



CrI.A(MD)Nos.392 and 437 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

|               |            |
|---------------|------------|
| Reserved on   | 03.11.2025 |
| Pronounced on | 21.11.2025 |

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

and

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CrI.A(MD)Nos.392 and 437 of 2022

1. Josephraja

2. Paul @Paulmanoharan

3. Vedamanickam@ S.R.Mani

4. Poovammal

: Appellant/ Accused 1 to 3 and 6  
in CrI.A(MD) No.392 of 2022

Rajamuthu

: Appellant/ Accused 5 in  
CrI.A(MD) No.437 of 2022

Vs.

The State Rep. By its

The Inspector of Police,

Sayalkudi Police Station,

Ramanathapuram District

: Respondent/ Complainant in  
both appeals

Common Prayer:-These Criminal Appeal are filed under Section 374(2) of Criminal Procedure Code, to call for the records and set aside the



Cr1.A(MD)Nos.392 and 437 of 2022

judgment dated 21.04.2022 made in S.C.No.50 of 2017 by the Fast Track  
Mahila Court, Ramanathapuram

In Cr1.A(MD)Nos.392 of 2022

For Appellants : Mr. Jegadeesh pandian

No.2 to 4 for Mr.K.Kumaravel

No. 1 : Mr.G.Karuppasamy Pandian

In Cr1.A(MD)No.437 of 2022

No.5 : Dr. R.Alagumani

(In both appeals)

For Respondent : Mr.T.Senthil Kumar

Additional Public Prosecutor

## COMMON JUDGMENT

**P.VELMURUGAN, J.,**

These Criminal Appeals are directed against the judgment of conviction and sentence passed by the Fast Track Mahila Court, Ramanathapuram in S.C.No.50 of 2017 dated 21.04.2022. The appellants in Cr1.A.No.392 of 2022 are A1 to A3 and A6 and the appellant in Cr1.A.No.437 of 2022 is A5.



2. For sake of convenience the accused are referred to as per their rank before the trial Court

3. By the above said judgment, the trial Court convicted the appellants and sentenced them as detailed below:

| Penal Provisions                               | Sentence of Imprisonment                  | Fine Amount                                              |
|------------------------------------------------|-------------------------------------------|----------------------------------------------------------|
| 147 of IPC (A1 to A3, A5 and A6)               | Two years rigorous imprisonment (each)    | -                                                        |
| 148 of IPC (A1 to A3, A5 and A6)               | Three years rigorous imprisonment (each)  | -                                                        |
| 294(b) of IPC (A1 to A3, A5 and A6)            | Three months rigorous imprisonment (each) | -                                                        |
| 341 of IPC (A1 to A3, A5 and A6)               | One month rigorous imprisonment(each)     | -                                                        |
| 302 r/w. 109 & 149 of IPC(A1 to A3, A5 and A6) | Life Imprisonment (each)                  | Rs.10,000/- i/d to undergo two years simple imprisonment |
| 307 IPC (A6)                                   | Ten years rigorous imprisonment           | Rs.5000/- i/d to undergo one year simple imprisonment    |
| The sentences shall run concurrently           |                                           |                                                          |

4. The case of the prosecution in brief:-

4.1. There was a civil dispute pending between A1 to A4 and the deceased relating to 20 cents of land in S.No.108/46 and 108, 1A, 2A part



which was allotted for the construction of Church and a civil case was pending relating to the said land and that on 26.06.2015 when the fifth accused went to the said place in a tractor along with some workers and construction materials, at that time the deceased persons prevented him and he informed the same to other accused persons and they came to the said place and during such time there arose a quarrel between them in which one Vedamani and Asirvatham died and P.W.1 sustained grievous injuries. Based on the complaint given by the defacto complainant/P.W.1, who is the sister of the deceased, the case was registered in Crime No. 110 of 2015 for the offence under Sections 147, 148, 307 and 302 of IPC.

4.2. After completion of the investigation, the respondent police laid the charge sheet before the learned Judicial Magistrate, Mudukulathur, and the same was taken on file as P.R.C. No.26 of 2016.

