



R. T (MD) No. 1/2025 & CrI. A (MD) Nos. 790,
921, 796, 786 & 418/2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Reserved on 04.11.2025	Delivered on 28.11.2025
---	--

CORAM :

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

R.T(MD)No.1 of 2025
and
CrI.A(MD)Nos.790, 921, 796, 786 & 418 of 2025

R.T(MD)No.1 of 2025 :

The Inspector of Police,
Tirunelveli Taluk Police station,
Tirunelveli District.
Crime No.56/2022

... Complainant

vs.

Selvaraj

... Respondent/ A1

Prayer:- Referred Trial filed under Section 366 (1) of Cr.P.C., on the judgment of conviction sentence dated 03.03.2025 passed in S.C.No. 119 of 2023 on the file of the learned II Additional Sessions Judge, Tirunelveli.

For Complainant : Mr.Hasan Mohammed Jinnah
State Public Prosecutor assisted by
Mr.T.Senthil Kumar
Additional Public Prosecutor



*R. T (MD) No. 1/2025 & CrI.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

WEB COPY

For Respondent : Dr.Lakshmi Prasanna Komara for
Mr.P.M.Basil

CrI.A(MD)No.790 of 2025 :

Anthoniraj @ Prapakaran

... Appellant/ A2

CrI.A(MD)No.921 of 2025

1. Rajan

2. Leela @ Selvaleela

... Appellants/ A6 & A7

CrI.A(MD)No.796 of 2025 :

Babu Alexander

... Appellant/ A5

CrI.A(MD)No.786 of 2025 :

Selvaraj

... Appellant/ A1

CrI.A(MD)No.418 of 2025 :

1. Phileep @ Arulphileepraj

2. Anto @ Antonallaiah

3. Jackulin

... Appellants/ A3, A4 & A8

vs.

The State of Tamil Nadu,
Through The Inspector of Police,
Tirunelveli Taluk Police station,
Tirunelveli District.
Crime No.56/2022

... Respondent in all appeals



*R. T (MD) No. 1/2025 & CrI. A (MD) Nos. 790,
921, 796, 786 & 418/2025*

Prayer in all appeals:- Criminal Appeals filed under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records and set aside the judgment and conviction passed by the learned II Additional Sessions Judge (PCR) (FAC), Tirunelveli, in S.C.No.119 of 2023 dated 06.03.2025 and acquit the appellants.

For Appellants in

CrI.A(MD)No.790/2025	: Mr.A.Manoj Kumar
CrI.A(MD)No.921/2025	: Dr.Lakshmi Prasanna Komara for Mr.P.M.Basil
CrI.A(MD)No.796/2025	: Mr.T.Karthick
CrI.A(MD)No.786/2025	: Dr.Lakshmi Prasanna Komara for Mr.P.M.Basil
CrI.A(MD)No.418/2025	: Mr.V.Kathirvelu, Senior Counsel for Mr.K.Prabhu

For Respondent	: Mr.Hasan Mohammed Jinnah State Public Prosecutor assisted by Mr.T.Senthil Kumar Additional Public Prosecutor
----------------	---

COMMON JUDGMENT

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

Referred Trial has been filed seeking confirmation of the judgment of conviction and death sentence awarded to A1 vide judgment dated 03.03.2025 passed in S.C.No.119 of 2023 on the file of the learned II Additional Sessions Judge, Tirunelveli.



R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790, 921, 796, 786 & 418/2025

Criminal Appeals have been filed by the appellants to

call for the records and set aside the judgment of conviction and sentence passed by the learned II Additional Sessions Judge (PCR) (FAC), Tirunelveli, in S.C.No.119 of 2023 dated 06.03.2025 and acquit the appellants.

2. The case of the prosecution is that there was an enmity between the accused persons and the deceased since the deceased gave evidence against the accused persons in S.C.No.57/2018 on the file of Tirunelveli Taluk Police Station. Despite the accused persons threatened the deceased on earlier occasion not to depose against them, the deceased did not heed to their threat and testified his examination in chief against the accused persons before the Court of learned Principal Sub Judge, Tirunelveli, in S.C.No.57/2018 and the said case was posted for cross examination of the deceased on 10.03.2022. Being enraged by the act of the deceased in giving chief examination despite warning, the accused persons decided to take away the life of the deceased. On 10.03.2022, prior to give evidence in the above session case, the deceased went with his wife to a Canal situated on the northern side of the village



R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025

to take bath and got into the water at 9.45 a.m. While he was taking bath, all the accused persons armed with billhooks came there in four bikes and A6 to A8 stood on the bank and commanded the other accused to kill the deceased saying that "இந்த கேசிலிருந்து தப்பிக்க வேண்டும் என்றால் இவனை வெட்டிக் கொல்லுங்கள்" and Al Selvaraj saying "தேவடியா மகனே நீ உயிரோடு இருந்தால் தானே சாட்சி சொல்வாய்" attacked the deceased with billhook on the left side neck of the deceased, A2 Anthoniraj @ Prapakaran attacked with billhook on the center of the skull and right hand shoulder of the deceased, A3 attacked with billhook on the back side of skull and right leg foot of the deceased, A4 attacked with billhook on the right side back and right side shoulder of the deceased, A5 attacked with billhook on the right side back, right leg foot and left side back of the deceased. Due to the repeated cut injuries, the deceased died on the spot and when PW1/younger brother of the deceased tried to stop the accused persons, they threatened him by showing the billhooks and stating that if he interfered, they will kill him and then they left the place of occurrence in their bikes rotating the billhooks above their heads. After that, PW1/Murugaraj, PW3/Mariraj, Mailnathan, PW5/Subash, PW4/Bharath lifted the body of the deceased



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

and kept it on the steps of the Canal and P.W.1 and P.W2/wife of the deceased went to the police station and had given complaint regarding the incident and based on the complaint, the respondent/Police registered the FIR in Crime No.56/2022 at 11.00 a.m., against the accused for the offences under Sections 147, 148, 294(b), 302 and 506(ii) of IPC. After investigation, the respondent/police laid a charge sheet before the Judicial Magistrate Court No.III, Tirunelveli, and the same was taken on file in PRC.No.104 of 2022. 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 District and Sessions Judge has taken the above case on file in S.C.No. 314 of 2022 and made over the case to the IV Additional District Court, Tirunelveli, for disposal in accordance with law. However, as per the order of the High Court in Cr1.O.P.No.15868 of 2023, the said case was transferred to the II Additional Sessions Court, Tirunelveli, and renumbered as S.C.No.119 of 2023. The trial Court framed the charges against A1 for the commission of offences under Sections 148, 294(b), 302 and 506(ii) of IPC, against A2 to A5 for the offences under Sections 148, 302 and 506(ii) of IPC and against A6 to A8 for the offences under



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

Sections 148, 302 read with 149 and 506(ii) of IPC. In order to substantiate the case during trial, on the side of the prosecution, totally 17 witnesses were examined as PW1 to PW17 and 36 documents were marked as Exs.P1 to Ex.P36, besides 16 material objects were exhibited as MO1 to MO16. On the side of the defence, one witness was examined as DW1 and three documents were marked as Ex.D1 to Ex.D3.

