

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On : 03.12.2019

Pronounced On : 08.01.2020

C O R A M

THE HON'BLE MR.JUSTICE R.SUBBIAH
AND
THE HON'BLE MR.JUSTICE R. PONGIAPPAN

Criminal Appeal No.752 of 2017

State represented by
The Public Prosecutor,
High Court,
Madras - 104.

... Appellant/Complainant

-vs-

1. Kumaresan
2. Shanmugasudaram
3. Ravi
4. Karthick

... Respondents/Accused

Criminal Appeal filed under Section 378 (i) of the Code of Criminal Procedure, to call for the records and to set aside the judgment dated 02.03.2017 passed in S.C.No.115 of 2016 on the file of the learned I Additional District and Sessions Judge, Tiruppur and to convict the respondents/accused 1 to 4, for the charges framed against them.

For Appellant : Mrs.M.Prabhavathi,
Additional Public Prosecutor.

For Respondents: Mr.M.Mohamed Saifullah
Legal Aid Counsel

J U D G M E N T

[Judgment of the Court was delivered by R.PONGIAPPAN, J.]

This appeal is directed against the order of acquittal dated 02.03.2017 made in S.C.No.115 of 2016, on the file of the learned I Additional District and Sessions Judge, Tiruppur.

2. The appellant herein is the State. Initially this case has been taken on file and all the accused stood charged for the offences under Sections 120-B, 364, 302 and 201 of IPC. By judgment dated 02.03.2017, the trial Court acquitted the respondents from all charges. Challenging the said acquittal, the State is before this Court, with the present Criminal Appeal, praying to set aside the order of acquittal.

3. The case of the prosecution is as follows:

3.1. PW1-Dhanraj and PW2-Padmavathy, are the parents of the deceased Athikesavan. After hearing about the missing of the deceased, on 11.03.2016, PW1, searched the deceased and thereafter, on 12.03.2016, at about 02.00AM he lodged a complaint before the police station.

3.2. PW26-Palanisamy, is presently working as Sub Inspector of Police at Dharapuram Police Station. On 12.03.2016, when he was working as Sub Inspector of Police, Sevur Police Station, he received the complaint from PW1, and registered the case in Crime No.162/2016, for boy missing under Ex.P1. Printed FIR is Ex.P25. Immediately after the registration of the case, he handed over the case records to PW27-Jothi, for investigation.

3.3. PW27-Jothi, is now working as Inspector of Police (L&O), P2 Police Station, R.S.Puram, Coimbatore. On 12.03.2016, when he was working as an Inspector of Police, Avinashi Police Station, received the case records and went to the scene of occurrence. In the presence of PW16-Mallika, Village Administrative Officer of Mangarasu Valaiyapalayam Village and her Assistant one Siluvainathan, he prepared Observation Mahazar and Rough Sketch. The said documents have been marked as Exs.P15 and P26 respectively. He recorded the statements of witnesses, who were present in the scene of occurrence.

3.4. PW6-Balan, is the Village Administrative Officer, Bothampalayam Village. On 14.03.2016, at about 2.00am, when he was in his residence, his Assistant Subramaniam, contacted him through telephone and invited to the office. On the request made by his Assistant, he rushed to his office, wherein the first accused, Kumaresan and 2nd accused Shanmugasundaram, were present. On seeing the PW6, both the accused made a submission

to PW6 for accepting the surrender and voluntarily gave confession statement, in which they admitted the alleged offence. PW6 recorded the confession statement given by the accused Kumaresan under Ex.P10, thereafter, he recorded the confession statement of accused Shanmugasundaram and the same is Ex.P11. After recording the confession statements, he brought the both accused to the police station and handed over them to PW27, along with the confession statements, given by the accused. Further, he has given the Special Report, under Ex.P12.

3.5. In continuation of investigation, after receiving the Special Report from PW6, PW27, arrested the accused and in the presence of witnesses PW4-Easwaran and one Rajkumar, he recorded the confession statement given by the said accused. In the confession statement, both the above referred accused, admitted the offence and volunteered to produce the materials which were used for committing the offence.

