



Crl.A.No.917 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31-10-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

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1.Ravi @ Ravichandran
S/o.Muruga Gownder

2.Prema
W/o.Senthil Kumaran

3.Mariyappan
S/o.Govinda Gownder

4.Tamilkumaran
S/o.Mariyappan

5.Govindaraj
S/o.Govindasamy

All are residing at K.Ettipatti Village,
Uthangarai Taluk, Krishnagiri District.

Appellant(s)/Accused 1 to 5

Vs

State by:
The Inspector of Police,
Samalpatti Police Station.
Crime No.7 of 2016

Respondent(s)/Complainant



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Criminal Appeal filed under Section 374(2) Cr.P.C. against the

judgment dated 03.12.2019 passed in S.C.No.194 of 2016 on the file of the

Additional Sessions Court, Krishnagiri.

For Appellant(s): Mr.N.Anantha Padmanabhan
for M/s.APN Law Associates

For Respondent(s): Mr.A.Damodaran
Additional Public Prosecutor
assisted by Ms.Arifa Thasneem

JUDGMENT

(delivered by N.Sathish Kumar, J.)

This criminal appeal has been filed against the judgment dated 03.12.2019 passed in S.C.No.194 of 2016 on the file of the Additional Sessions Court, Krishnagiri.

2. The prosecution story runs thus:

2.1 The deceased Manikandan developed illicit intimacy with A2, which was objected by all the accused and decided to do away the deceased. A2 called the deceased on 14.12.2015 to come to her house. When the deceased came to the house of A2, all the accused strangled Manikandan and threw his body in the nearby the lake viz. Ethalankuttai.



2.2 On coming to know of the dead body lying nearby the lake, PW1/mother of the deceased rushed to the spot and found that Manikandan was strangled to death by observing injuries on the neck and immediately filed a complaint (Ex.P1).

2.3 The Sub-Inspector of Police (PW20) registered an FIR in Crime No.564 of 2015 under Section 302 IPC and forwarded the FIR to the Court and a copy to the Inspector of Police.

2.4 The Inspector of Police (PW22) commenced the investigation and went to the place of occurrence and prepared the observation mahazar (Ex.P2) and rough sketch (Ex.P15) in the presence of PW7 and PW8 and also conducted inquest over the body of Manikandan and issued inquest report (Ex.P16) and recorded the statements of the witnesses and sent the body to the hospital for postmortem with requisition.

2.5 Dr.Shanmugam (PW16) conducted autopsy on the body of Manikandan on 15.12.2015 as per the requisition letter for postmortem (Ex.P11) and found external injuries such as abrasion of 2x2 cm left side joint, abrasion of 2x2 cm left thigh and abrasion of 3x3 cm over the left thigh and internal injuries and opined that the deceased died due to



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strangulation and asphyxia and issued postmortem certificate (Ex.P12).

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2.6 The Inspector of Police (PW23) in continuation of the investigation, recorded statement of witnesses and arrested the accused A1, A2, A4 and A5 on 17.12.2015 and recorded their confession statements. The admitted portion of the confession statement of A1, A2 and A3 were marked as Exs.P7, P4 and P9, respectively. Pursuant to the confessions of A2, he seized Hero Honda motorcycle key (M.O.1) under seizure mahazar (Ex.P5) and nylon rope (M.O.2) in the presence of the Village Administrative Officer (PW15). Later, pursuant to the confession of A1, he seized TATA Ace vehicle bearing registration No.TN 24 C 6481 (M.O.3) under seizure mahazar (Ex.P8). Thereafter, he has also recovered violet color lungi (M.O.7) and Hero Honda CD 100 motorcycle bearing registration No.TN 23 C 5584 (M.O.8) under seizure mahazar (Ex.P17) in front of the house of the accused and recovered white colour half sleeve shirt (M.O.5) and underwear (M.O.6) from the deceased. It is also the evidence of PW23 that while recovering M.O.3, he has also recovered hair from the car, which has been tallied with the hair of the deceased. In this regard, forensic report (Ex.P21) was filed.



