



Cr1.A(MD)No.407 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	04.11.2025
Pronounced on	20.11.2025

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

and

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Cr1.A(MD)No.407 of 2022

1. S.Santhakumar

2. Malaiyarasi

3. Vanitha

: Appellants/ A1 to A3

Vs.

The State Rep. By its

The Inspector of Police,

Rameswaram Nagar Police Station

Ramanathapuram District

: Respondent/Complainant

Prayer:-This Criminal Appeal is filed under Section 374 (2) of Criminal Procedure Code, to call for the records and set aside the judgment of the Fast Track Mahila Court, Ramanathapuram in judgment dated 31.05.2022 in S.C. No.74 of 2015



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For Appellants : Mr.A.Arul Jenifer
for M/s.KBS Law Associates
For Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor

J U D G M E N T

P.VELMURUGAN, J.,

This Criminal Appeal is filed against the judgment of conviction and sentence passed by the Sessions Judge, Fast Track Mahila Court, Ramanathapuram in S.C. No.74 of 2015 dated 31.05.2022.

2. By the above judgment, the trial Court convicted the appellant and sentenced her, as detailed below:

Rank	Offence	Sentence
A1	302 of IPC	Life Imprisonment and fine of Rs. 3,000/-, in default, to undergo two (2) years Simple Imprisonment
A2 & A3	342 of IPC	One (1) year Rigorous Imprisonment
A2 and A3	302r/w.34 of IPC	Life Imprisonment and fine of Rs. 3,000/-, in default, to undergo two (2) years Simple Imprisonment

3. The case of the prosecution in brief:-

3.1. The case of the prosecution is that the deceased was living along with the first and second appellants in the matrimonial home. The



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further case of the prosecution is that there was regular dispute and misunderstanding between the parties and the deceased used to be subjected to cruelty by the accused persons. On 29.04.2014, at about 01.30 p.m., the appellants questioned the deceased as to where she went away from the matrimonial home and the deceased was alleged to have developed a wordy quarrel with them. Immediately, all the accused persons were said to have attacked the deceased and she was restrained and A1 was said to have strangled the deceased and thereby, caused the death of the deceased. Accordingly, an FIR came to be registered in Crime No.54 of 2014 against the appellants for the offence under Section 174 of Cr.P.C and subsequently altered to Section 302 of IPC

3.2. After completion of the investigation, the respondent police laid the charge sheet before the learned Judicial Magistrate, Rameswaram, and the same was taken on file as P.R.C. No. 8 of 2015.

3.3. 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.74 of 2015 and



made over to the Sessions Judge, Fast Track Mahila Court, Ramanathapuram, for trial under Section 209(A) of Cr.P.C. The trial Court framed charges against the first appellant for the offence under Section 302 of IPC, second and third appellant for the offences under Sections 342, 302 r/w. Section 34 of IPC

3.4. In order to substantiate the case of the prosecution, the prosecution examined 20 witnesses as P.W.1 to P.W.20, and 11 exhibits were marked as Ex.P.1 to Ex.P.11, and no material objects were exhibited

3.5. 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. No witness was examined on the side of the accused, nor was any document marked.

4. The trial Court, after considering the evidence on record and hearing both sides, by judgment dated 31.05.2022, convicted the appellants and sentenced them as detailed in Paragraph No.2 supra.



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

5. The learned Counsel appearing for the appellants would submit that there is no direct eye witness in this case and the prosecution has not proved its case beyond all reasonable doubts and the trial court failed to take into consideration the answers elicited in the cross examination of P.W.1 to the effect that the appellants are not responsible for the death of the deceased and the appellants 1 and 2 were residing happily in the matrimonial home. From the evidence of P.W.2 /father of the deceased, it is seen that there was cordial relationship between the first appellant and P.W.1 and there is no possibility for the commission of any offence, which is less than the charged offence. The prosecution mainly rests on circumstantial evidence and the oral testimony of P.W.3 is unbelievable and the evidence of P.W.2 is not reliable, since he did not speak about any incriminating circumstances as spoken by him in court as admitted by the Investigation Officer/PW.19. There is vital contradiction in the evidence of P.W.3 between chief examination and cross examination.



