

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 07.07.2025

Delivered on : 19.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MS.JUSTICE R.POORNIMA

Crl.A.(MD) No.296 of 2022
in
Crl.M.P(MD) No.138 of 2025

Muthukumar

... Appellant

-VS-

The State
The Inspector of Police
Kamuthi Police Station
Ramanathapuram District
(Crime No.44 of 2012)

... Respondent

PRAYER: Appeal filed under Section 374(2) of the Code of Criminal Procedure to call for the records pertaining to the order made in S.C.No. 79 of 2012 on the file of the learned Sessions Judge, Mahalir Neethimandram(Fast Track Court) Ramanathapuram dated 23.09.2021 and set aside the same by allowing the above appeal.

For Appellant : Mr.A.Karuppasamy Pandian

For Respondent : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor



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J U D G M E N T

(Delivered by A.D.JAGADISH CHANDIRA, J.)

This criminal appeal is filed against the judgment and order dated 23.09.2021, in S.C.No.79 of 2012, on the file of the learned Sessions Judge, Mahalir Neethimandram,(Fast Track Court) Ramanathapuram

2. By judgment and order dated 23.09.2021, the Trial Court had convicted the accused and sentenced him, as detailed below:-

Penal Provisions	Sentence of imprisonment	Fine amount
302 I.P.C.	Life imprisonment	Rs.3000/- in default to undergo simple imprisonment for two years

3. The prosecution case is as under:

3.1.The appellant and the deceased are spouses. There was some misunderstanding between them due to which they were living separately and thereafter, after sometime they got united. While being so, on 21.02.2012 they had gone to the house of the parents of the deceased to attend the festival of the local deity and at about 12.45 p.m., after having food at the house of the parents of the deceased they had proceeded to the local santhai (market place) for purchasing groceries and on the midway some quarrel erupted between them, as a result of which the appellant attacked the deceased with a knife, due to which she sustained injuries and died.

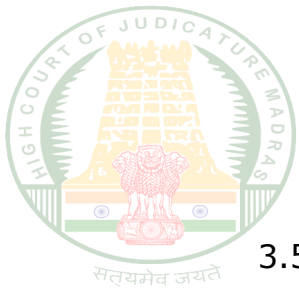


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3.2. After examining various witnesses and collecting reports from the experts, the Investigating Officer completed the investigation and filed the final report in P.R.C.No.15 of 2012, before the learned Judicial Kamuthi, under Section 302 against the appellant.

3.3. On appearance of the appellant, the provisions of Section 207 of the Code of Criminal Procedure were complied with and the case was committed to the Court of Sessions and was made over to the learned Sessions Judge, Mahalir Neethimandram (Fast Track Court) Ramanathapuram., in Spl.SC.No.79 of 2012, for trial. The Trial Court framed charges against the appellant, as detailed in Paragraph No.2, supra.

3.4. When questioned, the appellant pleaded "not guilty". To prove the case, the prosecution examined 12 witnesses and marked 16 exhibits and 10 material objects. When the appellant was questioned under Section 313 of the Code of Criminal Procedure on the incriminating circumstances appearing against him, he denied the same and did not come forward to give any plausible explanation. No witness was examined from the side of the accused nor any document marked.



3.5. The Trial Court, after considering the evidence on record and hearing either side, by judgment and order dated 23.09.2021, convicted and sentenced the accused, as detailed in Paragraph No.2 supra. Challenging the above said conviction and sentence, the accused has filed the present appeal.

4. The learned Counsel appearing for the appellant made the following submissions:

i) The trial Court has failed to appreciate the evidence in a proper perspective and thereby erred in convicting the appellant

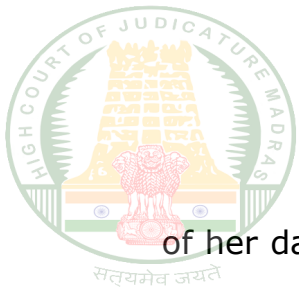
ii) Though PW.1(father of the deceased) and PW.4 (brother of PW. 1 /Junior paternal uncle of the deceased) are said to be ocular witnesses to the occurrence, PW.4 had not supported the case of prosecution and he had been treated hostile.

iii) The prosecution had projected P.W.1 and P.W.4 to be eye witnesses to the occurrence, whereas P.W.4 has not supported the case of the prosecution, thereby it creates a grave doubt regarding the presence of PW.1 at the scene of occurrence and the possibility of him having witnessed the occurrence. When P.W.4 has been treated hostile the evidence of P.W.1 gains much importance and thereby to arrive at the conclusion of the guilt of the accused the testimony of P.W.1 the sole witness has to be scrutinized with much care and caution and thereby, conviction can be recorded on the basis of the statements of the single



witness, if only his credibility is not shaken by any adverse circumstances appearing on record against him. If the occurrence is stated to have happened in a place or time where there was no possibility of any other eye witnesses being present then the Court should not insist on corroboration by any other witnesses but if the occurrence is said to have happened during the day time on a public road, the court can rely on testimony of the sole witnesses if only it raises above standard of suspicion and doubt. In this case the sole witness P.W.1 is none other than the father of the deceased and is an interested witness and his testimony is tainted with self contraction and embellished with falsehood and unbelievable exaggeration. His conduct was so unnatural and though he had stated that he had lifted his daughter immediately after the occurrence the non recovery of the dress worn by him also creates a doubt with regard to his presence. In such circumstance it is highly unsafe to fasten culpable liability on the appellant to convict him on the basis of such uncorroborated and suspicious testimony of the solitary witness. Further P.W.1 had been recalled and he has also later turned *volte face* and not supported the case of the prosecution and the prosecution has not treated him hostile and cross examined with regard to the earlier statements.

iv) As per PW.2/mother of the deceased the murder of her daughter was informed to her by one Irulandi. The non examination of Irulandi creates a doubt in the prosecution. Further if PW.1 had witnessed the fate



of her daughter he would be naturally the first person to inform PW.4 his wife and this conduct of P.W.1 makes the case of the prosecution doubtful.