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 by judgment dated 06.03.2025 in S.C.No.119 of 2023 convicted and sentenced the accused as follows:

"A1 Selvaraj is convicted and sentenced to undergo R.I for 2 months and to pay a fine of Rs.5,000/- i/d to undergo R.I for 1 month for the offence u/s 148 IPC and he is convicted and sentenced to undergo R.I for 3 months for the offence u/s 294(b) IPC and he is convicted and sentenced to death and that he be hanged by the neck, till he is dead subject to confirmation



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

WEB COPY

by the Hon'ble High Court and to pay a fine of Rs.10,000/- i/d to undergo R.I for three years for the offence u/s 149 r/w 302 IPC and he is convicted and sentenced to undergo R.I for one year for the offence u/s 506(ii) IPC and A1 is directed to be hanged to death subject to the confirmation of Hon'ble High Court and his death sentence shall be executed after A1 undergoing the other sentences imposed on him. The other sentences shall run consecutively. The remand period already undergone by the A1 is ordered to be set off under Section 428 Cr.P.C. (Total Fine Rs.15,000/-)

A2 Anthoniraj @ Prapakaran is convicted and sentenced to undergo R.I for 2 months and to pay a fine of Rs. 5,000/- i/d to undergo R.I for 1 month for the offence u/s 148 IPC and he is convicted and sentenced to undergo life imprisonment and to pay a fine of Rs.10,000/- i/d to undergo R.I for three years for the offence u/s 149 r/w 302 IPC and he is convicted and sentenced to undergo R.I for one year for the offence u/s 506(ii) IPC. All the sentences imposed against the A2 shall run consecutively. The remand period already undergone by the A2 is ordered to be set off under Section 428 Cr.P.C. (Total Fine Rs.15,000/-)

A3 Phileep @ ArulPhileepraj is convicted and sentenced to undergo R.I for 2 months and to pay a fine of Rs. 5,000/- i/d to undergo R.I for 1 month for the offence u/s 148 IPC and he is convicted and sentenced to undergo life



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

imprisonment and to pay a fine of Rs.10,000/- i/d to undergo R.I for three years for the offence u/s 149 r/w 302 IPC and he is convicted and sentenced to undergo R.I for one year for the offence u/s 506(ii) IPC. All the sentences imposed against the A3 shall run consecutively. The remand period already undergone by the A3 is ordered to be set off under Section 428 Cr.P.C. (Total Fine Rs.15,000/-)

A4 Anto @ Antonallaiah is convicted and sentenced to undergo R.I for 2 months and to pay a fine of Rs.5,000/- i/d to undergo R.I for 1 month for the offence u/s 148 IPC and he is convicted and sentenced to undergo life imprisonment and to pay a fine of Rs.10,000/- i/d to undergo R.I for three years for the offence u/s 149 r/w 302 IPC and he is convicted and sentenced to undergo R.I for one year for the offence u/s 506(ii) IPC. All the sentences imposed against the A4 shall run consecutively. The remand period already undergone by the A4 is ordered to be set off under Section 428 Cr.P.C. (Total Fine Rs. 15,000/-)

A5 Babu Alexander is convicted and sentenced to undergo R.I for 2 months and to pay a fine of Rs.5,000/- i/d to undergo R.I for 1 month for the offence u/s 148 IPC and he is convicted and sentenced to undergo life imprisonment and to pay a fine of Rs.10,000/- i/d to undergo R.I for three years for the offence u/s 149 r/w 302 IPC and he is convicted and sentenced to undergo R.I for one year for the offence u/s 506(ii)



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

IPC. All the sentences imposed against the A5 shall run consecutively. The remand period already undergone by the A5 is ordered to be set off under Section 428 Cr.P.C. (Total Fine Rs. 15,000/-)

A6 Rajan is convicted and sentenced to undergo R.I for 2 months and to pay a fine of Rs.5,000/- i/d to undergo R.I for 1 month for the offence u/s 148 IPC. A6 is already in custody from 11.03.2022 – 21.06.2022, 27.06.2022 to 22.07.2022 and hence the remand period already undergone by him is ordered to be set off under section 428 Cr.P.C. (Total fine Rs. 5,000/-)

A7 Leela @ Selvaleela is convicted and sentenced to undergo R.I for 2 months and to pay a fine of Rs.5,000/- i/d to undergo R.I for 1 month for the offence u/s 148 IPC. A7 is already in custody from 11.03.2022 – 30.05.2022 and hence the remand period already undergone by her is ordered to be set off under section 428 Cr.P.C. (Total fine Rs.5,000/-)

A8 Jackulin is convicted and sentenced to undergo R.I for 2 months and to pay a fine of Rs.5,000/- i/d to undergo R.I for 1 month for the offence u/s 148 IPC. A8 is already in custody from 11.03.2022 – 30.05.2022 and hence the remand period already undergone by her is ordered to be set off under section 428 Cr.P.C. (Total fine Rs.5,000/-)"

The trial Court found A6, A7 and A8 not guilty for the offences under



*R.T(MD)No.1/2025 & Cr1.A(MD)Nos.790,
921, 796, 786 & 418/2025*

Sections 302 r/w 149 and 506(ii) of IPC and acquitted them from the above charged offences. Aggrieved by the judgment and sentence imposed on them, the accused persons have filed criminal appeals and seeking confirmation of the death sentence awarded to A1, R.T(MD)No.1 of 2025 has been placed before this Court.

