



CrI.A.(MD)No.248 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 22.08.2024

PRONOUNCED ON : 01.10.2024

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

CrI.A(MD)No.248 of 2021

Sudhakar

... Appellant

VS

**The State represented by
The Inspector of Police,
Lalgudi Police Station,
Trichy District.
(in Cr.No.163 of 2013)**

...Respondent

PRAYER: Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code, to call for the records pertaining to the judgment made in S.C.No.172 of 2018 dated 26.09.2019 passed by the learned Principal Sessions Judge, Tiruchirapalli and to set aside the same by allow this appeal.



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Crl.A.(MD)No.248 of 2021

For Appellant : Mr.R.Manickaraj
for Dr.R.Alagumani
For Respondent : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

JUDGMENT

(Judgment of this Court was delivered by **C.V.KARTHIKEYAN, J.**)

The sole accused in S.C.No.172 of 2018 on the file of the Principal Sessions Court at Trichy, aggrieved by the judgment dated 26.09.2019 by which judgment, he had been convicted for offences punishable under Section 302 IPC (2 counts) and under Section 307 IPC (1 count) and sentenced to undergo life imprisonment for each count for offence punishable under Section 302 IPC and to pay a fine of Rs.5,000/- for each count and in default, to undergo three years rigorous imprisonment for each count and also sentenced to undergo seven years rigorous imprisonment for offence punishable under Section 307 IPC (1 count) and to pay a fine of Rs. 2,000 and in default to undergo one year rigorous imprisonment, has filed the present Criminal Appeal.



CrI.A.(MD)No.248 of 2021

2.It is the case of the prosecution that the de-facto complainant, Panneer (PW-1), son of Chellammal (D1) and nephew of Amaravathy (D2) had lodged a complaint on 14.04.2013 at around 06.30 pm alleging that at around 05.30 pm on the same day, the appellant/accused, Sudhakar, had indiscriminately attacked and caused the death of his mother, Chellammal (D1) and aunt, Amaravathy (D2) and caused injuries to Sathish @ Sathish Kumar (PW-2). On the basis of this complaint, PW-16, Subramanian, Sub Inspector of Police, Lalgudi Police Station, Trichy, had registered FIR in Cr.No.163 of 2013 for offences punishable under Sections 294(b), 341, 307, 302 and 506(ii) IPC. On conclusion of trial, the appellant/accused, Sudhakar was acquitted for offences punishable under Sections 294(b), 341 and 506(ii) IPC, but convicted for offences punishable under Sections 302 IPC (2 counts) and 307 IPC (one count) and sentenced as aforementioned.

3.The facts in brief are that there existed previous enmity between the family of the de-facto complainant, Panneer (PW-1) and the accused, Sudhakar, owing to dispute relating to a garbage pit. In December 2011, three brothers of de-facto complainant by names, Ravi, Ramakrishnan and Elangovan, had attacked Suresh, elder brother of the accused and caused



CrI.A.(MD)No.248 of 2021

injuries consequent to which, even after taking treatment in hospital, Suresh was forced to remain in the house and died in March 2013. It is contended by the prosecution that the accused, aggrieved over the death of his elder brother, had proclaimed that he would retaliate against any member of the family of the de-facto complainant. Consequent to such threat, the three elder brothers of the de-facto complainant, namely, Ravi, Ramakrishnan and Elangovan, had left the place and resided elsewhere for about 15 days.

4.It is further contended that Sudhakar with intention to kill any member of the family of the de-facto complainant, on 14.04.2013, at around 05.30 pm, when Chellammal (D1) was cleaning the front yard of her house at Kalliamman Kovil Street, had attacked her with an aruval on her head, cheek, hands and all over the body and she collapsed in the same place, dead. It is contended that this was witnessed by PW-1, Panneer, PW-2, Sathish @ Sathish Kumar, PW-3, Arivalagan, PW-4, Lavanya and PW-5, Lakshmi. It is further contended that PW-4 Lavanya was the granddaughter of Chellammal (D1) and PW-5 Lakshmi was a close by resident. It is further contended that PW-2 and PW-3 had come to the scene of crime in a motorcycle to go to a house nearby and on seeing the appellant/accused



Crl.A.(MD)No.248 of 2021

attacking Chellammal (D1), PW-2 Sathish @ Sathish Kumar tried to prevent the attack and he was in turn, attacked with an aruval by the appellant/accused on the head and hands again and again which caused injuries to him, as a result of which, he fell down unconscious.

5.It is further contended that PW-1 chased the accused and tried to catch him at Singaram Theru. The accused threatened PW-1 in filthy language and proclaimed that he would kill him also. Later, the accused attacked Amavaravathy (D2), who was standing in front of her house at Singaram Theru and who incidentally was the aunt of PW-1 with patta kathi (sword) on her cheek, mouth and all over the body. She also died at that place. This attack was also witnessed by PW-6, Pavun Pappa, who was the mother of PW-2 and by PW-7, Periyasamy, who was a resident of the neighbouring house and was sitting in the front yard of his house. It is further contended that the appellant/accused then ran away with both the weapons, namely, aruval and patta kathi. He later surrendered on 15.04.2013 before the learned Judicial Magistrate No.III, Tanjore. The Investigating Officer, Balamurugan, Inspector of Police, Lalgudi Police Station, on getting that information, had filed Crl.M.P.No.1528 of 2013



CrI.A.(MD)No.248 of 2021

seeking police custody and one day police custody was also granted from 05.00 pm on 22.04.2013. It is the further case of the prosecution that on the basis of the voluntary confession of the appellant/accused, PW-20, Balamurugan, had recovered MO-1, aruval under Ex-P8 mahazar and MO-2, knife under Ex-P9 mahazar. It is contended that these were recovered in the presence of witnesses, Thavasi Mani, Village Administrative Officer, Siruthaiyur, PW-11, and Village Assistant, Durai Raj (not examined).

6. On completion of investigation and after receiving reports from the forensic laboratory and the postmortem certificate, PW-20, Balamurugan, Investigating Officer had filed final report before the Judicial Magistrate at Lalgudi charging the accused, Sudhakar for commission of offences punishable under Sections 294(b), 341, 307 (one count), 302 (2 counts) and 506(ii) IPC. This final report was taken cognizance as P.R.C. No.5 of 2018 by the learned Judicial Magistrate, Lalgudi. The learned Judicial Magistrate, Lalgudi, thereafter complied with the stipulation under Section 207 Cr.P.C., and had given the copies of relevant documents relied on by the prosecution free of cost to the appellant/accused. Thereafter, holding



Crl.A.(MD)No.248 of 2021

that the offence punishable under Sections 302 IPC (2 counts) and 307 IPC (one count) were triable exclusively by a Court of Sessions, after complying with the stipulation under Sections 208 and 209 Cr.P.C., committed the case to the Principal Sessions Court at Trichy. It was taken on file as S.C. No. 172 of 2018.

7.The Principal Sessions Judge at Trichy on hearing both sides and on perusing the records found that there existed a *prima facie* case to charge the accused and consequently, framed charges for offences punishable under Sections 302 (two counts), 341, 294(b), 307 (one count) and 506 (ii) IPC. The charges were read over and explained to the appellant/accused in Tamil. He abjured the charges and claimed to be tried. The prosecution was then invited to prove the charges. The prosecution examined witnesses, PW-1 to PW-20, marked Ex-P1 to Ex-P37 and produced MO-1 to MO-16, material objects. On conclusion of trial, the learned Principal Sessions Judge, Trichy, convicted the appellant/accused for offences punishable under Sections 302 IPC (2 counts) and punishable under Section 307 IPC (one count) and sentenced him to undergo life imprisonment for each count for offence punishable under Section 302 IPC and to pay a fine of Rs.5,000/-



Crl.A.(MD)No.248 of 2021

for each count and in default, to undergo three years rigorous imprisonment for each count and also sentenced him to undergo seven years rigorous imprisonment for offence punishable under Section 307 IPC (1 count) and to pay a fine of Rs.2,000 and in default to undergo one year rigorous imprisonment. The learned Principal Sessions Judge acquitted the accused for offences punishable under Sections 341, 294(b) and 506(ii) IPC. This appeal had been filed challenging the said judgment of conviction and sentence.

8.To narrate the facts in more detail, the prosecution alleged that there existed an enmity between the family of the de-facto complainant, PW-1, Panneer and the accused, Sudhakar, over a garbage pit. They were residing in the same area at Kaliamman Kovil Street. PW-2, Sathish @ Sathish Kumar and PW-3, Arivalagan, were also residents of the same street. PW-1 Panneer was working as a load man in a TASMACH shop at Thuvakudi. PW-2 Sathish @ Sathish Kumar was an Electrician and PW-3, Arivalagan was earlier doing mason work. PW-4 Lavanya is the daughter of the sister of PW-1 and granddaughter of Chellammal (D1). PW-5, Lakshmi was residing at Kaliamman Kovil North Street and was working as agricultural



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9.It is the case of the prosecution that in December 2011 owing to the existing dispute over garbage pit, the three brothers of PW-1, Panneer, namely, Ravi, Ramakrishnan and Elangovan, had attacked and caused injuries to the elder brother of the accused. He had taken treatment at the hospital, but had stayed in the house and later died about two weeks prior to the incident. The accused then threatened to kill any one member of the family of PW-1. Owing to such threat, the three brothers, Ravi, Ramakrishnan and Elangovan, had taken a decision to stay out of the place.

10.It is the further case of the prosecution that on 14.04.2013, Sunday, PW-1 did not go to work. He was sitting in the bus stand which was very close to his house. At about 05.30 pm, he heard the screaming of PW-4, Lavanya and PW-5 Lakshmi from near his house. He ran there and witnessed the accused attacking his mother, Chellammal (D1) with aruval on her head, face, hands, legs and back. PW-1 tried to intervene but, the accused threatened that he would kill him also. At that time, PW-2 and PW-3 came to the spot in a TVS XL Super two wheeler to attend electrical



CrI.A.(MD)No.248 of 2021

work in the house of Ramakrishnan. They saw the accused attacking Chellammal (D1). PW-2 tried to stop the accused. It is the case of the prosecution that the accused also abused and attacked PW-2. PW-2 blocked the attack in his left hand and sustained injuries in his left hand and left head. He became unconscious and fell down. The attack on D1 and PW-2 was witnessed by PW-1, PW-3, PW-4 and PW-5.