vi) The contradictions in the evidence of PW.1 and PW.4 coupled with the fact of delay in the complaint and delay in the First Information Report reaching the jurisdictional court creates a doubt in the prosecution case.

vii) As per the prosecution PW 10 is said to be person who has lent his cycle to the appellant and he is person who is said to have lastly seen the appellant and his wife going together. However he had denied having lent the cycle (M.O 9) and denied having seen the appellant and the deceased together, hence he has been treated hostile.

viii) Further as per P.W1 he has after the occurrence left his brother P.W 4 at the place of occurrence to take care of the body of his daughter. However P.W 3 the VAO who has gone to the place of occurrence immediately on information has not spoken about the presence of P.W 4.

ix) The evidence of P.W 3 VAO relating to recovery and confession while the appellant was taken into police custody is doubtful and thereby much reliance cannot be placed on the serological report based on the recovery of knife and clothes said to have been recovered from an open area after several days.

x) The learned counsel for the appellant would ultimately contend

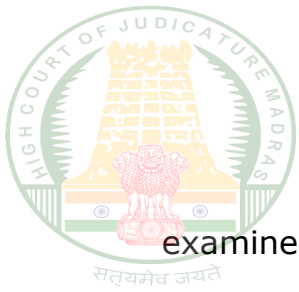


that the prosecution has failed to prove its case beyond reasonable doubt and thereby shrouding the case with doubts entitling the benefit of doubt to the appellant and he would pray for allowing this appeal. In support of the contention he relied on the judgments of this Court.

a)Sangili @ sangilimadasamy reported in(201)2 MLJ (CrI)23

b)Sonvir @ Somvir .vs. State of NCT of Delhi reported in(2018)4 MLJ(CrI.)91 SC

5. The learned Additional Public Prosecutor appearing for the respondent-Police, would submit that the prosecution by relying three pieces of evidence, viz. i) the testimony of PW.1, ii) the fact that the accused had taken the deceased with him which spoken to by PW 1 and PW.2 and (iii) The blood stained shirt of the accused M.O.8 has been recovered based on the confession of the accused and sent for scientific analysis and the blood tallied with the blood group of the deceased has proved its case beyond reasonable doubt. It is the further submission of the learned Additional Public Prosecutor that there is no explanation forthcoming on the part of the appellant as regards to what had transpired after he had taken his wife along with him from the house of P.W.1 and the failure to explain the additional fact as to the presence of blood stains in his shirt (MO8) is a relevant piece of evidence adduced by the prosecution stares against the accused. The evidence of PW.1 cannot be discarded in view of his subsequent hostility as PW.1 had been

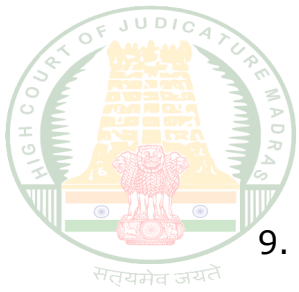


examined in chief on 07.01.2014 and subsequently recalled and examined later after few years and thereby there is every possibility of the witness having being won over. He would further submit that the appellant without provocation has committed the crime in a gruesome manner and the prosecution has proved its case beyond all reasonable doubts through oral, circumstantial and scientific evidence and the Trial Court has rightly found the accused guilty and thereby the appeal may be dismissed.

6. In reply the learned counsel appearing for the appellant would contend submit that PW.1 is none other than the father of the deceased and the chances of possibility of him being gained over cannot be accepted. Even taking into consideration his evidence as a whole, it does not appears to have a ring of truth as his presence at the scene of occurrence is doubtful and thereby makes his evidence wholly unreliable.

7. Heard Mr.Karuppasamy Pandian, learned Counsel appearing for the appellant and Mr.A.Thiruvadikumar learned Additional Public Prosecutor appearing for the respondent and gone through the materials available on record.

8. Before ever going into the facts of the case, it would be worthwhile to have a glance over the evidence of the witnesses for better appreciation of the case.

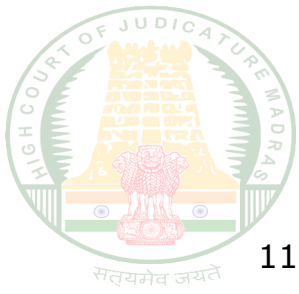


9. Boominathan (PW.1), father of the deceased and he is stated to have witnessed the occurrence. In his chief-examination had deposed that the deceased is his daughter and that appellant and his daughter got married ten years ago and they have got a male child which is now aged about seven years. After marriage they were living separately in Ammanpatti. When the child was about one year old, there was some misunderstanding between the appellant and his daughter and hence she had come to his house. After 5-6 years the appellant had informed his brother Ramar that he wanted to live with his daughter and asked to inform the same to him and his wife and when the said Ramar informed the same to them they have refused to send their daughter with the appellant but after few days they have sent their daughter with the appellant. After two months Maasikalari festival started and on 21.02.2012 the appellant and his daughter had come to their house to celebrate the festival and they cooked mutton in their house and the appellant and his daughter after having food at his house at about 10.30 a.m., went to Ramanathy to purchase groceries in a cycle and on the same day at about 12.00 hours he along with his younger brother PW.4 had gone in a TVS 50 Moped to Kamuthi. At about 12.45 p.m., they have seen the appellant and his daughter quarrelling and at that time the appellant pushed down the cycle took the knife and attacked the deceased on her stomach and chest due to which she sustained injuries and died on the spot. The appellant ran away from the scene of occurrence. Thereafter

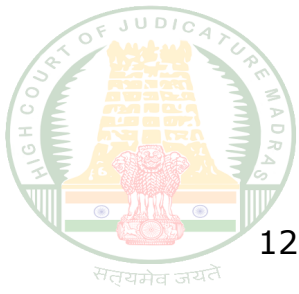


he left the body of his daughter with PW 4 and went to Kamuthi Police Station and gave complaint (Ex.P1). He identified (M.O.1) knife shown to him was used by the appellant for attacking the deceased. He identified the blouse (M.O.2), saree (M.O.3), inskirt (M.O.4) worn by the deceased at the time.

