



Crl.A(MD)No.222 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 17.02.2025

Pronounced on : 27.02.2025

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

AND

THE HONOURABLE MS.JUSTICE R.POORNIMA

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Gunasekaran

... Appellant/Sole Accused

Vs.

The State rep. by
The Inspector of Police,
Andipatty Police Station,
Theni District.
(in Cr.No.204 of 2015)

...Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374 of the Criminal Procedure Code to call for the entire records connected to the Judgment in S.C.No.4 of 2016 on the file of the Additional District and Sessions Judge, Fast Track Court, Theni, dated 25.11.2019 and set aside the conviction and sentence imposed against the appellant.



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For Appellant : Mr.G.Karuppasamy Pandian

For Respondent : Mr.A.Thiruvadi Kumar,

Additional Public Prosecutor

JUDGMENT

(Judgment of this Court was delivered by **R.POORNIMA, J.**)

This Criminal Appeal is filed against the conviction and sentence passed against the appellant/sole accused in the judgment dated 25.11.2019 passed by the Additional District and Sessions Judge, Fast Track Court, Theni, in S.C.No.4 of 2016 by convicting and sentencing the appellant for the offence punishable under Section 302 IPC and sentenced to undergo imprisonment for life and to pay a sum of Rs.10,000/- in default, to undergo two years simple imprisonment.

2. The case of the prosecution in brief is as follows:

(a) The complainant is the sister of the deceased Suriyakumari. Her sister was married to one Kannan 10 years back and out of the said wedlock, two children were born. Her sister Suriyakumari borrowed money from the accused Gunasekaran and thereafter,



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developed illegal intimacy. The wife of the accused Gunasekaran complained about the illegal relationship to the police. Both of them were summoned before Batlagundu Police Station. The complainant, his mother, deceased had gone to the police station and assured them that they would pay the money to the accused and her sister would not have any relationship.

(b) In the meantime, accused Gunasekaran, requested Suriyakumari to accompany him to Mumbai, and the same was refused by Suriyakumari stating that she wanted to look after her children. Her husband after knowing the affair with the accused, sent her sister to her parental house, he took his children with him and left the matrimonial house. Therefore, her sister has been staying in her mother's house for the past 14 days.

(c) On 23.04.2015 at about noon, her sister, deceased Suriyakumari informed the complainant that the accused continuously troubling her. The complainant stated that time was not good so they decided to meet an astrologer.

(d) On, 23.04.15 at about 8.15 p.m., both the complainant and her sister were on their way to Om Shakti Astrology Centre located on the first floor of Muthu Kannan complex near the Andipatti bus stand.



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At that time, the accused approached them from the opposite direction and requested the complainant's sister to immediately come to Mumbai, in response, both the complainant and her sister ignored him and left, proceeding to the astrology centre upstairs. The astrologer Kannan was present in the centre. He stepped up outside upon receiving a phone call. The complainant and her sister were sitting in a chair. The accused who had followed them abused her sister “ஏண்டி என் கூட மும்மைபக்கு வான்னா நீ வரமாட்டேங்கீற என்னோட வாழ்வராத நீ இனிமேல் உயிரோடு இருக்கக்கூடாது என சொல்லி.....” and then took out a hidden knife, stabbed her below the left side of her chest. When the complainant tried to stop him, he attempted to attack her. Her sister defended with her hand and protected her. The accused inflicted injuries, on the left side face, and the right side neck of Suriyakumari. When both raised an alarm, the astrologer upon hearing the alarm rushed to the scene of the occurrence and tried to catch the accused, but he fled away with a knife.

(e) The complainant and Thiru.Kannan, Astrologer took the victim in an auto to Dr.Murali for treatment, he had asked them to take her to Ka. Vilakku Government Hospital. At that time, the Police came to the place and she took her sister in the Police ambulance and admitted her in Ka.Vilakku Government Hospital. The Doctor examined her and



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declared as brought dead. Her statement was recorded by the police.

Hence, prayed for action against the accused.

(f) The complaint statement Ex.P1 was recorded by P.W.33, Tmt.Pandiyammal, Sub Inspector of Police on 23.04.2015 at about 21.45 hours and then went to Andipatti Police Station and registered a case in FIR No.204/2015, under Ex.P15 for the offence under section 302 IPC. She had sent the complaint statement and FIR to the Judicial Magistrate, Andipatti and copies to other officials. She handed over the case file to P.W.34 Thiru.Nallu for investigation and assisted him with the investigation.

