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Crl.A.No.235 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2025

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

Crl.A.No.235 of 2025

& Crl.M.P.No.3800 of 2025

1. Rajman @ Ramesh

2. Samuluram

... Appellants/Accused

-vs-

The State Rep. by
Inspector of Police,
Paramathi Police Station
Namakkal District
Crime No.307/2021

... Respondent/Complainant

Prayer: Criminal Appeal is filed under Section 374 (2) of Cr.P.C read with 415(2) BNSS against the judgment of the learned I Additional District and Sessions Judge, Namakkal dated 08.09.2023 in S.C.No.66 of 2021.

For Appellant : Mr.R.Sankarasubbu



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For Respondent : Mr.A.Damodaran
Addl. Public Prosecutor
Assisted by Ms.M.Arifa Thasneem
Advocate

J U D G M E N T

(By N.Sathish Kumar, J.)

Aggrieved over the judgment of conviction and sentence passed by I Additional District and Sessions Judge, Namakkal dated 08.09.2023 in S.C.No.66 of 2021, the appellants / accused have filed the present criminal appeal.

2. The Appellants herein, who are Accused in S.C.No.66 of 2021 on the file of learned I Additional District and Sessions Judge, Namakkal, were convicted and sentenced as follows

Sl.No.	Accused	Conviction	Sentence
1.	1 st Accused	Section 302 of IPC	To undergo Life Imprisonment and to pay a fine



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			of Rs.1,000/-, in default to pay fine to undergo Simple Imprisonment for a period of 6 Months.
		Section 201 IPC	To undergo 3 years Rigorous Imprisonment and to pay a fine of Rs.500/-, in default to pay fine to undergo Simple Imprisonment for a period of 3 Months.
2	2 nd Accused	Section 302 r/w.114 and 34 of IPC	To undergo Life Imprisonment and to pay a fine of Rs.1,000/-, in default to pay fine to undergo Simple Imprisonment for a period of 6 Months.
		Section 201 IPC	To undergo 3



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		years Rigorous Imprisonment and to pay a fine of Rs.500/-, in default to pay fine to undergo Simple Imprisonment for a period of 3 Months.
These sentences were ordered to run concurrently		

The period of remand already undergone by the accused was directed to be set off. Aggrieved by the order of the learned I Additional District and Sessions Judge, Namakkal, the Appellants have preferred the present Criminal Appeal before this Court

3. Brief Facts of the Prosecution case are as follows:

(i) The deceased is a migrant labourer from Assam and the Accused 1 and 2, who are relatives, were brought by the deceased and both Accused 1 and 2 joined the work with PW1 in his poultry farm from 19.05.2021.

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Later, they have given shelter by PW1. According to the prosecution case,

there was a dispute between the deceased and Accused 1 and 2 with regard to bringing migrant labourers and getting commission by employing them.

While so, on 07.06.2021, when PWs 1 to 3 were working in the field, they found decomposed body wrapped in plastic mats. Immediately, PW1 gave a complaint (Ex.P1) and the police came to the spot and recovered plastic mats (MO1), spade (MO2) and also the note books found in the place of occurrence (MO3 series). PWs 5 to 8 are all migrant labourers working along with A1 and A2. On 03.06.2021, PWs 5 to 8, accused and deceased had a dinner at 06.00pm and thereafter Pws 5 to 8 left the place. PW16, sold his bike to the deceased and also handed over the RC Book. PW18 has seen the second accused two days prior to the occurrence going in a hurried manner.

(ii) PW27-Investigating Officer, after receipt of FIR (Ex.P20), received the body and went to the place of occurrence and prepared rough



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sketch (Ex.P23) and Observation Mahazar (Ex.P24) in the presence of

witnesses and seized MO 4 (blood stained earth) and MO5 (ordinary earth)

from the place of occurrence and sent the dead body to the Hospital for

postmortem and also seized blood stained dresses (MOs 9 to 12) under

Ex.P3 and P4 in the presence of PW4. On 08.06.2021, the Investigating

Officer arrested the first accused and recorded his confession, which was

translated by PW9. Based on the admitted portion of the confession, Vivo

Cellphone (MO14) and blue colour T-shirt (MO 15) were seized under

Ex.P5 mahazar and Spade (MO2) under Ex.P7 mahazar. Thereafter, altered

the crime under alteration report (Ex.P25) sent the accused and material

objects to the Court and PW25 prepared Exs. P26 and P27 on 08.06.2021

and again recorded the statement of the witnesses on 13.06.2021.