10. Nallammal (PW.2), mother of the deceased in her chief-examination, had deposed that the deceased is her daughter. The appellant and her daughter got married ten years ago and they have got a seven years old male child. The appellant lived with the deceased for nearly about 2 to 3 years and after the birth of the child the appellant went to Coimbatore. After few years the appellant informed through PW.4 that he wants to live with their daughter and they got united. Thereafter during Maasikalari festival the appellant and their daughter came to their house to celebrate festival. She had taken meat and prepared food and after having their food the appellant and his daughter went to buy groceries in a cycle. At the same time PW.1 her husband and PW.4 her brother in law also went to Kamuthi in a two wheeler behind them and later one Irulandi informed her that the appellant had stabbed her daughter and that she went there and saw the deceased lying in a pool of blood near Othakal bridge and several persons were there.



11. Gurumoorthy (PW.3), Village Administrative Officer in his chief-examination, had deposed that on 21.02.2012 at about 3.00 p.m., he received an information that one Amudharani was murdered and her body was lying near Perumalthevanpatti othakal bridge and he along with his Assistant Pachaimal went to the place and kamudhi Inspector of Police was conducting enquiry in that place and the Inspector had prepared observation mahazhar/Ex.P.2 and rough sketch and through athatchi seized blood stained sand, sand without blood, blood stained sand packet(M.O.5) sand packet without blood stains(M.O.6), blood stained rough stone from the tar road (M.O.7) and a Bicycle (M.O 9) He along with his Assistant signed in the athatchi. Thereafter on 29.02.2012 at about 2.00 p.m., the Inspector of Police, Kamuthi has asked PW.3 and his Assistant to come to the police station and at that time they saw the accused in the police station. At that time the accused gave a confession statement stating that he took his wife in a cycle and murdered her using a knife. He also informed that if he is taken to the place of occurrence he would hand over the knife and blood stained shirt, based on which the accused had taken them to the farm on southern side of Keelaramanathi and had taken the knife (M.O 1) , blood stained shirt(M.O 8) and handed over to P.W.19 and PW.19 had prepared athatchi in which he and his assistant had signed. He had identified the knife and shirt, however he had not identified the blood stained cloth shown to him. Admitted portion of confession statement was marked as Ex.P.4.

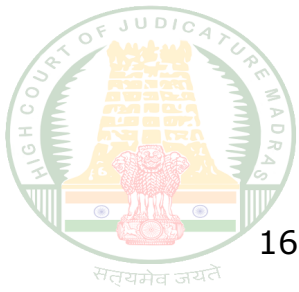


12. PW.4. Ramar who is the younger brother of P.W.1 and who is said to have accompanied P.W.1 and witnessed the occurrence and said to be with the body of the deceased after P.W 1 had left to the police station to give the complaint has not supported the case of prosecution and thereby he had been treated as hostile. During his cross examination by the accused he had deposed that on the date of occurrence he and his brother P.W 1 were in their respective houses and only after hearing about the death of Amudharani they went from their village along with 20 to 30 persons.

13. PW.5. Mohan is a hearsay witness and he has not supported the case of prosecution and thereby he had been treated as hostile.

14. PW.6. Balamurugan was working as Grade -I Police in Paramakudi. He handed over the body of the deceased for post mortem. He also handed over the material objects to the Regional Forensic Laboratory for chemical analysis.

15. PW.7. Malairaj was now working as a Head Constable in Abiramam Police Station. On 21.02.2012 when he was working in Kamuthi Police Station has sent the First Information Report in Cr.No 44/12 to the higher officials and Court as per the direction of the Investigation officer.



16. PW.8. Vairamuthu was working as Forensic Science Officer in Ramanathapuram District. On 19.03.2012 along with a letter from the Kamuthi District Munsif and Judicial Magistrate. She received a sealed wooden box with materials for examination. That requisition letter is Ex. P.7. When the seal of the wooden box was removed and opened and in that wooden box there were a blood-stained sand in a cover, sand without blood stained in cover, and he had sent the same to the Forensic Lab at Chennai and the serological report was marked as Ex P8. And as per the serological report from Madurai Forensic lab the human blood was found in the knife, towel, white half sleeved shirt-1, blood stained green blouse, blood stained green colour saree, pale black colour in skirt and they belonged to A1 Group. Though human blood found was on the other objects they were unable to continuously find the blood group.

17. PW.9 Pandi was working as a Sub-Inspector in the Special Intelligence Unit in Ramanathapuram. On 21.02.2012, while he was on duty at the Kamuthi Police Station, at 14.00 hours, he received a written complaint from Boominathan, a resident of Kamuthi Amman Patti and registered a case under Section 302 of IPC in Crime No. 44 of 2012. A hard copy of the First Information Report registered by him is marked as Ex. P.10. He sent the complaint and the hard copy of the First Information Report to the Judicial Magistrate, Kamuthi and higher authorities through the Head Constable Mr. Malairaj/P.W.7



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18. PW.10 Suresh is the person from the village who is said to have lent the bicycle to the appellant and had seen the appellant and the deceased together. However in chief examination he denied having given the cycle to the appellant and thereby he was treated hostile during cross examination by the prosecution, he had denied the handing over his cycle to the appellant and having seen the appellant and the deceased.

19. PW.11 Dr. Sathya has deposed that on 21.02.12 at 07.30 a.m., the body of the deceased Rani @Amudharani, who was involved in the case of Crime No.44 of 12 was received from the Kamuthi Police Station by Constable Mr. Balamurugan for post-mortem examination and the post-mortem was conducted on 22.02.12 at 10.00 a.m.. During the post-mortem examination, the body was found to be completely decomposed. Both the lungs were found to be half-open and the mouth was open. The external injuries noted on the body were:

- 1) There was a stab wound under the right collar bone measuring 3 x 1 x 2 cm.
- 2) There was a lacerated wound on the right breast measuring 3 x 1 x 1/2 cm.
- 3) Below the above 2nd wound was a stab wound measuring 4 x 2 x 2 cm.
- 4) A stab wound measuring 4 x 2 x 1 cm was found in the right upper abdomen.
- 5) A stab wound measuring 3 x 1/2 x 1 cm was found in the mid-chest.
- 6) A 2 x 1 cm abrasion was found below the above injury.



