



*Crl.A(MD)Nos.244, 250 &
254/2022 & 841 of 2023*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	30.10.2025
Pronounced on	.11.2025

CORAM :

**THE HONOURABLE MR. JUSTICE P.VELMURUGAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

Crl.A(MD)Nos.244, 250 and 254 of 2022 & 841 of 2023

Crl.A(MD)Nos.244, 250 and 254 of 2022:

Dinesh @ Dinesh Kumar

... Appellant in Crl.A(MD)No.244/2022/ Accused No.3

Archunan

... Appellant in Crl.A(MD)No.250/2022/ Accused No.4

Jeyakrishnan

... Appellant in Crl.A(MD)No.254/2022/ Accused No.2

vs.

State through

The Inspector of Police,

Kenikarai Police Station,

Ramanathapuram District.

(Crime No.175/2013)

... Respondent in all appeals/ Complainant

Prayer in Crl.A(MD)Nos.244, 250 and 254 of 2022:- These Criminal Appeals are filed under Section 374 of the Criminal Procedure Code, to call for the entire records connected to the judgment in S.C.No. 127 of 2016 on the file of the Additional District and Sessions Judge,



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Ramanathapuram, dated 20.10.2021 and set aside the conviction and sentence imposed against the appellants.

For Appellant in : Mr.T.Lajapathiroy, Senior Counsel
CrI.A(MD)Nos.244 & 250/2022 for Dr.R.Alagumani

For Appellant in : Mr.G.Karuppasamy Pandian
CrI.A(MD)No.254/2022

For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

CrI.A(MD)No.841 of 2023 :

Boss @ Baskaran ... Appellant/ Accused No.1

vs.

State through
The Inspector of Police,
Kenikarai Police Station,
Ramanathapuram District.
(Crime No.175/2013)

... Respondent/Complainant

Prayer : This Criminal Appeal is filed under Section 374 of the Criminal Procedure Code, to call for the entire records connected to the judgment in S.C.No.25 of 2020 on the file of the Additional District and Sessions Judge, Ramanathapuram, dated 30.11.2021 and set aside the conviction and sentence imposed against the appellant.

For Appellant : Mr.M.Jegadeesh Pandian
For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor



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COMMON JUDGMENT

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(Judgment of the Court was made by **P.VELMURUAN, J.**)

These Criminal Appeals have been filed by the appellants/Accused Nos.3, 4, 2 and 1 respectively, to call for the records and set aside the judgments passed by the learned Additional District and Sessions Judge, Ramanathapuram, in S.C.Nos.127 of 2016 and 25 of 2020 dated 20.10.2021 and 30.11.2021 respectively, and acquit them.

2. The case of the prosecution is that A1 loved A5's sister namely, Saranya and the deceased Muthusamy changed the mind of Saranya and married her. After marriage, Saranya asked A1 to return the jewels and money obtained from her by A1. Thinking that only at the instigation of deceased Muthusamy, Saranya seeks return of jewels and money and that Muthusamy who is a wealthy person will finish off A1, A1 along with A2 to A5 conspired together to murder the deceased Muthusamy. In furtherance of the said conspiracy, on 28.04.2013 at 03.00 p.m., A2 called the deceased Muthusamy stating that one Ravi from Chennai sent money to give it to the deceased and asked the deceased to come in evening at 06.30 p.m., near a Barber shop at



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Kundoorani road, Sathankulam. Believing the words of A2, the deceased Muthusamy along with his son-in-law Raja/defacto complainant came to the said Barber shop in a two wheeler bearing registration No.KA-030EB-7777 and called A2, who in turn asked the deceased Muthusamy to come to Dharma Muneeswarar temple situated at Kundoorani road leading to Sathankulam to Ragunathapuram Melur main road. When the deceased reached the said temple near one Karthikeyan's grove, A2 met them and under the garb of taking money from his pocket for giving it to the deceased, A2 sprayed chilly powder on the face of the deceased Muthusamy. Immediately the said Muthusamy composed himself and out of fear, he ran away leaving his motor cycle, at that time, A1 A3 and A4 who were hiding in the grove armed with billhook and knife were chasing the deceased Muthusamy. On seeing the same, out of fear, the defacto complainant hid himself in a grove and saw the occurrence. At that time, A1 caused cut injury on the backside of Muthusamy, A3 & A4 stabbed on the backside of the deceased continuously. While the deceased fell down near one Ramjan Beevi's coconut grove, A1 caused stab injuries all over the body of the deceased, A2 caused stab injury on the right cheek of the deceased and