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2.7 Thereafter, the Inspector of Police (PW21) altered the case to one Sections 302 and 201 IPC under alteration report (Ex.P25).

2.8 After completing the investigation and based on the evidence collected, the Investigating Officer (PW21) filed a final report in P.R.C.No.4 of 2016 before the Judicial Magistrate Court, Uthangarai, against the accused A1, A2, A3, A4 and A5 for the offences under Sections 120(B), 302, 201 and 201 r/w 302 IPC.

2.9 On appearance of the accused, the provisions of Section 207 Cr.P.C. were complied with and the case was committed to the Court of Session in S.C.No.194 of 2016 and was made over to the Additional Sessions Court, Krishnagiri, for trial.

2.10 The trial Court framed the following charges against the accused:

<i>Accused</i>	<i>Charges framed</i>
A1 to A5	Section 120(B) IPC
A1 to A4	Section 302 IPC
A1 to A4	Section 201 IPC
A5	Section 201 r/w 302 IPC

When questioned, the accused pleaded 'not guilty'.

2.11 To prove the guilt of the accused, the prosecution examined



twenty four witnesses and marked twenty six exhibits and eight materials objects. The Court side exhibit Ex.C1 was also marked.

2.12 When the accused were questioned under Section 313 Cr.P.C. on the incriminating circumstances appearing against them, they denied the same. No witness was examined nor any document marked on behalf of the accused.

2.13 After considering the evidence on record and hearing either side, the trial Court, by judgment and order dated 03.12.2019 in S.C.No.194 of 2016, has convicted and sentenced the accused as under:

<i>Accused</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
A1 to A5	Section 120(B) IPC	Life imprisonment and fine of Rs.5,000/-, in default to undergo six months simple imprisonment, each.
A1 to A4	Section 302 IPC	Life imprisonment and fine of Rs.5,000/-, in default to undergo six months simple imprisonment, each.
	Section 201 IPC	Seven years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo six months simple imprisonment, each.
A5	Section 201 r/w 302 IPC	Seven years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo six months simple imprisonment, each.
The aforesaid sentences were ordered to run concurrently.		



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3. Heard the learned counsel for the appellants/accused and the learned Additional Public Prosecutor appearing for the respondent/police.

4. The learned counsel for the appellants/accused would mainly set out that the entire prosecution case has absolutely no legal evidence to convict the accused. The circumstances relied upon by the prosecution has not been established, as there is no chain link between the circumstances. Therefore, the trial Court, even without understanding the fundamental criminal jurisprudence, has convicted the accused.

5. The learned Public Prosecutor would submit that the prosecution relied upon the confession and recovery of hair of the deceased from the car. Therefore, the trial Court has rightly convicted the accused.

6. We perused the entire materials on record and heard the learned counsel on both sides.



7. The main case of the prosecution is that as the deceased developed illicit intimacy with A2, it was objected by all the accused and they conspired together to eliminate the deceased. Accordingly, A2 called the deceased on 14.12.2015 at 12.00 noon and therefore, the deceased went to the house of A2, where, all the accused together strangled the deceased and threw his body in the place of occurrence.

8. The prosecution has relied upon the circumstances, motive and recovery of material objects from the accused, arrested all the accused and recorded their confession and filed biological report (Ex.P21) to show that the hair recovered from the car is similar to the hair recovered from the body of the deceased.

9. To establish the motive, though the prosecution has examined PW1 to PW4, who were the mother, sister-in-law, father and brother of the deceased, respectively, in their evidence, they have not spoken anything about the illegal connection between the deceased and A2. Though PW1 would say that her son has received a phone call at 12.00 noon, he has left



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the house in his motorcycle, later, on the next day morning, he was found dead, the prosecution has miserably failed to prove the fact that the deceased has received any specific call at 12.00 noon. Though call details has been obtained, the prosecution has not marked it as a document. The trial Court has marked the call details as Ex.C1, but, the same has not been affixed with any certificate required under Section 65B of the Evidence Act, 1872. Even a cursory look at Ex.C1 would make it clear that the last call received by the deceased was at 10.00 p.m. and there is no reference as to who had called him. Whatsoever the facts may be, no case has been made out by the prosecution. Therefore, absolutely there is no evidence to show that there is illegal connection between the deceased and A2. There is no material to show that the deceased had gone to the house of A2 on the relevant day except the so called call register and no other material whatsoever has been filed. It has also not been established that A2 had called the deceased. Therefore, merely on the recovery of M.O.1 to M.O.8 as well as the alleged confession of the accused, the trial Court has convicted the accused.



