

**Bail Slip**

The Appellant her in / Accused viz., namely Murugan, S/o.Pandi, was released on bail dated 02.08.2018 made in Crl.M.P. (MD).No.4887/2018 in Crl.A(MD).No.284/2018.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 17.08.2021	Delivered on : 06.09.2021
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CORAM**THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN****AND****THE HONOURABLE MRS.JUSTICE J.NISHA BANU****CRL.A (MD)No.284 of 2018**

Murugan

.. Appellant/Sole Accused/
Petitioner

-vs-

State through the
Deputy Superintendent of Police,
Samayanallur Division,
Allanganallur Police Station,
Madurai District.
(Crime No.451 of 2016).

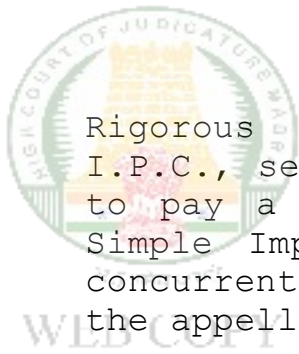
.. Respondent/Respondent/
Complainant

PRAYER: Criminal Appeal filed under Section 374(2) of the Code of Criminal Procedure against the judgment of the III Additional District and Sessions Judge (PCR), Madurai in Special S.C.No.51 of 2017 dated 11.04.2018.

For Appellant	::	Mr.Gopalakrishna Lakshmana Raju, Senior Counsel for Mr.C.Meenakshi Rama Prabu
For Respondent	::	Mr.S.Ravi Standing Counsel for State

JUDGMENT**(Judgment of the Court was delivered by V.BHARATHIDASAN, J.)**

The appellant, a sole accused, in Special S.C.No.51 of 2017, on the file of the learned III Additional District and Sessions Judge (PCR), Madurai, stood charged and convicted for the offence under Section 302 I.P.C r/w 3(2)V) of SC/ST Act and Section 506 (ii) I.P.C., ; for the offence under Section 302 I.P.C r/w 3(2) (V) of SC/ST Act, appellant sentenced to undergo Life Imprisonment and to pay a fine of Rs.5,000/-, in default to undergo one year



Rigorous Imprisonment; for the offence under Section 506(ii) I.P.C., sentenced to undergo seven years Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default to undergo six months Simple Imprisonment. Both the sentences are ordered to be run concurrently. Challenging the aforesaid conviction and sentence, the appellant is before this Court with this Criminal Appeal.

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

The deceased one Nagajothi, is the wife of P.W.1 and sister of P.W.2. She was working as a Cashier in a Petrol Filling Station at Palamedu, Madurai. The deceased belongs to Hindu Scheduled Caste, Pallar, Community and the accused belongs to Backward Class, Saadhu Chettiyar Community. In the year 2005, P.W.1 got married to the deceased. It was a love marriage and they got two children to the wedlock. Subsequently, the deceased said to have developed illicit intimacy with the accused and a complaint had also been given by P.W.1 against the accused before Oomachikulam Police Station, where the accused appeared and given undertaking that, he will not have any contact with the deceased in future and he will not harass her. Despite that undertaking, the accused started harassing the deceased. In the above circumstances, P.W.1/husband of the deceased used to drop the deceased to the Petrol Filling Station daily. On 16.10.2016, P.W.1 dropped the deceased in the work place. Thereafter, he took another two wheeler, a TVS Scooty Pep, bearing Registration No.TN 59 AA 4125, from one Marudhupandi and handed over the same to the deceased, and at about 7.00 p.m., both P.Ws.1 and 2, went to the Petrol Pump where the deceased was working to take her back. While returning back, the deceased was riding a two wheeler TVS Scooty Pep and both P.Ws.1 and 2 followed her in another two-wheeler, in Alanganallur-Palamedu main road. At about 7.15 p.m., while they were nearing a Shampoo Factory, the accused came in a two wheeler, overtook P.Ws.1 and 2, and attacked the deceased with knife and dashed against the vehicle of the deceased. While the deceased fell down, again he stabbed her in the hip and silted her throat. When P.Ws.1 and 2 tried to prevent him, he criminally intimidated him and escaped from the scene of occurrence. Immediately, they called an Ambulance and took her to Vadipatti Government Hospital, where she was declared dead. Thereafter, P.W.1, went the respondent police and lodged a complaint at about 10.30 p.m.

