



Crl.A(MD)Nos.263 of 2021 & 263 of 2022

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**Reserved on : 11.03.2025**

**Pronounced on : 02.04.2025**

**CORAM :**

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**

**AND**

**THE HONOURABLE MS.JUSTICE R.POORNIMA**

Crl.A(MD)Nos.263 of 2021

and

Crl.A.(MD).No.263 of 2022

**Crl.A.(MD).No.263 of 2021**

Raja

... Appellant/Accused No.1

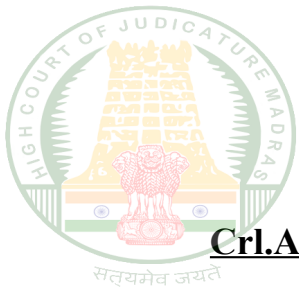
Vs.

State Represented by  
The Inspector of Police,  
Srivaigudam Police Station,  
Thoothukudi District.  
(Cr.No.246 of 2014)

...Respondent/Complainant

**PRAYER:** Criminal Appeal filed under Section 374 of the Criminal Procedure Code to call for the entire records connected to the Judgment in S.C.No.145 of 2017 on the file of the I Additional District and Sessions Judge, Thoothukudi dated 22.03.2021 and set aside the conviction and sentence imposed against the Appellant.

|                |                                                          |
|----------------|----------------------------------------------------------|
| For Appellant  | : Mr.R.Anand<br>Senior Counsel<br>for Mr.Pon Karthikeyan |
| For Respondent | : Mr.S.Ravi,<br>Additional Public Prosecutor             |



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... Appellant/Accused No.2

Vs.

State Represented by  
The Inspector of Police,  
Srivaigudam Police Station,  
Thoothukudi District.  
(Cr.No.246 of 2014)

...Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374 of the Criminal Procedure Code to call for the entire records connected to the Judgment in S.C.No.145 of 2017 on the file of the I Additional District and Sessions Court, Thoothukudi dated 22.03.2021 and set aside the conviction and sentence imposed against the Appellant.

For Appellant : Mr.R.Mathiyalagan

For Respondent : Mr.S.Ravi  
Additional Public Prosecutor

**COMMON JUDGMENT**

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

These Criminal Appeals are filed against the conviction and sentence passed against the appellants/Accused Nos.1 & 2 in the judgment dated 22.03.2021 passed by the Ist Additional District and Sessions Court, Thoothukudi in S.C No. 145 of 2017 by convicting and

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sentencing the appellants for the offences punishable under Sections 449, 302 and 380 of IPC and sentenced them to undergo rigorous imprisonment for five years and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for three months for the offences punishable under Section 449 of IPC and sentenced to undergo Life imprisonment and to pay a fine of Rs.2,000/- in default to undergo simple imprisonment for three months for the offence U/s.302 of IPC and sentenced to undergo rigorous imprisonment for five years and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for three months for the offence u/s.380 of IPC.

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

(a) The complainant is the husband of the deceased Gomathi. He was living with his wife Gomathi at Teppakulam Street, Srivaikuntam. On 17.06.2014, he left the house at 09.00 a.m. to visit Utchimahaliyamman Temple to conduct a special prayer, while his wife remained alone in the house. He returned to the residence at 06.00 p.m. and found that the second and third room's doors were open, and the television was switched on. Upon entering the fourth room, he found his wife's dead body in a pool of blood with a deep cut injury on her front neck 10 sovereigns of Mangalsuthra and 1 sovereign gold stud were

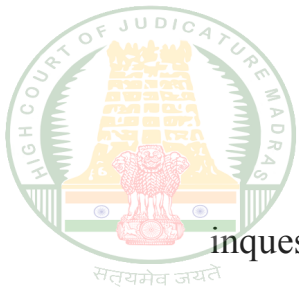


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found missing. The studs had been cut and removed from her ears. He suspects that someone killed his wife for jewels worth about Rs. 2,40,000/-.

(b) He lodged complaint (Ex.P1) before the Srivaikuntam Police Station and the same was received by Ms.Dhanalakshmi, Sub Inspector of Police (P.W.14) who registered FIR in Crime No.246 of 2014, for the offences punishable under sections 302 & 380 of IPC (Ex.P.11). She forwarded the original FIR to the Judicial Magistrate, Srivaikuntam through Special Sub Inspector Mr. Ananthamuthuraman at 20.45hrs and forwarded the copies to other officials. A copy was sent to the Inspector of Police, Srivaikuntam (P.W.18) for investigation.

