



CrI.A.No.298 of 2018 etc.,

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on: 03.07.2025	Pronounced on: 02.09.2025
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CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

and

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

CrI.A.No.298, 299, 340, 422, 426, 560, 654 of 2018 &
CrI.A.Nos.1227 & 1228 of 2022

In CrI.A.No.298 of 2018

Dharmalingam (A13)
S/o.Annaigounder

.. Appellant

Vs.

The State Rep. by
The Inspector of Police,
Veeranam Police Station,
Salem District.
(Crime No.538 of 2003)

.. Respondent

Prayer: Appeal filed under Section 374 of Cr.P.C., praying to set aside conviction and sentence imposed on the Appellant by the judgment passed by the Ist Additional District cum Sessions Judge, Salem against the Appellant/Accused No.13 in S.C.No.34 of 2005 dated 12.04.2018 and acquit him of the said charges.

For Appellant : Mr.R.Marudhachalamurthy

For Respondent : Mr.E.Raj Thilak,
Additional Public Prosecutor



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In Cr1.A.No.299 of 2018

Kumaresan (A17)
S/o.Annamalai

.. Appellant

Vs.

The State Rep. by
The Inspector of Police,
Veeranam Police Station,
Salem District.
(Crime No.538 of 2003)

.. Respondent

Prayer: Appeal filed under Section 374 of Cr.P.C., praying to call for the records and set aside the conviction Judgment passed by the Ist Additional District cum Sessions Judge, Salem in S.C.No.34 of 2005 dated 12.04.2018 and acquittal the appellant.

For Appellant : Mr.A.Ramesh, Senior Counsel
for Mr.G.Pugazhenth

For Respondent : Mr.E.Raj Thilak,
Additional Public Prosecutor

In Cr1.A.No.340 of 2018

Kumaravel (A3)
S/o.Subramani

.. Appellant

Vs.

The State Rep. by
The Inspector of Police,
Veeranam Police Station,
Salem District.
(Crime No.538 of 2003)

.. Respondent

Prayer: Appeal filed under Section 374 of Cr.P.C., praying to call for the records and set aside the Conviction Judgment passed by the Ist Additional District cum Sessions Judge, Salem in S.C.No.34 of 2005 dated 12.04.2018 and set appellant at liberty.



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For Appellant : Mr.G.Pugazhenth
For Respondent : Mr.E.Raj Thilak,
Additional Public Prosecutor

In Crl.A.No.422 of 2018

Manikam (A18)
S/o.Chinnaiyan .. Appellant

Vs.

The State Rep. by
The Inspector of Police,
Veeranam Police Station,
Salem District.
(Crime No.538 of 2003) .. Respondent

Prayer: Appeal filed under Section 374 of Cr.P.C., praying to set aside the Judgment dated 12.04.2018 made in S.C.No.34 of 2005 on the file of the Ist Additional District cum Sessions Judge, Salem.

For Appellant : Mr.R.Marudhachalamurthy

For Respondent : Mr.E.Raj Thilak,
Additional Public Prosecutor

In Crl.A.No.426 of 2018

1.Jegan @ Jeganathan (A2) (deceased)
S/o.Siththan
2.Selvam (A10)
S/o.Karuppannan
3.Thiyagarajan (A11)
S/o.Karuppannan
4.Selvaraj (A12)
S/o.Kozhundhagoundar
5.Selvam (A15)
Perumal .. Appellants

Vs.

The State Rep. by
The Inspector of Police,



Cr1.A.No.298 of 2018 etc.,

Veeranam Police Station,
Salem District.
(Crime No.538 of 2003)

.. Respondent

Prayer: Appeal filed under Section 374 of Cr.P.C., praying to call for the records and set aside the conviction Judgment passed by the Ist Additional District cum Sessions Judge, Salem in S.C.No.34 of 2005 dated 12.04.2018 and acquittal the appellant.

For Appellant 2 : Mr.A.Ramesh, Senior Counsel
for Mr.G.Pugazhenth

For Appellants
4 & 5 : Mr.R.Sankara Subbu

For Appellant 3 : Mr.G.Pugazhenth

For Respondent : Mr.E.Raj Thilak,
Additional Public Prosecutor

Appellant 1 – Died

In Cr1.A.No.560 of 2018

1.Annamalai (A4)
S/o.Sankar

2.Sekar (A5)
S/o.Sankar

.. Appellants

Vs.

The State Rep. by
The Inspector of Police,
Veeranam Police Station,
Salem District.
(Crime No.538 of 2003)

.. Respondent

Prayer: Appeal filed under Section 374 of Cr.P.C., praying to call for the records and set aside the conviction and sentence in S.C.No.34 of 2005 dated 12.04.2018 passed by the Ist Additional District cum Sessions Judge, Salem.



Crl.A.No.298 of 2018 etc.,

For Appellants : Mr.R.Sankara Subbu

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For Respondent : Mr.E.Raj Thilak,
Additional Public Prosecutor

In Crl.A.No.654 of 2018

N.Natesan (A1)
S/o.Nalla Gounder

.. Appellant

Vs.

The State Rep. by
The Inspector of Police,
Veeranam Police Station,
Salem District.
(Crime No.538 of 2003)

.. Respondent

Prayer: Appeal filed under Section 374 of Cr.P.C., praying to call for the records and set aside the conviction and sentence in S.C.No.34 of 2005 dated 12.04.2018 passed by the Ist Additional District cum Sessions Judge, Salem.

For Appellant : Mr.S.Jeyakumar

For Respondent : Mr.E.Raj Thilak,
Additional Public Prosecutor

In Crl.A.No.1227 of 2022

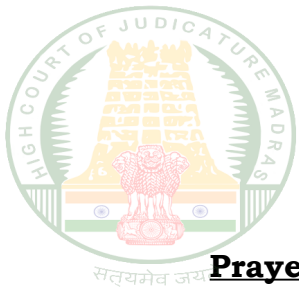
State represented by,
The Inspector of Police,
Veeranam Police Station,
Salem.
(Crime No.538 of 2003)

.. Appellant

Vs.

1.Kutty @ Selvam (A6)
2.Poosari @ Arunachalam (A7)
3.Murugesan (A16)
4.Kalaivanan (A19)
5.Manimaran (A23)

.. Respondent



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Prayer: Appeal filed under Section 378(i) of Cr.P.C., praying to set aside the acquittal rendered in judgment dated 12.04.2018 made in S.C.No.34 of 2005 on the file of the learned Ist Additional District cum Sessions Judge, Salem.

For Appellant : Mr.E.Raj Thilak,
Additional Public Prosecutor

For Respondents : Mr.R.Sankarasubbu

In Cr1.A.No.1228 of 2022

State represented by,
The Inspector of Police,
Veeranam Police Station,
Salem.
(Crime No.538 of 2003)

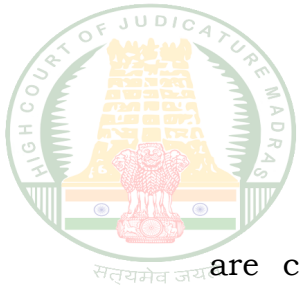
.. Appellant

Vs.

- 1.Natesan (A1)
- 2.Jagan @ Jaganathan (A2)
- 3.Kumaravel (A3)
- 4.Sekar (A5)
- 5.Dharmalingam (A13)
- 6.Selvam (A15)
- 7.Kumaresan (A17)
- 8.Manickam (A18)
- 9.Vijaya (A20)
- 10.Krishnammal (A21)
- 11.Mathu (A22)

.. Respondents

Prayer: Appeal filed under Section 378(i) of Cr.P.C., praying to set aside the acquittal rendered in judgment dated 12.04.2018 passed by the learned Ist Additional District cum Sessions Judge, Salem in S.C.No.34 of 2005 insofar as the acquittal of the respondents/accused A1 to A3 u/s 120(b), r/w 302 IPC, A5 u/s 302 IPC r/w 149, A13 u/s 302 r/w 149 IPC, A15 u/s 302 r/w 149 IPC, A17 u/s 302 r/w 149 IPC, A18 u/s 302 r/w 149 IPC and A20 to A22 u/s 302 r/w 114 IPC



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are concerned and convict them under the aforementioned legal provisions of law.

