



Cr1.A(MD)Nos.632 of 2023, 510 & 907 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Reserved on	09.10.2025
Pronounced on	04.11.2025

CORAM :

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

CRL.A(MD)Nos.632 of 2023 & 510 and 907 of 2024
and
CRL.MP(MD)No.11680 of 2024

Karthigairaj ... Appellant in Cr1.A(MD)No.632/2023/ Accused No.2
Manikandan ... Appellant in Cr1.A(MD)No.510/2024/ Accused No.3
Barotta Muthukrishnan
 ... Appellant in Cr1.A(MD)No.907/2024/ Accused No.1

vs.

The State rep by
Inspector of Police,
Thiruthangal Police Station,
Virudhunagar District.
Crime No.414/2010

... Respondent/Complainant in all cases

Prayer:-These Criminal Appeals filed under Section 374(2) of Criminal Procedure Code, to call for the records and set aside the conviction and sentence imposed by the Additional District and Sessions Court, Virudhunagar District at Srivilliputtur in S.C.No.194/2011 on 27.06.2023 and allow this criminal appeal.



Cr1.A(MD)Nos.632 of 2023, 510 & 907 of 2024

For Appellant : Mr.M.Jothi Basu in Cr1.A(MD)No.632/2023
Mr.V.R.Shanmuganathan in Cr1.A(MD)No.510/2024
Mr.S.Kasirajan in Cr1.A(MD)No.907/2024

For Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor

COMMON JUDGMENT

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

These Criminal Appeals have been filed by the appellants/Accused Nos.3, 2 and 1 respectively, to call for the records and set aside the conviction and sentence imposed by the Additional District and Sessions Court, Virudhunagar District at Srivilliputtur in S.C.No.194/2011 on 27.06.2023 and allow these appeals.

2. The case of the prosecution is that there was a money dispute between the accused and the deceased Pottukadalai @ Rajkumar. Due to the said motive, on 21.06.2010 at 11.30 p.m., when the deceased was walking to his home from the work place, the accused with the intention to kill the deceased armed with deadly weapons, waylaid him. A1 attacked the deceased with billhook and while the deceased prevented the said attack, his left wrist was amputated and A1 also caused injury on the right eye of the deceased. A2 attacked the deceased



Cr1.A(MD)Nos.632 of 2023, 510 & 907 of 2024

with soori knife on his pelvic crest and A3 attacked the deceased with billhook on left cheek and scalp behind the left ear. Due to the injuries caused by the appellants, the deceased died on the spot. On the complaint-Ex.P1 given by PW1/wife of the decedese, the respondent/Police registered a case against the appellants in Crime No. 414 of 2010 for the offences under Sections 341 and 302 of IPC. After investigation, the respondent/police laid a charge sheet before the Judicial Magistrate Court, Sivakasi, and the same was taken on file in PRC.No.45 of 2010. 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 Additional District and Sessions Court, Virudhunagar District at Srivilliputtur, took the case on file in S.C.No.194 of 2011 and framed the charges for the commission of offences under Sections 341 and 302 of IPC. In order to substantiate the case during trial, on the side of the prosecution, totally 9 witnesses were examined as PW1 to PW9 and 13 documents were marked as Exs.P1 to Ex.P13, besides 13 material objects were exhibited as MO1 to MO13. On the side of the appellants, no oral and documentary evidence was let in.



WEB COPY 3.

After completion of the evidence on the side of the prosecution, the appellants/accused were questioned under Section 313(1)(b) Cr.P.C., with regard to incriminating circumstances made out against them in the evidence rendered by the prosecution witnesses and they denied it as false. On conclusion of the trial and hearing of the arguments on either side, the trial Court convicted the appellants for the offence under Section 341 of IPC and sentenced them to undergo each one month simple imprisonment and further convicted them for the offence under Section 302 of IPC and sentenced to undergo life imprisonment with the fine of Rs.5,000/- each in default to undergo further period of three months simple imprisonment. The sentences were ordered to be run concurrently. Aggrieved over the judgment and sentence, the appellants/accused have filed the present appeals before this Court.

