



CrI.A(MD)No.158 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 26.02.2025

Pronounced on : 20 .03.2025

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

AND

THE HONOURABLE MS.JUSTICE R.POORNIMA

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The State rep. by

The Public Prosecutor,

High Court,

Maduras – 104.

(Cr.No.50 of 2017 on the file of the

Thennilai Police Station,

K.Paramathi Circle,

Karur District.)

... Appellant/Complainant

Vs.

Nataraj

...Respondent/Sole Accused

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.66 of 2018 on the file of the Additional District and Sessions



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Judge, Karur, dated 31.01.2018 and set aside the conviction and sentence

imposed against the appellant.

For Appellant : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor

For Respondent : Mr.M.Subash Babu,
Senior Counsel
for Mr.C.Susikumar

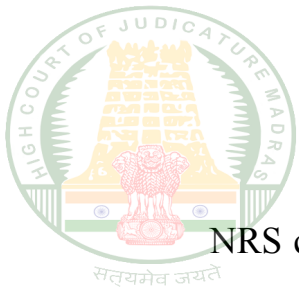
JUDGMENT

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

The Criminal Appeal has been filed by the complainant, questioning the judgment dated 31.01.2018 in S.C.No.66 of 2018 by the learned Additional District and Sessions Judge, Karur, by which judgment, the accused therein was acquitted of all charges.

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

(a) On 02.05.2017 at about 5.30 p.m., the complainant who is the village administrative officer was informed by the Ex-vice president of Anjoor Village, Thiru.Saravanakumar, that within their village limits at Kodumudi to Muthoor road on the western side near



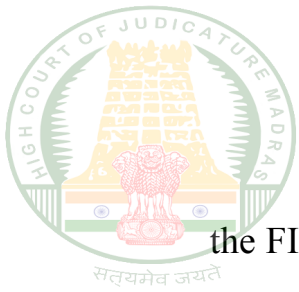
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NRS channel bridge a white colour nylon gunny bag was found in a tied condition. He smelt bad odour from the said bag.

(b) Immediately he and his Assistant Tmt.Geetha went to the place at about 6.00 p.m. and partially opened the bag in the presence of witnesses Ravi @ Velusamy and Saravanakumar. They found a human finger in the said bag, upon opening fully they found a decomposed body of a woman, approximately between 30 to 40 years. She was wearing a violet colour nighty, light coffee brown colour skirt. Her body had a black skin infested with maggots. They also found 4 studs in her ear, a mangal sutra thread around her neck and a toe ring.

(c) They made Enquiries about the identity of the women, but they could not get any information, suspecting somebody would have killed her and tied her in a gunny bag, he lodged a complaint before the Paramathi Police Station, Thennalai at 19.20 hours.

(d) P.W.29 Tmt.Sumathy, Sub-Inspector of Police, Paramathi Police Station received the complaint Ex.P.1 and registered FIR in Crime No.50 of 2017 under Section 302 and 201 IPC under Ex.P.21. She sent



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the FIR to the Judicial Magistrate No.II, Karur and copy to the Paramathi

Police Station for investigation.

(e) P.W.30 Thiru.Gunasekaran, Inspector of Police, on 02.05.2017 after receipt of the FIR went to the place of occurrence namely, Kodumudi-Muthoor main road, near NRS bridge and prepared observation mahazar Ex.P.3, rough sketch Ex.P.22 in the presence of witnesses Murugesan and Muthusamy. Thereafter, he recovered 1) nylon bag with letters as Joker Riz, Special Joker Sortex Silky Rice – 2 nos. M.O.11 and M.O.12, saree with saffron colour, violet and yellow colour rope 3-½ ft. length, yellow and violet colour 7 ft. length nylon rope, yellow and violet colour nylon rope 9 ft. length, 6ft. length tied together, 4 ft. Length, 3 ft. length rope tied together, with yellow and violet colour rope - M.O.7 to M.O.10, purge fluid, cement earth, ordinary earth in a seizure mahazar Ex.P5.

(f) He examined Shanmugam, Geetha, Saravanakumar, Ravi @ Veluchamy, Murugesan and Muthusamy and recorded their statements.



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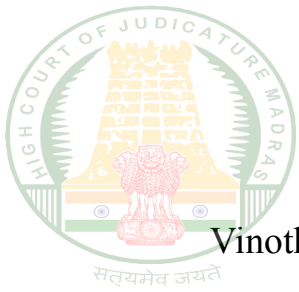
(g) On 03.05.2017, he conducted inquest on the dead body

in the presence of panchayathars and witnesses. At about 9.00 hours, prepared inquest report under Ex.P.23. Since they could not identify the dead body, in order to collect the skull and femur bone from the dead body, he sent a requisition letter through Constable Muthukumar under Ex.P.24. He also examined the witnesses and rerecorded their statements.

(h) On 04.05.2017 after post mortem the police Constable Muthukumar received the dresses worn by the deceased namely, nighty – M.O.17, inskirt – M.O.18, two covering ear stud big measuring 400 gm.- M.O.19, a pair of stud small – M.O.20, gold nose ring – M.O.21, silver mingi (மிங்கி) – M.O.22, covering bangles – M.O.23, mangalsutra rope without thali – M.O.24 in a special report under Form-91. He also sent the form – 91 with material objects to the Judicial Magistrate on 05.05.2017 under Ex.P.25.