3. P.W.15, the Inspector of Police, Alanganallur Police Station, received the complaint and registered the F.I.R(Ex.P12) in Crime No.451 of 2016 for the offence under Sections 302, 506 (ii) I.P.C r/w Section 3(2)(V) of SC/ST Act and sent the F.I.R to the concerned Judicial Magistrate Court and also sent the copy of the F.I.R to the Deputy Superintendent of Police, Samayanallur for further investigation.



4. P.W.16, the Deputy Superintendent of Police, Samayanallur, on receipt of the First Information Report, commenced the investigation and visited the place of occurrence at about 12.30 a.m., and prepared Observation Mahazar (Ex.P.2) and Rough Sketch (Ex.P.14) and collected bloodstained soil (M.O.12), ordinary soil (M.O.13) in the presence of witnesses and also recovered a two-wheeler Scooty Pep vehicle bearing Registration No.TN 59 AA 4125 (M.O.10), and another two-wheeler, Bajaj CT-100, bearing Registration No.TN 38 F 0356 (M.O.11) from the scene of occurrence. P.W.16 also recovered some material objects including a pouch (M.O.3), a dollar (M.O.6), tiffin box (M.O.5) and a mobile phone (M.O.18), from the scene of occurrence in the presence of witnesses. On the next day i.e., on 17.10.2016, at about 9.00 a.m., she conducted inquest on the dead body in the presence of Panchayatars and witnesses and prepared Inquest Report (Ex.P.16). On the same day at about 3.00 p.m., she arrested the accused near Madurai Rajaji Government Hospital. On such arrest, he voluntarily came forward to give a confession admitting his guilt. P.W.16 recorded the confession of the accused in the presence of witnesses and based on his confession, and she recovered a Knife (M.O.9) and sent the same to the Court under Form - 95 (Ex.P.18). Thereafter, remanded the accused to judicial custody. P.W.16 continued the investigation and obtained the Community Certificate of the deceased as well as the accused from P.W.11-Tahsildar and recorded the statements of other witnesses and after completing the investigation, he filed the final report on 07.01.2017.

5. Considering the above materials, the trial Court framed charges as mentioned above and the accused denied the same as false. In order to prove its case, the prosecution examined as many as 18 witnesses, marked 23 documents and also produced 30 material objects.

6. Out of the witnesses examined, P.W.1 is the husband of the deceased. He is an eyewitness to the occurrence. According to him, the deceased was working in a Petrol Pump at Palamedu, the accused used to follow her and harassed her. Hence, he has given a complaint before Oomachikulam Police Station where the accused has given an undertaking that he will not harass the deceased any more. Thereafter, P.W.1 used to drop and pick up the deceased everyday. On 16.10.2016, he dropped the deceased at the Petrol Pump. Thereafter, he handed over a two-wheeler to her. Then, at about 7.00 p.m., P.W.1 along with P.W.2, went to the Petrol Pump to take the deceased. While returning home, the deceased was riding a two-wheeler and P.Ws.1 and 2 followed her in another two-wheeler. On the way, the accused, who came in a two-wheeler overtook the two-wheeler of P.Ws.1 and 2 and attacked the deceased and when she fell down, he stabbed her on



the back and cut her throat. When P.Ws.1 and 2 tried to prevent him, he criminally intimidated them and thereafter, escaped from the scene of occurrence.

