



Crl.A.No.1713 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2025

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

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State of Tamil Nadu Represented by
The Inspector of Police,
Veppur Police Station,
Cuddalore District.
(Crime No.12/2016)

... Appellant/Complainant

-VS-

1. Sampath
2. Vetri @ Vetrivel
3. Sankar

... Respondents/A1 to A3

Prayer: Criminal Appeal is filed under Section 378 of Cr.P.C. / 419 of BNSS to set aside the order of acquittal in judgment dated 22.05.2024 made in S.C.No.104 of 2016 on the file of the Mahila Court, Cuddalore by allowing this Criminal Appeal and convict the accused (A1 to A3) as charged.

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

J U D G M E N T



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(By N.Sathish Kumar, J.)

As against the judgment of acquittal, State has preferred the present appeal, challenging the judgment of the Trial Court.

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

2.1. The 1st accused (Sampath) used to lend money to persons, who require financial assistance. He also lent money to the deceased (Sivasakthi) few months prior to the occurrence. In the course of such transaction, the 1st accused developed intimacy with the deceased, used to drink together and have physical relationship. In the year 2015 after Deepavali, the 1st accused requested the deceased for a physical relationship, which was refused by her. Thereafter, on 11.01.2016 the 1st accused once again called the deceased for the same, which was not accepted by her. Therefore, A1 decided to eliminate the deceased and on 12.01.2016 at about 11.00am, he called the deceased to the place of occurrence, informing that he had brought brandy for her. All the accused joined together and when the deceased came to the place, A1 hit the accused on the head and A2 and A3 caught hold of the deceased and



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succumbed to injury and death thereafter. The 1st accused has been prosecuted for an offence under Section 302 IPC and A2 & A3 under Sections 354-A and 302 r/w 34 IPC.

2.2. P.W.1 is the mother of the deceased, who had seen the dead body of the deceased on 12.01.2016 and immediately, lodged the complaint (Ex.P1) to P.W.19. P.W.2 is the father, who also noticed the dead body as well as beer bottle, water packets, etc. in the place of occurrence. P.W.3 had also seen the dead body of the deceased. P.W.19 registered a case in Crime No.12 of 2016 (Ex.P26) on 12.01.2016 for an offence under Section 302 IPC and forwarded the same to the Court with a copy to the Inspector of Police (P.W.20). P.W.20 took up investigation and went to the place of occurrence and prepared a Observation Mahazar (Ex.P28) and Rough Sketch (Ex.P29) and conducted inquest over the dead body (Ex.P27) and thereafter, forwarded the dead body for post-mortem, besides seizure of material objects 1 to 13 under Ex.Ps.30 & 31. The accused 1 to 3 were arrested and their confession statements were recorded in the presence of P.Ws.12 & 14 (Village Administrative Officer & Village Administrative



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Assistant). The admission portions of the statement of the accused were marked as Ex.Ps.32, 34 and 36.) persons were handed over by the VAO with the Special Report and thereafter, P.W.20 altered the FIR under Ex.P38 for offences under Sections 354-A and 302 r/w 34 IPC. P.W.21 / Inspector of Police conducted further investigation and finally laid a final report.

3. In order to bring on the guilt of the accused, 21 witnesses have been examined on the side of the prosecution, exhibited 40 documents and 13 Material Objects were marked. On the side of the accused, neither witnesses were examined nor documents marked. The Trial Court, after analyzing the entire evidence and materials, came to the conclusion that circumstances relied upon by the prosecution have not been proved and acquitted the accused. Challenging the said judgment, State has filed the instant appeal.

4. Learned Additional Public Prosecutor would submit that the motive of the accused had been clearly established through the evidence of P.Ws.1 to 4 and 6 and the Trial Court failed to analyze the said evidence in



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its entirety. The death of the deceased was on account of the injury sustained on her head, which had been duly corroborated by the medical evidence and the post-mortem Doctor / P.W.15 deposed that the death would have occurred owing to grievous injuries on the head. He would further submit that merely because some of the prosecution witnesses 5, 7 to 14, 17 and 18 turned hostile, the entire case of the prosecution cannot be thrown out. Hence, he pleaded that circumstances relied upon by the prosecution have been clearly established and therefore, the judgment of acquittal passed by the Trial Court requires a re-visit.

5. We have thoroughly gone through the material documents available on record.

6. The entire case of the prosecution rests on the last seen theory and other aspects. There is absolutely no evidence to establish that the accused were in the company of the deceased prior to the alleged occurrence. Except the evidence of the Investigating Officer, who had effected seizures on the spot, no other materials have been produced to



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prove the complexity of the accused. Of course, the homicidal violence and sexual assault had been duly established, but the fact remains that no material whatsoever is available on record to show that the accused were in the company of the deceased prior to the occurrence or seen immediately thereafter.

7. Insofar as the last seen theory is concerned, it comes into play, where the time gap between the point of time, when the accused and the deceased were seen last alive and when the deceased was found dead is so small that the possibility of any person other than the accused being perpetrator of the crime becomes impossible. Most of the witnesses, especially P.Ws.5 to 10, 13, 17 and 18 relied upon by the prosecution turned hostile and they had not supported the circumstance of last seen theory. Even in the cross examination, nothing has been elicited. To prove a case of circumstantial evidence, it is imperative that all the circumstances should be complete and there should not be any missing link.

8. As per Ex.16 (viscera report), the presence of alcohol in the



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limbs of the deceased was noticed. Medical examination over the dead body clearly shows that the deceased consumed alcohol and therefore, there is a possibility of fall on account of excessive drink and succumbed to death. In Ex.P17 (Forensic Report on vaginal semen), it has been stated that there was no semen detected in Item Nos.1 & 2 and therefore, the offence of sexual assault on the deceased by the accused has been ruled out.

9. Considering the above, this Court is of the view that the Trial Court has rightly appreciated the evidence and acquitted the accused. Thus, the judgment of the Trial Court does not warrant any interference by this Court.

10. Accordingly, finding no merit in the appeal, the present Criminal Appeal is dismissed.

(N.S.K,J.,) (M.J.R,J.,)
05.11.2025

Index: Yes / No
Internet: Yes / No
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N.SATHISH KUMAR,J.



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AND
M.JOTHIRAMAN,J.
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To:

1. The Mahila Court Judge,
Cuddalore.
2. The Public Prosecutor,
High Court, Madras.

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