(i) On 05.05.2017, he sent a requisition letter to the Judicial Magistrate to conduct chemical analysis on the viscera.

(j) On 09.05.2017, he examined the witnesses Karthik and



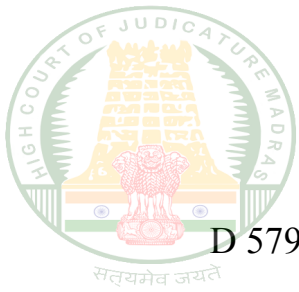
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Vinoth and recorded their statements.

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(k) On 12.05.2017 the accused appeared before the Village Administrative Officer Tmt.Freeda and confessed about the crime. The Village Administrative Officer, on the same day at about 13.00 hours produced the accused before the Inspector of Police, Paramathi Police Station with confession statement. The extra judicial confession statement was recorded under Ex.P.2.

(l) Upon enquiry, he learnt that the name of the deceased was Ponnammal @ Dhanalakshmi and the accused is the murderer. He arrested the accused at about 13.15 hours, after explaining the reason for arrest and recorded his confession statement under Ex.P.2. Based on the confession, he went to the place of occurrence Kupputhurai Engineer Thottam, Karvazhi Village and prepared observation mahazar Ex.P.26 at about 15.40 hours, rough sketch Ex.P.9 at about 16.30 hours, the accused handed over a cash of Rs.1,000/- M.O.1 and the same was recovered in a seizure mahazar Ex.P.4. He also seized ordinary earth -M.O.3, mud with ash cement earth – M.O.4 in the presence of witnesses. At about 18.30 hours, he recovered TVS-50 two wheeler bearing Registration No.TN 28



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D 5795 -M.O.5 in a seizure mahazar in the presence of the same witness.

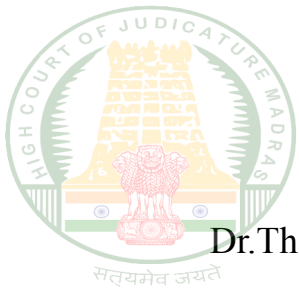
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(m) Thereafter, he came to the police station with the accused and the material objects and sent him for remand. He also sent the material objects to the Judicial Magistrate Court on 12.05.2017 under form 91.

(n) He then examined the witnesses Freeda, Mani and recorded their statements. He also examined the witnesses Shanmugam, Geetha, Saravanakumar, Ravi @ Veluchamy and re-recorded their statements.

(o) On 13.05.2017, he examined Rajendran, husband of the deceased, Meena daughter of the deceased, Kuppururai, Jeyamani, Periyasamy, Archunan, Saraswathy, Kannammal, Sakthivel, Ganesan and recorded their statements.

(p) On 14.05.2017, he examined the Police Constable Elangovan, Tmt.Sumathy, Sub Inspector of Police, who had registered the FIR and recorded their statements. On 16.05.2017, he examined



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Dr.Thangaraj-P.W.13 and recorded his statement. He received the postmortem report. Dr.Thangaraj, who had conducted the postmortem found the following injuries on the deadbody :

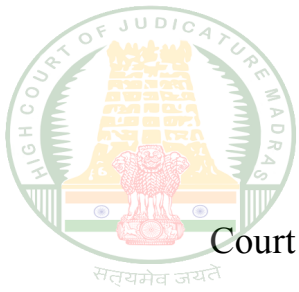
“A high decomposed female body lies with back arm closed to its side, body was bloated, peelings of skin present all over the body, maggots seen all over the body, no other external injury. Skull intact and sent for hyperimposition brain-liquefied, Hyoid Bone fracture, present and sent to examination Thorax and ribs -intact, lungs decomposed Heart chambers contains 50 grams of clotted blood, stomach contains 300 grams of partially digested food particles, intestine distended with gas, Bladder empty, uterus- present and sent for histopathological examination report.

Final opinion:

Cause of death cannot be ascertained, However neck violence cannot be ruled out due to Hyoid fracture.”

(q) On 24.05.2017, he sent a requisition to the Judicial Magistrate through Police Constable Muthukumar, to send the skull and femur bone to the Forensic Officer, Madras, for Scientific analysis under Ex.P.13.

(r) He also sent a requisition letter to the Judicial Magistrate



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Court with permission to send the material objects to the Forensic experts

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under Ex.P.31. Thereafter, on 27.11.2017 he sent a requisition for DNA test for the deceased Ponnammal @ Dhanalakshmi with her daughter Meena and endorsed the work with Grade-I Police Elangovan under Ex.P32.

(s) On 12.12.2017, blood samples of Meena was collected through FTA card and sent for DNA test through Grade-I Police Ravikannan. He had examined Dr.Prakash and Dr.Shanthi on 20.12.2017 and recorded their statements.

(t) On 04.01.2018 he also examined photographer Mankrishnan, handwriting expert Thangaraj, Grade I Police Constables viz., Elangovan, Raghunathan, Ravikannan, Muthukumar, Devanathan and recorded their statements. On 19.01.2018 he examined Dr.Pushparani who had conducted superimposition test with the skull of the deceased Ponnammal @ Dhanalakshmi by comparing her photograph. The superimposition report was marked as Ex.P.33. He examined Dr.Thara, who had furnished DNA report.