4.3. On the appearance of the accused, the provisions of Section 207 of Cr.P.C. were complied with, and the case was committed to the Court of Session, where it was taken on file in S.C.No.50 of 2017 and



made over to the Fast Track Mahila Court, Ramanathapuram, for trial under Section 209(A) of Cr.P.C. The trial Court framed charges against the accused 1 to 6 for the offences under Sections 147, 148, 294(b), 341, 302 r/w.109& 149 of IPC and against the six accused for the offence under Sections 326 and 307 of IPC.

4.4. In order to substantiate the case of the prosecution, the prosecution examined 20 witnesses as P.W.1 to P.W.20 and 37 exhibits were marked as Ex.P.1 to Ex.P.37 and 26 material objects were exhibited as M.O.1 to M.O.26.

4.5. After examination of the prosecution witnesses, when the appellants were questioned under Section 313 of the Code of Criminal Procedure on the incriminating circumstances appearing against them, they denied the charges as false. On the side of the defence, one witness was examined and four documents were marked.

5. The trial Court, after considering the evidence on record and hearing both sides, by judgment dated 21.04.2022, convicted the



appellants and sentenced them as detailed in Paragraph No.3 supra.

Challenging the above-said conviction and sentence, the appellants have filed the present appeal.

6. The learned Counsel appearing for the appellants would submit that though the occurrence is said to have taken place on 26.06.2015 at about 06.05 am., the complaint was given only at 10.00 a.m., on the same day. The delay of four hours in filing the complaint is fatal to the prosecution case and there is no explanation by the prosecution for the said delay. Further even after registering the case, the printed First Information Report reached the Court with an unreasonable delay. The unexplained delay in filing the complaint and the First Information Report reaching the Court is fatal to the case of prosecution. The genesis of Ex.P.1/complaint is highly doubtful. He would further submit that even P.W.19/Investigating Officer stated that when she reached the hospital, already one of the statement was available and therefore after consulting the present complaint/Ex.P.1 was recorded by PW.17, therefore Ex,P.1 is highly doubtful and the same is only an afterthought. He would further submit that the trial Court failed to



appreciate Ex.P.1/complaint in this case. P.W.1 also admitted that Ex.D. 1 was recorded on the same day. According to the prosecution, at about 8.00 a.m., after receiving intimation from the Kadaladi Government Hospital, the Investigating Officer rushed to the hospital and recorded the statement of P.W.1 at 8.30 am., and registered the case, but in contra P.W.2 and P.W. 3 stated in their depositions that their statements were also recorded and signature was obtained, which shows that the earlier statement was suppressed. Even according to the prosecution, P.W.1 is the injured witness but the trial Court failed to see that P.W.14 is tutored by P.W.1 in this case. P.W.14 also admitted that injuries sustained by P.W.1 are possible to be self implicated injuries. Even the presence of P.W.1 is highly doubtful for the simple reason that he is residing 65 kms away from the scene of occurrence and further the reason stated for his presence in the scene of occurrence is highly artificial one. Even the presence of P.W.2 and 3 are also highly doubtful in the scene of occurrence. Even though they are close blood relatives to the deceased, they failed to make attempt to save the deceased and only after the occurrence they came to the spot. Further no independent witnesses were examined in this case and all the witnesses are relatives. Though



the occurrence is said to have taken place in the early morning at about 6.15 a.m., the prosecution failed to prove its case beyond reasonable doubts and the trial Court also failed to appreciate the evidence. There is no specific overt act as against A5. Conviction recorded as against A5 for the offence under Section 302 of IPC is not at all sustainable and also there is no specific overt act to convict A6 for the offence under Section 302 of IPC. He would further submit that no charge for the offence under Section 149 of IPC is framed without framing charge under Section 149 of IPC conviction under Section 148 is not sustainable, therefore the appreciation of evidence and findings of the trial Court is perverse and therefore, the benefit of doubt may be extended to the appellants and the appeal is liable to be allowed and the appellants ought to be acquitted.

7. The learned Additional Public Prosecutor would submit that in this case based on the eye witnesses, prosecution has proved the motive and also the occurrence through the eye witnesses. P.W.1 is also the eye witness to the occurrence as well as injured witnesses and also her presence is also established through oral and documentary evidence.