4. The learned counsel for the appellant in Cr1.A(MD)No.632/2023 would submit that the presence of PW1 and PW2 at the time of occurrence is highly doubtful since they were unable



Cr1.A(MD)Nos.632 of 2023, 510 & 907 of 2024

to find out the place of occurrence in Ex.P11-rough sketch and further when the place of occurrence is the middle of the street, no independent was examined. Moreover, the deceased was also a rowdy element and also a history-sheeter and therefore, the prosecution failed to prove the motive of the appellants to commit the charged offences. He would further submit that the trial Court failed to consider the documents in Ex.P1-Complaint and Ex.P10-FIR, where there are various corrections and interpolations and further, the scribe of Ex.P1 was not examined and attesting witness to Ex.P1 namely, PW4 turned hostile and therefore, the entire prosecution case goes.

5. The learned counsel for the appellant in Cr1.A(MD)No.510/2024 would submit that the occurrence took place between 08.00 p.m to 11.30 p.m on 21.06.2010, whereas, the defacto complainant/PW1 informed the same to the police on 22.06.2010 about 00.30 hours and in the FIR, date was mentioned as 21.06.2010. Therefore, the registration of the FIR itself is highly doubtful and it is an afterthought. He would further submit that though the place of occurrence is a street, no independent witness was examined and the



Cr1.A(MD)Nos.632 of 2023, 510 & 907 of 2024

prosecution has failed to prove the circumstantial evidence and there is no link connecting the accused with the offence of murder. The trial Court failed to consider the contradictions in the evidence of the prosecution witnesses, where PW3 and PW4 turned hostile.

6. The learned counsel for the appellant in Cr1.A(MD)No.907/2024 would submit that PW1 and 2 are interested witnesses and therefore, their evidence cannot be relied upon. Further, as per Ex.P8-observation mahazar and Ex.P11-rough sketch, the house of the deceased was not situated in the place of occurrence and therefore both PW1 and PW2 could not have witnessed the occurrence which happened during the dark hours at 11.30 p.m, as such, they could not be considered as eye-witnesses. Even in the evidence of PW1 and PW2, there is a contradiction regarding the motive of the appellants and there is no record to substantiate the motive. He would further submit that there is a glaring contradiction regarding the witness of the occurrence by PW1, who has specifically stated in her chief examination that when she visited the scene of occurrence, all were gathered, whereas, in the cross examination, she has stated that nobody was present in the



Cr1.A(MD)Nos.632 of 2023, 510 & 907 of 2024

occurrence place. Further, PW2 also deposed in his cross examination that PW1 had seen the deceased after he fell down with injuries. Thus, it is clear that PW1 and PW2 never witnessed the occurrence and even their evidence is not corroborated with each other. No independent witnesses residing in the locality were examined which creates more suspicion regarding the genesis of the prosecution case.

7. The learned Additional Public Prosecutor appearing for the respondent/Police would submit that A1 to A3 with previous motive, attacked the deceased with deadly weapons and PW1 and PW2 who are eye-witnesses, have clearly spoken about the overt act attributed against the accused. All the accused had deadly weapons namely, billhook and soori knife and caused injuries on the body of the deceased, due to which, the deceased died on the spot. Immediately PW1 made a complaint to the respondent/police and the police also registered a case against the named accused, conducted the investigation and laid charge sheet. In order to substantiate the case of the prosecution, as many as 9 witnesses were examined and 13 documents were marked. The motive was established through the evidence of PW1



Cr1.A(MD)Nos.632 of 2023, 510 & 907 of 2024

and PW2 and recovery was also proved through the official witnesses Pws.5 & 6-VAOs. The injuries sustained by the deceased are tallied with Ex.P7-postmortem report and corroborated by the evidence of PW1 & PW2. Therefore, the prosecution has proved the case beyond reasonable doubt. The contradictions pointed out by the appellants in the evidence of the prosecution witnesses are only minor contradictions which occurred due to lapse of time and it is well settled that such minor contradictions / discrepancies will not affect the prosecution case. In this context, the learned Additional Public Prosecutor has relied upon the judgment of the Hon'ble Supreme Court in *Kalabhai Hamirbhai Kachhot vs. State of Gujarat* reported in 2021 SCC Online SC 347. The relevant portion of the said judgment is extracted hereunder:

"

.....