For Appellant : Mr.E.Raj Thilak,
Additional Public Prosecutor

For Respondents
4, 6 & 9 : Mr.R.Sankarasubbu

For Respondents
5, 8 to 10 : Mr.R.Marudhachalamurthy

For Respondents
3 & 7 : Mr.G.Pugazhenth

For Respondent 1 : Mr.S.Jeyakumar

COMMON JUDGMENT

(Judgment of the Court was made by V.LAKSHMINARAYANAN, J.)

These appeals arise from the judgment passed by the learned I Additional District and Sessions Judge, Salem in S.C.No.34 of 2005 dated 12.04.2018.

2. The details of the appeals by the accused are as follows:

Sl. No.	Appeal No.	Rank of the accused	Sentence
1	CrI.A.No.298 of 2018	Dharmalingam – A13	U/s. 302 r/w 149 Life Imprisonment with a fine of Rs.5000/- in default 6 months S.I.
2	CrI.A.No.299 of 2018	Kumaresan – A17	U/s. 302 r/w 149 Life Imprisonment with a fine of Rs.5000/- in default 6 months S.I.
3	CrI.A.No.340 of 2018	Kumaravel – A3	U/s. 302 r/w 149 Life Imprisonment with a fine of Rs.5000/- in



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			default 6 months S.I.
4	Crl.A.No.422 of 2018	Manikam – A18	U/s. 302 r/w 148 Life Imprisonment with fine of Rs.5000/- in default 6 months S.I.
5	Crl.A.No.426 of 2018	Jegan @ Jeganathan – A2	U/s. 302 r/w 149 Life Imprisonment and Pay a fine of Rs.5000/- in default 6 months S.I.
		Selvam - A15	U/s. 302 r/w 148 Life Imprisonment with fine of Rs.5000/- in default 6 months S.I.
		Thiyagarajan - A11	U/s. 302 r/w 149 Life Imprisonment with a fine of Rs.5000/- in default 6 months S.I.
		Selvaraj - A12	U/s. 302 r/w 149 Life Imprisonment with a fine of Rs.5000/- in default 6 months S.I.
		Selvam - A10	U/s. 302 r/w 149 Life Imprisonment with a fine of Rs.5000/- in default 6 months S.I.
6	Crl.A.No.560 of 2018	Annamalai - A4	U/s. 148 – 6 months R.I U/s.302 - Life Imprisonment with fine of Rs.5000/- in default 6 months S.I.
		Sekar - A5	U/s. 148 – 6 months R.I U/s.302 - Life Imprisonment with fine of Rs.5000/- in default 6 months S.I.
7	Crl.A.No.654 of 2018	Natesan - A1	U/s. 302 r/w 149 Life Imprisonment with a fine of Rs.5000/- in default 6 months S.I.

3. The details of the appeals by the State are as follows:



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Sl.No.	Appeal	Rank of the accused	Acquittal under relevant provisions
1	CrI.A.No.1227 of 2022	1.Kutty @ Selvam (A6)	U/s 148, 302, 302 r/w 149 IPC
		2.Poosari @ Arunachalam (A7)	U/s 302 r/w 149 IPC (2 counts)
		3.Murugesan (A16)	U/s 148, 302, 302 r/w 149 IPC
		4.Kalaivanan (A19)	U/s 148, 302, 302 r/w 149, 302 r/w 120B IPC
		5.Manimaran (A23)	U/s 302 r/w 149 IPC
2	CrI.A.No.1228 of 2022	1.Natesan (A1)	U/s 302 r/w 120B IPC
		2.Jagan @ Jaganathan (A2)	U/s 302 r/w 120B IPC
		3.Kumaravel (A3)	U/s 302 r/w 120B IPC
		4.Sekar (A5)	U/s 302 r/w 149 IPC
		5.Dharmalingam (A13)	U/s 302 r/w 149 IPC
		6.Selvam (A15)	U/s 302 r/w 149 IPC
		7.Kumaresan (A17)	U/s 302 r/w 149 IPC
		8.Manickam (A18)	U/s 302 r/w 149 IPC
		9.Vijaya (A20)	U/s 302 r/w 114 IPC
		10.Krishnammal (A21)	U/s 302 r/w 114 IPC
		11.Madhu (A22)	U/s 302 r/w 114 IPC

4. The case of the prosecution is that a complaint was lodged by one Sankar, son of Vaiyapuri Gounder on 15.07.2003. The complaint was lodged at 21.45 hours. According to the complainant, he is a

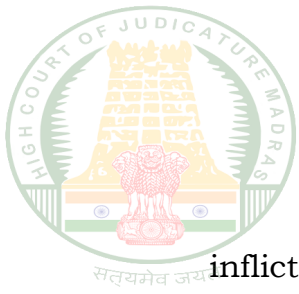


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dealer of Garlic. He had fathered four sons and two daughters. He had a son by name, Kuppusamy, who was running a power-loom at Chinna Veeranam. Kuppusamy, and one Sundarajan, son of Senga Goundar were good friends. Kuppusamy was home that day. Sankar had returned, after completing his business activities, to his village. At about 9 pm, hearing that the aforesaid Sundarajan had been assaulted by someone at Veeranam bus stop, he went over there. At that time, he found Natesan(A1) and few others standing as a crowd. Sundarajan was lying with blood injuries.

5. Sankar, immediately, enquired with someone standing there as to what had transpired. The response he received was Sundarajan, feeling aggrieved over the repeated complaints of Natesan(A1), had gone over to Natesan's house and in a threatening manner, he informed Natesan's wife that since frequent complaints had been lodged by her husband, he was going to do away with Natesan(A1). On coming to know of this, Natesan(A1) and others assaulted Sundarajan.

6. After having assaulted Sundarajan, they went to the house of *de facto* complainant in order to assault his son, Kuppusamy. Finding the crowd approaching, his son escaped and ran towards the house of one Anai Gounder. Natesan(A1) and others overpowered his son and



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inflicted injuries on his head with stones. On account of this assault, Kuppusamy fell unconscious. Sankar rushed to his son's aid only to find that he is dead.

7. It is the further case of prosecution that Sundarajan was physically transported using an Auto Rickshaw from Veeranam Bus Stop to the Mariamman Temple situated at Pallikoodathanur Village. The accused persons are said to have assaulted Sundarajan and had done him to death in front of the temple. This complaint was registered by Somanrajan, the Sub Inspector of Police (PW23). The case was registered in Crime No.538 of 2003 under Section 302 of IPC against one, Natesan(A1), son of Nallagoundar, and other accused persons.

8. On receipt of the complaint, Sundarajan, Inspector of Police, (PW24) took up the matter for investigation on the very same day at 22.15 hours. He went over to the scene of crime and prepared observation mahazar and Rough Sketch. This was prepared in the presence of one Narayanan, the Village Administrative Officer and one, Raja. Narayanan, the Village Administrative Officer was examined during the course of trial, as PW12.

9. Around 23.30 hours, PW24 recovered one blood stained



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stone, a wooden log measuring 1 ½ feet in length, blood stained earth and ordinary earth in the cover of seizure mahazar, from the Veeramanur Bus Stop. Thereafter, PW24 proceeded to Mariamman Temple at Pallikoodathanur at around 01.00 am and found the dead body of Sundarajan. He conducted an inquest in the presence of Ayyammal (PW1), Kamala (PW4), Arumugam and Madhaiyan. From the Mariamman Temple at Pallikoodathanur, PW24 seized blood stained earth and ordinary earth. This was in the presence of the aforesaid persons. From the Mariamman Temple at Pallikoodathanur, he proceeded to the third place of occurrence, namely, Anai Gounder's house. At the said location, he found the dead body of Kuppusamy. He made arrangements for taking photographs. This was done in and around 3.15 am on 16.07.2003.