(iii) The second accused was arrested from Chattisgarh and his

confession was recorded. Based on confession of the second accused,

PW25 seized cellphone (MO21), Voter ID of the deceased (MO17), Pan



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Card of the deceased (MO16), ID Card of the deceased (MO18), Shirt

(MO19) and blood stained shirt (MO20) under Ex.P8 mahazar and

forwarded the material objects to the Court and remanded the accused to the

judicial custody. PW20 conducted autopsy on the dead body. According to

PW20, the body was in a fully decomposed state and could not be identified.

PW20 found the following injuries:

'Comminuted fracture of left franto temporo parieto occipital bones, entire base of skull with chips of bone seen covering the region with adjoining sub Scalpal contusion, brain matter not present, clumps of maggot seen covering the region''

(iv) PW20 opined that the death occurred 6 to 7 days prior to the autopsy

and the deceased appeared to have died due to crush injuries on the head.

6.On appearance of the accused, the provisions of Section 207 Cr.P.C.

was complied with and the case was committed to the learned Principal

District and Sessions Court, Namakkal as contemplated under Section 209



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of Cr.PC in S.C.No.66 of 2021 and was made over to the learned I

Additional District Judge, Namakkal.

7. In order to bring on the guilt of the accused, the prosecution has examined as many as 27 witnesses and exhibited 31 documents and 22 material objects.

8. The trial Court, after appreciation of evidence, found the accused guilty and imposed the punishment as indicted supra. Challenging the same, the present appeal has been filed.

9. The main contention of the learned counsel for the appellants is that the entire case rests on circumstantial evidence and absolutely there is no evidence to connect the circumstances. The accused, who are migrant



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workers, have been falsely implicated in this case. It is his further contention that absolutely there is no evidence to establish the so called motive and the trial Court has wrongly convicted the accused for grave crime.

10. The learned Additional Public Prosecutor would submit that PWs 5 to 8, who are also known to the accused, have seen Accused 1 and 2 and the deceased together on 03.06.2021 and thereafter, they have not seen. This evidence coupled with the opinion of the Medical Officer clearly show that death would have occurred on 03.06.2021. The learned Prosecutor further submitted that second accused has also absconded and therefore, his contact go against him. Further, the recovery made by the investigating officer clearly prove the complicity of the accused and hence, it is his contention that the prosecution has proved the guilt of the accused beyond reasonable doubt .



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11. The entire case of the prosecution is based on circumstantial evidence and the prosecution has relied on the following circumstances to prove their case, namely, motive, last seen theory and alleged recovery of the material objects from the accused.

12. As far as the motive is concerned, the prosecution has projected the motive, as if the deceased alone was bringing the migrant labours from their State and was getting commission for getting them job and the accused were also wanted to do the same, which is not liked by the deceased and therefore, there was a grudge and hence, there was a motive.

13. On a perusal of the entire evidence, we do not find any material to show that the accused also brought migrant labours from their State and got commission to substantiate the very charge of the prosecution that there was a motive. Therefore, the prosecution has not proved the motive by clinching evidence.

14. As far as the circumstantial evidence is concerned, every



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circumstances has to be established and there should be only one hypothesis

that only the accused committed the offence and there should not be any

other circumstances to doubt the case of the prosecution. The Hon'ble

Supreme Court in ***Trimukh Maroti Kirkan Vs. State of Maharashtra***

reported in ***(2006) 10 SCC 681*** has enunciated the principle of

circumstantial evidence as under:

'12. ... The normal principle in a case based on circumstantial evidence is that the circumstances from which an inference of guilt is sought to be drawn must be cogently and firmly established; that those circumstances should be of a definite tendency unerringly pointing towards the guilt of the accused; that the circumstances taken cumulatively should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and they should be incapable of explanation on any hypothesis other than that of the guilt of the accused and inconsistent with his innocence.'

15. As far as the last seen theory is concerned, the prosecution has



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relied upon evidence of PWs 5 to 8. PWs 5 to 8 are also migrant labourers.

According to them, they had a dinner along with deceased and accused on 03.06.2021 at 06.00pm and thereafter, they went to their place and only Accused 1 and 2 and deceased were in the place where Accused 1 and 2 used to stay. Except that, it is not their evidence that they have seen the deceased or the accused alive thereafter. The evidence of the Medical Officer clearly shows that the body was in a decomposed state beyond recognition and though the death was due to crush injuries, the Medical Officer opined that the deceased would have died 6 to 7 days prior to autopsy. Postmortem was conducted on 10.06.2021. Though the exact date and time of death cannot be given or ascertained, the opinion of the Medical Officer clearly indicates that death would have occurred even on the subsequent date also. Though PWs 5 to 8 have seen the accused and deceased alive on 03.06.2021, that one circumstance alone is not sufficient to come to a conclusion that the last seen theory has been established. To