4. The learned State Public Prosecutor appearing for the complainant/police in R.T(MD)No.1 of 2025 explaining the previous enmity between the parties and motive behind the occurrence would submit that during the Panchayat elections, the deceased and one Raj Nadar were aligned in one political group, while the accused persons belonged to the rival group. Due to political rivalry, enmity intensified between both sides. The group of the deceased had murdered 4 brothers of A7 & A8. In the year 2012, the deceased had attempted to murder A8 (Jacqueline), for which, a case was registered against the deceased and his family members in Crime No.80/2012. Subsequently, in the year 2016, A1 to A3, A6 and A7 had attempted to murder one Perumal. The deceased had witnessed the incident and given a complaint to the police. The FIR has been registered in Crime No.78/2016 (Ex.P.33) against A1 to



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

A3, A6 and A7. An oral compromise was said to have been reached between the accused and deceased, wherein the parties agreed to maintain peace. Pursuant to this understanding, during the trial of Crime No.80/2012, no witnesses came forward to depose against the deceased, resulting in his acquittal in that case. However, the accused persons had allegedly warned the deceased not to testify against them in Crime No.78/2016. In spite of the said oral compromise, on 03.03.2022, the deceased gave his evidence in his chief examination against the accused persons. The case was adjourned to 10.03.2022 for cross examination of the deceased. On 10.03.2022, while the deceased was bathing in the canal, all the accused persons (A1 to A8) arrived at the spot. A6 to A8 stood on the bank of the canal and shouted, saying, "If we want to escape from the case, murder him!". Acting upon this instigation, A1 to A5 entered into the canal and attacked the deceased with billhooks (MO1 to MO5), inflicting multiple cut injuries on him, due to which, the deceased died on the spot. On the complaint-Ex.P1 of PW1-younger brother of the deceased, the FIR in Crime No. 56/2022 (Ex.P25) has been registered by PW16 (S.I) against the accused. Hence this case.



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

WEB COPY

5. The learned State Public Prosecutor would further submit that the prosecution has proved its case beyond reasonable doubt through PW1 to PW5-eye witnesses, confession, recovery, medical evidence and forensic evidence. The occurrence took place as per the complaint at 09.45 a.m., and FIR was registered at 11.00 a.m on the same day and express FIR was forwarded to the Judicial Magistrate Court No.III, Tirunelveli, at 01.45 p.m on the same day through PW14-Special Sub Inspector of Police, as such, there was no delay in registering the FIR and sending it to the Magistrate's Court. It is further submitted that the eye witnesses have stated specific overt act against each of the accused persons. He would further submit that the prosecution has proved the motive behind the occurrence through PW1 and PW2, where they have stated that in the year 2016, A1 to A3, A6 and A7 attempted to murder one Perumal and the deceased had witnessed the said incident and lodged a complaint against the accused persons. However, the accused threatened the deceased not to give evidence in the said case, but despite the same, the deceased gave his evidence in chief examination. Infuriated by the same, when the said case was posted for cross



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

WEB COPY
examination on 10.03.2022, the accused persons murdered the deceased while he was taking bath in the canal. The evidence of PWs.1 and 2 regarding motive is corroborated by PW3-neighbour. PW6 has also deposed that on 10.03.2022, while he was standing near a petty shop, he witnessed all the accused armed with billhooks proceeding towards the scene of occurrence in four motor cycles. The evidence of PW1 is corroborated by PW2 to PW5. PW7-son in law of the deceased also deposed that on 10.03.2022, while he went to the canal to take bath, he saw all the accused leaving the place in four motor cycles with billhooks and A2 holding the blood-stained billhook threatened the bystanders saying that he would kill any one who dared to testify as a witness to the murder of the deceased.

6. The learned State Public Prosecutor would further submit that the prosecution has proved the confession of A1 to A6 and recovery of materials through PW9, PW10 and PW11. PW13-Doctor who conducted postmortem on the body of the deceased and issued Ex.P20-postmortem certificate, has opined that the cause of death was shock and hemorrhage due to multiple deep cut injuries on the head and



R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025

neck regions. Ex.P31-Biological report issued by the Forensic Science department shows that human blood was detected in MO3 to MO5-billhooks and MO18-lungi. He would further submit that though the defence side raised a contention regarding Ex.P3-rough sketch stating that it mentions only the women's bathing space and does not indicate the men's bathing place, the prosecution has clearly established that the women's bathing space is situated on the northern side and the men's bathing place is situated on the southern side which has been marked as the scene of occurrence. Further, though the witnesses are said to be interested witnesses, their evidence is cogent and consistent with each other and also corroborated by the medical evidence. When the evidence of related eye witnesses is found to be reliable and supported by an independent witness and medical evidence, their evidence can be relied upon. In this context, the learned State Public Prosecutor has relied upon a judgment of the Hon'ble Supreme Court in *Baban Shankar Daphal and others vs. State of Maharashtra* reported in 2025 SCC Online SC 137 and *Ramji Singh and others vs. State of Uttar Pradesh* reported in (2020) 2 SCC 425. He would further contend that the postmortem certificate clearly states the time of death was



*R. T (MD) No. 1/2025 & CrI. A (MD) Nos. 790,
921, 796, 786 & 418/2025*

approximately 6 to 12 hours which corroborates the occurrence having taken place around 09.45 a.m.

7. Learned State Public Prosecutor would also submit that the trial Court rightly held that the aggravating circumstances outweigh the mitigating circumstances and the mitigating factors in general do not excuse or justify the commission of the crime but rather serve to explain the surrounding circumstances of the offenders enabling the court to decide between the imposition of death sentence and life imprisonment. Thus, the learned State Public Prosecutor would submit that there is no perversity in awarding death sentence to A1 by the trial Court and the judgment and sentence in respect of other accused also do not require interference by this Court. Accordingly, he would pray for confirmation of the death sentence to A1 and other sentences imposed on the appellants/accused.

8. The learned counsel for the appellant/A2 in CrI.A(MD)No.790/2025 would submit that A2 has been falsely implicated in this case; the specific overt act alleged against A2 and



*R. T (MD) No. 1/2025 & CrI. A (MD) Nos. 790,
921, 796, 786 & 418/2025*

recovery are fabricated; the trial Court erred in convicting A2 under Section 149 read with 302 of IPC when no explicit charge was framed against him under Section 149; there are inconsistencies in the testimonies of the eye witnesses regarding formation of unlawful assembly with the common object to murder the deceased; there was a delay in lodging and dispatching of FIR to the Magistrate's Court; the trial Court erred in rejecting Ex.D3-photographs depicting the body of the deceased floating in water on hyper-technical grounds related to Section 65-B of the Indian Evidence Act; Ex.D3 directly contradicts the prosecution's claim that the body was immediately lifted, thereby there is a serious flaw in the prosecution's case and the credibility of the eye-witnesses' evidence; charges under Sections 148 and 506(ii) IPC were not established by the prosecution and the trial Court by considering the contradictions in the eye-witnesses' evidence, fabricated nature of recoveries and the procedural infirmities in the investigation, ought to have acquitted the appellant/ A2 by giving benefit of doubt.

