



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

DATED : 18.03.2025

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MS. JUSTICE R.POORNIMA**

CRL.A(MD)No.79 of 2021

Ragurajan

... Appellant/P.W.1

.Vs.

1.The State, represented through
The Inspector of Police,
C3, S.S.Colony Police Station (Crime),
Madurai.
(In Crime NO.683 of 2015)

....Respondent/Complainant

2.Ilayaraja

3.Muthu @ Muthu Kumar

4.Malarkodi

... Respondents No.2 to 4
/Respondents 1 to 3

PRAYER: Criminal Appeal filed under Section 372 r/w Section 29 of Criminal Amendment Act against the order of acquittal made in S.C.No.552 of 2016, dated 13.12.2019, on the file of learned IV Additional District Court, Madurai by erroneously acquitting the accused from the offences under Section 120(b), 302



WEB COPY r/w 397 r/w 34 of IPC.

For Appellant	: Mr.S.M.A.Jinnah
For Respondent-1	: Mr.E.Antony Sahaya Prabahar Addl.Public Prosecutor
For Respondent-2	: Mr.S.Mahendrapathy
For Respondent-3	: Mr.T.Sugadev for Mr.M.Jegadeesh Pandian
For Respondent-4	: Mr.B.Viswanathan

JUDGMENT

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

This Criminal Appeal is directed against the order of acquittal made in S.C.No.552 of 2016, dated 13.12.2019, on the file of learned IVth Additional District Court, Madurai by erroneously acquitting the accused from the offences under Section 120(b), 302 r/w 397 r/w 34 of IPC.

2.The above Criminal Appeal is preferred by P.W.1, who is the son of the deceased Lakshmi Devi. The case of the prosecution is that Lakshmi Devi, a



WEB COPY

resident of Arul Nagar, Kalyanasundaram Street, Pattukkottai was found dead on 25.07.2015 in her house by the nearby resident and on the information of her son who is the first informant, an FIR in Crime No.683 of 2015 came to be registered by the respondent Police. P.W.18 taken up the investigation and in the light of the fact that the jewels and wearing apparels of the deceased was found missing, investigation was intensified regarding regular visitors of Lakshmi Devi's house.

3.A3-Malarkodi, being one of the regular visitor was arrested on 1.8.2015 and from her, some of the jewels of Lakshmi Devi was recovered based on her confession in the presence of witnesses, that was followed by 2 other accused. Note by Ilayaraja suspected to be a suicide note written by him out of remorse, committing the crime, was also recovered along with cash of Rs.8,000/- which is the sale proceed of the jewels.

4.The Court of Sessions framed charges under Section 120(b) against three accused and charge under Section 302 r/w Section 34 of IPC against A3, charge under Section 449 of IPC against accused 1 and 2, charge under Section



WEB COPY

302 r/w Section 109 against A1 and charge under Section 302 of IPC against A2 and charge under Section 392 r/w Section 34 of IPC against A1 to A3. To prove the case, the prosecution has examined 18 witnesses and marked 21 exhibits and 12 Material Objects. One Kesavan was examined as Court Witness and the Lodge Registers maintained were marked s Ex.C1 and Ex.C2. The trial Court, on appreciation of evidence, found that it is a case of circumstantial evidence. Prosecution case primarily centers around the confession statement and recovery of material objects from the accused persons, whereas, there is no conclusive evidence to believe the case of prosecution in respect of recovery, since the witnesses for recovery are highly doubtful. The evidence of son and daughter of the victim was not of much help for the prosecution case, since they were not living with the deceased, particularly, yet another son of the deceased was not even examined by the prosecution, who had left his mother few months before her death due to misunderstanding with her mother. Apparently, there is no needle of suspicion against the missing son and the prosecution did not care of examining the son of the deceased by name Suresh. Hence for want of evidence, the trial Court had acquitted all the three accused from the charges. Being aggrieved, P.W. 1, son of the deceased had preferred the above Criminal Appeal against the order



WEB COPY of acquittal.

5. According to the learned counsel for the appellant. P.W.8 Thandapani is the witness who had witnessed about the recovery of jewels from A3. Admissible portion of the confession given by A3 clearly implicates A1 and A2. That apart, suicide note of A1 would clearly establish the fact that pursuant to the conspiracy between the accused persons, the accused persons trespassed into the house of Lakshmi Devi and the protest of having conversation with her and they have robbed her hewels and since it was resisted by her, they have committed the act of murder in furtherance of the common intention. While so, the Court below failed to consider the materials available to link the events and form an unbroken chain leading to the inference that the accused persons alone were the perpetrators of the crime.