10. Near Anai Gounder's house, PW24 prepared an observation Mahazar, in the presence of the aforesaid VAO, Narayanan and Raja. Thereafter, he conducted an inquest in the presence of Palaniammal, Sankar, Ayyammal (PW1), Uma (PW9) and Ayyasamy. After having prepared the inquest report near Anai Gounder's house, he proceeded to Mariamman Temple and prepared observation Mahazar and the Rough Sketch.



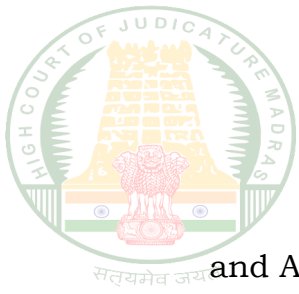
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11. On 16.07.2003, PW24 recovered blood stained earth, ordinary earth and a biscuit colour slipper. The bodies of Sundarajan and Kuppusamy were, thereafter, sent for autopsy through a Police Constable. PW24 examined the several witnesses on 16.07.2003 & 17.07.2003.

12. After having custody with the assistance of Dhanapal, the Village Administrative Officer and Sennannan, his assistant, he recorded the confession statements. Similar procedure was followed by PW25 with respect to Jagan @ Jaganathan (A2), Dharmalingam (A13), Selvaraj (A12), Murugesan (A16), Annamalai (A4), Poosari @ Arunachalam (A7), Durai, Gopal, Nila (A14), Thiyagarajan (A11), and Kalaivannan(A19). After examining the doctors and other witnesses, PW25 completed his investigation.

13. On 25.08.2003, the Police took custody of 26 persons. After their interrogation, PW25 came to a conclusion that they were not involved in the occurrence.

14. Post all these confessions, an Auto-Rickshaw belonging to Natesan bearing Registration No.TN27 F 2780 was recovered. The said procedure was followed for the other accused also. Suffice it to state, PW14 attested the statements of A2, A4, A8, A11, A12, A13, A14, A16, A8, and A12. Similarly, PW21 attested the statements of A1, A2, A7,



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and A14.

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15. On 24.11.2003, Palanivelu (PW25) presented a charge sheet against 24 accused. They were charged for having committed the offences under Sections 147, 148, 302 read with 149 of the Indian Penal code. Thereafter, on 30.12.2003, an application was filed for further investigation before the learned Judicial Magistrate-IV at Salem. Learned Magistrate ordered the application. On 08.03.2004, Arayee, wife of Palanisamy, Selvi, wife of Ganesan, Dhanam, wife of Elumalai, Thayammal, wife of Mani, Santha, wife of Shanmugam, Sadayan, son of Arumugam and Kalaivannan, son of Chiannayan were examined. On 20.08.2004, a charge sheet was laid under Sections 147, 148, 302 read with 149, 120B read with 302 of the Indian Penal Code against the accused.

16. The prosecution alleged that there was pre-existing enmity between the deceased and the group of accused, headed by Natesan. The enmity arose on account of the fact that the deceased was leaving the Communist Party of India, and also independently celebrated the festivals of local temples. This led to a quarrel between the deceased and Natesan. Due to the threats Sundarajan made against Vijaya, Natesan and the other accused formed an unlawful assembly with a



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common object to murder the deceased. In pursuance of this common object, on the fateful day between 5.30 pm and 07.30 pm, A1 to A19, who were armed with stones and sticks, assaulted Sundarajan at Veeranam Bus Stand, causing grievous injuries to him. A20, A21 and A23 instigated other accused to assault Sundarajan with stones. Thereafter, A1 to A19 took the said Sundarajan by an Auto-Rickshaw and threw him, near the Mariamman Temple at Pallikoodathanur. Thereafter, the accused, who were armed with logs and stones, went to the house of Kuppusamy. On seeing the accused, Kuppusamy ran away and fell down in front of the house of Anai Gounder. Immediately, the accused mercilessly attacked Kuppusamy with stones and caused his death. Thereafter, Natesan (A1) and Jagan @ Jaganathan (A2) went to Mariamman Temple and assaulted Sundarajan, who was lying unconscious. On account of this attack, Sundarajan passed away.

17. The Charge sheet so laid by PW25 was taken on file by the learned Judicial Magistrate - IV Salem as PRC.No.40 of 2003. He, thereafter, committed the case to the file of the learned I Additional District – cum - Sessions Judge for trial and disposal. The learned I Additional District cum Sessions Judge took up the case on file in SC.No.34 of 2005.



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18. The learned Sessions Court framed charges, which the accused denied. Thereafter, trial commenced.

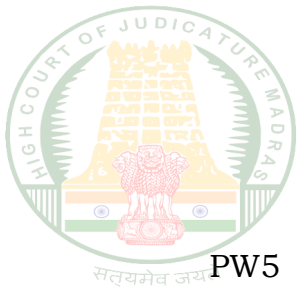
19. The prosecution examined PW1 to PW25. They marked Ex.A1 to Ex.A44 and MO.1 to MO.16. On the side of the defence, they examined DW1 to DW11. They marked Ex.D1 to Ex.D5. During the course of trial, A8, A9, A14 expired and therefore, charges against them abated.

20. After an analysis of the evidence let in before him, the learned Trial Judge convicted the appellants and acquitted the respondents in the State appeals.

21. Challenging the convictions, the present appeals. As all the appeals arise from the same judgment, we clubbed the appeals and heard them together.

22. We heard the learned counsel appearing on either sides.

23. Opening the Appeals, Mr.A.Ramesh submits that PW1 to

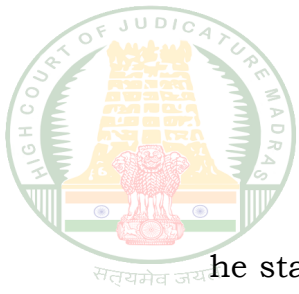


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PW5 speak about the incidents revolving around the deceased, Sundarajan, and PW6 to PW11 speak about the circumstances surrounding the deceased, Kuppusamy. He submits that the learned Trial Judge had not referred to any of the defence witnesses or documents filed by them.

24. In particular, Mr.A.Ramesh draws our attention to Ex.D2, namely, the report that had been filed by the Revenue Divisional Officer, Salem to the District Collector Salem on 21.07.2003. He points out that the Revenue Divisional Officer, on the directions of the District Collector dated 21.07.2003, had gone over to Pallikoodathanur Village and had enquired with the public to collect the first hand information. The District Collector, by his proceedings had further directed the Revenue Divisional Officer, Salem to ensure that the remaining rowdies are brought to book by the police under the relevant sections of law.

25. Mr.A.Ramesh states that the Revenue Divisional Officer caused an enquiry and submitted a detailed report, pointing out as to how the incident had taken place. He states, the least that the learned Trial Judge could have done is to have referred to the said document, which would have given a holistic picture of the entire issue. Crucially,



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he states that though the attack is said to have been done by a group consisting of numerous persons, all that was recovered was one stone and one stick.

26. Mr.A.Ramesh argues that it is not his plea that the report under Section 174 submitted by the Revenue Divisional Officer binds the prosecution. But that investigation has to be fair and proper. Referring to the evidence of PW25, he points out that the investigating officer had failed to look into Ex.D2 at all, nor did he take cognizance of the same, and had failed to investigate into the earlier complaint in crime No.527 of 2003.

27. Mr.Jayakumar urges that there was a delay in the statements reaching the learned Magistrate. The statements, which were recorded on 16.07.2003, reached the learned Magistrate on 27.09.2003, and the further statements, which were recorded on 25.07.2003, reached the learned Magistrate only on 29.10.2003.