3.6. Based on the confession statements, both the accused brought PW27 and witnesses to Bhavani river and identified the place of occurrence in which the murder was committed. In the presence of same witnesses, PW26 prepared an Observation Mahazar under Ex.P31 and he prepared a Rough Sketch under Ex.P30. Thereafter, with the help of PW13-Mani @ Kalimuthu and PW14-Jagadeeswaran, searched the dead body in the Bhavani river. On 14.03.2016, at about 9.00am all of them, found the dead body of the deceased Athikesavan. The dead body was identified by PWs.1 and 2. In respect to the said place, investigation officer prepared an Observation Mahazar under Ex.P5 and prepared a Rough Sketch under Ex.P32.

3.7. In the same place, in the presence of panchayatar and witnesses, PW27 conducted enquiry and prepared the inquest report under Ex.P33. After preparation of the inquest report, PW27 handed over the dead body to PW21-Senthil Kumar, with a direction to hand over the same for postmortem. With the help of PW20-Hariharan, he took the photographs under Exs.P20 and P21 (series).

3.8. Based on the confession statements given by Accused 1 and 2, the investigation officer and all the witnesses went to Ukkiram Periyavaikkal, wherein, the accused identified the hidden car viz. Maruthi Car bearing Regn.No.TN37 AX 5576, which was used for kidnapping the deceased. The said car was recovered by PW27, under the cover of Mahazar Ex.P6.

3.9. Further, both the said accused brought the said team to a thorn bush (Kl;g[ju;) near Takkarakottai and handed over the school bag used by the deceased. Same has also been recovered by PW27, in the presence of PW4-Easwaran and one Rajkumar under the cover of Mahazar under Ex.P34. The car and

the school bag, which were recovered are marked as M.O.No.1 and M.O.No.2, respectively.

3.10. In continuation of investigation, on the same day at about 1500 hours, PW27 arrested the accused Ravi and Karthick and recorded their confession. In the confession statement the accused Ravi, admitted the offence and volunteered to produce the vehicle which was used for committing the offence. The said confession statement was recorded in the presence of PW4-Easwaran and one Rajkumar. Pursuant to the confession statement, the said accused brought the investigation team to a place wherein the bike bearing No.TN38AU8588 was hidden. Admitted portion of his confession statement was marked as Ex.P35. The motorcycle was recovered by PW27 under the cover of Mahazar.

3.11. Further, based on the confession statement given by Karthick, on the same day at 1700 hrs, the dresses worn by the deceased along with bike bearing Regn.No.TN38AU8588 was recovered by PW27 in the presence of the same persons. Trousers and half hand shirt of the deceased were marked M.O.Nos.9 and 10, respectively. Then all of them went to the police station. In the police station, PW27 examined the witnesses and recorded the statement.

3.12. In the meanwhile, on receipt of requisition given by PW27, PW17-Dr.Kalaivani attached to Sathyamangalam Government Hospital, conducted autopsy on 14.03.2016 at about 3.00pm. During the time of autopsy, she found the following injuries on the dead body.

"Opening of thorax: No rib fracture, no blood in thoracic cavity. Heart: 100gm empty. Both lungs partially collapsed a liquified black in colour, Hyoid bone-preserved.

Opening of abdomen: Gas busted out on opening of abdomen.

Stomach: contains 100ml of fluid. Liver-650gm dark black in colour, congested spleen-70gm black in colour, kidneys-(N)-70gm bladder empty. Intestines filled with gas, fowl smelling gas.

Opening of head: No fracture of skull. Brain: liquified".

3.13. During the time of conducting post mortem, PW17 collected the following articles for chemical analysis.

- a) Stomach and its contents
- b) Intestine and its contents
- c) Liver
- d) Kidney
- e) Lungs

f) Hyoid bone and

g) Sternum

After collecting the same, as per the requisition made by the investigation officer, the collected materials which are necessary for viscera examination were sent to PW18-Saravanan and the hyoid bone was sent to PW22-Dr.Peranandham.

3.14. During the time of examination it was identified that there was no poisonous substance found in the dead body of Athikesavan. Further the Hyoid bone collected from the dead body is found intact. The report given by PWs.17 and 22 were marked as Ex.P17 and Ex.P22, respectively.

