of neck M-12cms x 4 cms x muscle deep with extravasation of blood.

3. No other external injuries seen anywhere on the body.

INTERNAL EXAMINATION:

O/D Head: Scalp contusion on the right parietal region M-3x1.5x0.5cms Cranial vault intact- brain-Oedamatus and c/s pale. Base of skull-intact. O/D neck: Neck structures vide injury column. Hyoid bone intact. O/D Thorax: Ribs-intact. Heart Normal in size. On C/s Chambers Emt. Valves and coronaries Normal. Both lungs Normal in size. C/s pale. O/D Abdomen. Stomach contains 100 GMS of greenish brown colour pasty substance with no specific odour. Mucosa C/s Pale liver spleen, both kidneys blood. External genitalia-Normal. Hymen intact. Pelvis-Intact Viscera Preserved and sent for chemical analysis. Vaginal smears and vaginal swabs taken for semen analysis.

Opinion: Reserved pending Chemical analysis report.

Time Since Death: 12-18 hours prior to autopsy."

Ex.P.14 is the Postmortem certificate and Ex.P.15 is the final opinion. He opined that the injuries found on the deceased could have been caused by a knife and the death of the deceased was due to shock and hemorrhage due to cut injuries of neck.

(h) P.W.24, during the course of investigation, arrested the accused on 15.11.2014 at 10.00 p.m near Puthur Branch Road of Salem-Coimbatore Bypass Road when they were coming in a motorcycle. P.W.24 seized the motorcycle in the presence of witnesses. On such arrest, A.1 gave voluntary confession followed by A.2. A.1, in his confession, disclosed the place where he had hidden the knife and a full hand shirt. From his possession, P.W.24 seized Pulsar motorcycle and black colour helmet under mahazar. A.2 produced a Monkey cap and Samsung Star cell phone. P.W.24 recovered the same. A.2 further disclosed the place, where he had hidden a Jeans pant and white shirt. In pursuance of the same, he took the police and other witnesses and produced the said material objects.

(i) According to the prosecution when the accused were taken into custody, they tried to escape. When they were chased, both of them fell into a pit and sustained injuries. On returning to

the police station, P.W.24 forwarded both the accused for treatment. Accordingly, they were admitted as inpatients at Government Hospital, Salem. At the request made by him, the Judicial Magistrate visited the hospital and remanded them to judicial custody. Thereafter, P.W.24 forwarded the material objects to the Court. Then at his request, the Material Objects were sent for chemical analysis. The report revealed that there were human blood stains on all the material objects. He examined the doctor, who had treated both the accused at the Government Hospital. He collected postmortem certificate and examined the doctor, who conducted autopsy. On completing the investigation, P.W.24 laid charge sheet against the accused.

3. Based on the above materials, the Trial Court framed charges as detailed below :

S.No.	Rank of the Accused	Charges framed
1.	A.1	449, 302, 404 and 201 r/w 302 IPC
2.	A.2	449, 302 r/w 34, 404 and 201 r/w 302

The accused denied these charges.

4. In order to prove the case, on the side of the prosecution, as many as 24 witnesses were examined and 32 documents and 16 material objects were also marked. On the side of the accused two photographs were marked as Exs D.1 and D.2 one marriage invitation was marked as Ex.D.3 and Photo Album was marked as Ex.D.4.

5. Out of the said witnesses, P.W.1, the father of the deceased has stated that on 13.11.2014, around 8.30 a.m, the deceased had gone to the school. His wife had left for Chennai around 1.00 p.m on the same day. Upto 6.30 p.m, P.W.1 was in his Company, where he was working. Thus, according to him, the deceased had returned from the school and stayed alone in the house. He has further stated that on the same day, at 6.30 p.m, he tried to contact the deceased over phone to enquire about the dinner. But, the deceased did not pick up the cell phone. Therefore, immediately he rushed to his house. When he was climbing the stairs of the house to reach the first floor, where he was residing, he found that A.1 was climbing down the stairs and at that time, he was holding the helmet in his hand.