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(u) On 20.04.2018, he examined Dr.Balakrishnan who had

examined uterus of the deceased Ponnammal @ Dhanalakshmi. He also obtained the final opinion from Dr.Thangaraj on 04.05.2018 and on 18.05.2018 he also raised questions with regard to final opinion and received answers from Dr.Thangaraj for certain questions.

(v) After completion of the investigation, on 02.06.2018 he filed a final report against the accused for the offence under Sections 302 and 201 IPC.

3. On receipt of the records, the Judicial Magistrate No.II, Karur took up the case in P.R.C.No.12 of 2018 and issued summons to the accused. After the appearance of the accused, copies of the entire records were furnished to him free of cost under Section 207 Cr.P.C.

4. Since the offence was exclusively triable by the Sessions Court, the learned Judicial Magistrate committed the case records to the Principal District and Sessions Judge, Karur, under Section 209(A) Cr.P.C. for further action.



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5. The Principal District Judge, Karur received the case records, numbered it as S.C.No.66 of 2018 and made over to the Additional Sessions Judge, Karur, for disposal according to law.

6. After receipt of the case records, the learned Additional Sessions Judge, Karur framed charges against the accused under Section 302 and 201 IPC. The charges were read over and explained to the accused. The accused denied the charges and claimed to be tried. Therefore, the case was posted for trial.

7. On the side of the prosecution, P.W.1 to P.W.30 were examined and Ex.P1 to Ex.P18 were marked. Material Objects M.O.1 to M.O.34 were produced. On the side of the accused, no witness was examined.

8. On conclusion of trial, the learned Additional Sessions Judge, Karur, acquitted the accused of all the charges by judgment dated 31.01.2020, against which, the present Criminal Appeal has been filed by the State/complainant on the following among other grounds :-

(i) That the trial Court had misinterpreted the evidence P.W.13



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postmortem Doctor, giving weightage to the suggestion made by the defence in the cross-examination.

(ii) That the trial Court had erred in holding that the prosecution had failed to establish that the deceased was "last seen alive" in the company of the accused, while the prosecution had established that the accused and deceased had been living as husband and wife and subsequent to her missing the accused has not informed anyone about her missing, but on the contra the accused had given false explanation to P.W. 7 (daughter of the deceased) and P.W. 8 Kuppudurai, land owner, that the deceased had gone to her native place.

(iii) That the trial Court failed to appreciate the materials evidence on record and had acquitted the accused despite proof beyond doubt.

(iv) That the trial Court erroneously come to the conclusion that the prosecution was not proved the identity of the deceased and acquitted the accused person

(v) That the trial Court relied upon minor discrepancies in the evidence and given the benefit of doubts in favour of the accused, which is totally erroneous.



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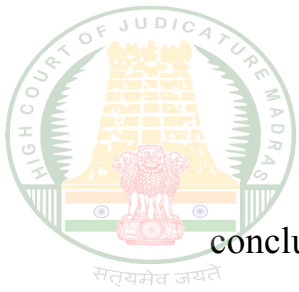
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9. The learned counsel for the respondent argued that there is no direct proof to lead the conclusion that the accused alone committed the guilt. The motive for the crime was not established. The Village Administrative Officer before whom the extra Judicial confession made is totally stranger, and it is not properly established by the prosecution about the confession, recovery etc. There were discrepancy in the evidence of witnesses and the FIR belatedly reached the Court. The trial Court after analysing the evidence acquitted the accused and there is no error in appreciation of evidence or perversity in the judgment.

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

11. Now this court has to decide whether the judgement rendered by the trial Court is proper or liable to be set aside ?

12. This case, rest on circumstantial evidence, by the prosecution. A case based on circumstantial evidence, duty of the prosecution is to prove the guilt of the accused beyond all reasonable doubt by establishing a chain of circumstances that only leads to the



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conclusion that the accused committed the crime.

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(a) Prosecution must (marshal) a series of facts that link together for a complete and unbroken chain and pointing to the accused guilt.

b) evidence must be strong enough that no reasonable hypothesis, except the guilt of the accused is possible.

c) The circumstances must be consistent only with guilt and not explainable in any other innocent way.

13. The dead body of the deceased Ponnammal @ Dhanalakshmi was found on 2.5.2017 at 5.30 a.m. by Ex-Vice President of Anjur Village. Immediately he had intimated to P.W.1 Thiru.Shanmugam, the Village Administrative Officer about the same. After receipt of information, P.W.1 went along with his Assistant Geetha to Kodumudi Muthur Road., Western side of Rangaswamy Temple village, below the NRS channel Bridge and found a gunny bag with a foul smell.

14. PW1, and his assistant Geetha opened the bag in the



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presence of witnesses Ravi @Veluchami, and Saravana Kumar. They found a dead body of an unidentified woman aged between 30 to 40 in a decomposed stage. Therefore he had lodged the complaint Ex.P1 before the Thennilai Police Station.

15. 10 days later, on 12.05.2017 at 11.00 the accused surrendered before P.W.3 Freeda, the Village Administrative Officer of Karvazhi and confessed about the crime. PW3 recorded his statement in the presence of his assistant Thiru.Mani and handed over the accused and his extra judicial confession statement under Ex.P2 to the Inspector of Police, Paramathi Police Station.

