



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE **T.RAJA**

AND

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

CRIMINAL APPEAL(MD)No.503 of 2018

Balasubramani : Appellant / 1st Accused

Vs.

State represented by
the Deputy Superintendent of Police,
Karur Sub Division,
Karur District.

: Respondent / Complainant

PRAYER: Appeal filed under Section 374(2) of the Code of Criminal Procedure, to set aside the judgment and conviction dated 10.10.2018 made in S.C.No.91 of 2017, on the file of the learned Principal Sessions Judge, Karur and acquit the appellant.

For Appellant : Mr.P.Ganapathi Subramanian

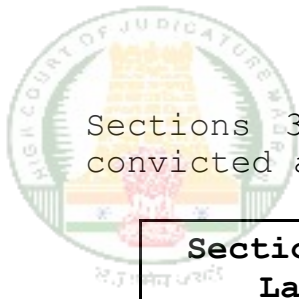
For Respondent : Mr.K.K.Ramakrishnan,
Additional Public Prosecutor

JUDGMENT

B. PUGALENDHI, J.

This appeal is arising out of the conviction and sentence imposed by the Principal Sessions Judge, Karur in S.C.No.91 of 2017, dated 10.10.2018.

2.The appellant [accused No.1] was tried before the trial Court for the offence under Sections 120(B), 364, 302, and 201 of the Indian Penal Code [in short IPC] and Sections 3(2)(v) and 3(2)(vi) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act [in short SC/ST Act], along with two other accused. The trial Court by the judgment impugned in this appeal, found accused Nos.2 and 3 not guilty and acquitted them of the charges levelled against them. The trial Court also found this appellant/accused No.1 not guilty for the offence under Sections 120(B) and 201 IPC and Section 3(2)(vi) of SC/ST Act. But the trial Court found the appellant/first accused guilty for the offence under



Sections 364 and 302 IPC and Section 3(2)(v) of the SC/ST Act, convicted and sentenced him as follows:

Section of Law	Sentence of imprisonment	Fine amount
364 I.P.C.	To undergo rigorous imprisonment for Ten months.	Rs.1000/- in default to undergo simple imprisonment for two month.
302 I.P.C.	To undergo imprisonment for life.	Rs.5,000/- in default to undergo simple imprisonment for one year.
3(2)(v) of the SC/ST Act	To undergo rigorous imprisonment for life	Rs.5000/- in default to undergo simple imprisonment for two months

The sentences were ordered to run concurrently. As against the conviction and sentence the appellant/accused No.1 preferred the present appeal.

3.The facts of the case, in a nutshell, are as follows:

3.1. The deceased Sudha daughter of Muniyappan [PW1], was residing at Thottakurichi village. She belongs to Schedule Caste Community. She is also a physically challenged person. She fell in love with this appellant Balasubramanian. They met each other often. The appellant by making a false promise to marry her had obtained 48 gms of gold jewels and cash Rs.40,000/- from the deceased and used that money to settle a vehicle loan.

3.2.The deceased once requested this appellant to marry her. The appellant refused to marry her by saying that she belongs to schedule caste, also a physically challenged person and he belongs to other community. Therefore, his parents would not accept her. Worried by the reply, the deceased warned this appellant that she would lodge a complaint before the Police, if he had not married her. This appellant, therefore, decided to do away with her, thinking that she would be creating problems to him in future. He engaged the second accused Kannan and the absconding accused Balasubramanian to kill Sudha and he also consented to give Rs.3,50,000/- to each.

3.3.They entered into a conspiracy to kill Sudha. Consequent to the conspiracy, on 20.12.2010, the appellant requested the deceased to come to Manapparai for going to Tiruchendur Murugan Temple for marrying her. This appellant hired a Maruti van bearing Registration No.TN 47 Z 7392 from the third accused Dinesh and brought the vehicle to Manapparai bypass road and picked up the deceased in the Car. One Vanitha, who accompanied the deceased to Manapparai



returned to Karur. At Thuvarankurichi, the second and third accused consumed alcohol and mixed the alcohol with cool drink and gave the same to the first accused and Sudha. After she consumed it, the accused took her to Pandhalkudi in Aruppukottai Taluk. The first, second and the absconding accused asked the third accused to stay back in the car itself. All the other three accused took the deceased to a near by place. They removed her saree and this appellant throttled her neck with the saree and killed her. The absconding accused helped this appellant by holding the legs of the deceased and the second accused Kannan helped the first accused by smothering the deceased, in the commission of offence. After killing her, they suspended the body in a tree by the saree and projected as if suicidal hanging.

