



Crl.A(MD)Nos.415 & 530 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 04.03.2025

Pronounced on : 29.04.2025

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

AND

THE HONOURABLE MS.JUSTICE R.POORNIMA

Crl.A(MD)Nos.415 & 530 of 2021

Crl.A.(MD).No.415 of 2021

M.Raja

... Appellant/PW2/
brother of the deceased

Vs.

1. The State rep. By
The Inspector of Police (Crime)
Kovilpatti West Police Station,
Thoothukudi District.
(Crime No.941 of 2015)

...Respondent/ Complainant

2. R.Ramakrishnan

...Respondents / Accused



Crl.A(MD)Nos.415 & 530 of 2021

PRAYER: Criminal Appeal filed under Section 374 of the Criminal

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For Appellant : Mr.I.Pinaygash

For Respondent No.1 : Mr.A.Thiruvadikumar

Additional Public Prosecutor

For Respondent No.2 : Mr.K.A.Ramakrishnan

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State Rep. by Public Prosecutor,
Madras High Court, Madurai Bench,
The Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi,

(Crime No.941/2015)

... Appellant/Complainant

Vs.

Ramakrishnan

...Respondent/Accused

PRAYER: Criminal Appeal filed under Section 374 of the Criminal Procedure Code to call for the entire records connected to the Judgment



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in S.C.No.283 of 2017 on the file of the II Additional District Sessions

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Judge, Thoothukudi District, dated 19.02.2021 and set aside the same

and convict the respondent / accused in accordance with law.

For Appellant : Mr.A.Thiruvadikumar

Additional Public Prosecutor

For Respondent : Mr.K.A.Ramakrishnan

COMMON JUDGMENT

(Judgment of this Court was delivered by **R.POORNIMA, J.**)

These Criminal Appeals are filed against the acquittal judgement passed against the accused in the judgment dated 19.08.2021 by the II Additional District Sessions Judge, Thoothukudi District in S.C.No.283 of 2017 by acquitted the accused for the offences punishable under Section 341, 294(b), 302, 506(2) of IPC.

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

(a) The complainant's husband was running a fancy store in the name and style of 'Shruthiprabha'. On 05.12.2015, to wear a sacred



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garland for the lord Iyyappan temple, the complainant and the deceased went to bazaar in the splendor two-wheeler bearing registration No.TN 69 V 7914, to get the pooja materials. In another vehicle, her brother-in-law Raja and her grandmother Tamilselvi also followed them.

b) When the deceased vehicle approached from north to south at Kamarajar nagar, at 8.30 pm., the Accused nos.1 and 2 intercepted the vehicle and abused her husband in a filthy languages “ஏல தேஷ்டியா மகனே 2013ல் நீ என் மீது கொடுத்த புகார்ல நான் விடுதலை ஆயிட்டேன், எதுக்குல நான் போகும்போதும், வரும்போதும் முறைக்கிற நீ உயிரோடு இருந்தா நான் நிம்மதியா வாழ முடியாது தேஷ்டியா மகனே செத்து ஒழிடா.” and suddenly took the knife hidden from his hip and stabbed his right chest indiscriminately. The second accused who is a minor also took the knife hidden from his hip and he stabbed on his abdomen and left side rib. When the deceased prevented the said act, on his left and right wrist was fractured. He was ejected from the vehicle. The first accused was again stabbed in his right hip and the minor accused stabbed in his back repeatedly. The complainant and her brother-in-law raised hue and cry. The accused showed the knife, threatened them and flew away from the place of occurrence. She found that her husband succumbed to his injuries. Hence, she complained to



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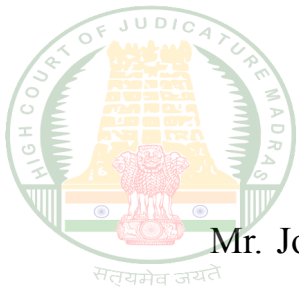
the Kovilpatti West Police Station.

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c) P.W.15 Mr. Navaneethan, Sub Inspector of Police, received the complaint (Ex.P1) and registered FIR (Ex.P15) in Crime no. 941 of 2015 under Sections 341, 294(b), 302, 506(ii) of IPC against the accused and sent the original FIR to the learned Judicial Magistrate No.II, Kovilpatti and served the copies to other officials for further action.

d) P.W.18, Mr. Chandrasekar, Inspector of Police took up the case for investigation and went to the place of occurrence at 23:00hrs i.e., Manthithoppu Road, Kamarajar Nagar and prepared observation mahazar (Ex.P6) and rough sketch (Ex.P18), in the presence of witnesses Kannan (P.W.4) and Ramar (P.W.5). He recovered blood stained earth (M.O.4) and ordinary earth (M.O.5) and splendor plus two wheeler bearing Registration no. TN 69 V 7914 (M.O.3) under the recovery mahazar (Ex.P7) and sent the material objects to the Court under Form-95.

e) He conducted an inquest on the dead body from 0:30hrs to 1:30hrs in the presence of Panchayathars and other witnesses and prepared an inquest report (Ex.P19). On 05.12.2015, he recorded the statement of witnesses and sent the dead body for postmortem through