16. The Inspector of police, Paramathi station, arrested him, examined him and recorded his confession statement. Based on his confession, he recovered, a sum of Rs.1,000/- cash and a covering (கவரிங்) chain, the accused burnt the clothes of deceased Dhanalakshmi and the ashes were collected among other materials objects.

17. The deceased was identified as Poonnammal @ Dhanalakshmi by the prosecution, as the prosecution produced Exs.P15



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to Exs.P17 DNA report shows that the blood samples of one Meena, daughter of the deceased was compared with DNA profile of the femur bone of the deceased. It concludes as follows:

Conclusion. i) the femur of (ref 2) belongs to a female individual

ii) The person to whom the femur belongs as the biological mother of Meena

18. Further the superimposition test result issued by the forensic science department dated 09.11.2017 under Ex.P33 shows the skull of the deceased Ponnammal @ Dhanalakshmi was sent Anthropology Department with the photograph of the said Ponnammal, after the test, the Deputy Director of the Anthropology Division opine as follows:

1. The skull belong to an adult female individual.
2. The item to could very well have belong to the female individual seen in the photograph, in item number one.

The prosecution, therefore clearly proved that the unidentified body found on 02.07.2017 near Channel Bridge belongs to deceased Ponnammal @ Dhanalakshmi



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19. The illegal intimacy and living together relationship of

both accused and the deceased was spoken by PW2 who is none other than the nephew of the accused. During chief examination, he stated that the accused is his paternal uncle. The accused had illegal intimacy with the deceased and gone to Kerala in search of job. After three months, deceased approached him and informed him that they could not find a job in Kerala and requested him to help in securing a job.

20. Therefore, he arranged for him the accused work in a field belonging to P.W.8 Kuppathurai, an engineer, with whom he was also working. The accused and the deceased were staying in the field of the said engineer. There had been one or two tiffs between them. He and his brother often visited them. The deceased was working in a mill. The accused used to take the deceased in his TVS 50 vehicle and dropped her in the mill and bring her back from the mill after her work.

21. One day he went to his uncle's house and found his aunt Ponammal, the deceased was missing. He enquired with the accused about her whereabouts, to which the accused stated that she had gone out of town.

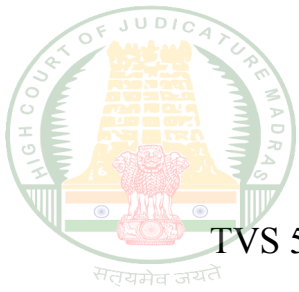


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22. After four or five days once again he and his brother visited the accused's house, but the deceased was still not there. When they asked about her whereabouts with accused, he stated that she had gone to her native.

23. Thereafter, the Police showed him a photograph of a woman's dead body lying near the channel Bridge. However, he could not identified it. But he stated to the Police that the violet nighty in the dead body might have belong to the deceased.

24. His evidence was supported by P.W.11 who was working with the deceased in Karvembu mill, she deposed that P.W.2 and one Vinod came to her house and enquired whether any house was available for rent. She informed them that a house belonging to one Arjun was vacant. Thereafter, both the deceased and the accused came to that house for rent. The deceased Dhanalakshmi repeatedly requested to find a job. During the end of March, she took her and helped her to get a job in Karvembu mill as sweeper where she was working. The deceaed Dhanalakshmi used to leave for work at about 8.00 a.m., in the morning and return at 5 o' clock. The accused would drop her and bring back on



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TVS 50 Motor cycle.

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25. One day, she revealed to P.W.11 that her original name was Ponammal and that she belonged to Dindigul District. She was already married, but later developed an illegal intimacy with the accused Natarajan and they had been living together for the past eight years. P.W.8 Kuppadurai, Engineer purchased a field and Vinod and Karthi both took deceased and accused to his field. Thereafter, they shifted to the field of Kuppadurai. Both were in the habit of consuming alcohol. The deceased Dhanalakshmi informed her that she spent all her earning to the accused for consuming alcohol and was unable to give any money to her husband or her children.

26. On 29.04.2017, deceased Dhanalakshmi went to get her salary, but did not turned back. P.W.11 thought that Dhanalakshmi might have gone to her native. On 02.05.2017, police came to the mill, informed that a woman was murdered and tied in a gunny bag and her dead body was found below the bridge. The Police showed photographs of the dead body and conducted enquiry. Since the dead body in the photograph was blackened she was unable to identify the person.



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27. Her evidence was corroborated by P.W.12 Shakthi,

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Manager of Karvembu spinning mill where P.W.11, Kannammall was working in mixing unit, and the deceased was working as sweeper. He deposed that deceased Dhanalakshmi was brought by P.W.11 and she joined her at his mill during March. After receiving her weekly salary, she did not return to work. On 02.05.2017 Thennilai police came and showed a photograph and made enquiries. But the photo was unidentifiable. The police enquired whether any of their women workers found missing from their mill. He said that will verify the register and inform him, thereafter, he came to know that Dhanalakshmi was murdered. The police collected the attendance register of Dhanalakshmi.