7. P.W.2 is the brother of the deceased. He is also an eyewitness to the occurrence and he spoke about the earlier complaint given against the accused. He has also stated that while the deceased and P.Ws.1 and 2 were returning back to home in Palamedu - Alanganallur main road, the accused attacked her and caused her death. P.W.3 is the Cousin of the deceased and he spoke about the earlier complaint given against the accused before Oomachikulam Police Station. P.W.4 is the mother of the deceased. Her evidence has no substance. P.W.5 is the witness to the Observation Mahazar and Rough Sketch and also witness to the recovery of two-wheeler and other material objects from the scene of occurrence. P.W.6 is also a Cousin of the deceased, he spoke about the illicit intimacy between the accused and the deceased and also spoke about the earlier complaint given against the accused. P.W.7 is the brother of the deceased and he spoke about the earlier complaint given against the accused. P.W.8 is the Sub-Inspector of Police, Alanganallur Police Station, who handed over the express F.I.R to the Judicial Magistrate Court.

8. P.W.9 is the Village Administrative Officer, he is the witness to the confession of accused and also recovery of M.O.9 - Knife. P.W.10 is the Head Constable, who sent a postmortem request to the Doctor and handed over the body of the deceased to the Government Hospital for conducting autopsy, after postmortem, handed over the dead body to her relatives. P.W.11 is the Tahsildar, he issued Community Certificate of P.W.1(Ex.P.7) and the accused (Ex.P.8). P.W.12 is another Tahsildar and he has given Community Certificate to the deceased (Ex.P.9) that, she belongs to Scheduled Caste, Hindu, Pallar Community.

9. P.W.13 - Dr.Balaji, working at Government Hospital at Vadipatti, conducted autopsy on the dead body and prepared postmortem reports (Ex.P.10 and Ex.P.11), which reads as follows:

"Post-mortem commenced at 3.50 PM on 17.10.16.

Appearances found at the post-mortem of a female body lying on its back. c⁻ Blood stained face & hair. Eyes closed. Both areas by its side with multiple cut injuries.

(1) 12cm x 5cm (at the centre of neck on full extension) cut injury on the neck below Thyroid cartilage c⁻ complete cut of Trachea & Trachea exposed. Wound extends 3cm from the mid line on the
of neck to 9cm in the left side c⁻ Major



blood vessels cut & exposed on the left side.

(2) 8cms x 10cm L shaped flap of skin cut injury on the back of neck Lt. side exposing underlying muscles.

(3) 4cm x 1cm muscle depth cut injury 6cm below Breast 2cm from midline on the left side of Abdomen cut injury opening into the peritoneal cavity.

(4) 2cm x 1cm muscle depth cut injury 3cm below injury No.3 opening into peritoneal cavity.

(5) 10cm x 2cm muscle depth cut injury on the Rt. Lat side of symphysis pubis Lat to Labia Majora 8cm depth reaching the hip drum. No injury to the Exi genitalia.

(6) 10cm x 4cm mid level muscle depth cut injury on the back of chest below Lt. Scapula.

(7) 2cm x 0.6cm muscle depth cut injury Lt. back of Lumber region 3cm from mid line.

(8) 3cm x 1cm muscle depth cut injury on the Lt. Lower gluttet muscle.

(9) 1cm x 0.5cm depth cut injury on the centre of cheek.

(10) 1cm x 0.5cm cut injury on the upper side of clavicle .

(11) 2cm x 1cm skin depth cut injury on the Rt. upper fore arm.

(12) 1cm x 2cm, 1cm depth cut injury on the inter digital glacé bet. Rt. index & middle finger.

(13) 2cm x 1cm cut injury Rt. Thumb base.

(14) 2cm x 1cm cut injury on the Lt. upper arm."

"External findings: 12cms x 5cm cut injury on the Neck below cartilage c⁻ complete cut of trachea & major blood vessels. (2) L shaped cut injury on the back of neck. (3) Cut injury below Lt. Breast on the Abdomen opening into the Peritoneum. (4) 10 x 2cm cut injury on the Rt. Lat. Side of Symphysis Pubis. Lat Labia



Majoro into hip Jt. (5) 10 x 4cm muscle depth cut injury on the back of Chest below Lt. Scapula and 9 more cut injuries.

Internal Organ Findings:

(1) Complete cut of Trachea & Major Blood vessels of Neck.