3.4.Meanwhile, on 23.12.2010 a complaint was lodged before the Pandhalkudi Police Station, Virudhunagar District, by the Village Administrative Officer of Velayudhapuram Village that on 23.12.2010 at 12.00 noon an unknown female around 24 years old was found hanging in a tree in the land in S.F.No.472, two kilo meters away from the Udayanathapuram village, belonging to one Chinnammal wife of Palanivel Chettiyar. Kannan, Sub Inspector of Police [PW27], on receipt of the complaint, registered a case in Crime No.200 of 2010 under Section 174 CrPC and the FIR is marked as Exp17.

3.5.The investigation in this case was taken by Avudayappan, Sub Inspector of Police [PW32], Pandhalkudi Police Station on 23.12.2010. On the same day at about 2.30pm, PW32 went to the place of occurrence, where, he found the deceased was hanging in a tree and after bringing the body down, he sent the body to the Government Hospital at Aruppukottai for postmortem. He also prepared an observation mahazar [Exp9] and a rough sketch [Exp25] in the presence of witnesses Ayyathurai, Murugan, Murugesan, Subburasu, Kesavan, Kalaiyarasan and Sankaralingam and recorded their statements. As there was suspicion on the death, PW32 altered the offence under Section 174 CrPC as suspicious death and the alteration report is marked as Exp26. On 24.12.2010, PW32 conducted inquest in the presence of Panayatara at the Mortuary in the Government Hospital at Aruppukottai from 11.00am to 1.00pm and the inquest report is marked as Exp27. Priya Venkatasamy [PW31] is a Doctor at Government Hospital, Aruppukottai, who conducted postmortem on the deceased at 4.40pm on 24.12.2010. She has noted down the following injuries in the postmortem certificate [Exp24].

"External injuries

1.An abrasion measuring 6 cmX3cm over left interligous region with adjacent contusion measuring 10 X 6 cm.

2.Two abrasions in peineal region of each measuring 3 X 1 cm.

3.Incomplete ligature mark of 3.5 cm in dimension 1.5 cm depth starting the angle of mandible to left side of



neck, just below the angle of mandible, encircling the back of neck and extending upto 1cm lateral to midline on right side of neck.

4. Ligature knot impression seen on base of menlim measuring 5 X 3cm. No congestion seen in tissue underlying the ligature mark in surrounding tissues."

3.6. The Doctor found the ribs intact. The greater horn in the hyoid bone was broken. Lungs were pale and congested. Liver was reddish brown in colour and it was also congested. Stomach contained 10 ml of brown colour fluid. Intestine was distended with gas. Spleen and kidney were dark and congested. Uterus was normal and empty. No uterine injuries were present. Bladder was empty. Skull bone was intact. Membranes were intact. Brain was liquefied. The spinal column was intact. There was no poison found in the visceral organs of the deceased. Semen was not found in the vaginal swab.

3.7. The Doctor gave her final opinion that the deceased would appear to have died due to Asphyxia and it sequences four days prior to the autopsy.

3.8. Then PW32 collected the visceral organs and hyoid bone and forwarded them for forensic examination through the Court. PW32 also recovered a saree [MO8], blouse [MO9], inskirt [MO10], wrist watch [MO11], ring [MO5], a pair of ear stud [MO4] and a nose stud [MO8]. PW32 also collected Exp29 report from the Forensic Department and it was found that there was a fracture in the hyoid bone.

3.9. Meanwhile, on 04.01.2011, the father [PW1] of the deceased lodged a complaint before the Velayudhampalayam Police Station that her daughter was abducted by one Balasubramani and others on 20.12.2010 and on receipt of the complaint, Kummaraja [PW33], Inspector of Police, Velayudhampalayam Police Station, Karur District registered a case in Crime No.4 of 2011 and the FIR is marked as Exp30. PW33 Inspector of Police, Velayudhampalayam Police Station visited the place of occurrence on 05.11.2011 at about 8.30am, prepared an observation mahazar [Exp31] and a rough sketch [Exp32] in the presence of witnesses Veeramani and another. On 06.11.2011, he examined Vanitha [PW4] friend of the deceased.