28. The evidence of the above witness further corroborated with the evidence of P.W.8, Thiru.Kuppudurai, in whose field the accused was working and both the accused and deceased were staying together. He deposed that he had purchased lands and was searching for a person to maintain his field. He requested P.W.2, nephew of the accused to find out a person to look after his farm. The accused was introduced by P.W.2, and he engaged the accused to maintain his form. The deceased Dhanalakshmi was also residing with the accused and was working in a



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mill. On 30.4.2017, he wanted to install a bore-well on his land. On the same day, at about 5.00 hours in the morning, he called the accused over the phone and informed him that he would bring a person from Erode to erect the bore-well. The accused informed him that he was in Muthoor and would attend to the work. Then he took that person to the land and erected the bore. At that time, the accused was available but deceased Dhanalakshmi found missing. He enquired with the accused about Dhanalakshmi. In response, the accused stated that she had gone to her native place and not yet returned. After some time he had gone to his land to perform Pooja. At that time, the police came and informed that Dhanalakshmi was killed by someone and her body found near channel Bridge. P.W.2 Karthi also informed him about the same, but on that day, the accused was not found in his house.

29. The evidence of P.W.2, P.W.8, P.W.11 and P.W.12 corroborates each other. All the above witnesses clearly stated that the accused and the deceased had developed an illegal intimacy and were living together in the same house till she was missing.

30. All the above witnesses confirmed that the deceased had



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been missing since 30th and did not turned back. Additionally, the milk supplier, P.W.23, Smt.Jeyamani reported that the deceased used to visit her house to get milk, but suddenly disappeared.

31. It is therefore, proven that the deceased had been living with the accused in the field of one Kuppusamy P.W.8, before her disappearance. The cumulative evidence of the above witness is established that the deceased was living with the accused before her death. The accused did not deny their relationship or fact that they lastly resided in Kuppaswamy's field.

32. Her absence was first noticed by P.W.2 and P.W.8. Upon enquiry, the accused falsely claimed that she had gone to her native. The dead body was found on 02.05.2017, till 12.5.2017, he has not filed any complaint to state that she had been to her native and not returned back. He has not come forward with any explanation about the missing of deceased Ponnammal who was living with him for the continuous period of eight years and lastly residing with him in the land belong to P.W.8. The accused who had personal knowledge about the whereabouts of the deceased has not come forward to provide any information about her



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whereabouts.

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33. In this connection, we invoke section 106 of Indian Evidence Act, which states when any fact especially within the knowledge of a person, the burden of proving that fact lies upon him. This section is based on the principle that when a fact is exclusively, within a person's knowledge it is easier for them to prove it than for other party. When an accused is found in this circumstances, he can only explain how an event happened.

34. But the accused not explained anything about missing of the deceased. Further the conduct of the accused on the date of occurrence was crucial, his conduct was spoken by many witnesses, who found the accused near the place where the dead body of Ponammal was found.

35. P.W.9, Arjunan deposed that he was working in SR petrol bunk as Cashier. On 30.4.2017 early morning at 4.30 hours, a person came and knocked the door, before he came, he left the place. Identified the accused in the Court by stating that he is the person and further stated



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that he used to come to his petrol bunk for filling up petrol.

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Subsequently, the Police came and informed that that a dead body of a woman tied in gunny bag found near Rangaswamy Temple. The Police requested to give the CCTV footage of the petrol bunk. CCTV camera was not functioning and therefore, he could not hand over the same to the police. The defense counsel, put some suggestions that since the person who knocked the door was wearing turban, he could not have identified the accused, he is not aware the person, and he is not able to give the registration number of the vehicle for which he stated that yes. But in chief examination, he clearly stated that they accused came and knocked the door at about 4.30 P.M.

36. P.W.10, another witness who is running a tea shop near Rangaswamy Temple stated that she woke up at 4.00 AM and cleaned the main entrance, on 30th the accused came in TVS 50 and proceeded to Western side. She further stated that he used to come with a woman and have tea in his shop. During cross examination, she admits to the suggestion that if a person wearing turban could not be identified in darkn.

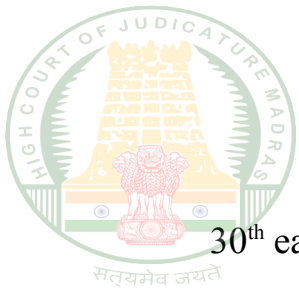


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37. The learned counsel appearing for the defence argued

that P.W.9 and P.W.10 falsely stated that they saw the accused on 30th day of April 2017.

38. However one more witness P.W.21, who runs a bakery at Thottipalayam, clearly stated that on 30.4.2017, morning at about 5.00 hours, a person wearing turban came from East to West with turban, pushing a TVS 50 vehicle. He enquired him about where he could get petrol. P.W.21 had identified the accused in Court as the person who enquired him on 30.04.2017. He informed him that he has to go to Muthur to get petrol. The accused appeared fearful and anxious. He had a tea, then took his vehicle and left the place. On 2.5.2017, he was informed that a gunny bag containing the dead body of a woman was found near Rangaswamy Temple channel was tied. Subsequently, he came to know that the accused had been arrested in connection with the murder of a woman. The evidence of P.W.21 is a strong evidence. He clearly stated that on the date of occurrence he found the accused with fear and anxiety. The accused presence near the place where the dead body was found on the date of occurrence a strong suspicious circumstance against the accused. His employer clearly stated that on



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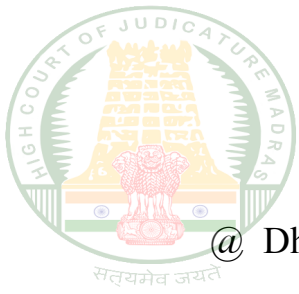
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30th early morning, he called the accused, to erect bore well. The accused informed that at that time he was in Muthoor, whereas the accused was found at that time P.W.21 near the location where the dead body was disposed off. This establishes a proximity between him and the crime.