9. The learned counsel for the appellants in CrI.A(MD)No.921/2025 / A6 & A7 would submit that there is no direct



*R. T (MD) No. 1/2025 & CrI. A (MD) Nos. 790,
921, 796, 786 & 418/2025*

overt act against A6 & A7 and they were not part of the assault; mere presence at the scene of occurrence without participating or wielding weapons does not amount to rioting with deadly weapons unless a common object is clearly established; though PW1 to PW5 stated that A6 and A7 stood on the bank of canal and gave instructions to A1 to A5, those statements are not corroborated by any independent witness; even assuming those statements are true, mere verbal instigation without overt act is insufficient to satisfy the ingredients of Section 148 of IPC; the 161(3) statements of PWs.2 to 7 were sent to the Court after a delay of 3 months, hence they have been prepared as an afterthought in order to implicate the appellants herein; there were no bloodstains on the dresses worn by PW1 to PW5-eye witnesses and hence they cannot be the occurrence witnesses and therefore, the judgment and sentence of the trial Court is liable to be set aside.

10. The learned counsel for the appellants in CrI.A(MD)No.796/2025 / A5 would submit that; when A5 himself admitted his physical disability due to prior accident, his participation in the alleged assault of the deceased by billhook is improbable; A5 had no



*R. T (MD) No. 1/2025 & CrI. A (MD) Nos. 790,
921, 796, 786 & 418/2025*

personal animosity against the deceased or he had no knowledge regarding the occurrence in Crime No.78/2016, hence, the common motive attributed by the prosecution against all the accused is unsubstantiated; alleged confession of A5 and recovery is doubtful; the trial Court erred in convicting the appellant under Section 149 read with 302 of IPC when there was no specific charge framed against him; there are inconsistencies and contradictions in the testimonies of eye witnesses regarding the common object; there are discrepancies and delay in registration of the FIR and its dispatch; the trial Court erroneously rejected Ex.D3- photographs showing the deceased floating in water; the charges of criminal intimidation and rioting with deadly weapon are improbable due to A5's physical disability; the trial Court failed to appreciate the defence side arguments properly and there was overall mis-appreciation of evidence by the trial Court, thereby, the judgment and sentence of the trial Court is liable to be set aside.

11. The learned counsel for the appellants in CrI.A(MD)No.786/2025 / A1 would submit that the trial Court erred in convicting A1 under Section 149 read with 302 of IPC when there was no



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

specific charge framed against him; there is irreconcilable contradiction between ocular witnesses and documentary evidence; the evidence of PW5-Grade-II Police Constable that the police were informed of the incident by an informer and they reached the spot by 9.50 to 10.00 a.m., falsifies the evidence of PWs.1 and 2 who deposed otherwise; the time of arrival of police on the spot itself is contradicted by the police witnesses namely, PW15 and PW17, as such, there was manipulated investigation; as regards imposition of death sentence, the trial Court has mechanically applied the rarest of rare doctrine as laid down by the Hon'ble Supreme Court in Bachan Singh vs. State of Punjab; the trial Court failed to conduct a proper balancing exercise between the aggravating and mitigating circumstances as mandated by law; the judgment of the trial Court reflects pre-determined bias towards capital punishment on A1 despite the alleged collective nature of acts by other accused; the trial Court erred in placing reliance on concepts such as, collective conscience, society's cry and public abhorrence to justify the death sentence which are contrary to the objective standards laid down by the Apex Court; the prosecution failed to prove the ingredients of the offence under Section 294(b) IPC; the prosecution failed to prove the



*R. T (MD) No. 1/2025 & CrI. A (MD) Nos. 790,
921, 796, 786 & 418/2025*

specific intent, deliberate nature of the alleged threats which are essential elements under Section 506(ii) IPC; confession of A1-Ex.P12 and recovery of MO1-billhook and MO7-two wheeler is fabricated and stage-managed; the conviction and death sentence of A1 represents a gross violation of A1's fundamental rights guaranteed under Articles 14, 20 and 21 of the Constitution of India which reflects grave miscarriage of justice and A1 has been falsely implicated in a heinous crime and subjected to the extreme penalty of death which shocks the conscience and demands immediate judicial intervention and therefore, he would pray for setting aside the judgment and sentence of A1.

12. The learned Senior Counsel appearing for the appellants in CrI. A (MD) No. 418/2025/ A3, A4 and A8 would submit that there was a delay in dispatching FIR to the Magistrate's Court; for the charge under Section 149 IPC, there was no 313 questioning and there was no evidence at all; without framing the charge under Section 149 IPC, the trial Court erroneously convicted the appellants herein; though Ex.P1-FIR mentions PWs.1 and 3 to 5 alone are eye-witnesses, before the trial Court PW2-wife of the deceased also claimed as eye witness, but her



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

name was not mentioned in the FIR; though PW3 to PW5 are said to be the close relatives of the deceased, they did not save the accused; though they stated to have lifted the body of the deceased from the canal to the bank, their bloodstained dresses have not been recovered; PW15 specifically stated that sniffer dog as well as fire & rescue service department arrived at the scene of occurrence even at 09.50 hours, hence, once the sniffer dog has been summoned, the assailants are unknown persons and not the accused herein; if the evidence of PW15 and PW17- police witnesses are taken into consideration, then the testimonies of the eye-witnesses have to be thrown out since there are material contradictions between them; according to PW16-Sub Inspector of Police who registered the case, he received the complaint from PW1 at 11.00 a.m., on 10.03.2022, whereas, according to PW15, police were present on the spot at 09.45 p.m, much before registration of the complaint which creates serious doubt over the genesis of the prosecution's case; the statements of PWs.2 to 5 reached the court on 06.06.2022 with the delay of 3 months which goes to show that the eye-witnesses are only cooked-up witnesses and hence, the conviction of the trial Court is erroneous and without sufficient evidence, hence, it is liable to be set aside.