3.10. PW32 Inspector of Police, Pandhalkudi Police Station, made a paper publication in the dailies about the unknown body detected in his jurisdiction. On noticing the paper publication, Muniyappan [PW1] father and Duraisamy [PW2] brother of the deceased came to the Pandhalkudi Police Station on 22.01.2011 and they identified the deceased as Sudha, daughter of PW1 and they also identified the recovered articles belonged to Sudha. After contacting the Velayudhampalayam Police Station, Karur District and as per the directions of the Superintendent of Police, Virudhungan District, PW32 handed over the case file in Crime No.200 of 2010 to the



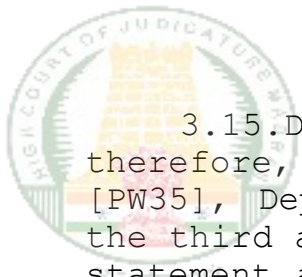
Inspector of Police [PW33], Velayudhampalayam Police Station, Karur District.

3.11. On 20.01.2011, the first accused surrendered before Ashok Kumar [PW28], then Revenue Divisional Officer at Karur and gave a voluntary confession statement. PW28 recorded the confession statement [ExP18] and handed over the first accused along with ExP18 to the Inspector of Police [PW33] of Velayudhampalayam Police Station. The first accused also gave a confession statement [ExP37] before the Inspector of Police [PW33]. Pursuant to the same, he arrested the absconding accused Balu alias Balasubramanian in the presence of witnesses Periyannan and Ramesh and also arrested the second accused Kannan, on 22.01.2011 at about 2.00pm from Lakshmi Lodge at Trichy. The other arrested accused, voluntarily gave their confession statements. As per the confession statement of the accused one Balu @ Balasubramanian, PW33 recovered a handbag [MO12] from a shop at Manapparai and recovered a pair of anklet [MO3] from the confession of the second accused Kannan and a Nokia mobile phone [MO7] was also recovered from the confession statement of the appellant/accused. Pursuant to the confession statement of this appellant/accused, a gold aaram weighing 32 grams [MO1] and a gold chain weighing 16 grams [MO2] were also recovered from a pawn broker shop of one Udhayakumar.

3.12. On the materials collected, PW33 has also filed an alteration report in ExP40 before the concerned Court by adding the penal provisions under the Scheduled Caste and Scheduled Tribe [Prevention of Atrocities] Act.

3.13. Pursuant to the alteration report [ExP40], the further investigation was taken over by the Deputy Superintendent of Police, Aravakuruchi [PW34] from 22.01.2011 and he recorded the statements of the witnesses and recovered receipts [ExP42 Series] from a pawn broker shop, subjected the accused for medical examination and made a request to the Tahsildar, Aruppukottai to exhume the body and accordingly, the body of the deceased was exhumed on 30.02.2011 in the presence of the Thasildar, Aruppukottai and the Doctor [PW29]. The Doctor [PW29] collected the skull and femur bone from the body and the same were sent for the superimposition test to the Forensic Department through the concerned Court. PW34 also made a request to the learned Chief Judicial Magistrate for recording the statement of Vanitha [PW4] under Section 164 CrPC and on the permission of the Court, her statement was recorded by the learned Judicial Magistrate.

3.14. The Investigation Officer [PW34] recorded the statement of Anthropologist [PW30] collected the superimposition report [ExP23], collected the community certificates of the accused and the deceased.



3.15.During the investigation, PW34 was transferred and therefore, the further investigation was carried out by Thangadurai [PW35], Deputy Superintendent of Police from 24.06.2011. PW35 took the third accused into the Police custody, recorded their confession statement and recovered a car bearing registration No. TN 47 Z 7392 from a workshop at Karur on 25.06.2011. After examining the Doctor [PW31], who conducted Postmortem and the other official witnesses, PW35 filed his final report before the learned Judicial Magistrate No.II, Karur on 12.08.2011. The final report was taken on file in PRC No.35 of 2012, committed to the Court of Sessions and was taken up for trial by the Principal Sessions Judge, Karur in S.C.No.91 of 2017.

4.On the side of the prosecution 35 witnesses were examined, 45 documents were marked and 12 materials objects were produced.