(g) P.W.34 Thiru.Nallu, Inspector of Police received the FIR at about 02.00 hours went to the place of occurrence on 24.04.2015 at about 02.30 hours and prepared observation Mahazar Ex.P5 and rough sketch Ex.P16 in the presence of witness Kannaayiram and Jeyakumar. On the same day, at about 3.45 hours, recovered blood-stained (earth) pieces M.O.9, ordinary earth (cement) M.O.10, blood stains found in the blue colour plastic chair were collected in cotton swabs in two numbers M.O.13 under recovery mahazar Ex.P4.

(h) At about 6.00 a.m., he has gone to Ka.Vilakku Government Hospital conducted an inquest on the dead body in the



presence of witnesses Jeeva, Chandra, Kannan and Panchayatars and prepared an inquest report Ex.P17.

(i) He examined the witnesses Jeeva, Chandra and Kannan and recorded their statements. He recovered the saree- M.O.2, blouse M.O.3 from the witness P.W.1-Jeeva under Form-95. At about 8.00 a.m., he completed the inquest and sent the dead body for postmortem through Grade-I Constable 1490 Thiru.Virumandi along with a requisition letter.

(j) P.W.19 Dr Juliana Jeyanti conducted a postmortem on the dead body, and found the following injuries :

“The following antemortem injuries were noted over the body:

1. An oblique red-coloured stab injury of size 2cms x 1cm x 8cms depth was seen over on the left 5th intercostal space in the midclavicular line. Margin were regular one end pointed and the other end rounded.

On dissection: The wound passes inwards arid and upwards. A red-coloured oblique stab injury of size 2.5cmsx1.5cmsxcavity depth was seen on the left side of the rib cage. The left rile was cut through and through the medial to mid-clavicular line. The margin was regular. A red-coloured oblique stab injury of size 2cmsx1cmxcavith depth was seen on the pericardium



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margin was regular. A red-coloured oblique stab injury of size 2cmsx1cmxcavith depth was seen on the apex of the heart (Left ventricle) Margin were regular. Pericardium contained 200ml of blood with clots. The left pleural cavity contained 2000 ml of blood with clots.

2. An oblique red-coloured stab injury of size 1.5 cm x 0.5 cm x 0.5 cm was seen over on the left side of the lower cheek. Margin were regular one end pointed and the other end rounded with the surrounding bruise injuring the underlying muscles, vessels and nerves.

3. Red-coloured incised wound of size 2.5 cm x 0.25 cm x 0.25 cm seen above injury No. 02. with the surrounding braise injuring the underlying muscles, vessels and nerves.

4. An oblique red-coloured stab injury of size 2ems x 0.5 cm x 0.5 cm was seen over the right side of the neck. Margin were regular one end pointed and the other end rounded with the surrounding bruise injuring the underlying muscles, vessels and nerves.

5. Red-coloured incised wounds of sizes 2.5 cm x 0.25 cm x 0.25 cm seen above injury No. 04. with the surrounding bruise injuring the underlying muscles, vessels and nerves.

6. Red-coloured punctured wounds of sizes 0.25cms x 0.25cms x 0.25cms.. 2.5cms x 0.25cms x



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0.25cms were seen left side lower chest and left upper abdomen respectively, with! the surrounding bruise injuring the underlying muscles, vessels and nerves.

7. Red coloured curved incised wound of length 6cmsx0.25cmsx 0.25cms was seen over the front and middle of the neck, with the surrounding bruise injuring the underlying muscles, vessels and nerves.”

and in final opinion Ex.P.10, she has stated as follows :

“Final Opinion :

The deceased would appear to have died of shock and haemorrhage due to injury No.01 and its complication thereof. 15 hrs. to 19 hrs. prior to autopsy.”

(k) He examined the witnesses Kannan, and Azhagarsamy and recorded their statements. He recovered a full-sleeve shirt -M.O6 from witness Thiru.Kannan, under form 95.

(l) On 24.04.2015, after receipt of secret information, he arrested the accused near Vijayalakshmi Clinic, who was identified by witness Jeeva at about 15:30 hours in the presence of P.W.6 Thiru.



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Pararasuram, Village Administrative Officer, Yesuraja and recorded confession statement, recovered blood-stained folding knife M.O.1, blood stained black striped white shirt – M.O.7, blue colour checked lungi M.O.8, under a recovery mahazar Ex.P.4 and then gone to the station at about 19.00 hours along with accused and the material objects and handed over the accused for remand.

(m) He examined the witnesses P.W.7 Kannayiram, P.W.8 Jeyakumar, P.W.33 Tmt. Pandiammal, Sub Inspector of Police, recorded their statements. On 26.04.2015, he examined one Yoga and recorded his statement. On 07.05.2015, he sent the material objects under form 95 to the Court.