28. Taking us to the evidences of PW1, PW2, PW4 and PW6, Mr.Jayakumar points out the various discrepancies in their evidences and pleads that the trial court ought not to have placed reliance upon the same. He adds that no independent eye witnesses were examined,



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and points out from the evidence of PW22, that an oral complaint had been lodged by A1 against the deceased persons, namely, Sundarajan and Kuppusamy. He states that though the statements and records were prepared by the Police Constables 1063 and 1374, both had not been examined. He points out that the Auto Rickshaws, in which Sundarajan was said to have been carried after the assault at Veemanur Bus Stand, were not seized by the Police.

29. Mr.Marudhachalamurthy states that the prosecution has projected three scenes of crime, namely, Veemanur Bus stand, Mariamman Temple, and Anai Gounder's house. Pointing out several discrepancies in the evidences of PW1 to PW5, he states that they are all relatives and therefore, interested witnesses. He states that the witness Madhaiyan, though enquired by the Police, was never examined as a witness and that, all the witnesses have been tutored by the prosecution. Though the names of the accused have been repeatedly mentioned by the witnesses, there is no cogency in the evidence. He stresses that PW6, though alleged that she was beaten up with a cycle chain that the accused had damaged the house, and that the accused killed Kuppusamy using stones, there was no recovery at all. On this point, he stresses that no accident register of PW6 was ever produced.



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30. Mr.Marudhachalamurthy states that the time that has been given by the witnesses do not tally and this causes a huge doubt over the case of the prosecution. He states that though the case of the prosecution is that Sundarajan was killed at Mariamman Temple and Kuppusamy was killed near Anai Gounder's house, no recovery had been made of the weapons alleged to have used by the accused. He states that the deceased were notorious persons and could have been attacked by anyone. He adds no independent witness were examined to prove the crimes said to have been committed at Veemanur Bus Stand, Mariamman Temple and near Anai Gounder house.

31. Mr.Marudhachalamurthy reiterated the submissions of Mr.A.Ramesh that the defence witnesses were not touched upon nor were the documents referred to by the learned Trial Judge. Though Sundarajan is said to have died while PW1, his mother was giving him water, the blood stained clothes of PW1 was not recovered, which caused a doubt over the case.

32. Mr.R.Sankarasubbu points out from the medical evidence, that no crush and wound injury was found on Sundarajan. He relies upon the postmortem report to support this plea. He adds that



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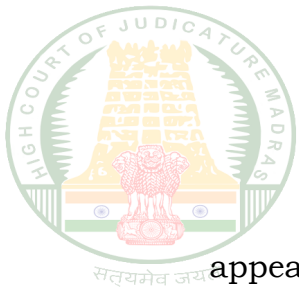
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although Sankar, the father of Kuppusamy, had lodged the FIR, none of the witnesses speak out his presence. He points out the sequence of events, according to the complaint, is the assault at Veemanur Bus Stand, then near Anai Gounder's house; and finally, at Mariamman Temple, whereas PW1 to PW5 deposed that after the assault at Veemanur Bus Stand, the accused had done Sundarajan to death at Mariamman Temple and finally, Kuppusamy, near Anai Gounder's house.

33. Inviting our attention to the evidence of PW5, Mr.R.Sankarasubbu points out that she had stated that Kuppusamy was present at the bus stand at the time of the first incident and if the case of the prosecution is to be accepted as true, Kuppusamy would have also been assaulted there itself. In fine, his plea is PW1 to PW11 are untrustworthy witnesses, who are close relatives of the deceased and they have been introduced into the case in order to lend credence to the prosecution's case .

34. Mr.B.Pugazhendi urges that the independent witnesses have not been examined and that the statements given by PW1 and PW4 are contradictory.

35. The substance of the arguments of the learned counsels



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appearing for the accused is that none of the witnesses are reliable and the prosecution had failed to prove the case. Hence, they seek the appeals to be allowed and the accused be acquitted. All the counsels also submitted that the complaint lodged by Natesan, which was prior to the complaint lodged by Sankar, was never investigated and a negative final report was filed without even putting the complainant on notice. This is a crucial flaw in the investigation done by PW25. Hence, the counsels argue that the appeals filed by them, deserves to be allowed.

36. Mr.E.Raj Thilak, learned Additional Public Prosecutor pleads that there were three motives for the accused for having committed the crime. Referring to the complaint that had been lodged by the first accused, he states that this concedes the presence of the accused at the time of occurrence. He points out that PW4 and PW5 speak about the presence of the accused, and if PW4 and PW5 are to be disbelieved, then the very complaint lodged by A1 and others in crime No.537 of 2003, would also be false. On the specific overtacts, he refers to the cross examination of PW5 to point out to a question by the accused. During the cross examination, PW5 had narrated the overtact committed by each of the accused.



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37. Attacking the plea of lack of independent witnesses, Mr.E.Raj Thilak invites our attention to the evidence of DW6 to point that the President of the Grama Sabha had deposed before the court that in August 2003, a resolution had been passed by the said Grama Sabha that no persons connected with the offence must be prosecuted. On account of this resolution, he pleads that no independent witness were available. He also points out that Natesan and Poosari were not available, when the witnesses were examined by court. He states that cogent evidence has been given by PW1 to PW3 with regard to the incident that had taken place at the Mariamman Temple, and PW4 and PW5 had spoken about the attack by the accused at the Veemanur Bus Stand. He states that the occurrence had been proved by the cogent evidence vis-a-vis Sundarajan (D1), by PW1 to PW5, and vis-a-vis Kuppusamy (D2), by PW6 to PW11.

38. Rejecting the argument that the defence Exhibit No.2 had not been referred to by the learned Trial Judge, Mr.E.Raj Thilak points out that it goes beyond the scope of Section 174 of Cr.P.C., and in any event, it has not caused any prejudice to the accused. He states that the defence witnesses, who were marched into the witness box, merely exonerated the accused and they did not dent the case of the prosecution. Therefore, he pleads that the appeals filed by the accused



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be dismissed.

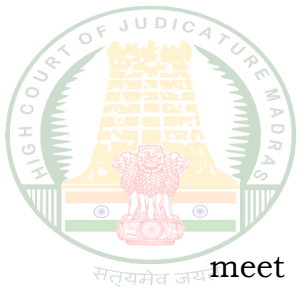
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39. In response, Mr.A.Ramesh points out from the evidence of PW25 that the overtact given by PW5 in the witness box is an embellishment of evidence already tendered by her. He states that it is an improvement by the witness because PW25, the investigating officer, had stated that Amudha had not mentioned about the any of the injuries at the time of evidence. He points out, insofar as the charge is concerned, no charge had been framed with respect to the incident at the bus stand and therefore it is fatal to the case of the prosecution.

40. We have carefully gone through the records and have given anxious consideration to the submissions made by the counsel.

Relevance of Ex.D2 in the case

41. Soon after the incident, public furor arose in Salem District. It came to the attention of the District Collector that two notorious rowdies had been done to death by the public of Pallikoodathanur. Hence, the District Collector decided to get a report as to what actually transpired. He did so through the office of Revenue Divisional Officer, Salem. He directed the Revenue Divisional Officer (DW10) to

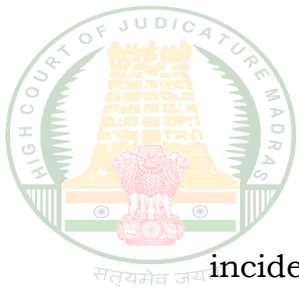


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meet the people and collect first hand information regarding the incident. He had also directed the Revenue Divisional Officer to ensure that the remaining rowdies were identified and brought to book by Police under the relevant Sections of law. The Revenue Divisional Officer was directed to submit a report by 21.07.2003. This letter was marked as Ex.D1 through DW10.

42. DW10 had visited the village and had enquired with the local people, and had submitted a report. Reliance had been placed on this report by the counsel for the accused for the purpose of substantiating their appeals. Hence, it falls upon us to decide what is the effect of such a report.