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

WEB COPY

13. The learned State Public Prosecutor appearing for the respondent/police in all the criminal appeals would submit that it is a case of brutal murder committed by the appellants in order to escape from the clutches of law by preventing the deceased from giving evidence in a pending case against the appellants for the offence under Section 307 IPC; the purpose of attack is shocking conscience of the society at large; if appellants are allowed to go scot-free or if they are imposed with minimum sentence, in future no witness will come forward to give evidence before the Court against any person in cases of like nature; if the law enforcing agency is not able to ensure major punishment to such accused and if the court is not able to safeguard the witnesses, it will create fear in the minds of the witnesses; PWs.1 to 5 who are the prime eye-witnesses have corroborated the medical evidence namely, Ex.P20-postmortem certificate and the evidence of PW13-postmortem doctor who has stated the ante-mortem injuries and cause of death of the deceased; the accused 1 to 6 made confession statements, based on which, recovery was also effected and based on the evidence of the eye-witnesses and also the medical evidence, the trial



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

Court convicted all the appellants and sentenced them as stated above;

all the appellants are also history-sheeters; taking note of the shocking purpose for which the deceased was brutally murdered, the trial Court held that it is a rarest of rare case and rightly awarded death sentence to A1 though sentence to death is exceptional; considering the motive which was shocking conscience of the society, minimum sentence of life in this case will not meet the ends of justice; it is not only the offence committed by appellants against the individual, but also against the Society at large; in cases of this nature, if the accused are able to succeed by taking away the life of the witnesses either by preventing them from coming to the court for giving evidence or insist them to turn hostile not to support the prosecution case, then the criminal justice delivery system itself will be defeated and the real culprits will escape easily from the clutches of law for having committed the offence of brutal murder, gang rape or gang murder for gain or political vengeance etc; despite the prosecution or the State is safeguarding the witnesses, there are cases where the offenders / their men in order to prevent the witnesses from giving evidence against them, attack the witnesses even in the court premises or when they stand in the witness box to give evidence which



*R.T(MD)No.1/2025 & Cr1.A(MD)Nos.790,
921, 796, 786 & 418/2025*

is very dangerous and will also create fear in the minds of the public; if that situation is allowed to be continued, no common man even if he/she witnessed the crime like the case on hand, will tender evidence out of fear that is created in their minds by virtue of such arrogant activities of the accused resulting in the defeat of criminal justice delivery system; the trial Court rightly considering the facts and circumstances of the case and also the overall evidence placed before it, found that the case on hand falls under the rarest of rare case; considering the fact that since A1 instigated all the other accused and A2 to A5 also joined along with A1, attacked the deceased with deadly weapons simultaneously and indiscriminately, due to which, the deceased sustained 16 multiple cut injuries resulting his instantaneous death in the canal itself, the trial Court convicted and sentenced the accused as stated above.

14. The learned State Public Prosecutor would further submit that though the appellants/accused contended that despite the witnesses are being relatives and friends, they did not make any attempt to prevent the attack, safeguard the deceased, as such, the presence of



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

the witnesses is highly doubtful, PWs.1 to 5 have clearly stated that when they attempted to prevent the occurrence, the appellants/accused threatened them with dire consequences by rotating the billhooks; when the appellants numbering 8 persons armed with deadly weapons all of a sudden came to the spot and get into the canal and assaulted the deceased simultaneously, it is not possible for the eye-witnesses who were also undressed and taking bath in the same canal, to prevent the occurrence, hence, the above contention of the appellants is not acceptable; the prosecution also proved the motive behind the occurrence that the accused earlier warned the deceased not to give evidence against them in S.C.No.57/2018 registered for the offences under Sections 147, 148, 307 and 342 of IPC where the deceased was the prime eye-witness, despite that, the deceased gave evidence in the chief examination on 03.03.2022 and the case was posted to 10.03.2022 for cross examination of the deceased; in order to prevent the deceased from giving evidence against the accused during cross examination, all the accused conspired together and murdered the deceased in the morning of 10.03.2022; the trial Court elaborately discussed the facts and circumstances of the case, appreciated the entire evidence in proper



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

perspective and also considered Section 195A of IPC as well as the Witness Protection Scheme, and held that it is one of the rarest of rare case where the maximum sentence of death should be given to the prime accused/A1 and life sentence to A2 to A5 and ordered accordingly; as per Section 366 of the Code of Criminal Procedure, the sentence to death imposed by the trial Court is subject to confirmation by the High Court; this Court considering the overall evidence and the manner in which brutal murder was taken place, should confirm the death sentence of A1 and the sentences of other accused. Thus, the learned State Public Prosecutor prayed for confirmation of death sentence and dismissal of the criminal appeals.

15. Heard both sides and perused the records.

16. The specific case of the prosecution is that there was enmity between the accused persons and the deceased since the deceased despite the warning of the accused not to give evidence, gave evidence in his chief examination against the accused persons in S.C.No. 78/2016 on the file of the Principal Sub Court, Tirunelveli. Enraged by



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

the said act of the deceased and in order to prevent the deceased from giving evidence against the accused during the cross examination, A1 along with other accused armed with billhooks, arrived at the spot at 9.45 a.m., on 10.03.2022, and A1 to A5 got into the canal and A6 to A8 stood on the bank and were commanding A1 to A5 to kill the deceased and accordingly A1 to A5 attacked the deceased simultaneously and indiscriminately causing multiple cut injuries to the deceased resulting his instantaneous death on the canal itself. When PW1/younger brother of the deceased tried to stop the accused persons, they threatened him by rotating the billhook and stating that if he interfered, they will kill him and then they left the place of occurrence in their motor cycles. On the complaint of PW1, the respondent/police registered the FIR in Crime No.56/2022. After completing the investigation, the respondent/police laid charge sheet before the Magistrate's Court. After completing the formalities, the case was taken up on file in S.C.No.119 of 2023 on the file of the II Additional Sub Court, Tirunelveli. The trial Court framed the charges against A1 for the commission of offences under Sections 148, 294(b), 302 and 506(ii) of IPC, against A2 to A5 for the offences under Sections 148, 302 and 506(ii) of IPC and against A6 to A8 for the offences



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

under Sections 148, 302 read with 149 and 506(ii) of IPC. In order to substantiate the case during trial, on the side of the prosecution, totally 17 witnesses were examined as PW1 to PW17 and 36 documents were marked as Exs.P1 to Ex.P36, besides 16 material objects were exhibited as MO1 to MO16. On the side of the defence, one witness was examined as DW1 and three documents were marked as Ex.D1 to Ex.D3.