7) A stab wound measuring 2 x 1 x 2 1/2 cm was found in the right armpit.

8) A stab wound measuring 5 x 2 x 3 cm was found on the back of the abdomen.

9) A stab wound measuring 4 x 1 x 2 cm was found under the left collarbone.

10) A stab wound measuring 4 x 1/2 x 4 cm was found in the left upper abdomen.

11) A stab wound measuring 3 x 1 1/2 x 2 cm was found on the right upper arm.

12) A stab wound measuring 2 x 1 x 4 cm was found on the back of the right upper arm.

13) A laceration measuring 4 x 1 x 1 cm was found on the left arm.

14) Due to sunburn on the right hand, right leg, left hand, and left leg, the skin was found to be peeling.

When the body of the deceased was examined, the following internal injuries were found on the body. They are as follows:

1) The 5th and 6th ribs on the right were broken. The 11th, 12th and 13th ribs on the left were broken.

2) A stab wound measuring 2 x 1 x 1 cm was found in the upper lobe of the right lung.

3) 150 ml of blood was found collected in the chest.

4) A stab wound measuring 2 x 1/2 x 1/2 cm was found in the spleen.

5) A puncture wound measuring 5 x 2 x 2 cm was found in the liver.

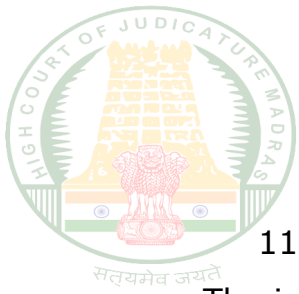
6) 150 ml of blood was found collected in the abdomen.

7) The skull and spine were not found broken.

8) Food was found in a concentrated state in the stomach, measuring 150 ml.

9) The small intestine and colon were swollen and red.

10) Both kidneys were found to be red.



11) No other bones were found broken.

The internal organs were not preserved because they were not requested to be sent for chemical analysis.

Final Opinion: She opined that the deceased might have died of shock and hemorrhage approximately 22 to 24 hours before the autopsy due to injuries in the vital organs caused by the above injuries. The autopsy report is marked as Ex.P.11.

20. PW.12, Sridhar, Inspector of Police has deposed that on 21.02.12, when he was working as a Circle Inspector at Kamuthi Police Station, PW.1 had given complaint to PW.9/ Sub Inspector of Police and based on the same day at about 14.00 hours he registered a case in Crime No.44 of 2012 for the offence under Section 302 of IPC and after sending the express First Information Report to the Judicial Magistrate, Kamuthi and other officers. Thereafter on information he had proceeded to the place of occurrence and in the presence of witnesses Gurumoorthy/PW.3 (Village Administrative Officer) and Pachaimal (Village Assistant) had after inspecting the place of occurrence prepared the observation mahazhar/Ex.P.3 and rough sketch/Ex.P.12 in the presence of witnesses and obtained their signature. Thereafter on the same day at about 10.30 hrs he had recovered blood stained soil, small amount of sample soil, blood stained gravel with bit of thar and bicycle with writing as SK bikes under mahazhar. The bicycle is marked as M.O.9. Form 95 is marked as Ex.P.13. Thereafter on the same day at about 17.00 hours he



had conducted inquest on the body of the deceased at the mortuary in the presence of witnesses. Thereafter he prepared inquest report/Ex.P.14 and in order to find out reason for death of the deceased he had given a requisition letter to the doctor through constable and he then examined witnesses Boominathan, Gurumoorthy, Pachaimal and recorded their statements. On 22.02.12 after completion of post mortem he had recovered the properties found on the deceased namely blood stained saree, blouse and inskirt. He then send the properties through Form -95/ Ex.P.15 to the Court and on the same day he examined Mohan, Manimegalai, Nallusamy, Grade.I Police, Balamurugan and recorded their statement. On 22.02.2012 he received information that the accused having surrendered before the learned Judicial Magistrate, Aruppukottai and being sent to the Madurai Central Prison for remand. In order to recover the articles and for the purpose of investigation he has filed petition for custody of the appellant for three days on 28.02.2012 before the District Munsif Court, Kamuthi. Though he had sought for three days custody the Court had granted custody for one day on 29.02.2012. He took custody of the accused and brought him to the police station and while enquiring the accused had voluntarily given a confession statement in the presence of Gurumoorthy, Village Administrative Officer and Pachaimal/Village Assistant. Pursuant to the voluntarily statement the appellant had taken the police to the farm land of PW.1 situated on the right from the Kamuthi – Keelaramanathi Panchayat and had taken and



handed over a blood stained knife with wooden handle and a blood stained towel, blood stained white colour shirt and handed over to him.

He had prepared mahazhar and recovered the same. He had also handed over the properties under Form 95/Ex.P16. The blood stained towel was marked as M.O.10. Thereafter he had obtained signature in the confession statement and later obtained further statement from PW.3 and Pachaimal and on 01.03.2012 after showing the knife to Government Doctor, Sathya had obtained post mortem certificate and recorded her statement. Later he obtained statement of SSI Pandian. On 03.03.2012 he examined PW 10 and thereafter he sent the case properties under Form -95 to the Regional Forensic Laboratory, Ramanathapuram through Head Constable 1692 for analysis along with request from the Court. On 16.05.2012 he examined Balamurugan and Scientific Officer Vairamuthu and recorded their statements and obtained forensic opinion. He had further deposed that during his enquiry he came to know that PW.4 and his brother were going to the local market in a two wheeler around 12.15 noon they had seen the appellant inflicting stab injuries on his wife and on seeing them the appellant had ran away from the place of occurrence and that they have informed him when they have lifted the deceased, she had informed that the appellant her husband had cunningly taken her to secluded place in bicycle and when she had refused to live with him had repeatedly inflicted stab injuries on her. Thereafter he had examined PW.5/Mohan and he had informed that on 21.02.2012 around 12.45 p.m., while he was



returning from Kamuthi to Perumalthevanpatti he had seen the presence of the appellant on the eastern side karuvelam. forest running and on suspicion he had moved. Further he had seen PW.1 and his brother/PW.4 crying and that he had seen the deceased lying with bleeding injuries. Then he had examined PW.10, who had informed him that on 21.02.2012 at about 10.00 a.m., the appellant and his wife had come to him and asked to give cycle and that he had given the cycle to them and they have left in the cycle at about 12.45 p.m., later he came to know that the appellant had killed his wife. Later he had after completion of investigation filed final report.