43. The Code of Criminal Procedure of 1973 contemplates inquest proceedings under section 174 of Cr.P.C. The purpose of such a proceeding is to ascertain whether a person or persons, who died under unnatural circumstances, or suffered an unnatural death, and if so, to determine the apparent cause of death. In such a proceeding, the details as to how the deceased were assaulted, who are all responsible for the assault, and the circumstances that led to the assault are absolutely alien. The report need not even go into the aspect as to who are the accused, or who were the eyewitnesses to the



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incident. This is clear from the latter portion of Section 174(1). The report should state the following:

- (i) the apparent cause of death;
 - (ii) describing wounds, fractures, and other marks of injury found on the body; and
 - (iii) in what manner or by what weapon or instrument, if any such mark or marks appears to have been inflicted.
- This issue is no longer res integra.

44. It is settled by a series of judgments of the Supreme Court. Reference may be made to ***Petha Narayana and Others v. State of Andhra Pradesh 1975 4 SCC 153*** (paragraph No. 11) and ***Sambhu Das and others v. State of Assam, 2010 10 SCC 374*** (paragraph Nos. 22 and 24).

45. Though the findings given in Section 174 report cannot by itself be a sole ground for defeating the prosecution's case, in the facts of this case, there is another aspect, which makes the document produced by the defence relevant. On the side of the defence, they had produced Ex.D1 to Ex.D5. Ex.D3 is the first information report in Crime No.537 of 2003. Ex.D4 is the report of the Deputy Superintendent of Police, Salem Range dated 01.08.2003, on the



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complaint lodged under Ex.D3. Ex.D3 had been registered, prior to Ex.P1. Both the complaints were registered on 15.07.2003. Ex.D3 had been registered at 9.30 hours. The complaint, on the basis of which this prosecution was launched – Ex.P1, had been lodged at 9.45 pm.

46. It is on record that no independent witnesses had been examined on the complaint that had been lodged earlier. During the course of investigation in crime No.538 of 2003, a final report had been filed as Ex.D4. The evidence of PW25, the investigating officer in this case, shows that no effort had been taken to investigate the complaint lodged earlier.

47. When a defence document had been produced, it is the duty of the trial court to refer to the same and either accept or reject it. It is not open to the court to ignore the document altogether. Perhaps, if these documents had been analysed by the trial court, the conclusion might have been different. Ignoring the same totally cannot be treated as an acceptable form of disposal. It is here that we will refer to a judgment of a coordinate bench of this Court in ***Sanjana v. State in Crl.A.No.1128 of 2022 dated 28.04.2025***. The Hon'ble Mr.Justice N.Senthilkumar had held that in paragraph no.57 as follows:

"The court should not forget the importance of fair trial which is available not only to the prosecution, but also equally available to the



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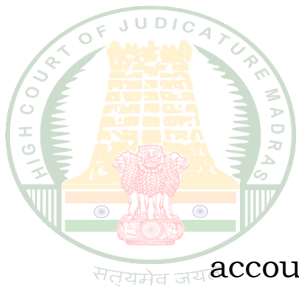
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accused persons. In the course of trial, the court has to consider the evidence of defence witnesses and the documents also to arrive at a conclusion. The court has to give a finding with regard to the consistencies and inconsistencies in the evidence adduced by the defence to dispel the case of the prosecution.”

After having held so, the bench came to a conclusion that this aspect, not having been considered, affects the validity of the trial.

Contradiction amongst the witnesses

48. In case of an incident in which large number of accused are alleged to have participated, the number of witnesses marched by the prosecution to prove its case need not be multifold. As held by the Supreme Court in ***Masalti v. State of Uttar Pradesh, AIR 1965 SC 202***, trustworthy evidence given by a single witness would be enough to convict the accused persons. At the same time, the evidence given by even half a dozen or more number of witnesses, who are untrustworthy, are not enough to sustain conviction. It is quality that matters and not the quantity. The Supreme Court also gave guidance as to how a court must approach where a large number of offenders are said to have been involved in the commission of an offence. It laid down a test. The test is this - the conviction can be sustained only if it is supported by two or three or more witnesses, who give a consistent

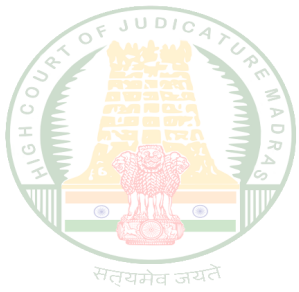


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account of the incident. It was held that in a sense, the test set forth above may be described as mechanical, but it cannot be said to be irrational or unreasonable. Eventhough, it is the quality which matters, as held in **Masalti**'s case, the court can usefully adopt the test in order to arrive at a conclusion.

49. Following the view taken in the aforesaid case, the Supreme Court in **Binay Kumar Singh v. State of Bihar, (1997) 1 SCC 283** held that though there is no rule of evidence that no conviction can be based unless a certain minimum number of witnesses have identified a particular accused as a member of an unlawful assembly. It is axiomatic that evidence is not to be counted, but only weighed, and it is not the quantity of the evidence, but the quality of the evidence. When the size of the unlawful assembly is quite large and many persons would have witnessed the incident, it would be a prudent exercise to insist on at least two **reliable** witnesses to vouchsafe the identification of an accused as a participant of the unlawful assembly. This view had been reiterated by the Supreme Court in **Chandra Shekhar Bind v. State of Bihar (2001) 8 SCC 690** (para 10). Hence in this case, this court is called upon to weigh the witnesses and not count them. This takes us to the ocular evidence in this case.



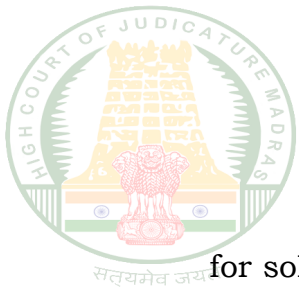
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50. To prove the brutal attack on the deceased, Sundarajan, the prosecution had brought in PW1 to PW5. Similarly, to prove the assault on the deceased, Kuppusamy, PW6 to PW11 were examined as witnesses. PW1 to PW5 are close relatives of the deceased Sundarajan . So is the case of Kuppusamy too. PW1 is the mother of the deceased Sundarajan. PW2 is the sister-in-law. PW3 is the niece of Sundarajan, (his elder brother's daughter). PW4 and PW5 are the daughters of PW1 and the sisters of the deceased, Sundarajan. Similarly, PW6 is the mother of Kuppusamy. PW7 is the brother of Kuppusamy. PW9 is the sister of Kuppusamy, PW10 is the uncle and his father is PW11. PW8 is also a relative of the deceased but much need not be discussed about her, as the prosecution treated her as hostile.

51. Let us now examine the evidence of PW1 to PW5 as regards the corroboration of the evidence. PW1, had deposed that she had written to the authority stating that if no action is initiated for the death of her son, she will commit self immolation. Within a few sentences of this deposition, she contradicted herself, stating that she had not written such a letter.

52. It was stated by PW2 and PW3 that the deceased, Sundarajan, in the last moments of his life, had laid his head on PW1's lap and passed away while his mother was offering him water

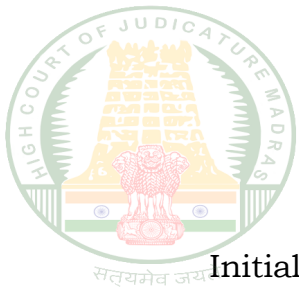


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for solace. However, PW1, the mother stated that she did not place the head of the deceased on her lap which becomes crucial because Sundarajan, as alleged by the prosecution, had suffered bleeding injuries. Had his head been placed on his mother's lap, her clothes would have been blood stained. No such evidence was let in by the prosecution. This contradiction between PW1, PW2 and PW3 is compounded by lack of producing any blood stained clothes by the prosecution to substantiate that PW1 was present at the time of Sundarajan's death.

