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Crl.A.No.437 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2025

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

Crl.A.No.437 of 2019

V.Vinodh

... Appellant/Accused

-VS-

State By:

The Inspector of Police,
Maduravoyal Police Station,
Chennai.

(Crime No.677 of 2015)

... Respondent/Complainant

Prayer: Criminal Appeal is filed under Section 374 of Cr.P.C. to call for the records and set aside the conviction and sentence imposed against the appellant on 05.03.2019, in S.C.No.126 of 2016, on the file of the III Additional Sessions Court, Thiruvallur, Poonamallee and acquit the appellant.



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For Appellant : Mr.P.Pugalenth

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.)

This appeal arises against the judgment of the learned III Additional Sessions Judge, Thiruvallur at Poonamallee, passed in S.C.No.126 of 2016, dated 05.03.2019.

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

The deceased is the father of PW1, husband of PW3 and father-in-law of PW2. As the deceased was not well, he was not going for a job and staying in his house. In the evening hours, after having dinner, he used to go for a small stroll. On 21.06.2015, after dinner, as usual the deceased went for a stroll and did not return till 11.15 p.m. Therefore, PW3 informed



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PW1 and PW2 that the deceased had not reached the house. PW1, who is the son of the deceased and PW2, who is the son-in-law of the deceased,

finding that the deceased had not reached the home, they went in search of the deceased in a two wheeler. When they were reaching near MMDA water tank, they found the accused and the deceased quarreling with each other and the accused punching the deceased on his face. As a result, the deceased fell down, immediately, the accused smashed the head of the deceased with MO1 stone. Immediately, PW1 rushed to the police station and Ex.P1 police complaint came to be filed. The deceased had informed PW3 his wife that the accused had demanded money from the deceased for buying liquor and the same had been refused by the deceased, for which he threatened him. PW19, Inspector of Police received Ex.P1 complaint and registered FIR against the accused. PW19 went to the place of occurrence and prepared observation Mahazar Ex.P2 and Ex.P17 Rough sketch in the presence of PW8 and thereafter, in the presence of the panchayatars



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conducted inquest over the dead body and prepared inquest report Ex.P18

and also collected blood stains on the head of the deceased and sent the dead body to the hospital through PW13, Head Constable with a request for conducting Postmortem. PW17, Medical Officer attached to the Kilpauk Government Hospital conducted autopsy of the deceased and found the following external injuries:

1) LACERATIONS:

(a) 7x3-2cm x Bone deep over the left side of forehead.

(b) 5x3 cm x Bone deep over right side of forehead.

(c) 2x1cmx Bone deep over right side of chin.

(d) 4x3x0.2cm over right ear.

(e) 3x2x0.5cm behind the left ear.

2.1.The Medical Officer issued Ex.P13, Postmortem certificate and opined that the deceased died due to the crush injury in the head. PW19, Inspector of Police, in continuation of investigation and on information,



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arrested the accused on 22.06.2015 in the presence of PW9 and PW14 and

recorded the confession of the accused. The admission portion of the

confession is marked as Ex.P19. Pursuant to the same, he seized the MO4

blood stained Jeans Pant under Ex.P9 Mahazar and forwarded the material

object to the Court for being placed under judicial custody. After

forwarding all the material objects to the Court, with a request to forward

the same to the forensic department, he has completed the investigation and

laid the final report against the accused under Section 302 IPC. In the

meanwhile, PW18 a Medical Officer attached to the Egmore Hospital has

examined the accused on 22.06.2015 and the accused had stated that he fell

down and sustained injuries viz., 2x1cm abrasion on right elbow, 1x1cm

abrasion in the left middle finger and 1x1cm abrasion on the nose and

2x1cm abrasion on the forehead. In respect of the same, Accident Register

Copy was issued and the same was marked as Ex.P15. PW15, Assistant

Director, Forensic Lab had examined all the material objects and issued



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Biology Report Ex.P10.

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3.Before the Trial Court, prosecution examined 20 witnesses and marked 20 exhibits and 7 material objects. On behalf of defence, no witnesses were examined and 2 exhibits were marked. On questioning under Section 235(2) Cr.P.C., the accused denied charges. On appreciation of evidence, oral and documentary, the Trial Court, under judgment dated 05.03.2019, convicted and sentenced the accused to undergo Life Imprisonment for the offence under Section 302 IPC along with a fine of Rs.5,000/- and in default of payment of fine to undergo rigorous imprisonment for a period of six months. For the offence under Section 341 IPC, the accused was acquitted of the said charge under Section 232 Cr.P.C. and there was no order of set off for the period already undergone. Challenging the same, the present appeal has been filed by the accused.