(n) On 13.05.2015 once again recorded the statement of Jeeva. He examined Manivel, Murugesan, Kumar, Koodalswamy, Muthupandi, Mr Ravi, the Sub Inspector of Police, Ravi, and the Medical Officer and recorded their statements. On 18.05.2015 he examined the witnesses Gunasekaran, Muthu Venkatakrishnan, and Anandan and recorded their statements.

(o) On 08.06.2015 he examined Dr.Juliana Jeyanti and recorded her statement. On 16.06.2015 he received the biological report



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and recorded the statement of witnesses Alagar Raja, Muralidharan, and Meenakshi. On 17.06.2025 he examined all the witnesses and recorded their statements.

(p) After completion of the investigation, on 21.10.2015 he filed a final report against the accused for the offence under Section 302 IPC.

3. On receipt of the records, the Judicial Magistrate, Paramakudi took up the case in P.R.C.No.16 of 2015 and issued summons to the accused. After the appearance of the accused, copies of the entire records were furnished to him free of cost under Section 207 Cr.P.C.

4. Since the offence was exclusively triable by the Sessions Court, the learned Judicial Magistrate committed the case records to the Principal District and Sessions Judge, Theni, under Section 209(A) Cr.P.C. for further action.

5. The Principal District Judge, Theni received the case records, numbered it as S.C.No.4 of 2016 and made over to the



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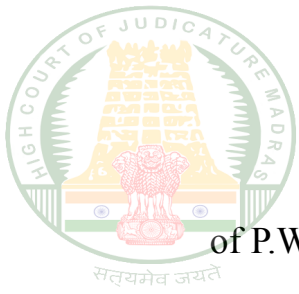
Additional District and Sessions Judge, Fast Track Court, Theni, for disposal according to law.

6. After receipt of the case records, the learned Additional District and Sessions Judge, Theni framed charges against the accused under Section 302 IPC. The charges were read over and explained to the accused. The accused denied the charges and claimed to be tried. Therefore, the case was posted for trial.

7. On the side of the prosecution, P.W.1 to P.W.34 were examined and Ex.P1 to Ex.P18 were marked. Material Objects M.O.1 to M.O.12 were produced. On the side of the accused, no witness was examined.

8. After a full trial, the trial Court convicted the accused for the offence punishable under Section 302 IPC, and sentenced him to undergo imprisonment for life and to pay a sum of Rs.10,000/- in default, to undergo two years simple imprisonment against which, the present Criminal Appeal has been filed on the following among other grounds :-

a. That the trial Court ought to have considered that the evidence



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of P.W.1 was not supported by any of the eyewitnesses.

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b. That the trial Court ought to have considered that according to the prosecution case on the receipt of the intimation from Government Hospital, Kaana Vilakku received the statement at about 10:45 hrs from P.W.1 by P.W.33 Sub Inspector of Police. But per contra, P.W.1 himself admitted that occurrence date (23-03-2015) night itself, P.W.1 went to the Police Station and lodged the complaint. The prosecution suppressed the earlier complaint given by P.W.1.

c. That the Trial Court failed to note that the accused was arrested on 24-04-2015 at about 3:30 P.M. near Andipatti Vijayalakshmi Private Hospital in the presence of P.W.7 and P.W.8. Per contra, P.W.1 admitted that on the date of occurrence, at about 10:30 P.M., the police brought the accused. So, the arrest and recovery are falsified by the defence.

d. That the Trial Court ought to have considered that the evidence of P.W.3 Kannan, Astrologer categorically admits that on the occurrence date at about 11:00 P.M., he only saw the accused in the Police Station. Before that P.W.3 admits he did not see the accused in the alleged occurrence spot as alleged by the prosecution.

e. That the Trial Court failed to note that P.W.9 one Manivel also admitted that the next day to the occurrence around 11:00 A.M. he went



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along with P.W.5 one Kannan and saw the accused in the Police Station.

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It is pertinent to note that he admitted the defence side's suggestion that P.W.9 along with P.W.5 went to the Police Station around 11:00 a.m. The next day to the occurrence and saw the accused in the Police Station.

f. That the trial Court failed to consider that P.W.5 one Kannan (husband of deceased) also admitted that at about 3:35 A.M. on 24-05-2015 he saw the accused in the Police Station.

g. That the trial Court failed to note that P.W.4 Muthu Venkatakrishnan, who is the owner of Muthukannan Complex admitted that the Police came at about 09.00 A.M., and the Police Officials directed not to clean blood at the scene of the occurrence.

h. That the prosecution failed to establish the case against the appellant beyond all reasonable doubts and hence, the judgment of the trial Court is liable to be set aside.