According to him on seeing P.W.1, he wore the helmet and rushed to the road. P.W.1 further noticed that A.2 was sitting on the motorcycle and keeping it ready to start. The engine was running. He was wearing a Monkey cap. As soon as A.1 got on to the motorcycle, A.2 drove the motorcycle and both of them escaped from the scene of occurrence. P.W.1 has further stated that he went to the first floor. He found the deceased lying in a pool of blood. There were slit injuries on her neck, but still she was alive. Immediately he took the deceased to the hospital, but the doctor declared her dead. P.W.1 also has spoken about the complaint made to the police. He further stated that the cell phone of the deceased was missing.

6. P.W.2 is the elder sister of the deceased. She has stated about the one side love which A.1 had nurtured towards her. She has further stated that she refused to accept the offer. Since A.1 started stalking her, she informed the same to her father-P.W.1 and P.W.1, in turn, made a complaint to the Principal of the College. The Principal summoned both A.1 and P.W.2 and his family members. In the talks held, A.1 agreed not to interfere in the affairs of P.W.2 thereafter. But after P.W.2 took up a job in a private Company at Chennai and two days before Deepavali in the year 2014, A.1 again intercepted P.W.2 and challenged that he would kill all her family members in the event of P.W.2 refusing to accept his love. She has stated that she came to know that her sister was killed and has further stated that on 08.11.2014, A.1 had sent one e-mail to her forcing her to accept his love and that on her failure to comply, he threatened that he will kill all of her family members so as to leave P.W.2 in the lurch, thereby pressurising her to accept his love. From the above, according to P.W.2, she believed that it was A.1 who was responsible for the killing of her sister.

7. P.W.3 is the neighbour of P.W.1. He has stated that on 13.11.2014 between 7.00 and 7.30 p.m, when he was at his house, he heard about the occurrence. He turned hostile and he has not supported the case of the prosecution in any manner.

8. P.W.4 is yet another neighbour of P.W.1. She has stated that, between 6.30 p.m and 7.00 p.m on 13.11.2014, when she was at her house, a person wearing a monkey cap followed by a person wearing helmet were getting down the stairs. A motorcycle with the name board inscribed with for registration was parked in front of the house of P.W.1. After seeing his daughter with injuries, he cried and neighbours also started shouting. On hearing the commotion she went and witnessed the occurrence.

However P.W.4 has not identified the accused whom she was stated to have seen.

9. P.W.5 is another neighbour of P.W.1. He has stated that he also saw two persons going to the house of P.W.1, One person was wearing monkey-cap and another was wearing helmet. He identified the accused as those two persons seen by him. P.W.5 has stated that these accused were sitting in the house of P.W.1 and were talking to the deceased and enquired with the deceased about the cell phone number of his father. P.W.5 has further stated that he left for supermarket and when he returned home at 7.25 p.m and P.W.1 was also climbing the stairs to his house. Within five minutes, after entering into his house, P.W.1 cried. When P.W.5 rushed to the house of P.W.1 he found the deceased with injuries. Then he helped P.W.1 to take her daughter to the hospital.

10. P.W.6 Dr.C.Arun Prabakaran has stated that these two accused were brought to him by police.

11. P.W.7 is yet another neighbour of P.W.1. He has stated that two days after Deepavali in the year 2014, around 3.00 p.m, a male, aged about 24 to 25 years, was sitting in a Pulsar Motorcycle near the house of P.W.1. He has further stated that when he enquired him he told that he was coming from Govindanpalayam from Erode and that P.W.2 Harini was his classmate and therefore he had come to meet her. P.W.7 wanted him to leave as the house of P.W.1 was locked.. Accordingly, he left the place. Thereafter, on 13.11.2014, he came to know about the occurrence. He has identified A.1 as the one who was sitting on the two wheeler as mentioned above.