39. The employer P.W.8 states that on the date of occurrence, the deceased found missing in the house of the accused. P.W.21 had deposed that the accused was found near the place where the body of Ponnammal @ Dhanalakshmi. When P.W.7 and P.W.8 enquired with the accused about the deceased, the accused stated that she had gone to her native, which is proved as false since at that time Dhanalakshmi already dead and the dead body of the deceased had in a gunny bag thrown in the same village.

40. All the witnesses who have incriminated the accused are independent witnesses. They do not have any enmity against the accused to falsely implicate him with a grave offence of murder.

41. Therefore, it is clearly proved by the prosecution that, the dead body found near channel Bridge is none other than Ponammal



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@ Dhanalakshmi. The Photographs under Ex.P18 series along with certificate under Section 65 B of Act establishes the identity of the deceased persons beyond any doubt.

42. The evidence produced by the prosecution establishes that only the deceased and the accused were present in the house before her death. Additionally, there is no evidence that the deceased had left the house to meet her relative before missing.

43. The dead body of the deceased was sent for post mortem and Ex.P11 is the postmortem report. P.W.13, Dr.Thangaraj had stated that due to decomposition of body, the cause of death could not be ascertained, neck violence could not be ruled out due to hyoid bone fracture. During cross examination by the defence counsel for the suggestion that, there was possibility of hyoid bone fracture, viz., due to postmortem, decomposition and if a body thrown from a height, the Doctor has clarified that decomposition could not be a cause for hyoid bone fracture. Also, it could not occur in postmortem. Furthermore, it is clarified that if the body was thrown from a height not only the hyoid bone get fracture but other bones could also sustain fracture. Therefore,



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we are of the view that the cause of death of the deceased was by strangulation or forcible compression of neck.

44. The deceased dead body was found under suspicious circumstances, dressed in night dress, away from the shared residence, in a gunny bag tied with her saree. When questioned about her whereabouts the deceased falsely claimed that she had gone to her native. No evidence was presented by the defence to show that she had gone to her native to meet her relative. Further more the accused failed to report to the Police about her missing or to anyone else, until he surrendered on 12.07.2017. The prosecution established the foundational fact that both the deceased and the accused were living together until her death, and also proved that accused was found in the place of the dead body found in suspicious manner, for which the accused has not come forward with any explanation.

45. The accused was arrested and his confession statement was recorded leading to recovery namely cash of Rs.1000/-, the neck chain of the deceased, the ashes of burnt clothes of the deceased and TVS 50 vehicle. The accused not specifically denied these incriminating



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facts. Proximity of crime, refers to the physical and circumstantial closeness of the accused to the crime scene, the accused and deceased were lastly resided together and the accused noticed with fear and anxiety near the place where the dead body was found on the date of occurrence with his two wheeler, are all the surrounding circumstances point to the accused's involvement of the incident. His failure to explain leads to the conclusion that the accused alone committed the offence.

46. Considering the materials on record in entirety, it is proven that no one else than the accused committed the offence. Hence, he is held responsible for the crime of murder and liable to be punished.

47. After the murder, in order to conceal the crime and destroy evidence regarding the commission of an offence, he wrapped the dead body in her saree, placed it in a gunny bag and threw it near bridge channel. On 30.05.2017 during the early hours his presence near the location where the dead body found, confirmed by number of witnesses for which he has not offered any explanation. Therefore, he is liable for causing disappearance of evidence with an intention to screen the offence.



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48. Section 201 IPC reads as follows :

201. Causing disappearance of evidence of offence, or giving false information to screen offender.

— Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false;

if a capital offence.— shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

if punishable with imprisonment for life.— and if the offence is punishable with imprisonment for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

if punishable with less than ten years' imprisonment.— and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the



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offence, or with fine, or with both.

Illustration

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment.

A is liable to imprisonment of either description for seven years, and also to fine.

49. As per the charge, on the date of occurrence, both the deceased and the accused together consumed alcohol, and the deceased shouted at him that the accused spent her hard earned money to the accused alone, but she has not paid any money to her children or her husband. Therefore both had wordy quarrel, as a result he killed her by strangulation.

50. Now we have to decide whether the act committed by the accused would amount to murder under section 300 or culpable homicide, not amount to murder. The distinguishing factors between culpable homicide and murder are as follows:

“What distinguish these two offences is the presence of a special mens-rea which consists of four mental attitudes in the presence of any of which the lesser offence becomes greater. These four mental attitudes are stated in Section 300



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IPC as distinguishing murder from culpable homicide. Unless the offence can be said to involve at least one such mental attitude it cannot be murder.”

51. For better appreciation, it is relevant to extract Section 300 IPC along with its comments from the Indian Penal Code, by Ratanlal and Dhirajlal (32nd enlarged edition):-

“300.Murder.—Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—

Secondly.—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

Thirdly.—If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

Fourthly.—If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.