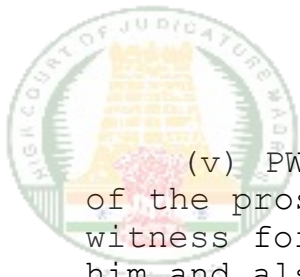
5.The available prosecution evidence are as follows:

(i)PW1 is the father of the deceased. He speaks about missing of her daughter Sudha from 20.12.2010. He further deposed that Vanitha friend of the deceased informed him that Sudha went along with the accused Balasubramani to Tiruchendur for marrying him and she also accompanied her till Manapparai. He also lodged a complaint [Exp1] before the Velayudhampalayam Police Station. He went to Pandalkudi Police Station and identified his daughter through photographs [Exp2 series], identified the body of the deceased, the belongings [MO1 to MO6] of the deceased and the clothes worn by the deceased. During the trial, he identified the mobile phone [MO6], handbag and watch of the deceased MOs11 and 12 respectively.

(ii)PW2 is the elder brother of the deceased. He speaks about missing of his sister from 20.12.2010. He further speaks about Vanitha friend of the deceased, the information that Sudha went along with this appellant/accused to Tiruchendur for their marriage and that she accompanied her upto Manapparai. He also identified his sister through the photographs and her belongings [MOs.1 to 6].

(iii) PW4 is the friend of the deceased and they worked together in a textile company at Karur. She speaks about the love affair between this appellant/accused and the deceased and on the date of occurrence, the deceased and the appellant / accused went to Tiruchendur for marring without the knowledge of their parents. She also accompanied the deceased upto Manapparai in a bus from where, the appellant / accused took the deceased in a white colour Maruti Car bearing Registration No.TN 47 Z 7392.

(iv) PW5 and PW6 are the residents of deceased Village namely, Thottakurichi and they have witnessed the deceased boarding in a Maruti Car on 20.12.2010 at about 7.00pm. PW7 is owner of a hotel at Thuvarankuruchi and he stated that on the date of occurrence, some persons came to his hotel and took parcel food from the hotel.



(v) PW8 owner of the Maruti Car [MO13] did not support the case of the prosecution and he was treated as hostile witness. PW9 is the witness for the arrest of this appellant / accused and recovery from him and also witness for the recovery of MOs.7, 1 and 12.

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(vi) PW10 is the Village Administrative Officer of Velayudhapuram Village, Aruppukottai Taluk, who got information about the hanging of the woman in his jurisdiction on 23.12.2010 and his complaint before the Pandhalkudi Police Station is marked as Exp8. PW11 is the Photographer, who took photographs from the place of occurrence, where the deceased was found hanging.

(vii) PW13 is the Constable, who handed over the body of the deceased for postmortem to the hospital. PW15 is the witness for the observation mahazar [Exp9]. PW17 is the Manger of Srivari petrol bank at Manapparai - Puthanatham Road. He had stated that on the date of occurrence a Maruti car bearing Registration No.TN 47 Z 7392 came to his petrol bank, filled petrol and there were four men and one woman in the car. He also produced the counterfoil [Exp10 series] for filling the fuel in the said vehicle.

(viii) PW28 is the then Revenue Divisional Officer, Karur, before whom the appellant/accused surrendered and gave his voluntary confession statement in Exp18. PW31 is the Doctor at Aruppukottai, who conducted the autopsy and issued postmortem certificate [Exp24]. PW32 is the Inspector of Police, Pandhalkudi Police Station, who recovered the hanging body, conducted preliminary investigation at Pandhalkdudi Police Station. PW33 is the Inspector of Police, Velayudhampalayam Police Station, who registered the case in Crime No.4 of 2011 at the instance of PW1 and also arrested the appellant/accused on 21.01.2011 and another accused on 22.01.2011. PW34 is the Deputy Superintendent of Police, Aravakuruchi, who conducted the preliminary investigation and PW35 is the Investigation Officer, who filed the final report.

6.After examination of the prosecution witnesses, the incriminating materials were put before the accused under Section 313 CrPC by the trial Court and the accused denied the same. Though they stated that there are witnesses on their side, they have neither examined any witness nor produced any document .

7.In conclusion of the trial, the trial Court, found this appellant guilty, convicted and sentenced him as stated supra. As against the conviction and the sentence imposed by the trial Court, the present appeal is filed.

