



Crl.A.No.1321 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2025

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

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Raj Bahadur Singh

... Appellant/Accused

-VS-

State Rep. by
The Inspector of Police,
Kelamangalam Police Station,
Krishnagiri District.
(Crime No.225 of 2021)

... Respondent/Complainant

Prayer: Criminal Appeal is filed under Section 415 (2) of The Bharatiya
Nagarik Suraksha Sanhita, 2023 against the conviction and sentence passed
by the Additional District and Sessions Judge, Hosur in S.C.No.35 of 2022
dated 30.01.2023.

For Appellant : Mr.O.G.Dhilip Roshan

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



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J U D G M E N T

(By N.Sathish Kumar, J.)

Challenging the judgment dated 30.01.2023 passed by the Additional District and Sessions Judge, Hosur in S.C.No.35 of 2022, this appeal has been preferred.

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

2.1. The deceased (Digamber Baig) and the accused were migrant workers. They worked under P.W.1, who is the Operator in the Supreme Company at Bairamangalam, as Helpers. Both the deceased and the accused resided in the house of P.W.2 for rent. On 25.07.2021, as the deceased did not come for work, P.W.1 visited the house of the deceased for enquiry, where he found that both the accused and the deceased were consuming liquor. On the next day, the accused called P.W.1 at around 14.40 hours and informed that pursuant to a quarrel between himself and the deceased, he killed the deceased. P.W.1 immediately informed P.W.2 to go to the room of the deceased and verify as to the genuineness of the phone call



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made by the accused. P.W.2 went there and opened the door of the house, where he found the deceased to be dead. P.W.1 immediately lodged a complaint (Ex.P1) to P.W.11, who registered a case in Crime No.225 of 2021 under Section 302 IPC under Ex.P8 and forwarded the same to the Court with a copy to the Investigation Officer (P.W.12).

2.2. P.W.12 / Circle Inspector, after receipt of FIR, conducted investigation, went to the scene of occurrence on 27.07.2021, prepared observation mahazar (Ex.P4), rough sketch (Ex.P9) in the presence of P.W.7, conducted inquest over the dead body (Ex.P10), sent the body for autopsy with a requisition for post-mortem. P.Ws.2 and 5 had seen the dead body. P.Ws.3 and 4, who were erstwhile and the present Supervisors of the Company identified the accused. P.W.6 / Medical Officer attached to the Government Hospital, Thenkanikottai, conducted autopsy on the dead body of the deceased and noted the followings injuries:

“1) Incomplete ligature abrasion mark 23x2 cm over upper neck, 6cm from right mastoid, 6 cm from chin, 9 cm from sternum, 3cm from left mastoid.



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- 2) Laceration of 3x2x1 cm on left temporal region.
- 3) Abrasion 3x2 cm on right chest wall.
- 4) Abrasion of 2x2 cm left chest wall.

Internal Examination:

Hyoid bone-intact, right rib 2 to 8 ribs fracture, left ribs 3 to 9 ribs fracture. Both lungs contusion noted over middle and lower lobe. Cross section was congested. Liver laceration of size 12x3x2 cm on right lobe of liver. Cross section was congested. Stomach 100 ml of partially digested food particles noted. Mucosa congested with no specific smell. Kidney right side 90 gms, left side 110 gms. Cross section was congested. Spleen laceration of size 3x2x2 cm cross section was congested. Bladder empty. Skull normal, membrane normal, brain normal. Base of skull was intact.”

P.W.6 issued Post-mortem certificate (Ex.P2) and opined on the basis of the Toxicology Report (Ex.P3) that the deceased would appear to have died of shock and haemorrhage due to vital organ injury.

2.3. P.W.12 / Investigation Officer examined witnesses, recorded the voluntary statement of the accused and arrested the accused on 27.07.2021 at 12.30 hours in the presence of P.W.8 / VAO. The admissible portion of the confession of the accused was marked as Ex.P5, on the basis of which, P.W.12 seized M.O.1 (Iron Pipe) under Ex.P6. P.W.10 / Constable



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recovered M.O.3 (dresses) of the deceased. The material objects were forwarded to the Court and the accused to the remand. P.W.12 finally laid a final report against the accused under Section 302 IPC.

2.4. Before trial Court, prosecution examined 12 witnesses and marked 10 exhibits and 3 material objects. On behalf of defence, neither witness were examined and nor exhibits marked. On appreciation of evidence, oral and documentary, the Trial Court, under judgment dated 30.01.2023, convicted and sentenced the accused to life imprisonment with a fine of Rs.2,000/- in default to undergo simple imprisonment for one year. The period of imprisonment already undergone by the accused was ordered to be set off.

3. Mr.O.G.Dhilip Roshan, learned counsel for the appellant submitted that the entire case of the prosecution is highly improbable and the evidence of P.W.1 that he had seen both the accused and the deceased together having liquor, is found to be falsified in terms of the Toxicology Report (Ex.P3), wherein it was stated that no alcohol was detected in the



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body of the deceased. Further, there is no explanation forthcoming as to the delay in filing FIR and the same was also dispatched to the Court with inordinate delay. He further submitted that P.W.2 / owner of the house had deposed that when he forcibly opened the door of the house, he found the dead body of the deceased lying to the earth, which creates serious doubt about the prosecution version. That apart, P.W.6 / Medical Officer clearly admitted that there is a possibility of sustaining injuries due to the fall of the deceased. The Trial Court has not properly appreciated the entire evidence in proper perspective and the order of conviction passed by the Trial Court is liable to be set aside.

