

Cr1.A(MD)No.417 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	22.09.2025
Pronounced on	.10.2025

CORAM :

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

Cr1.A(MD)No.417 of 2022

S.Muthu

... Appellant/Sole Accused

vs.

The State, through
The Inspector of Police,
K.Pudupattai Police Station,
Pudukkottai District.
Crime No.349/2020

... Respondent/Defacto Complainant

Prayer:-This Criminal Appeal is filed under Section 374(2) of Criminal Procedure Code, to call for the records and set aside the sentences and conviction in Sessions Case No.117/2021, on the file of the Principal District and Sessions Judge, Pudukottai, dated 12.04.2022, by allowing this Criminal Appeal.

For Appellant : Mr.A.Haja Mohideen
For Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor



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J U D G M E N T

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

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The respondent/Police registered a case against the appellant in Crime No.349 of 2020 for the offences under Sections 302 and 201 read with 302 of IPC. After investigation, the respondent/police laid a charge sheet before the District Munsif cum Judicial Magistrate Court, Thirumayam, and the same was taken on file in PRC.No.8 of 2021. 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 Principal District and Sessions Judge, Pudukottai, took the case on file in S.C.No.117 of 2021 and framed the charges for the commission of offences under Sections 302 and 201 read with 302 of IPC. In order to substantiate the case during trial, on the side of the prosecution, totally 14 witnesses were examined as PW1 to PW14 and 10 documents were marked as Exs.P1 to Ex.P10, besides 9 material objects were exhibited as MO1 to MO9 and court documents Ex.C1 to Ex.C3 were also marked.



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2. After the completion of the evidence of the prosecution side witnesses, the accused/appellant was questioned under Section 313(1) (b) CrPC with regard to incriminating circumstances made out against him in the evidence rendered by the prosecution witnesses and he denied it as false. On the side of the defence, no oral or documentary evidence was let in. On conclusion of the trial and hearing of the arguments on either side, the trial Court convicted the appellant for the offence under Section 302 and sentenced to undergo life imprisonment with the fine of Rs.5,00,000/- in default to undergo further period of three years simple imprisonment and also convicted the appellant for the offence under Section 201 read with 302 IPC and sentenced to undergo for a period of seven years rigorous imprisonment. The sentences were ordered to be run concurrently. Aggrieved over the same, the appellant/accused has filed the present appeal before this Court.

3. The learned counsel for the appellant would submit that; there is no eye witness in this case; it is a case of circumstantial evidence; there is no chain of link for the commission of the offence as narrated by the prosecution; the motive for the occurrence in between the appellant



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and the deceased was not proved in the manner known to law; there is no evidence to prove the alleged motive for the occurrence; the person who saw the dead body first, one by Mani as per the version of PW7 Vellaichamy, was not examined; the evidence of PW10 who lastly saw the accused and the deceased at 06.00 p.m., that they both received Rs. 500/- from her by selling a goat, is noway helpful for the prosecution case; no one was examined as occurrence witnesses or subsequent witnesses and the gap in the said circumstantial evidence creates doubt and hence the benefit of doubt has to be given to the appellant; there is even no suspicious evidence against the appellant that there was a motive between the accused and the deceased, due to which only, the accused committed the offence; the prosecution witnesses PW1 to PW14 did not complete the chain of evidence and they have not proved the case beyond reasonable doubt; Exs.P1 to P10 and MO1 to MO9 marked in this case did not prove the allegation against the accused; the witnesses PW1 to PW10 are close relatives and interested witnesses as such their evidence cannot be relied upon; without proving the motive, last seen theory and recovery of material objects in the manner known to law, the confession recorded in the case of circumstantial evidence is



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legally not sustainable and erroneous; there is no clinching evidence

against the appellant to prove his guilt beyond reasonable doubt; there is

no overt act as narrated by the prosecution witnesses against the

appellant and the appellant was unnecessarily roped into the case; the

trial Court failed to consider that the prosecution has failed to prove the

case beyond reasonable doubt with independent, direct and cogent

evidence; the evidence of PW1/ wife of the deceased is not reliable as

she is an interested witness; as per her evidence, there was a previous

enmity between the appellant and the deceased and in order to take

vengeance, the appellant was falsely implicated in this case and since

the prosecution has not proved the chain of circumstantial evidence

beyond reasonable doubt with cogent and reliable evidence, the

judgment of the trial Court is liable to be set aside. In support of his

contentions, learned counsel for the appellant has relied on the following

judgments:

(i) Darshan Singh vs. State of Punjab reported in (2024) 3 SCC

164.

