



Crl.A.No.157 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE M. JOTHIRAMAN

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T.Neela

... Appellant

Versus

1. The State represented by
The Inspector of Police,
Thirukoyilur Police Station,
Villupuram District

2.Manikandan

3.Ponnarasi

4.Ramesh

... Respondents

Criminal Appeal filed under Proviso to Section 372 of Criminal Procedure Code, praying to set aside the judgment of acquittal in S.C.No.125/2013 dated 03.11.2018 on the file of the learned Additional District Judge, Fast Track Court, Villupuram and the respondents/accused 1, 2 & 3 be convicted for committing offences under Section 120B read with Section 302 of IPC and the offences under Section 3 read with Section 25(1-B)(a) and Section 29(b) of the Arms Act, 1959.



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For Appellant : Mr.S.Raveekumar

For Respondents : Mr.A.Damodaran for R1
Additional Public Prosecutor
assisted by Ms.M.Arifa Thasneem for R1
No appearance for R4

JUDGMENT

(Judgment was delivered by **M.JOTHIRAMAN, J.**)

The appellant/defacto complainant, who is the wife of the deceased/Dharani has approached this Court challenging the judgment of the learned Additional District Judge, Fast Track Court, Villpuram in S.C.No.125/2013 dated 03.11.2018 vide which the Court had acquitted the respondents 2 to 4/accused on the grounds that the prosecution has failed to bring home the guilt of the accused and therefore, the accused is entitled for the benefits of doubt.

2. Shorn of details, the facts giving rise to the present appeal are as under:

2.a. P.W.1 / defacto complainant is the wife of the deceased Dharani.

PW1 stated that on 17.09.2010 at about 4 pm, A1 had taken her husband to



fetch pork meat, subsequently he has not turned up. Hence, she called him via cellphone. But it was switched off. On 18.09.2010 at about 9 am, she received a call that her husband Dharani was found dead at Sudharamurthy sugarcane field. She lodged a complaint before Tirukuoilur Police Station. The police registered a case in Crime No.721 of 2010 for the offences under Section 302 of IPC in a printed FIR (Ex.P11). PW18, Inspector of Police took over the investigation and visited the place of occurrence and prepared Observation Mahazar and Rough Sketch (Ex.P2 and Ex.P17) and he seized ordinary mud (M.O.1), Blood stained mud (M.O.2), Hair (M.O.3), front teeth (M.O.4) as per seizure mahazar under Ex.P3. PW18 recorded the statement of witness and conducted inquest in the present of panchayatdar and prepared inquest report under Ex.P18. PW18 sent the deceased body for autopsy through PW14 / Head Constable. PW13 conducted autopsy after identification of deceased body through PW14 and submitted postmortem report (Ex.P9) and issued final opinion under Ex.P10. PW13 opined that cause of death due to shock and hemorrhage due to (a)injury to abdominal organs by fire arm weapon and (b) injury to brain.



2.b. PW18/Investigating Officer arrested A1 and A2 on 20.09.2010 at

Manampoondi bus stop and recorded the confession statement of A1 in the presence of PW6. Based on the confession of A1 (admitted portion of confession statement under Ex.P4), PW18 seized the country gun -M.O.5 under Ex.P5-Seizure Mahazar in a well belonged to Mottai Udayar at Paradapet Village. PW18 also recorded the confession statement of A2 in the presence of PW6 (admitted portion of confession statement of Ex.P6). Based on confession of A2, PW18 seized Poonam Saree - M.O.6 under Seizure Mahazar in Ex.P7. PW18 / Investigating Officer arrested A3 on 20.09.2010 at Anthili Bus Stop. He sent them to judicial custody and case properties to the Court under Form 95. PW14 – Forensic Scientific Expert has given report Ex.P14. PW17 – Balastic Expert has given report under Ex.P16. PW18 also recovered blood stain lungi - M.O.7, Shirt – M.O.8, Banniyan – M.O.9. After examining several witnesses and obtaining various reports, the Investigating Officer completed the investigation and filed final report that A1 and A2 committed offence punishable under Section 120(B) r/w. 302 IPC and Section 3 r/w. 25(1-B)(a) and 29(b) of Arms Act, 1959. That case was taken in P.R.C.No.21 of 2012 on the file of



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the Judicial Magistrate Court, Tirukoilur, for the offences under Sections 120B read with Section 302 of IPC against A1 and A2 and Section 3 read with Section 25(1-B)(a) and Section 29(b) of the Arms Act, 1959 against A3.

2.c. On the appearance of A1 to A3, the provisions of Section 207 Cr.P.C. were complied with and the case was committed to the Principal District Sessions Court. The Principal District Sessions Court had made over this case to the learned Additional District Judge (Fast Track Court), Villupuram in S.C.No.125 of 2013, for trial. The trial Court framed charges under Sections 120B read with Section 302 of IPC against A1 and A2 and Section 3 read with Section 25(1-B)(a) and Section 29(b) of the Arms Act, 1959 against A3. When questioned, the accused pleaded not guilty.

