



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-10-2025

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**THE HONOURABLE MR JUSTICE N. SATHISH KUMAR
AND**

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

Criminal Appeal Nos.98 of 2019 and 119 of 2021

Criminal Appeal No.98 of 2019

1. Shankar

S/o.Perumal Alias Murugan, Door
No.50, Anna Nagar,
Olagadam Erode District.

...Appellant

Vs

1. The State rep. by its,
The Sub Inspector of Police,
Vellitiruppur Police Station,
Erode District.

2.Manimuthu (A-1)

S/o.Devanbu Door No.583
Nasiyanur Road, Erode.

3.Jayakumar (A-2)

S/o.Gurusamy Naidu,
26/6 Kamadhenu Nagar,
Vettukkattuvalasu
Erode District.



...Respondent(s)

Criminal Appeal No. 119 of 2021

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1. State Rep. by
The Inspector Of Police,
Vellithiruppur P.S., Anthiyur Circle,
Erode District.Cr.No.03/2002.

...Appellant

Vs

1. Manimuthu
S/o.Denanbu, D.No.583, Nasiyanur
Road, Erode.

2.Jayakumar
S/o.Gurusamy Naidu, 266,
Kamadhenu Nagar,
Vettukkattuvalasu, Erode.

...Respondent

Prayer in Crl.A.No.98 of 2019:-

The Criminal Appeal is filed under Section 372 of the Criminal Procedure Code to set aside the judgment passed by the learned IV Additional District and Sessions Judge, Bhavani at Erode in S.C.No.63 of 2003 dated 20.09.2017.

Prayer in Crl.A. No.119 of 2021:-

The Criminal Appeal is filed under Section 378 of the Criminal Procedure Code to set aside the judgment passed by the learned IV Additional District and Sessions Judge, Bhavani at Erode in S.C.No.63 of 2003 dated 20.09.2017.



Crl.A. No. 98 of 2019

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For Appellant(s): Mr. E.C.Ramesh

For Respondent(s): Mr.A.Damodaran
Additional Public Prosecutor
Assisted by Ms.M.Arifa Thasneem for R1

M/s.M.Guruprasad
For R2 and R3

Crl.A. No. 119 of 2021

For Appellant(s): Mr.A.Damodaran
Additional Public Prosecutor
Assisted by Ms.M.Arifa Thasneem

For Respondent(s): M/s.M.Guruprasad
For R1 and R2

COMMON JUDGMENT

(Judgment of the Court was delivered by N.SATHISH KUMAR, J.)

Aggrieved by the judgment of acquittal passed by the trial Court, the State preferred an appeal in Criminal Appeal No.119 of 2021 and the defacto-complainant preferred an appeal in Criminal Appeal No.98 of 2019.

2. Accused Nos.1 and 2 stood charged for an offence under Section 302 I.P.C. for allegedly pouring kerosene on the deceased and Accused No.3 was charged for the offence under Section 302 read with 34 I.P.C.



3. The brief background of the case is as follows:-

3.1. The deceased was running a rice mill. As he suffered some financial loss, he borrowed a loan for a sum of Rs.25,000/- from a Finance Company, Erode. Accused Nos.1 to 3 acted as brokers to said Finance Company. As the deceased defaulted in payment of loan due to his business, on 05.01.2002, Accused Nos.1 and 2, came in a Contessa Car, M.O.5. and Accused No.3 came in a TVS Motorcycle, M.O.6, to the house of the deceased at about 09.00 a.m and all of them questioned P.W.1 as to why the amount has not been paid. When P.W.1 informed that whatever they want, they can ask with his father and they demanded the money from the deceased and the deceased informed that they will pay the amount within two months after the marriage of his daughter. However, the accused compelled the deceased to pay the amount, otherwise, they will take the documents. They tried to enter into a house of the deceased, which was objected by the deceased and the deceased threatened the accused that if they enter into a house, he will set ablaze himself.

3.2. The deceased made such threat only to block the accused. At that time, the accused got annoyed over the act of the deceased. Accused No.2 and 3 caught hold the deceased and Accused No.1 picked up a kerosene Can from the deceased and poured kerosene on the body of the deceased and set him ablaze. In the meanwhile, all the accused caught hold the deceased. P.W.2 hit A1 with the bucket on the head and thereafter, A1 let the deceased ablaze. Thereafter, the accused ran away from the scene of occurrence.