11.It is the further case of the prosecution that PW-1 tried to chase and catch the accused. The accused ran towards west side holding both aruval and knife. At that time, Amaravathy (D2), the aunt of PW-1, came out of her house at Singaram Theru. The accused attacked her with knife on her cheek, mouth and all over the body. This was witnessed by PW-6, Pavun Pappa, who came out of her house on knowing that her son, PW-2, had been attacked and injured. This was also witnessed by PW-7, Periyasamy, who sitting in the front yard of his house. Thereafter, the accused ran away with both the aruval and knife. PW-2 was then admitted to the Government Hospital at Lalgudi at around 06.30 pm by one Suresh Kumar (not examined). It was noted in the accident register (Ex-P6) that he had been admitted by Suresh Kumar (brother) (not examined) at 05.30 pm



CrI.A.(MD)No.248 of 2021

and that he was attacked in Thinniyam Street, when he was going by bike by a known person by a sword (வாள்). The injuries on PW-2 were noted by PW-9, Dr.Anurekha, and they were as follows:

- “1)Lacerated wound 7 x 2 x 2 cm in frontal region.
- 2)Lacerated wound 5 x 2 1 cm in left parietal region.
- 3)Lacerated wound 5 x 2 x 1 cm in right forearm.
- 4)Abrasaion 5 x 1 cm in left forearm.”

12.PW-9, Dr.Anurekha had referred PW-2 for further examination to District Head Quarters Hospital at Trichy and later to the Government Hospital at Tanjore. An x-ray was taken there and it was confirmed that there was no bone injury. PW-9 on receipt of the report from Government Hospital at Tanjore, issued wound certificate-cum-accident register under Ex-P6, categorising the injury as simple in nature in accordance with the opinion given by Dr.Jeyanthi of Tanjore Medical College and Hospital, (not examined).

13.PW-1 then lodged a complaint under Ex-P1 before the Lalgudi Police Station. It was received by Subramanian, PW-16, Sub Inspector of

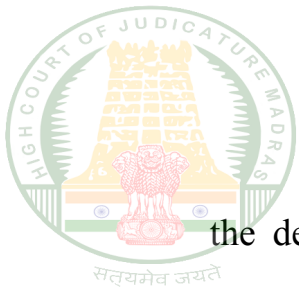


CrI.A.(MD)No.248 of 2021

Police, Lalgudi by about 06.30 pm. He then registered the FIR in Cr.No. 163 of 2013 for offences punishable under Sections 294(b), 341, 307, 302 and 506(ii) IPC. The FIR was marked as Ex-P12.

14.PW-16 then sent the original complaint and FIR to the Court of Judicial Magistrate, Lalgudi through PW-15, Head Constable, Shankar. The learned Judicial Magistrate, Lalgudi was on leave and therefore, PW-15 handed over the express FIR to the Judicial Magistrate-II Trichy, who was the in-charge Magistrate. Copies of FIR were also forwarded to the Deputy Superintendent of Police, Lalgudi and Superintendent of Police, Trichy and other higher officials.

15.The investigation was then taken over by PW-20, Balamurugan, Inspector of Police, Lalgudi Police Station. He visited the scene of crime at Kalamman Kovil Keela Theru at 07.30 pm in the presence of PW-8, Gopalan and PW-10, Periyasamy. He prepared observation mahazar Ex-P2 and rough sketch Ex-P24. He then visited the place of crime in the second occurrence at Singaram Theru at 10.15 pm and prepared observation mahazar, Ex-P3 and rough sketch Ex-P25. He then conducted inquest over



the dead body of Chellammal (D1) in the presence of panchayatars and witnesses and prepared inquest report, Ex-P26. He then conducted inquest over the dead body of Amaravathy (D2) in the presence of panchayatars and witnesses and prepared inquest report, Ex-P27. He then sent the bodies of D1 and D2 through PW-14 and PW-19 respectively to Government Hospital at Trichy for postmortem under requisition letters Ex-P28 and Ex-29 respectively.

16.The postmortem was conducted by Dr.Renuka Devi (PW-18). The following injuries were found on the body of Chellammal (D1):

“(1)An oblique cut wound 9cm x 1cm x bone deep on the right parietal region of the scalp; O/E the edges are clean cut.

(2)A transverse cut wound, 19cm x 2cm x bone deep on the right frontal and right temporal region. O/E the edges are clean cut. Cut fracture of frontal bone present.

(3)A transverse cut wound 13 cm x 5cm x bone deep on the left occipital region of the scalp, left ear and left side of face. O/E the edges are clean cut. Cut fracture of occipital bone and left lower jaw bone present.

(4)A vertical cut wound 4 cm x 2 cm x muscle deep on the right side of chin. O/E the edges are clean cut.

(5)An oblique cut wound 10 cm x 3 cm x muscle deep on the back of right forearm. O/E the edges are clean cut.

(6)A transverse cut wound, 3 cm x 1 cm x muscle deep on the left palm. O/E edges are clean cut.

(7)Two transverse cut wounds, 2 cm x 1 cm x bone deep on the front of left middle finger. O/E the edges are clean cut. Cut



fracture of middle phalanges present.

(8)A vertical cut wound 4 cm x 1 cm x muscle deep on the back of left forearm.

*(9)Dark brown abrasions: on the top of the left shoulder 6 cm * 0.5 cm back of left side of chest 4cm x 0.5 cm front of right arm 6 cm x 0.5 cm.*

(10)Bruising of entire calvarium – Dark red. Cut fracture of occipito-atlantic joint with laceration of underlying medulla oblongata present.

(11)Sub dural hemorrhage and sub arachnoid hemorrhage on both cerebral and cerebellar hemisphere.

(12)Fracture base of skull – right anterior and posterior cranial fossae present.”

17.The following injuries were found on the body of Amaravathy

(D2):

“(1)A transverse cut wound 10 cm x 2 cm x bone deep on the right occipital region of the scalp.

(2)A vertical cut wound 19 cm x 4 cm x bone deep on the right frontal region of the scalp, right side forehead, right side of face. O/E the edges are clean cut. Cut fracture of right frontal bone right upper and lower jaw bones present.

(3)A vertical cut wound 12 cm x 1 cm x bone deep on the right ear and right side of face. O/E the edges are clean cut.

(4)A transverse cut wound 7 cm x 4 cm x muscle deep on the front of right elbow. O/E the edges are clean cut.

(5)A dark brown colour abrasion, 10 cm x 2 cm on the back of left side of the chest.

(6)Bruising of frontal, right temporal regions of the scalp and right temporalis muscle - Dark Red.

(7)Fracture of frontal, right temporal and right parietal bones present.

(8)Subdural hemorrhage and Subarachnoid hemorrhage on both cerebral and cerebellar hemispheres.

(9)Fracture base of skull - right middle, right side posterior cranial fossae present.”



Crl.A.(MD)No.248 of 2021

18.PW-18, Dr.Renuka Devi then issued postmortem certificate under Ex-P17 (for D1) and Ex-P20 (for D2).

19.PW-20, the Investigating Officer then recovered the blood stained earth, MO-3 and earth without blood, MO-4 at the scene of occurrence for the first incident in the presence of PW-8, Gopalan, Village Administrative Officer, PW-10, Periyasamy, Village Assistant and also blood stained cement plaster piece, MO-5 and cement plaster piece without blood stain, MO-6 at the second scene of occurrence in the presence of PW-8 and PW-10 through seizure mahazar Ex-P4 and Ex-P5 respectively. He then recorded the statements of Panneer (PW-1), Sathish @ Sathish Kumar (PW-2), Arivalagan (PW-3), Lavanya (PW-4), Janaki (not examined), Lakshmi (PW-5), Gunasekaran (not examined), Pavun Pappa (PW-6), Periyasamy (PW-10), Gopalan (Village Administrative Officer) (PW-8), Sujatha, Women Head Constable (PW-14), Tamilzhiniyal, WPC (PW-19) and Periyasamy (PW-7), son of Palaniandi.

20.He then produced the personal belongings/clothes of D1 under MO-9 to MO-13 under special report, Ex-P11. He then produced the



Crl.A.(MD)No.248 of 2021

personal belongings/clothes of D2, MO-14 to MO-16 under Special Report, Ex-P23. He then sent the clothes of the two deceased under Form-95 in Ex-P30 and Ex-31 respectively to the Court.

21.PW-20 then received information that the accused, Sudhakar had surrendered before the learned Judicial Magistrate-III, Tanjore on 15.04.2013. He filed a petition in Crl.M.P.No.1528 of 2013 before the Judicial Magistrate Court, Lalgudi seeking police custody and received one day police custody. He examined the accused in the presence of PW-11, Thavasi Mani, Village Administrative Officer, Siruthaiyur and Durai Raj, Village Assistant (not examined) and recorded the confession of the accused. The admitted portion of the confession statement was marked as Ex-P7 during trial. The accused then informed the place where he had hidden the weapons. They were recovered in the presence of PW-11 and his Assistant through seizure mahazar Ex-P8 and Ex-P9 respectively. Both the aruval and knife were sent to the Court under separate Form-95 under Ex-P32 and Ex-P33.



CrI.A.(MD)No.248 of 2021

22.He also forwarded the blood stained material objects for scientific examination. The scientific examination was conducted by PW-17, Tmt.Jeya, Scientific Officer at Regional Forensic Laboratory, Trichy. She issued biological report, Ex-P13 and serology report, Ex-P14, wherein, it was found that the material objects/clothes of D1 and the blood stained earth from the scene of crime for the first incident contained 'A' blood group. Further, biological report and serology report were also issued under Ex-P15 and Ex-P16 about the clothes of D2 and blood stained cement piece and the blood group was noted as 'AB'. A report was issued that the blood group of Chellammal (D1) was 'A' and Amaravathy (D2) was 'AB'.

23.PW-20 also arranged photographs to be taken of the dead bodies in the scene of occurrence through PW-12, Nazeer, photographer. The photographs were produced as MO-7 (12 photographs of D1) and MO-8, (12 photographs of D2). PW-20 then obtained final opinion relating to the cause of death of Chellammal (D1) and Amaravathy (D2) from PW-18, Dr.Renuka Devi, who conducted the postmortem. He examined her and also recorded her statement. He also recorded the statement of Kadalmani (PW-13), who attended the work of maintaining the street lights of



CrI.A.(MD)No.248 of 2021

Thinniyam Panchayat and who stated that the street lights were functioning in the night between 14.04.2013 and 15.04.2013. PW-20 also marked a certificate in this regard issued by the President of Thinniyam Panchayat under Ex-P20. PW-20 also examined the Head Clerk (not examined) of Chief Judicial Magistrate Court at Lalgudi.