6. Per contra, the learned counsel for the respondents would submit that the statements of the witnesses to the Police in the course of investigation has not been substantiated while they depose before the Court. Directions were highlighted during the cross examination of Investigation Officer P.W.18.



WEB COPY

Falsehood of the witnesses was so palpable that charge of conspiracy and intention to commit murder had no basis. The alleged recovery is highly improbable and contrary to human conduct. P.W.8 who claims to be the person in Police Station with A3, gave her confession and produced material objects M.Os 1 to 3, is a stock witness to the Police complaint for the sake of this case. A resident of K.Pudur, Madurai present within the jurisdiction of S.S.Colony at earlier hours of 1.8.2015 is highly improbable and his reasoning to be present at that time near Police Station deposed before the Court is not found in his previous statement before the Investigation Officer and the said direction is highlighted during the cross examination of P.W.18.

7.The learned counsels would further submit that the prosecution could not even establish with whom the deceased Lakshmi Devi was found alive lastly. P.W. 1, son of the deceased had deposed that on 25.7.2015, he received phone call from his sister informing about the mysterious death of his mother and thereafter went to her house. P.W.2, daughter of the deceased had deposed that she got the information about the death of her mother through one Selvarani and she conveyed the same to P.W.1. Selvarani PW.3 in her chief examination has not



WEB COPY

whispered that she informed P.W.2 about the death of Lakshmi Devi. Therefore the learned counsels appearing for the respondents submitted that the finding of the trial Court is based on possible view and since there is no perversity in appreciation of evidence, the order of acquittal needs no interference.

8. Heard the learned counsel for the appellant as well as the respondents and also the learned Public Prosecutor appearing for the first respondent/State.

9. The incriminating materials against the respondents/accused which need to be reappreciated. Firstly, the alleged handwritten statement of A1 marked as Ex.B9. P.W.11-Vijayalakshmi, Village Administrative Office of that area had deposed that on 12.8.2015 at about 11.10. hours she was called to the Police Station. In the Police Station, she saw A1/Illayaraja. In her presence, the statement of Illayaraja was reduced into writing with the help of computer and based on his concession, they went to the workshop of Illayaraja/A1 and recovered Rs.8,000/- and Ex.B1. (It is also to be noted that Rs.8000/- alleged to have been recovered from A1 is the sale proceeds of the stolen article, not been linked to any article and the prosecution has not proved to whom A1 sold the



WEB COPY

article and got Rs.8000/-. This is a very serious lacunae in the prosecution case to disbelieve the alleged recovery from the accused persons). In the cross examination, the said witness was not identified about what is found in the workshop and the incriminating material that was recovered. She could not recollect whether the workshop was locked or opened and when they visit the place. He also admits that he did not went inside the house. They did not enquire who is the owner of workshop and not aware that who had wrote the suicide note marked as Ex.A9. It is pertinent to note that the prosecution was not able to establish the author of Ex.A1 and who is the author of Ex.B9 and the category of suicide note, is not permissible. It is in the nature of confession given to the Police and no fact was discovered to save the statement from the vigour of Section 25 of the Evidence Act, is available. Further, as pointed out by the trial Court, the signature found in the suicide note has not been tested and no independent witness was examined by the prosecution to substantiate the fact that Ex.B9 was written by A1. The testimony of Ex.B11 been demolished in the cross examination leading to the fact that she could not have been the witness for the recovery. A8. Thandapani who is the witness for recovery of Mos.1 to 3 marked as Ex.A3 also could not sustain the cross examination and his



WEB COPY

embellishment besides the improbability of keeping the stolen article inside the blouse by the accused for 12 days after occurrence, appears to be unbelievable. This Court also taking note of the fact that the character of the deceased person as well as the non examination of her son by name Suresh creates wide gap in the chain of circumstances as projected by the prosecution. When the view of the Court is not plausible and does not suffer from any perversity, this Court is not inclined to interfere with the findings of the trial Court in acquitting the accused persons.

10.Hence the Criminal Appeal stands dismissed confirming the judgment made in S.C.No.552 of 2016, dated 13.12.2019, on the file of learned IV Additional District Court, Madurai.

[G.J.,J.] [R.P.,J.]
18.03.2025

NCS : Yes/No
Index : Yes / No
Internet : Yes / No
vsn



WEB COPY

To

The IVth Additional District Judge,
Madurai.

Copy to

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



WEB COPY



DR.G.JAYACHANDRAN, J.
and
R.POORNIMA,J.

vsn

JUDGMENT MADE IN
CRL.A(MD)No.79 of 2021

18.03.2025