



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 30.11.2021

Delivered on : 21.12.2021

CORAM:

**THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN**  
**and**  
**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**

Crl.A.(MD)Nos.451 of 2018 and 586 of 2019

Prema, W/o.Pandi ... Appellant in Crl.A.(MD)  
No.451/2018 / A1

Velmurugan, S/o.Marimuthu ... Appellant in Crl.A.(MD)  
No.586/2019 / A2

-vs-

State rep. by  
The Assistant Commissioner of Police,  
Thilagar Thidal [L & O] Circle,  
Karimedu P.S.  
Madurai Town.  
[Crime No.1222 of 2013]

... Respondent in both the Crl.As./  
Complainant

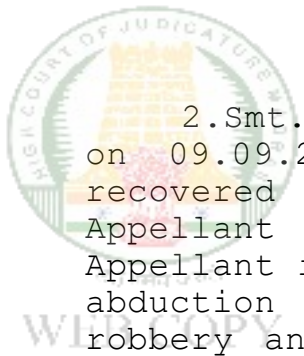
**Prayer in both the Crl.As.:-** Appeals filed under Section 374(2) of Cr.P.C., to call for records connected to the judgment dated 13.07.2018 made in S.S.C.No.14 of 2017, on the file of the III Additional District and Sessions Judge [PCR], Madurai, and set aside the conviction and sentence imposed against the appellants.

|                                             |   |                                                     |
|---------------------------------------------|---|-----------------------------------------------------|
| For Appellant in<br>Crl.A.(MD)No.451 / 2018 | : | Mr.R.Alagumani                                      |
| For Appellant in<br>Crl.A.(MD)No.586 / 2019 | : | Mr.Manickaraj<br>Legal Aid Counsel                  |
| For Respondent in<br>both the Crl.As.       | : | Mr.A.Thiruvadikumar<br>Additional Public Prosecutor |

**COMMON JUDGMENT**

**[Judgment of the Court was made by Dr.G.JAYACHANDRAN, J.]**

These Criminal Appeals are filed to set aside the judgment of conviction and sentence passed in S.S.C.No.14 of 2017, dated 13.07.2018, on the file of the III Additional District and Sessions Judge [PCR], Madurai.



2.Smt.Umarani, W/o.Rajagopal, who gone missing from her home on 09.09.2013 was later found as skeleton in a plastic bag recovered on 10.06.2014. In this connection, Tmt.Prema [A1 - Appellant in Crl.A.(MD)No.451 of 2018] and Mr.Velmurugan [A2 - Appellant in Crl.A.(MD)No.586 of 2019] were charged for conspiracy, abduction in order to murder, murder, abetment to commit murder, robbery and causing disappearance of evidence. The trial Court found them guilty of all charges and sentenced them to undergo life imprisonment and imprisonment for various terms, maximum of 10 years rigorous imprisonment and total fine of Rs.23,000/- each.

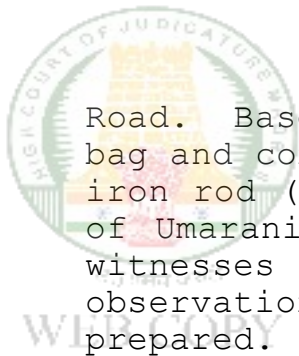
3.Agrieved over the judgment of conviction and sentence dated 13.07.2018, in Spl.S.C.No.14 of 2017, on the file of learned III Additional District and Sessions (PCR) Judge at Madurai, appeals are filed assailing it as against law, weight of evidence and probability of the case. The first accused Tmt.Prema, W/o.Pandi, is the Appellant in Crl.A.(MD)No.451 of 2018 and the second accused Mr.Velmurugan, S/o.Marimuthu, is the Appellant in Crl.A.(MD)No.586 of 2019.

**The prosecution case in brief:**

4.On 02.10.2013, Rajagopal ( P.W.1) came to C- 5 Karimedu Police Station and gave a complaint (Ex.P.1) informing that, on 09.09.2013 at about 2.00 p.m., his wife Umarani left home informing him that she is going for shopping, but she did not return home. It appears that one Prema (Chirstian) a resident of Pandian Nagar, Kanmai, had taken her. His wife and Prema had money transaction. His wife used to lend money pledging jewels. On the day of missing, his wife was wearing 5 sovereigns gold chain, ear stud, anklets. When he enquired about Prema, he came to know that she trades old plastic articles and gone to Velankanni, to stay for 10 days. Hence, he went to Velankanni and searched his wife for two days, but in vain.