3.15. In continuation of the investigation, PW27, investigation officer, submitted an application before the Chief Judicial Magistrate, Tiruppur, for appointing a Judicial Officer for conducting an identification parade. Accordingly, one Mr.V.Velusamy, Judicial Magistrate No.2, Tiruppur was appointed for the said purpose. On 18.03.2016, for making arrangement, he sent a letter to the Central Prison, Coimbatore and to the Borstal School, Pollachi. In the identification parade, 4th accused Karthick and 2nd accused Shanmugasundaram were identified by the witnesses. Similarly, in the identification parade conducted in Central Prison, Coimbatore, the 3rd accused Ravi was identified by the witnesses. The Judicial Officer who conducted the identification parade was examined as PW23 and the report given by the said witness was marked before the trial Court as Ex.P23.

3.16. Thereafter, PW27 submitted an application to the Judicial Magistrate for sending the material objects, for chemical examination, which were collected during the course of investigation. As per the requisition, the material objects, which were collected during the course of investigation, were sent to the forensic department, Chennai.

3.17. PW17, after collecting the material objects, on examination he has reported that he detected diatom in Item No.2, river water, but not in Item No.1, sternum piece. The report given by the said expert was marked as Ex.P18. After collecting the chemical examination report, PW17-Doctor, issued a final opinion under Ex.P19, in which she has stated that the deceased would have appeared to have died of asphyxia due to drowning.

3.18. PW27, collected the attendance register and record sheet, maintained in the school, in which the deceased was studying and the same were marked as Exs.P13 and 14 respectively.

3.19. After completing the above all formalities, PW27-Jothi filed a final report as against the accused under Sections 120-B, 364, 302 and 201 IPC.

4. The learned trial Judge after recording the evidence on the side of the prosecution in respect to the incriminating materials adduced on the side of the prosecution, questioned the accused under Section 313 Cr.P.C. for which all the accused pleaded not guilty. However, they did not chose to produce any witness or mark any document on their side.

5. The learned trial Judge, after perusing all the materials and after considering the arguments advanced on either side, acquitted the accused as stated supra.

6. Aggrieved by the order of acquittal, the State is before this Court with the present appeal.

7. We heard Mrs.M.Prabhavathi, learned Additional Public Prosecutor appearing for the State/appellant and Mr.M.Mohammed Saifullah, learned counsel appearing for the accused/respondents and perused the materials available on record.

8. The learned Additional Public Prosecutor appearing for the appellant / State would contend that initially due to some family dispute, the mother of the deceased left the matrimonial home and stayed at her maternal home along with her daughter, while at that time the deceased Athikesavan was with his father PW1. During such time, the mother of the deceased developed illegal intimacy with the first accused. After some time, the said relationship was cut down and she was willing to join with the father of the deceased. Aggrieved over the same, the 1st accused along with the help of other accused, for the purpose of taking revenge, committed the offence. She would further contend that before the trial Court, the prosecution has proved the motive, nature of death, last seen theory and the nexus between the accused and the crime.

9. Learned Additional Public Prosecutor further submitted that the learned trial Judge disbelieved the witnesses, who are all supported the prosecution, by saying that the prosecution has not proved the nexus between the accused and the commission of offence. Believing the minor contradiction available in the facts and circumstances given by the prosecution witnesses, learned trial Judge came to the said conclusion, which is erroneous in law. According to her, the charges framed against the accused are all proved beyond reasonable doubt.

10. Per contra, learned counsel appearing for the respondent/accused would contend that the circumstances which

are shown by the prosecution witnesses do not form a chain so complete as not to leave any reasonable doubt or exclude any possible hypothesis except the one to be proved, nor the circumstances sufficient and adequate to hold that the prosecution had established its case beyond any reasonable doubt.