(2) Small cut injury in the Spleen. Blod (P) into the Peritoneal cavity.

Opinion as to cause of death:-

The deceased would appear to have died of Shock and Hemorrhage due to multiple injuries, including Trachea & Major Vessel of Neck & Hypoxic due to complete cut to Trachea. "

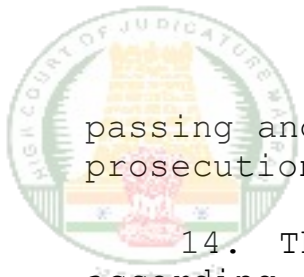
He was of the opinion that the deceased would have died due to shock hemorrhage due to the multiple injuries and also due to complete cut of Trachea.

10. P.W.14 is the neighbour of the deceased, he spoke about the illicit intimacy between the deceased and the accused. He also spoke about the earlier complaint given against the accused. P.W.15 is the Inspector of Police, Alanganallur Police Station, who registered the F.I.R. P.W.16 is the Investigating Officer, who has conducted the investigation and recorded the statement of witnesses and recovered the material objects and on completion of investigation filed the final report.

11. The above incriminating materials were put to the accused under Section 313 Cr.P.C.. The accused denied the same as false. On his side, he has not examined any witnesses. However, two documents Ex.D1 - photographs and Ex.D2 - the application filed by a third party under 451 Cr.P.C for return of T.V.S Scooty Pep vehicle, which was said to have driven by the deceased at the time of the occurrence, were marked.

12. Having considered the above materials, the trial Court convicted and sentenced the appellant/accused as stated above. Challenging the aforesaid conviction and sentence, the appellant is before this Court with this Criminal Appeal.

13. Mr.Gopalakrishna Lakshmana Raju, Senior Counsel representing Mr.C.Meenakshi Rama Prabu, learned counsel appearing for the appellant, would submit that, P.Ws.1 and 2 are the husband and brother of the deceased and they are interested witnesses. According to the learned Senior Counsel, the occurrence had taken place in a busy Alanganallur - Palamedu main road at about 7.15



passing and no independent witness was examined on the side of the prosecution.

14. The learned Senior Counsel would further submit that, according to P.Ws.1 and 2, while the deceased was returning home in a two-wheeler, they were following her very closely and the deceased said to have overtook their vehicle, attacked the deceased, dashed her vehicle and when she fell down, stabbed her several times, but, they have not taken any steps to prevent him. Had they present in the scene of occurrence, they would have definitely prevented the accused from attacking the deceased. That apart, the accident register issued by the Government Hospital, Vadipatti was not produced to show exact time of the occurrence. According to the prosecution, the deceased was taken in an Ambulance to the hospital, but the Driver of the Ambulance was not examined. Even though two wheelers said to have been used by the deceased and the accused were seized, the ownership of the vehicles was not established by the prosecution by marking the R.C. Books and the prosecution miserably failed to prove that it is only the deceased who has driven the two wheeler. As per Ex.D2, somebody else claiming ownership of the two-wheeler Scooty Pep, filed an application before the trial Court and got the vehicle returned and the prosecution did not explain how the said two-wheeler came into possession of the deceased. Even as per the evidence of P.Ws.1 and 2, the accused has dashed his two-wheeler against the two-wheeler driven by the deceased and caused damage, but the vehicle was not sent to Motor Vehicle Inspector for inspection. All those circumstances, clearly shows that both P.Ws.1 and 2 were not present at the time of occurrence and their evidence cannot be relied upon. Even though the prosecution has stated that the deceased was working in a Petrol Pump, the owner of the Petrol Bunk was not examined and the Attendance Register was also not marked to show that she had attended duty on the date of occurrence. Accordingly, in the absence of any other evidence to connect the appellant with the crime, it is highly unsafe to convict the appellant based on the testimony of interested witnesses P.Ws.1 and 2. Hence, he prays that the judgment of the trial Court is to be set aside.