4. Learned Additional Public Prosecutor contended that the guilt of the accused had been duly established by the prosecution through the evidence of P.Ws.1 and 5, who had seen the deceased and the accused together alive on 25.07.2021 and on the next day, the deceased was found dead inside the house, where the accused and the deceased were actually residing. The accused has not explained the actual circumstances exclusively within his knowledge. Based on the circumstantial evidence, the Trial Court



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rightly convicted the accused to undergo sentence as afore-stated. The judgment of the Trial Court does not warrant any interference by this Court.

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

6. The accused and the deceased were migrant workers, belonging to Uttar Pradesh and Odisha respectively. Similarly, P.W.1, who hails from Bihar, is the Operator of the Company. Both the accused and the deceased worked under P.W.1 as Helpers in the very same Company. According to P.W.1, the deceased and the accused were residing for rent in the house of P.W.2. P.W.2 in his evidence stated that originally he let out the house only to the accused and thereafter, the deceased joined him. The entire case rests on the circumstantial evidence. Prosecution has relied upon the following circumstances, namely, i) so-called last seen theory ii) accused and deceased were residing in the house of P.W.2, wherein the dead body of the deceased was found and iii) the recovery of material objects M.Os.1 & 2.

7. As far as the circumstantial evidence is concerned, every circumstances has to be established and there should be only one hypothesis

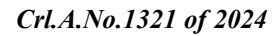


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that only the accused committed the offence and there should not be any other circumstances to doubt the case of the prosecution. The Hon'ble Supreme Court in *Trimukh Maroti Kirkan Vs. State of Maharashtra* reported in **(2006) 10 SCC 681** has enunciated 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.”

8. The evidence of P.W.1 indicates that as the deceased did not come to the job on 25.07.2021, he went to the house of P.W.2, where he saw the deceased and the accused taking liquor. Immediately, he instructed the deceased to report for duty and thereafter, P.W.1 left the place. It is relevant to note that his evidence does not indicate as to when he actually saw the accused and deceased together. This aspect is very silent. The evidence of P.W.5 discloses that the accused and the deceased were quarreling with each other in front of Sampath Shop between 10 to 10.30pm on 25.07.2021. It is



9. Be that as it may, P.W.6 / Medical Officer, who conducted an examination over the dead body noted laceration of 3x2x1 cm on left chest wall, abrasion 3x2 cm on right chest wall and abrasion of 2x2 cm on left chest wall. P.W.6 also found fractures 2 to 8 in right ribs and 3 to 9 in left ribs. P.W.6 opined that the deceased could have died of shock and due to vital organ injury, the viscera report did not show that the deceased was under the influence of alcohol, as the evidence of P.W.6 and P.W.10 did not show the consumption of liquor by the deceased, whereas P.W.1



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stated as if the deceased and the accused were quarreling with each other and they were taking liquor. These facts create serious doubt about the prosecution version, as the Medical evidence and the viscera report clearly show that the deceased did not take any liquor. Therefore, the evidence of P.W.1 becomes doubtful to base conviction for life imprisonment.

10. To 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 by P.W.1 on 25.07.2021 along with the accused, it cannot be said that only the accused would have committed such offence.

11. The evidence of P.W.5 indicates as if he had seen both the accused and deceased in front of Sampath Shop between 10 to 10.30pm on 25.07.2021, which also creates serious doubt, as the said Sampath has not



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been examined. Though P.W.5 categorically stated that there were injuries on the dead body, the evidence of P.W.2 / owner of the house goes otherwise, as he did not notice any serious injuries, more particularly blood stain on the dead body. Be that as it may, even though P.W.6 noted certain injuries on the dead body, in his cross examination, he had clearly stated that such injuries are possible due to sudden fall in the steps. Further, the seizure of M.Os.1 and 2 was not proved with any incriminating materials like blood stain, etc.

12. It is relevant to note that it is the case of P.W.1 that the accused himself confessed about the crime on the very next day at 14.40 hours. But, FIR has been given only at 9.00pm on the same day. No explanation whatsoever has been forthcoming for the delay in lodging FIR. That apart, the FIR has been dispatched to the Court on the very next day at 2.25pm on 27.07.2021, which has not been explained on the side of the prosecution. Further, the evidence of P.W.1 clearly indicates that he does not know Tamil, whereas the complaint has been given in Tamil language and FIR has also been registered in the very same language. It has not been established as to who has translated the version of P.W.1. All these lacuna



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leaves suspicion over the entire theory of the prosecution. Since the version of P.W.1 has been falsified by the evidence of Medical Officer, who had stated that there is also a possibility of sustaining injuries due to the fall of the deceased in the steps, it is highly unsafe to convict a person for the grave offence. When there are two views possible, viz., one is in favour of the accused and another is in favour of the prosecution, the view in favour of the accused is normally preferred.

13. Considering the fact that the prosecution has not proved the guilt of the accused beyond reasonable doubt and also the fact that the Trial Court has not appreciated the evidence in its proper perspective, we are of the view that the judgment of the Trial Court has no legs to stand and requires interference by this Court.

14. In the result, this Criminal Appeal is allowed. The conviction and sentence imposed on the appellant / sole accused in S.C.No.35 of 2022 on the file of the learned Additional District and Sessions Judge, Hosur dated 30.01.2023 are set aside and the appellant / accused is



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acquitted of all the charges. The appellant/accused is directed to be released forthwith, unless his custody is required in any other case. Fine amount, if any, paid shall be refunded. Bail bonds, if any, executed shall stand cancelled.

(N.S.K,J.) (M.J.R,J.)
25.11.2025

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

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1. The Additional District and Sessions Judge,
Hosur

2. The Inspector of Police,
Kelamangalam Police Station,
Krishnagiri District.

3. The Superintendent of Central Prison,
Vellore.

4. The Public Prosecutor,
High Court, Madras.

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