12. P.W.8 is the Principal of the College, where P.W.2 and A.1 studied. He has stated that on one occasion, the father of P.W.2 made a complaint that A.1 was stalking P.W.2. Further P.W.8 has stated that he called both P.W.2 and A.1 and their respective family members and held talks. As a result of the discussions, A.1 assured not to disturb P.W.2.

13. P.W.9 is the Head Master of the school, where the deceased was studying. According to the School Certificate, the date of birth of the deceased was 21.10.2000. As per the attendance Register, she attended the class on 13.11.2014 and left the school in the evening. Ex.P.4 is the certificate, issued by the School.

14. P.W.10 had deposed that he accompanied A.1 to meet P.W.2 two days prior to Deepavali. He has also spoken about the observation mahazar, rough sketch and the recovery of material objects from the place of occurrence.. Ex.P.W.11 is a resident of Santhaipettai at Kadaaiampatti. He was the friend of A.1. According to P.W.11, two days prior to Deepavali in the year 2014, A.1 wanted P.W.11 to accompany him to Chennai. Accordingly, he went along with A.1 to Chennai. In Chennai, A.1 met P.W.2 in L&T Company complex and talked to her for some time. He has further stated that he was standing at a distance. A.1 and P.W.2 were talking for two to three minutes. Then P.W.2 complained to the Security. Since the Security Officer warned A.1, P.W.11 and A.1 left the place. Thereafter, P.W.2 called P.W.11 over phone and informed him that he should come and tell the truth to police during enquiry. Accordingly, he told this fact to the police during investigation.

15. P.W.12 a Scientific Officer of Forensic Lab, has stated that he examined the internal organs of the deceased. There was neither poison nor alcohol in the internal organs of the deceased. P.W.13 is also a Scientific Officer at the Forensic Lab. He has stated that he examined the material objects and found that there were human blood stains on all the material objects. P.W.14 has spoken about the post mortem conducted and his final opinion regarding the cause of death.

16. P.W.15 the Village Administrative officer has spoken about the arrest of the accused 1 and 2 and the disclosure statements made by them and consequential recoveries of the material objects. P.W.16 a Constable has stated that he handed over the first information report to the court. P.W.17 has spoken about the photographs taken at the place of occurrence. P.W.18 has stated that he assisted the investigating Officer when the accused were arrested. P.W.19, yet another police constable, has stated that he handed over the dead body of the deceased to the doctor for postmortem. P.W.20 has spoken about the registration of the case on the complaint made by P.W.1. P.W.21 has spoken about the treatment given to A.1 in the hospital. P.W.22 has stated that the Pulsar motorcycle which was recovered from A.1 was sold by his Company to one Sathish. P.W.23 is the Security of L & T Company. He has spoken about the arrival of A.1 to the Company premises two days before the occurrence and the complaint made by P.W.2. P.W.24 has spoken about the entire investigation done and final report filed.

17. When the above incriminating materials were put to the accused u/s.313 Cr.P.C., he denied the same as false. His

defence was a total denial. However, he did not choose to examine any witness on his side. But four documents have been marked as Exs.D.1 to D.4. Having considered all the above, the Trial Court convicted and sentenced the accused as stated in the first paragraph of this judgment. Challenging the conviction and sentence, the appellant/A.1 has come up with the present appeal.

18. Mr.R.Shanmugasundaram, learned Senior Counsel for the appellant/A.1 has also filed additional memorandum of grounds under Section 374 of Cr.P.C. and the points raised thereunder are discussed in fra.

19. Mr.K.Prabhakar, learned Additional Public Prosecutor appearing for the state would contend that as against the judgment of conviction and sentence passed by the trial Court as against the second accused, he has preferred an appeal in CrI.A.No.574 of 2016 and a Division Bench of this Court by judgment dated 12.01.2017 has dismissed the said appeal by confirming the conviction and sentence.