15. Opposing the same, Mr.S.Ravi learned Standing Counsel for State would submit that, there are two eyewitnesses to the occurrence P.Ws.1 and 2. Even though they are closely related to the deceased, their evidences are true, trustworthy and there is no reason to disbelieve their evidence. It is their consistent evidence that due to the harassment of the accused against the deceased, in order to give protection to the deceased, P.Ws.1 and 2 followed the deceased, at that time, the occurrence had taken place. The accused criminally intimidated them with weapon. Hence, they were not in a position to prevent the accused from



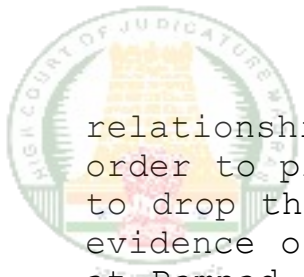
attacking the deceased. Their evidences are natural and trustworthy, merely because the witnesses are related to the deceased, their evidence cannot be discarded. That apart, the prosecution also clearly established the motive that, the accused had illicit intimacy with the deceased and there was an earlier complaint against the accused, given by P.W.1, before the Oomachikulam police station where the accused has given an undertaking and number of witnesses have been examined to prove the motive, and, the prosecution established the motive. Further, immediately after the occurrence, the complaint has been given and there is no delay in giving the complaint and the accused was also named in the F.I.R., and the F.I.R was also sent to the concerned Judicial Magistrate Court without any delay. That apart, the medical evidence also corroborated the evidence of P.Ws.1 and 2. Thus, the prosecution has clearly established the guilt of the accused and the trial Court after considering the entire materials, rightly convicted the accused and there is no reason to interfere with the well considered judgment of the trial Court.

16. We have considered the rival submissions and also perused the records carefully.

17. The entire prosecution case rest on the testimony of P.Ws.1 and 2, who are the husband and brother of the deceased, closely related and interested witnesses. The law is well settled that, the evidence of interested witnesses can be relied, if it is found to be trustworthy and credible. However, the Court should be careful in scrutinizing their evidence and on scrutiny, if it is found that their evidence is unreliable, improbable and suspicious, it can be rejected. When the interested witnesses have motive against the accused, while relying upon the interested witnesses, the Court should also seek for corroboration regarding the material particulars. On a careful scrutiny of the witness, if the Court finds that their testimony is reliable and probable, the Court can place conviction upon the testimony.

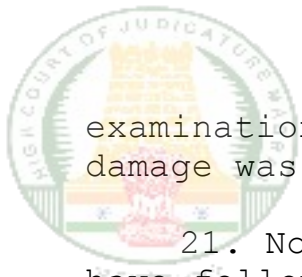
18. Now, we have to consider whether the testimony of P.Ws.1 and 2 are reliable and inherently probable. The evidence available on record would clearly show that the accused had illicit intimacy with the deceased. Earlier, on a complaint given by P.W.1, against the accused, an enquiry was conducted before Oomachikulam Police Station, where P.W.2 and others appeared wherein the accused said to have given an undertaking that he will not harass the deceased. It shows that both P.Ws.1 and 2, have some motive against the accused.

19. It is the case of the prosecution that, in spite of the <https://hseviderportal.gov.in/hseviewer/> given by the accused, he wanted to continue the



relationship with the deceased and started harassing her. In order to protect the deceased, P.W.1, husband of the deceased used to drop the deceased at her work place everyday. It is also the evidence of P.W.1 that he is a Mason and doing some contract work at Ramnad nearly 60 kms. away from the house of the deceased. On the date of occurrence, ie., on 16.10.2016, being a Sunday, at about 8.00 a.m., he dropped the deceased at the Petrol Pump where she was working. Thereafter, he borrowed a two-wheeler "Scooty Pep," from one Marudhupandi, who was running a workshop and handed over the same to the deceased. Again at about 7.00 p.m., P.Ws.1 and 2 went to the Petrol Bunk and took the deceased with them. While they were returning back to home, both P.Ws.1 and 2 came in a motorcycle, whereas the deceased came in another two-wheeler and they were following her closely. At that time, the accused came in a two-wheeler behind them, overtook P.Ws.1 and 2's vehicle and attacked the deceased with knife on her back, dashed her two-wheeler and hence, she fell down. Thereafter, the accused attacked her and silted her throat with knife and also stabbed her. When P.Ws.1 and 2 tried to prevent the accused, he criminally intimidated them, left the two-wheeler and ran away from the scene of occurrence. Thereafter, both P.Ws.1 and 2 took the deceased to Vadipatti Government Hospital in an Ambulance where she was declared dead. After that, at about 10.30 p.m., P.W.1 lodged a complaint before the respondent police station.