21. In this case the prosecution has projected P.W.1 and P.W.4 to be the eye witnesses to the occurrence. P.W.1 is the father of the deceased and P.W.4 is his brother (Junior paternal uncle of the deceased). As per P.W.1 father of the deceased he along with his brother followed the appellant and deceased in a two wheeler and saw the occurrence and that after the death of his daughter he had left his brother PW.4 near the body and left to the police station. However P.W.4 has not supported the case of the prosecution and he has been treated hostile and as such the case clinches on the sole ocular testimony of P.W.1.

22. Now analyzing the evidence of PW.1 and P.W. 4, P.W.1 had deposed that his son-in-law the appellant and his daughter were married



ten years ago and that they have one son. After some time they got separated and after 5,6 years the appellant had rejoined with his wife and that they were living together at the house of the appellant. While so, on 20.02.2012 the appellant and his wife had come back to his house for celebrating Masikilari festival and that his wife had cooked meat and that his daughter and son-in-law /appellant had taken food and gone to Ramanathi for purchasing things around 10.30a.m., On the same day at about 12.00 noon he along with his brother P.W4 had gone to Kamuthi for purchasing vegetables in a TVS 50 and enroute they had seen the appellant quarreling with his daughter and around 12.15 p.m., the appellant had pushed her down and immediately he had inflicted stab injuries on his daughter and when he had gone there the appellant had run away from the place of occurrence and that his daughter asking that why he had sent her along with her husband and requesting him to take care of her son died on the spot. Thereafter he had asked his brother /PW.4 to be with the body of his daughter and he had gone the police station and given the information based on which the complaint was written by an elderly man and he had signed the same. In his cross examination he had deposed that immediately after the occurrence he had lifted his daughter while she was dying. However the clothes worn by him were not recovered by the police. Further strangely his brother Ramar/PW4 who is said to have accompanied him had deposed that his brother's daughter was married to the appellant seven years ago and they



have a boy child and they were having a happy married life. He had further deposed that on 23.02.2012 when he was at his house along with his family members, PW.1, the appellant, his wife/the deceased had visited his house and they have left the house. He had deposed that he was aware of the death of his brother's daughter and he is not aware of the reason. Though he admitted his signature in the complaint, he denied knowing anything about the case and thereby he was treated hostile. In the cross examination by the prosecution he denied having accompanied with his brother to Kamuthi and he had further deposed that he and PW.1 are resident of Ammanpatti village and they are living in separate houses nearby and that the appellant was living at Kathupatti Village and it was a festival day for the family deity and that he was in his house and his brother /PW.1 was in his house and at that time they received information from the police station that his brother's daughter Amutharani was dead and thereafter they had gone to the police station along with about 20-30 persons from the village.

23. It is the evidence of P.W2/mother of the deceased that one Irulandi from her village had informed about the death of her daughter and the said Irulandi had not been examined. If P.W.1 had witnessed the occurrence he would have been the person who have been informed his wife/P.W.2. Further PW.5 who has spoken about having seen the appellant and the deceased coming together has not supported the case

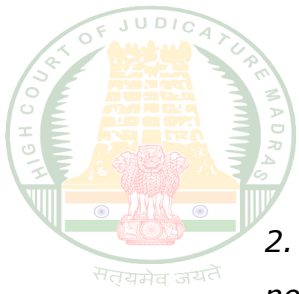


of prosecution and he was treated hostile. The occurrence had taken place on 21.02.2012 and the accused had surrendered before the Court on 22.02.2012 and the police custody was taken on 29.02.2012. Recovery of blood stained knife and towel is from the open place after eight days. In this regard P.W.3, Village Administrative Officer had deposed that on 21.02.2012 at 3.00 pm., he received message that Amutharani was murdered and her body was lying on the road from Kamuthi to Keelaramanathi near Perumalthevanpatti Otraikal bridge and he has not deposed about having seen P.W4 near the body of the deceased.

24. Though the incident said to have happened at 12.45 p.m., and the complaint said to have been given at 2.00 p.m., the First Information Report said to have reached the Court which is about 3kms with a delay of three hours at 5.00 p.m. The contradictions in the evidence of P.W.1 and P.W.2 to P.W.4 coupled with the delay in registering the First Information Report makes the presence of P.W.1 at the scene of occurrence highly doubtful.

25. Now with regard to acceptability and reliability of uncorroborated testimony of the solitary witnesses in a prosecution case this court in Sangili's case referred supra has held as follows:

"32. In Kartik Malhar vs. State of Bihar, reported in (1996) 1 SCC 614, the Honourable Supreme Court has held as follows:-



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2. *The well-known maxim that "Evidence has to be weighed and not counted"*

has been given statutory placement in [section 134](#) of the Indian Evidence Act which provides us under :

"134. No particular number of witness shall in any case be required for the proof of any fact."

3. *This section marks a departure from the English law where a number of statutes still prohibit convictions for certain categories of offences on the testimony of a single witness. This difference was noticed by the Privy Council in Mahamed Sugul Esa Mamasah Rer Alalah v. The King, A.I.R. (1946) P.C, 3 wherein it was laid down as under :*

"It was also submitted on behalf of the appellant that assuming the unsworn evidence was admissible the court could not act upon it unless it was corroborated. In England, where provision has been made for the reception of unsworn evidence from a child, it has always been provided that the evidence must be corroborated in some material particularly implicating the accused. But in the Indian Act there is no such provision and the evidence is made admissible whether corroborated or not. Once there is admissible evidence a court can act upon it; corroboration unless required by statute goes only to the weight and value of the evidence. It is a sound rule in practice not to act on the uncorroborated evidence of a child, whether sworn or unsworn but, this is a rule of prudence and not of law."