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A3 and A4 caught hold the legs of the deceased, at that time, A1 pushed the head of the deceased and cut his neck. Due to the injuries, the deceased Muthusamy died on the spot. On the complaint-Ex.P12 given by PW12/Raja, the respondent/police registered a case in Crime No. 175/2013 for the offences under Sections 341 and 302 of IPC and Section 3(2)(5) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, against A1 and A2 and two other known persons. After investigation, the respondent/police laid a charge sheet before the Judicial Magistrate Court No.II, Ramanathapuram, and the same was taken on file in PRC.No.18 of 2016. After completing the formalities, the learned Magistrate committed the case to the Court of Session, since the offences are exclusively triable by the Court of Session. The learned Principal Sessions Judge took the case on file in S.C.Nos.127 of 2016 and 25 of 2020 and made over to the Additional District and Sessions Court, Ramanathapuram, which framed the charges for the commission of offences under Sections 120(b), 302 IPC against A1 to A4 and Sections 120(b) and 302 read with 109 of IPC against A5. In order to substantiate the case during trial, on the side of the prosecution, totally 17 witnesses were examined as PW1 to PW17 and 32 documents were marked as



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Exs.P1 to Ex.P32, besides 14 material objects were exhibited as MO1 to MO14. On the side of the defence, no oral or documentary evidence was let in.

3. After completion of the evidence of the prosecution side witnesses, the accused/appellants were questioned under Section 313(1)(b) Cr.P.C with regard to incriminating circumstances made out against them in the evidence rendered by the prosecution witnesses and they denied it as false. On conclusion of the trial and hearing of the arguments on either side, the trial Court vide judgment dated 30.11.2021 in S.C.No.25/2020 acquitted A1 for the offence under Section 120(b) of IPC and convicted A1 for the offence under Section 302 and sentenced to undergo life imprisonment with the fine of Rs.5,000/- in default to undergo six months simple imprisonment. As regards A2 to A5, the trial Court vide judgment dated 20.10.2021 in S.C.No.127/2016, acquitted A2 to A4 from the charge under Section 120(b) of IPC and also acquitted A5 from the charges under Section 120(b) of IPC and also 302 read with 109. Further, the trial Court convicted A2 for the offence under Section 302 of IPC and also convicted A3 & A4 for the offence under Section 302 read



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with 109 of IPC and sentenced to undergo life imprisonment each with the fine of Rs.5,000/- each in default to undergo six months simple imprisonment. The sentences were ordered to be run concurrently. Aggrieved over the same, the appellants/accused 1 to 4 have filed the present appeals before this Court.

4. The common submissions made by the learned counsels for the appellant/accused are that; the prosecution failed to establish the reason for the delay in registering the FIR and sending it to the Magistrate's Court; the alleged sprinkled chilli powder was not found on the body or eye of the deceased; PWs.1, 2, 5, 6 and 11 were turned hostile; there is a contradiction in the evidence of PW3 between his 161(3) statement and chief examination, as such PW3's evidence is unbelievable; the presence of PW12 in the place of occurrence is highly doubtful since he did not make any effort to save his uncle/deceased and he is also an interested witness; recovery of material objects is doubtful; in Ex.P3-Accident Register, there is a correction regarding the serial number which creates strong suspicion about the prosecution case; prosecution witnesses are interested witnesses and no independent



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witnesses deposed against the appellants regarding their involvement; common intention of the appellants for committing the crime was not proved and therefore, the prosecution has not proved its case beyond reasonable doubt. Thus, the learned counsel would pray for setting aside the judgment and sentence of the accused and acquit them. In support of the above contentions, the counsel for the appellants relied upon the following judgments:

- (i) State of rajasthan vs. Hanuman, 2025 SCC Online SC 1387.
- (ii) Amar Singh vs. State (NCT of Delhi), (2020) 19 SCC 165.
- (iii) Badam Singh vs. State of M.P., (2003) 12 SCC 792.
- (iv) Pawan Sharma vs. State Govt of NCT of Delhi, 2024 SCC Online Del 2273.
- (v) Tomaso Bruno vs. Sate of Uttar Pradesh, (2015) 7 SCC 178.