9. Heard the learned counsel on either side and perused the materials available on record.

10. Now this court has to decide whether the judgement rendered by the trial Court is proper or liable to be set aside ?

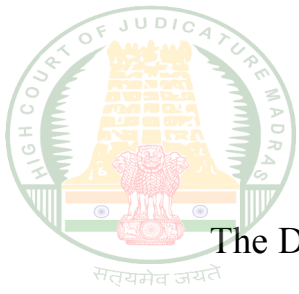


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11. On careful perusal of the entire records, the prosecution

case that unfolds from the evidence of P.W.1 to P.W.34 are as follows:

(i) PW1 in chief examination deposed about the affair between the accused and the deceased, a Police complaint filed by the wife of the accused and an enquiry was conducted by Police Officer, she further stated that the accused often called her sister to accompany him to Mumbai, but she refused. On 23.04.2015, at about 8.15 hours while she and her sister were on the way to meet the astrologer, the accused intercepted and created problem. She cautioned him and then met the astrologer Kannan and sitting in his office along with her sister. The Astrologer received a phone call and stepped outside. The accused came and shouted at her sister that she should not live and took the knife which he kept hidden with him and stabbed her below the left chest. When she prevented him, again stabbed her on the right side neck and face and inflicted injuries. The blood oozed from her body hit on her dresses viz., saree and blouse, both raised alarm and the astrologer came inside and assaulted the accused, he left the place. Both she and the astrologer took her sister in an auto to Dr.Murali. Dr.Murali, asked them to take her to Ka.Vilakku Government Hospital. Therefore, she took her sister in the police ambulance and admitted to the Ka.Vilakku Government Hospital.



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The Doctor examined her and informed her that her sister was dead, after that she informed the same to her husband and mother and lodged the complaint.

(ii) P.W.2, mother of the deceased and the complainant, who is a hear-say witness deposed that P.W.1 informed about the death of her daughter and she had gone to the hospital and saw the dead body.

(iii) P.W.3, Thiru. Kannan Astrologer deposed that he was running Om Shakti Astrology Centre. P.W.1 approached him to have her horoscope read and he asked her to return after two months. One and half months back while he was in his shop, the witness Jeeva called him and enquired about her horoscope. She also mentioned that she needed to see her sister's horoscope read. Therefore, he asked her to come to his office at about 8.15 hours, both the complainant and the deceased Suriyakumari came to his office. At that time, he received a call from his friend, Gunasekaran regarding a Temple festival. Therefore, he asked the complainant and the deceased to wait, while he was speaking with his friend next to his shop, during that time, he heard a noise coming from the shop. Immediately, he rushed inside the shop and saw the accused



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hurriedly running with a knife, upon entering, he saw Suriyakumari injured. He and PW1 carried her down and sent her in an auto to the Doctor for treatment. He received information from the hospital that Suriyakumari had died. The blood of the deceased hit in his shirt while he departed her into the auto and the same was handed over to the police.

(iv) P.W.4, Thiru. Alagarsamy, husband of PW1 deposed about the Motive for the occurrence. He stated that both the accused and the deceased had an illegal affair. The wife of the accused complained about it to the Police and all agreed on the accused should not trouble the deceased. He also stated that on the date of occurrence, PW1 called him and informed him that the accused stabbed Suriyakumari and she died due to the injury sustained by her.

(v) P.W.5, Thiru. Kannan, husband of the deceased also spoke about the illegal relationship of his wife had with the accused and therefore, he left his wife in his mother-in-law's house.

(vi) P.W.6, Thiru. Parasuraman, the Village Administrative Officer, spoke about the arrest, confession of the accused and recovery of



the weapon

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(vii) P.W.7 Thiru. Kannayiram spoke about the preparation of observation Mahazar and the rough sketch by the Investigation Officer.

(viii) P.W.8 Thiru. Jeyakumar, one of the witnesses in the observation mahazar and rough sketch, did not support the prosecution case, he was treated as hostile and cross-examined by the learned Public Prosecutor.

(ix) P.W.10 Thiru. Murugesan deposed that the accused attempted to commit suicide one week before the occurrence and was admitted to the hospital, on enquiry, he stated that due to family problems, he consumed poison.

(x) P.W.11 and P.W.12 turned hostile, not supporting the prosecution case.

(xi) P.W.13 Selvi. Yoga, daughter of PW1 deposed about the



problem between the deceased and accused before the occurrence.

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(xii) P.W.14 Thiru. Muthu Venkatakrishnan, owner of the building in which the deceased was killed, deposed that on the date of occurrence at about 9.00 hours P.W.3 informed him that the accused killed the deceased.

(xiii) P.W.15, P.W.16 and P.W.17 are hearsay witnesses.

