



Crl.A(MD)No.802 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 18.03.2024

Coram

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN  
AND  
THE HON'BLE MR.JUSTICE C.KUMARAPPAN**

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Sathiya

....Appellant/Accused (single)

VS.

The Inspector of Police,  
Thenkarai Police Station,  
Theni District,  
(Crime No.520 of 2021)

....Respondent/Complainant

Prayer : Criminal Appeal filed under Sections 374 of Criminal Procedure Code to call for the records pertaining to the Judgment delivered by the Additional District and Sessions Judge, Theni at Periyakulam in S.C.No.11 of 2022 vide Judgment dated 26.07.2023 and set aside the same and consequently, acquit the appellant from all the charges mentioned in the said case.



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For Appellant : Mr.R.Anand  
For Respondent : Mr.S.Ravi  
Addl. Public Prosecutor

### **JUDGMENT**

**DR.G.JAYACHANDRAN,J.**  
**and**  
**C.KUMARAPPAN,J.**

The appellant is the wife of the deceased/victim. The homicidal death of the victim is attributed to the appellant. In the circumstantial evidence, the Trial Court has heavily harped upon Section 106 of the Evidence Act to hold that the appellant is guilty of offence under Section 302 IPC.

2. The learned counsel for the appellant/accused submitted that the charge against the appellant/accused is suspecting her husband and witnessing an incident two days before the occurrence, wherein, the deceased Ranjithkumar Singh found hugging a lady by name, Santhiya, got infuriated, and therefore, at odd hours on 19.08.2021, she strangulated him with the help of rope and caused the death of Ranjithkumar Singh. However, he would submit that the motive attributed for the act of



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committing murder has totally been disproved since the said Santhiya, who was examined as P.W.6, turned hostile and no other witnesses had spoken about their illicit relationship or any quarrel between the accused and the deceased.

3. The learned counsel has also submitted that the three incriminating circumstances relied on by the Trial Court are (i) the recovery of M.O.Nos.2 and 3, (ii) the presence of the accused in the house, where the deceased was found dead and (iii) the presumption under Section 106 of the Evidence Act. He would further submit that as far as the recovery of M.O.Nos.2 and 3 alleged to be recovered based on the confession statement given by the accused, both the witnesses, who have signed in the recovery mahazar, categorically stated that the material objects have already been with the police and they were asked to sign in the statement prepared by them.

4. Insofar as the presence of the accused in the room along with the deceased, the prosecution relied upon hear-say evidence of P.W.1 and he had deposed that his wife saw the accused coming out of the deceased room and the accused informed her that the deceased fully drunk and lying in his



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bed. However, the wife of P.W.1 was not examined. The further case of the prosecution is that P.W.1 was informed about her son's death by the mother of the accused. The prosecution has not examined the mother of the accused and it is stated that while P.W.1, his wife and the deceased were living in the same house, the prosecution has caused the burden against the accused alone to disprove the presumption but not against P.W.1 who was also residing in the same house.

5. The learned Additional Public Prosecutor submitted that it is not the case of the accused that the death was not committed by her, but consistently her case is that it was a suicide. However, the postmortem report (Ex.P5) and the testimony of the postmortem Doctor (P.W.9) had categorically ruled out suicide and has specifically indicated that the death has occurred due to Mechanical Asphyxia due to Compression of Neck by Ligature-Ligature Strangulation. That apart, the recovery of brick (M.O.1), rope (M.O.2) and dhoti (M.O.3) was based on the information provided by the accused. Though the witnesses did not fully support the case of the prosecution regarding recovery, they admitted their signatures in the recovery mahazar, which were marked as Exs.P3 and P4. The



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circumstantial evidence clearly indicates that the accused is the person who caused the injury that led to the death and none else. When the chain of circumstances has been pleaded without any break, the Judgment of the Trial Court has to sustain.

6. Heard the learned counsel and perused the records.

7. The body of the deceased Ranjithkumar Singh was first seen by P.W.1. As per the prosecution, the death of Ranjithkumar Singh was informed to P.W.1 by the mother of the accused, but she was not examined. The accused was seen by the wife of P.W.1 on that day early in the morning, when she was coming out from the room, where the deceased was found, and she locked the doors and left the home. The wife of P.W.1, who claims to have seen the accused at that time, was not examined by the prosecution and P.W.1 has deposed before the Court that he is only a hearsay insofar as this portion of the evidence is concerned.

8. It is the further case of P.W.1 that the death of his son was informed to him by the mother of the accused. The mother of the accused



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is not a resident of T.Kallupatti, but he is residing at Thali Village in Koodalur and she has not been examined and there is no evidence to show that how she came to T.Kallupatti village to inform P.W.1 about the death of his son lying in the next room of his house. The conduct of the accused would clearly show that she had not pleaded that she was in the same house, but she was participating in the preparation of funeral. Even after the body was taken for postmortem, she had not shown any sign of guilt to suspect. As per the Investigating Officer, P.W.14, he arrested the accused on 21.08.2021 at 04.00 p.m near T.Kallupatti, Kaliamman Kovil Ration Shop and recorded her confession statement leading to the recovery of M.O.2 and 3. The information disclosed by the accused in her confession statement is that she used a brick, to hit the deceased on his head when he was in a drunken stage. This incident occurred at about 11.00 p.m. on the terrace of the house. Thereafter, the deceased came down from the terrace to bed room by 3 'O' clock in the morning. The accused decided to kill her husband and strangulated her by using rope.