24.After completing the investigation, PW-20 filed final report on 16.07.2013 before the Judicial Magistrate Court, Lalgudi, charging the accused, Sudhakar for commission of offences punishable under Sections 294(b), 341, 307 (1 count), 302 (2 counts) and 506(ii) IPC. As stated, the learned Judicial Magistrate, Lalgudi, had taken cognizance of the final report as P.R.C. No.5 of 2018 and after following due formalities stipulated under Sections 207, 208 and 209 Cr.P.C., had committed the case to the Court of Sessions for trial.

25.During trial, the prosecution examined the witnesses, PW-1 to PW-20, marked Ex-P1 to Ex-P37 and produced MO-1 to MO-16, material objects. On conclusion of recording of evidence adduced by the prosecution, the accused was questioned under Section 313 (1)(b) Cr.P.C.



CrI.A.(MD)No.248 of 2021

relating to the incriminating evidence against him and his statements were recorded. He claimed that a false case had been registered against him. He also claimed that he had witnesses to examine, but did not examine any witness during the course of trial. He also did not mark any exhibits. After hearing arguments, the learned Principal Sessions Judge, Trichy, had convicted the appellant/accused for offence punishable under Section 302 IPC (2 counts) and offence punishable under Section 307 IPC (one count) and acquitted the accused for offences punishable under Sections 341, 294(b) and 506(ii) IPC. This appeal had been filed challenging the said judgment of conviction and sentence by the appellant/accused.

26.The point to be determined is whether the conviction of the accused has to be upheld or modified or set aside?

27.Heard arguments advanced by Mr.R.Manickaraj, for Dr.R.Alagumani, learned Counsel appearing for the appellant/accused and Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor for the respondent.



CrI.A.(MD)No.248 of 2021

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28.Mr.R.Manickaraj, learned Counsel for the appellant questioned the very genesis of the prosecution case. He took the Court through the facts, as projected by the prosecution and stated that the witnesses marshalled by the prosecution are 'interested' witnesses and related to the deceased and therefore, were not reliable and their evidence should be doubted. He pointed out that the prosecution had examined PW-1, PW-2, PW-3, PW-4 and PW-5 as witnesses for the first occurrence leading to the death of Chellammal (D1) and the injuries caused to PW-2. He also stated that the prosecution had examined PW-1, PW-6, PW-7 as eye witnesses for the death of Amaravathy (D2), but pointed out that during examination in Court, PW-3 also stated that he had witnessed the incident leading to the death of Amaravathy (D2).

29.The learned Counsel further pointed out that PW-1 had contradicted himself by stating that he was at the bus stand and also stating that he was at the mandhai, when he heard the screaming of PW-4, Lavanya and PW-5, Lakshmi. He therefore stated that PW-1 had not deposed the true statement as to his location at the time of the first occurrence. He therefore doubted the very presence of PW-1 at the particular place as a

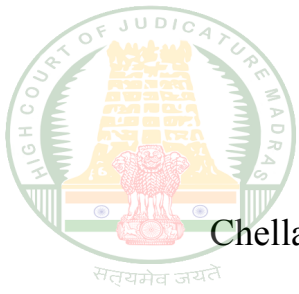


CrL.A.(MD)No.248 of 2021

witness. The learned Counsel further pointed out that in this case, PW-4, the granddaughter of Chellammal (D1), who had come to the house of Chellammal (D1), stated contradictory statements whether she was sitting in front of her house or sitting on the aattukkal/grinding stone. That particular stone had not been recovered during the course of investigation.

30.He further pointed out that it is in evidence that PW-2 fell down unconscious after being attacked. The learned Counsel stated that PW-2 is said to have been taken to hospital by one Suresh Kumar, who claimed to be his brother which relationship was noted in the wound certificate-cum-accident register, Ex-P6 by PW-9, Dr.Anureka, the Medical Officer, Government Hospital, Lalgudi. He pointed out that Suresh Kumar was not examined as a witness during trial. He further pointed out the opinion of PW-9 that the injuries were simple in nature and that there was no bone injury. He also pointed out that it was not known whether PW-2 was conscious or unconscious when brought to the hospital.

31.The learned Counsel also pointed out that the prosecution had not fixed the scene of occurrence for the first occurrence. He stated that



Crl.A.(MD)No.248 of 2021

Chellammal (D1) was residing at Kalamman Kovil Street, but PW-9, Dr.Anureka in Ex-P6, wound certificate-cum-accident register, had stated that PW-2 was attacked by a known person, when he was proceeding in his bike towards Thinniyam Street. The learned Counsel therefore stated that if that be the case, then PW-2 could not have witnessed the first occurrence. The learned Counsel further stated that PW-20 had prepared a rough sketch for the first occurrence, Ex-P25, at Kalamman Kovil Keela Theru. He also pointed that PW-5, Lakshmi was residing at Kalamman Kovil North Street and doubted the very presence of PW-5 also.

32.He further stated that there was a confusion over whether the street was cement street or tar road with respect to the scene of crime for the second occurrence leading to the death of Amaravathy (D2). The learned Counsel also pointed out that it is the case of the prosecution that the direct witnesses were PW-1, PW-6 and PW-7. He pointed out that again, this incident had taken place at Singaram Street and again there was a doubt whether the road was tar road or cement road. He therefore contested the very production of MO-5, blood stained cement plaster piece and MO-6 cement plaster piece without blood stain by PW-20.

22/70



Crl.A.(MD)No.248 of 2021

33.The learned Counsel very vehemently argued about the weapons said to have been used allegedly by the accused. He pointed out the differences in the statements of the witnesses in this regard. MO-1 recovered by PW-20 is an aruval and is said to have been used for the commission of offence against Chellammal (D1) and PW-2, Sathish @ Sathish Kmar. Similarly, MO-2 is a patta kathi alleged to have been used by the accused for the commission of offence leading to the death of Amaravathy (D2). The learned Counsel stated that in view of the contradictory evidence in this regard, it has to be inferred that PW-1 to PW-7 were not all present at the scene of occurrence at any place.

34.He pointed out that PW-1 was said to be working at TASMACH shop at Thuvakudi and no investigation had been done by PW-20 to find out whether PW-1 was working on 14.04.2013 in his work place or not. The attendance register had not been produced. The learned Counsel further stated that PW-1 had deposed that Chellammal (D1) was attacked with aruval. The place, where PW-1 was present at that time was itself in doubt, since he was said to be at bus stop and also at Mandhai. The learned Counsel also stated that PW-1 was residing at another place and not along



CrI.A.(MD)No.248 of 2021

with his mother, Chellammal (D1). PW-2 had admitted that he was actually residing at Singaram Theru. PW-3 had stated that he is residing at Kaliamman Kovil Keela Theru.

35.The learned Counsel also pointed out that both PW-2 and PW-3 did not explain how they suddenly appeared at the scene of occurrence in a two wheeler at the exact time. He pointed out the accident register that PW-2 was attacked while proceeding in a bike at Thinniyam Street and stated that the prosecution had not determined that particular street. The learned Counsel also pointed out that the prosecution had not examined Suresh Kumar, who had taken PW-2 to the hospital, where it was informed that PW-2 was attacked with sword (வாளி). He therefore stated that the weapon itself had not been properly determined by the prosecution.

36.The learned Counsel also questioned the presence of PW-4 and PW-5 at the scene of crime with respect to the occurrence leading to the death of Chellammal (D1). He also pointed out the evidence of PW-1 that the accused ran towards west after attacking his mother Chellammal (D1) by holding both aruval and knife and that after attacking Amaravathy (D2), he



CrI.A.(MD)No.248 of 2021

ran away again holding both the weapons, aruval and knife. He also questioned the evidence of PW-3, who stated that he witnessed the attack against Amaravathy (D2), though he had not stated so in his statement recorded by PW-20.

37.He also pointed out the evidence of PW-6 that Amaravathy (D2) was attacked with a knife and the accused ran away with the knife. He stated that the aruval was not mentioned by PW-6, who is said to be an eye-witness for the attack leading to the death of Amaravathy (D2). He also pointed out the statement of PW-2 that both he and Chellammal (D1) were attacked with a knife (patta kathi) and pointed out the statement of PW-4 that Chellammal (D1) was attacked with aruval. He also pointed out the statement of PW-5 that Chellammal (D1) and PW-2 Sathish were attacked with aruval. PW-1 had also stated that his mother, Chellammal (D1) and PW-2 were attacked with aruval. Pointing out all these contradictions, the learned Counsel stated that he was questioning the very genesis of the case, as projected by the prosecution.



CrI.A.(MD)No.248 of 2021

38.The learned Counsel further argued that no blood was detected in MO-2, knife and no human blood was deducted in MO-1 aruval and therefore, argued that the prosecution had failed to connect the weapons with the incidents alleged against the accused. The learned Counsel further questioned the recovery of both MO-1 and MO-2 and also pointed out that whitener had been applied in the seizure mahazar (Ex-P8) prepared for recovery of MO-1.

39.The learned Counsel also argued very strongly about the delay in lodging of FIR and despatch of FIR to the Magistrate Court. He pointed out that the occurrence is said to have occurred at around 05.30 pm on 14.04.2013 and that the complaint was given at 06.30 pm on the same day. He pointed out that the quarters of the Judicial Magistrate, Lalgudi was situated at a distance of 200 meters from Lalgudi Police Station. He stated that no reason or explanation had been given for the delay in lodging or registration of the FIR and despatching of the same and reaching the Court. The learned Counsel stated that the distance between Police Station and the quarters of Judicial Magistrate-II, Trichy, is only 14 km and pointed out that the FIR and complaint were received by the learned Judicial Magistrate



Crl.A.(MD)No.248 of 2021

No.II, Trichy only at 04.30 am on 15.04.2013 after considerable delay. The learned Counsel therefore stated that this delay was fatal to the case of the prosecution. He also pointed out that PW-1 had stated that he was not aware about the contents of Ex-P1 complaint.

40.Pointing out all these aspects, the learned Counsel for the accused stated that there was a doubt in the entire case as projected by the prosecution and therefore, contended that the conviction and the sentence against the appellant should be set aside by this Court.