(xiv) P.W.19 deposed that the viscera of the deceased were subjected to chemical analysis and revealed that there were no poison substances in the viscera. The viscera report was marked as Ex.P8. P.W. 19 Doctor Juliana Jeyanthi spoke about the postmortem, injuries sustained by the deceased and opined that the deceased would appear to have died due to the injuries sustained by her in serial No.1.

(xv) P.W.20 Dr.Muralidharan, deposed that the deceased Suriyakumari was brought by her sister P.W.1 at about 8:30 hours. On examination, he found injuries on her left chest, right neck left cheek, she was very serious, and he had requested them to take her to Ka. Vilakku



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Government Hospital for further treatment.

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(xvi) P.W.21, Tmt.Chellam, the wife of the accused said that her husband consumed poison and was admitted to the hospital, when she enquired with him, he stated that he incurred loss in his business. She further stated that her husband was involved in a money-lending business. A complaint was pending at Batlagundu Police, her father preferred the complaint.

(xvii) P.W. 22 Thiru. Ashokpandi, deposed about handing over the FIR to the Judicial Magistrate. P.W.23 Thiru. Virumandi spoke about the receipt of the dead body for postmortem and handed over the dead body for final rituals.

(xviii) P.W.25 Thiru. Udayakumar spoke about the receipt of material objects from the Andipatti Police Station.

(xix) P.W.26, Thiru. Prasath took photographs of Suriyakumari, the deceased, and the place of occurrence and handed over to the Inspector of Police.



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(xx) P.W.27 and P.W.28, deposed that they had typed the statement of witnesses as per the instruction instructions given by the Inspector of Police.

(xxi) P.W.29 Thiru. Vijayendiran, Scientific Officer, Madurai Forensic Science Department, deposed about the receipt of M.O.1 to M.O.13 and found that blood stains in M.O.1, M.O.3 to M.O.13, and the blood group found in all the items belonging to 'A' group. Biological Report was marked as Ex.P13 and Serology Report was marked as Ex.P14.

(xxii) P.W.30 Thiru.Ravi, Sub Inspector of Police deposed about the receipt of complaint No.185/15 from the Chellam wife of the accused, Gunasekaran and issued C.S.R.No.185/15. He also stated that he summoned the deceased Suriyakumari, her mother Chandra, her sister Jeeva (PW1.), and complainant Chellam and made an enquiry and the opposite party agreed to settle the money and made a written endorsement.



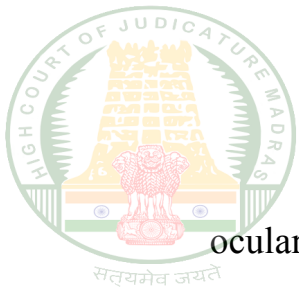
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(xxiii) P.W.33 Mrs Pandiyammal, Sub Inspector of Police,

spoke about the registration of FIR on 24.04.2015 at about 1.00 hours and sent the same to the Judicial Magistrate Office and other officers.

(xxiv) P.W.34, Thiru. Nallu, Inspector of Police, spoke about the investigation, preparation of observation mahazar, rough sketch, arrest, confession, recovery and recording statement of witnesses, after completion of the investigation, filing the charge sheet.

12. The learned Additional Public Prosecutor appearing for the State argued that PW1 an eye witness to the occurrence, clearly described the occurrence. P.W.3 in whose office the incident took place stated that soon after the occurrence, he saw the accused with a weapon in the place of occurrence and sent the victim to the hospital. The motive for the occurrence was established by the prosecution by examining the witness. On the weapon recovered from the accused, the dresses worn by the accused were collected by the Investigating Officer and sent for chemical analysis, found blood stains in all the material objects and also found the same group viz., 'A' blood group. The arrest, confession of the accused and recovery of weapon from the accused were proved. The



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ocular evidence is supported by medical evidence. There is no extraordinary delay in filing FIR. The prosecution proved the case beyond all reasonable doubt. He submitted that there was no need to interfere with the judgment of the trial Court and prayed for the dismissal of the Criminal Appeal.

13. The learned counsel for the appellant argued that one Thiru. Kaviarasu, Police Constable admitted the deceased in Ka. Vilakku Government Hospital. The Investigating Officer failed to examine the Police Constable, the prosecution purposely suppressed the AR entry. It is proved that even before the existence of Ex.P1, the police came to the scene of the occurrence and admitted the deceased to the hospital.

14. He further argued that the presence of PW1 is highly doubtful and she is a chance witness. She has not witnessed the occurrence. Therefore, her evidence has to be eschewed. He further argued that the evidence of PW1 was not supported by any of the independent witnesses. The trial Court failed to appreciate the landmark judgement in the Vadivel Thevar case reported in AIR 1957, page 614.