5. The learned Additional Public Prosecutor would submit that the prosecution proved its case beyond reasonable doubt through the eye witness, oral and documentary evidence and the motive was proved through PW3, PW4 and PW12. PW12 was the eye witness who saw the occurrence and also deposed about the specific overt act against the appellants. The recovery also proved through PW11 and



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PW16-VAOs. The Doctor who made entry in Ex.P3-Accident Register was examined as PW7 and the Doctor who conducted the postmortem on the body of the deceased was examined as PW8. Through Ex.P3-Accident Register and Ex.P4-postmortem report which is tallied with the evidence of PW12 who is the eye-witness, the prosecution proved motive and the trial Court also rightly appreciated the oral and documentary evidence. Though the learned counsel for the appellants pointed out certain contradictions and also the delay and lapse on the part of the prosecution, the delay has been properly explained. The trial Court also considered all the defences taken by the appellants and found that the contradictions and lapses are not material contradictions which would affect the case of the prosecution. In this context, the learned Additional Public Prosecutor relied upon a judgment of the Hon'ble Supreme Court in *Dharmendra Kumar alias Dhamma vs. State of Madhya Pradesh* reported in (2024) 8 SCC 60. Thus, he would submit that there is no merit in these appeals and the same are liable to be dismissed.

6. Heard both sides and perused the records.



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7. The specific case of the prosecution is that A1 loved A5's sister. However, the deceased Muthusamy changed her mind and married her and subsequently, the sister of A5 demanded A1 to return the jewels and money given by her. Thinking that the instigation of the deceased was behind that demand of jewels and money, A1 developed enmity and with an intention to kill the deceased, A1 along with A2 to A5 conspired together and committed the murder of deceased Muthusamy. On the complaint of PW12/son-in-law of the deceased, the police registered the case and after investigation, filed the charge sheet before the jurisdictional Magistrate's Court. The trial Court framed the charges for the commission of offences under Sections 120(b), 302 IPC against A1 to A4 and Sections 120(b) and 302 read with 109 of IPC against A5. In order to substantiate the case during trial, on the side of the prosecution, totally 17 witnesses were examined as PW1 to PW17 and 32 documents were marked as Exs.P1 to Ex.P32, besides 14 material objects were exhibited as MO1 to MO14. On the side of the defence, no oral or documentary evidence was let in.



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8. Out of 17 witnesses, PW12 is the eye witness who accompanied with the deceased on the date of occurrence. Through the evidence of PW3-father of PW12, PW4-father of the deceased and PW12-son-in-law of the deceased, the prosecution established the motive for murder. The evidence of PW12 shows that immediately after the occurrence PW12 informed the occurrence to his father/PW3 over phone. Immediately PW3 rushed to the spot. Subsequently, the villagers also gathered there. PW12 and PW3 went to the police station and lodged a complaint-Ex.P12 and based on that, Ex.P13-FIR was registered in Crime No.175/2013 for the offences under Sections 341 and 302 of IPC and Section 3(2)(5) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

9. During the investigation, the respondent/police also recorded the statements from PW12 and PW3 & PW4. In the complaint of PW12, PW3 also attested. Immediately after the incident, the deceased was taken to the hospital and PW7 Doctor finding that the deceased was brought dead, made an entry in Ex.P3-Accident Register and thereafter sent the body to the Mortuary. He has given explanation



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about the correction regarding the serial number in Ex.P3-Accident Register. PW8-Doctor conducted the postmortem on the body of the deceased and issued Ex.P4-postmortem certificate and sent the materials to the Forensic Lab for analysis. The accused were arrested and A1 to A3 gave confession statement in the presence of PW11 and PW16-VAOs. Though confessions made before the police officers are generally inadmissible, however, under Section 27 of the Indian Evidence Act, 1872, if such confessions led to recovery of any material evidence, that recovery portion is admissible. In the presence of PW11 and PW16-VAOs, the materials were also recovered and sent for forensic opinion. In Ex.P12-complaint, PW12 categorically stated about the occurrence and specific overt act against all the appellants.