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rely on the last seen theory, the time gap between the accused and the

deceased being seen alive and the discovery of the dead body must be

very small, enough to make it impossible for another person to have been

involved. This proximity of time is crucial because a smaller gap

strengthens the link between the accused and the crime, making it more

likely that the accused was the last person with the deceased before the

death occurred. Therefore, merely because the deceased was seen on

03.06. 2021 along with Accused 1 and 2, it cannot be said that only the

accused would have committed such offence. Dead body was found in a

decomposed state by PWs 1 to 3 on 07.06.2021 in the open field and

absolutely, there is no evidence to show that anyone else has seen the

accused and the deceased alive prior to that. Therefore, merely on the

evidence of PWs 5 to 8, we are not in a position to conclude that it is only

these accused have committed the offence since the time gap between the

point of time when they were seen together and the dead body was found



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was long.

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16. The other circumstances relied upon by the prosecution is that on the basis of the admitted portion of confession, MO2 (spade) was recovered by PW25 in the presence of PW4. It is the admitted case of the prosecution that the witnesses and the accused are not conversant in Tamil. The Investigating Officer sought the help of PW9 to translate the so called confession. Even assuming that the investigating officer followed the proper procedure, the fact remains that the alleged recovery spoken to by the Investigating Officer is highly doubtful for the reason that the Investigating officer has stated that only pursuant to the confession of the first accused, MO2 spade was recovered but on a perusal of evidence of PW1 indicates that MO2 was very much available in the place of occurrence where the dead body was found and the same was taken by the police on the same day when they visited the spot. It is the further evidence of PW1 that other dresses lying in the place of occurrence have also been seized by the police



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on 07.06.2021. Therefore, there is a contradiction regarding alleged recovery. It is further to be noted that Ex.P5-seizer mahazar does not disclose MO2 said to have been seized by the Investigating Officer. These facts creates serious doubt about the very seizure.

17. Further, the very charge against the accused is that accused used crow bar to cause head injury whereas it is the evidence of investigating officer that only spade (MO2) was used. These facts create serious doubt in the prosecution theory. That apart, the investigating officer has stated that since spade was washed out by the accused, no blood stain was found but that evidence is also contrary to the forensic report (Ex.P31) wherein it is stated that blood was detected in the spade, which was sent for examination.

18. Of course the grouping has not been established. The fact remains that the blood was very much on the metal spade but the evidence of Investigating Officer shows that as if there was no blood stain. This aspect also creates serious doubt. Further, the very mahazar (Ex.P5) do not



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show seizure of MO2 whereas the evidence of PW1 show that the spade was

very much there in the field and the same was seized by the police on the

same day. Though it is also submitted that the second accused was

absconding and left to his native, the evidence of PW15, if carefully seen,

the same will show that he had left the place two days prior to the

occurrence. Though PWs 5 to 8 would state that the second accused was

also present during dinner on 03.06.2021, PW18 in his evidence has stated

that he saw the second accused going in a hurried manner two days prior to

the occurrence. This creates doubt about the prosecution projecting the case

as if the accused has left the place after the occurrence. Therefore, merely

because the accused was arrested in Chattisgarh, it cannot be said that he

left the place and his conduct goes against him. A person visiting his own

place, cannot be used against him particularly in the absence of other

materials or evidence established in the prosecution theory and though the

investigating officer has spoken about seizure of Pan Card and phones of the



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deceased under Ex.P8, a careful perusal of the evidence of investigating officer and Ex.P5, the cellphone of deceased said to have been seized from A1 on 08.06.2021. Therefore, again seizing the phone of the deceased from A2 is also highly doubtful and further, the so called seizure is also effected from the open place of the land belonging to PW1. Therefore, the recovery is also highly doubtful. The prosecution has not clinchingly established the circumstances. The trial Court has not appreciated the evidence properly and imposed the conviction mechanically.

Accordingly, this Criminal Appeal stands allowed and the judgment of the I Additional District and Sessions Judge, Namakkal dated 08.09.2023 in S.C.No.66 of 2021, is set aside, and the accused are acquitted of all the charges framed against them. Fine amount, if any, paid by the appellants/accused 1 & 2 shall be refunded to them. Bail bond executed by the appellants shall stand discharged. Consequently, the connected miscellaneous petition is closed.



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

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To:

1. I Additional District and Sessions Judge
Coimbatore

2. The Inspector of Police,
D-4, Kuniyamuthur Police Station
Kuniyamuthur, Coimbatore
Coimbatore District

3. The Public Prosecutor,
High Court, Madras.

N.SATHISH KUMAR,J.

AND

M.JOTHIRAMAN,J.

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