She also sustained injuries and admitted in the hospital. The doctor also admitted her for treatment and also recorded the Accident Register, which clearly shows that she was attacked by known persons and sustained injuries. Since, the injured witness has clearly stated about the specific overt act as against the appellants, the trial Court rightly appreciated the oral and documentary evidence of the prosecution. Further based on the confession statement given by the accused, recovery was also effected. P.W.13/Village Administrative Officer has clearly spoken about the recovery and even D.W.1 has clearly stated that due to dispute between the appellants family and the deceased family regarding land there was motive and the motive has been clearly established and also the occurrence and recovery. The doctor who gave treatment to PW.1 was examined as P.W.14, who has clearly stated that the injured informed him that she was attacked by known persons and also stated about the injuries sustained by the defacto complainant. The doctors who have conducted post mortem on the deceased were examined as P.W.15 and P.W.16 and they have also clearly spoken about the ante mortem injuries sustained by both the deceased. Admitted portions of the confession statements for the recovery are also marked as



exhibits P.30 to P.34 on the side of the prosecution. From the evidence of eye witnesses of P.W.1, 2, 4, 5, P.W.13 - the Village Administrative Officer, P.W.14 - the doctor who gave treatment, P.W.15 and P.W.16, post mortem doctors and through material objects, human blood in the material objects, medical and serological reports the prosecution has proved its case beyond reasonable doubts. The trial Court has also correctly appreciated the evidence and convicted the appellants for the charged offences and therefore, there is no merit in the appeal and the appeal deserves to be dismissed.

8. We have considered the submissions of the learned Counsel for the appellants and the learned Additional Public Prosecutor for the State and have consciously gone through the evidence and materials on record.

9. It is the specific case of the prosecution that due to property dispute, all the accused persons conspired together and committed the murder of the deceased and also caused injuries to P.W.1. In order to substantiate the charges levelled against the appellants on the side of the



prosecution totally 20 witnesses were examined, 37 documents were marked besides 26 material objects were exhibited. On the side of the defence one witness was examined and four documents were marked.

10. P.W.1 is the defacto complainant, who has spoken about the respondent police registering the case. Though the learned counsel appearing for the appellants raised doubt about the genuineness of the complaint, a reading of the evidence of P.W.1, who is also injured witness, would show that after occurrence she was admitted in the hospital for treatment. A reading of evidence of P.W.15 would show that she has clearly stated that on 26.06.2015, while she was in duty in Government Hospital, Kadaladi, the injured was admitted in the hospital for treatment and while admitting her she stated that on 26.06.2015 at about 6.15 pm., known persons attacked her and the injuries sustained by the injured was grievous in nature and also made entry in the accident register/Ex.P.20 and she would further state that she was referred to Government Hospital, Ramanathapuram for further treatment. P.W.19/ Investigating Officer stated in her evidence that on the date of occurrence i.e., on 26.06.2015 at about 8.30 a.m., she received



intimation from the Government Hospital, Kadaladi and found that P.W.1 was admitted in the hospital for treatment. The Sub Inspector of Police, Karthickraja recorded her statement and went to the police station at about 10.30 a.m., and he registered the case and placed the case file for further investigation and on the oral instructions from the Superintendent of Police she went to the spot at 11.15 a.m., and proceeded with the investigation and after inquest she sent the bodies to the hospital. Therefore the presence of P.W.1 cannot be doubted.

11. Further in this case, as per the evidence of P.Ws.13 and 19, P.W.1/injured witness was admitted in the hospital and the Sub Inspector of Police recorded her statement, which cannot be doubted. The prosecution has established Ex.P.1/complaint and the presence of P.W.1 in the scene of occurrence. The evidence of P.W.1 shows that though she was residing in the other village, in her evidence she has deposed about the reason for which she came to the native place and the reason for which she was present in the scene of occurrence and therefore, the presence of P.W.1 is probable. Ex.P.1/complaint is also genuine. Further P.W.1 has clearly stated about the motive and also the



occurrence and specific overt act as against each of the appellants and also the injuries sustained by both the deceased who are none other than the brother of P.W.1 and she also sustained injuries, which was caused by A6.