3.3. P.W.2 and P.W.3 have also witnessed the occurrence. As the deceased suffered serious burn injuries, he was taken to the Hospital owned by P.W.13 at Anthiyur. From there, as the Doctor informed that they cannot treat the patient, the deceased was taken to other Hospital, namely, C.S.R. with P.W.14, Medical Officer. From there, the deceased was referred to the Government Medical College Hospital, Coimbatore.

4. It is the case of P.W.1/son of the deceased that during such occurrence, he has suffered burn injuries in his hand. P.W.4 had also seen that the accused came in the Car, M.O.5 and the Motor Cycle, M.O.6, at the relevant point of time. On hearing the sound, he had also found that the deceased has suffered injury and he informed P.W.2 that A1 and A2 caught hold the deceased and A1 poured the kerosene and set fire. According to P.W.6, on 04.01.2002, the accused came in a Car and Motorcycle and demanded the money from the deceased. According to P.W.13, Medical Officer working in Suriya Hospital, Anthiyur, the deceased was brought to the Hospital with 80% burn injuries and immediately, he was referred to a Private Hospital, Coimbatore. According to P.W.14, who is a Medical Officer, C.S.R.Hospital, Coimbatore, since the deceased suffered more than 40% burn injuries, the Hospital has not treated the deceased and the deceased was referred to Government College Hospital, Coimbatore. However, P.W.1 and relatives had waited in the Hospital till 08.00 p.m. and thereafter, they went to the Government Medical College



Hospital. In this regard, he had also issued an intimation to the Police under Ex.P13 and issued Wound Certificate, Ex.P14, and Accident Register copy of A1, Ex.P15. On receipt of the intimation from the Hospital, P.W.20, Inspector of Police, went to the C.S.R.Hospital at 08.30 a.m. On 06.01.2002, he received an intimation from C.M.C. Hospital, Coimbatore. As the deceased was in an unconscious stage, he could not record statement. However, since the deceased gained the conscious at 09.30 a.m., he recorded the statement in the presence of Swaminathan/P.W.25. As the deceased was not in a position to sign the statement, P.W.20 obtained the thumb impression of P.W.1. in the statement, marked as Ex.P20 and registered a case in Crime No.3 of 2002 for offences under Sections 448, 341 and 307 I.P.C. and forwarded the F.I.R./ Ex.P21 to higher officials.

5. P.W.23, Investigation Officer, after receipt of the copy of the F.I.R. went to the place of occurrence on 06.01.2002 at 6.00 p.m. and prepared Rough Sketch, Ex.P22, and Observation Mahazar, Ex.P23, and with the help of P.W.9, he took the photograph in the place of occurrence and also seized material objects from the place of occurrence. The burn cloths were seized under Ex.P8 and Ex.P4 and arrested the accused Nos.1 and 3 on 07.01.2002. In the presence of P.W.11 and one Minian, he recorded the confession statement of accused No.3. Pursuant to the admissible portion of the confession statement, he seized the kerosene can and also Motorcycle bearing Reg.No.TN 36 E 2479, M.O.6, and also seized Contessa Car, M.O.5. under Ex.P9 in the presence of the same



witnesses and he forwarded the seized materials and accused to the Magistrate.

The learned Magistrate examined the Medical Officer, who treated A1 and recorded the statement of the deceased on 07.01.2002. Thereafter, the deceased died on 13.01.2002 and finally, altered the Section from 307 I.P.C. to 302 I.P.C. and laid a final report.

6. In the meanwhile, P.W.18, the learned Judicial Magistrate No.III, Coimbatore, on the basis of the intimation under Ex.P17, went to the Hospital and recorded the Dying Declaration of the deceased under Ex.P18.

7. The materials objects were also examined by P.W.17, Assistant, Forensic Science Lab and found that the kerosene smell was found in the cloths seized by the Investigation Officer.

8. The trial Court, on appreciation of the entire evidence, had acquitted all the accused. To bring home the guilt of the accused, the prosecution examined 25 witnesses as P.W.1 to P.W.25, marked 33 documents as Ex.P1 to Ex.P33 and recovered 10 material objects.