11. Upon considering the arguments advanced by either side, it is true since the case filed by the prosecution rests on the circumstantial evidence, it is necessary for them to prove the circumstances, sufficient and adequate to hold that the prosecution has established its case beyond any reasonable doubt. In this aspect, in a case in Baiju Kumar Soni and Another Vs. State of Jharkhand, reported in (2019) 3 MLJ (Crl.) 585 (SC), our Hon'ble Apex Court has held as follows:

"In a case based on circumstantial evidence, every circumstance must be fully proved and all the circumstances must form a chain of evidence so complete as to exclude every hypothesis other than the guilt of the accused. These circumstances do not form a chain so complete as not to leave any reasonable doubt or exclude every possible hypothesis except the one to be proved, nor are the circumstances sufficient and adequate to hold that the prosecution had established its case beyond any reasonable doubt."

So, applying the said principle to the case in our hand, in this case, it is necessary for the prosecution to prove the circumstances which form a chain of evidence so complete as to exclude other than the guilt of the accused.

12. First of all, in respect to the motive, the case of the prosecution is that the mother of the deceased refused to continue the illegal intimacy with the first accused, thereby, the first accused got developed enmity and with the help of other accused planned to kill the deceased.

13. In this regard, on going through the evidence given by PW2, who is the mother of the deceased, she has categorically stated about the developing of illegal intimacy with the first accused and after some time since she has refused to continue the same, the first accused threatened her by saying as above. Though, the said story put forth by PW2 and PW1 was disputed on the side of the accused, considering the fact that PW2, being the lady, there is no necessity for her to say like this, which touch upon the character assassination. So in the aspect of motive, the prosecution has proved its case as above.

14. In respect to the theory of last seen, PW8-Moorthy has stated that on 11.03.2006, when he was in his tea shop, two

unknown persons, took the deceased Athikesavan, in front of the school and brought to the car in which all the accused were present. When the same was questioned by him, first accused-Kumaresan, replied that his grandmother asked to bring the deceased to her house. Corroborating the same, PW9, Mahendran, has stated in his chief examination that on the same day at about 5 pm, when he was in the bank of Bhavani river all the accused herein brought the deceased. He has further stated that only on 13.03.2016, he came to the knowledge that the small boy, who was present along with the accused, was murdered.

15. Now, correlating the above evidence with the case of prosecution, the evidence given by PW8 and PW9, is sufficient to prove the fact that the deceased was found together with the accused prior to the time of death.

16. In this regard, the learned counsel appearing for the respondents/accused would contend that prior to the occurrence both PW8 and PW9 do not know the names and addresses of the accused. So it is not possible to identify the accused after long gap from the date of occurrence and therefore, their evidence cannot be relied upon.

17. On the other hand, the learned Additional Public Prosecutor, would contend that during the course of investigation, PW23, Judicial Magistrate, Mr.Velusamy conducted an identification parade in the Central Prison, Coimbatore, as well in Borstal School, Pollachi, in which PW8 & PW9, participated as witnesses and identified the accused. So the arguments advanced by the learned counsel for the respondents/accused, do not have any merit.

18. Upon considering the arguments advanced by the counsel appearing on either side, though the evidence let in by PW23, Judicial Magistrate, Mr.Velusamy confirms that PW8 and PW9 identified the accused, earlier, during the cross examination, both PW8 and PW9 have stated that before participating in the identification parade they have seen the accused in the police station. The said evidence given by PW8 and PW9 will dilute the veracity of evidence given by PW8 and PW9, in the chief examination. It is easy for them to identify the accused in the identification parade after seeing them in the police station. In the said circumstances, it is relevant and useful to see the judgment in Vijayan @ Rajan Vs. State of Kerala, reported in 1999 SCC (Cr1.) 378, wherein our Hon'ble Apex Court has been held as follows.

"7....That apart his so called identification in the Test Identification Parade was rightly dis-believed by the Sessions Judge in as much as by the date the Test Identification Parade was conducted not only the

photograph of the accused had been shown to PW3 and in all probability must have been shown to Pw9 but also in all the local newspapers the photograph had already been printed. In such circumstances the Sessions Judge in our view, rightly came to the conclusion that the Test Identification Parade is nothing but a farce and cannot be relied upon."

19. Further in the judgment in Ravi @ Ravichandran Vs. State, rep. by Inspector of Police, reported in 2007 (15) SCC 377, our Hon'ble Apex Court has held as follows.