10. It is relevant to note that PW1 in her evidence clearly states that

the next day morning the police have come to the spot and took the body of the deceased and sent the same to the hospital and also it is stated that his son's bike was also brought by the police at early morning when the dead body was found.

11. Further, the prosecution also relied upon the seizure of the motorcycle key M.O.1. According to the prosecution, the key was recovered from A2 on 17.12.2015. It is relevant to note that PW1 in her evidence has clearly stated that the bike was given by Inspector of Police on 15.12.2015 and therefore, presence of key in the house of the accused on 17.12.2015 is highly doubtful. Further, the key recovered by the prosecution relates to Hero Honda and not TVS. It is also clear that the prosecution has filed the final report only in order to solve the case.

12. With regard to the alleged seizure of TATA Ace motor vehicle (M.O.3), the prosecution evidence to the effect that the hair of the deceased was seized from M.O.3. It is relevant to note that such recovery is also



highly doubtful. The evidence of PW2 clearly indicates that the accused were arrested by the police on the very next day of the incident *i.e.* on 16.12.2015 and therefore, the arrest of the accused on 17.12.2015 and recording their confession is highly doubtful and therefore, the recovery relied upon the prosecution will not serve any purpose in order to prove the guilt of the accused.

13. Further, the alleged seizure of hair is also highly doubtful, since the doctor (P.W.16) in his evidence has stated that the police have informed him that they have collected the hair sample of the deceased and only on that basis he also collected hair from the deceased.

14. Further, absolutely there is no evidence so far on record even to infer or to prove the alleged conspiracy. The circumstances relied on by the prosecution does not prove any complicity of the accused, whereas, the trial Court, simply on the basis of the submissions, has just narrated the facts of the prosecution and without any appreciation, recorded conviction just based on the so called recovery we pointed out above. In fact, the manner in



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which conviction is recorded clearly exhibit certain aspect that the trial Judge has no idea about as to how evidence has to be appreciated in criminal trial. As to whether there are circumstances to prove the complicity of the accused and whether the so called recovery and other evidence produced by the prosecution will qualify as a relevant evidence and those particular facts have to be proved.

15. The trial Court has also relied upon the evidence of the prosecution to contend that no certification under Section 65B of the Evidence Act, 1872, is required to prove Ex.C1. Based on such statement, the trial Court is in fact relied upon Ex.C1. The trial Court has mechanically recorded conviction even without understanding the fundamental principles of law.

16. In such view of the matter, we find that the trial Court has committed nothing but a grave error in passing the conviction order against the accused. Hence, we have no hesitation in our mind to hold that the appeal deserves to be allowed.



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WEB COPY 17. In view of the foregoing:

- i.The judgment dated 03.12.2019 passed in S.C.No.194 of 2016 on the file of the Additional Sessions Court, Krishnagiri, is set aside;
- ii.The accused are acquitted of the charges framed against them;
- iii.Fine amount, if any, paid by the accused shall be refunded to them;
- iv.The bail bond, if any, executed by the accused shall stand cancelled; and
- v.The accused shall be released forthwith, if they are not required in any other case.

In the result, this criminal appeal stands allowed.

(N.S.K., J.) (M.J.R., J.)
31-10-2025

nsd

To

1.The Additional Sessions Judge, Krishnagiri.

2.The Superintendent, Central Prison, Vellore.

2.The Public Prosecutor,
Madras High Court, Chennai – 600 104.



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

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