9. Challenging the said acquittal, the defacto-complainant preferred an appeal in Crl.A.No.98 of 2019 and the State has preferred an appeal in Crl.A.No.119 of 2021.



10. The learned counsel appearing for the defacto-complainant and the learned Additional Public Prosecutor, in one voice, submitted that P.W.1 to P.W.3, who are eye witnesses, had clearly spoken about the motive and the overt act attributed against the accused. The evidence is also clearly supported by P.W.4, who had seen the accused visiting the deceased on 05.01.2002. There was no motive whatsoever for the witnesses to implicate the accused. The statement of the deceased had also been recorded by the Investigation Officer under Ex.P2. In Ex.P2, it has been clearly indicated that the deceased had given the statement implicating all the accused under specific goal. Besides Ex.P18, the Dying Declaration recorded by the Judicial Magistrate is also established by the prosecution case. However, the trial Court has given benefit of doubt on wrong appreciation of evidence. Hence, their contention is that Ex.P2, statement recorded by the Investigation Officer, P.W.20 under Ex.P18 proved the complicity of the accused with the crime. Therefore, the trial Court has wrongly appreciated the evidence and acquitted the accused.

11. The learned counsel for the respondent would submit that the entire occurrence itself is doubtful. The deceased has committed self-immolation and the same has been made the murder charge later and the evidence of P.W.13 and P.W.14, who have seen the deceased at the earliest point of time, clearly deposed that the deceased sustained burn injury only due to stove burst. Their evidence remains unchallenged. Further, P.W.14 has clearly stated in the



evidence that the intimation was given to the Police on the same day. Ex.P13 also filed in this regard. Whereas, the so-called Ex.P2- Complaint, was taken in the next day more than two and half pages. The evidence of the Investigation Officer, who recorded the statement, Ex.P2, itself clearly indicated that the deceased was unconscious even on the previous day i.e. on 05.01.2002 and also when he referred to the Government Hospital on 06.01.2002. Therefore, the evidence to the effect that as if the deceased gained conscious latter and recorded statement is highly improbable and the very statement is also totally inconsistent with the Dying Declaration recorded by the Judicial Magistrate.

12. Further, in Ex.P2, only P.W.1 has put a thumb impression. The deceased signature or thumb impression ought to have marked whatsoever is found missing and though it was explained by the prosecution as if the deceased suffered burn injuries, he could not put a thumb impression. There is no attempt whatsoever made even to get thumb impression mark of the deceased in the complaint. Hence, it is the contention that the entire Ex.P2 is created only for the purpose of the case.

13. In the light of the above submission, now the point arises for consideration whether the prosecution has proved the charge against the accused.



14. Accused No.3 died during the trial and the charge against accused No.3 is under Section 302 read with 34 I.P.C. Therefore, the charge against accused No.3 is abated. After filing these appeals, it is admitted by the prosecution that accused No.1 also died. A copy of the death certificate is also produced and P.W.1 has not disputed the death of accused No.1. Therefore, the charge against accused No.1 is abated.

15. Now, in the light of the death of accused Nos.1 and 3, what remains could be seen is the charge against accused No.2. Originally, the charge against A2 that A2 and A3 strangled the deceased and later A1 set the deceased ablaze by pouring kerosene. On careful perusal of the Post-mortem report, Ex.P19 and the evidence given by the P.W.19, it is seen that absolutely there is no material whatsoever to show that the death was due to any strangulation or any other injury, whereas the death is only due to the burn injury. Therefore, the charge that there was a strangulation by A2 and A3 at relevant point of time before A1 set the deceased in fire has not been established.