20. This is a case based on circumstantial evidence. At the outset, we should say that it is well settled that in a case based on circumstantial evidence, the prosecution is bound to prove the circumstances projected by it beyond reasonable doubts and such proved circumstances should form a complete chain without any break, unerringly pointing to the guilt of the accused and there should not be any other hypothesis which is inconsistent with the guilt of the accused. With this broad principle in mind, let us go into the circumstances projected by the prosecution.

Homicide :-

21. According to P.W.1, on 13.11.2014, after returning from the school in the evening, the deceased was alone in the house. Around 7.15 p.m, she was found lying in the house with slit injuries on her neck by P.W.1. On hearing the alarm raised by him, others also came to the place. P.W.1 immediately took the deceased to the hospital, where, the doctor declared her dead. The Doctor, who conducted autopsy, opined that there were slit injuries on her neck, which would have been caused by a weapon like knife and that, the death of the deceased was due to shock and hemorrhage due to the said injuries. Thus, the prosecution has succeeded in establishing that the deceased sustained injuries some time before 7.15 p.m on 13.11.2014 and died within a short while. From the medical evidence, it is crystal clear that it was a homicide and hence, we find that the victim girl

namely, Ms.Thejashree, daughter of P.W.1, died due to the homicidal violence at her house due to the injuries sustained on her body.

Crime :-

22. Now, the question as to who are the perpetrators of the crime. In order to establish that A.1 and A.2 were the perpetrators of the crime, the prosecution relied upon the following evidences to indicate the circumstances searching near the time of the crime at the place of the occurrence.

23. The first and foremost circumstance is that of the evidence of P.W.1, who could depose that at the time of occurrence, he saw the appellant sitting on the motorcycle wearing a monkey cap and A.1 was climbing down the steps. Admittedly, A.2 was not previously known to P.W.1 and he was also wearing a monkey cap covering his face. He had not mentioned the physical features of A.2 during investigation. A.2 was also not put up for any test identification parade so as to enable P.W.1 to identify him.

24. The identification of the accused is after all a fact as defined in the Evidence Act. When such fact is disputed, it needs to be proved. Sec.3 of Evidence of Act which defines the term proved contains two parts. The first one is the belief of the court of the existence of the fact on considering the matters before it and the second one is the supposition of a prudent person.

25. As the conviction and sentence passed against A.2 were confirmed by the Division Bench of this Court in Crl.A.No.574 of 2016 as stated supra, the facts that have been adduced in connection with A.1 alone have discussed in fra.

26. P.W.8 is the Principal of the College where P.W.2 and the appellant/A.2 studied. It is the specific evidence of P.W.2 that as the first accused/appellant herein compelled her to fall in love with him, her father made a complaint to the Principal of the college and thereby A.1 was enquired by the college administrative committee. The father of P.W.2 viz., P.W.1 made a complaint that A.1 was stalking P.W.2 and pursuant to the same P.W.8, Principal of the college has conducted an enquiry where he called both P.W.2 and A.1 and the family members and held the talks and as per the decision taken in the committee, the first accused assured not to disturb with P.W.2.

27. P.W.11 is a resident of Santhaipettai and friend of A.1. He could depose that two days prior to Deepavali in the year 2014, he went along with A.1 to meet P.W.2 in the L & T company where she is working. A.1 and P.W.2 were in conversation for

some time as he was standing at a distance, he could not know the contents of the conversation. After few minutes, P.W.2-Harini, sister of the deceased complained to the security officer. Since the security officer warned both A.1 and P.W.2, they left the place. Thereafter, P.W.2-Harini called him (P.W.1) over phone and informed that she could tell the truth to the police during the enquiry.

28. P.W.23, who is the Security Officer of the L & T company, had deposed about the presence of P.W.11 along with another person to the company premises two days before the occurrence at the instance of the complaint made by P.W.2 and P.W.23 told A.1 and other person to move away from the office.