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



the witness and record a finding as to whether his deposition inspires confidence.

"9. Exaggerations per se do not render the evidence brittle. But it can be one of the factors to test credibility of the prosecution version, when the entire evidence is put in a crucible for being tested on the touchstone of credibility." [Ed.: As observed in Bihari Nath Goswami v. Shiv Kumar Singh, (2004) 9 SCC 186, p. 192, para 9.] Therefore, mere marginal variations in the statements of a witness cannot be dubbed as improvements as the same may be elaborations of the statement made by the witness earlier. The omissions which amount to contradictions in material particulars i.e. go to the root of the case/materially affect the trial or core of the prosecution's case, render the testimony of the witness liable to be discredited. [Vide State v. Saravanan [(2008) 17 SCC 587 : (2010) 4 SCC (Cri) 580 : AIR 2009 SC 152], Arumugam v. State [(2008) 15 SCC 590 : (2009) 3 SCC (Cri) 1130 : AIR 2009 SC 331], Mahendra Pratap Singh v. State of U.P. [(2009) 11 SCC 334 : (2009) 3 SCC (Cri) 1352] and Sunil Kumar Sambhudayal Gupta (Dr.) v. State of Maharashtra [(2010) 13 SCC 657 : JT (2010) 12 SC 287]."

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

"42. Only such omissions which amount to contradiction in material particulars can be used to discredit the testimony of the witness. The omission in the police statement by itself would not necessarily render the testimony of witness unreliable. When the version given by the witness in the court is different in material particulars from that disclosed in his earlier statements, the case of the prosecution becomes doubtful and not otherwise. Minor contradictions are bound to appear in the statements of truthful witnesses as memory sometimes plays false and the sense of observation differ from person to person. The omissions in the earlier statement if found to be of trivial details, as in the present case, the same would not cause any dent in the testimony of PW 2. Even if there is contradiction of



Cr1.A(MD)Nos.632 of 2023, 510 & 907 of 2024

statement of a witness on any material point, that is no ground to reject the whole of the testimony of such witness."

WEB COPY

Thus, the learned Additional Public Prosecutor would submit that the trial Court rightly appreciated the oral and documentary evidence of the prosecution witnesses and convicted the accused. There is no merit in these appeals and hence the same are liable to be dismissed.

8. Heard both sides and perused the records.

9. The specific case of the prosecution is that there was a money dispute between the accused and the deceased. Due to the said motive, on 21.06.2010 at 11.30 p.m., the accused 1 and 3 attacked the deceased with billhook and the 2nd accused attacked the deceased with soori knife. Due to the injuries, the deceased died on the spot. On the complaint of PW1, the respondent/police registered a case and after investigation, filed the charge sheet and the same was taken on file in S.C.No.194/2011. The trial Court framed the charges against the appellants for the offences under Section 341 and 302 of IPC. In order to substantiate the charges framed against the accused, as many as 9



witnesses were examined and 13 documents were marked, besides 13 material objects were exhibited. However, on the side of the defence, no oral or documentary evidence was let in.