(c) The Inspector of Police (P.W.18), Srivaikuntam after receipt of the FIR, went to the place of occurrence, prepared observation mahazar (Ex.P2) and Rough Sketch (Ex.P15) in the presence of witnesses Sankaranarayanan and Subramanian, he recovered blood stained earth (M.O.19) and ordinary Earth (M.O.20) in the presence of the same witnesses at 21.40 hrs under recovery mahazar (Ex.P.3). He conducted inquest on the dead body in the presence of Panchayathars Krishnaiyyar, Revathi, Ganapathysankara Narayanan and prepared



inquest report under Ex.P16.

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(d) On 18.06.2014, he recorded the further statement of P.W.

1 and his daughter Lalitha, his son-in-law Raja Ramasami and recorded their statements. He also examined the neighbours and recorded their statements.

(e) Dr. Athishiyamani, (P.W.15) conducted post-mortem on the dead body and found the following injuries;

*External injuries*

1. *cut injury in left ear lobe about 2cm (ear lobe divided),*
2. *deep cut injury over the anterior aspect of neck from 5 cm below right side of angle of mandible, 10cm below the chin, to 5cm below the right mastoid of size (20x7x5cm) exposing muscle, throat major vessels, throat separated just below hyoid cartridge.*
3. *Abrasion 5x5cm over the left side wall of the chest*

*Internal injuries:*

*Opening of thorax: No bone injury, lungs congested, petechial haemorrhage present over the lungs. Hyoid bone: intact. Stomach 500ml of undigested food materials. Heart normal in size, chambers empty. Liver normal size congested, Kidneys – pale. Intestine*



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*distended with gas, Uterus: normal empty on cut section. Head: Hematoma 6x6cm over the occipital side of the scalp, no bone injury, membrane intact, no intra cerebral haemorrhage, Spinal column no fracture / dislocation.*

*Cause of death: Death due to shock and haemorrhage, due to injuries sustained.*

(f) P.W.15 issued the post-mortem report (Ex.P.13). After receipt of post-mortem report, the dresses of the deceased viz., Saree, Blouse, ash colour skirt and inner wear were collected by the Grade I Constable Hari Haraputhiran (P.W.11) and handed over the same to the investigating officer in Form-95.

(g) The Investigation Officer examined other witnesses and recorded their statements. During investigation, he found that some other jewels worth of Rs.5,55,000/- and LG phone of deceased were also found missing . The witnesses informed that somebody came to the house for repairing AC and they would have committed the offence.

(h) On 18.06.2014 at about 21.00 hours while conducting the vehicles checkup, the police officials stopped a motorcycle bearing



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registration No.TN 67 M 5104 Bajaj CT 100 coming from north to south

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in which the accused were travelling. Upon enquiry A1 and A2 confessed about the crime and therefore the investigating officer arrested them in the presence of Mr. Sankarasubramanian, VAO and Sivasubramanian, Village Assistant. Their confession statement was also recorded under Ex.P18 and Ex.P19 in the presence of same witness. Based on the confession. He recovered blood stained knife and blood stained shirt, jewels M.O1 to M.O17 stolen from the house of P.W.1, and a toolkits bag from the vehicle TN 67 M 5104, Bajaj CT 100 bike, blood stained sandal colour shirt of A1 in the presence of witnesses under recovery mahazar Ex.P6 to Ex.P8

(i) The Investigation Officer came to the police station with the accused and the material objects at about 1.45 p.m, handed over the accused for remand. He informed the arrest of the accused to the P.W.1 and his daughter. A1 was identified by P.W.1 and stated that he came to his house for repairing the AC and identified the jewels stolen from his house.

(j) He sent the material objects through form-95 to the Judicial Magistrate Court. He also examined other witnesses and



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recorded their statement. He sent requisition letter to the Chief Judicial Magistrate, Sathankulam to conduct identification parade. On 27.06.2014 at Central Jail, Palayamkottai, the Judicial Magistrate No-II, Sathankulam conducted the identification parade.

(k) On 14.07.2014, he sent a requisition letter through Head Constable Mr.Murugan to the learned Judicial Magistrate, Srivaikuntam with a request to send the material objects for chemical analysis.

(l) On 17.07.2014, he recorded statement of other witnesses and on 21.07.2014 after completion of the investigation, filed a final report for the offences punishable under sections 449, 302, 380 of IPC.