4.1.Based on his information, a complaint was registered in Crime No. 1222 of 2013, under 'woman missing' on 02.10.2013 at about 11.30 a.m., by PW-17 Tmt.Sivakarthika, Sub-Inspector of Police at C-5 Karimedu Police Station. The Investigation was taken up by P.W.28 Chakravarthi, Inspector of Police. On transfer of P.W.28, on 25.01.2014, the investigation was taken up by the new incumbent P.W.26 Pandian, Inspector of Police.

4.2. On 10.06.2014, the Second Accused Velmurugan surrendered before P.W.14 Malathi, Revenue Inspector of Avaniyapuram. He gave an inculcator statement (Ex.P.11) admitting his guilt of murdering Umarani for money, in connivance with first accused Prema. After recording his statement, A-2 was taken to the Police Station. At the Police Station, he disclosed to the Inspector of Police about the concealment of Umarani's body in a plastic bag hid under the heap of plastic waste and the iron rod buried nearby, at waste disposal ground of J.V. Polymers, Ganapathi Nagar, Avaniyapuram



Road. Based on his confession, the dead body put in plastic zipper bag and concealed under plastic waste debris was recovered. 20 cms. iron rod (M.O.10) identified by A-2 as weapon used to hit the head of Umarani was recovered under mahazar Ex.P.4 in the presence of witnesses Muniyandi (P.W.11) and Nagarajan (not examined). The observation mahazar [Ex.P.3] and the rough sketch [Ex.P.32] was prepared. Inquest was conducted in the presence of Panchayatars. The decomposed skeletonised body was sent to Government Hospital at Madurai for postmortem. On 11.06.2014 autopsy was conducted. The postmortem report [Ex.P.9] revealed ante-mortem fracture measuring 4 cms in length noted on left parietal bone. P.W.13 Dr.Rajavelu, who conducted autopsy opined ''the deceased would appear to have died of head injury; 6 to 9 months before autopsy''.

4.3. On 14.06.2014 at about 3.00 p.m., the first accused Prema was arrested near Madurai Town Bye-pass Road, Kalavasal Junction. She gave a voluntary statement, wherein she admitted the guilt of murdering Umarani with the help of A-2 and volunteered to identify the golden chain of the deceased, which was pledged in Muthoot Finance, P.P.Chavadi Branch, with the help of Lakshmi (P.W.3) and show the thorn bush near J.V. Polymers, where she has buried the remaining jewels of the deceased Umarani and the nylon rope used for strangulating Umarani. Accordingly, the Investigation Officer proceeded to Muthoot Finance along with A-1 and Lakshmi (P.W.3). The gold chain [M.O.4] identified by A-1. After obtaining permission from his superior officer, M.O.4 was handed over by the Manager of Muthoot Finance on 16.06.2014. In continuation of the fact disclosed by A-1 in respect of the concealment of jewels robbed from the deceased and the nylon rope used for strangulating the deceased [Nylon Rope (M.O.11), Thali Kodi (M.O.5), Ear Stud (M.O.6), Anklet (M.O.7) and Nose Stud (M.O.9)], were recovered under Mahazar [Ex.P.35].

4.4. Through Court, the photograph of the deceased and the skull recovered from the plastic zipper bag were sent to Director Regional Forensic Laboratory at Chennai, requesting to conduct superimposition test and report. In response to Ex.P.17, the letter of the Judicial Magistrate, P.W.21 Pushparani, the Scientific Officer, Anthropology, had given report Ex.P.18 opining that the skull belongs to the female seen in the photograph. The skull image is Ex.P.19, the photograph of the deceased along with her family members is Ex.P.22.