29. On a careful scanning and scrutiny of the evidence of P.W.2, P.W.8, P.W.11 and P.W.23, we find that both P.W.2 and A.1, who studied in the same college where P.W.8 is the Principal and P.W.2 was stalked by A.1 leading to the complaint and after enquiry by the administrative committee, A.1 assured not to disturb P.W.2. Subsequently, A.2 got employment in the L & T company. Two days prior to Deepavali, viz., the date of the occurrence, A.1 went along with P.W.1 and met P.W.2 in her office complex and at the instance of P.W.2, the Security Officer of the office complex, P.W.23, both P.W.11 and the first accused left the office of P.W.2 and hence, this part of the prosecution theory as to the events happened upto two days prior to the occurrence has been proved in the manner known to law.

30. The prosecution has let in evidences of neighbours viz., P.W.4, P.W.5 and P.W.7. While the evidence of P.W.4 is to the limited extent that between 6.30 p.m. and 7.30 p.m., she found three persons while one was wearing a helmet and another was wearing monkey cap. Both escaped from the scene of occurrence in a bike with the number plate inscribed for registration.

31. On perusal of the evidence of P.W.5, we find that his version is fully supported the prosecution theory. P.W.5, in his evidence, has categorically stated that both A.1 and A.2 while one wearing monkey cap and another one wearing helmet went to the house of P.W.1, knocked the door of the deceased, who was sitting in the house and they were asked about the cell phone of P.W.1 and thereafter, P.W.5 left the place and thus, this part of the evidence of P.W.5 goes to show that P.W.5 is the last person to see the deceased as alive in the company of A.1 and A.2 in the house of the deceased immediately prior to the occurrence time. Furthermore, he had also deposed about the conversation said to have been taken between the deceased and the two accused sitting inside the house of the deceased.

32. The point raised by the learned Senior Counsel for the appellant/A.1 is that P.W.1, father of the deceased might have had an opportunity to see the first accused/appellant during the enquiry in the college. In the absence of any whisper by P.W.8 as to the presence of the appellant/A.1 when he met the parent of P.W.2 viz., P.W.1, the said contention cannot be upheld.

33. The next contention raised by the learned Senior Counsel for the appellant/A.1 is that A.1 had married P.W.2 at Bhavani Temple and drawn our attention to Exs.D.1, D.2 and D.4, photographs and Ex.D.3-marriage invitation which were marked during the cross-examination of P.W.1. The classmate of A.1 and P.W.2 in the absence of any positive evidence touching upon the solemnization of marriage being adduced by the appellant in the manner known to law, we have no hesitation in negating the above said plea raised by the learned Senior Counsel for the appellant. It is to be stated that the marriage invitation of P.W.2 solemnized with some other person was marked as Ex.D.3 also assumes significance on the background of the case.

34. Learned Senior Counsel for the appellant drawn our attention to the identification of P.W.5 for the first time in the Court cannot be given any weightage and identification made by him before the police at the hospital is clearly barred under Section 162 of Cr.P.C. and hence, his evidence has to be rejected. As stated supra, P.W.5 is the neighbour in the scene of occurrence and the same was not disputed. It is not as if he saw the two accused only for a fraction of seconds, he had seen both the accused going to the house of P.W.1, knocking the door and sitting in the sofa and had conversation with P.W.5 and hence, we find that P.W.5 had enough time to obtain the physical feature and identity of the accused and based upon the said witness P.W.5 can very well identify the accused in Court and hence, in our considered view that the identification of the accused by P.W.5 could be relied upon as the same passed the test of reliability and the evidence of P.W.5 is corroborated by the evidence of P.W.4, as discussed supra, clearly corroborates the fact that one was wearing helmet and the other accused was wearing monkey cap found near the place of occurrence and hence, the version of P.W.5 has been partially corroborated by the evidence of P.W.4 as to the act of the assailant in leaving the house of the deceased in a motorcycle with monkey cap and helmet.