(ii) Nizam and another vs. State of Rajasthan reported in(2016)

1 SCC 550.



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(iii) Krishnan vs. State represented by Inspector of Police, (2008)

WEB 15 SCC 430.

4. The learned Additional Public Prosecutor appearing for the State would submit that though there is no eyewitness in this case, the prosecution has proved its case beyond reasonable doubt with the circumstantial evidence. He would further submit that PW1 has categorically stated that there was a misunderstanding between the appellant and the deceased, due to which, there was no talking terms between them for three years, but all of a sudden, two days prior to the occurrence i.e., on 09.11.2020, the appellant came to the house of the deceased Veeraiya and asked him to come for work and when PW1 refused to send the deceased, the appellant scolded PW1 in filthy language. However, both the appellant and the deceased went together for work on 10.11.2020. While so, on 11.11.2020, both of them went for work and evening at 06.00 p.m., both of them went together in two wheeler, but subsequently the deceased did not return to the house. On 12.11.2020, PW1 was informed that her husband was found dead in Pamparu river bank and subsequently she preferred the complaint. The learned Prosecutor would further submit that PW10 has also clearly



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spoken about the last seen theory. In her evidence, PW10 has stated that on the evening about 06.00 p.m on 11.11.2020, the appellant and the deceased Veeraiya came to her petty shop and gave a goat and asked money. They received Rs.500/- from PW10 and on the next day, PW10 heard that Veeraiya died. Thus, the learned Prosecutor would state that it is evident from the evidence of PW1 and PW10, the appellant and the deceased were seen together and from the evidence of PW1, it could be seen that there was a previous enmity between the appellant and the deceased and the appellant took the deceased on 11.11.2020 at 06.00 p.m., and thereafter, the deceased did not return to the home. PW1 contacted the deceased through the cell phone and despite the phone call was attended, later it was disconnected. The appellant and the deceased went to the shop of PW10 and sold the goat and received Rs.500/-, left the place in a two wheeler-M.O.5. Later, the deceased was found dead at 07.00 a.m on 12.11.2020 at the scene of occurrence namely, Pamparu river bank near Alagusundaram garden. Therefore, the appellant and the deceased were seen lastly together and from the evidence of the Doctor, the cause of death is homicide.



WEB COPY 5. The learned Additional Public Prosecutor appearing for the State would further contend that as per Ex.P10-postmortem report, it is only a case of murder. As per Ex.P8, the relevant time of death would be 12 hours between the time of death and postmortem and the postmortem was conducted at 03.50 p.m on 12.11.2020. The probability of the time is before 01.00 a.m i.e., in the midnight. The vehicle-M.O.5 used by the appellant as evidenced by PW10 was recovered at his instance. Therefore, the learned Prosecutor would submit that the prosecution has proved the circumstantial evidence beyond reasonable doubt i.e, ingredients of motive, last seen theory and recovery. The medical evidence also strengthens the case of the prosecution. Therefore, the prosecution has proved its case beyond reasonable doubt with available materials collected during the investigation and therefore, there is no perversity or the illegality in the judgment of the trial Court and there is no merit in the appeal and hence it is liable to be dismissed.

6. Heard both sides and perused the records.



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7. The specific case of the prosecution is that the appellant and the deceased are close relatives and they used to consume alcohol, during that time, there was a quarrel, due to which, there was no talking terms between them for three years prior to the occurrence. All of a sudden on 09.11.2020, the appellant came to the house of the deceased and called him for work and PW1/wife of the deceased refused to send the deceased, for which, the appellant scolded PW1 and took the deceased for work. Even on 10.11.2020 they went together for work. Thereafter, on 11.11.2020 at about 06.00 p.m, the appellant came to the house of the deceased and took him in the TVS XL two-wheeler-M.O.5 and on the next day, he was found dead. On the complaint given by PW1/wife of the deceased, the respondent/Police registered the case, completed the investigation and filed the charge sheet and the trial Court finding that during trial, the prosecution has proved the case beyond reasonable doubt, convicted and sentenced the appellant as stated above.

8. Admittedly, it is a case of murder. As per the evidence of PW12-Doctor who conducted postmortem on the body of the deceased,



the cause of death is homicide. Ex.P8-postmortem certificate reveals the

following injuries on the body of the deceased:

"1. A reddish abraded contusion of size 6x 4cm present over right side of forehead just outer to right eye.