(m) After receipt of the final report, the learned Judicial Magistrate, Srivaikuntam, taken up the case in PRC.No.79 of 2014 and he had issued summons to the accused. After appearance of the accused he had issued the copies to the accused free of cost under section 207 of Cr.P.C. Since the offence is exclusively triable by the Sessions Court, the learned Judicial Magistrate committed the entire case records to the learned Principal District Judge, Thoothukudi, whereas the Principal District Judge after receipt of the same, made over to the learned



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I Additional District Judge, Thoothukudi for disposal according to the

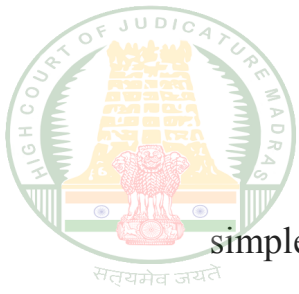
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(n) After receipt of the case, the I Additional District Judge, after hearing the prosecution and the defense counsel framed charges against the accused under sections 449, 302 r/w.380 of IPC and questioned the same to the accused. The accused denied the charges and claim to be tried.

(o) The matter was posted for trial. On the side of the prosecution P.W.1 to P.W.18 were examined, Ex.P.1 to Ex.P.19 were marked and M.O.1 to M.O.28 were produced, on the other side of the defense no documents produced, no witnesses examined.

(p) After full trial the I Additional District Judge held the 1<sup>st</sup> and 2<sup>nd</sup> accused found guilty for the offences punishable under sections 449, 302, 380 of IPC convicting and sentenced them to undergo rigorous imprisonment for five years and to pay a fine of Rs.1,000/- each in default to undergo simple imprisonment for three months for the offences punishable under Section 449 of IPC and sentenced to undergo Life imprisonment and to pay a fine of Rs.2,000/- each in default to undergo

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simple imprisonment for three months for the offence U/s.302 of IPC and sentenced to undergo rigorous imprisonment for five years and to pay a fine of Rs.1,000/- each in default to undergo simple imprisonment for three months for the offence u/s.380 of IPC.

3. Aggrieved by the order of the I<sup>st</sup> Additional District Court, these present criminal appeals filed under the following among other grounds:

a) That the trial court ought to have seen that in the Rough Sketch Ex.P.15 the presence of Air Conditioner in the house of the PW1 has not been mentioned.

b) That the Trial Court ought to have seen that the P.W.18, who is the investigating officer in his cross examination, admitted that the cell phone number and the call details of A1 and P.W.1 were not investigated. Hence the very root of the prosecution linking the accused with the crime suffers from inconsistency and lack of evidence.

c) That the trial court ought to have seen that the P.W.7 in his evidence deposed that the death of the deceased was informed to P.W.8 over phone, then the P.W.8 came to the scene of occurrence and called the police and the police came to the spot within 10 minutes thereafter. Whereas, the P.W.8 deposed that, at about 7 pm returned to his house

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after Court work and after reaching his house only he came to know about the death of the deceased. The above contradiction was not considered by the Trial court.

d) That the Trial Court ought to have seen that the P.W.8 in his evidence, stated that on 17.06.2014 at 3 pm, while he was leaving the house, he seen the 1st and 2nd accused leaving in their motor cycle in hurried manner. But P.W.1 in his cross examination has stated that he left the home only by 4 p.m. In view of the categorical admission of the P.W. 1 it is highly improbable to believe the version of the P.W.8. This contradiction has been simply overlooked by the trial court without even any discussion, hence the conviction cannot be sustained.

e) As per the version of the P.W.1, he lodged the complaint at 8 pm, and only thereafter the police arrived at the scene of occurrence, whereas the evidence of P.W.7 and P.W.8 shows that the police have arrived around 7 pm. The P.W.18 in his evidence, stated that the police arrived at the scene of occurrence at about 9 pm. The above contra statement of the witnesses has made the prosecution case doubtful.

f) That the Trial Court failed to see that P.W.10 in his evidence has stated that the accused produced the stolen jewels from the box of the motorcycle. Whereas the P.W.18, Investigating Officer has



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stated that the accused produced the jewels from the petrol tank pouch. It

has creates a serious doubt about the alleged recovery of jewels and weapon in the presence of P.W.10 is highly doubtful.

g) That the blood stains found on the M.O.22 does not indicate the presence of human blood. Therefore, the recovery M.O.22 is not the actual weapon used in the crime.