4.5. After the transfer of the Investigation Officer Mr.Pandian, Inspector (P.W.26) on 30.08.2014, the investigation continued by Manivannan, Inspector of Police (P.W.27) till 16.11.2015. Since the investigation revealed that the deceased belongs to Schedule Caste and the accused belongs to non-schedule caste, the investigation was entrusted to P.W.29 Mr. Peer Mohamed Assistant Commissioner of Police, vide proceedings of the Deputy Commissioner of Police, dated 06.03.2016 (Ex.P.37). P.W.29



Mr.Mohaideen, on completion of investigation, filed the final report on 25.03.2016.

4.6. On receipt of the final report, the trial Court based on the documents relied by the prosecution had framed the following charges:

A-1: Section 120-B r/w 364 r/w 392 r/w. 302 IPC; Section 364 r/w 120-B IPC; Section 302 r/w 34 r/w 120-B IPC; Section 392 r/w 34 r/w 120-B IPC and Section 201 r/w 302 IPC.

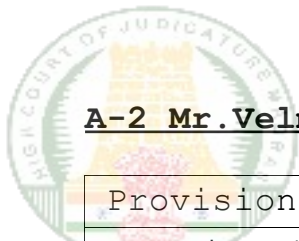
A-2: Section 120-B r/w 364 r/w 392 r/w 302 IPC; Section 364 r/w 109 IPC; Section 302 r/w 34 r/w 120-B IPC; Section 392 r/w 34 r/w 120-B IPC and Section 201 r/w 302 IPC.

4.7.The documents relied by the prosecution were furnished to the accused and when charges read over to them, they denied the charges and claimed to be tried.

4.8. Prosecution examined 29 witnesses. Marked 39 Exhibits and 12 material objects. Through these evidence as narrated above, the trial Court held the prosecution case proved. A-1 and A-2 were convicted and sentenced as below:

**A-1: Smt.Prema:-**

| Provision under which convicted                                                           | Sentence                                                                                                                           |
|-------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|
| Section 120-B read with Section 364 read with Section 392 read with Section 302 of I.P.C. | To undergo life imprisonment and pay a fine of Rs.5,000/-, in default, to undergo one year simple imprisonment.                    |
| Section 364 read with Section 120-B of I.P.C.                                             | To undergo ten years rigorous imprisonment and pay a fine of Rs.5,000/-, in default, to undergo nine months simple imprisonment.   |
| Section 302 read with Section 34 read with Section 120-B of I.P.C.                        | To undergo life imprisonment and pay a fine of Rs.5,000/-, in default, to undergo one year simple imprisonment.                    |
| Section 392 read with Section 34 read with Section 120-B of I.P.C.                        | To undergo seven years rigorous imprisonment and pay a fine of Rs.5,000/-, in default, to undergo nine months simple imprisonment. |
| Section 201 read with Section 302 of I.P.C.                                               | To undergo five years rigorous imprisonment and pay a fine of Rs.3,000/-, in default, to undergo six months simple imprisonment.   |

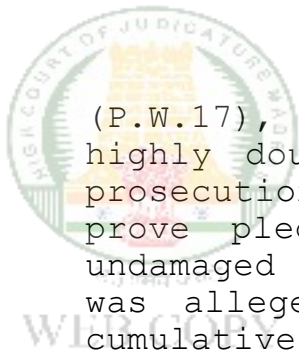
**A-2 Mr.Velmurugan:-**

| Provision under which convicted                                                           | Sentence                                                                                                                           |
|-------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|
| Section 120-B read with Section 364 read with Section 392 read with Section 302 of I.P.C. | To undergo life imprisonment and pay a fine of Rs.5,000/-, in default, to undergo one year simple imprisonment.                    |
| Section 364 read with Section 109 of I.P.C.                                               | To undergo ten years rigorous imprisonment and pay a fine of Rs.5,000/-, in default, to undergo nine months simple imprisonment.   |
| Section 302 read with Section 34 read with Section 120-B of I.P.C.                        | To undergo life imprisonment and pay a fine of Rs.5,000/-, in default, to undergo one year simple imprisonment.                    |
| Section 392 read with Section 34 read with Section 120-B of I.P.C.                        | To undergo seven years rigorous imprisonment and pay a fine of Rs.5,000/-, in default, to undergo nine months simple imprisonment. |
| Section 201 read with Section 302 of I.P.C.                                               | To undergo five years rigorous imprisonment and pay a fine of Rs.3,000/-, in default, to undergo six months simple imprisonment.   |

**Grounds of Appeal:-**

5.The learned Counsels for the appellants assail the impugned judgment on the ground that the prosecution failed to prove money transaction as motive, the last seen alive together with A-1, voluntariness of the alleged extra judicial confession of A-2 to the Revenue Inspector and the confession to the Police leading to discovery of facts, despite the failure, the trial Court erred in convicting them based on presumption and not on proof.