12. A careful reading of the evidence of P.W.1, who is eye witness as well as injured witness, would show that her evidence is consistent, reliable and credible and there is no reason to discard her evidence. In this context, it is useful to refer to the judgment of the Hon'ble Supreme Court in *Kalabhai Hamirbhai Kachhot vs. State of Gujarat* reported in (2021) 19 SCC 555. The relevant portion of the said judgment is extracted hereunder:

"22. We also do not find any substance in the argument of the learned counsel that there are major contradictions in the deposition of PVs-18 and 19. The contradictions which are sought to be projected are minor contradictions which cannot be the basis to discard their evidence. The judgment of this Court in the case of Mohar relied on by the learned counsel for the respondent-State supports the case of the prosecution. In the aforesaid judgment, this Court has held that convincing evidence is required, to discredit an injured witness. Para 11 of the judgment reads as under :

"11. The testimony of an injured witness has its own efficacy and relevancy. The fact that the witness sustained injuries on his body would show that he was present at the place of occurrence and has seen the occurrence by himself. Convincing evidence would be required to discredit an injured witness. Similarly, every discrepancy in the statement of a witness cannot be treated as fatal. A discrepancy which does not affect the prosecution case materially cannot create



any infirmity. In the instant case the discrepancy in the name of PW 4 appearing in the FIR and the cross-examination of PW1 has been amply clarified. In cross-examination PW 1 had clarified that his brother Ram Awadh had three sons: (1) Jagdish, PW4, (2) Jagarnath, and (3) Suresh. This witness, however, stated that Jagarjit had only one name. PW 2 Vibhuti, however, stated that at the time of occurrence the son of Ram Awadh, Jagjit @ Jagarjit was milching a cow and he was also called as Jagdish. Balli (PW3) mentioned his name as Jagjit and Jagdish. PW4 also gave his name as Jagdish."

23. Learned counsel for the respondent-State has also relied on the judgment of this Court in the case of Naresh & Ors. In the aforesaid judgment, this Court has held that the evidence of injured witnesses cannot be brushed aside without assigning cogent reasons. Paragraphs 27 and 30 of the judgment which are relevant, read as under :

"27. The evidence of an injured witness must be given due weightage being a stamped witness, thus, his presence cannot be doubted. His statement is generally considered to be very reliable and it is unlikely that he has spared the actual assailant in order to falsely implicate someone else. The testimony of an injured witness has its own relevancy and efficacy as he has sustained injuries at the time and place of occurrence and this lends support to his testimony that he was present during the occurrence. Thus, the testimony of an injured witness is accorded a special status in law. The witness would not like or want to let his actual assailant go unpunished merely to implicate a third person falsely for the commission of the offence. Thus, the evidence of the injured witness should be relied upon unless there are grounds for the rejection of his evidence on the basis of major contradictions and discrepancies therein. (Vide Jarnail Singh v. State of Punjab [(2009) 9 SCC 719 : (2010) 1 SCC (Cri) 107] , Balraje v. State of Maharashtra [(2010) 6 SCC 673 : (2010) 3 SCC (Cri) 211] and Abdul Sayeed v. State of M.P. [(2010) 10 SCC 259 : (2010) 3 SCC (Cri) 1262] )

30. In all criminal cases, normal discrepancies are bound to occur in the depositions of witnesses due to normal errors of observation, namely, errors of memory due to lapse of time or due to mental disposition such as shock and horror at the time of occurrence. Where the omissions amount to a contradiction, creating a serious doubt about the truthfulness of the witness and other witnesses also make material improvement while deposing in the court, such evidence cannot be safe to rely upon. However, minor contradictions, inconsistencies, embellishments or improvements on trivial matters which do not affect the core of the prosecution case,



WEB COPY



Cr1.A(MD)Nos.392 and 437 of 2022

should not be made a ground on which the evidence can be rejected in its entirety. The court has to form its opinion about the credibility of the witness and record a finding as to whether his deposition inspires confidence.