20. The occurrence had taken place in a busy Alanganallur - Palamedu main road, which is in the outskirts of Madurai city at about 7.15 p.m., where lot of vehicles would have been passing. But, the prosecution has not taken steps to examine any of the independent witnesses. That apart, after commencing the investigation, the Investigating Officer seized two-wheelers said to have driven by the deceased as well the accused, from the scene of occurrence. Admittedly, the two-wheeler said to have driven by the deceased does not belong to her and it was borrowed by P.W.1, from one Marudhupandi, but that Marudhupandi was not examined. That apart, as per Ex.D2, a petition was filed by one Vijayaraghavan, under Section 451 Cr.P.C, before the trial Court seeking for return of the said two-wheeler on the ground that, he is the owner of the vehicle and it is stated that, the said application was allowed and the two-wheeler was handed over to him, and the prosecution has not taken any steps to examine any of the above witnesses to show that the two-wheeler was actually given to P.W.1, who in turn, handed over to the deceased. With regard to the two-wheeler said to have driven by the accused, the prosecution has not taken any steps to prove that the two-wheeler belongs to the accused by marking R.C. Book and other documents. That apart, according to P.Ws.1 and 2, the accused dashed his two-wheeler against the deceased and she fell down, thereafter, the



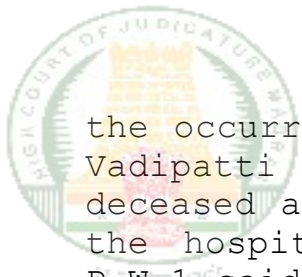
examination by the Motor Vehicle Inspector to show whether any damage was caused to the two-wheelers.

21. Now, we look at the conduct of P.Ws.1 and 2. They said to have followed the deceased very closely, at that time, the accused came in a two-wheeler, attacked the deceased with knife on her back, when she fell down, he further went on to attack her indiscriminately and silted her throat. From the perusal of the Postmortem Certificates, it is seen that as many as 14 cut injuries were found on the body of the deceased, the Doctor has also stated in evidence that there are multiple injuries all over the body and the throat was completely silted, and 12 cm x 5 cm cut injury was found found in the neck and the Trachea was totally cut and opened. In all probability, all those injuries cannot be inflicted in a short span of time, considerable time might have been taken by the accused to inflict such injuries on the body of the deceased. The P.W.s1 and 2 said to have closely followed the deceased, in the ordinary course of human conduct, when the deceased was indiscriminately attacked by the accused in the presence of her husband and brother, they are not expected to be mute spectators and kept quiet. It clearly creates a doubt regarding the presence of P.W.s1 and 2 in the scene of occurrence. In a similar circumstance, the Honourable Supreme Court in **Amar Singh vs. the State (NCT of Delhi) in Crl.A.No.335 of 2015, dated 12.10.2020 (2020 SCC Online 826)**, has held as follows:

"27. Thus, there are total 15 injuries inflicted by three assailants, two having hockey sticks and one knife as per prosecution story. Parminder Singh PW-1 emphatically stated that whole incident barely lasted five minutes. It would be practically impossible to inflict 15 injuries of the type by three assailants simultaneously attacking the deceased within a short span of 5 minutes particularly when the victim being a normal healthy person naturally must have offered resistance. Inflicting 15 injuries on the body of the deceased by three accused persons would require a considerable amount of time. This itself suggest that three accused had sufficient time at their disposal to conduct the crime and the entire incident could not have taken place within five minutes as stated by the eye witness Parminder Singh PW-1. This fact coupled with the fact that two brothers of the deceased remained a mute spectator when the third brother was being assaulted is clear indication of the fact that PW-1 Parminder Singh was not present on the spot and not an eye witness of the incident."