6.In the absence of direct eyewitness to the occurrence, it is settled principle of law, the chain of circumstantial evidences pointing the needle of suspicion towards the accused persons should be cogent and consistent. The needle of suspicion should point the accused alone and none else. In the instant case, the information about the missing of her wife by P.W.1 after 21 days. P.W.28, the Sub-Inspector of Police soon after registering the complaint Ex.P.1 under 'woman missing' on 09.09.2013 in Crime No.1222 of 2013, naming the first accused as the suspect, who abducted the woman from the lawful custody of her husband, had recorded statements of witnesses. Those statements not placed before the Court. The voluntariness of the alleged surrender of A-1 before P.W.17 and the extra judicial confession to the Revenue Inspector



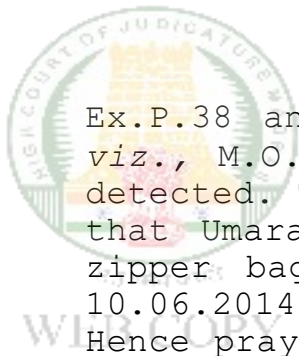
(P.W.17), who is unknown to A-2 prior to the date of confession is highly doubtful. The trial Court overlooked the failure of the prosecution to produce the receipts issued by Muthoot Finance to prove pledging of M.O.4 Chain by A-1 through P.W.3 and the undamaged rose colour paper wrapping the nose stud (M.O.9) which was alleged to have buried in the ground nearly 9 months ago cumulatively goes to show that the appellants are innocent and the trial Court has rendered the judgment of conviction on surmises.

7.The learned counsel for the appellants submitted that the trial Court ought to have disbelieved the version of the prosecution that the decomposed skeleton of Umarani was recovered from the heap of plastic waste found in the open Godown of J.V. Polymer owned by Jayakumar (P.W.5), despite the fact that the owner of the premises nor his employee Balakrishnan (P.W.6) nor P.W.4 Alagumuthu, Machine Operator of the Floor Mill, opposite to J.V. Polymer from where the decomposed skeleton of Umarani alleged to have been recovered, had whispered nothing about the said recovery in their deposition.

8.The prosecution witnesses, who have deposed about the recovery of the decomposed body are P.W.1 (husband of the deceased, working as Lineman in Electricity Board), P.W.2 (the brother of the deceased, working as Conductor in State Transport Corporation) and P.W.12 (relative of PW-1, employed in State Transport Corporation). Their presence when A-2 gave confession leading to recovery of decomposed skeleton and the iron rod on 10.06.2014 at J.V.Polymer as well as their presence on 14.06.2014 when A-1 gave confession leading to discovery of the fact that M.O.4 chain was pledged at Muthoot Finance in P.P. Chavadi Branch are very unnatural and artificial. However, the trial Court failed to take due notice of these tailor-made statements while appreciating the evidence for prosecution.

9.Apart from the interested witnesses, who have lot to hide in this case, no other independent witnesses have spoken about the recovery. The trial Court had heavily relied upon the so-called confession statements of the accused persons, when its voluntariness is highly doubtful. Particularly, the confession statements of the accused alleged to have been given on two different dates (A-2 on 10.06.2014 and A-1 on 14.06.2014) typed in computer and signed by the same independent witnesses namely, Thangapandi (not examined) and Jayakodi (P.W.12). The evidence of Jayakodi working in State Transport Corporation being present wherever and whenever the prosecution requires a witness is sufficient to doubt the credibility of the witness, more particularly, when his testimony is not corroborated by the other co-witness.