"16... The test identification parade was held after ten days. It is also not in dispute that the photographs of the accused were taken at the police station. The Investigation Officer allowed them to be published. Photographs of the appellant and the said Udayakumar were not only published, according to the prosecution witnesses, they were shown to be the accused in the aforementioned crime. Some of the them admittedly were aware of the said publication. The purported test identification parade which was held ten days thereafter, in our opinion, loses all significance, in the aforementioned fact situation."

20. Applying the ratio decidendi of the judgments referred above, herein also the cross examination of PW8 and PW9 signifies the fact that prior to identifying the accused in the Central Prison, Coimbatore, they have seen the accused in the police station. Therefore, much reliance cannot be placed on the evidence given by PW8 and PW9. Accordingly, we are of the considered opinion that the last seen theory put forth by the prosecution also does not have any significance to prove the case of the prosecution.

21. As far as regarding the extra-judicial confession statement, before the trial Court PW6-Balan, VAO, was examined on the side of the prosecution, and as already stated, he has deposed that on 14.03.2006 at about 2am, his Assistant Subramanian contacted him through telephone and informed about the surrender of A1 and A2. Immediately, at about 2.30am, he arrived to his office and recorded their confession statements. According to him, both A1 and A2, gave confession separately which was recorded under Exs.P10 and P11, respectively. After recording the above statements, he handed over the accused to the Inspector of Police along with the Special Report, which was marked as Ex.P12.

22. In respect to the said evidence, the learned counsel appearing for the respondents/accused would contend that as per the evidence given by PW6, all the documents i.e., Exs.P10, P11

and P12, are written by PW6. But on a cursory look of those documents, it seems that those documents were written by two persons, which was admitted by PW6 in his cross examination. Therefore, the extra-judicial confession statement relied on by the prosecution, also does not have much importance to accept the case of the prosecution.

23. Now, on considering the submission made by the learned counsel appearing for the respondents/accused, it is true that during the time of cross examination, PW6 has stated that all documents marked as Exs.P10, P11 and P12 are written by him. However, he has admitted that there was a difference in the handwritten made in Ex.P12.

24. Yet another fact necessary for deciding the extra-judicial confession statement is that as per the evidence given by the PW6, prior to the occurrence both A1 and A2, did not know the PW6. Further, according to the evidence of PW6, both A1 and A2 surrendered at 2.00am, which is almost midnight. Those circumstances creates a doubt whether it is possible for a man to surrender before an unknown person, especially at 2.00am. In this regard, it is necessary to see the judgment in Sakthivel Vs. State by the Inspector of Police, Papparapatty Police Station, Dharmapuri District, reported in 2017 (4) MLJ (CrL.) 715 in which, this Court has held as follows:

"It is well settled that extra-judicial confession can be the basis of conviction, provided it passes the test of credibility and unless and until it inspires the confidence of the Court with other cogent circumstances, it cannot be the basis to record conviction."

25. Further, in SK. Yusuf Vs. State of West Bengal, reported in 2012(1) MLJ (CrL.) 127, our Hon'ble Apex Court has held as follows:

" 22.... The Court while dealing with a circumstance of extra-judicial confession must keep in mind that it is a very weak type of evidence and require appreciation with great caution.

Extra-judicial confession must be established to be true and made voluntarily and in a fit state of mind. The words of the witness must be clear, unambiguous and clearly convey that accused is the perpetrator of the crime. The "extra-judicial confession can be accepted and can be the basis of a conviction if it passes the test of credibility". See: State of Rajasthan v. Raja Ram, (2003) 8 SCC 180; and Kulvinder Singh @ Anr. v. State of Haryana, (2011) 5 SCC 258).

26. Further, this Court while at the time of deciding the case of Anumuthu Vs. Inspector of Police, reported in 2003 (1) MNW (Cr.) (DB) 259, has held as follows:

"17... It is noticed that P.W.4 would admit in cross-examination that he is utter stranger to the accused. Under those circumstances, we are unable to believe the version of P.W.4 that the accused had gone to P.W.4's place and given extra-judicial confession."