10. Reading of the evidence of PW12 and PW8 Doctor who conducted the postmortem and also Ex.P14-postmortem certificate shows that the antemortem injuries are tallied with the ocular evidence/PW12. The Serological report-Ex.P6 shows that human blood was detected in MO4-shirt, MO8-jatti and MO11-bloodstained sand. A combined reading of the evidence of PW3 and PW4 shows that though they are hearsay witnesses, their evidence is corroborated with the



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evidence of PW12. The evidence of PW3, PW4 and PW12 also proved the motive against the appellants.

11. A combined reading of the evidence of PW8-Doctor who conducted the postmortem and also PW11 and PW16-VAOs and the admissible portion of the confession statements of A1 to A3 marked as Exs.P22 to P24 shows that the prosecution established its case and also proved the charges levelled against the accused beyond all reasonable doubt. The learned trial Judge in paragraphs 10 and 11 has also clearly narrated the motive behind the crime. On a combined reading of the evidence of PWs.3, 4, 7 to 9, 11, 12 and 16 and also Exs.P3 to P7, P9, P12, P13 and P22 to P24 and also the material objects, this Court finds that the prosecution proved its case beyond reasonable doubt.

12. Though the learned counsel for the appellants pointed out certain discrepancies and contradictions and vehemently contended that PW12 was not present at the time of occurrence and he is not the eye-witness and since he is a close relative of the deceased, he is an



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interested witness and therefore, it is unsafe to rely on the evidence of PW12, a combined reading of the entire evidence of PW12, PW3 and PW4 shows that soon before the occurrence, PW12 accompanied with the deceased. Further, from the evidence of PW12, it is clear that he has also stated about the specific overt act against each of the accused which is also corroborated by the evidence of PW3. The presence of PW12 is probable and his evidence is cogent, consistent, reliable and credible and there is no reason to discard the evidence of PW12. Though PW12 is the relative of the deceased, that cannot be a sole ground to disbelieve his evidence. If the evidence of the relative inspires the confidence of the Court, then such evidence can be relied on. Merely because the witness is a relative, it cannot be stated that he is an interested witness.

13. Yet another point raised by the learned counsel for the appellants is that PW12 stated that A2 sprinkled the chilly powder on the face of the deceased, but the recovered samples does not show any chilly powder. MO13-gravel sand with chilly powder collected from the place of occurrence does not show any chilly powder. Ex.P7-Chemical Analysis report states that it is turmeric powder. In the night hours, A2



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took kerchief from his pocket as if he was taking money and thrown the turmeric powder on the face of the deceased. In the night hours, it cannot be identified whether it is chilly powder or turmeric powder. Normally the culprits use chilly powder, but however, Ex.P7 states that the gravel sand contains the turmeric powder. Therefore, that contradiction may not be a material contradiction to discard the evidence of PW12. The contradictions and discrepancies pointed out by the learned counsel for the appellants are not material contradictions which will go to the root of the case of the prosecution. Further, the lapse on the part of the investigating agency or defective investigation is not the sole ground to discard the prosecution case. This Court on a careful analysis of entire oral and documentary evidence, finds that the prosecution has proved its case beyond reasonable doubt. The evidence of the prosecution witnesses inspires the confidence of the Court and therefore, this Court finds no reason to interfere with the judgment of the trial Court.

14. This Court as an appellate court as well as the final court of fact finding, while re-appreciating the overall evidence, finds no



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perversity in the appreciation of evidence by the trial Court and thus there is no reason to interfere with the sentence imposed by the trial Court. There is no quarrel over the propositions laid down in the judgments relied on by the learned counsels for the appellants, however, on the facts of the present case, the judgments cited by the appellants are not applicable. We find no merits in these appeals.

15. Accordingly, all the Criminal Appeals are dismissed. The trial Court is directed to secure the accused to undergo the remaining period of sentence.

[P.V, J.] [L.V.G, J.]
.11.2025

Index : Yes / No
Neutral Citation : Yes / No
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To

1. The Additional District and Sessions Judge,
Ramanathapuram.
2. The Inspector of Police,
Kenikarai Police Station,
Ramanathapuram District.



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3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

4. The Section Officer
Criminal (Records) Section,
Madurai Bench of Madras High Court,
Madurai.



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P.VELMURUGAN, J.
AND
L.VICTORIA GOWRI, J.

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PRE-DELIVERY COMMON
JUDGMENT MADE IN

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DATED : .11.2025