2.d. To prove the case, the prosecution examined 18 witnesses, marked 18 exhibits and produced 9 Material Object. When the accused were questioned under Section 313 Cr.P.C. about the incriminating circumstances appearing against them, they denied the same. On behalf of the accused, no witness was examined and no exhibit was marked.



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2.e. The trial Court, after having considered the oral and documentary evidence, found that the prosecution had miserably failed to prove the charges, and as a result, the accused were acquitted and set at liberty. Assailing the said Judgment, the P.W.1 / defacto complainant / wife of the deceased has preferred the instant Criminal Appeal.

3. Mr.S.Raveekumar, learned counsel for the defacto complainant / P.W.1 / appellant would contend that the learned Additional District Judge has committed material illegality and irregularity in acquitting the respondents 2 to 4/accused and the impugned judgment is illegal, contrary to the material evidence in the case. The approach of the Trial Court in acquitting the accused of the offence alleged against them is erroneous which has resulted in miscarriage of justice. It is further contended that the Trial Court, by exaggerated adherence to the rule of giving the benefit of the doubt, has disbelieved the evidence of prosecution witnesses. Therefore, it is the contention of the learned counsel for the appellant that the findings of the learned Trial Judge are perverse and that there is no possibility to arrive at such a conclusion. Hence, he prayed to interfere with the order of the



learned Trial Judge and to allow this appeal, thereby finding the accused guilty of charges under Section 120B read with Section 302 of IPC and the offences under Section 3 read with Section 25(1-B)(a) and Section 29(b) of the Arms Act, 1959.

4. The learned counsel for the appellant also submitted that though the learned Judge held that the death of the deceased was homicidal, the Trial Court ought to have exercised the powers under Section 357A of Cr.P.C and ordered compensation to the appellant and her children for their basic sustenance, considering the impoverished state of the appellant's family. Hence, also sought for appropriate orders. To strengthen his contention, he has relied upon the following judgments:

- (i) Sri Rabindra Kumar Dey v. State of Orissa [(1976) 4 SCC 233]***
- (ii) Dharam Deo Yadav v. State of Uttar Pradesh [(2014) 5 SCC 509]***
- (iii) Krishan Chander v. State of Delhi [(2016) 3 SCC 108]***

5. The learned Additional Public Prosecutor, would reiterate the contentions of the learned counsel for the appellant.



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6. Heard both sides and perused the materials placed on record.

7. According to the prosecution, the deceased Dharani and A2 had illicit relationship. When Dharani went to abroad, A2 developed illicit relationship with A1. Since deceased Dharani was obstacle to their affair. A1 and A2 decided to do away Dharani. Hence, they hatched conspiracy in the house of A2 two days prior to the death of Dharani. That on 17.09.2010 at about 4 pm, A1 went to Dharani's house at Paradapet and took him to Samymalai forest to fetch pork meat. He had taken country gun got from A3 and went to Samymalai forest at about 5.30 pm. A2 was already present at Sundharamurthy Udayar sugarcane filed at Kolaparai village. When the deceased questioned A2 about her betrayal, A1 shot at him at his stomach and that he fell down in blood pool. Then A1 and A2 dropped stone on his head and he died on the spot. According to the prosecution, A1 and A2 had committed murder and A3 had country gun without license and that he had given his gun to A1 which was used for committing the crime. This is a case based upon circumstantial evidence and to establish the case of the prosecution, the prosecution has relied upon the following circumstances ;



(a) Motive, (b) Last Seen Theory and (c) recovery under Section 27 of the Indian Evidence Act and (d) Medical Evidence. The facts of the cases turn out on their own merits and hence, the authorities relied upon by the learned counsel for the appellant do not have relevance to the case at hand.

8. No doubt, it is a well-established legal principle that there is no distinction between an appeal made against a conviction and an appeal made against an acquittal, and this Court has got full power to reconsider and reassess the evidence. Nonetheless, there exists a subtle yet significant difference between appealing a conviction and appealing an acquittal. When addressing an appeal against acquittal, the presumption of innocence is reinforced, and typically, the reasonable conclusions drawn by the trial Court should not be disrupted.

9. With regard to the above settled legal principle, it is to be noted that the Hon'ble Supreme Court in the cases of *Ramanand Yadav Vs. Prabhunat Jha* reported in 2003 (12) SCC 606 and in *C.K. Dase Gowda and others Vs. State of Karnataka* reported in 2014 (13) SCC 119 has



observed that there is no embargo on the appellate Court reviewing the evidence upon which an order of acquittal is based. Generally, the order of acquittal shall not be interfered with because the presumption of innocence of the accused is further strengthened by acquittal. The golden thread which runs through the web of administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. The paramount consideration of the Court is to ensure that miscarriage of justice is prevented. A miscarriage of justice which may arise from acquittal of the guilty is no less than from the conviction of an innocent.