2. A reddish abraded contusion of 5x 3cm present over center of forehead just above root of nose, on dissection diffuse subgaleal hematoma over whole of frontal region, bilateral temporal regions of skull present. An oval depressed fracture shaped fracture of size 6 x3 cm present over center of frontal bones with clotted blood. A diffuse subdural hemorrhage present over whole of bilateral frontal, bilateral temporal lobes of brain, approximately 600ml of clotted blood present. A diffuse subarachnoid hemorrhage over bilateral frontal lobes of brain present. Brain soft and edematous.

3. A reddish abraded contusion of size 4x 2cm present over left side of forehead just outer to left eye.

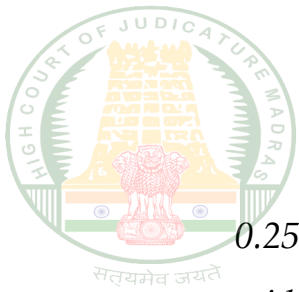
4. A reddish abraded contusion of size 3x 2cm present over center of vertex of head.

5. A reddish abrasion of size 2 x1 cm present over nose.

6. Multiple small abrasion of size ranging from 0.5 cm x 0.25 cm to 1 x 0.5 cm present over an area of size 5 x4 cm over middle one third of left side of face.

7. Multiple small abrasion of size ranging from 0.5 cm x 0.25 cm to 0.5 x 0.5 cm present over an area of size 4 x2 cm over front of right shoulder.

8. Multiple small abrasion of size ranging from 0.5 cm x



0.25 cm to 1.5 x 0.5 cm present over an area of size 9 x4 cm over middle one third of right side of chest.

9. An incomplete ligature mark in the form of reddish abraded contusion present obliquely over the front and both sides of the neck, below the level of thyroid cartilage, lies at a point 02 cm below right mastoid with width 3cm, runs downwards at a point 06 cm below the angle of right side of mandible with width 01 cm runs forwards and crosses midline at a point 09 cm below the chin with width of 3 cm and runs backwards and upwards at a point of 06 cm from left angle of mandible with width of 1 cm. Total length of ligature mark is 18 cm. On bloodless dissection deep contusion present at places in between sternomastoid muscle with clotted blood.

10. Four reddish crescentic shaped abrasions of size 0.25cm x 5cms each present over an area of size 4 x3 cm over back of neck 4cm below posterior hair line.

11. A reddish linear abrasion of size 5 cm present over left loin lower one third."

9. The above injuries clearly shows that it is not a natural death. There is no dispute regarding the identification of the body of the deceased and there is no eye witness to the occurrence. As per the prosecution, the case is based on circumstantial evidence and in order to prove the ingredients of circumstantial evidence namely, motive, last

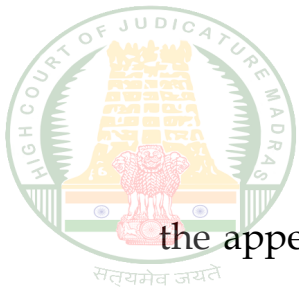


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seen theory and the recovery of material objects, the evidence of PW1

and PW10 was relied upon by the prosecution. PW1/defacto complainant has clearly spoken about the previous motive and enmity and she has stated that on the date of occurrence i.e., 11.11.2020 about 06.00 p.m, the appellant came to the house of the deceased and took him in two-wheeler-M.O.5 and thereafter, the deceased did not return to the home. She has also stated that prior to the incident, both the appellant and the deceased used to consume Alcohol together at that time, there was some wordy quarrel between the appellant and the deceased and therefore, there was no talking terms between them for three years and all of a sudden, the appellant voluntarily came to the house of the deceased on 09.11.2020 and called the appellant to come for work and thereafter on 10.11.2002 also, they went together for work and on 11.11.2020 at 06.00 p.m, the appellant took the deceased in his two-wheeler-M.O.5. Thus, it is evident that PW1 has lastly seen the appellant and the deceased together on 11.11.2020 at 06.00 p.m.