17. The evidence of PW1/brother of the deceased shows that during 2016, there was an attempt by A1 to A3, A6 and A7 herein to take away the life of one Perumal which was witnessed by the deceased and he gave a complaint to police station which was ultimately taken on file in S.C.No.57/2018 on the file of the Principal Sub Court, Tirunelveli, for the offences under Sections 147, 148, 307 and 342 of IPC where the deceased was the prime witness. In the said case, the deceased was examined in chief on 03.03.2022 and the case was posted to 10.03.2022 for cross examination of the deceased. On 10.03.2022, the deceased along with his wife/PW2 went to the canal for taking bath. PW1 along with PW3/Mariraj also went to the canal following the deceased for taking bath. The deceased stating that he has to go to Court for giving



R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025

evidence and therefore, he has to take bath quickly, undressed himself and got into the water for taking bath and PW2 was washing clothes on the bank of the canal. At that time, Mayilnathan, PW5/Subash, PW4/Barath, Backiyaraj and Arumugam were also taking bath in the said canal. At that time, all the accused arrived at the scene of occurrence and A6 to A8 were standing on the bank of the canal and commanding A1 to A5 stating that if we want to escape, murder the deceased. Accordingly, A1 saying that "தேவடியா மகனே நீ உயிரோடு இருந்தால் தானே சாட்சி சொல்வாய்" attacked the deceased with billhook on the left side neck of the deceased, A2 Anthoniraj @ Prapakaran attacked with billhook on the center of the skull and right forearm of the deceased, A3 attacked with billhook on the back of skull and right leg foot of the deceased, A4 attacked with billhook on the backside of the deceased from the left side to right side and left side shoulder of the deceased, A5 attacked with billhook on the right leg foot and right side back of the deceased causing a curved gapping heavy cut injury therein. PW1 further deposed that since the accused threatened him saying if he comes to prevent them, they will attack him, PW1 was not able to prevent the attack and thereafter the accused left from the



R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790, 921, 796, 786 & 418/2025

place of occurrence in 4 motor cycles by rotating the billhooks above their heads. Immediately, PW1 along with other witnesses lifted the body of the deceased, at that time, the deceased was not alive. PW1 and PW2 asked Mayilnathan to be present in the spot and they left to police station for giving complaint. Both PW1 and PW2 asked one Sumal Singh to write a complaint, in which both PW1 and PW2 signed and gave it to the Inspector of Police which has been marked as Ex.P1. PW1 identified MO1-billhook possessed by A1, MO2-billhook possessed by A2, MO3-billhook possessed by A3, MO4-billhook possessed by A4 and MO5-billhook possessed by A5.

18. PW2 to PW5-eye witnesses corroborated the evidence of PW1. The evidence of PW1 to PW5 shows that they have also named all the accused with specific overt act against each of them. They have also stated the motive behind the occurrence. The motive itself is a shocking one that is, to prevent the deceased from giving evidence against the accused in another case, the appellants attacked the deceased brutally causing multiple gapping heavy cut injuries resulting instantaneous death of the deceased in the canal. The prosecution has clearly proved the motive by oral and documentary evidence.



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

WEB COPY

19. Though the learned counsel for the appellants/accused contended that despite PW1 to PW5 being close relatives of the deceased, they did not make any effort to save the deceased, as such, their presence in the scene of occurrence itself is highly doubtful, when all the accused armed with deadly weapons arrived at the scene of occurrence unexpectedly, got into the canal, surrounded the deceased and assaulted him simultaneously and indiscriminately, an ordinary prudent man cannot respond immediately to safeguard the deceased that too in the water. Further, A6 to A8 were also standing on the bank of the canal commanding A1 to A5 to attack the deceased and therefore, one cannot expect the eye witnesses to prevent the attack. Mere fact that the witnesses did not save the deceased will not lead to disbelieve their evidence and doubting their presence in the scene of occurrence. Reading of Ex.P1-complaint shows that there was enmity between the appellants and the deceased and in order to prevent the deceased from giving evidence in another case pending against the accused, the present crime was committed.



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

WEB COPY

20. PW16-Sub Inspector of Police deposed that he received the complaint regarding the occurrence at 11.00 a.m., from PW1, at that time, PW2 was also present in the police station. Based on the complaint, he registered the FIR. PW17/Inspector of Police is the investigating officer in this case. Pursuant to the complaint of PW1, he went to the occurrence spot at 12.00 p.m and recovered the material objects under Mahazars in the presence of the witnesses. PWs.5, 8 and 9 are Mahazar witnesses. Thereafter, the appellants were arrested and in the presence of PWs.9, 10 and 11. PW9 also stated that on 11.03.2022 at 12.00 p.m., when he along with one Rasaiya were coming on Tuticorin road in a motorcycle, the police officials were conducting vehicle check-up, at that time, a green colour Tata Qualis car came from the northern side and A6 drove the car and when he tried to escape, the police arrested him. The police also arrested A5, A7 and A8 who were also travelled in the said car. Thereafter, A6 made a statement to the police, in which, PW9 and Rasaiya stood as witnesses and then the police seized MO16-Tata Qualis Car. A5 also made a confession statement based on which, a two wheeler and a billhook were recovered under a Mahazar in



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

which PW9 and Rasaiya stood as witnesses. The evidence of PW10 shows that he identified A3 and A4 and the police arrested them. During enquiry, A3 and A4 voluntarily gave confession statement and PW10 stood as a witness to the said confession. Based on the confession, the police recovered a two wheeler and a billhook under a Mahazar, in which, PW10 and his friend Prem stood as Mahazar witnesses. The evidence of PW11 shows that on 20.04.2022 at 07.00 a.m., the police arrested A1 and A2 and they made confession statements in which PW11 stood as witness and based on the confession, the police recovered a two wheeler and a billhook under a Mahazar, in which, PW11 and his friend Ganesan stood as Mahazar witnesses. Thus, from the evidence of PW9 to PW11, the prosecution has proved the arrest, confession and recovery. The admissible portion of the confession statements made by A1 to A6 were marked as Exs.P4, P6, P8, P10, P12 and P13.

21. The doctor who conducted the postmortem on the body of the deceased was examined as PW13. He has clearly stated that there were 16 cut injuries on the body of the deceased and issued Ex.P20- postmortem certificate which shows the following ante-mortem injuries



R.T(MD)No.1/2025 & Cr1.A(MD)Nos.790,
921, 796, 786 & 418/2025

on the body of the deceased:

WEB COPY

1) A curved inverted 'c' shaped gapping heavy cut injury of size 30 x 1.5cm x Brain deep extending from right temporal to left temporal region passing through right and left parietal region.

2) A vertical cut injury of size 7 x 1/2 x 1/4cm lies behind injury No.1. Underlying scalp found cut.

3) A curved gapping heavy cut injury of size 13 x 1.5cm x Brain deep noted in left side of occipital region behind left ear. Underlying scalp, skull bone and brain found cut.

4) A curved gapping heavy cut injury of size 10 x 1 x 3 cm noted in upper part of back of neck. Underlying soft tissue found cut.

5) A curved gapping heavy cut injury of size 10 x 1 x 3cm lies 2cm below injury no.4. Underlying soft tissue found cut.

6) An oblique cut injury of size 4 x 1 x 1cm lies 1cm below right end of injury no.5. Underlying soft tissue found cut.

7) An oblique gapping heavy cut injury of size 20 x 2 x 5 cm lies 2cm below injury No.5. Underlying soft tissue, cervical vertebra and spinal cord found cut.