The evidence of P.W.16 is not reliable and on that basis, no reliance can be given to his evidence. The prosecution has not produced the copy of Accident Register, which creates serious doubt. The children of the deceased were not examined by the prosecution, which also creates serious doubts over the prosecution case. There was an agitation made by the interested persons to take action against the appellants for murdering the deceased and so, the police without conducting proper investigation, registered a false case against the appellants. The trial Court also gave undue importance to the evidence of P.W. 10/postmortem Doctor. The confession statement made by the first appellant before the police officer is inadmissible which is hit by Section 25 of the Indian Evidence Act and there is no recovery in this case, which does not fall within the ambit of Section 27 of the Indian Evidence Act and Section 106 of the Indian Evidence Act does not absolve the prosecution of discharging its primary burden of proving its case beyond reasonable doubts. The trial Court failed to appreciate the oral and documentary evidence and simply gave conviction, based on assumptions and conjectures and conviction is a moral conviction which is not a legal conviction. Moral conviction is not recognized by



statute. The appreciation of evidence by 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

6. The learned Additional Public Prosecutor would submit that the deceased was the wife of A1 and the other appellants are mother and sister of the first appellant. The evidence of P.W.1 and P.W.2 clearly proved the motive behind the occurrence and P.W.3 has clearly stated that he is residing just opposite to the house of the appellant and when he was proceeding to the temple, he heard the noise of the deceased from the house of the appellants and thereafter, he saw the appellants taking the deceased in an auto and when he questioned the same, A3 told that she committed suicide by strangulating herself. P.W.2 told that the deceased swallowed tablets, therefore, the death of the deceased is suspicious. P.W.4 also stated that he saw the neighbours proceeding to the hospital together and when he asked about the same, he was informed that the deceased died. P.W.7 has also stated about the motive. P.W.7 was running a grocery shop and the deceased used to go to the shop for buying groceries, at that time, the deceased used to say that her



in-laws not even provided food to her and on the date of occurrence i.e., on 29.04.2014, he heard the voice of the deceased from the house of the appellants, when he passed through the house of the appellants and when he returned back to his house, he was informed that the deceased died and the body was kept in the hospital.

7. Even P.W.8 who is also a neighbour has also stated that the deceased was not properly treated by her in-laws and that she was not provided with sufficient food. P.W.13 also stated about the motive and that when she came to know about the death of the deceased she enquired about the cause of death and there was contradictory statements received from the first appellant and the third appellant. He further submitted that admittedly, the deceased is the wife of the first appellant and even as per the prosecution witnesses, there was ill-treatment by her in-laws and on the date of occurrence, all the three witnesses heard the sound of the deceased from the house of the appellants and immediately thereafter all the appellants took the deceased by an auto to the hospital and the evidence of P.W. 10/Postmortem Doctor has clearly stated about the ante-mortem injuries



sustained by the deceased, therefore, the prosecution has proved its case beyond all reasonable doubts. The death of the deceased is unnatural and the deceased died in the house of the appellants unnaturally, therefore, the inmates have to explain for the cause of death, therefore, it would attract Section 106 of Indian Evidence Act.

8. Once the prosecution has proved that the death of the deceased is unnatural, that too in the matrimonial home, then it is for the appellants to explain about the cause of death. Even from the evidence of witnesses, they have stated that when they enquired the appellants about the cause of death of the deceased, A1 stated that his wife swallowed tablet, but the third appellant stated that she strangled herself. It is not the case that all the witnesses have seen the deceased strangulating herself, whereas they have spoken that they heard the voice of the deceased and that too from the house of the appellants and immediately, the witnesses also saw that the deceased taken to the hospital by an auto. Postmortem Doctor has clearly stated about the cause of death that the death of the deceased is unnatural. Therefore it is for the inmates to explain the same and the prosecution



has proved the case beyond all reasonable doubts. The trial Court has also rightly appreciated the oral and documentary evidence and recorded a conviction and sentence against the appellants and therefore, there is no merit in the appeal and the same is liable to be dismissed.