*"9. Exaggerations per se do not render the evidence brittle. But it can be one of the factors to test credibility of the prosecution version, when the entire evidence is put in a crucible for being tested on the touchstone of credibility."*

Therefore, mere marginal variations in the statements of a witness cannot be dubbed as improvements as the same may be elaborations of the statement made by the witness earlier. The omissions which amount to contradictions in material particulars i.e. go to the root of the case/materially affect the trial or core of the prosecution's case, render the testimony of the witness liable to be discredited. [Vide *State v. Saravanan* [(2008) 17 SCC 587 : (2010) 4 SCC (Cri) 580 : AIR 2009 SC 152], *Arumugam v. State* [(2008) 15 SCC 590 : (2009) 3 SCC (Cri) 1130 : AIR 2009 SC 331], *Mahendra Pratap Singh v. State of U.P.* [(2009) 11 SCC 334 : (2009) 3 SCC (Cri) 1352] and *Sunil Kumar Sambhudayal Gupta (Dr.) v. State of Maharashtra* [(2010) 13 SCC 657 : JT (2010) 12 SC 287]."

24. Further, in the case of *Narayan Chetanram Chaudhary & Anr. v. State of Maharashtra*, this Court has considered the effect of the minor contradictions in the depositions of witnesses while appreciating the evidence in criminal trial. In the aforesaid judgment it is held that only contradictions in material particulars and not minor contradictions can be a ground to discredit the testimony of the witnesses. Relevant portion of Para 42 of the judgment reads as under:

*"42. Only such omissions which amount to contradiction in material particulars can be used to discredit the testimony of the witness. The omission in the police statement by itself would not necessarily render the testimony of witness unreliable. When the version given by the witness in the court is different in material particulars from that disclosed in his earlier statements, the case of the prosecution becomes doubtful and not otherwise. Minor contradictions are bound to appear in the statements of truthful witnesses as memory sometimes plays false and the sense of observation differ from person to person. The omissions in the earlier statement if found to be of trivial details, as in the present case, the same would not cause any dent in the testimony of PW 2. Even if there is contradiction of statement of a witness on any material point, that is no ground to reject the whole of the testimony of such witness."*



13. P.W.2 and P.W.3 are eye witnesses in this case and they corroborated the evidence of P.W.1. Though the learned counsel appearing for the appellant vehemently contended that P.W.2 and P.W.3 are blood relatives of the deceased, if they were present in the scene of occurrence they would have made attempts to safeguard the life of the deceased. Since they have not done so, their presence at the scene of occurrence is highly doubtful, whereas from the evidence of P.W.2 and P.W.3, it is clear that they were present near by the place of occurrence and the occurrence was unexpected and on seeing the occurrence they tried to move forward to the scene of occurrence by that time everything was over. They have clearly stated this in their evidence and therefore, under these circumstances it cannot be stated that they did not make any attempts to safeguard the injured and deceased

14. Further the evidence of P.W.4 and P.W.5 is also clear and they have stated about the occurrence and on a careful reading of evidence of P.W.4 and PW.5, it is clear that they are eye witnesses to the occurrence and they have clearly spoken about the motive over the occurrence and also they are eye witnesses to the occurrence. The evidence of P.W.



13/Village Administrative Officer further strengthened the case of prosecution and that he also spoken about the confession statement and recovery. Though the confession made before the police officer is not admissible in evidence under Section 25 of the Indian Evidence Act, however, there is an exemption that such confession leads to discovery and recovery of materials that portion alone is admissible in evidence under Section 27 of the Indian Evidence Act.

15. Further in this case, P.W.13/Village Administrative Officer has clearly spoken about the recovery effected based on the confession statement. Further the evidence of P.W.14, the doctor who admitted P.W.1 and gave treatment and made entry in the accident register/Ex.P. 20 has clearly spoken about the injuries sustained by the injured at the time of admitting in the hospital and she was brought to the hospital at about 7.45 and the injured stated that the assault was made by known persons with sword at about 6.45 a.m., near eastern side bus stop of Kannirajapuram and she also mentioned about the injuries sustained by P.W.1. The evidence of P.W.14 and Ex.P.20 clearly proves that P.W.1 sustained injuries.