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15. On scrutiny of entire records and evidence, it is admitted

by the Investigation Officer that, one Kaviarasan accompanied the dead body. PW1, in her evidence clearly stated that soon after the occurrence, her sister was taken to Dr.Murali, for treatment who had examined her sister requested her to take the victim to Ka.Vilaku Government Hospital. Thereafter, she took her sister in a police ambulance to Ka.Vilaku Government Hospital. The evidence of PW1 also corroborated with evidence of P.W.20, Dr Muralidharan, who first attended the deceased. He clearly stated that at about 8:30 PM, PW1, brought her sister, Suriyakumari with injuries, after examination, he found that the patient was very serious and requested P.W.1 to take her immediately to the Government Hospital. The prosecution does not dispute that soon after the occurrence the victim Suriyakumari was taken to Dr.Muralidharan P.W.20 for first-aid by P.W.1. Since she had sustained grievous injuries, the Doctor found her to be in serious condition and advised PW1 to transfer her to a Government Hospital for treatment. Following the Doctor's advise, PW1 took her sister in a police ambulance to the Government Hospital Although the prosecution does not concede that the victim was transferred in a Police ambulance, but not examined the Head Constable. The failure to examine the Constable is not fatal to the



prosecution case.

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16. The second point raised by the learned counsel for the Appellant is that the presence of PW1 is doubtful is not correct, as the presence of PW1 was spoken by PW3, the astrologer, Thiru.Kannan. He clearly stated that both PW1 and the deceased came to his astrology centre for consultation. At that time, he received a call and went outside, both PW1 and the deceased raised alarm, when he entered his office, he saw the accused run with a knife. Immediately, himself and PW1 took her through the staircase to the hospital. The blood-stained sandal and maroon checked saree M.O.2, rose colour blouse M.O.3 were seized from the PW1, by the Investigating Officer, which is evident from form-91 dated 24.4.2015 and the property was received by the Judicial Magistrate Court in RPR.No.91/15 which forms part of the record of the trial Court. The blood stains found in the place of occurrence and the blood stain found in the dresses handed over by PW1, match the blood stain found in the dresses worn by the deceased., Though the learned counsel for the appellant argued that the presence of PW1 is doubtful, however, in their cross-examination suggested that PW1 and the deceased had a quarrel over a money transaction, during which the



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deceased attempted to commit suicide and PW1 tried to prevent her. In the scuffle, the deceased sustained injury and died, indicating that the defence counsel admitted the presence of PW1.

17. In Vadivel Thevar's case reported in AIR 1957-page 614, this Court had gone into the controversy and divided the estimate of the witness into three categories, wholly reliable, wholly unreliable, and neither wholly reliable nor wholly unreliable. It was observed that

“In the first category of proof, the Court should have no difficulty in coming to its conclusion either way it may convict or may acquit on the testimony of a single witness if it is found to be above reproach or suspicion of interested-ness, incompetence or subordination.

In the second category, the Court equally has no difficulty in coming to its conclusion

It is in the third category of cases, that the Court has to be circumspect and has to look for corroboration in material evidence by reliable testimony, direct or circumstantial. There is another danger in insisting on a plurality of witnesses. Irrespective of the quality of the oral evidence of a single witness, if courts were to insist on the plurality of witnesses in proof of any fact, they would be indirectly, encouraging the



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subornation of witnesses.”

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18. On scrutiny, it revealed that the presence of PW1 was supported by P.W.3, Thiru.Kannan, Astrologer, P.W.20 Dr.Muralidharan supported the version of P.W.1. P.W.20 by clearly stating that within a short span of the incident, P.W.1 brought the victim for treatment. The dresses worn by PW1 were handed over to the Investigating Officer. P.W.3 who had taken the victim with PW1 from the place of occurrence had also handed over his shirt with blood stains. The dresses of P.W.1 and P.W.3 tallied with blood stains found in the place of occurrence and dresses worn by the deceased.

19. P.W.2, mother of the deceased stated that shortly before the incident P.W.1 came to her house and took the deceased to an Astrologer. Later, P.W.1 informed her that the victim Suriyakumari had been attacked by the accused and had sustained injuries. Immediately, she went to Ka.Vilaku hospital where she saw the dead body. The Sub Inspector of Police P.W.33 recorded the complaint statement from the PW1 at Ka.Vilaku Government Hospital and P.W.2 also attested in the complaint. Her signature found a place in Ex.P1 complaint. The



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evidence of P.W.2 is also relevant. Further, the evidence of PW1 corroborated with medical evidence, ExP.9 – Postmortem report.

20. Further Section 134 of the Indian Evidence provides that

'No particular number of witnesses shall in any case be required for the proof of any fact'.