8.Heard Mr.P.Ganapathi Subramaniam, learned Counsel for the appellant and Mr.K.K.Ramakrishnan, learned Additional Public Prosecutor for the State.



9.Mr.P.Ganapathi Subraminam, learned Counsel for the appellant submitted that this is a case of circumstantial evidence and the available circumstances are not sufficient to connect the chain to make out the guilt of this appellant/accused. The trial Court, which extended the benefit of doubt to the co-accused, ought to have extended the benefit of doubt to this accused also.

10.The learned Counsel further submitted that the extra judicial confession statement is a weak piece of evidence and the trial Court has relied upon the extra judicial confession statement [ExP18] and convicted this appellant without considering the grounds and there is no necessity for this appellant to appear before the RDO [PW28] at Karur a high level officer, instead of appearing before the local Village Administrative Officer, with whom he will be having trust.

11.The learned Counsel also submitted that the recoveries were also not established by the prosecution and the owner of the car [PW8] did not support case of the prosecution. The exact time of death is not established from the evidence of the Doctor and the identification of the deceased was also made only through the photographs and therefore, he pleaded that the benefit of doubt be extended to this appellant/accused also.

12.Per contra, Mr.K.K.Ramakrishnan, learned Additional Public Prosecutor submits that the witness PW4 friend of the deceased has clearly stated about the relationship of the appellant/accused with the deceased and their plan for marriage on the date of occurrence without the knowledge of their parents. The appellant/accused has taken the deceased in a Maruti Omni car [M013] and committed the offence along with other accused. Though the other accused were acquitted by the trial court for want of sufficient evidence, the available evidence make out a chain of events connecting the appellant/accused with the commission of offence.

13.The learned Additional Public Prosecutor further stated that the prosecution has established the recovered material objects are that of the deceased, through PW1 and PW2, by conducting superimposition test and through the evidence of Anthropologist [PW30]. Apart from PW4's evidence, PW5 and PW6 residents of the deceased village have also witnessed the deceased along with the accused in a Maruti Omni car on Manapparai bypass road on the date of occurrence. Therefore, according to the learned Additional Public Prosecutor, the prosecution has established the case beyond reasonable doubt and the trial Court, which found this appellant guilty for the commission of the offence, has also extended the benefit to the appellant/accused and acquitted him of the charges under Sections 120(B) and 201 IPC and under Section 3(2)(vi) of the SC/ST Act. Therefore, the learned Additional Public Prosecutor



prayed that there is no reason to interfere with the order of the trial Court.

14.This court paid its anxious consideration to the rival submissions and also perused the available records.

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15.The deceased, appellant / accused and PW4 are the residents of Thottakuruchi village at Karur District. The deceased and the accused were moving closely and having love affairs and the same was also disclosed by the deceased to her friend PW4. Both the deceased and PW4 were working in a textile company at Karur and the deceased has revealed her relationship with the appellant/accused to her friend PW4 and their plan to marry without the knowledge of their parents at Tiruchendur on the date of occurrence. PW4 has also accompanied the deceased upto Manapparai in support of her and at Manapparai the accused took the deceased in a Maruti Omni Car to Tiruchendur for performing marriage. The company of the deceased with the appellant/accused and others was also witnessed by the residents of Thottakuruchi Village PW5 and PW6.

16.Since the deceased was found missing, her father [PW1] along with his son [PW2] went to the Velayudhampalayam Police Station and lodged a complaint in Exp1. The Village Administrative Officer [PW10] of Velayudhapuram Village received the information about the hanging of the body, went to the place of occurrence, ascertained the same and lodged a complaint before the Pandhalkudi Police Station in Exp8. The Inspector of Police, Pandhalkudi Police Station [PW32], recovered the body, conducted the inquest, arranged for the postmortem and also caused the paper publication about the hanging of the body detected in his jurisdiction. On Seeing the paper publication, PW1 and PW2 went to the Pandhalkudi Police Station, identified the body as that of his daughter through the photographs [Exp2 series] taken from the place of occurrence though the photographer [PW11]. The appellant/accused has also surrendered before the RDO, Karur [PW28] on 20.01.2011 and gave his confession statement in Exp18. The Doctor [PW31], who conducted the postmortem, in her report Exp24 has stated that the deceased appear to have died of Asphyxia and its sequences, 4 to 7 days prior to autopsy and in Exp29 it is mentioned a fracture of hyoid bone noted.