4. *The Privy Council decision was considered by this Court in Vadivelu Thevar v. The State of Madras, A.I.R. (1957) S.C. 614 in which it was observed as under : -*

"On a consideration of the relevant authorities and the provisions of the [Evidence Act](#), the following propositions may be safely stated as firmly established:



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(1) As a general rule, a court can and may act on the testimony of a single witness though uncorroborated. One credible witness outweighs the testimony of a number of other witnesses of indifferent character. (2) Unless corroboration is insisted upon by statute, courts should not insist on corroboration except in cases where the nature of the testimony of the single witness itself requires as a rule of prudence, that corroboration should be insisted upon for example, in the case of a child witness, or of a witness whose evidence is that of an accomplice or of an analogous character. (3) Whether corroboration of the testimony of a single witness is or is not necessary, must depend upon facts and circumstances of each case and no general rule can be laid down in a matter like this a much depends upon the judicial discretion of the Judge before whom the case comes.

In view of these considerations, we have no hesitation in holding that the contention that in a murder case, the Court should insist upon plurality of witnesses, is much too broadly stated. [Section 134](#) of the Indian Evidence Act, has categorically laid it down that no particular number of witnesses shall, in any case, be required for the proof of any fact'. The Legislature determined, as long ago as 1872 presumably after due consideration of the pros and cons. that, it shall not be necessary for proof or disproof of a fact, to call any particular number of witnesses."

This Court further observed as under :

"It is not seldom that a crime has been committed in the presence of only one witness, leaving aside those cases which are not of uncommon occurrence where determination of guilty depends entirely on circumstantial evidence. If the Legislature were to insist upon plurality of witnesses, cases where the testimony of a single witness only could be available in proof of the crime, would go unpunished. It is here that the discretion of the presiding judge comes into play. The matter thus must depend upon the



circumstances of each cases and the quality of the evidence of the single witness whose testimony has to be either accepted or rejected. If such a testimony is found by the court to be entirely reliable, there is no legal impediment to the conviction of the accused person on such proof. Even as the guilt of an accused may be proved by the testimony of a single witness, the innocence of the accused person may be established on the testimony of the single witness, even though a considerable number of witnesses may be forth coming to testify to the truth of the case for the prosecution. Hence, in our opinion, it is a sound and well-established rule of law that the Court is concerned with the quality and not with the quantity of the evidence necessary for proving or disproving a fact, Generally speaking, oral testimony in this context may be classified into three categories.

namely :

(1) wholly reliable :

(2) wholly unreliable:

(3) neither wholly reliable nor wholly unreliable.

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 approach of suspicion of interestedness, incompetence of 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 particulars by reliable testimony, direct or circumstantial. There is another danger in insisting on plurality of witnesses. Irrespective of the quality of the oral evidence of a single witness, if courts were to insist on plurality of witnesses in proof of any fact, they will be indirectly encouraging subordination of witnesses. Situations may arise and do arise where only a



single person is available to give evidence in support of a disputed fact. The court naturally has to weigh carefully such a testimony and if it is satisfied that the evidence is feasible and free from all taints which tend to render oral testimony open to the suspicion, it becomes its duty to act upon such testimony. The law reports contain many precedents where the court had to depend and act upon the testimony of a single witness in support of the prosecution."

5. The above decision has since been followed in *Ramratan and Others v. The State of Rajasthan*, A.I.R. (1962) S.C. 424; *Guli Chand and Others v. State of Rajasthan*, A.I.R.(1974) S.C. 276; *Badri v. State of Rajasthan*, A.I.R.(1976) S.C. 560; *Vanula Bhushan @ Venuna Knshnan v. State of Tamil Nadu*, A.I.R.(1989) S.C. 236 and in *Jagdish Prasad v. State of M.P.*, A.I.R, (1994) S.C. 1251.

6. Some other cases of this Court in which the question of sole witness constituting the basis of conviction or otherwise has been considered are *State of Haryana v. Manoj Kumar*, [1994] 1 SCC 495; *Brij Basi Lal v. State of M.P.*, [1991] Suppl.1 SCC 200; *Jai Prakash v. State, Delhi Administration*, [1991] 2 SCC 379; *Peodireddi Subbareddi v. State of Andhra Pradesh*, AIR (1991) SC 1356; *Java Ram Shiva Tagore v. State of Maharashtra*, [1991] Suppl.2 SCC 677 AIR (1991) SC 1735; *Anil Pukhan v. State of Assam*, AIR (1993) SC 1462 and *Ram Kumar v. State of U.P.*, AIR (1992) SC 1602.

7. On a conspectus of these decisions, it clearly comes out that there has been no departure from the principles laid down in *Vadivelyu Thevar's case* (supra) and, therefore, conviction can be recorded on the basis of the statement of single eye witness provided his credibility is not shaken by any adverse circumstances appearing on the record against him and the Court, at the same lime, is convinced that he is a truthful witness. The Court will not then insist on corroboration by any other eye



witness particularly as the incident might have occurred at a time or place when there was no possibility of any other eye witness being present. Indeed, the Courts insist on the quality, and, not on the quantity of evidence.?

33. In *Joseph vs. State of Kerala* reported in (2003) 1 SCC 465, the Hon'ble Apex Court held as follows:

13. To our mind, it appears that the High Court did not follow the aforesaid standard but went on to analyze evidence as if the material before them was given for the first time and not in appeal. Section 134 of the Indian Evidence Act provides that no particular number of witnesses shall in any case be required for the proof of any fact and, therefore, it is permissible for a court to record and sustain a conviction on the evidence of a solitary eyewitness. But, at the same time, such a course can be adopted only if the evidence tendered by such witness is cogent, reliable and in tune with probabilities and inspires implicit confidence. By this standard, when the prosecution case rests mainly on the sole testimony of an eyewitness, it should be wholly reliable. Even though such witness is an injured witness and his presence may not be seriously doubted, when his evidence is in conflict with other evidence, the view taken by the trial court that it would be unsafe to convict the accused on his sole testimony cannot be stated to be unreasonable.?