9. The brick, according to the prosecution, was recovered in the room, the same is found in the observation mahazar (Ex.P2) and seizure mahazar



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(Ex.P3). Muthuneelakandan and Gopinathan are the two witnesses for the said seizure of M.O.1 broken brick. Gopinathan was examined as P.W.7 to identify the piece of brick as material object and the signature in the seizure mahazar. However, in the cross examination, he denied the knowledge from where, the brick was recovered and he has deposed that the police got a signature in the prepared statement. Similarly, based on the alleged confession of the accused, the rope (M.O.1) recovered under Mahazar (Ex.P4). Rajinimuthu and Solaiappan are the witnesses for the recovery. Solaiappan examined as P.W.8. He had deposed that in the house of the accused, the police came and recorded the statement and he was not aware from where, the police took the rope and dhoti, which were marked as M.O. 2 and M.O.3. The Investigating Officer, in this case, examined as P.W.14, has deposed that the accused was apprehended near Ration Shop in that village and her confession statement was recorded there, whereas, his evidence is not supported by a witness for arrest and confession statement and recovery.

10. In the case of circumstantial evidence, the prosecution though had made an attempt to marshal the evidence to prove the chain of



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circumstances, had miserably failed to establish each link of circumstances.

The accused was not left as the sole person living in that house. P.W.1 and his wife were also residing in the same house. Hence, it is the responsibility to explain how the deceased Ranjithkumar Singh sustained injury is not only rest with the accused, but also to P.W.1 and his wife. If any adverse inference is to be drawn under Section 106 of the Evidence Act, it should be drawn even against P.W.1 and his wife.

11. The testimony of P.W.1 was found unnatural because, though he was residing in that house, he had deposed that he came to know about his son's death only through the mother of the accused. The prosecution has failed to examine this lady. The complaint to the police is marked as Ex.P. 1. It is dated as 19.08.2021 at 16.00 hours. It is registered as a suspicious death. The First Information Report has reached the Magistrate Court two days later on 21.08.2021 at 11.00 a.m.

12. The sketch of the house indicates that the portion of the complainant and the deceased are one after another, having separate entrances. As per his complaint, only when the mother of the accused came



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to his house on 19.08.2021 at about 08.00 a.m, saw her son dead and informed him, he came to know about the incident and went to the police station to give the complaint after 8 hours. Whereas, the brother of the deceased had deposed that he came from Kodaikanal to his house at 10.30 a.m soon after he received information from his father (P.W.1) that his brother was dead. He deposed that they removed the body in an ambulance to the hospital and also informed the police.

13. P.W.4 neighbour had turned hostile and there was no evidence to show that the accused and the deceased were alive together before the incident or there was any quarrel between the accused and the deceased on 18.08.2021. More particularly, the charge was that there was misunderstanding between the accused and the deceased due to the illicit intimacy of the deceased with one Santhiya. The said Santhiya, who was examined as P.W.6, had deposed that she does not know who the deceased. P.W.1, the de-facto complainant, father of the deceased, had also in the cross examination deposed that Santhiya is a good girl and there was no illicit intimacy between his son and Santhiya.



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14. Regarding the correction in the date of complaint, changing it to 19 from 20, P.W.1 categorically stated that he corrected the date at the request of the police. The said correction in the date and the delay of two days in forwarding the First Information Report to the Magistrate Court clearly show that the very origin and genesis of the case, as projected by the police, are based on the fabricated documents and that is the reason why it has taken three days to report the matter to the Judicial Magistrate.

15. In view of overwhelming contradiction and embellishment, the Court finds that the link in the chain of circumstances is not complete and find in bits and pieces, which does not rule out the possibility that somebody-else could have committed the crime and not by the accused/appellant alone, who has been convicted based on mere suspicion without any substantial piece of evidence. Therefore, the conviction and sentence imposed by the Trial Court are liable to be set aside.

16. In the result, the Criminal Appeal is allowed. The Judgment of Conviction made in S.C.No.11 of 2022 dated 26.07.2023, on the file of the



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Additional District and Sessions Judge, Theni at Periyakulam is set aside and the accused is acquitted from all the charges and set at liberty. Bail bond, if any, stands cancelled. Fine amount, if any, paid, the same shall be refunded to the accused. Consequently, connected miscellaneous petition is closed.

[G.J.,J.] [C.K.,J]  
18.03.2024

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NCC : Yes / No

Index : Yes / No

Internet : Yes

To

1.The Additional District and Sessions Judge,  
Theni at Periyakulam

2.The Inspector of Police,  
Thenkarai Police Station,  
Theni District,  
(Crime No.520 of 2021)

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



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