9. 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.

10. The specific case of the prosecution is that there were frequent quarrels and misunderstandings between the parties and the deceased is subjected to cruelty by the accused persons and on 29.04.2014, at about 01.30 p.m., the appellants have questioned the deceased as to where she had gone from the matrimonial home and for that, the deceased was said to have developed a wordy quarrel with them. Immediately, all the accused persons were said to have attacked the deceased and restrained her and A1 was said to have strangled the deceased and thereby, caused the death of the deceased.



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11. In this case, though there is no direct eye witness to the occurrence, however P.W.1 who is the brother of the deceased has spoken about the motive. He has also clearly stated that his sister, while residing in the matrimonial home, she was not properly treated by the appellants and also there were frequent quarrels between the appellants and the deceased. Therefore, from the evidence of P.W.1, motive has been clearly established by the prosecution.

12. In cases of this nature, only blood relatives can speak about the quarrel between the family members within the family. P.W.1 was examined on several occasions. Though, his chief examination was conducted on 14.11.2017, subsequently, he was cross examined only on 04.09.2018 and he was again recalled and his further cross examination was done only on 06.09.2018. Further, he was recalled and once again cross examined on 10.09.2018 and also on 16.12.2018, he was cross examined, which is almost for three years. Therefore, the cross examination made on 16.12.2018 cannot be given much importance and therefore, the contradictions are inevitable. A reading of cross



examination of P.W.1 on 16.12.2018 is after settling the matter and therefore, he has spoken as against his own statement given earlier.

13. P.W.2 is the father of the deceased, who has also spoken about the motive during chief examination. There is contradiction in the cross examination dated 16.12.2018. A combined reading of the statements recorded under Section 161(3) of Cr.P.C and the chief examination and further cross examination, the reasons best known to them is that there are some contradictions since the chief examination and cross examinations were not done on the same day. Considering the above facts and circumstances of the case, this Court cannot give much importance to the cross examination.

14. P.W.3 is an independent witness, who is the neighbour and also residing just opposite to the house of the appellants. He has stated that he heard the voice that the deceased was beaten and also he heard the voice by calling so "Amma Amma" and subsequently there was no noise for some time and thereafter, he left for work. Thereafter, on the same day, when he returned from work at about 12.00' Clock, he saw



the deceased and her daughter standing in the house of the appellants.

Then after half an hour, he heard the voice of the deceased, which was also unnatural one and again, he heard the voice of the deceased and then stopped and after taking food, he went to upstairs, at that time, he saw the appellants taking the deceased by an auto. Therefore, the evidence of P.W.3 who is a neighbour has clearly spoken about the incident. From the evidence of P.W.3, it is made clear that all the appellants were inside their house. Further, when he enquired A1, he stated that the deceased swallowed pills and A3 stated that the deceased strangled by herself, therefore, it creates doubts.

15. P.W.7 also stated that there were frequent quarrels between the appellants and the deceased. P.W.8 also stated that the deceased was not properly treated by the appellants and they did not even provide sufficient foods. P.W.13 is the mother of the deceased, who in her chief examination has spoken about the motive and ill-treatment made by the appellants against the deceased. Further, the evidence of P.W. 10/Postmortem Doctor has clearly stated that the death was not due to administering pills and the only possibility is strangulation with hands



and therefore, a combined reading of the evidence of P.W.3 and P.W.7 neighbours and also the evidence of Doctor, who conducted postmortem, the prosecution has proved its case beyond all reasonable doubts.