10. PW1 is the wife of the deceased and PW2 is one of the sons of the deceased. From the reading of the evidence of PW1, it is seen that she has narrated the motive behind the occurrence. PW2 also corroborated the same. Though PW3 and PW4 turned hostile, but however, the ocular evidence i.e., eye-witnesses-PWs.1 and 2 have categorically stated about the previous motive and previous incident prior to the date of occurrence. Further, they have also stated that all the appellants armed with deadly weapons, waylaid the deceased while he was returning to home from the work place at about 11.30 p.m and attacked him, due to which, the deceased succumbed to injuries. They have also stated specifically regarding the weapons which were holding by the accused persons at the time of occurrence and the place where the accused made attack on the body of the deceased. The evidence of PW1 and PW2 is corroborated with each other. Though there are certain contradictions, but however, there is no contradiction regarding the



Cr1.A(MD)Nos.632 of 2023, 510 & 907 of 2024

identification of the accused and the manner of occurrence. Though the occurrence is said to have taken place on 21.06.2010 at 11.30 p.m, the witnesses were examined before the Court only on 03.12.2019 i.e., after 9 years. Further, PWs.1 and 2 were also re-called and cross-examined on 22.02.2023 i.e., after 12 years from the date of occurrence. Therefore, the contradictions regarding the other aspects are not the material contradictions which will not affect the prosecution case. In this case, the deceased and the accused were identified and both of them are known persons and the witnesses are also relatives and they have clearly stated that there was financial transaction between the appellants and the deceased, due to that only, there was a quarrel and enmity and the occurrence also took place only in the locality where the house of the deceased is situated.

11. Reading of the evidence of PWs.1 and 2 shows that there is no material contradiction to discard their evidence. Though the learned counsel for the appellants contended that in the complaint of PW1, time has been subsequently inserted to suit the convenience and therefore, the very presence of PWs.1 and 2 at the time of occurrence and



Cr1.A(MD)Nos.632 of 2023, 510 & 907 of 2024

the registration of the FIR are doubtful, as already stated, the accused and the deceased are known persons and the place of occurrence is very proximate to the house of the deceased. Therefore, the presence of PW1 and PW2 cannot be doubted. Further, the place of occurrence is a residential area and it is not the case of the defence that unidentified body recovered from some secluded place and the accused have been fixed in the case, due to that, the prosecution could not identify the accused, whereas, in this case, the occurrence took place in the residential area and the house of the deceased is also situated in the same locality. The complaint has also been given at 12.30 a.m on 22.06.2010 indicating the time of occurrence as 11.30 p.m., on 21.06.2010 against the named accused. Mere insertion of time in the complaint cannot be a sole ground to reject the case of the prosecution and discard the evidence of PWs.1 and 2.

12. The evidence of PW7-Doctor who conducted postmortem on the body of the deceased and Ex.P7-postmortem report show the following injuries on the body of the deceased:

"1) cut injury left hand 1 cm distal to the level of wrist



joint cut through all the structures except skin at one end. Separated hand hanged with this skin only.

2) cut injury across right eye about 5 cm x 1.5 cm x 2.5 cm size destroying the eye completely and extending in to both sides of the eye (medial & lateral) into the skin.

3) cut injury bridge of the nose across 3 cm x 1 cm x 2.5 cm size. 4) cut injury in frontal region of scalp on left side 4 cm x 0.5 cm x bone depth.

5) cut injury scalp behind the left ear 10 cm x 3.5 cm x 4.5 cm underlying bone involved and duramater exposed.

6) cut injury right forearm 4 cm x 0.5 cm x 0.5 cm in medial aspect.

7) cut injury vertex of the scalp 5 cm cm x 1cm x 0.5 cm.

8) Stab injury left hip 5 cm above iliac crest 2.5 cm x 1.5 cm x 9 cm depth direction towards up through muscle plane."

13. Reading of the evidence of PW1 and PW2 shows that they have specified the weapons which were used by each of the accused and the place of attack on the body of the deceased which clearly tallied with the injuries found in Ex.P7-postmortem report. Further, the accused 1 to 3 have themselves given confession statements voluntarily, based on that, weapons also recovered. Though confessions made before the police officers are generally inadmissible, however, under



Cr1.A(MD)Nos.632 of 2023, 510 & 907 of 2024

Section 27 of the Indian Evidence Act, 1872, if such confessions led to recovery of any material evidence, that recovery portion is admissible.