21. Therefore number of witnesses is not essential to prove guilt, the quality of evidence, not the quantity is what matters meaning, a single credible witness can be enough to establish guilt of the accused if the testimony of a single witness convincing the Court beyond reasonable doubt.

22. The further point raised by the learned counsel for the appellant is that the arrest, confession and recovery not properly proved. As per the prosecution, the accused was arrested on 24.04.2015 at about 3:30 PM near Andipatti Vijayalakshmi Private Hospital in the presence of PW7 and PW8. But P.W.1 during cross examination admitted that on the occurrence date night at about 10.30 PM, the Police brought the accused into the Police Station.



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23. He further argued that P.W.3 Thiru. Kannan, Astrologer also admitted that he saw the accused in the Police Station before his arrest. Likewise PW9 also admitted that he saw the accused at 11.00 AM in the Police Station. Therefore, arrest and recovery are falsified by the defence.

24. We carefully scrutinized the entire records. PW1 was examined on 4.11.2016, she was not cross-examined by the accused immediately. She was cross-examined on 6.12.2017 after a petition to recall and cross-examination, P.W.3, Kannan was also examined on 24.11.2016 and was cross-examined on 9.7.2018. The defence counsel took one year to cross-examine PW1, and one-and-a-half years to cross-examine PW3, who were the key witnesses. It is to be noted that a long gap in the cross-examination can significantly increase the chance of a witness being wonover, meaning that due to the time elapsed between their initial testimony and cross-examination, they may be influenced to change their story or become less reliable, potentially benefiting the opposite party, this is often seen as a concern for fairness in the trial proceedings as it can cast doubt as the witness credibility.



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25. We rely upon the judgement of the Hon'ble Apex Court in Criminal Appeal in ***Crl.A.No.906 of 2023 in Selvamani Vs. State, rep. by Inspector of Police, dated 08.05.2024.*** In the above judgement, the Apex Court referred to the judgement reported in ***Vinodh Kumar Vs. The State of Punjab***, in paragraph No.11, in which it was observed that

“11. In the case of Vinod Kumar vs. State of Punjab, this Court has observed thus:

51.It is necessary, though painful, to note that PW7 was examined in chief on 30.09.1999 and was cross-examined on 25.05.2001, almost after one year and eight months. The delay in the said cross-examination, as stated earlier had given enough time for prevarication due to many reasons. A fair trial is to be fair both to the defence and the prosecution as well as to the victim. Under the Prevention of Corruption Act used to be tried with all seriousness, we failed to appreciate how the learned trial Courts could exhibit such laxity in granting so much time for cross-examination in a case of this nature. It would have been absolutely appropriate on the part of the learned trial Judge to finish the cross-examination on the day the said witness was examined. As is evident, for no reason whatsoever it was deferred and cross-



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examination took place after 20 months The witness had all the time in the world to be gained over. We have already opined that he was declared hostile and re-examined.....”

26. P.W.1 and P.W.3 during chief examination categorically supported the prosecution case, their evidence was supported by medical evidence and forensic evidence. The defence counsel did not chose to cross-examine the witness immediately after the chief examination. But as per Section 309 of Cr.P.C a witness should be cross-examined soon after the chief examination, which was not followed by the defence counsel.

27. The learned counsel for the appellant further argued that the witnesses admitted that they adduced evidence as per the instruction of police officials which is against the law and referred judgement in ***Manikandan Vs. State by the Inspector of Police*** reported in ***2024 (2) MLJ (Crl.) 255 (SC)***.

28. The learned counsel for the appellant further argued that the accused was kept in unlawful custody and recovery made from him



has not been proved.

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29. The remand report of the accused was perused by this Court, while remanding the accused he had not complained about the illegal police custody or torture. The endorsement made by the Judicial Magistrate while remanding the accused clearly shows that there is no complaint about the illegal custody by the accused. The material objects. Viz blood-stained knife, blood-stained black striped white shirt, blood-stained blue colour checked lungi were recovered from the accused in the presence of PW6. The above-said material objects, along with the dresses recovered from the dead body, dresses worn by PW1, PW3, were sent to the forensic department for biological test as well as group test. Ex.P13 is the biological test shows that, except ordinary earth, all the material objects contained blood stains. The serology report under Ex.P14 shows that in all the above materials, human blood was found with A-group. If the accused is not available in the place of occurrence his dress, could not contain the blood Stain and not belong to the same group of blood which was recovered in the place of occurrence, in the dresses worn by the deceased.



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30. The learned defence counsel after the lapse of the long gap, since the chief examination, won over the witnesses and obtained few some favourable answers in his cross examination. They now claims that they were tutored by Police, but we presume that the witness would have been tutored not by the Police side but by the opposite side.

