



Cr1.A(MD)No.305 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 13.10.2025

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

and

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Cr1.A(MD)No.305 of 2022

Jeyakumar

: Appellant/Sole Accused

Vs.

The State Rep. By its

The Inspector of Police,

Allinagaram Police Station,

Theni District

: Respondent/Complainant

Prayer:-This Criminal Appeal is filed under Section 374(2) of Criminal Procedure Code, to call for the entire records connected to the judgment in S.C.No.81 of 2010 on the file of the Fast Track Mahila Court, Theni dated 24.11.2016 and set aside the conviction and sentence imposed against the appellant.

For Appellant : Mr.R.Alagumani

For Respondent : Mr.B.Nambi Selvan

Additional Public Prosecutor



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J U D G M E N T

WEB C P.VELMURUGAN, J.,

This Criminal Appeal is filed against the judgment of conviction and sentence passed by the Fast Track Mahila Court, Theni, in S.C.No.81 of 2010 dated 24.11.2016.

2. By the above judgment, the trial Court convicted the appellant and sentenced him, as detailed below:

Penal Provisions	Sentence of Imprisonment	Fine Amount
376(2)(f) IPC	Life Imprisonment	Rs.10,000/- i/d to under go one month rigorous imprisonment
302 of IPC	Life Imprisonment	Rs.10,000/- i/d to under go one month rigorous imprisonment
404 of IPC	Three years Rigorous imprisonment	Rs.5,000/- i/d to under go six months rigorous imprisonment
302r/w.201 IPC	Three years Rigorous imprisonment	Rs.5,000/- i/d to under go six months rigorous imprisonment
The sentences shall run concurrently		

3.The case of the prosecution in brief:-

3.1. On 11.06.2009 at about 10.30 p.m., the deceased and her



family members were watching a cultural program (Aadal Padal) in a temple festival, and at that time the deceased went to drink water but she did not return back. On 12.06.2009, the father of the deceased lodged a complaint before the respondent police, who registered a case in Crime No.383 of 2019, and on 16.06.2009 the respondent police found the dead body of the deceased. On 23.06.2009, the police arrested the accused, and he made a confession that he raped the deceased and murdered her.

3.2. After completion of the investigation, the respondent police laid a charge sheet before the learned Judicial Magistrate, Theni, and the same was taken on file as P.R.C. No.9 of 2010.

3.3. On the appearance of the accused, the provisions of Section 207 of Cr.P.C. were complied with, and the case was committed to the Court of Session, and the case was taken on file in S.C.No.81 of 2010 and made over to the Fast Track Mahila Court, Theni, for trial under Section 209(A) of Cr.P.C. The trial Court framed charge against the appellant for the offences punishable under Sections 376(2)(f), 302, 404, 302 r/w.201 of IPC.



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3.3. In order to substantiate the case of the prosecution, the prosecution has examined 31 witnesses as P.W.1 to P.W.31, and 39 exhibits were marked as Ex.P.1 to Ex.P.39, and 10 material objects were exhibited as M.O.1 to M.O.10.

3.4. After examination of prosecution witnesses, when the appellant was questioned under Section 313 of the Code of Criminal Procedure on the incriminating circumstances appearing against him, he denied the charges as false. No witness was examined on the side of the accused, nor was any document marked.

4. The trial Court, after considering the evidence on record and hearing either side, by judgment dated 24.11.2016, convicted the appellant and sentenced him as detailed in Paragraph No.2 supra. Challenging the above said conviction and sentence, the appellant has filed the present appeal.



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5. The learned Counsel appearing for the appellant would submit that the appellant is innocent and he has not committed any offence as per the charged offence. The prosecution has not proved the case beyond reasonable doubts. The case has been proved by the investigating officer based on the eye witnesses to the occurrence and only based on circumstantial evidence the trial Court convicted only based on assumption, conjectures and preponderances of probabilities. As per criminal jurisprudence, in criminal cases of this nature, the case has to be proved beyond reasonable doubt. If any defence created in doubt, the benefit of doubt has to be extended in favour of the appellant. In this case, admittedly there is no eye witnesses to the occurrence, and it is a case of circumstantial evidence; hence the prosecution has to prove three main ingredients, i.e., motive, last seen theory, and recovery. Last seen is not established without any recovery is also highly doubtful, however, the prosecution has not proved its case beyond reasonable doubt, and the trial Court failed to consider the materials and erroneously convicted the appellant. He would further submit that the prosecution has cited one of the witnesses, namely P.W.15, as who has



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lastly seen the deceased with the appellant; however, he turned hostile and he has not supported the case of the prosecution. Once the last seen theory was not proved, the entire case of the prosecution has become highly doubtful and therefore, the benefit of doubt may be extended to the appellant and the appeal is liable to be allowed and the appellant is to be acquitted.