10. Now, this Court feels apt to refer to the judgment of the Hon'ble Supreme Court in the case of *Mallappa and Others vs. State of Karnataka* reported in (2024) 3 SCC 544 has held as follows:-

“42.Our criminal jurisprudence is essentially based on the promise that no innocent shall be condemned as guilty. All the safeguards and the jurisprudential values of criminal law, are intended to prevent any failure of justice. The principles which come into play while deciding an appeal from acquittal could be summarised as:



(i) Appreciation of evidence is the core element of a criminal trial and such appreciation must be comprehensive -- inclusive of all evidence, oral and documentary;

(ii) Partial or selective appreciation of evidence may result in a miscarriage of justice and is in itself a ground of challenge;

(iii) If the court, after appreciation of evidence, finds that two views are possible, the one in favour of the accused shall ordinarily be followed;

(iv) If the view of the trial court is a legally plausible view, mere possibility of a contrary view shall not justify the reversal of acquittal;

(v) If the appellate court is inclined to reverse the acquittal in appeal on a reappraisal of evidence, it must specifically address all the reasons given by the trial court for acquittal and must cover all the facts;

(vi) In a case of reversal from acquittal to conviction, the appellate court must demonstrate an illegality, perversity or error of law or fact in the decision of the trial court."

11. In the light of the above settled propositions, let us proceed with the findings rendered by the Trial Court. The instant case is based upon circumstantial evidence. The prosecution had to prove the guilt in each and every genesis of the hypothesis without break in the chain. The prosecution had relied upon the following circumstantial evidences to prove motive, last seen theory, extra-judicial confession and recovery under Section 27 of the Indian Evidence Act. In order to establish motive, the prosecution has relied



upon the evidence of PW2 to PW4. Except PW4, none of the witness spoke about the illicit affair between the deceased and A1 and A2. PW4/father in law of deceased stated the deceased and A2 had illicit affair, but, he did not whisper anything that A1 and A2 had illicit affair and in that there was dispute among the deceased A1 and A2. The best person to speak about the so-called illicit intimacy between the deceased and A2 is PW1; however, the PW1 never whispered anything about the illicit intimacy between the deceased, A1 and A2.

12. Coming to the aspect of last seen theory, in order to prove the last seen theory, the prosecution has relied upon the evidences of PW1, PW7 to PW11. PW1/wife of deceased deposed that on 17.09.2010 at about 4 pm, A1 had come to her house and took the deceased along with him. PW1 had not enquired about her husband with A1 until the next day. The conduct of PW1 creates a serious doubt over the testimony. It is strange that she had not enquired about her husband with A1 on the same day itself, particularly, A1 house is also situated very close to the house of PW1. PW7 deposed that he had seen A1 with country gun on 15.09.2010 and he heard from his father



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that Dharani died on 17.09.2010, but he has not deposed that he had seen the deceased and A1 together in his evidence. Similarly, PW8 stated that when he was coming towards between Kolaparai and Parapet, he had seen A1 and A2, therefore, PW8 had not seen the deceased and A1 and A2 together. PW6 deposed that when he came to police station on 17.09.2010 at about 11.00 am, he found A1 and A2 in the police station. Therefore, evidence of PW6 to PW11 falsifies the case of PW1 that the A1 had taken the deceased on 17.09.2010 at about 4 pm. None of the witness have been examined to establish that the accused was seen alive lastly with the deceased. None of the witness spoke about A1 accompanying the deceased together before the death of the deceased except PW1.

13. Coming to the aspect of recovery under Section 27 of the Indian Evidence Act, according to the prosecution, PW18/Inspector of Police arrested A1 and A2 on 20.09.2010 at about 9 am at Manampoondi bus stop. A1 and A2 voluntarily had given confession statement in the presence of PW6/VAO of Thirupalapandai. PW6 deposed that the country gun M.O.5 was recovered from the well belonged to Mottai Udayar and it was taken



away by A1. Whereas, PW7 deposed that he had taken M.O.5 country gun from the well, whereas, PW18/Inspector of Police deposed that A1 had taken country gun M.O.5 from the well by himself and further deposed that it is false that if PW7 had deposed that he had taken from the well. These facts also creates serious doubt over the prosecution case. Further, PW6 had stated that A2 had given confession statement in his presence and that in pursuance, they had recovered saree near well. Whereas, PW18 deposed that saree, blouse were recovered from the bathroom belonged to Thagavel Udayar, father of A1 as per the seizure mahazar/Ex.P7. The evidence of PW6 and PW18 with regard to the confession and recovery is inconsistent and self contradictory which creates doubt over the prosecution case.