16. Be that as it may, a specific case of A1 to A3 is that A1 and A3 came to the house to collect the money borrowed by the deceased from one Finance Company at Erode. It is the evidence of P.W.1 to P.W.3, A1 to A3 are the brokers of the Finance Company and P.W.1 is the son, P.W.2 is the wife and



P.W.3 is the daughter of the deceased. Their entire evidence stands in one voice stated that as if A2 and A3 caught hold of the deceased in both sides and despite P.W.2 caused injury on the back of A1, set the deceased in fire after pouring the kerosene. Their evidence reveals that it is highly artificial and unbelievable for the simple reason that if really A2 and A3 caught hold the deceased in both sides and A1 set the deceased ablaze after pouring the kerosene, A2 and A3 would certainly receive the burn injury or sustained burn injury. Therefore, the theory of the witnesses, while A2 and A3 caught hold the deceased, A1 set fire is highly improbable and creates a serious doubt. This doubt is further fortified by the evidence of P.W.13 and P.W.14. P.W.13 had seen the deceased and P.W.1 in first time. P.W.1 also suffered certain burn injuries on the hand. P.W.13 and P.W.14 in their evidences stated that it was informed to him by P.W.1 that the burn injuries suffered due to stove burst. This evidence has not been challenged in any manner. Further, if really P.W.2 and P.W.3 were also present in the place of occurrence and they have also made an attempt to save the deceased, they would have suffered at least a minor injury. Absolutely, there is no injury whatsoever found. Though Ex.P13 clearly indicated that the intimation to the Police was given on 05.01.2002 itself, it is an explanation offered by the Investigation Officer to that effect that though after receipt of the intimation from the P.W.14 Hospital, when he went to the Hospital as the deceased was unconscious, he could not record any statement. Thereafter, the deceased was referred to the Government Hospital, where also he could not record the statement immediately. Only the Doctor informed that as if the deceased



regained the conscious at 09.30 a.m. on 06.01.2002, he recorded the statement, Ex.P2.

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17. On a careful perusal of Ex.P2-Complaint, we are of the view that giving such elaborate statement running more than two and half pages, particularly, the deceased suffered 80% of the burn injuries and in fact, he was in unconscious in the previous day, even three hours before recording the so-called statement by P.W.20. giving such a minute detail is highly improbable. Further, the learned Judicial Magistrate has recorded the dying declaration at 10.40 a.m, wherein the deceased has given statement to that effect that on 04.01.2002, A1, Manimuthu came in the evening and told him why he was still alive, and die and by saying so, he has also poured the diesel on his body and set him ablaze. He never stated anything about the other accused namely, A2 and A3. Whereas, the prosecution has come out with the theory as if the entire burn was the result of pouring kerosene. In all the materials sent to the Forensic Lab, it was found the kerosene was used. Whereas the deceased stated in Dying Declaration to the effect that only diesel was poured on him. This aspect clearly creates doubt on the entire prosecution case. Further, in the entire Dying Declaration, he never stated that the family members have witnessed the occurrence. In fact, Ex.P18 clearly indicates that the entire occurrence took place in the rice mill not in the house. According to him, the occurrence took place between 11.00 a.m. to 12.00 Noon. This is also totally against the prosecution version about the timing of the occurrence. Even if Ex.P18, Dying



Declaration entirety believes, the same indicate that only A1 came to the place and set the deceased ablaze. This statement does not indicate the presence of others namely, A2 and A3. Therefore, we are of the view that the trial Court extending the benefit of the doubt does not require any interference and we do not find any merit in the appeal. As the charge against A1 and A3 has already been abated, from the materials scanned by us, we do not find any material as against A2 and A3 and the very charge that A2 and A3 strangled the deceased has also not been established.

18. Such view of the matter, we find no merit in these appeals and accordingly, these Criminal Appeals are dismissed.

(N.SATHISH KUMAR, J.) (M.JOTHIRAMAN, J.)

30-10-2025

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Index :Yes
Speaking Order
Internet :Yes
Neutral Citation :Yes



To

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1. The IV Additional District and Sessions Judge,
Bhavani, Erode.
2. The Inspector of Police,
Vellithiruppur Police Station,
Erode District.
3. Manimuthu,
S/o. Devanbu
Door No.583 Nasiyanur Road, Erode.
4. Jayakumar,
S/o. Gurusamy Naidu,
26/6 Kamadhenu Nagar,
Vettukkattuvalasu Erode District.
5. The Public Prosecutor,
High Court of Madras, Chennai.



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Crl A Nos. 98 of 2019 and 119 of 2021



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

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Crl. A. Nos.98 of 2019 and 119 of 2021

30-10-2025