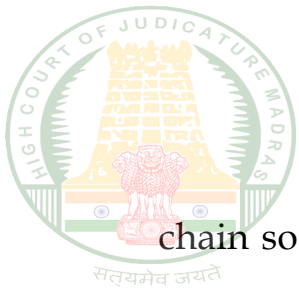
10. The evidence of PW10 who is running a petty shop in the locality, is also supported by the evidence of PW1. PW10 has stated that



the appellant and the deceased came to her shop on 11.11.2020 at 06.00

p.m and sold a goat and received a sum of Rs.500/- from her and on the next day at 07.00 a.m, she heard that the deceased died. Thus, from the evidence of PW1 and PW10 it is clear that both of them have seen the appellant and the deceased together and they also identified the two-wheeler-M.O.5 and thereafter either PW1 or PW10 did not see the deceased and the appellant. No witness have spoken that after that the deceased was separately seen by them. Therefore, the prosecution has proved the motive from the evidence of PW1 and last seen theory from the evidence of PW1 and PW10 and recovery of two-wheeler-M.O.5 through PW1 and PW10 who identified M.O.5, in which the appellant and the deceased were lastly seen.

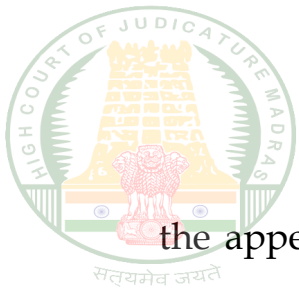
11. Though the defence taken by the appellant is that there was no eye witness to the occurrence and merely because the deceased and the appellant were seen together, that cannot be the reason to doubt that the appellant is the cause of the death and there is every possibility of commission of suicide by the deceased by self strangulation and further, the prosecution has failed to connect all the links in the circumstantial



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chain so as to sustain the charge and therefore, benefit of doubt should be extended in favour of the appellant, a reading of the evidence of PW12 who conducted postmortem and Ex.P8-postmortem certificate shows that there is no possibility of self-strangulation by the deceased and further once the prosecution has proved the motive and the last seen theory through PW1 and PW10, it is for the appellant to give explanation to disprove the same. In this case, no oral or documentary evidence were let in to disprove the case of the prosecution.

12. Admittedly, the deceased and the appellant are close relatives and on 11.11.2020, the deceased left his home in the evening along with the appellant. On the next day morning, the deceased was found dead in Pamparu river bank near Alagu Sundaram garden. Though one of the defences taken by the appellant is that specific date and time was not mentioned in the evidence of PW1, PW1 is stated to be an illiterate woman, and therefore, she cannot be expected to state everything either in the complaint or in the statement recorded by the police under Section 161 Cr.P.C. However, the fact remains that during the previous day night namely, 11.11.2020 about 06.00 p.m., PW1 saw



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the appellant and the deceased together and thereafter she did not see

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13. From the oral and documentary evidence of the prosecution especially, PW1 and PW10 and also the Doctor evidence, this Court finds that the prosecution has proved its case beyond reasonable doubt by proving the ingredients of circumstantial evidence. Under these circumstances, this Court does not find any perversity in appreciation of the evidence by the trial Court and the consequent conviction and



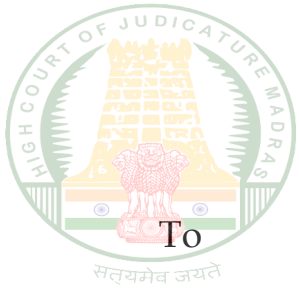
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sentence imposed by the trial Court. Though the counsel for the appellant relied on the judgments of the Hon'ble Supreme Court reported in (2024) 3 SCC 164, (2016) 1 SCC 550 and (2008) 15 SCC 430, in the context of circumstantial evidence and contended that the prosecution has failed to prove the chain of circumstances pointing towards the guilt of the accused, in the present case, as discussed above, the prosecution has proved the ingredients of circumstantial evidence namely, motive, last seen theory and recovery of material objects through the prosecution witnesses especially PW1 and PW10 and therefore, the above judgments will not lend any support to the case of the appellant. We find no merit in this appeal.

14. Accordingly, the Criminal Appeal is dismissed.

[P.V, J.] [L.V.G, J.]
.10.2025

Index : Yes / No
Neutral Citation : Yes / No
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1. The Principal District and Sessions Judge,
Pudukottai.

2. The Inspector of Police,
K.Pudupattai Police Station,
Pudukkottai District.
Crime No.349/2020

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.



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

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PRE-DELIVERY JUDGMENT MADE IN
Cr1.A(MD)No.417 of 2022

DATED : .10.2025