10.The learned counsel for the appellants also draw the attention of this Court regarding the Forensic Laboratory Report



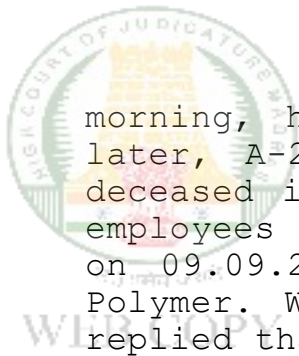
Ex.P.38 and Ex.P.39, which says in none of the material objects viz., M.O.1, M.O.2, M.O.3, M.O.8, M.O.10 and M.O.11 blood detected. Therefore, would contend that the case of the prosecution that Umarani was done to death on 09.09.2013 and packed in the zipper bag and later, recovered from heap of plastic waste on 10.06.2014 gets belied.

Hence prayed to set aside the trial Court judgement and acquit the appellants.

**Submission of the respondent/State:-**

11.Per contra, the learned Additional Public Prosecutor submitted that, when Umarani left the home on 09.09.2013 and did not return back, initially P.W.1, the husband of the deceased was under the impression that his wife had gone with Prema (A-1) since they both had money dealing. He was searching his wife at various places, including Velankanni, where he heard A-1 had gone. Only thereafter, he gave the complaint to Police on 02.10.2013. The delay in filing the complaint is well explained in the complaint Ex.P.1 itself. The investigation taken up by the Sub-Inspector of Police Mr.Chakravarthi (P.W.28) later on accelerated after P.W.1 moved a Habeas Corpus Petition before this Court. The breakthrough in the investigation happened when A-2 surrendered to P.W.14 on 10.06.2014 and gave the extra judicial confession Ex.P.11. The motive for the crime is disclosed by the accused persons in their confession statement. The preparation and execution were all within the exclusive knowledge of the accused persons. The evidence of P.W.3 found natural and reliable by the trial Court. The deceased was wearing M.O.4 chain when she left her house on 09.09.2013. This fact is mentioned in P.W.1 Complaint, dated 02.10.2013, which is the earliest document in this case. The said chain was recovered from Muthoot Finance at P.P. Chavadi Branch. P.W.9 and P.W.10 the employees of Muthoot Finance had spoken about the pledging of 40 sovereign gold chain (M.O.4) for Rs.75,000/- on 10.09.2013 in the name of P.W.3, who came along with A-1. P.W.3 Lakshmi who has no axe to grind against A-1, had deposed that at request of A-1 she and one Perumayee [not examined] went to Muthoot Finance along with A-1 and pledged M.O.4 in her name for Rs.75,000/-. Since A-1 was in possession of the jewels wearing by the deceased, she has to explain the possession. The unexplained possession leads to adverse inference on A-1.

12.The learned Additional Public Prosecutor submitted that from the evidence of P.W.1, the prosecution has proved that the deceased left the home on 09.09.2013 at about 2.00 p.m. P.W.7 the Petti Shop Owner opposite to the deceased house saw the deceased and A-1 leaving in an auto. P.W.4, Floor Mill Operator saw A-1 and the deceased together at 4.00 p.m. The said Floor Mill is located just opposite to J.V. Polymer where A-1 and A-2 were working. P.W.4 had further deposed that he enquired A-1 about the lady, who was accompanying her. He saw both entering J.V. Polymer. Next day



morning, he saw A-1 leaving J.V. Polymer at 7.00 a.m. One hour later, A-2, left J.V. Polymer. This witness had identified the deceased in the group photograph shown to him. P.W.6, one of the employees of J.V. Polymer has deposed he saw the deceased and A-1 on 09.09.2013 at about 06.00 p.m. when they both came to J.V. Polymer. When he enquired A-1 about the lady (deceased) and A-1 replied that she is her sister. Thereafter, he left to his home. A-1 and the deceased stayed back in the Company. Thus, the prosecution has proved without any doubt that the deceased, who was seen alive in the Company of A-1 on 09.09.2013 till 6.00 p.m. at J.V. Polymer, later recovered in a plastic bag as decomposed skeleton from the Godown of J.V. Polymer. A-1 who is bound to explain what happened to Umarani, who was seen alive with her, had confessed her guilt of committing murder for gain and concealed the body under heap of plastic waste after removing the valuables. Based on her information, one such valuable i.e., M.O.4 chain recovered from Muthoot Finance and rest of the jewels were recovered near a bush close to the place where the body was concealed.