27. Therefore, applying the principles set out in the judgments referred above, herein also the variation in the writings, time of surrender, extra-judicial confession statement recorded by PW6 who is a stranger to A1 and A2, all creates a doubt whether the story put forth by the prosecution in respect to the extra-judicial confession statement, is true or not. Hence, we are of the considered opinion that the extra-judicial confession statement which is the material evidence for the case of prosecution has also not been proved in the manner known to law.

28. As far as recovery of material objects, is concerned, since the occurrence happened in the Bhavani River, only sample of water was collected from the Bhavani river and the same was sent to chemical examination. As per the report, though the sample water contained diatom, the same is not found in the sternum piece, sent for chemical examination. Therefore, the same also is not having any much reliance in connecting the accused with the crime.

29. Further, as per the evidence given by the investigation officer, though all M.Os., were recovered as per the confession given by different accused, that alone is not sufficient to connect the accused with the crime. In fact, those material objects were recovered as per the confession given by the accused in presence of PW4 and the investigation officer. Even assuming those material objects are recovered within the Section 27 of the Indian Evidence Act, the said objects do not connect the accused with the crime. In this regard, it is necessary to see the judgment in Arup Bhuyan Vs. State of Assam, reported in 2011 (3) SCC 377, in which our Hon'ble Apex Court has held as follows

"5. Confession is a very weak kind of evidence. As is well known, the wide spread and rampant practice in the police in India is to use third degree methods for extracting confessions from the alleged accused. Hence, the courts have to be cautious in accepting confessions made to the police by the alleged accused.

6. Unfortunately, the police in our country are not trained in scientific investigation (as is the police in Western countries) nor are they provided the technical equipments for scientific investigation, hence to obtain a conviction they often rely on the easy short cut of procuring a confession under torture."

30. Moreover, in this case, the prosecution failed to establish the fact that M.O.1, Omni Van bearing Regn.No.TN-37-AX-5576 and M.O.5, Pulser Two-wheeler bearing Regn.No.TN-38-AV-8588, belongs to the accused. In this context, it is relevant to see the judgment of our Hon'ble Apex Court in SK. Yusuf's case [quoted supra], wherein our Hon'ble Apex Court has held as follows:

"27....The nature of the admissibility of the facts discovered pursuant to the statement of the accused under Section 27 Indian Evidence Act, 1872 is very limited. If an accused deposes to the police officer the fact as a result of which the weapon with which the crime is committed is discovered, and as a result of such disclosure, recovery of the weapon is made, no inference can be drawn against the accused, if there is no evidence connecting the weapon with the crime alleged to have been committed by the accused."

31. So, applying the principles laid down in the above referred judgments to the case in hand, herein also the material objects which are all collected during the course of investigation, is not in the form of connecting the accused with the crime.

32. More than that, since the appeal is preferred by the State against the order of acquittal, it is necessary to see the judgment in Bannareddy and Others Vs. State of Karnataka and Others, reported in 2018 (5) SCC 790, wherein our Hon'ble Apex Court has held as follows:

"10.....It is well settled principle of law that the High Court should not interfere in the well reasoned order of the trial court which has been arrived at after proper appreciation of the evidence. The High Court should give due regard to the findings and the conclusions reached by the trial court unless strong and compelling reasons exist in the evidence itself which can dislodge the findings itself. This principle has further been elucidated in the case of Sambhaji Hindurao Desmukh and Ors. vs. State of Maharashtra, (2008) 11 SCC 186, para 13, wherein this Court observed that:

".....The High Court will interfere in appeals against acquittals, only where the trial court makes wrong assumptions of material facts or fails to appreciate the evidence properly. If two views are reasonably possible from the evidence on record, one favouring the accused and one against the accused, the High Court is not expected to reverse the acquittal merely because it would have taken the view against the accused had it tried the case. The very fact that two views are possible makes it clear that the prosecution has not proved the guilt of the accused beyond reasonable doubt and consequently the accused is entitled to benefit of doubt."