6. The learned Additional Public Prosecutor would submit that the victim was only aged about eight years and she went along with her parents to her maternal grandmother's house for the temple festival. At that time, when the family members were enjoying the cultural program (Aadal Paadal) on 10.06.2009, at about 10.30 p.m., the victim fell thirst and she went to their home for drinking water and after that she did not return back to see the cultural program. The parents thought that the victim was in the house. Thereafter, during the late night after completion of the cultural program, they went to the house of the grandmother of the victim. Early morning, they asked about the victim to the grandmother, she informed that she did not come, therefore, the father of the victim gave a complaint before the Allinagaram Police



Station at Theni, and the police registered the case under Girl missing

and thereafter they investigated the case and laid a charge sheet.

Though there were no eyewitnesses to the occurrence, the prosecution

has proved the case through circumstantial evidence. The ingredients of

the circumstantial evidence also proved by the prosecution. Further,

P.W.15 saw the appellant and the deceased/victim were talking together

in front of the house of the appellant on the date of occurrence. P.W.14

saw the appellant on the same night lifting a TV box at about 11.00 p.m.,

and going in an auto and he stand nearby forest area. Further, P.W.20

stated that the appellant sold the anklet of the deceased to him and he

handed over the same to the police. Based on the confession given by the

appellant, anklets were recovered and from PW.20 who is a gold smith.

The appellant only handed over the dresses of the deceased and also

informed about where he sold the anklet of the deceased based on that

the same was recovered. Therefore, there is motive in this case.

However, the deceased went to the house of the grandmother for

drinking water and she had to pass the house of the appellant and at

that time the appellant was sitting in front of the house and when he

enquired the deceased where she was going, she informed that she was



going to her grandmother's house for drinking water and he informed that he would provide water, therefore she called the victim inside the house and while drinking water the water split on the dress of the victim, at that time he got tempted and raped the victim and in order to hide that he killed the victim. Therefore, in cases of this nature, motive is not necessary. Therefore, there are witnesses who saw the appellant and the deceased together, and soon after the occurrence, the appellant was found alone and therefore, from the evidence of P.W.14, 15, 18 and 20, also recovery and confession of the appellant, the prosecution has proved the case under circumstantial evidence. The trial Court has rightly appreciated the oral and documentary evidence and convicted the appellant and thereby, there is no merit in the appeal and the same is liable to be dismissed.

7. We have considered the submissions of the learned Senior Counsel for the appellant and the learned Additional Public Prosecutor for the State, and have consciously gone through the evidence and materials on record.



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8. It is a case of circumstantial evidence. The specific case of the prosecution is that the deceased went along with her parents to her maternal grandmother's house for a temple festival and, on 11.06.2009, while they were watching a cultural programme (Adal Padal), the deceased felt thirsty and went home to drink water. At that time, the appellant informed her that he would give her water, took her inside the house, and committed rape. Subsequently, being afraid of the consequences, he murdered the victim to screen the offence. He placed the victim's body in a plastic bag, put it inside a TV box, and took it out of the house. He also removed the dress and anklets of the deceased and sold the anklets to P.W.20. Initially, a case was registered under the head "Girl Missing," and after investigation, the respondent police found that the appellant was the person who had committed rape and murder. After completing the investigation, they laid a charge sheet, and during trial, the prosecution proved its case beyond reasonable doubt.