4.The learned counsel for the appellant submitted that the prosecution



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theory that the accused had caused the death of the deceased is highly

improbable. In fact, the deceased had suffered many lacerations. If MO1

stone alone is the reason for the death, only one crush injury should have

been in the body of the deceased, whereas, the Doctor who did Postmortem

had noted several bone deep lacerations. Such laceration is not possible by

MO1. His further contention is that the versions of the Eye witnesses,

namely, the son and son-in-law of the deceased are highly doubtful. They

would not have been Eye witnesses. Their conduct clearly belies the case of

the prosecution that they witnessed the occurrence and their conduct is

against normal human behaviour. Therefore, their evidence is highly

unbelievable.

4.1.Further, the prosecution theory is that the accused had left the

house after dinner and said to have died within one hour as per the evidence

of PW3. In such a case, the undigested food would be present in the



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stomach, but the stomach is empty. PW1 and PW2 would not have been

Eye witnesses and there are contradictions regarding taking the dead body to the hospital. PW2 stated as if they had taken the dead body to the hospital through Ambulance, whereas, the Investigation Officer's evidence indicated as if the inquest had been conducted at the place of occurrence at 3.00 a.m. This aspect creates serious doubt. Further, the Accident Register copy in respect of the deceased had not been marked. The learned counsel submitted that all these aspects create doubt in the case of the prosecution.

5.The learned Additional Public Prosecutor appearing for the respondent submitted that PW1 and PW2, on coming to know the fact that the deceased had not returned home, went to the spot in search of him in a two wheeler and found the deceased and accused quarreling with each other. Before they could reach the spot, the accused threw MO1 stone on the deceased and ran away. Therefore, their evidence cannot be eschewed.



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There was no necessity for P.Ws.1 and 2 to falsely implicate the accused and the motive is also clearly established. Therefore, it is the contention of the prosecution that the guilt of the accused has been clearly established.

6. We have heard the learned counsel on either side and perused the material documents available on record.

7. Insofar as motive part is concerned, since the deceased did not give money to the accused to buy liquor, the accused had threatened the deceased that he would eliminate him. Though there is no direct evidence produced by the prosecution, the evidence of PW3 indicates as if the deceased had informed her that the accused had threatened him for not giving money. Be that as it may, now the case is based on the Eye witnesses' account. As the Eye Witness account is wholly unreliable, the evidence of eye witnesses can be rejected by the Court. In case the evidence of an Eye witness is neither



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wholly reliable nor wholly unreliable, then this Court has to search for other materials, which corroborates the version of the prosecution.

8. It is the case of the prosecution that the deceased left his house at 10.30p.m. after dinner and went for usual strolling and he did not return till 11.15 pm. PW1, son and PW2, son-in-law went in search of the deceased in a two wheeler. When they were near the place of occurrence, the accused was quarreling with the deceased. Before PW1 and PW2 could reach the spot, the accused punched on the face of the deceased with his hand and crushed the head of the deceased with MO1 stone. It is pertinent to note the theory of the prosecution that the deceased left the house at 10.30 p.m. It is doubtful in view of the medical evidence. The evidence of the Doctor who did Postmortem and the Postmortem certificate Ex.P13 clearly show that no food or partially digested food is found in the stomach of the deceased and the stomach was empty. Therefore, the very theory of the prosecution that



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the accused left the house after dinner at 10.30 p.m. creates some doubt.

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9. With regard to the version of the PW1 and PW2, though PW1 and PW2, in unison, have stated that they witnessed the occurrence, their conduct appears to be unnatural. Admittedly, the accused and the deceased alone were there on the spot. According to them, they were quarreling with each other, but PW1 and PW2 have not made any attempt to at least save the deceased. Further, their evidence clearly indicates that they had not even made an attempt to touch the body of the deceased. This conduct of PW1 and PW2 is against normal human conduct. The deceased is not a third party. He is the father of PW1. If a father falls down by a sudden attack of a third party, the normal conduct of a son is, at least, to take the deceased to the hospital immediately. But, his contention is that he had never touched the body and had not even made an attempt to find out whether his father had died or still struggling for life. Such conduct, in view of this Court, is



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against normal human behaviour. This itself clearly indicates that the evidence of PW1 and PW2 is not a believable one.

10. Further, it is the case of the Investigation Officer that there was a quarrel between the accused and the deceased and that the accused also sustained injuries. To substantiate this, the Investigation Officer produced the accused before PW18, the Medical Officer. The Medical Officer noted abrasions and injuries on the body of the accused. If there was such altercations and exchange of blows between the deceased and accused, at least that would have been noticed by PW1 and PW2. But their version is that, there was no such exchange of blows between the accused and the deceased. This normally creates doubt about their presence. However, PW1 had not even made an attempt to take the deceased to the hospital, but he went to the police station and gave a complaint at 00.05 hours. In his cross examination, it is stated that on the next day afternoon at 2.30p.m., he



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went to the hospital to identify the dead body of his father. There was no reason for PW1 to identify the body of his father in the hospital. Such identification is required only when there is no Eye witness to the occurrence. This fact also creates doubt about PW1 witnessing the occurrence.