34. In *Kunju alias Balachandran vs. State of Tamil Nadu* reported in (2008) 2 SCC 151, the Hon'ble Apex Court has held as follows:-

" In *Vadivelu Thevar V/s. State of Madras*, AIR 1957 SC 614 this Court had gone into this controversy and divided the nature of witnesses in three categories, namely, wholly reliable, wholly unreliable and lastly, neither wholly reliable nor wholly unreliable. In the case of the first two categories this Court said that they pose little difficulty but in the case of the third category of witnesses, corroboration would be required. The relevant portion



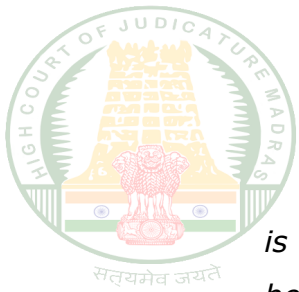
is quoted as under: (AIR.619, paras 11-12) "Hence, in our opinion, it is a sound and well- established rule of law that the court is concerned with the quality and not with the quantity of the evidence necessary for proving or disproving a fact. Generally speaking, oral testimony in this context may be classified into three categories, namely:

(1)Wholly reliable.

(2)Wholly unreliable.

(3)Neither wholly reliable nor wholly unreliable. 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 interestedness, incompetence or subornation. 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 particulars by reliable testimony, direct or circumstantial. There is another danger in insisting on plurality of witnesses. Irrespective of the quality of the oral evidence of a single witness, if courts were to insist on plurality of witnesses in proof of any fact, they will be indirectly encouraging subornation of witnesses."

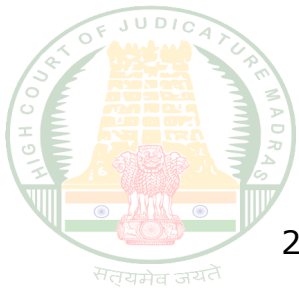
10 Vadivelu Thevar case (supra) was referred to with approval in the case of Jagdish Prasad V/s. State of M.P., AIR 1994 SC 1251. This Court held that as a general rule the court can and may act on the testimony of a single witness provided he is wholly reliable. There is no legal impediment in convicting a person on the sole testimony of a single witness. That is the logic of [Sec. 134](#) of the Indian Evidence Act, 1872 (in short "the [Evidence Act](#)"). But, if there are doubts about the testimony the courts will insist on corroboration. It is for the court to act upon the testimony of witnesses. It is not the number, the quantity, but the quality that



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is material. The time- honoured principle is that evidence has to be weighed and not counted. On this principle stands the edifice of Sec. 134 of the Evidence Act. The test is whether the evidence has a ring of truth, is cogent, credible and trustworthy, or otherwise.?

26. It was contended by the learned Additional Public Prosecutor that the appellant had gone along with the deceased in a cycle and thereby he owes an explanation regarding the death of his wife. In this regard the prosecution had cited PW.10 to be the person who had lent his cycle to the appellant and he is said to be the person who had seen the appellant and the deceased going together, whereas PW 10 had denied having lent his cycle and denied having seen them going together and thereby he has been treated hostile. Further the motive alleged by the prosecution is also not clear. Though it is stated that there was separation between the appellant and the deceased all the witnesses have spoken that prior to the occurrence the appellant and the deceased have joined and living together and they had come to the house of PW.1 to celebrate festival of local deity and they have also had food together. The other aspect urged by the learned Additional Public Prosecutor was the recovery of the blood stained clothes worn by the accused and the matching of the same with the blood group of the deceased. Though blood stained clothes and blood stained knife stated to have been recovered based on the confession given by the appellant while taken on police custody by PW.19 much reliance cannot be placed on the confession and recovery.



27. In *Sonvir @ Somvir .vs. State(NCT of Delhi)* reported in

(2018)8 SCC 24, it has been held us

"26.3. Alleged recovery of bloodstained shirt

26.3.1. As per the prosecution, a bloodstained shirt was recovered at the instance of Sonvir alias Somvir (Appellant-Accused 2) from his room in the house of Teja Chaudhary, at the time of his arrest. The bloodstained shirt was sent for analysis to the FSL. As per the FSL report (Ext. PW 33/A), the shirt allegedly recovered from Sonvir alias Somvir (Appellant-Accused 2) was found to be stained with human blood of "B" group, which was the same "blood group" as that of the deceased.

26.3.2. In para 20, the High Court held the recovery of the bloodstained shirt from Sonvir alias Somvir (Appellant-Accused 2) to be incriminating against him, since the blood samples taken from the bedsheet at the scene of crime, were also found to be of the same blood group.

26.3.3. It is relevant to note that as per the FSL report (Ext. PW 33/A), both the bloodstained shirt allegedly recovered from Sonvir alias Somvir (Appellant-Accused 2) and the blood samples taken from the bedsheet at the scene of crime were found to be stained with human blood of "B" group.

26.3.4. The mere matching of the blood group of the blood samples taken from the bedsheet at the scene of crime, and the bloodstained shirt recovered from Sonvir alias Somvir (Appellant-Accused 2) cannot lead to the conclusion that the appellant had



been involved in the commission of the crime.

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26.3.5. On this issue, reliance can be placed on two decisions of this Court in *Prakash v State of Karnataka* [*Prakash v State of Karnataka*, (2014) 12 SCC 133 : (2014) 6 SCC (Cri) 642] , paras 41 and 45 and *Debapriya Pal v State of W.B* [*Debapriya Pal v State of W.B.*, (2017) 11 SCC 31 : (2017) 3 SCC (Cri) 832] , para 8 wherein this Court while deciding cases based on circumstantial evidence had held that mere matching of the blood group cannot lead to the conclusion of the culpability of the accused, in the absence of a detailed serological comparison, since millions of people would have the same blood group.