8) A flapping cut injury of size 7 x 4 x 1cm



WEB COPY



R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025

over top of left shoulder. Underlying soft tissue found cut.

9) A horizontal gapping heavy cut injury of size 33 x 3 x 4 to 5 cm over upper part of back. Underlying soft tissue found cut.

10) An oblique gapping cut injury of size 19 x 3 x 2 cm over right side of back lies 2cm below injury No.9 with a tail of length 4cm in its medial end. Underlying soft tissue found cut.

11) An incised wound of length 10cm noted in right side of back. It is in line with injury No.10.

12) An oblique cut injury of size 3 x 1 x 1 cm lies in left side of back. It lies 14cm below injury No.9. Underlying soft tissue found cut.

13. An oblique cut injury of size 5 x 0.5 x 0.5 cm lies in right side of back. It lies 7 cm below injury No.10. Underlying soft tissue found cut.

14. An oblique cut injury of size 7 x 2 x 1 cm lies in upper part of back of right upper arm. It is having a tail of length 5 cm in its outer aspect.

15. A horizontal gapping cut injury of size 4 x 1 x 2 cm lies in back of lower part of right leg. Underlying soft tissue and right fibula bone found cut.

16 A vertical gapping cut injury of size 7 x



R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025

WEB COPY

*1 x 1cm in outer aspect of right foot. Underlying
tendons found cut."*

The opinion of the doctor shows that the deceased appears to have died of shock and Haemorrhage due to heavy cut injury on the head and neck and injury numbers 1, 3 and 7 are fatal in nature. Death would have occurred 6 to 12 hours prior to the postmortem examination. The evidence of PW1 to PW5-eye witnesses shows that all the above said injuries were caused by A1 to A5 at the time of occurrence with billhooks. The ante-mortem injuries found in Ex.P20-postmortem certificate are tallied with the evidence of eye-witnesses PW1 to PW5.

22. Though the learned counsel for the appellants argued that the presence of PW1 to PW5 in the scene of occurrence is highly doubtful, from the evidence of PW1 and PW2, it is seen that they are brother and wife of the deceased. PW3 is the friend of PW1. PW4 and PW5 used to take bath in the canal regularly and on the date of occurrence, when they were taking bath, the deceased was also taking bath at a distance 15 feet. When PW4 and PW5 tried to save the



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

deceased, the appellants threatened them with dire consequences showing billhooks. On a careful reading of the evidence of PW1 to PW5 and also the reasons stated by the witnesses for their presence in the scene of occurrence, there is no doubt arisen in the mind of the Court regarding their presence. PWs.1 to 5 also made specific overt act against each of the accused which is tallied with doctor evidence PW13 and corroborated by Ex.P20-postmortem certificate.

23. As far as motive behind the occurrence is concerned, the prosecution has stated that during the Panchayat elections, the deceased Vaikundam and one Raj Nadar were aligned in one political group, while the accused persons belonged to the rival group. Due to the political rivalry, there was enmity between both groups. The group of the deceased had murdered the 4 brothers of A7 & A8. In the year 2012, the deceased had attempted to murder A8 (Jacqueline), for which, a case was registered against the deceased and his family members in Crime No.80/2012. Subsequently, in the year 2016, A1 to A3, A6 and A7 had attempted to murder one Perumal. The deceased had witnessed the incident and given the complaint. The FIR had been registered in Crime



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

No. 78/2016 (Ex.P.33) against A1 to A3, A6 and A7. Thereafter, an oral compromise was said to have been reached between the accused and deceased, wherein the parties agreed to maintain peace. Pursuant to this understanding, during the trial of Crime No.80/2012, no witnesses came forward to depose against the deceased, resulting in his acquittal in that case. However, the deceased had chosen to give evidence against the accused in Crime No.78/2016 on 03.03.2022 in spite of the said oral compromise. Hence, in order to prevent the deceased from giving evidence against the accused persons during the cross examination on 10.03.2022, the present crime has been committed murdering the deceased in the canal while he was taking bath. Thus, the prosecution has proved the motive behind the occurrence.

24. Though the learned counsel for the appellants contended that there are contradictions regarding the time of giving complaint, registration of FIR and presence of the investigating officer on the spot, such contradictions are only minor contradictions which will not go to the root of the prosecution case. As regards the contention of the appellants that since the sniffer dog has been summoned in this case,



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

the assailants are unknown persons and not the accused herein, it is for the investigating agency to adopt the course of search. Merely because the sniffer dog has been utilised for tracing the absconding accused and also to find out the weapons used for attack, that may not be a reason to totally throw away the prosecution case. It is a settled proposition that the lapse on the part of the investigating agency or defective investigation will not be a sole ground to disbelieve the entire prosecution case. In this case, motive has been clearly established through the oral and documentary evidence. PWs.1 to 5/occurrence witnesses have clearly stated about the occurrence and their evidence is corroborated with each other. Further, the arrest, confession and recovery have also been established by the prosecution through the independent witnesses and based on the confession, materials were discovered and admissible portion of the confession statements were also marked before the Court. The appellants in this case are known persons identified by the eye-witnesses. The trial Court rightly appreciated the oral and documentary evidence and convicted the appellants for the charged offences. The contradictions and discrepancies cited by the counsel for the appellants are only minor



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

contradictions which will not affect the prosecution case. While re-appreciating the evidence of eye-witnesses, we find that the evidence of PW1 to PW5 are cogent, consistent and reliable which inspires the confidence of this Court. The prosecution has proved its case beyond reasonable doubt. Hence, this Court finds no reason to interfere with the judgment and sentence imposed by the trial Court. Accordingly, all the Criminal Appeals are liable to be dismissed and accordingly dismissed.

25. As far as the case of Referred Trial is concerned, considering the serious nature of the offence and also finding that the purpose behind the offence was shocking, the trial Court awarded death sentence to A1 who instigated the other accused to murder the deceased. As per Section 366 of the Code of Criminal Procedure, when a Court of Session passes a death sentence, the proceedings must be submitted to the High Court for confirmation and the death sentence cannot be carried out until the High Court confirms it. Now this Court has to see whether the death sentence imposed by the trial Court is proportionate to the gravity of the charges levelled against A1 and whether the present case on hand falls under the rarest of rare case to impose the extreme punishment of death sentence.