53. One of the star witnesses for the prosecution is PW5, the sister of the deceased, Sundarajan. The Trial court had placed reliance upon her evidence. Therefore, her presence at the scene of crime becomes crucial. PW1, during the course of cross examination, states that she had accompanied Amudha, Vijaya and Nithya while entering the village. PW2 speaks about only Amudha being with her. Curiously enough, PW3 does not speak about the presence of Amudha at all. Finally PW4 states that Amudha was not present, when Sundarajan was attacked.

54. On the presence of large number of persons at the time of occurrence, PW1 stated that about 100 to 150 persons were present.



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Initially, PW4 also agreed to the statement of PW1 and soon thereafter, PW4 revised this statement and had stated that only 50 persons were present, and all of them are the residents of Pallikoodathanur Village. This latter statement of PW4 is voiced by PW5 also. This points out that a large number of people were present, who are said to have witnessed the alleged incident.

55. It is surprising that apart from the family members, no other persons were examined by the Police. When this aspect was pointed out to Mr.E.Raj Thilak, he urged that DW6 had deposed that the Village Panchayat had passed a resolution condemning the acts of the deceased persons and giving their support to the accused persons. Therefore, he pleaded that the entire village was in favour of the accused persons and therefore, no independent witnesses were available.

56. A careful examination of the papers reveal that one, Madhaiyan had been examined by PW25. However, the said Madhaiyan was never presented before the court by the prosecution. If the explanation given by Mr.E.Raj Thilak is to be believed, then Madhaiyan should not have even assisted the Police during the course of inquest and investigation, which occurred soon after the incident,



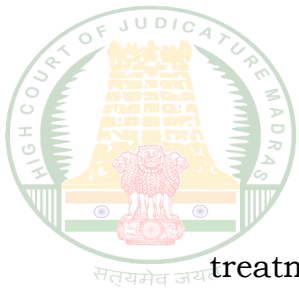
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at least a month before passing of the resolution of the Gram Panchayat.

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57. On the complaint said to have been lodged by PW4 itself, there exists an inherent contradiction. PW4 had deposed before the court that she had accompanied her husband to lodge the complaint with the police at around 9 pm on 15.07.2003. Later, she contradicts herself by stating that she never went to the police station on the date of incident.

58. Another aspect, which raises a doubt on the evidence of PW1, is that in clear and categorical terms, she states that she was in her daughter's house from the morning till the late evening. PW4, the daughter, during the cross examination on this aspect, gives three different versions. The first version is that, PW1 came to her house at noon; The second version being she had directly come to the scene of crime from Salem on 15.07.2003; and the third version is that PW1 was in her house until she had returned from Salem. While cross examining PW24 on this aspect, who was the first Investigating Officer in this case and who conducted the inquest on the bodies, he affirmed that PW5 had stated that PW1 was at her house in the morning on the date of incident, and PW4 had informed him that she had gone for



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treatment to Salem on that date. This casts a serious doubt on the story projected by PW1 and PW4.

59. Even on the crucial aspect as to who instigated the mob to do away with Sundarajan, different versions have been projected by different witnesses. PW1 deposed that A11-Thiyagarajan had instigated the mob to attack and finish Sundarajan. PW2 embellished this statement further by adding that Natesan - A1, Selvaraj - A12, Selvam - A10, Karupannan - A9, Jegan - A2, and Kumaresan - A17, upon finding Sundarajan to be alive, proceeded to beat him to death. On the very same aspect, PW5 would state that Krishnammal -A21, Vijaya-A20 and Madhu-A22, instigated the mob to kill Sundarajan. Soon thereafter, she would state that Natesan, realising that Sundarajan was alive, instigated the mob to complete the task. These varying versions cast a huge doubt on the case of the prosecution regarding the persons, who are alleged to have instigated the offence.

60. It the case of the prosecution that after committing the dastardly crime, the mob led by Natesan - A1 had placed deadly weapons around the body of Sundarajan, while it was lying in front of the Mariamman Temple and had taken photographs and had removed the same and had left the area. There is a contradiction in the

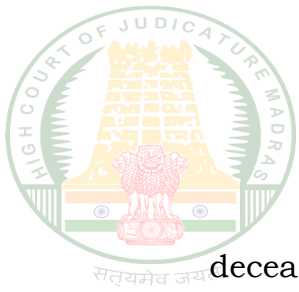


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evidences of PW1, PW2, PW3 and PW5 on this aspect also. While PW1 states that knives, used for cutting vegetables, were laid besides Sundarajan's body and photographs were taken, PW2's evidence only speaks about the knives being placed there. Curiously enough, PW3 would state that the accused had put stone and knives beside the body. PW5, who was examined later, would add that knife, stones and sticks had been placed beside Sundarajan's body. This was further enlarged in her cross-examination stating that knives were put beside his body and photographs were taken.

61. As to what happened to those knives, which were placed around the body of Sundarajan, there is also a contradiction. PW1 would state that the accused had taken the knives away after taking the photographs. PW2 would state that the accused had left the knives behind. PW3 would state that the knives and stones were put in an Auto and taken away. PW5 in chief examination would state that the knives, stones and sticks taken were away by the accused, but in the cross examination, she would add that knives, large stones and wooden logs, which had blood stained in them, were also taken away by the accused from the crime scene.

62. While the evidence from PW6 onwards would read as if the

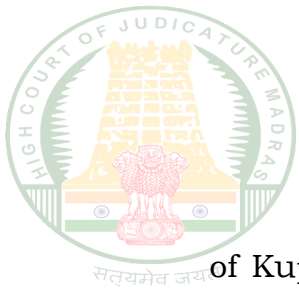


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deceased Kuppusamy was in his house at the time of attack, PW5 would state that Kuppusamy had come over to Veeranam Bus Stand, soon after the accused attacked Sundarajan and had given him a bottle of Soda to quench his thirst. If the same incident had been witnessed by PW1 to PW5, these contradictions on crucial aspects of the case would not have arisen.

63. Looking at them in isolation, the evidence might have a ring of truth to them. However, when looked at cumulatively and taking into consideration that PW1 to PW5 are the close relatives of the deceased, Sundarajan, the ocular evidence do not corroborate each other, but as pointed out above, they are also contradictory.

64. Now let us turn to the witnesses marched by the prosecution in support of its case in respect of the death of Kuppusamy. Here too, the evidence points out certain crucial contradictions. It is clear and categorical in the deposition of his mother-PW6 and his brother-PW7, who, in their statements recorded that Kuppusamy was not feeling well on the date of the incident and was taking rest at home, whereas PW5 and PW25 would depose that both Sundarajan and Kuppusamy were injured at the Veeranam bus stand. During the course of deposition, Ayyammal - PW6, the mother

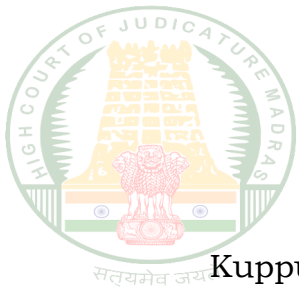


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of Kuppusamy, mentioned that A12 - Selvaraj had beaten her with a cycle chain on account of which, she had to undergo treatment for over a month. Soon thereafter, she would state that Selvaraj - A12 did not beat her, but it was Thiyagarajan - A11, who had beaten her with the cycle chain. When PW24 was examined on this aspect, he deposed that Ayyammal - PW6 never mentioned to him about Selvaraj - A12 beating her with a cycle chain. The cycle chain alleged to have been utilised in the attack was never recovered by the Police, nor was any accident register or medical record produced by the prosecution in order to substantiate this part of the case.

65. Even on the crucial aspect of handing over the bodies, there is a contradiction in the evidence of PW24. His initial statement was that the bodies of the deceased were handed over between 3.00 pm and 3.15 pm, respectively. In the very next page of his deposition, he would state that the bodies were handed over at 6 am on 16.07.2003.