26.3.6. In the present case, the prosecution has not proved that the room from where the bloodstained knife and bloodstained shirt were allegedly recovered, was in the exclusive possession of the appellant. The prosecution case is that the said room was in the house owned by one Teja Chaudhary. The prosecution did not examine the said Teja Chaudhary to prove that the said room was rented to Sonvir alias Somvir and/or was in the exclusive custody of the appellant.

26.3.7. Therefore, the recovery of the bloodstained shirt from Sonvir alias Somvir (Appellant-Accused 2) cannot be used as an incriminating piece of evidence.

28. While considering the nature of the offence, it is not in doubt



that the offence had been committed in a gruesome and brutal manner.

However law does not permit the court to punish the accused on the basis of a moral conviction or suspicion alone and it is the basic tenet of Criminal Jurisprudence that an accused can be convicted only on legal evidence and not on surmises and conjecture. To convict a person on available legal evidence the court has to ensure itself whether the prosecution had proved the case beyond all reasonable doubt.

29. In ***Paramjeet Singh alias Pamma vs. State of Uttarakhand***, reported in **(2010) 10 SCC 439**, the Honourable Supreme Court has held that:

"Standard of proof 10.

A criminal trial is not a fairy tale wherein one is free to give flight to one's imagination and fantasy. Crime is an event in real life and is the product of an interplay between different human emotions. In arriving at a conclusion about the guilt of the accused charged with the commission of a crime, the court has to judge the evidence by the yardstick of probabilities, its intrinsic worth and the animus of witnesses. Every case, in the final analysis, would have to depend upon its own facts. The court must bear in mind that "human nature is too willing, when faced with brutal crimes, to spin stories out of strong suspicions". Though an offence may be gruesome and revolt the human conscience, an accused can be convicted only on legal evidence and not on surmises and conjecture. The law does not permit the court to punish the accused on the basis of a moral conviction or suspicion alone. "The burden of proof in a criminal trial never shifts and it is always the burden of the prosecution to prove its case beyond reasonable



doubt on the basis of acceptable evidence." In fact, it is a settled principle of criminal jurisprudence that the more serious the offence, the stricter the degree of proof required, since a higher degree of assurance is required to convict the accused. The fact that the offence was committed in a very cruel and revolting manner may in itself be a reason for scrutinizing the evidence more closely, lest the shocking nature of the crime induces an instinctive reaction against dispassionate judicial scrutiny of the facts and law. (Vide *Kashmira Singh v. State of M.P.* [AIR 1952 SC 159 : 1952 Cri LJ 839, *State of Punjab v. Jagir Singh* [(1974) 3 SCC 277: 1973 SCC (Cri) 886 : AIR 1973 SC 2407, *Shankarlal Gyarasilal Dixit v. State of Maharashtra* [(1981) 2 SCC 35 : 1981 SCC (Cri) 315 : AIR 1981 SC 765, *Mousam Singha Roy v. State of W.B.* [(2003) 12 SCC 377] and *Aloke Nath Dutta v. State of W.B.* [(2007) 12 SCC 230 : (2008) 2 SCC (Cri) 264).

11. In *Sarwan Singh Rattan Singh v. State of Punjab* [AIR 1957 SC 637 : 1957 Cri LJ 1014] this Court observed: (AIR p. 645, para 12)

"12. ... considered as a whole the prosecution story may be true; but between 'may be true' and 'must be true' there is inevitably a long distance to travel and the whole of this distance must be covered by legal, reliable and unimpeachable evidence [before an accused can be convicted]."

12. Thus, the law on the point may be summarized to the effect that in a criminal trial involving a serious offence of a brutal nature, the court should be wary of the fact that it is human instinct to react adversely to the commission of the offence and make an effort to see that such an instinctive reaction does not prejudice the accused in any way. In a case where the offence alleged to have been committed is a serious one, the prosecution must provide greater assurance to the court that its case has been proved beyond reasonable doubt."



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30. In this case taking into consideration the totality of the facts we find that the prosecution has failed to prove its case beyond reasonable doubts and the trial Court without proper appreciation of evidence had erred in convicting the appellant on the basis of uncorroborated solitary evidence of PW.1 which cannot be given credence. In view of the doubt and suspicion the appellant is entitled for benefit of doubt.

31. In the result, the Criminal Appeal is allowed and the Judgment, dated 23.09.2021, made in S.C.No.79 of 2012, by the learned Sessions Judge, Mahalir Neethimandram (Fast Track Court) Ramanathapuram is hereby set aside and the appellant is acquitted of all the charges. The bail bond, if any, executed by the appellant shall stand cancelled. The fine amount, if any paid, shall be refunded to the appellant. The appellant shall be set at liberty forthwith, if he is no longer required in connection with any other case. Consequently connected miscellaneous petition stands closed.

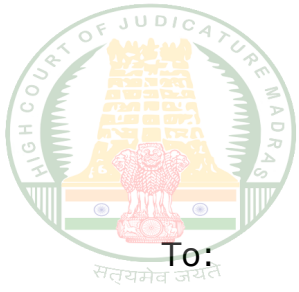
[A.D.J.C., J.] [R.P., J.]

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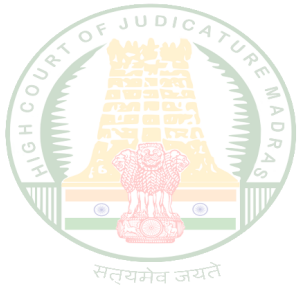
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To:

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1. The Sessions Judge,
Mahalir Neethimandram.,
(Fast Track Court) Ramanathapuram
2. The Inspector of Police
Kamuthi Police Station
Ramanathapuram District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Record Keeper,
Vernacular Records Section,
Madurai Bench of Madras High Court,
Madurai.



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36

A.D.JAGADISH CHANDIRA, J.
and
R.POORNIMA,J.

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P.D. JUDGMENT IN
Crl.A.(MD) No.296 of 2022

19.08.2025