PW5-VAO has clearly spoken about the recovery made by the police based on the confessions of the accused. Two billhooks, soori knife and bloodstained clothes were recovered. Ex.P13-forensic report issued by Regional Forensic Science Laboratory, Ramanthapuram, shows that following items were recovered and sent for analysis, in which, blood was detected in items 1 to 12:

"A sealed cloth covered wooden box containing the following items were received here on 23.7.2010 through VNR Head Constable 1579 Tr.Mariyappan under unbroken seals which corresponded with the sample seal sent viz:-

ITEM 1 : A rustymetal knife with a wooden handle having a rustymetal yellow colour bands on its top and botton and totally measuring about 25.0 cm in length on which were dark brown stains.

Item 2: A rustymetal billhook with a wooden handle having a rustymetal band on its top with a rustymetal piece fixed at its bottom and totally measuring about 44.0 c.m in length on which were dark brown stains.

Item 3: A rustymetal billhook with a wooden handle having a rustymetal band on its top and a rustymetal piece fixed at its bottom and totally masuring about 40.0.c.m in length on which were dark brown stains.

Item 4: A silken pale blue colour full sleeve shirt with black colour dots on which were dark brown stains.

Item 5: A torn yellow colour lungi with blue, black and white colour cross stripes on which were dark brown stains.



Cr1.A(MD)Nos.632 of 2023, 510 & 907 of 2024

Item 6: silken white colour full sleeve shirt on which were dark brown stains.

Item 7: A silken red colour lungi with brown, black and white design on which were dark brown stains.

Item 8: A silken pale yellow colour full sleeve shirt with blue colour stripes on which were dark brown stains.

Item 9: A silken blue colour lungi with white colour dots on which were dark brown stains.

Item 10: A ragged green colour lungi with white colour designs on which were dark brown stains.

Item 11: A torn green/white colour towel on which were dark brown stains.

Item 12: Cement plaster pieces on which were dark brown stains.

Item 13: Cement plaster pieces.

Item 14: A bottle labelled "P.M.NO:92/10" Dated : 22.6.2010 Body name Pottukadalai @ Rajkumar Age 37/10 Sex Male Cr. No:414/10 and containing liquid control blood. 'control Blood'... "

REPORT:- Detected blood on each of the above items 1 to 12 but not on item 13."

14. From the above, this Court finds that the prosecution has proved its case beyond reasonable doubt and the evidence of PWs.1, 2, and 5 to 7 are cogent, consistent and reliable which inspires the confidence of this Court and the trial Court has rightly appreciated the oral and documentary evidence. Mere defect in the investigation is not



Cr1.A(MD)Nos.632 of 2023, 510 & 907 of 2024

the sole ground to discard the evidence of the prosecution. As held in

Kalabhai Hamirbhai Kachhot's case (supra) relied upon by the learned Prosecutor, the contradictions pointed out by the learned counsel for the appellants are only minor contradictions which will not go to the root of the prosecution case. The said judgment is applicable to the facts of the present case. Under these circumstances, this Court finds no reason to interfere with the judgment and sentence passed by the trial Court. There is no perversity in appreciation of evidence by the trial Court and there is no merit in these appeals.

15. Accordingly, all the Criminal Appeals are dismissed. The trial Court is directed to take steps to secure the accused to undergo the remaining period of sentence. The period of sentence already undergone by the accused is to be set off as per Section 428 of the Code of Criminal Procedure.

[P.V, J.] [L.V.G, J.]
04.11.2025

Index : Yes / No
Neutral Citation : Yes / No
bala



Cr1.A(MD)Nos.632 of 2023, 510 & 907 of 2024

To

WEB COPY

1. The Additional District and Sessions Court,
Virudhunagar District at Srivilliputtur
2. The Inspector of Police,
Thiruthangal Police Station,
Virudhunagar District.
Crime No.414/2010
- 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.



WEB COPY



Cr1.A(MD)Nos.632 of 2023, 510 & 907 of 2024

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

bala

PRE-DELIVERY COMMON JUDGMENT MADE IN
Cr1.A(MD)Nos.632 of 2023 & 510 and 907 of 2024

DATED : 04.11.2025