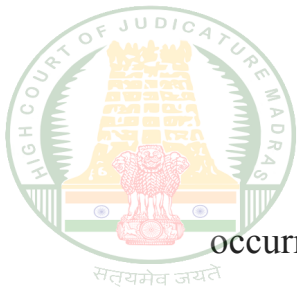
h) That the trial court has failed to see the material alterations in the original complaint of the P.W.1 marked as Ex.P1 with regard to the time of the complaint.

i) That the trial court has failed to see that the prosecution has not proved the guilt of the accused beyond reasonable doubts. The Prosecution has miserably failed to prove all the necessary circumstances constituting a chain without any snap.

j) It is pertinent to note at this juncture that the presence of P.W 1 to P.W.5 at the time of occurrence is highly doubtful and the trial court ought to have discarded the evidence of P.W. 1 to 5.

k) That the Trial Court ought to have seen that there is enormous delay in the F.I.R reaching the court.

4. The Additional Public Prosecutor appearing for the state argued that, the accused were last seen by P.W.7 and P.W.8 at the place of



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occurrence. P.W.9 also stated that the accused informed him that he was going to repair the AC at PW1's house. After two hours, he saw both the accused return in their vehicle in hurried manner.

5. The accused were arrested based on their confession, the missing jewels, cell phone of deceased, two wheeler, AC machine toolkit were recovered from them, and the same was identified by the P.W.1 and his daughter. Medical evidence also supported the case, the prosecution proved the case beyond all reasonable doubt, and the appeal is liable to be dismissed.

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

7. Prosecution case rests on circumstantial evidence, in such cases, the prosecution must established that;

A. The circumstantial evidence must form a complete chain leading to only one logical conclusion, that the accused committed the crime. That should be no gaps or missing links.

B. Evidence must exclude all reasonable hypothesis, except the guilt of the accused



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C. Each piece of circumstantial evidence must be credible, reliable, and consistent.

D. Motive is an important fact to be established by prosecution, but motive is not always required to establish against the accused to commit the offence.

E. Conduct of the accused can be considered as part of the circumstantial proof.

F. Multiple independent piece of evidence support each other to strengthen the case.

8. The appellants counsel argued that the prosecution projected the evidence of P.W.7 to P.W.9 as they have last seen accused date of occurrence, evidence of above witnesses were inconsistent and not corroborated with each other

9. On perusal of record, we found that P.W.7, who is the neighbour of deceased Gomathi, last seen the accused in front of the house of deceased, at the time of occurrence. In his evidence he categorically stated that on the date of occurrence at about 1.30 hours, the accused pressed the doorbell of the house of the deceased. After noticing them, he mentioned that, aunt (maami) would come, upon



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hearing the calling bell. He identified the accused when the Judicial

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Magistrate conducted identification parade in the jail. He is an independent witness. In the rough sketch, Ex.P15, the Investigating Officer mentioned that the house of Gurusawamy, father of P.W.7 situated next to the house of deceased.

10. P.W.8 Thiru. Arumugaperumal, an advocate, who is also a resident of the same street, saw the accused in front of the house of the deceased on the date of occurrence. During chief examination he clearly stated that on 17.06.2014, after completing his Court work, he returned home for lunch. After lunch, he witnessed the accused leaving the house of P.W.1, he enquired them, but the accused did not respond his quarry it, and instead they left in a Bajaj two wheeler. Subsequently, he came to know that the Gomathi Ammal was murdered for gain. He also identified the accused in Palayamkottai Jail when the Judicial Magistrate conducted identification parade. He denied the suggestion that, the police had shown the photographs of the accused which was published in the newspaper. He is not an interested witness and there is no motive to him to falsely implicate the accused in the serious crime.

11. P.W.9, who is running a provision store nearby the place



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of occurrence, stated that on the date of occurrence at about 1.30pm,

accused came to his shop in a two wheeler and purchased water bottles.

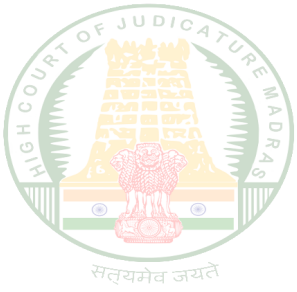
Upon enquiry informed that they came to repair the AC machine in the house of P.W.1. At 3:00 PM, they crossed his shop in a speedy manner.

He also identified the accused in Palayamkottai Jail before the Judicial Magistrate in the identification parade.

12. The identification parade report of the Judicial Magistrate, Sathankulam was marked as Ex.P14, the Judicial Magistrate was examined as P.W.17, and he categorically stated that, all the above witnesses correctly identified the accused in the jail.

13. The prosecution has established that the witnesses, who reside in the locality where the incident occurred, saw the accused present at the time of occurrence, thereby proving the last seen theory.

14. Ex.P1 complaint was lodged by P.W.1 complaint at 20 hours on 17.06.2014, FIR was registered at 20 hours without any delay, and the same was received by the judicial magistrate at 21:40 hours. There was no delay in the complaint, FIR, and the FIR was reached the Court immediately.