22. That apart, according to P.Ws.1 and 2, immediately after

<https://hcservices.ecourts.gov.in/hcservices/>



the occurrence, they called an Ambulance and took the deceased to Vadipatti Government Hospital, where the Doctor examined the deceased and declared dead. But, the accident register issued in the hospital was not exhibited before the Court. Thereafter, P.W.1 said to have went to the respondent police, at about 10.30 p.m., and lodged a complaint nearly 3 hours after the occurrence, whereas the police station is situated very nearby to the occurrence place. Non examination of Doctor, who received the dead body at Vadipatti Government Hospital, and failure to mark the accident register issued by him, creates doubts regarding the actual time of occurrence.

23. It is the case of the prosecution that, the deceased was working in a Petrol Pump belongs to one Kajendran at Palamedu. To establish that the deceased had attended duty on the date of occurrence, neither the owner of the Petrol Pump was examined, nor the attendant register was marked before the trial Court. Considering all those circumstances, we find that there is no corroborating material available on record to substantiate the evidence of P.Ws.1 and 2.

24. Now, turning to the medical evidence, P.W.1 and P.W.2 evidence is not corroborating the medical evidence. According to P.W.1, the accused, first stabbed the deceased on her back, when she fell down, he stabbed her in the abdomen and hip and ran away, thus he accounted only for three injuries. P.W.2 also accounted for three injuries. However, the postmortem certificates and the evidence of P.W.13 - Doctor, shows as many as fourteen cut injuries all over the body and the throat was completely silted, but both P.Ws.1 and 2 did not speak about all those injuries. Considering all those circumstances, in the absence of any corroboration regarding the material particulars, we doubt the presence of both P.Ws.1 and 2 in the scene of occurrence, and their evidence cannot be relied upon to convict the appellant/accused.

25. That apart, as already stated, both P.Ws.1 and 2, have serious motive against the accused as he was having illicit intimacy with the deceased, and a false implication cannot be ruled out. It is useful to rely upon the judgment of the Honourable Supreme Court in **Jodhan vs. State of Madhya Pradesh, (2015) 11 Supreme Court Cases 52**, in this respect which reads as follows:

"26. The principles that have been stated in number of decisions are to the effect that evidence of an interested witness can be relied upon if it is found to be trustworthy and credible. Needless to say, a testimony, if after careful scrutiny is found as



unreliable and improbable or suspicious it ought to be rejected. That apart, when a witness has a motive or makes false implication, the court before relying upon his testimony should seek corroboration in regard to material particulars...."

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26. Considering all those circumstances, we are of the considered view that, it is highly unsafe to rely upon the interested testimonies of P.Ws.1 and 2, to convict the accused. However, the trial Court without considering those aspects, mainly relying upon the evidence of P.Ws.1 and 2, convicted the accused. Hence, the conviction and sentence imposed by the trial Court is liable to be set aside and the appellant is entitled for acquittal.

27. In the result, Criminal Appeal is allowed and the conviction and sentence imposed on the appellant/accused, by the III Additional District and Sessions Judge (PCR), Madurai, in S.C.No.51 of 2017, by the judgment dated 11.04.2018, are hereby set aside. The appellant/accused is acquitted of the charge levelled against him. Fine amount, if any, paid by the appellant/accused shall be refunded to him. Bail bonds executed by him also shall stand cancelled.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pm

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The III Additional District and Sessions Judge (PCR),
Madurai.

2.The Superintendent,
Central Prison,
Madurai



3.The Deputy Superintendent of Police,
Samayanallur Division,
Allanganallur Police Station,
Madurai District.

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

Copy to

The Section Officer,
Criminal Records,
Madurai Bench of Madras High Court,
Madurai.

Criminal Appeal No.(MD) No.284 of 2018
06.09.2021

KMV(CO)
SB(14.09.2021) 13P 7C