41.The learned Counsel placed reliance on the judgment of a learned Single Judge of this Court reported in **(1975) 1 MLJ 209 in Re.Karunakaran and another vs unknown**, and more particularly to the guidance issued by the Court relating to lodging of complaint, registration of FIR and despatch of the same to the Magistrate. It had been held as follows:

“5.In some instances we were not able to find out at what precise point of time on a particular day the complaint was made to the police, and the relevant first information report were received by the Sub-Magistrate, for they contained only the initials of the Sub-Magistrate, and the date. The importance of noting the exact time cannot be over-stated or over emphasized.



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Crl.A.(MD)No.248 of 2021

We have also come across instances where we could not be sure whether the inquest report and the statements of witnesses recorded during the inquest accompanying the inquest report had been sent to the Sub-Magistrate on the day when they purported to have been sent, since they did not contain the initials of the Sub-Magistrate with the date of the receipt of the same. In our note dated 28th March, 1974 we had stressed the importance of noting the time at which and the date on which these documents were received by the Sub-Magistrate, since the guilt of the accused or his innocence could be gauged, measured and determined unmistakably from certain documents received by the Courts in good time and we find that a Circular, R.O.C. No. 2272-A/74-F1 dated 20th June, 1974 was sent to all the Magistrates. In the instant case we had grave doubts whether the inquest report and the statements of witnesses recorded during the inquest and said to have accompanied the inquest report were received by the Sub-Magistrate on a particular day, for the Magistrate had initialed the inquest report, but in the date seal which was affixed to the inquest report the date was written in ink. The statements of the witnesses recorded during the inquest, however, did not contain the initials of the Sub-Magistrate at all. There was a lurking and gnawing suspicion in our minds whether they were smuggled into the Court of the Sub-Magistrate belatedly and far later. We are therefore of the opinion that it is imperative that the following documents should be dispatched immediately, without any delay by the investigating officers to the SubMagistrate. The Station House Officer should record the time of the actual dispatch of the various documents in the various registers, particularly, the statement recorded under Section 154 of the Code of Criminal Procedure. On receipt of the said documents, the Magistrate should initial the same, noting therein the time and date of the receipt of those documents. This would provide the only judicial safeguard against subsequent fabrication of such documents in grave crimes Therefore, as the Manual of Instructions for the Guidance of Magistrates in the Madras State does not contain any instructions to the Magistrates in this regard, we suggest that the same may be brought up-to-date by incorporating in it the circulars which had been issued from time to time for the guidance of the Magistrates. The following are documents of special importance which, in our opinion, should be



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Crl.A.(MD)No.248 of 2021

dispatched by the investigating officers without any delay to the Magistrates, and they should bear the initials of the Magistrate with reference to both the time and date of their receipt.

1. The original report or complaint under Section 154 of the Code of Criminal Procedure.

2. The printed form of the first information report prepared on the basis of the said report or complaint.

3. Inquest reports and statements of witnesses recorded during the inquest.

4 Memo, sent by the Station House Officers to doctors for treating the injured victims who die in the hospital subsequently and the history of the case-treatment.

5. Memo, sent by the doctor to the police when a person with injuries is brought to the hospital, or the death memo, sent by the doctor to the police on the death of the person admitted into the hospital with injuries.

6. Observation mahazars for the recovery of material objects, search lists and the statements given by the accused admissible under Section 27 of the Evidence Act, etc. prepared in the course of the investigation.

7. The statements of witnesses recorded under Section 161 (3) of the Code of Criminal Procedure.

8. Form No. 91 accompanied by material objects.”

42.The learned Counsel pointed out that this judgment was relied on by a Division Bench of this Court in ***Crl.A.(MD)Nos.289 and 406 of 2017, Manickara vs State represented by the Inspector of Police***, dated 05.07.2019, wherein, the Division Bench had examined the effect of delay in sending the exhibits and documents to the Court and had held as follows:

“32.The crucial documents namely original of Ex.P1 and FIR, though handed over to PW13, had reached the jurisdictional magistrate court belatedly and the delay coupled with the fact that



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CrI.A.(MD)No.248 of 2021

earliest statement recorded from PWs.1 and 2, as pointed out earlier, have not seen the light of the day, and coupled with the material contradictions in the testimony of P.Ws.1 and 2 as to they actually witnessing the occurrence creates a grave doubt in the case projected by the prosecution.

.....

37. In the considered opinion of this Court, the above said infirmities had gone deep into the root of the matter and had shaken the very foundation laid by the prosecution charging both the accused for the commission of offence, and therefore, it is a settled position of law that the benefit of doubt, on account of the said infirmities, always enure in favour of the accused, and therefore, A1 and A2 are awarded benefit of doubt.”

43.The learned Counsel insisted that the ratio laid in the aforementioned judgments should be applied to the facts of the case. He urged that the judgment of the trial Court should be set aside and the Criminal Appeal must be allowed.

44.Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor however very strongly disputed and contested every statement made by the learned Counsel for the appellant. The learned Additional Public Prosecutor stated that PW-1 was a natural witness, who was standing near the bus stand and stated that it had been clarified that both the bus stand and mandhai are one and the same place. PW-1 had heard the screaming of



CrI.A.(MD)No.248 of 2021

PW-4 and PW-5 and had rushed towards the place and saw the accused attacking his mother indiscriminately with aruval.

45.The learned Additional Public Prosecutor pointed out the motive for such attack by the accused, namely, the previous attack by the brothers of PW-1 against the elder brother of accused. The elder brother subsequently died and a threat was held out by the accused that he would kill any member of the family of PW-1. The learned Additional Public Prosecutor pointed out that necessary explanation had been given for the presence of PW-2 and PW-3 in the scene of occurrence. He pointed out that PW-2 had tried to prevent the attack against Chellammal (D1) and also suffered injuries in his hand and other parts of the body. He fell down unconscious. He pointed out that he was immediately taken to hospital by one Suresh Kumar and stated that the fact that he had suffered injuries is evident from the accident report-cum-wound certificate issued by PW-9, Dr.Anureka.

46.He further pointed out that the categorisation of the injury as simple injury was made only after getting report from the Government



Hospital at Tanjore, but the learned Additional Public Prosecutor read out the nature of the injuries which were laceration injuries and could have been caused only by a sharp edged weapon like aruval and not by any other object. The learned Additional Public Prosecutor also pointed out that both PW-4 and PW-5 were natural witnesses. PW-4 was the granddaughter of D1 and had come to that house and had witnessed the entire occurrence. PW-5 was a resident of the adjacent house and had come to fetch water and had also witnessed the occurrence. They had both seen the attack on Chellammal (D1) and also the attack on PW-2.

47.He also pointed out that PW-1 had then chased the accused and the accused had attacked Amaravathy (D2), again indiscriminately. He pointed out that the accused was having both the weapons in his hands and therefore, it was only natural that the witnesses would get slightly confused about the actual weapon used against each one of the deceased and the injured witness. The learned Additional Public Prosecutor stated that PW-6 and PW-7 were natural witnesses for the incident leading to the death of Amaravathy (D2). PW-6 was the mother of PW-2 and having heard about the attack on PW-2 had come over from her house. PW-7 was a resident of



CrI.A.(MD)No.248 of 2021

the nearby house of Amaravathy (D2) and was sitting outside in the front portion of his house and he directly witnessed the attack against Amaravathy (D2).

48.The learned Additional Public Prosecutor stated that the prosecution also examined a witness from the panchayat, PW-13, who also produced a certificate that there was sufficient electric light at that particular place. The learned Additional Public Prosecutor also pointed out that immediately after the incidents, the complaint was lodged at 06.30 pm. He then pointed out that the FIR was immediately despatched by PW-16, Sub Inspector of Police through PW-15, Shankar, Special Sub Inspector of Police, to the Court. Unfortunately, the Judicial Magistrate at Lalgudi was on leave and therefore, the FIR had to be taken to the Judicial Magistrate-II at Trichy who was holding in-charge. There was a confusion as to where to go. Therefore, the learned Additional Public Prosecutor stated that it was natural that there was a slight delay in the FIR reaching the Magistrate Court. It was pointed out that the FIR had actually been despatched at the very minute, when it was registered.



49.The learned Additional Public Prosecutor also pointed out the nature of injuries suffered by D1 and D2 and stated that the said injuries were the cause for death of both D1 and D2. He stated that both the deaths are homicidal death. He further pointed out that the accused had a motive for the commission of the offence and stated that therefore the accused was culpable for causing such homicide. He pointed out that the first occurrence was witnessed by PW-1, PW-2, PW-3, PW-4 and PW-5 and the second occurrence by PW-6 and PW-7. They were all natural witnesses.

50.He also pointed out the recovery of MO-1 and MO-2, aruval and knife and stated that they were recovered after a few days and therefore, the blood stains could not be detected. He pointed out that the blood stains in the clothes worn by D1 and D2 matched with the blood groups of D1 and D2. He also pointed out that PW-2 being an injured witness, much credibility should be shown to his evidence. The learned Additional Public Prosecutor stated that merely because PW-1, PW-4 and PW-6 were relatives of the deceased, their evidence should not be brushed aside. The Court should only examine them with scrutiny.



CrI.A.(MD)No.248 of 2021

51.The learned Additional Public Prosecutor pointed out the further investigation done. He pointed out that there was no confusion about the scene of occurrence and stated that the street is also called the street leading to Thinniyam village. He pointed out that PW-2 had been admitted by Suresh Kumar and it was only natural that it was informed that he had been attacked by a known person while proceeding on a bike. He had come on a bike to the scene of occurrence while D1 was assaulted. PW-2 had very specifically stated that he had witnessed the attack on D1 and that he had tried to prevent the same and that he was also attacked by the accused. He was a direct eye witness.

52.The learned Additional Public Prosecutor further pointed out that whether the road was tar road or cement road would not make any difference, since the Investigating Officer had collected samples from the very place of occurrence. He also pointed out that MO-1 and MO-2 had been recovered on the basis of confession given by the accused and stated that the witnesses to the confession had withstood cross examination. He thus pointed out that the prosecution had established the motive; the prosecution had established that the deaths of D1 and D2 were homicide in

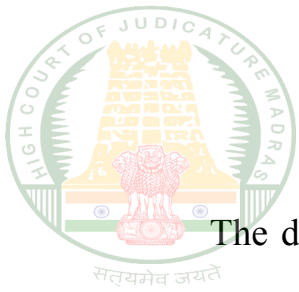


CrI.A.(MD)No.248 of 2021

nature; that the accused had motive for causing the deaths and that, there was intention to cause death and the accused had attacked both D1 and D2 and caused injuries with knowledge that such injuries would cause death. The learned Additional Public Prosecutor also stated that in the course of the same transaction, the accused had also attacked PW-2, who had tried to prevent him from attacking D1. The learned Additional Public Prosecutor stated that therefore, the prosecution had established the case beyond all reasonable doubts. The learned Additional Public Prosecutor stated that there is no infirmity or illegality in the judgment of the trial Court and stated that the conviction and sentence imposed on the appellant/accused will have to be upheld.