13.The fact both the accused were working in J.C. Polymer till 09.09.2014 and they both left one after another is proved through witnesses. P.W.16, the house owner who rented the house to A-1 and A-2. He had deposed that after 10<sup>th</sup> September 2014, they both vacated their respective portion and left without intimation. P.W.5, the owner of J.C. Polymer under whom, the accused were working, also had deposed that from 10.09.2014 they both did not report to work. The evidence of these two witnesses corroborated by P.W.6, a worker in the J.C. Polymer.

14.The prosecution has proved the recovery of decomposed body through the evidence of P.W.1 and P.W.2. The fractured skull and the photograph of the deceased Umarani was subjected to superimposition test and found one and the same by P.W.21, the Scientific Officer. Also, DNA Report [Ex.P.27] on mapping the DNA collected from the femur bone and the DNA of Subashkannan, son of Umarani, the report clearly stated that the DNA collected from the femur bone belongs to a female individual. The person to whom the femur bone belongs was the biological mother of the child Subashkannan. Thus, the identify of the deceased established beyond doubt.

15.The learned Additional Public Prosecutor as summing up stated that the trial Court judgment has to be confirmed since the prosecution has established every link in the chain of event without break indicating the crime was committed only by the accused and their voluntary confession statements leading to recovery of incriminating materials stands unimpeached.



16. The point for consideration in these appeals is whether the trial Court has properly appreciated the evidence for prosecution.

**Court finding:-**

17. In cases based on circumstantial evidence, the settled law is that the circumstances from which the conclusion of guilt is drawn should be fully proved and such circumstances must be conclusive nature. Moreover, all the circumstances should be complete and there should be no gap left in the chain of evidence. Further, the proved circumstances must be consistent only with the hypothesis of the guilt of the accused and totally inconsistent with his innocence. (Hon'ble Supreme Court in **C.Chenga Reddy and others Vs. State of Andra Pradesh (AIR 1996 SC 3390)**).

18. The circumstances, taken cumulatively, should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else. (Hon'ble Supreme Court in **Padala Veera Reddy Vs. State of Andhra Pradesh and others (1991 SCC (Cri) 407)**).

19. Bearing the above dictum in mind, first, the Court has to find, whether the circumstances cumulatively form a chain. Second, whether the chain is without any gap. Third, whether the evidence is consistent with the guilt of the accused and not inconsistent with his innocence.

**Circumstances forming chain:**

20. The chain of circumstances as placed by the prosecution through it witnesses:

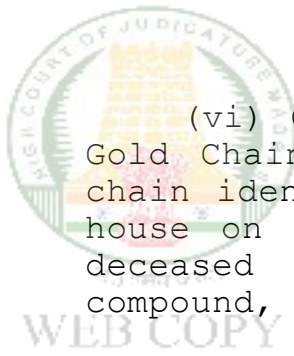
(i) On 09.09.2013, the victim lady Smt. Umarani left her house at 2.00 p.m, informing her husband (P.W.1) that she is going for shopping. The petti-shop owner (P.W.7) opposite to the deceased house saw her leaving in an Auto along with A-1.

(ii) On the same day, at about 4.30 p.m., the deceased and A-1 were seen together by the employee of the Floor Mill (P.W.4) opposite to J.V. Polymer.

(iii) The employee of the J.V. Polymer (P.W.6) had seen the deceased and A-1 together about 06.00 p.m. inside the premises of J.V. Polymer. A-1 had introduced the deceased to them as her sister/friend.

(iv) On the next day i.e. 10.06.2014, the employee of the floor mill (P.W.4) has seen A-1 leaving J.V. Polymer at 07.00 a.m. and A-2 at 08.00 a.m. From that day onwards, both A-1 and A-2 stopped reporting duty.

(v) On 10.06.2014, based on the information given by A-2 in his confession statement, a decomposed skeleton in a zipped plastic bag was recovered. The DNA mapping and superimposition test revealed it is Umarani, the wife of P.W.1, who gone missing on 09.09.2013.



(vi) On 14.06.2014, based on the confession statement of A-1, Gold Chain (M.O.4) recovered from Muthoot Finance Company. The chain identified as one wearing by the deceased when she left her house on 09.09.2013. On the same day, few other jewels of the deceased and a nylon rope were recovered from J.V. Polymer compound, hidden under bush.