*R. T (MD) No. 1/2025 & CrI. A (MD) Nos. 790,
921, 796, 786 & 418/2025*

WEB COPY

26. In **Bachan Singh v. State of Punjab (1980) 2 SCC 684**,

the Hon'ble Supreme Court upheld the constitutionality of the death penalty but established the "rarest of rare" doctrine for its imposition. This principle states that the death sentence can only be given in the most exceptional cases, after considering all aggravating and mitigating factors. The court ruled that while the death penalty is not unconstitutional, it should be the exception, not the rule, for the gravest crimes. The Supreme Court established that courts must consider both aggravating and mitigating circumstances when deciding on a death sentence. Aggravating factors includes the crime's gravity, its shocking nature, and the offender's extreme culpability. Conversely, mitigating circumstances involve factors related to the offender, such as their age, background, motive, and the possibility of reform. This approach requires a balancing act before a death sentence can be imposed, which should be reserved for the "rarest of rare" cases where life imprisonment is not a viable alternative. A real and abiding concern for the dignity of human life postulates resistance to taking a life through law's instrumentality. That ought not to be done save in the rarest of rare



R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025

cases when the alternative option unquestionably foreclosed. At this juncture, it is relevant to extract below the guidelines indicated in Bachan Singh's case (supra) that have to be culled out and applied to the facts of each individual case where the question of imposing of death sentence arises:

(i) the extreme penalty of death need not be inflicted except in gravest cases of extreme culpability;

(ii) Before opting for the death penalty the circumstances of the 'offender' also require to be taken into consideration alongwith the circumstances of the 'crime'.

(iii) Life imprisonment is the rule and death sentence is an exception. In other words death sentence must be imposed only when life imprisonment appears to be an altogether inadequate punishment having regard to the relevant circumstances of the crime, and provided, and only provided the option to impose sentence of imprisonment for life cannot be conscientiously exercised having regard to the nature and circumstances of the crime and all the relevant circumstances.

(iv) A balance sheet of aggravating and mitigating circumstances has to be drawn up and in doing so the mitigating circumstances has to be accorded full weightage and a just balance has to be struck between the aggravating and the mitigating circumstances before the option is exercised.'



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

WEB COPY

27. In this case, admittedly as elaborately discussed, there was a previous motive between the appellants and the deceased on various occasions. It is seen that there were two groups namely, the appellants and the deceased. Due to political rivalry, there was enmity between both the groups. The group of the deceased had murdered the 4 brothers of A7 & A8. In the year 2012, the deceased had attempted to murder A8 (Jacqueline), for which, a case was registered against the deceased and his family members in Crime No.80/2012. Subsequently, in the year 2016, A1 to A3, A6 and A7 had attempted to murder one Perumal. The deceased had witnessed the incident and given the complaint. The FIR had been registered in Crime No.78/2016 (Ex.P.33) against A1 to A3, A6 and A7. Thereafter, as per the oral compromise entered into between the accused and deceased to maintain peace between the parties, during the trial of Crime No.80/2012, no witnesses deposed against the deceased which resulted his acquittal in that case. However, on 03.03.2022, the deceased in his chief examination gave evidence against the accused in Crime No.78/2016 (S.C.No.57/2018) in spite of the said oral compromise. Hence, in order to prevent the deceased from giving evidence against the accused persons during the



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

day of cross examination namely, 10.03.2022, the present crime has been committed by the appellants when the deceased was taking bath in the canal. The purpose for which the deceased was brutally murdered that too on the date of hearing prior to go to the Court for giving evidence, is shocking conscience of the Court. If this situation is allowed to prevail, in all cases, the no witnesses will come forward to give evidence out of fear caused in their minds through such incidents. In this case, the appellants are notorious criminals involved in several cases and some of the accused are also stated to be history sheeted criminals. Under such circumstances, this Court finds that Section 195A of IPC will come into force in this case. As far as the present case is concerned, deceased was threatened by the accused persons not to testify against them in S.C.No. 57/2018 which is nothing but an offence under Section 195A of IPC and further the deceased did not heed to the threats of the accused persons and he proceeded to testify against them in the S.C.No.57/2018 and hence A1 to A5 in order to wreck vengeance and also to prevent him from appearing before the Court for the cross examination on 10.03.2022, they have brutally murdered him in a broad day light and such a brutal act of murdering the witness from preventing him to appear in Court



R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025

and testify should be viewed as an attack against the justice dispensation system since it is only through witnesses the Court can know the truth and preventing the witnesses from testifying before the Court by murdering them is not an ordinary crime, whereas, it should be termed as a rarest of rare offence and further by murdering the deceased, A1 to A5 have instilled terror in the minds of the remaining witnesses. Even in the year 2018, the Witness Protection Scheme was established. The object of its enactment is to protect the witness from injury either to his person or reputation of any one in whom that person is interested.

28. We have carefully weighed the aggravating and mitigating circumstances, in the light of the sentencing framework delineated in the judgments of Hon'ble Supreme Court in *Bachan Singh Vs. State of Punjab* [(1982) 3 SCC 24] and *Machhi Singh Vs. State of Punjab* [(1983) 3 SCC 470] and the subsequent precedents. From a careful analysis of the above aggravating and mitigating circumstances, this Court comes to the irresistible conclusion that this case falls within the category of "rarest of rare cases" warranting imposition of death sentence on A1 for the offence under Section 302. As rightly held by the



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

trial Court, by murdering the deceased, A1 to A5 have instilled terror in the minds of the remaining witnesses in S.C.No.57/2018. If such acts of the accused are not punished by giving major punishment of death sentence, in future, in every case, no one will come forward to stand as witness and the very object and purpose of Witness Protection Scheme 2018, itself will be defeated. There is no quarrel over the propositions laid down in the judgments cited by the learned counsel for the appellants. As already stated, the contradictions cited by the appellants are not material contradictions which will go to the root of the prosecution's case. Hence, those judgments will not be applicable to the facts of the present case on hand. Accordingly, the death sentence imposed by the trial Court is confirmed and the same shall be carried out as directed by the trial Court.

29. In the result, Referred Trial is allowed as prayed for.

All the Criminal Appeals are dismissed.

[P.V, J.] [L.V.G, J.]
28.11.2025

Index : Yes / No
Neutral Citation : Yes / No



*R. T (MD) No. 1/2025 & Cr1.A (MD) Nos. 790,
921, 796, 786 & 418/2025*

bala

WEB COPY

To

1. The II Additional Sessions Judge (PCR) (FAC),
Tirunelveli.

2. The Inspector of Police,
The Inspector of Police,
Tirunelveli Taluk Police station,
Tirunelveli District.

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.



WEB COPY



*R.T(MD)No.1/2025 & Cr1.A(MD)Nos.790,
921, 796, 786 & 418/2025*

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

bala

PRE-DELIVERY COMMON JUDGMENT MADE IN
R.T(MD)No.1 of 2025
and
Cr1.A(MD)Nos.790, 921, 796, 786 & 418 of 2025

DATED : 28.11.2025