16. It is settled proposition of law that if there is a fight between the inmates and if one of the inmates died, the other inmates are answerable to the death of one of the inmates and therefore, the other inmates have to explain for the same. In this regard, it is pertinent to refer the judgment of the Hon'ble Supreme Court in the case of **State of Madhya Pradesh Vs. Balveer Singh (2025 SCC OnLine SC 390)**, wherein the Hon'ble Supreme Court has held in paras 88, 89 and 90 as follows:-

“88.We are of the view that the following foundational facts, duly established by the prosecution, justify the invocation of the principles enshrined under Section 106 of the Evidence Act:-

a).The offence took place inside the four walls of the house in which the respondent



accused, the deceased and their 7-year-old daughter were living. The respondent accused has not disputed his presence in the house at the time of the alleged incident.

b).The failure on the part of the accused to inform the family members about the death of their daughter and the clandestine manner in which her body was cremated, more particularly when her family members were residing in the very same village. By the time, the Investigating Officer reached the place of incident the body of the deceased was fully burnt.

c).The dubious conduct of the respondent accused in fleeing away from home leaving behind his minor daughter of seven years age all alone.

d).The untimely death of the deceased suspicious circumstances, occurring shortly after a fight with the respondent accused two to three days before the incident, coupled with evidence of their strained relationship.



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e).The respondent accused maintained complete silence. In other words, has failed to explain any of the incriminating circumstances pointing a finger against him.

89. We are of the view that the aforementioned circumstances constitute more than a prima facie case to enable the prosecution to invoke Section 106 of the Evidence Act and shift the burden on the accused husband to explain what had actually happened on the day & date his wife died.

90.This appeal reminds us of Justice V.R.Krishna Iyer's observations in Dharm Das Wadhvani Vs. State of U.P, (1974)4 SCC 267. "The rule of benefit of reasonable doubt does not imply a frail willow bending to everywhiff of hesitancy. Judges are made of sterner stuff and must take a practical view of legitimate inferences flowing from evidence, circumstantial or direct." The role of courts in such circumstances assumes greater importance and it is expected of the courts to deal with like one on hand, cases in a more



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realistic manner and not allow the criminals to go scot-free on account of procedural technicalities, perfunctory investigation or insignificant lacunas in the evidence as otherwise serious crimes would go unpunished. The courts are expected to be sensitive in cases involving crime against women.”

17. Section 106 of the Indian Evidence Act clearly shows that once the prosecution has proved its case beyond reasonable doubt that the death of the deceased is unnatural in the presence of inmates, it is for them to explain it. Once the initial burden is shifted on the appellants , it is for the appellants to give explanation or the reason for the death. The evidence of the Postmortem Doctor and antemortem injuries stated in the Postmortem Report (Ex.P4) would go to show that the injuries sustained by the deceased could not be caused by herself. Further, from the evidence of P.W.3 ,the presence of the inmates also proved. As per the evidence of P.W.3, immediately soon after the occurrence, the deceased was taken by the appellants in an auto from their house. Therefore, the presence of the appellants also proved. When one of the inmates died unnaturally, it is for the other inmates namely the



appellants to explain the same. Even as per the evidence of P.W.3, when he enquired about the same, A1 stated that the deceased administered pills, but whereas the third appellant stated that the deceased died by strangulating herself, which itself shows that two inmates have given two different versions, which also creates serious doubts. Further, P.W.2 also stated that he heard unusual voice of the deceased from the house of the appellants. Further, from the evidence of the Doctor, it is seen that the deceased died in the house of the appellants. Under these circumstances, this Court while re-appreciating the evidence finds that the appellants have committed the charged offence. The trial Court has rightly appreciated the evidence both oral and documentary and this Court, while re-appreciating the evidence does not find any perversity in the appreciation of evidence by the trial Court and there is no reason to interfere with the well founded judgment of the trial Court.

18. Considering the entire materials available on record and also considering the facts and circumstances of the case, this Court finds that the trial Court has rightly appreciated both the oral and documentary evidence and recorded a conviction and sentence, based



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on the proper material evidence. This Court while independently re-appreciating the evidence finds that the prosecution has proved its case beyond reasonable doubt. Hence, there is no reason to interfere with the judgment of the trial Court and this appeal deserves to be dismissed

19. In the result, this Criminal Appeal stands dismissed, confirming the judgment of the trial Court. The trial Court is directed to take steps to secure the appellants to under go the remaining period of sentence.

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

20 .11.2025

Index : Yes/No

Internet : Yes/No

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To

1.The Fast Track Mahila Court, Ramanathapuram

2.The Inspector of Police,
Rameswaram Nagar Police Station
Ramanathapuram District

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



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



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