**21. The gap in the chain and evidence inconsistent with the guilt of the accused:**

**(a) Doubt about last seen together theory:-**

(i) Though the victim lady went missing on 09.09.2013, her husband (P.W.1) gave the complaint only on 02.10.2013. The reason for lodging the complaint belatedly after delay of 21 days not explained.

(ii) In addition, the prosecution has not placed any material about their investigation from the date of receiving the complaint from P.W.1 about missing of his wife and his suspicion over A-1, till 16.04.2014.

(iii) Though P.W.28, who took up the investigation soon after receipt of the complaint, had in his deposition stated that he has recorded statements of witnesses, those statements are not before the Court to appreciate the testimony of the witnesses. Only after the direction of this Court in the Habeas Corpus Petition, on 16.04.2014 the Inspector of Police Mr.Pandian (P.W.26) has altered the Section from Section 174 of Cr.P.C. (woman missing) to Section 363 of I.P.C. and forwarded the altered F.I.R. Ex.P.29.

(iv) From the deposition of Mr. Manivannan, Inspector of Police (P.W.27), we find that the statement of 13 witnesses were recorded by him on 30.08.2014. Was there any other previous statement of witnesses as deposed by P.W.28 and whether they were burked by the prosecution because they were not in tune with the prosecution theory is yet another lacuna which requires consideration.

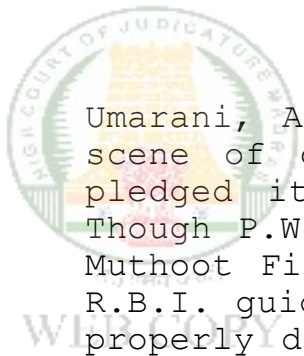
(v) Particularly, P.W.7 had deposed that he saw Umarani leaving her house along with A-1 in an Auto on 09.09.2013 at about 02.00 p.m. Whether, he was examined and his statement under Section 161(3) of Cr.P.C. was recorded prior to 16.04.2014 is not clear. P.W.5, the owner of J.V. Polymer, in his cross-examination, had deposed that he was enquired by the Inspector of Police, one month after missing of Umarani, but his statement is not recorded.

(vi) While Ex.P.1 complaint of P.W.1 say A-1 used to visit his house frequently, P.W.7, in the cross-examination, admits that he never seen A-1 before 09.09.2013. The photograph of A-1 was shown to him by police while enquiring him in the month of August 2014.

(vii) P.W.2 had deposed that during the enquiry, the police shown him the photograph of his sister (Umarani) along with Prema (A-1). This photograph is not marked. Prosecution has not explained from where they got the joint photo of the deceased and A-1.

**(b) Doubt regarding recovery of M.O.4:-**

(i) The case of the prosecution is that after murdering



Umarani, A-1 removed her jewels, concealed some of them near the scene of crime at J.V. Polymer and took the gold chain M.O.4, pledged it at Muthoot Finance with the help of P.W.3 Lakshmi. Though P.W.3, P.W.9 and P.W.10 are examined to support this fact, Muthoot Finance, being a Non-Banking Finance Company, governed by R.B.I. guidelines, any loan advanced on pledging jewel, need to be properly documented. The prosecution has not produced any receipt or register or document, which will vouchsafe the fact that M.O.4 gold chain was pledged with Muthoot Finance on 10.09.2013 by P.W.3 on behalf of A-1.

(ii) Particularly, P.W.10 the Manager of Muthoot Finance, in his evidence, has deposed that on 10.09.2013 when he was working as In-charge Manager, P.W.3 along with two other ladies came to P.P. Chavadi Branch and pledged 40 sovereigns gold chain M.O.4 for Rs.75,000/- in the name of P.W.3. In the cross-examination, he admits that while advancing loan against jewels, they will get the signature of the pawnor. In the pledge form, signature of the pawnor will be obtained declaring the jewel belongs to the pawnor. A receipt for acknowledging the pledge will be issued. None of these documents seized by the prosecution and produced before the Court to corroborate the oral evidence of P.W.3, P.W.9 and P.W.10.