11.PW2 in his evidence supported the version of PW1. His conduct is also unnatural. His evidence indicates that after the occurrence, he came to the house of PW3 and informed her about the incident and thereafter called the ambulance and went to the hospital within half an hour. He took the deceased in the ambulance on the same day and thereafter, he had sent PW1 to the police station the next morning. It is relevant to note that though he has asserted that he only took the deceased to the hospital in the ambulance within half an hour, prosecution is silent about the name of the hospital and where the deceased was originally taken. Whereas, the evidence of PW13 Head Constable and PW19 Investigation Officer shows as if the body was



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lying in the spot when they reached the spot and inquest was conducted only

at 3.00a.m. PW2 also asserts that the body was taken to hospital in

Ambulance. This also creates serious doubt. Therefore, the very lodging of

FIR at 00.05 hours itself creates serious doubt. It is specifically asserted

that PW2 went to hospital and he sent PW1 to the police station the next

morning for lodging complaint. Therefore, lodging of complaint by PW1 at

00.05 hours is highly doubtful. If really PW1 was an Eye Witness and

lodged complaint at 00.05 hours, the presence of PW1 and PW2 during the

inquest would be quite normal. But, the inquest report does not show their

presence anywhere. Further, inquest report clearly indicates that only dead

body was found by PW1 in the place of occurrence. The inquest report also

clearly shows that PW1 alone saw the dead body first. This fact also creates

serious doubt about PW1 and PW2 witnessing the occurrence.



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12.It is the specific case of the prosecution that the occurrence took place around 11.30 p.m. PW8 is residing nearby the place of occurrence. In his evidence, in cross examination, it is stated that on that date, while he was going to his house at 11.00 p.m. to 11.30 p.m., he had never seen any one in the place of occurrence. His evidence also creates doubt about the presence of PW1 and PW2 at 11.30 p.m. when the occurrence took place. Further, a careful reading of the medical evidence shows that the Medical Officer has noted various external injuries including bone deep abrasion and laceration. As per the version of the prosecution, MO1 alone has been used for committing the murder of the deceased. M.O.1 is a stone and if at all MO1 stone is used, normally, there will be crush injury or blunt injury. But, severe laceration with deep bone injuries are found by the Medical Officer. This also creates serious doubt about the manner in which the injuries were caused by MO1 alone. The prosecution also relied upon another circumstances, namely, recovery of the blood stained Jeans Pant from the



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accused. Though the Serology report indicates one of the circumstances

against the accused, that circumstance alone is not enough to come to the

conclusion that the accused had committed the grave act. The recovery

aspect itself is doubted for the simple reason that it is the case of the

prosecution that the accused was arrested on 22.06.2015 after 12 noon and

pursuant to his evidence, MO4 had been recovered. Though PW14 has also

supported the so called arrest under confession, the fact remains that the

evidence is also highly doubtful. The evidence of PW1 clearly shows that

the accused was brought to the police station on the same day. Therefore,

the arrest after 12 noon which resulted the seizure is also highly doubtful.

Whereas, the other witness PW9 examined to prove the so called confession

has not supported the prosecution. According to him, he was asked to sign

the confession in the police station. This contrary statement of the witnesses

PW9 and PW14 coupled with admission of PW1 that the accused was seen

in the morning on 22.06.2015 at police station creates a cloud of suspicion



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to rely upon the so called arrest. It was also suggested that the deceased had met with an accident in some other manner. The Medical Officer has admitted that the injuries are also possible due to a vehicular accident. This aspect also creates doubt. Though the prosecution is said have seized the MO1 stone and the weight of the MO1 stone is also said have been established by the prosecution, we are not inclined to accept the prosecution case as the doubt is very much available and the accused is entitled to the benefit of such doubt and the conviction and sentence imposed by the Trial Court are liable to be set aside.

13.In the result, this Criminal Appeal is allowed. The judgment of conviction and sentence passed on 05.03.2019, in S.C.No.126 of 2016, by the III Additional Sessions Court, Thiruvallur, Poonamallee, are set aside and the appellant / accused is acquitted of all the charges. The appellant/accused is directed to be released forthwith, unless his custody is required in any



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other case. Fine amount, if any, paid shall be refunded. Bail bonds, if any,

executed shall stand cancelled. Consequently, connected Criminal

Miscellaneous Petition, if any, is closed.

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

13.11.2025

Index: Yes / No

Internet: Yes / No

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To:

1. The III Additional Sessions Court,
Poonamallee, Thiruvallur.
2. The Inspector of Police,
Maduravoyal Police Station,
Chennai.



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(Crime No.677 of 2015)

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3. The Public Prosecutor,
High Court, Madras.



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N.SATHISH KUMAR,J.
AND
M.JOTHIRAMAN,J.

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