35. Yet another point is that the evidence of P.W.5 and the version of independent witness P.W.7, whose evidence as to the effect that A.1 came to the house of the deceased and was sitting in the motorcycle and on enquiry, A.1 told that he came to meet P.W.2 and he left the house on the premise that the house was locked. Thus, the presence of A.1 in the house of the

deceased two days after Deepavali is also an incriminating circumstances in support of the prosecution.

36. It remains to be stated that the evidence of P.W.7 was duly corroborated by the evidence of P.W.8 with next chain of the event, when P.W.8, Security Officer of the L & T company two days prior to Deepavali saw the first accused. Thus, we find that A.1 has studied along with P.W.2 in the same college where P.W.8 is the Principal of the college. As the first accused was stalking P.W.2, P.W.1/father of P.W.2 lodged a complaint with P.W.8, Principal, who had conducted an enquiry where A.1 was advised not to do so. Subsequently, she got employment in L & T company and two days before Deepavali, A.1 was seen near the gate of the house of the deceased. As per the evidence of P.W.8, two days prior to Deepavali, A.1 went to meet P.W.2 in his office complex and on the date of the occurrence, A.1 along with other accused A.2 came to the house of P.W.1 and knocked the door and went inside and having conversation with the deceased as per the evidence of P.W.5 and they left the house of P.W.1 as corroborated by the evidence of P.W.4 and P.W.5 and the evidence of P.W.7 is to the effect that those two persons left in the motorcycle as discussed supra. Thus, we find that the prosecution has let in positive evidence to the above facts.

37. The other circumstances relied on by the prosecution is recovery of material objects. Based upon the admissible portion of the confession statement of A.1, knife and dress of the accused were seized and when the same was forwarded under Ex.P.20 and as per the evidence of P.W.2 and P.W.13-Scientific Officer and Serology Report bloodstained were found in the knife are of 'B' group and also the bloodstain found in the dress of the deceased and the dress of the accused and M.O.9-knife are all same blood group also lends credence to the prosecution theory. In respect of the evidence of the attester of the observation mahazar and the admissible portion of the confession statement and the alleged recovery, there is nothing in the cross-examination to discredit their evidence and accordingly, we holds that based upon the admissible portion of the confession disclosure statement, M.O,9 was recovered. The knife contained the same blood group as that of the deceased and as per the evidence of Post-mortem Doctor-P.W.14, the nature of the injuries found on the body of the deceased is possible by using knife, as the same nature of M.O.9 and the blood sample taken from the scene of the crime found on the dress of the deceased and the accused/A.1 and M.O.9 are of the same human blood with 'B' group also supports the case of the prosecution.

38. The last circumstance is the arrest of A.2 by P.W.24. On such arrest, from A.2, a monkey cap and a cell phone, a jeans pant and white shirt were recovered. The monkey cap was

identified by P.W.1.

39. From the above discussed circumstances, we hold that the appellant/A.1 accompanied A.2 to the house of the deceased and both the accused had killed the deceased. Thus, the appellant/A.1 is one of the perpetrators of the crime. Thus, the trial Court was absolutely right in convicting the appellant/A.1.

40. Now turning to the quantum of punishment, the trial Court has imposed only a reasonable punishment, which does not require any interference at our hands. The prosecution has proved the charges framed against A.1/appellant beyond reasonable doubt and hence, the judgment of conviction and sentence passed by the trial Court as against the appellant/A.1 is well considered and well merited and it does not warrant any interference by us at this appellate stage.

41. In the result, this Criminal Appeal is dismissed and the conviction and sentence imposed on the appellant/A.1 in S.C.No.112 of 2015 by the learned II Additional District and Sessions Judge, Salem, are confirmed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. II Additional District and Sessions Judge,
Salem.
2. The Inspector of Police,
Azhagapuram Police Station,
Erode District.
3. The Superintendent, Central Prison, Coimbatore
4. The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.N. Vanaraj, Advocate sr 3290.

CRL.A.No.554 of 2017

GMR(CO)
SP(02/03/2020)