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Exception 4.—Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner.

Explanation.—It is immaterial in such cases which party offers the provocation or commits the first assault.”

52. P.W.2 nephew of the accused, who often visited the accused categorically deposed that they used to have only minor quarrel. He has not stated that the accused had previous enmity or grievances to kill her.

53. P.W.11 in her evidence deposed that the deceased Dhanalakshmi told her that the accused spending the entire money for consuming alcohol, but she could not spend anything for her husband or her child, which is only a grievance against the accused by the deceased.

54. Confession made to police evidence is not admissible in evidence except to the extent facts leading to discovery in this or the accused had given confession to the Village Administrative Officer P.W.3 before his arrest. The extra Judicial confession if voluntarily can be



relied upon by the Court along with other evidence for testing the guilts.

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55. There is no bar to rely on the statement of the accused, the portion which is in his favour. In this connection, it is profitable to refer the judgment in **Ganesan : In re.** reported in **1973 LW (Crl.) 42**, in which it is held that :-

“Confessional statement made by the accused to the police – Admissibility, to the extent that it is favourable to him -

The above decision has been followed in Khatri Hemraj Amulkah v. State of Gujarat : 1972CriLJ626. According to these decisions, the only portion of the statement which could be admitted is the initial portion that he was making the statement, which would not be of any use to the prosecution. But there is no bar to the appellant using the statement in his favour. See also Mottai Thevar in re : AIR 1952 Mad 586. We are referring to this at this stage itself, because Ex. P-6 contains statements favourable to the appellant.”

56. Ex.P2 is the extra judicial confession before the Village Administrative Officer. The extra Judicial confession, was allegedly made by the accused. PW3, Freeda Village, Administrative Officer



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spoken about the confession. PW3 stated that on 12.5.2017, the accused came to her office and confessed about the crime. She recorded his statement and took the accused to the Thennilai Police Station and handed over the confession statement along with the letter to the inspector of police. Thereafter the Inspector of Police arrested the accused, enquired and recorded his confession and recovered incriminating objects.

57. In the confession, the accused had stated that he and the deceased consumed alcohol together. The deceased quarreled with him by stating that she spent all her money for him to consume alcohol, he tried to pacify her but she continuously quarreled with him, thereafter at about 3 o'clock again, the deceased without allowing him to sleep, started fighting and she tried to press his neck which provoked him he exclaim, how dare she try to kill him and pressed his neck, he inturn, pressed her neck, in the result, she died. This shows that he had no intention to kill her, but due to the sudden fight the occurrence had taken place. The death not caused in a cruel or unusual manner. We hold that as a culpable homicide not amounting to murder fall under 4th Exception of Section 300 of IPC which reads as below :-



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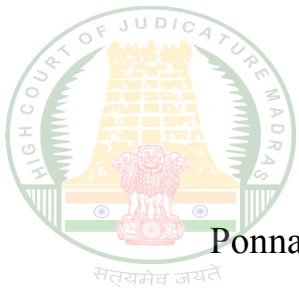


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“Exception 4.- Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner.”

58. The witnesses for prosecution stated that the accused and the deceased had petty quarrel and there was no serious dispute between them. It is not established by the prosecution that the accused had intention or motive to kill the deceased. Evidence discloses that on the date of occurrence, the deceased quarrelled with him accusing him for spending her money for consuming alcohol. The quarrel continued till midnight; the deceased tried to attack him, provoked by her words, the accused pressed her neck. He had no intention to kill, but knowledge that the act is likely to cause death. Therefore, we hold that the crime committed by the accused not punishable under section 302 of IPC, but fall under 4th Exception to Section 300 IPC and come within the purview of 304(ii) IPC

59. Though the accused had committed the offence under provocation, he soon after the occurrence in order to conceal the crime and disappear the evidence, the accused tied the body of the deceased



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Ponnammal @ Dhanalakshmi in her saree and kept in a gunny bag and disposed the dead body near channel. Thereafter he surrendered before the Village Administrative Officer after 12 days from the date of murder. Therefore, he is held guilty of offence under section 201 of IPC.

60. Thus on reappreciating the evidence, we find the trial Court judgment suffers patent perversity.

61. In ***Babu Sahebagouda Rudragoudar and Others v. State of Karnataka*** reported in ***[2024] 5 S.C.R. 174*** the Hon'ble Supreme Court has held as follows :

39. Thus, it is beyond the pale of doubt that the scope of interference by an appellate Court for reversing the judgment of acquittal recorded by the trial Court in favour of the accused has to be exercised within the four corners of the following principles:-

- (a) That the judgment of acquittal suffers from patent perversity;*
- (b) That the same is based on a misreading/omission to consider material evidence on record;*
- (c) That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.*



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62. The Hon'ble Supreme Court in ***Bhupatbhai Bachubhai***

Chavda & another vs. State of Gujarat reported in [2024] 4 S.C.R 322,

has held as follows :