33. Further, in an appeal against acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him and the fundamental principle of criminal justice delivery system is that every person, accused of committing an offence shall be presumed to be innocent, unless his guilt is proved by a competent Court of law. Secondly, if the accused has secured an order of acquittal, the presumption of his innocence is reaffirmed and strengthened by the trial Court. Even if two reasonable conclusions are possible on the basis of evidence on record, an appellate Court should not disturb the finding of the acquittal recorded by the trial Court.

34. In this case also, as already observed, evidence given by the witnesses who are all examined on the side of prosecution to prove the necessary ingredients for accepting the case of prosecution, has not attracted much reliance for accepting the case of the prosecution.

35. Therefore, having heard the learned counsel on either side and having gone through the material on record, apparently, there is no eyewitness to incidence and case is entirely based upon circumstantial evidence. In such a case, the Court is expected to be more careful while analysing evidence and convicting the accused. In other words, in all probabilities, chain of circumstances should lead to irresistible conclusion that accused participated in commission of crime and committed the offence.

36. But in this case, the evidence recorded on the side of the prosecution does not lead to the irresistible conclusion that the accused participated in commission of crime and committed the offence. Therefore, we are of the firm opinion that prosecution has miserably failed to prove its case and thereby, order of acquittal passed by the Court below is well

within the four corners of law. Hence, the appeal deserves to be dismissed.

37. In the result, the Criminal Appeal is dismissed and the impugned order of acquittal dated 02.03.2017 passed by the learned I Additional District and Sessions Judge, Tiruppur, in S.C.No.115 of 2016, is hereby confirmed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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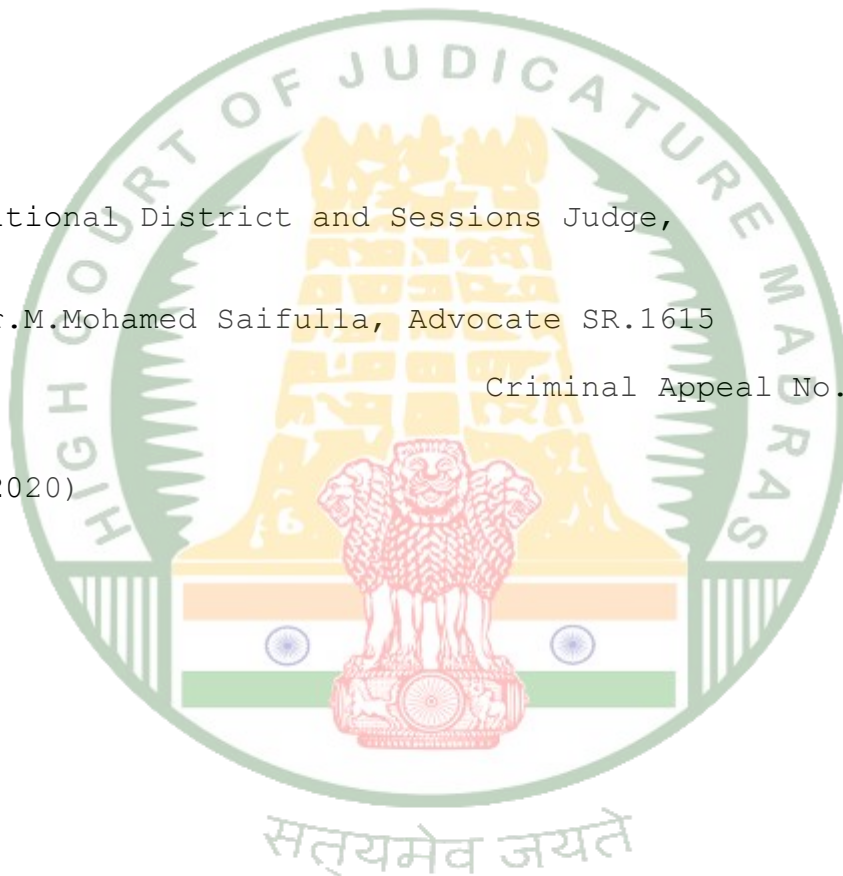
To

The I Additional District and Sessions Judge,
Tiruppur.

+2cc to Mr.M.Mohamed Saifulla, Advocate SR.1615

Criminal Appeal No.752 of 2017

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