17.The case in Crime No.200 of 2010 on the file of the Pandhalkudi Police Station was transferred to Velayudhampalayam Police Station in Karur District and the investigation was carried by PW33, PW34 and PW35.

18.The appellant/accused appeared before the RDO, Karur [PW28] and gave extra judicial confession statement [Exp18] about his relationship with the deceased and the commission of the offence and he was also produced before the Velayudhampalayam Police station by PW28. Pursuant to his statement, the other accused were also



arrested and the anklet [MO3] was recovered from the second accused. A Nokia phone [MO7] was also recovered under cover of mahazar ExP38 from the first accused and a gold Aaram, weighing 32 grams [MO1] and a gold chain [MO2] weighing 16 grams were also recovered from a Pawnshop in Manapparai under a cover of mahazar ExP37.

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19.This is a case of circumstantial evidence. The Hon'ble Supreme Court in the case of **Padala Veera Reddy Vs State of Andhra Pradesh and others**, reported in **1989 Supp 2 SCC 706**, has laid down the following guide lines to appreciate the circumstantial evidence.

"1.The circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established;

2.Those circumstances should be of a definite tendency unerringly pointing towards the guilt of the accused.

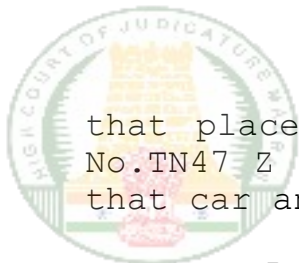
3.the circumstances, taken cumulatively, should form a chain so complete that there is no escape from the conclusion that within all the human probability the crime was committed by the accused and none else; and

4.the circumstantial evidence in order to sustain conviction must be complete and incapable of expalantion of any other hypothesis than that of guilt of the accused and such evidence should not only be consistent with the guilt of the accused but should be inconsistent with his innocence."

20.Bearing in mind the ratio laid down by the Hon'ble Supreme Court, we consider the available evidence and the circumstances in this case carefully, which are as follows:

a.The deceased Sudha in this case is the daughter of PW1, the sister of PW2, is a resident of Thottakuruchi village in Manmangalam Taluk. She was found missing from 20.12.2010 and therefore, PW1 her father lodged a complaint in ExP1 before the Velayudhampalayam Police Station on 04.01.2011. The deceased Sudha belongs to the Scheduled caste community and she is also a physically challenged woman. She was working in a textile company along with her friend Vanitha [PW4]. The first accused is a resident of Thanimanickampatti village and both first accused and the deceased loved each other.

b.Vanitha [PW4] is a close friend of the deceased Sudha and Sudha has disclosed her love affair with the appellant/first accused to PW4. Sudha also took the first accused to her house on an occasion and introduced the first accused to PW4 as her lover. On 20.12.2012 Sudha informed PW4 that she was going to marry the first accused at Tiruchendur Temple and requested her to accompany upto Manapparai. Accordingly, both Sudha and Vanitha [PW4] went in a bus to Manapparai. The first accused informed Sudha the place where he was waiting at Manapparai bypass road and both PW4 and Sudha went to



that place. The accused was waiting in a car bearing Registration No.TN47 Z 7392 [MO13]. The first accused took the deceased Sudha in that car and there were four others in that car.

c.PW5 and PW6 residents of Thottakuruchi village have also witnessed the deceased Sudha boarding the car bearing registration No.TN 47 Z 7392 on 20.12.2010 and the deceased Sudha informed that the persons in the car were her co-workers and they were going to Tiruchendur Temple.

d.The body of the deceased Sudha was recovered in hanging position in a tree on 23.01.2020 in Velayudhapuram Village and the Village Administrative Officer of Velayudhapuram Village noted the same and lodged a complaint to the Pandhalkudi Police Station in Exp8. The village in which, the body was recovered is near Aruppukottai on the way to Tiruchendur from Manapparai.

e.The Doctor [PW31] conducted postmortem on 24.12.2010 at about 4.40pm and noted the following external injuries.