53.We have carefully considered the arguments advanced and perused the materials records. During the course of hearing, we also perused in open Court both MO-1 and MO-2, aruval and knife.

54.The case of the prosecution is that Ravi, Ramakrishnan and Elangovan, the three sons of the deceased, Chellammal (D1), had attacked and caused injuries to the elder brother of the accused in December 2011.



CrI.A.(MD)No.248 of 2021

The dispute was with respect to a garbage pit. The family of Chellammal (D1) and the family of the accused were living in practically adjacent houses. Owing to the injuries suffered, the brother of the accused after hospitalisation and after taking treatment, was still confined to his house and died about two weeks prior to the date of incident. The accused harboured a thought that his elder brother died only owing to the attack and injuries caused by the three sons of Chellammal (D1). He had therefore, threatened openly that he would retaliate and kill any one member of the family of Chellammal (D1). It is also on evidence that owing to this threat, Ravi, Ramakrishnan and Elangovan took a decision to stay out of station at least for a period of two weeks.

55.PW-1, Panneer, is also another son of Chellammal (D1). He was working as a load man in a TASMACH shop at Thuvakudi. On 14.04.2013, which was a Sunday, he had not gone his work place. He was sitting in a bus stand, which was very close to his house. There are also statements that he was actually sitting in the mandhai. However, it had been clarified that both bus stand and mandhai are in the same place. In the evening at around 05.30 pm, he heard a loud cry/scream made by Lavanya (PW-4) and



Crl.A.(MD)No.248 of 2021

neighbour Janaki (not examined) coming from near his house. He ran towards his house.

56.It is the case of the prosecution that PW-1 directly witnessed the accused indiscriminately attacking his mother, Chellammal (D1) with an aruval, when she was standing just outside her house. It is also the case of the prosecution that this attack was also witnessed by Lavanya (PW-4), granddaughter of Chellammal (D1), who had come over to her grandmother's place and was at that time sitting in an attukkal just outside the house and also by PW-5, Lakshmi, who had come close to that house to fetch water from the water pipeline.

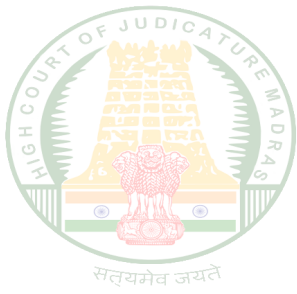
57.The learned Counsel for the accused had vehemently argued that the presence of PW-1 is highly doubtful, since he was working as a load man in a TASMAL shop and the prosecution had not produced the attendance register from his work place to show that he had not actually attended the work at that time and on that date. However, the evidence of PW-1 is consistent with the evidence of PW-4 and PW-5 who also witnessed the indiscriminate cutting of Chellammal (D1).



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58. At that time, PW-2, Sathish @ Sathish Kumar, who is an Electrician had come to that place in a motorcycle along with PW-3, Arivalagan, who was a mason, to do electric work in another neighbour, Duraisamy's house. It is the case of the prosecution that PW-1, PW-2, PW-3, PW-4 and PW-5 were direct witnesses to the accused attacking Chellammal (D1).

59. The learned Counsel for the appellant had further raised an issue about the scene of occurrence. He stated that it was the case of the prosecution that the occurrence happened at Kalamman Kovil Street. However, PW-2, who was injured and had been admitted to hospital had given information that he had been attacked while proceeding on a motorcycle in Thinniyam Street. Subsequently however, the witnesses had clarified that both are the same streets and that Thinniyam is the village and Thinniyam Street is the street which leads to Thinniyam Village. When PW-2 saw the accused attacking Chellammal (D1), he went forward and tried to prevent further attack. At that time, the accused also cut PW-2, Sathish @ Sathish Kumar and caused the following injuries:



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CrL.A.(MD)No.248 of 2021

- “1)Lacerated wound 7 x 2 x 2 cm in frontal region.
2)Lacerated wound 5 x 2 x 1 cm in left parietal region.
3)Lacerated wound 5 x 2 x 1 cm in right forearm.
4)Abrasion 5 x 1 cm in left forearm.”*

60.This is evident from the accident-cum-wound certificate, Ex-P6 issued by PW-9, Dr.Anurekha.

61.The learned Counsel for the accused further stated that a perusal of the opinion given by PW-8, Dr.Anurekha, would show that the injuries are simple in nature. However, when PW-2 was initially admitted, he was, after determining the nature of wound suffered by him, asked to go over to the Government Hospital at Trichy and thereafter, to the Government Hospital at Tanjore. At the Government Hospital, Tanjore, an x-ray was taken and it was found that there were no fractures on the bones. After receiving that particular report, PW-9 had given her final opinion about the nature of the injuries that they were simple in nature. The injuries had been stated above and a perusal would show that they were cut injuries and could have been caused only by a sharp weapon.



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62.The learned Counsel for the accused had further pointed out the entry in Ex-P6, accident register-wound certificate wherein, it had been stated that PW-2 had been brought to the hospital by Suresh Kumar, who is said to be his brother. The learned Counsel pointed out that the prosecution had not taken any effort to examine the said Suresh Kumar. It was also pointed out that PW-2 in his evidence stated that he had no such brother and further, PW-6, Pavun Pappa, mother of PW-2 also stated in her evidence that she has no son called Suresh Kumar. However, we hold that what is relevant is the fact is that PW-2 actually suffered injuries. The evidence of an injured witness will have to be given much credence.

63.The presence of PW-2 could not be denied or disputed. The only ground on which the learned Counsel for the accused disputes his presence is the entry in Ex-P6 that he had been attacked by a known person while proceeding on a motorcycle in Thinniyam Street. However, as stated above, it had been clarified that Thinniyam Street just signifies the street which goes to the village Thinniyam and the actual name of the street is Kaliamman Kovil Street.



Crl.A.(MD)No.248 of 2021

64. In his evidence, PW-1 stated that on receiving injuries, PW-2 collapsed and fell down unconscious. The learned Counsel for the accused however pointed out that in Ex-P6, accident register-wound certificate, it was stated that the injured person/PW-2 was conscious at the time when he was brought to the hospital. It must be pointed out that PW-2 was attacked at 05.30 pm and he had been brought to the hospital at 06.30 pm. It is always possible that he could have recovered his consciousness in that one hour gap. It had also been pointed out by the learned Counsel for the accused that in Ex-P6, it had been mentioned that he had been attacked by a sword (வாள்) whereas, in the evidence before the Court, it had been stated that he had been attacked by an aruval. But, this statement of the learned Counsel for the accused will have to be read in conjunction with the further fact that PW-2 collapsed unconscious after receiving cut injuries from the accused. Naturally, his memory would be blurred and therefore, we would not give much credence to the description of the weapon as stated in the accident register-wound certificate, Ex-P6.

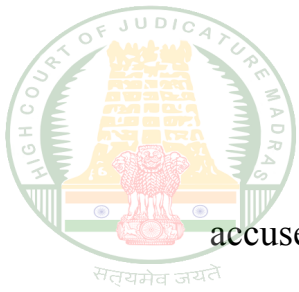
65. After Chellammal (D1) collapsed and PW-2, Sathish @ Sathish Kumar fell down unconscious, the accused ran away with two separate



CrI.A.(MD)No.248 of 2021

weapons, aruval and a long knife. This holding of two separate weapons could also have caused confusion in the minds of PW-2, to identify the actually weapon with which he was attacked.

66.It is the further evidence of PW-1 that he then chased the accused. The accused then reached Singaram Street. There, Amaravathy (D2) an aunt of PW-1 was standing outside her house. The accused begun to cut her indiscriminately using the knife which he also had. This was witnessed by PW-1, who had chased the accused and also by PW-6, Pavun Pappa, mother of PW-2. In her evidence, she stated that she and her husband came out of their house on coming to know that their son PW-2, Sathish @ Sathish Kumar had been attacked and had fallen down injured. Their house was very close to the house of Amaravathy (D2). The attack of Aramavathy (D2) was also witnessed by PW-7, Periyasamy, who was also an adjacent resident and who was in the outside courtyard of his house. The prosecution, to prove that the accused cut Amaravathy (D2) had placed reliance on the evidence of PW-3, PW-6 and PW-7. During his evidence in Court, however, PW-3 also stated that he was also a witness to the accused causing cut injuries to Amaravathy (D2). When PW-1 again tried to catch the



accused, he threatened PW-1 and ran away holding both the weapons.

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67.The learned Trial Judge had examined the offences under Sections 341, 294(b) and 506(ii) IPC, which were also included in the charge against the accused. The learned Trial Judge had however acquitted the accused of those charges.

68.The injuries suffered by Chellammal (D1) are as follows:

“(1)An oblique cut wound 9cm x 1cm x bone deep on the right parietal region of the scalp; O/E the edges are clean cut.

(2)A transverse cut wound, 19cm x 2cm x bone deep on the right frontal and right temporal region. O/E the edges are clean cut. Cut fracture of frontal bone present.

(3)A transverse cut wound 13 cm x 5cm x bone deep on the left occipital region of the scalp, left ear and left side of face. O/E the edges are clean cut. Cut fracture of occipital bone and left lower jaw bone present.

(4)A vertical cut wound 4 cm x 2 cm x muscle deep on the right side of chin. O/E the edges are clean cut.

(5)An oblique cut wound 10 cm x 3 cm x muscle deep on the back of right forearm. O/E the edges are clean cut.

(6)A transverse cut wound, 3 cm x 1 cm x muscle deep on the left palm. O/E edges are clean cut.

(7)Two transverse cut wounds, 2 cm x 1 cm x bone deep on the front of left middle finger. O/E the edges are clean cut. Cut fracture of middle phalanges present.

(8)A vertical cut wound 4 cm x 1 cm x muscle deep on the back of left forearm.

*(9)Dark brown abrasions: on the top of the left shoulder 6 cm * 0.5 cm back of left side of chest 4cm x 0.5 cm front of right*



arm 6 cm x 0.5 cm.

(10)Bruising of entire calvarium – Dark red. Cut fracture of occipito-atlantic joint with laceration of underlying medulla oblongata present.