66. On the aspect of the Police being present even before the complaint was lodged, PW6 deposed that the Police came to the scene of occurrence at 9.30 pm itself. PW2 - Vijaya would also state to the same effect. It is pertinent to point out here that the complaint itself is lodged only at 9.45 pm by Sankar, the father of the deceased

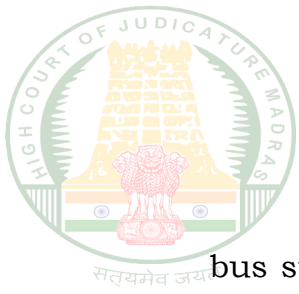


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Kuppusamy. PW6, the wife of Sankar would state that her husband had lodged the complaint at 8.30 pm.

67. As rightly submitted by Mr.Marudhachalamurthy, even the sequence of events is confusing. On one hand, the prosecution urged that the criminal activity commenced at Veemanur bus stand and thereafter, near Anai Gounder's house, and finally at Mariamman Temple. On the other, PW1 to PW5 would state that the incident commenced at Veemanur bus stand, and thereafter shifted to the Mariamman Temple, and concluded at Anai Gounder's house.

68. Another crucial aspect, which casts a doubt on the case of the prosecution, is the material objects that were seized. MO1 is a small stone and MO2 is a wooden log. Both the MOs. have been seized only from Veemanur Bus stand. This is clear from Ex.P3, the seizure mahazar placed before the court. Though PW1 to PW5 and PW6 to PW10, the eye witnesses, according to the prosecution, stated that Sundarajan and Kuppusamy were done to death in front of Mariamman temple and near Anai Gounder's house respectively, the seizure mahazar filed under Ex.P5 and Ex.P7 do not reflect any seizure of weapons. The prosecution had examined PW19, the Police photographer in support of their case. In his evidence, he categorically deposed that no blood stained weapons were found in the Veemanur



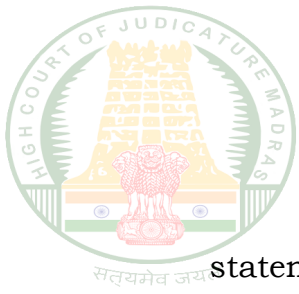
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bus stand at 11.30 pm on 15.07.2003, when he arrived there to take photographs.

69. Apart from that, two auto rickshaws are said to have been used by the accused for the commission of the offence. PW3 Nithya gave the registration number of Autos as TN27 Z 0852 and TDS 4631. The prosecution did not seize both these vehicles. This is clear from the evidence of PW25, the Deputy Superintendent of Police who filed the final report.

70. A perusal of the seizure mahazar under Ex.P9 shows that the auto, that was seized, was not the one which had been deposed by PW3, but an auto bearing registration No.TN27 F 2780. There is no explanation from the prosecution as to why the vehicles which are said to have been involved in the offence were never seized.

71. Apart from the aforesaid aspects, we also find that even the 161 statements recorded by the Police have reached the court with delay. PW1's statement reached the court on 29.07.2003 and on 29.10.2003. Similarly, PW2's statement reached the court on 20.07.2003 and 14.08.2003. That of PW3, reached the court only on 13.08.2003, and that of PW4 on 16.07.2003 and 29.10.2003. 161



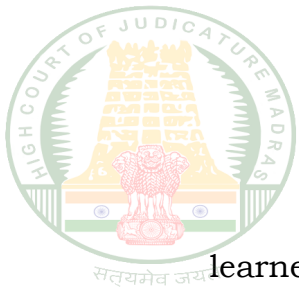
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statement of PW5 reached the court on 16.07.2003 and 29.10.2003.

So is the case with respect to PW6. Insofar as PW7 is concerned, his 161 statement reached the court on 29.07.2003 and 29.10.2003, and that of PW8 on 23.07.2003 and 29.10.2003. It is only the evidence of PW9 which reached the court on 16.07.2003. Her evidence too, can only be classified as hearsay.

72. On the matching of the weapons with the injuries, we only have to refer to the evidence of PW17. According to him, the material objects produced before the court can only cause bruises. On this very aspect, PW25 had been cross examined. He admitted that with the help of MO1 and MO2, it is impossible to do away with the life of a person. Apart from these, PW25 accepts that he had not even examined the Sub Inspector of Police, who had registered the crime No.537 of 2003. He had also not examined any independent witnesses. PW24 in his cross examination had also admitted that none of the witnesses have, in their previous statements, alleged any overtact on part of the accused persons. While in a mob attack, there cannot be any precision of the weapons used, the failure to recover the weapons also throws a huge doubt over the case of the prosecution.

73. A crucial aspect has been pointed out by Mr.A.Ramesh, the



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learned Senior Counsel for the appellants. He drew our attention to Ex.P28 and Ex.P30, the inquest report on the deceased persons to point out that on the date of incident, the area was lashed with rains and the bodies were lying in the rain. If that be the factual position, it is highly improbable that the material object with blood stains could have been recovered thereafter. This is more so because the serology report does not conclude the blood grouping of the alleged objects with that of the deceased. This aspect of rain becomes crucial because PW25 claims to have seized the blood stained earth from three different places of occurrences. When it is admitted that the area was lashed with rain, it casts a doubt as to how blood stained earth could have been seized. The prosecution has failed to march a single person outside the members of the family. In fact, Madhaiyan, though being the husband of PW4, had also not been examined as pointed out earlier.

74. From Ex.D5, it is clear that more than 90 persons had surrendered before the learned Judicial Magistrate – IV at Salem on 25.08.2003. Of the 98 who surrendered, only 24 persons had been chosen by the prosecution and arrayed as accused. There is no explanation as to how this number had been arrived at. The evidence of PW15 points out that the second accused had several criminal

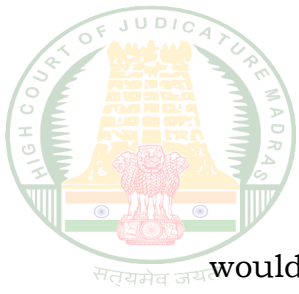


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cases against him and there is a distinct possibility that the deceased could have been done away with by any one of his rivals.

75. In order to persuade us to dismiss the appeal, the learned Additional Public Prosecutor invited our attention to the judgment in ***Amar Singh v. Balwinder Singh, (2003) 2 SCC 518***. A careful perusal of the judgment shows that it was a case where in an appeal against conviction, the evidence of the injured eye-witness had not been taken into consideration by the court. Furthermore, the Supreme Court had specifically found that the prosecution's case had been established by the testimony of the eye-witnesses, who were present on the spot. Their presence could not be doubted as they had been injured in the incident. We have pointed out above, several contradictions in the evidence marched by the prosecution. None of them are injured eye-witnesses.

76. After overall analysis of the entire evidence, we are of the view that the evidence of the witnesses are ridden with contradictions. Since it is not supported by any independent witnesses, there is not only insufficiency of evidence but we are not able to come to a conclusion of the trustworthiness of the evidence marched by the prosecution. We should point out the view taken by the Supreme Court in ***Muthu Naicker v. State of Tamilnadu, (1978) 4 SCC 385***



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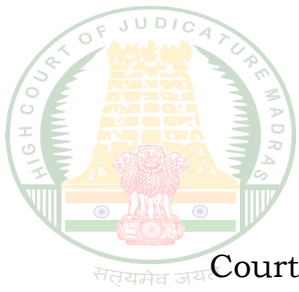
would be applicable to this case.

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77. In uneventful rural society, when something unusual occurs more so where the local society is fraction ridden and the fight occurs amongst the fractions, a good number of people appear on the scene not with a view of participating in the occurrence but as curious spectators. In such an event, mere presence should not lead to the conclusion that the person concerned was present in the unlawful assembly as a member thereof. He becomes responsible for the act, only if it is clearly established that his participation in the commission of the offence by an overtact.