- " 1.An abrasion measuring 6 cmX3cm over left interligious region with adjacent contusion measuring 10 X 6 cm.
- 2.Two abrasions in peineal region of each measuring 3 X 1 cm.
- 3.Incomplete ligature mark of 3.5 cm in dimension 1.5 cm depth starting the angle of mandible to left side of neck, just below the angle of mandible, encircling the back of neck and extending upto 1cm lateral to midline on right side of neck.
- 4.Ligature knot impression seen on base of menlim measuring 5 X3cm. No congestion seen in tissue underlying the ligature mark in surrounding tissues."

f.The Doctor gave her opinion that the deceased died due to asphyxia four to seven days prior to the autopsy.

g.The photographs [Exp2 Series] of the deceased in the hanging position were taken and on seeing the paper news, PW1 and PW2 went to the Pandhalkudi Police Station and identified the deceased as his daughter and also identified the clothes and other material objects recovered from the deceased as that of his the deceased Sudha.

h.The investigation agency recovered the skull and femur bone and sent for superimposition test and Anthropologist [PW30] in her report Exp23 noted that the skull belonged to an adult female individual and the skull could possible have belonged to the female of the individual seen in the photograph.

i.The appellant/accused appeared before the RDO [PW28] and gave his extra judicial confession statement [Exp18]. Though the extra judicial confession statement is a weak piece of evidence, the



confession statement was given before the Executive Magistrate/ RDO [PW28] on 20.01.2011, after the body was recovered.

j.Pursuant to the confession statement of the appellant/accused a mobile phone [MO7] and gold ornaments [MO1 and MO2] of the deceased were recovered from a pawn broker shop and the receipts were also marked as Exp42 series.

k.The other accused were arrested pursuant to the confession of this appellant and a car bearing registration No.TN 47 Z 7392 [MO13] was recovered from a workshop at Karur on 25.06.2011.

l.The Investigation Officer found the car bearing registration No.TN 47 Z 7392, filled fuel in the Srivari petrol bank on 20.12.2010. PW17 the Manager of the Srivari petrol bank situated on the Puthanatham road was examined and the receipt book maintained in the petrol bank was recovered and marked as Exp10, which would reveal that fuel was filled in the said car bearing Registration No. TN 47 Z 7392 on the date of occurrence at 8.00pm. The said petrol bank is also on the way to Tiruchendur from Manapparai.

m.PW7 Hotel owner has also identified that the accused came to his hotel on the date of occurrence and collected some parcel food from his hotel.

21.The available evidence as projected by the prosecution, as discussed above are cogent and sufficiently establish the commission of offence as against this appellant/accused. The appellant/accused exploited the deceased Sudha, took her jewels, when she insisted for marriage, refused and since the deceased intimidated him for lodging a complaint, he eliminated her with the help of other accused. Though the available evidence are not sufficient to sustain the conviction, the circumstances available are the witnesses PW4 to PW6 last seen the deceased Sudha in the company of the accused, the recovery of the body in a suspicious circumstances, the recovery of the deceased's jewels at the instance of the appellant and the cause of death reported by the Doctor [PW31], unerringly pointing towards the guilt of this appellant and the circumstances are complete, connecting as a chain and incapable of explanation of any other hypothesis than that of the guilt of this appellant/accused.

22.We are of the view that the circumstances projected by the prosecution establish a close link with each other and form a complete chain unerringly pointing to the guilt of the accused and as such, we are not inclined to interfere with the conviction and sentence imposed by the trial Court.

23.In the light of the above discussion,

- the appeal is dismissed;
- the judgment dated 10.10.2018 made in S.C.No.91 of 2017 by the learned Principal Sessions Judge, Karur is hereby confirmed;



- the trial Court is directed to secure the appellant/accused and confine him to prison to undergo the remaining period of sentence, if he is on bail.
- Bail bonds, if any executed by the accused, shall stand terminated.

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Sd/-

Assistant Registrar (CO)

// True Copy //

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Sub Assistant Registrar(CS)

To

- 1.The Principal Sessions Judge, Karur.
- 2.The Deputy Superintendent of Police,
Karur Sub Division, Karur District.
- 3.The Director General of Police, Mylapore, Chennai.
- 4.The District Collector, Karur.
- 5.The Superintendent of Police, Karur.
- 6.The Chief Judicial Magistrate, Karur.
- 7.The Judicial Magistrate II, Karur.
- 8.The Inspector of Police,
Velayuthampalayam Police Station.

Copy to:

- 1.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- 2.The record Keeper, (2 copies)
Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.P.GANAPATHI SUBRAMANIAN, Advocate (SR-4519[F] dated 03/02/2020)

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