9. P.W.1, the father of the deceased, has clearly spoken about the incident. He stated that on 11.06.2009 he, along with his family members, had gone to his mother-in-law's house for the festival, and at



that time, a cultural programme (Aadal Paadal) was being held. While they were watching the programme at about 10.30 p.m., the deceased told him that she would go home to drink water, but she did not return. He thought she had fallen asleep at home. After returning from the programme, when he enquired his mother-in-law, she told him that the deceased had not come home. Immediately, he lodged a complaint before the respondent police on 12.06.2009 and searched for his daughter in and around the nearby areas. Thereafter, he was informed by P.W.15 that he had seen the victim talking with the appellant on the night of the occurrence. He immediately informed the same to the police, who arrested the appellant and recorded his confession. Though the confession given to the police is not admissible in evidence, the materials recovered pursuant to the confession under Section 27 of the Evidence Act are admissible. The witnesses who had seen the appellant with the deceased were also produced before the Judicial Magistrate for recording their statements under Section 164 of Cr.P.C.

10. P.W.15 was produced before the learned Magistrate, and his statement was recorded on 29.07.2009. He stated that he saw the



appellant and the deceased talking together in front of the appellant's house at about 10.30 p.m. As per the evidence of P.W.1, his daughter left at 10.30 p.m. to her grandmother's house to drink water. The statement of P.W.15 corroborates that he saw the appellant and the deceased together around the same time. However, when examined before the Court, P.W.15 turned hostile and did not fully support the prosecution. Even so, in his chief examination, he admitted that he saw the appellant and the deceased on the same night in the village. P.W.14, whose statement was also recorded under Section 164 Cr.P.C., stated that on 11.06.2009 he saw the appellant lifting a TV box at about 11.00 p.m. Similarly, P.W.18 made statement under Section 164 Cr.P.C. that he saw the appellant carrying a TV box in an auto, alighting near a forest area with the same box. P.W.20 also gave a statement under Section 164 Cr.P.C. stating that the appellant had sold him the anklets of the deceased. Upon police enquiry, P.W.20 handed over the anklets, which were subsequently recovered based on the appellant's confession.

11. From the evidence of P.W.1, P.W.14, P.W.15, P.W.18, and P.W.20, and also from the evidence of the doctor who conducted the



post-mortem, together with the confession statement leading to recovery, Ex.P.8—the statement of P.W.18 recorded under Section 164 Cr.P.C.—and Ex.P.27, the prosecution has proved the last seen theory. In cases of this nature, motive is not of much significance. The only motive that could be gathered from the evidence is that when the deceased child went home to drink water out of thirst, the appellant lured her into his house, committed rape upon her, and thereafter, fearing the consequences of his act, murdered her to screen the offence. So far as the last seen theory is concerned, as stated by P.Ws.14, 15, and 18, they have clearly spoken about having seen the deceased with the appellant shortly before the occurrence. Further, as far as recovery is concerned, P.Ws.14 and 20 have spoken about the recovery of the anklets of the deceased, and the evidence of the doctor also supports the prosecution case. Therefore, from the above said materials, this Court finds that the prosecution has proved its case through circumstantial evidence beyond reasonable doubt.

12. On a careful appreciation of the entire evidence on record, this Court finds that the appellant is the person who committed the



charged offences. The prosecution has successfully proved its case through circumstantial evidence, and the conclusion of the trial Court is fully supported by the materials on record.

13. This Court finds that the evidence of P.Ws.1, 14, 15, and 18 is cogent, clear, and inspires confidence. There is no reason to disbelieve or discard their testimony. The last seen theory has been clearly established by the prosecution, and the evidence of P.W.20 shows that the appellant had pledged the anklets of the deceased, which were recovered pursuant to his confession. P.W.1 also identified the dress materials and anklets of the deceased. Therefore, this Court finds that the appellant is the person who committed the offences charged. The statements recorded under Section 164 Cr.P.C. are also admissible and lend corroboration to the prosecution case.

14. Considering the entire facts and circumstances of the case, this Court finds that the trial Court has rightly appreciated both the oral and documentary evidence and recorded a conviction. This Court does not find any perversity or illegality in the appreciation of evidence.



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Hence, there is no reason to interfere with the judgment of the trial Court, and this appeal deserves to be dismissed.

15. In the result, this Criminal Appeal stands dismissed, confirming the judgment of the trial Court. Consequently, the connected miscellaneous petition stands closed

(P.V.,J.) (L.V.G.J.,)

13.10.2025

Index : Yes/No

Internet : Yes/No

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To:

1.The Fast Track Mahila Court, Theni

2.The Inspector of Police,
Allinagaram Police Station,
Theni District

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

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



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and
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