WEB COPY

16. Ex.P.21 is the post mortem certificate of the deceased Asirvatham and Ex.P.22 is the post mortem certificate of Vedamani and from the reading of Ex.P.21 the antemortem injuries sustained by the deceased Asirvatham is established and the doctor has also opined that it was homicidal death due to the injuries sustained on the vital parts of the body and from Ex.P.22 the ante mortem injuries sustained by the deceased Vedamani is established and it is also clearly stated that the death is homicidal. P.W.9, PW.16 and P.W.17 have clearly spoken about the injuries sustained by the deceased and also the cause of death which shows that the deceased died unnaturally. The injuries sustained by them are in the vital parts of the body and they also sustained multiple injuries. The medical evidence also corroborated the evidence of PW.1 to 5. From the reading of the materials sent to Regional Forensic Laboratory and the opinion about the serological report as well as biological report it is seen that the blood detected in the material objects are human blood. As per Ex.P.21/Post Mortem Certificate of deceased Aasirvatham it is reported that the deceased would have died of head injury between 22 to 23 hours prior to autopsy. As per Ex.P.22 /Post



Mortem Certificate of deceased Vedamani it is reported that the deceased would have died of head injury between 22 to 26 hours prior to autopsy.

17. On a combined reading of entire materials and the evidence of P.W.1 to P.W. 5, P.W.13 to P.W.17 and Ex.Ps.1,6,7,8,9,13 and P.W.10 and 31 and Ex.P.16,20,21,22,32,24 this Court finds that there are specific overt acts as against each of the appellants and they all with an common intention and ulterior motive joined together and caused death of the deceased. All the appellants joined together and caused injuries and due to the injuries caused in the vital parts they succumbed to injuries and the prosecution has proved its case beyond reasonable doubts.

18. Though on the side of the defence one witness was examined, he had spoken only about the ownership of the property and that itself would show that there is a dispute between the appellants family and deceased family and that has further strengthened the motive which would go to the root of the case of the defence. Though the witnesses P.W.1 to P.W.3 are blood related witnesses, that itself may not be the



sole ground to disbelieve their evidence. In this case the defence has not established that there is embellishments or any other reason to discard the evidence of relative witnesses.

19. At this juncture, the learned counsel appearing for the appellants have relied on the following judgments:

a) Krishnegowda and others .vs. State of Karnataka by Arkalgud Police reported in (2017)13 SCC 98

b)Md. Jabbar Ali and Ors .vs. The State of Assam reported in 2022 Livelaw (SC) 856

c)Allarakha Habib Memon and others .vs. State of Gujarat reported in (2024) 9 SCC 546

d) Zaimul .vs. State of Bihar reported in 2025 SCC Online SCC 2152

20.As far as judgments placed reliance by the learned counsel for the appellants are concerned, those judgments are not applicable to the present facts of the case on hand as the facts in those cases are distinguishable.



WEB COPY

21. In this case P.W.1 to P.W.3 are though close blood relatives of the deceased they have clearly spoken about the occurrence and specific overt act attributed against the appellants which tallied with the medical evidence there is no reason to believe the evidence of P.W.1 to P.W.3 as not acceptable. From the reading of the materials, though there are contradictions and discrepancies here and there those contradictions are not material contradictions which would go to the root of the case of prosecution. Further, the defect in the investigation is not a sole ground to disbelieve the evidence of the prosecution witnesses. A combined reading of the evidences of P.W.1 to 5 and also P.Ws.13 to 17 the oral and documentary evidence adduced and produced by the prosecution are cogent, reliable and credible and there is no reason to discard the evidence of the prosecution witnesses and therefore, there is no perversity in the appreciation of evidence of the trial Court and this Court also while re-appreciating the evidence inspires the confidence of the evidence of P.W.1 to P.W.5 and finds that the prosecution has proved its case beyond reasonable doubts.



Cr1.A(MD)Nos.392 and 437 of 2022

22. In the result, these Criminal Appeals stand dismissed confirming the judgment of the trial Court. The trial Court is directed to take steps to secure A2, A3, A5 and A6 to undergo the remaining period of sentence.

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

21.11.2025

Index : Yes/No

Internet : Yes/No

aav

To:

1.The Fast Track Mahila Court, Ramanathapuram

2. The Inspector of Police,  
Sayalkudi Police Station,  
Ramanathapuram District

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

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



WEB COPY



Cr1.A(MD)Nos.392 and 437 of 2022

P.VELMURUGAN,J.

and

L.VICTORIA GOWRI,J.

aav

Cr1.A(MD)Nos.392 and 437 of 2022

21.11.2025