(11)Sub dural hemorrhage and sub arachnoid hemorrhage on both cerebral and cerebellar hemisphere.

(12)Fracture base of skull – right anterior and posterior cranial fossae present.”

69.The injuries suffered by Amaravathy (D2) are as follows:

“(1)A transverse cut wound 10 cm x 2 cm x bone deep on the right occipital region of the scalp.

(2)A vertical cut wound 19 cm x 4 cm x bone deep on the right frontal region of the scalp, right side forehead, right side of face. O/E the edges are clean cut. Cut fracture of right frontal bone right upper and lower jaw bones present.

(3)A vertical cut wound 12 cm x 1 cm x bone deep on the right ear and right side of face. O/E the edges are clean cut.

(4)A transverse cut wound 7 cm x 4 cm x muscle deep on the front of right elbow. O/E the edges are clean cut.

(5)A dark brown colour abrasion, 10 cm x 2 cm on the back of left side of the chest.

(6)Bruising of frontal, right temporal regions of the scalp and right temporalis muscle - Dark Red.

(7)Fracture of frontal, right temporal and right parietal bones present.

(8)Subdural hemorrhage and Subarachnoid hemorrhage on both cerebral and cerebellar hemispheres.

(9)Fracture base of skull - right middle, right side posterior cranial fossae present.”

70.The postmortem on the dead bodies were conducted by PW-18,

Dr.Renuka Devi. She issued postmortem certificate and final opinion with



CrI.A.(MD)No.248 of 2021

respect to Chellammal (D1), which were marked as Ex-P17 and Ex-P18 and also the postmortem certificate and final opinion with respect to Amaravathy (D2), which were marked as Ex-P20 and Ex-P21. In the final opinion, it had been very categorically stated that both Chellammal (D1) and Amaravathy (D2) died only owing to the cut injuries suffered by them. Thus, both Chellammal (D1) and Amaravathy (D2) died a homicidal death.

71.It will now have to be determined by this Court as to who was culpable for such homicide. The incident leading to the death of D1 and D2 and the injuries caused to PW-2 took place within a span of maximum 10 to 15 minutes from around 05.30 pm on 14.04.2013.

72.PW-16, Subramanian, was the Sub Inspector of Police at Lalgudi Police Station on 14.04.2013. In his evidence, he stated that PW-1 Panneer, residing at Kaliasman Kovil South Street at Thinniyam village came to the Police Station at 06.30 pm and had lodged a complaint, which was marked during trial as Ex-P1. On the basis of the said complaint, PW-16 had registered FIR in Cr.No.163 of 2013 for offences punishable under Sections 294(b), 341, 304, 302 and 506(ii) IPC. The FIR had been marked as Ex-



CrI.A.(MD)No.248 of 2021

P12. In the FIR, the name of the accused was given with the name of his father and the place of his residence, namely, Kaliamman Kovil Street, Thinniyam. The name of the two deceased, namely, Chellammal (D1) and Amaravathy (D2) were also mentioned. In the complaint, it was stated that the accused had caused injuries to PW-2, Sathish @ Sathish Kumar. PW-16 in his evidence further stated that after registering the FIR, he had forwarded the original complaint and FIR through Head Constable Shankar, PW-15, to the Judicial Magistrate, Lalgudi.

73.PW-15 in his evidence stated that since the Judicial Magistrate, Lalgudi was on leave, he had handed over the complaint and the FIR copy to the Judicial Magistrate-II, Trichy, who was the in-charge Judicial Magistrate. He then came back to the Station and filed a report. He stated that the residence of the Judicial Magistrate, Lalgudi was about 200 meters away from the Police Station and that it would take 15 to 20 minutes to go over there. It must however be kept in mind that the FIR and the complaint had been handed over to the Judicial Magistrate-II, Trichy, who had received the same at 04.30 am on 15.04.2013.



CrI.A.(MD)No.248 of 2021

74.The learned Counsel for the appellant pointed out this delay in the complaint and FIR reaching the Judicial Magistrate. It must be kept in mind that the entire incident had taken place late in the evening and the FIR had been registered at 06.30 pm and thereafter, it must be visualised about the difficulty which would have been faced by PW-15, who had to initially go to the residence of the Judicial Magistrate at Lalgudi and thereafter, on knowing that he was on leave and that the Judicial Magistrate-II, Trichy was holding in-charge position, to go over to the Trichy and hand over the same to the Judicial Magistrate-II, Trichy. This travelling must have taken place in the middle of the night and he had served it on the Judicial Magistrate early in the morning at 04.30 am. We hold that this delay is explainable and in fact not material, since in the complaint, the entire sequence of events had been stated, both about the causing of death of the two individuals and also the causing of injuries on PW-2, Sathish @ Sathish Kumar. The incidents had happened at around 05.30 pm and by 06.30 pm, the FIR had been registered. There was no delay in registration of the FIR in which also, the details of the accused had been recorded. Therefore, we would not give much credence to the fact that the FIR had been received by the Judicial Magistrate-II, Trichy at 04.30 am on 15.04.2013.



Crl.A.(MD)No.248 of 2021

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75.The investigation was then taken over by PW-20, Bala Murugan.

He had received information about the registration of the FIR at around 07.30 pm on 14.04.2013. He had then examined the scene of crime, where Chellammal (D1) was done to death in the presence of witnesses, Gopalan (PW-8) (Village Administrative Officer) and Periyasamy (PW-10) (Village Assistant). In the presence of same witnesses, he also visited the scene of crime where Amaravathy (D2) was done to death at 08.15 pm. In both places, he had separately prepared observation mahazars and rough sketches. The rough sketch for the first scene of crime was marked as Ex-P24 and for the second scene of crime was marked as Ex-P25. He then conducted inquest over the dead body of Chellammal (D1) in the presence of panchayatars between 09.00 pm and 10.00 pm in that place itself. He prepared inquest report, Ex-P26. Thereafter, at around 10.15 pm, he conducted inquest over the dead body of Amaravathy (D2) at Singaram Street again in the presence of panchayatars and prepared inquest report, Ex-P27. He then handed over the two dead bodies through PW-14, Head Constable Sujatha and PW-19, Woman Police Constable respectively to the hospital for conducting postmortem. He also gave requisition letters,



Crl.A.(MD)No.248 of 2021

PW-28 and PW-29. He then collected the blood stained sand and sand without blood stain in the first scene of crime under mahazar, Ex-P4. They were produced as MO-3 and MO-4. He then collected blood stained cement and cement without blood stain from the second scene of crime under mahazar, Ex-P5 and they were produced as MO-5 and MO-6.

76.The learned Counsel for the appellant had pointed out this particular evidence and stated that there was a confusion whether the road was tar road or cement road. At any rate, it was hard surface and again, we would not place much reliance on this particular aspect, since the evidence is clear that the second occurrence took place at Singaram Street. It had been clearly given in the complaint and in evidence also and more particularly by PW-6 and PW-7, who were eye witnesses, more specifically, by PW-7, who was a neighbour residing in the same street. Therefore, we hold that there is no doubt about the place of occurrence.

77.PW-20 then continued with his investigation and recorded the statements of Panneer (PW-1), Sathish @ Sathish Kumar (PW-2), Arivalagan (PW-3), Lavanya (PW-4), Janaki (not examined), Lakshmi



Crl.A.(MD)No.248 of 2021

(PW-5), Gunasekaran (not examined), Pavun Pappa (PW-6), Periyasamy (PW-10) (Village Assistant), Gopalan (PW-8) (Village Administrative Officer), Head Constable Sujatha (PW-14), Woman Police Constable Tamizhiniyal (PW-19) and Periyasamy (PW-7).

78. After the postmortem had been completed, PW-14 and PW-19 had taken back the personal belongings of the two deceased. These were sent under Form-95 under Ex-P30 and Ex-P31 to the Court. He then recorded the statements of Shankar (PW-15) and Nazeer, Photographer (PW-12). He had arranged photographs to be taken through PW-12, Nazeer and the photographs were produced as MO-7 and MO-8 series. He then received information that the accused had surrendered before the Judicial Magistrate-III at Tanjore on 15.04.2013 and he filed an application seeking to take him to police custody and was granted one day police custody. He then recorded the confession statement of the accused in the presence of Thavasimani (PW-11) (Village Administrative Officer of Siruthaiyur) and Village Assistant, Durairaj. The admitted portion of confession had been marked as Ex-P7.



CrI.A.(MD)No.248 of 2021

79.PW-20 received information where the accused had hidden the aruval and he seized that under mahazar Ex-P8. The aruval had been produced as MO-1. He also seized the knife, MO-2 under mahazar, Ex-P9. He then forwarded the seized material objects to the Court under Form-95 under Ex-P32 and Ex-P33. He then received the postmortem certificates from Dr.Renuka Devi (PW-18) and examined and recorded her statement. The postmortem certificates and final opinion were marked as Ex-P17, Ex-P18, Ex-P20 and Ex-P21. He then forwarded the material objects for forensic examination under requisition letter Ex-P28. He had forwarded a letter for examining the personal belongings of the two deceased for forensic examination under Ex-P37. He then also examined and recorded the statement of Dr.Anureka, PW-9, who treated PW-2, Sathish @ Satshish Kumar. He seized the accident register-cum-wound certificate, Ex-P10. He also recorded the statement of the Head Clerk of the Judicial Magistrate Court at Lalgudi. He completed the investigation on 16.07.2013 and filed final report charging the accused with commission of offences punishable under Sections 294(b), 341, 307, 302 (2 counts) and 506 (ii) IPC.



CrI.A.(MD)No.248 of 2021

80. During his cross examination, PW-20 was asked about the delay in the receipt of the FIR and complaint copy by the Judicial Magistrate-II, Trichy, who had received it at 04.30 am on 14.04.2013. He gave an explanation that the Judicial Magistrate, Lalgudi was on leave and therefore, the FIR and the complaint had to be taken to Trichy to the residence of Judicial Magistrate-II, Trichy and it could be served only at 04.30 am on 15.04.2013. It is thus seen that the delay had been explained by the Investigating Officer during cross examination on question put by the learned Counsel for the accused.

81. He was also cross examined with respect to the place of incident, since in the accident register, it had been stated that PW-2 was attacked at Thinniyam Salai. It was clarified that it was the street going to Thinniyam village. He was also questioned about the weapons, which were used and the contradictory statements made by the witnesses. But, it must again be kept in mind that the witnesses saw the attack which happened within a few minutes on both D1 and D2 and there would be no time for them to recollect what weapon was used. The accused was having two weapons, MO-1 and MO-2. To that extent, we hold that the prosecution had established the



CrI.A.(MD)No.248 of 2021

case.