14. Though homicide was established by way of gun shot by the prosecution through evidence of medical officer/PW13, the ballistic expert/PW17 examined by the prosecution clearly deposed that the black powder though found in the barrel, skin and hole of the injury, that black powder has not been thrown. Admittedly, it is a country made gun and the black powder has been used, whenever the gun powder is used and the same



has resulted in injury to the human being, the traces of the gun powder should also be found in the existing injury. Admittedly, skin collected from the body of the deceased was also subjected to examination by the expert, in that regard, the ballistic expert deposed that he never found any such gun powder traces around the existing injury. Further, PW17 also opined that powder patten due to gun shot was not observed around two holes in the skin. This is a lapse on the part of the investigation.

15. It is also to be noted that the prosecution has not obtained sanction from the District Magistrate under Section 39 of the Arms Act, 1959 and filed the same before the Trial Court to prosecute a person under Section 3 of the Arms Act, 1959. Though the learned counsel for the appellant submitted that sanction was obtained, however, the same has not been filed before this Court. Even assuming that sanction was obtained under Section 39 of the Arms Act, 1959, that will not help the case of the prosecution. Further, the prosecution has failed to prove that there is a nexus between the accused A1 to A3 and the commission offence.



16. In view thereof, we are of the opinion that the prosecution has failed to establish the guilt of the accused beyond all reasonable doubt and therefore, the learned Additional District Judge has rightly given the benefit of doubt to the accused and when a plausible view is taken by the Trial Court, this Court in Appeal cannot take a different possible view by re-appreciating the evidence, *ergo*, this Court does not find any merits in this appeal.

17. *Accordingly, the appeal has to be dismissed confirming the judgement of acquittal of the trial Court.* In the instant case on hand, the Trial Court has not passed any order under Section 357A of the Code relating to compensation payable to the victim.

18. At this juncture, it is relevant to refer Section 357A of the Code is which is extracted hereunder:

“357A. Victim compensation Scheme

(1) Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.



(2) Whenever a recommendation is made by the Court for compensation, the District Legal Services Authority or the State Legal Services Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1).

(3) If the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under Section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.

(4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make application to the State or the District Legal Services Authority for award of compensation.

(5) On receipt of such recommendations or on the application under sub-section(4), the State or the District Legal Services Authority shall, after due enquiry award adequate compensation by completing the enquiry within two months.

(6) The State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer-in-charge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit.

19. In terms of the mandate under sub-section(2) of Section 357A of the Code, the Court may recommend the District Legal Services Authority or the State Legal Services Authority for compensation to be paid to the victim. On receipt of such recommendation by the Court, the State or



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District Legal Services Authority acting under sub-section(5) of Section 357A of the Code has to hold an enquiry to determine the compensation payable to the victim. The State of Tamil Nadu, in exercise of powers conferred under Section 357-A CrPC 1973 Act No.2 of 1974), prepared a Scheme for providing compensation for the purpose of fixation of compensation to the victim who have suffered loss or injury as a result of the Crime, by way of rehabilitation scheme, namely 'The Tamil Nadu Victim Compensation Scheme, 2013' ('Scheme 2013', for short).

20. In the instant case no application has been filed on behalf of the victim seeking compensation. Clause 10 of the Scheme 2013 provides that an application seeking compensation shall not be entertained after six months from the date of the crime. However, the power is conferred on the State or District Legal Services Authority to condone the delay for sufficient reasons, if the claim is made beyond the prescribed period of six months. Under the circumstances, we are of the opinion that PW.1-T.Neela, who has lost her husband at the age of 29, should be compensated appropriately as per the provisions of the Tamil Nadu Victim Compensation Scheme, 2013.



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21. In the result, ***this Criminal Appeal stands dismissed***, confirming the judgement of acquittal dated 03.11.2018 in SC.No.125 of 2023 passed by the learned Additional District Judge, Fast Track Court, Villupuram.

22. The appellant /victim / PW1 is required to make an application for award of compensation under the Tamil Nadu Victim Compensation Scheme, 2013, as expeditiously as possible. Upon receipt of such an application, the District Legal Services Authority, Villupuram, after due enquiry, shall award adequate compensation as per the said Scheme. A copy of this order shall also be sent to the District Legal Services Authority, Villupuram, and the action taken report shall be submitted to the Tamil Nadu State Legal Services Authority for reference.

(N.S.K., J.) (M.J.R., J.)
25.10.2025

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Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

To

1. The Additional District Judge, Fast Track Court, Villupuram



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2.The Inspector of Police,
Thirukoyilur Police Station,
Villupuram District

3.The District Legal Services Authority, Villupuram

4.The Tamil Nadu Legal Services Authority, Chennai

5.The Public Prosecutor,
High Court, Madras.



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