6. *It is true that while deciding an appeal against acquittal, the Appellate Court has to reappreciate the evidence. After re-appreciating the evidence, the first question that needs to be answered by the Appellate Court is whether the view taken by the Trial Court was a plausible view that could have been taken based on evidence on record. Perusal of the impugned judgment of the High Court shows that this question has not been adverted to. Appellate Court can interfere with the order of acquittal only if it is satisfied after reappreciating the evidence that the only possible conclusion was that the guilt of the accused had been established beyond a reasonable doubt. The Appellate Court cannot overturn order of acquittal only on the ground that another view is possible. In other words, the judgment of acquittal must be found to be perverse. Unless the Appellate Court records such a finding, no interference can be made with the order of acquittal. The High Court has ignored the well-settled principle that an order of acquittal further strengthens the presumption of innocence of the accused. After having perused the judgment, we find that the High Court has not addressed itself on the main question.*

63. Following the above discussion of the Hon'ble Supreme

Court, we hold the trial Court judgment needs interference. In this case,



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the trial court totally ignored the fact that the deceased was last seen alive in the company of the accused and she suddenly disappeared.

When the nephew of the accused and the employer enquired the accused about her whereabouts, the accused falsely stated she had gone to her native. Soon after the occurrence, the accused was found near the location where the dead body was discovered in a suspicious manner. Though the link in the chain of circumstances is complete and unbroken, the trial Court failed to give due weightage to the evidence of P.W.2, P.W.8, P.W.11 and P.W.21, the conclusion of the trial Court is not a possible conclusion

64. Therefore, the judgement of the trial Court is held as perverse and warrants reversal. We hold that the charges of offences under Sections 304(ii) IPC and 201 IPC is made out and therefore, accused is liable to be convicted for offence punishable under Section 304(ii) and 201 IPC.

65. The judgment of the trial Court in S.C.No.66 of 2018 dated 31.01.2018 is set aside. The Criminal Appeal Stands allowed. Since that the accused found guilty of the offence under sections 304(ii)



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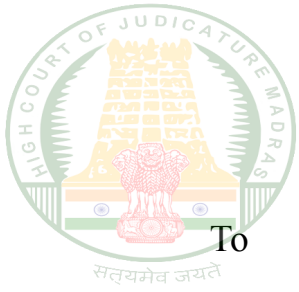
and 201 IPC, appearance of accused is necessary to questioning him about the sentence, hence, the appellant police is directed to secure the accused and produce him for questioning of sentence on 24.03.2025.

66. List again on 24.03.2025.

(G.J., J.) & (R.P., J.)
20.03.2025

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Internet : Yes / No
NCC : Yes / No

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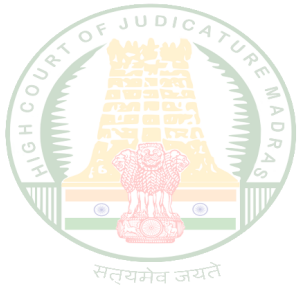


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To

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- 1.The Additional District and Sessions Judge,
Karur.
- 2.The Inspector of Police,
(Cr.No.50 of 2017 on the file of the
Thennilai Police Station,
K.Paramathi Circle,
Karur 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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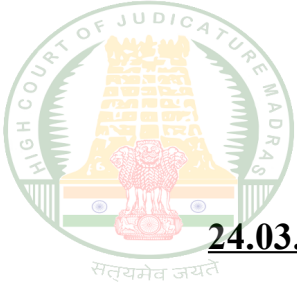
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G.JAYACHANDRAN J.
AND
R.POORNIMA, J.

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67. Accused produced. He was questioned on the sentence

to be imposed. He stated as follows :

எனக்கு தற்போது 61 வயதாகிறது.
குறைந்தபட்ச தண்டனை வழங்கும்படி
கேட்டுக்கொள்கிறேன். எனது குடும்பம் கோயம்புத்தூரில்
இருப்பதால் என்னை கோயம்புத்தூர் சிறையில்
வைக்கும்படி வேண்டுகிறேன்.

His statement has been recorded.

(G.J., J.) & (R.P., J.)
24.03.2025



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68 After holding guilty for the offence punishable under Sections 304(ii) and 201 of IPC, he was directed to be produced before this Court for questioning of sentence, accordingly, he was produced today. He pleads for lessor sentence.

69. Taking into consideration his age and on balancing the aggravated and mitigating circumstances, this Court sentence him (i) to undergo Five years (5) rigorous imprisonment and to pay a fine of Rs.2,000/- (Rupees Two Thousand Only) in default to undergo six months rigorous imprisonment for the offence under Section 304(ii) IPC and (ii) sentence to undergo Two years (2) rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) in default to undergo three months rigorous imprisonment for the offence under Section 201 IPC.

ii) The period of sentence already undergone as undertrial prisoner shall be set off under Section 428 of Cr.P.C.

iii) He has also been explained about his right to appeal before the Hon'ble Supreme Court.

iv) He has to be remanded to custody to undergo the



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remaining period of sentence.

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v) The accused to be confined at Coimbatore Central Prison,
since his relatives are in Coimbatore District.

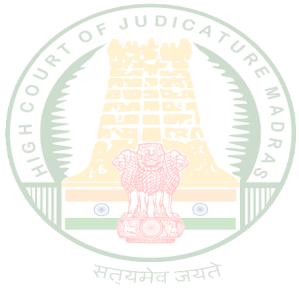
(G.J., J.) & (R.P., J.)
24.03.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No

VSN

Copy to

The Superintendent,
Central Prison,
Coimbatore.



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