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15. P.W.1 to P.W.5 spoke about the details of missing of jewel from the P.W.1's house. Furthermore P.W.1 in his chief examination clearly stated that on 16.07.14, he called the 1st accused and requested him to repair the AC, in response, the accused replied that he was engaged in other work, and would come to repair it next day. PW1 informed him that his wife would be alone at home and requested him to come the next day. After the incident he became suspicious against 1st accused and reported the same to the police.

16. The accused were arrested on the next day 18.06 2014 at 21 hours and the Investigating Officer recovered the jewels, cell phone, tools kit bag and two wheeler, blood stained knife, blood stained clothes from the accused in the presence of P.W.10. The jewels were identified by P.W.1 complainant and PW4 ,daughter of the deceased.

17. P.W.15, Dr. Athisiyamani spoken about the injury found on the dead body. He issued the postmortem report under Ex.P.13. On perusal it revealed that the deceased was brutally attacked by the accused, before they committed the robbery the main injury that caused the death was deep cut injury over the anterior aspect of neck from 5 cm below right side of angle of mandible, 10cm below the chin, to 5cm



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below the right mastoid of size (20x7x5cm) exposing muscle, throat major vessels, throat separated just below hyoid cartridge. It further revealed that the accused cut off the deceased ear to remove the ear stud in a cruel manner.

18. The blood stained shirt recovered from the accused by the Investigating Officer at the time of confession, the same was sent to the chemical analysis with the blood stained earth collected from the place of occurrence, P.W.11 constable handed over the dresses worn by the deceased after postmortem, the same was received by the investigating officer, and the same were also sent chemical analysis. P.W. 12, Assistant Director, Regional Forensic Lab, Ramnathapuram, issued biological report (Ex.P9) stating that blood stains found in all the items except item number two (ordinary Earth).

19. Ex.P10, serology report shows that the bloodstains found on the clothes worn by deceased at the time of occurrence, bloodstained earth recovered from the place of occurrence, bloodstains found in the shirt recovered from the 1st accused belongs to O group

20. The blood stain found in the shirt of 1st accused matches



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with the blood stain found in the dresses worn by the deceased. Normally control blood samples used to be collected and sent for grouping test to match with the blood group of the deceased. In this case the control blood samples not collected but it is not fatal as the blood stain found in the dresses worn by deceased and the shirt worn by A1 were subjected to serology examination and found them belongs to same group to show that the accused was the perpetrator of the crime.

21. The jewels and cell phone of deceased were in possession of the accused and recovered by the Investigating Officer from them based on their confession.

22. Except minor discrepancies we do not find any material discrepancies in the investigation. The evidence of independent witness are credible, reliable and consistent.

23. The circumstances relied upon by the prosecution form a complete chain without missing links which is sufficient to lead a conclusion of guilt against the accused, the accused coming out from the house of the deceased, the unusual behavior of the accused after coming out of the house spoken by P.W.8 and P.W.9. The blood group found in



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the accused dress takes with the blood group of the deceased, thereby the serology report link the accused with the crime. The ocular evidence supported with medical and forensic document establishes the guilty beyond reasonable doubt.

24. The trial Court had properly appreciated the evidence and after scrutinized the records, found the accused guilty and imposed sentence, no contra evidence available in favour of the accused. There is no merit or ground to set aside the judgment of the trial court. Hence these appeals are deserves to be dismissed.

25. Accordingly, these Criminal Appeals are dismissed and the judgment passed in S.C.No.145 of 2017 on the file of the I Additional District and Sessions Judge, Thoothukudi dated 22.03.2021 is hereby confirmed.

**(G.J., J.) & (R.P., J.)**  
**.04.2025**

Index : Yes / No  
Internet : Yes / No  
NCC : Yes / No  
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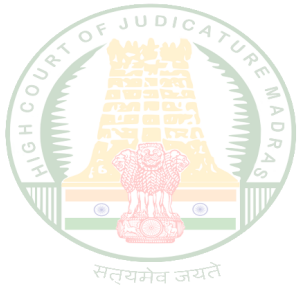
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1. I<sup>st</sup> Additional District and Sessions Judge,  
Thoothukudi

2. The Inspector of Police,  
Srivaigudam Police Station,  
Thoothukudi District.

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

4. The Section Officer,  
ER/VR Section,  
Madurai Bench of Madras High Court,  
Madurai.



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

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Common Judgment in  
**Crl.A(MD)Nos.263 of 2021 &**  
**263 of 2022**

**02.04.2025**