31. The Apex Court in the Criminal Appeal in ***Crl.A.No.906 of 2023 in Selvamani Vs. State, rep. by Inspector of Police, dated 08.05.2024***, the judgement referred supra indicates what happens if long adjournments are granted.

“57.2. As has been noticed earlier, in the instant case the cross-examination has taken place after a year and 8 months allowing ample time to pressurise the witness and to gain over him by adopting all kinds of tactics.

57.3. There is no cavil over the proposition that there has to be a fair and proper trial but the duty of the court while conducting the trial is to be guided by the mandate of the law, the conceptual fairness and above all bearing in mind its sacrosanct duty to arrive at the truth on the basis of the material brought on record. If an accused for his benefit takes the trial on the path of total mockery, it cannot be countenanced.



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The court has a sacred duty to see that the trial is conducted as per law. If adjournments are granted in this manner it would tantamount to violation of the rule of law and eventually turn such trials to a farce. It is legally impermissible and jurisprudentially abominable. The trial courts are expected in law to follow the command of the procedure relating to trial and not yield to the request of the counsel to grant adjournment for non-acceptable reasons.

57.4. In fact, it is not at all appreciable to call a witness for cross-examination after such a long span of time. It is imperative if the examination-in-chief is over, the cross-examination should be completed on the same day. If the examination of a witness continues till late hours the trial can be adjourned to the next day for cross-examination. It is inconceivable in law that the cross-examination should be deferred for such a long time. It is anathema to the concept of proper and fair trial.

57.5. The duty of the court is to see that not only the interest of the accused as per law is protected but also the societal and collective interest is safeguarded. It is distressing to note that despite series of judgments of this Court, the habit of granting adjournment, really an ailment, continues.....”



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32. The above Judgement is squarely applicable to this case also. The trial Courts are duty bound to curtail such long adjournments so that, it prevents the defence counsel from winning over witnesses, but continuing long adjournments will pave the path to miscarriage of justice.

33. In this case, it is proved that before the occurrence, the accused and deceased had a money transaction and developed an illegal affair, regarding which the wife of the accused lodged a complaint against the deceased before the Batlakundu Police Station. The accused attempted to commit suicide due to family issues, the wife of accused spoke about the same. Her evidence was supported by PW4, the husband of the deceased. In his testimony he had stated that due to the illegal affair with the accused, he left the deceased in her parent home, took his children with him and left to his house.

34. P.W.1 clearly stated that thereafter the accused often pressurised the deceased to accompany him to Mumbai, but she refused. Despite her refusal, he continued to follow her and insisted that she



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should come with him, but she refused. Angered by her repeated refusal, on the date of the incident, he followed the deceased with the weapon with intention to cause death. Finally, he stabbed her chest, a vital organ, knowing it would be an imminent danger to her life and sufficient to cause her death. Thus he had committed the offence punishable under Section 302 IPC.

35. The prosecution established the guilt of the accused beyond all reasonable doubt. The trial Court, after taking into consideration the materials available on record, held that the accused was guilty of the offence under Section 302 IPC. Interference with the judgment of the trial Court is not warranted.

36. On careful perusal of entire records, we conclude that there is no material available to interfere with the judgment of the trial Court. The Criminal Appeal has no merit, and hence, the Criminal Appeal is liable to be dismissed.

37. Accordingly, the Criminal Appeal stands dismissed and the judgment passed in S.C.No.4 of 2016 on the file of the Additional



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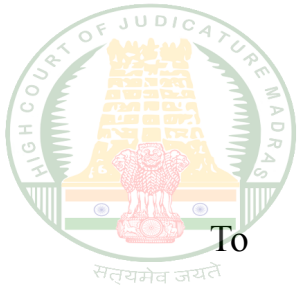
District and Sessions Judge, Fast Track Court, Theni, dated 25.11.2019 is

WEB COPY hereby confirmed.

(G.J., J.) & (R.P., J.)
27.02.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No

RM

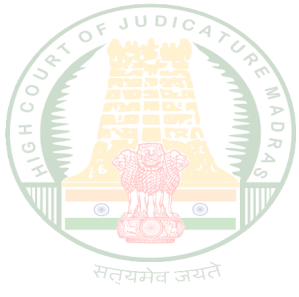


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To

WEB COPY

- 1.The Additional District and Sessions Judge,
Fast Track Court, Theni.
- 2.The The Inspector of Police,
Andipatty Police Station,
Theni District.
(in Cr.No.204 of 2015)
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.JAYACHANDRAN J.
AND
R.POORNIMA, J.

RM

Judgment in
Crl.A(MD)No.222 of 2020

27.02.2025