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82.It must also be kept in mind that though the incident had happened on 14.04.2013, the examination of PW-1 during trial commenced only on 11.02.2019 nearly six years later and therefore, there could always be confusion in the minds of the witnesses as to the nature of weapons used. Effectively, they all stated that the weapons used caused the cut injuries. The nature of injuries suffered by both D1 and D2 and also by PW-2 were all cut injuries. We therefore hold that this confusion in the minds of the witnesses over the nature of weapon used is not material.

83.The prosecution had examined PW-1, Panneer, son of Chellammal (D1) as a direct eye witness to the indiscriminate attack on Chellammal (D1). The prosecution had also examined PW-2, Sathish @ Sathish Kumar and also PW-3, Arivalagan. Both of them also witnessed the said offence being committed. In his evidence, PW-2 had stated that when he and PW-3 came to that place in a TVS XL Super motorcycle to do electrical work in a neighbour house, he saw the accused indiscriminately attacking Chellammal (D1). He then tried to prevent him and at that time, the accused abused him



and attacked him. PW-2 is thus an injured eye witness.

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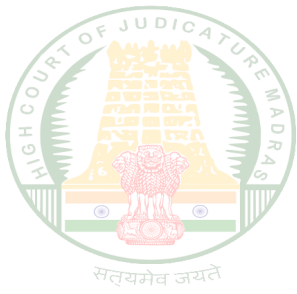
84.In **2023 SCC OnLine SC 355 (Balu and another vs State of Maharashtra)**, the Hon'ble Supreme Court had stipulated the principles for appreciation of ocular evidence in a criminal case and also more particularly, the evidence of an injured eye witness and held as follows:

“APPRECIATION OF ORAL EVIDENCE

25.The appreciation of ocular evidence is a hard task. There is no fixed or straight-jacket formula for appreciation of the ocular evidence. The judicially evolved principles for appreciation of ocular evidence in a criminal case can be enumerated as under:

“I. While appreciating the evidence of a witness, the approach must be whether the evidence of the witness read as a whole appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the Court to scrutinize the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief.

II. If the Court before whom the witness gives evidence had the opportunity to form the opinion about the general tenor of evidence given by the witness, the appellate court which had not this benefit will have to attach due weight to the appreciation of evidence by the trial court and unless there



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Crl.A.(MD)No.248 of 2021

are reasons weighty and formidable it would not be proper to reject the evidence on the ground of minor variations or infirmities in the matter of trivial details.

III. When eye-witness is examined at length it is quite possible for him to make some discrepancies. But courts should bear in mind that it is only when discrepancies in the evidence of a witness are so incompatible with the credibility of his version that the court is justified in jettisoning his evidence.

IV. Minor discrepancies on trivial matters not touching the core of the case, hyper technical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical error committed by the investigating officer not going to the root of the matter would not ordinarily permit rejection of the evidence as a whole.

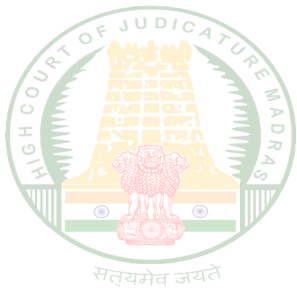
V. Too serious a view to be adopted on mere variations falling in the narration of an incident (either as between the evidence of two witnesses or as between two statements of the same witness) is an unrealistic approach for judicial scrutiny.

VI. By and large a witness cannot be expected to possess a photographic memory and to recall the details of an incident. It is not as if a video tape is replayed on the mental screen.

VII. Ordinarily it so happens that a witness is overtaken by events. The witness could not have anticipated the occurrence which so often has an element of surprise. The mental faculties therefore cannot be expected to be attuned to absorb the details.

VIII. The powers of observation differ from person to person. What one may notice, another may not. An object or movement might emboss its image on one person's mind whereas it might go unnoticed on the part of another.

IX. By and large people cannot accurately recall a conversation and reproduce the very words used by them or heard by them. They can only recall the main purport of the



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CrL.A.(MD)No.248 of 2021

conversation. It is unrealistic to expect a witness to be a human tape recorder.

X. In regard to exact time of an incident, or the time duration of an occurrence, usually, people make their estimates by guess work on the spur of the moment at the time of interrogation. And one cannot expect people to make very precise or reliable estimates in such matters. Again, it depends on the time-sense of individuals which varies from person to person.

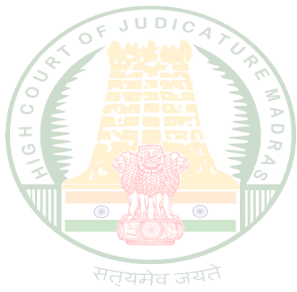
XI. Ordinarily a witness cannot be expected to recall accurately the sequence of events which take place in rapid succession or in a short time span. A witness is liable to get confused, or mixed up when interrogated later on.

XII. A witness, though wholly truthful, is liable to be overawed by the court atmosphere and the piercing cross examination by counsel and out of nervousness mix up facts, get confused regarding sequence of events, or fill up details from imagination on the spur of the moment. The sub-conscious mind of the witness sometimes so operates on account of the fear of looking foolish or being disbelieved though the witness is giving a truthful and honest account of the occurrence witnessed by him.

XIII. A former statement though seemingly inconsistent with the evidence need not necessarily be sufficient to amount to contradiction. Unless the former statement has the potency to discredit the later statement, even if the later statement is at variance with the former to some extent it would not be helpful to contradict that witness.”

[See *Bharwada Bhoginbhai Hirjibhai v. State of Gujarat*, 1983 Cri LJ 1096: ((1983) 3 SCC 217: AIR 1983 SC 753) *Leela Ram v. State of Haryana*, (1999) 9 SCC 525 : AIR 1999 SC 3717 and *Tahsildar Singh v. State of UP* (AIR 1959 SC 1012)]

26. When the evidence of an injured eye-witness is to be appreciated, the under-noted legal principles enunciated by the Courts are required to be kept in mind:



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Crl.A.(MD)No.248 of 2021

(a) The presence of an injured eye-witness at the time and place of the occurrence cannot be doubted unless there are material contradictions in his deposition.

(b) Unless, it is otherwise established by the evidence, it must be believed that an injured witness would not allow the real culprits to escape and falsely implicate the accused.

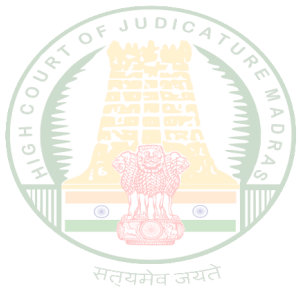
(c) The evidence of injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.

(d) The evidence of injured witness cannot be doubted on account of some embellishment in natural conduct or minor contradictions.

(e) If there be any exaggeration or immaterial embellishments in the evidence of an injured witness, then such contradiction, exaggeration or embellishment should be discarded from the evidence of injured, but not the whole evidence.

(f) The broad substratum of the prosecution version must be taken into consideration and discrepancies which normally creep due to loss of memory with passage of time should be discarded.

27. In assessing the value of the evidence of the eyewitnesses, **two principal considerations** are whether, in the circumstances of the case, **it is possible to believe their presence at the scene of occurrence** or in such situations as would make it possible for them to witness the facts deposed to by them and secondly, **whether there is anything inherently improbable or unreliable in their evidence**. In respect of both these considerations, circumstances either elicited from those witnesses themselves or established by other evidence tending to improbabilise their presence or to discredit the veracity of their statements, will have a bearing upon the value which a Court would attach to their evidence. Although in cases where the plea of the accused is a mere denial, the evidence of the prosecution witnesses has to be examined on its own merits, where the accused raise a definite plea or put forward a positive case which



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CrI.A.(MD)No.248 of 2021

is inconsistent with that of the prosecution, the nature of such plea or case and the probabilities in respect of it will also have to be taken into account while assessing the value of the prosecution evidence.”

(emphasis supplied)

85.This principles laid down had also been subsequently followed by the Hon'ble Supreme Court in **(2024) 3 SCC 125 (Neeraj Sharma vs State of Chattisgarh)**.

86.As a matter of fact, the prosecution had also examined PW-3, Arivalagan, who had come along with PW-2 in a motorcycle and who had witnessed the indiscriminate attack on both Chellammal (D1) and PW-2. The prosecution also examined PW-4, Lavanya, who was the granddaughter of Chellammal (D1) and who had come over to the house and was sitting just in the front portion of the house. The prosecution also examined PW-5, Lakshmi, who came across at that place to fetch water from the water pipeline. They are all natural witnesses, who had given explanation as to why they were present at that time, when the incident had happened. Though there could be minor discrepancies about the nature of the weapon used, whether it was an aruval or whether it was a patta kathi, still some



CrI.A.(MD)No.248 of 2021

leverage must be given to the fact that the incident happened on 14.04.2013 and PW-1 to PW-4 were examined on 11.02.2019 and PW-5 was examined on 12.02.2019 nearly five years after the incident. Therefore, it is only natural that there are minor discrepancies in the evidence. But, they all spoke in one voice that it was the accused who attacked indiscriminately Chellammal (D1), who collapsed at that place itself and also PW-2, Sathish @ Sathish Kumar.

87.It is also evident that when PW-1 tried to catch the accused, he threatened PW-1 and ran away and in the close by street, Singaram Street, when he found Amaravathy (D2) standing outside her house and he attacked her also with knife. This was witnessed directly by PW-1, PW-6, Pavun Pappa and PW-7, Peiriyasamy. They also gave acceptable explanation as to why they were outside the house at the time when the attack took place. PW-6 is the mother of PW-2 and she stated that she and her husband came outside the house on hearing about the attack on PW-2. PW-7 is a neighbour, who was outside in the courtyard of his house. The statement of the husband of PW-6 was also recorded by the Investigating Officer, but it is only natural that the witness was not examined, since he would only state



CrI.A.(MD)No.248 of 2021

the same facts, as stated by PW-6. All the witnesses spoke about the attack of Amaravathy (D2). Again if there were any minor discrepancies with respect to the weapon used or whether it was tar road or cement road or mud road, we hold that if such discrepancies would not make much of a difference, since PW-6 and PW-7 were both examined on 12.06.2019 nearly five years after the incident.