78. The plea of the prosecutor that the view taken by the Supreme Court in ***Vinubhai Ranchhodbhai Patel v. Rajivbhai Dudabhai Patel, (2018) 7 SCC 743*** applies to the facts of this case is also misplaced. The Supreme Court found in that case that a large number of people were present at the dead of the night with deadly weapons. In this case, apart from one stone and one stick, that had been seized, no other weapons had been recovered by the Police.

79. Insofar as the appeals against the acquittals are concerned, we would first decide on the scope of such an appeal. The Supreme



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Court on more than one occasion had gone into the said issue.

Suffice it for referring a recent judgment in ***Babu Sahebagouda Rudragoudar v. State of Karnataka, (2024) 8 SCC 149***. The principles succinctly laid down by the Supreme Court in the following paragraphs:

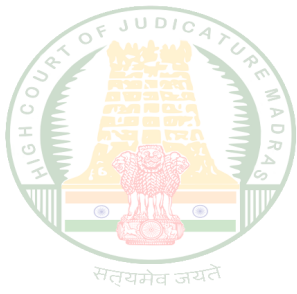
“Discussion and conclusion

38. First of all, we would like to reiterate the principles laid down by this Court governing the scope of interference by the High Court in an appeal filed by the State for challenging acquittal of the accused recorded by the trial court.

39. This Court in ***Rajesh Prasad v. State of Bihar [Rajesh Prasad v. State of Bihar, (2022) 3 SCC 471 : (2022) 2 SCC (Cri) 31]*** encapsulated the legal position covering the field after considering various earlier judgments and held as below : (SCC pp. 482-83, para 29)

“29. After referring to a catena of judgments, this Court culled out the following general principles regarding the powers of the appellate court while dealing with an appeal against an order of acquittal in the following words : ***(Chandrappa v. State of Karnataka, (2007) 4 SCC 415 : (2007) 2 SCC (Cri) 325]*** , SCC p. 432, para 42)

‘42. From the above decisions, in our considered view, the following general principles regarding powers of the



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appellate court while dealing with an appeal against an order of acquittal emerge:

(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.

(2) The Criminal Procedure Code, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.

(3) Various expressions, such as, “substantial and compelling reasons”, “good and sufficient grounds”, “very strong circumstances”, “distorted conclusions”, “glaring mistakes”, etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of “flourishes of language” to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of



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acquittal, there is double presumption in favour of the accused. *Firstly*, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. *Secondly*, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.’ ”

40. Further, in ***H.D. Sundara v. State of Karnataka [H.D. Sundara v. State of Karnataka, (2023) 9 SCC 581 : (2023) 3 SCC (Cri) 748]*** this Court summarised the principles governing the exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378CrPC as follows : (SCC p. 584, para 8)

“8. ... 8.1. The acquittal of the accused further strengthens the presumption of innocence;

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to



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reappreciate the oral and documentary evidence;

8.3. The appellate court, while deciding an appeal against acquittal, after reappreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;

8.4. If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and

8.5. The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible.”

41. Thus, it is beyond the pale of doubt that the scope of interference by an appellate court for reversing the judgment of acquittal recorded by the trial court in favour of the accused has to be exercised within the four corners of the following principles:

41.1. That the judgment of acquittal suffers from patent perversity;

41.2. That the same is based on a misreading/omission to consider material evidence on record; and



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41.3. That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.”

This view has been affirmed by a judgment of the Supreme Court in ***Constable 907 Surendra Singh and Another v. State of Uttarakhand, 2025 INSC 114.***

80. The finding of acquittal recorded by the Sessions Court can be interfered with by the High Court only if the judgment of the acquittal suffers from patent perversity or is based on misreading/omission to consider material evidence on record or when two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record. In otherwords, the judgment must suffer from “patent perversity”, “misreading or omission to consider material evidence” or “when no reasonable views are possible and the conclusion of the trial court is unreasonable, irrational or against the weight of the evidence.

81. We have to remember that presumption of innocence of a person charged with an offence gets strengthened by an order of acquittal. Hence, unless and until the aforesaid legal threshold are satisfied, the appellate court should loath to interfere with the



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judgment of acquittal.

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82. Learned Additional Public Prosecutor argues that the respondents in the appeal were spoken to by PW1. Her evidence was corroborated by the evidences of PW2 to PW5 and PW9. Hence, he urges that the trial court erred in acquitting them from the charges.

83. In the earlier portions of the judgment, we had already discussed in detail about the contradictions in the evidence between PW1 to PW5 and PW6 to PW9. Apart from these contradictions, we have to point out that the prosecution has not let in any credible evidence to substantiate the guilt of the respondents. When the evidence of PW5, the star witness with respect to the death of Sundarajan and PW6 and PW9, star witnesses for the death of Kuppusamy themselves suffer from serious contradictions, we are not in a position to agree with the submissions made by the learned Additional Public Prosecutor.

84. In addition, the evidence of PW17, the Post Mortem Doctor points out that the weapon, which caused injuries on the body of the both the deceased, could not be definitely stated. The prosecution has failed to prove that the accused had placed the knives around the body of the deceased, Sundarajan and had taken photographs. We



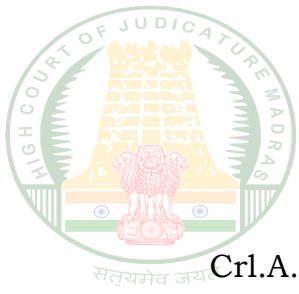
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have already pointed out that the Auto-Rickshaws, in which the accused were alleged to travel, were never produced before the Court. While PW11 spoken about certain incident in his house, there has been no investigation that has been carried out with respect to that aspect.

85. The learned Trial Judge did not look into the evidence with correct perspective, which as stated above are riddled with contradictions. The reasons set forth above convinces that the view taken by the trial judge to convict the appellants, is erroneous. In criminal jurisprudence, when a doubt is created in the case of the prosecution by the accused, the benefit of doubt should go to the accused. That being the position, we are constrained to interfere with the judgment of the trial court.

86. Since we have already discussed the issue threadbare and not convinced with the evidence marched by the prosecution, we are not inclined to interfere with the order of acquittal. Consequently, the appeals preferred by the accused viz., Crl.A.No.298 of 2018, Crl.A.No.299 of 2018, Crl.A.No.340 of 2018, Crl.A.No.422 of 2018, Crl.A.No.426 of 2018, Crl.A.No.560 of 2018 and Crl.A.No.654 of 2018 are allowed and the appeals preferred by the State in Crl.A.No.1227 of 2022 and Crl.A.No.1228 of 2022 are dismissed. The order of the trial court under Section 149 read with 302 is set aside. The appellants in



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CrI.A.No.298 of 2018, CrI.A.No.299 of 2018, CrI.A.No.340 of 2018, CrI.A.No.422 of 2018, CrI.A.No.426 of 2018, CrI.A.No.560 of 2018 and CrI.A.No.654 of 2018 are acquitted. Their bail bonds are cancelled and fine amount, if any, paid will be refunded to them.

(M.S.R., J) (V.L.N., J)
02.09.2025

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Index : Yes
Internet : Yes
Speaking Order
Neutral Citation : Yes

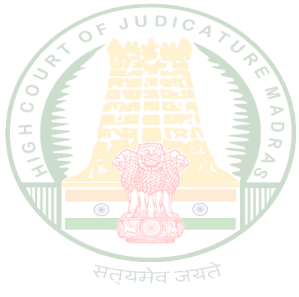
M.S.RAMESH, J.
and
V.LAKSHMINARAYANAN, J.

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To

- 1.The I Additional District cum Sessions Judge, Salem
- 2.The Public Prosecutor,
High Court, Madras.

CrI.A.No.298, 299, 340, 422, 426, 560, 654 of 2018 &
CrI.A.Nos.1227 & 1228 of 2022



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