(iii) The best evidence to prove the fact of pledge and recovery of M.O.4 from Muthoot Finance is the documents related to pledge. The failure of the prosecution to place before the Court the best evidence causes serious doubt.

**(c) Inconsistency regarding recovery of decomposed body from J.V. Polymer Godown:-**

(i) The case of the prosecution is Umarani was abducted by A-1 to J.V. Polymer and done to death with the aid and assistant of A-2. Screened the evidence by putting her body in a plastic bag and concealed under heap of plastic waste near the Godown of J.V. Polymer. The body in the plastic bag was recovered based on the confession of A-2 on 10.06.2014. In the presence of P.W.1, P.W.2, P.W.12 and one Thangapandi (not examined). The search and recovery was at the premises of J.V. Polymer, surprisingly, neither the owner of J.V. Polymer (Jayakumar - P.W.5) nor his employee Balakrishnan (P.W.6) speak about the search or recovery of decomposed body of Umaranai in the plastic bag and other incriminating materials from their premises on that date. Whereas, the presence of P.W.1, P.W.2 and P.W.12, who speak about the confession statement of A-2 and the recovery of death body of Umarani in their presence, is unbelievable in view of the fact that all these witnesses were employed in TNEB or STC. They speak not only about the recovery of decomposed dead body based on the confession statement of A-1 on 10.06.2014, and the recovery of iron rod, they also say they were present during the recovery of jewels at Muthoot finance on 14.06.2014, during the recording of confession statement of A-1 and during the recovery of other jewels based on the confession of A-1. Almost for all events



incriminating the accused person, these three witnesses say they were present, but their signatures are not found in any of the material documents prepared contemporaneously during these recoveries. Therefore, their presence in all the places of incriminating circumstances, which spans from 10.06.2013 to 16.04.2014 is highly doubtful.

(d) **None corroboration of scientific evidence:-**

The material objects, like the iron rod, saree, blouse, petticoat, metal bangle and nylon rope, which were alleged to be found in the plastic bag recovered from J,V, Polymer were sent for analysis. The reports Ex.P.38 and Ex. P.39 say blood not detected in these objects. While the specific case of the prosecution that A-1 and A-2 murdered Umarani and put her body in the plastic bag and concealed under the heap of plastic waste, then, there should have been bloodstains in any of these material objects. The suspicion over the veracity of the prosecution case regarding the recovery of decomposed body gets widened in view of the above fact.

22.The trial Court, being swayed by the recovery of skeleton of the deceased and M.O.4, based on the confession, had overlooked the gap left in the chain of evidence. As a result, this Court holds that on cumulative assessment of the evidence forming the chain of events, the gap and inconsistency in the evidence and lack of material corroborations give room to doubt in the prosecution case. For want of adequate and cogent evidence, the trial Court judgement of conviction and sentence is set-aside.

23.The appellants are acquitted and set at liberty. The fine amount, if any, paid is to be refunded. The prison authorities shall release the appellants, if their presence is not required in connection with any other case. Accordingly, these Criminal Appeals are allowed.

24. The High Court Legal Services Committee, attached to the Madurai Bench of Madras High Court, is directed to pay Rs.25,000/- as remuneration to Mr.Manickaraj, learned Legal Aid Counsel / learned counsel for the appellant in Crl.A.(MD)No.586 of 2019, for his service.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



**To :**

1. The III Additional District and Sessions Judge [PCR],  
Madurai.
2. The Assistant Commissioner of Police,  
Thilagar Thidal [L & O] Circle,  
Madurai Town.
3. The Judicial Magistrate No.V, Madurai.
4. Do-Through : The Chief Judicial Magistrate, Madurai.
5. The Principal District Judge, Madurai.
6. The Superintendent of Police, Madurai.
7. The Deputy Inspector General of Police,  
Mylapore, Chennai.
8. The Superintendent,  
Central Prison, Madurai.
9. The District Collector,  
Madurai District.
10. The Officer Incharge,  
Special Prison for Women, Madurai.
11. The Officer-Incharge,  
High Court Legal Services Committee,  
Madurai Bench of Madras High Court,  
Madurai.
12. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

**Copy to:-**

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

**Crl.A. (MD) Nos.451 of 2018 and 586 of 2019**  
**21.12.2021**

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