88.The prosecution also examined PW-8, Gopalan (Village Administrative Officer) and PW-10, Periyasamy (Village Assistant), who were both present when the Investigating Officer, PW-20 had recorded the confession statement of the accused and recovered MO-1, Aruval and MO-2, knife. They were also present, when observation mahazar and rough sketch of the two places of scene of occurrence were drawn by PW-20. They were also present when earth with blood stain and earth without blood stain were taken from both the places. These witnesses withstood cross examination. The prosecution also examined Dr.Anureka, PW-9, who had treated PW-2 for his injuries and who had written down the accident register, Ex-P6.



CrI.A.(MD)No.248 of 2021

89.The learned Counsel for the appellant had pointed out that in Ex-

P6, it had been stated that PW-2 suffered injuries while travelling in a motorcycle in Thinniyam Street, but this has also been explained by PW-20 during cross examination by the Counsel for the accused that the street is actually the street which led to Thinniyam Village and therefore, the street is also referred as Thinniyam Street.

90.The learned Counsel for the accused also stated that the prosecution had not examined Suresh Kumar, who is said to be the brother of PW-2 and who had admitted PW-2 in the hospital. The fact that PW-2 was admitted to the hospital is sufficient. The fact that he was present in the scene of crime and suffered with injuries at the hands of the accused is sufficient. The fact that the injuries were caused by the accused and this was witnessed by PW-1, PW-3, PW-4 and PW-5 is sufficient. We hold that the accused is not only culpable for the homicidal death of Chellammal (D1) and Amaravathy (D2) and also culpable for the injuries caused to PW-2, Sathish @ Sathish Kumar.

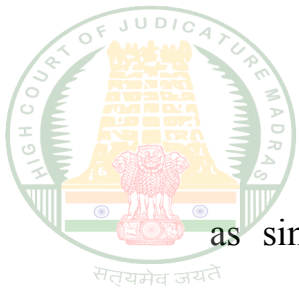
91.The prosecution had also examined Dr.Renuka Devi, PW-18, who



Crl.A.(MD)No.248 of 2021

conducted the postmortem on the dead bodies of Chellammal (D1) and Amaravathy (D2). She had noted down the injuries which had been extracted above. They were the injuries which caused the death of two individuals. A glance at the list of injuries show that Chellammal (D1) had suffered cut injury at the head and face and Amaravathy (D2) had suffered deep cut injuries on her head, chest and other parts of the body. In both the bodies, the heads had been split open and blood had come out. The injuries were fatal. The prosecution also examined PW-12, Nazeer, Photographer, who had also taken photographs on requisition from the Investigating Officer and the photographs were produced as MO-7 and MO-8 series.

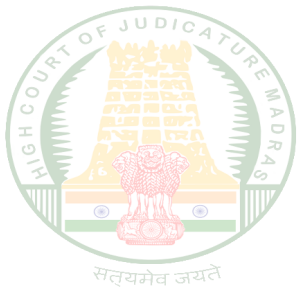
92.The learned Counsel for the appellant argued that the injuries suffered by PW-2 had been categorised only as simple injuries. But a perusal of the nature of the injuries which had been stated above, would show that the injuries were on the head and on the hands. The cut injuries in the head were quite deep. These are categorised as simple injury, since PW-2 had been referred to Government Hospital at Trichy and later to Government Hospital at Tanjore, where x-ray was taken and it was found that there was no bone fracture and therefore, the injuries were categorised



Crl.A.(MD)No.248 of 2021

as simple injury. But the fact established is that the attack was with intention to cause death. All the three persons suffered injuries and they were caused with intention to cause death and with knowledge that they would cause death. Therefore, the accused cannot take recourse to any of the exceptions under Section 300 IPC.

93.The prosecution had examined PW-20, Balamurugan, the Inspector of Police, who had conducted the investigation. During cross examination, he had given explanation for the delay in the FIR and complaint copy being received by the Judicial Magistrate-II Trichy. He had also stated that he had not examined Suresh Kumar, who had brought PW-2 to the hospital. But as we already observed non examination of Suresh Kumar is not fatal to the case. He also stated very fairly that the witnesses were quite confused about the weapons used. But as we pointed out earlier, the witness had been examined in Court after nearly five years of the incident and therefore, there was every possibility of there being some confusion in their minds over the nature of weapons used by the accused to attack the two dead persons and PW-2, the injured witness.



94.The Hon'ble Supreme Court in **(2011) 10 SCC 158 (Takdir Sam**

Samsuddin Sheikh vs State of Gujarat and another), while discussing

about minor discrepancies in the evidence of the witnesses, held as follows:

“12.It is settled legal proposition that while appreciating the evidence, the court has to take into consideration whether the contradictions/omissions/improvements/embellishments, etc. had been of such magnitude that they may materially affect the trial. Minor contradictions, inconsistencies, omissions or improvements on trivial matters without affecting the case of the prosecution should not be made (sic make) the court to reject the evidence in its entirety. The court after going through the entire evidence must form an opinion about the credibility of the witnesses and the appellate court in natural course would not be justified in reviewing the same again without justifiable reasons. (Vide Sunil Kumar Sambhudayal Gupta v.State of Maharashtra [(2010) 13 SCC 657 : (2011) 2 SCC (Cri) 375] .)”

(Emphasis supplied)

95.The Hon'ble Supreme Court in **Dalip Singh and others v. The**

State of Punjab (AIR 1953 SC 364), had held as follows:

“A witness is normally to be considered independent unless he or she springs from sources which are likely to be tainted and that usually means unless the witness has cause, such as enmity against the accused, to wish to implicate him falsely. Ordinarily a close relation would be the last to screen the real culprit and falsely implicate an innocent person. It is true, when feelings run high and there is personal cause for enmity, that there is a tendency to drag in an innocent person against whom a witness has a grudge along with the guilty, but foundation must be laid for such a criticism and the mere fact of relationship



CrL.A.(MD)No.248 of 2021

*far from being a foundation is often a sure guarantee of truth.”
(Emphasis supplied)*

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96.The Investigating Officer had conducted a thorough investigation. He had gone over to the scene of crime. He had prepared the observation mahazars and rough sketches. He conducted inquest over the two dead bodies. He then forwarded the two dead bodies for postmortem. He then obtained postmortem certificates. He had thereafter recorded the confession of the accused and recovered the weapons used. The Investigating Officer had also examined the Doctor, who gave treatment to the injured witness. He then recorded the statements of the witnesses. He marshalled the witnesses to the Court. It is thus seen that the prosecution had proved that Chellammal (D1) and Amaravathy (D2) died at a homicidal death and that in the same incident, PW-2 suffered injuries and that the accused was culpable for causing the death of Chellammal (D1) and Amaravathy (D2) and for the injuries suffered by PW-2 and the nature of injuries also show that they were caused with intention to cause death and with knowledge that they would cause death.



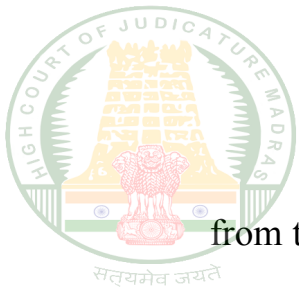
CrI.A.(MD)No.248 of 2021

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97.The motive was also established by the prosecution. The three sons of Chellammal had earlier attacked the elder brother of the accused, who suffered injuries and later died in the house. After that, the accused had proclaimed that he would kill any member of the family of Chellammal (D1) which forced the said three sons of Chellammal (D1) to go out of station.

98.The first occurrence was witnessed by PW-1, PW-2 (injured witness), PW-3, PW-4 and PW-5 and the second occurrence was witnessed by PW-6 and PW-7. They had explained why they were present at that place.

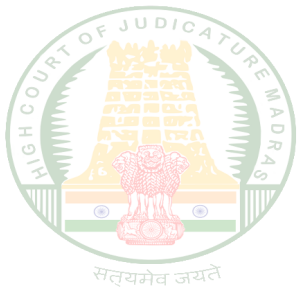
99.The incidents happened around 05.30 pm on 14.04.2013 and the complaint was lodged immediately by 06.30 pm and the FIR was registered at that time. In the complaint, the name of the accused had been given, the names of the two deceased had been given, the name of the injured witness had been given. Their addresses had also been given. Therefore, there is no scope for any manipulation. The fact that the FIR had been received by the Magistrate in the early morning on 15.04.2013 cannot be used to any advantage by the accused, since they had got the explanation for such delay



CrI.A.(MD)No.248 of 2021

from the Investigating Officer during cross examination. He had stated that the Judicial Magistrate, Lalgudi was on leave and therefore, the papers had to be served on the Judicial Magistrate-II Trichy.

100.In view all these findings, we uphold the conviction of the accused for offence punishable under Section 302 IPC (2 counts) and for offence punishable under Section 307 IPC (one count) and also uphold the sentence imposed on the appellant/accused, namely, to undergo life imprisonment for each count for offence punishable under Section 302 IPC and to pay fine of Rs.5,000/- for each count and in default, to undergo three years rigorous imprisonment for each count and also uphold the sentence to undergo 7 years rigorous imprisonment for offence punishable under Section 307 IPC (1 count) and to pay fine of Rs.2,000 and in default to undergo one year rigorous imprisonment. We hold that the sentence should run concurrently. We also hold that the period of detention already undergone by the accused must be set off under Section 428 Cr.PC. We also uphold that the findings of the learned trial Judge that the accused is not guilty of offences punishable under Sections 341, 294(b) and 506(ii) IPC.



CrL.A.(MD)No.248 of 2021

WEB COPY 101. In the result, the Criminal Appeal stands dismissed. The conviction and sentence imposed by the trial Court is upheld by us. The trial Court is directed to take custody of the accused to serve the remaining portion of the sentence.

[C.V.K., J.] & [J.S.N.P., J.]
01.10.2024

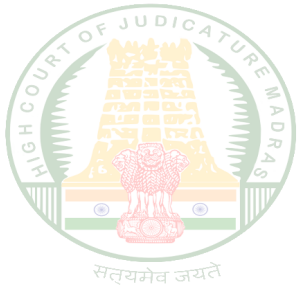
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Index :Yes/No
NCC :Yes/No

cmr

To

1. The Principal Sessions Judge, Tiruchirapalli.
2. The Inspector of Police,
Lalgudi Police Station,
Trichy District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
4. The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court, Madurai.

69/70



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Crl.A.(MD)No.248 of 2021

C.V.KARTHIKEYAN, J.

AND

J.SATHYA NARAYANA PRASAD. J.

cmr

Judgment made in
Crl.A(MD)No.248 of 2021

01.10.2024