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Mr. John (P.W.10), Police Constable 1119. On 05.12.2015, at 8.00 a.m, sent a request for postmortem (Ex.P4). After postmortem, he received the dresses worn by the deceased at the time of occurrence namely a black colour full-hand shirt (M.O.6) and a blood-stained kaavi dhoti with a yellow colour border (M.O.7) and blood stained blue colour undergarment (M.O.8).

f) He examined the witnesses and recorded their statements. On 05.12.2015 at about 10.00 a.m., he arrested both the accused in the presence of Karuppasamy (P.W.17) and Murugesan and recorded the confession statement of the appellant under the Ex.P21 and recovered knife (Nos-2) under Ex.P20.

g) He also received blood-stained dresses of the accused i.e., yellow and violet coloured checked full hand shirt (M.O.9), blood stained violet colour Jeans pant (M.O.10), and white, black, ash coloured checked white and red checked full hand shirt (M.O.11), and blood stained violet colour Jeans (M.O.12) were recovered under Form-95 (Ex.P22). He sent the accused to judicial custody and the minor accused to the Juvenile Justice Board.

h) On 10.12.2015, he enquired Dr. Ramalakshmi, who had conducted the postmortem and she described the injuries found in the



deceased as follows:

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“The following are the external injuries found in the corpse

1) 8 cm X 5c.m. depth undetectable indentation on the right scrotum, 5 cm above the right sternum.

2) 5 cm 3 cm X 2 cm stab wound was found in the chest region 6 cm above the first wound.

3) A 3 cm puncture wound was found in the neck area below the umbilicus. 3 cm x 3 cm in size.

4) A stab wound measuring 3cm x 2cm x 1cm was found on the left chest 3 cm below the wound.

5) A 6 cm x 2 cm x 6 cm medullary lesion was found in the abdomen 2 cm above the umbilicus.

6) A puncture wound measuring 4 cm × 3 cm x 4 cm was found in the abdomen 5 cm below the umbilicus.

7) A 7cm dent was found in the left hip area. × 5 cm x 2 cm in size

8) A 3 cm x 1 cm cut was found irregularly on the right groin.

9) An undiagnosed puncture wound of 4 cm x 3 cm x depth was found on the left groin.

10) A puncture wound measuring 3cm X 2cm X 2cm was found on the left chest.

11) A 11 cm x 2 cm incision was found on the right side of the abdomen.

12) Left abdominal area measuring 3cm x 2cm x 4cm The piercing was found 6 cm below the navel.



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13) *A puncture wound measuring cm x 2 cm x 2 cm was found in the left lower groin area.*

14) *A puncture wound measuring 4cm x 3cm x 2cm was found on the right hand above 11cm from the right wrist.*

15) *On the right arm a puncture measuring 3cm x 2cm x 1cm was found 13cm above the wrist.*

16) *Found on right elbow. A 2 cm x 1cm x 1cm puncture*

17) *Punch size 2 cm x 1 cm x 1 cm was found near the right elbow.*

18) *The left wrist was found to be 9cm x 7cm x 1cm along with fractured bones.*

19) *A puncture wound was found on the left thumb. 6 cm x 2 cm x 3 cm in size*

20) *A puncture wound measuring 4cm x 2cm x 0.5cm was found on the back of the left arm.*

21) *A puncture wound measuring 2cm x 1cm x 1cm was found on the left wrist.*

22) *A puncture wound measuring 4cm x 2cm x 1cm was found 2cm below the left wrist.*

23) *A puncture wound measuring 2cm x 1 cm x 1 cm was found on the left arm 14 cm below the left scalp.*

24) *A puncture wound measuring 5cm x 1 cm x 1 cm was found on the inner side of the left arm.*

25) *A puncture wound measuring 4 cm x 2 cm x 6 cm was found on the posterior part of the left chest.*



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26) *A puncture wound measuring 5 cm x 1 cm x 1 cm was found on the right wrist.*

Examination of internal organs

1) *On examination of the bones, the rib in the right chest was broken and the ribs were fractured. The left ribs were normal.*

2) *Pulmonary examination revealed a 6cm x 2cm x 1cm cut in the right lung.*

3) *The mandible appeared normal with no bone damage.*

4) *The stomach was empty.*

5) *The heart, liver, lungs, kidney, and spleen were seen pale.*

6) *The small intestine was empty. Colon was filled with air. The bladder was empty. Examination of the skull revealed no damage to the skull. The meninges were intact. The brain was pale.*

Within 12 to 18 hours of autopsy, the death may have been due to bleeding and shock.”

i) The Investigating Officer sent a request letter to the learned Judicial Magistrate No.II, Kovilpatti (Ex.P.8) to send the material objects for chemical analysis.

j) Since he was transferred to another station, and handed over the files to P.W.20, Mr. Raghupathi Raja. The P.W.20 had examined



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all the witnesses and obtained a certificate from the TANGEDCO

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k) After examination of all necessary witnesses and recording their statements, the P.W.20 completed the enquiry and filed a final report against the accused under Sections 341, 294(b), 302, 506(ii) of IPC and sent the same to the learned Judicial Magistrate No.II, Kovilpatti.

3. On receipt of the records, learned Judicial Magistrate No.II, Thoothukudi took up the case in P.R.C.No.24 of 2016 and issued summons to the accused. After the appearance of the accused, copies of the entire records were furnished to them 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, Thoothukudi, under Section 209(A) Cr.P.C. for further action.

5. The Principal District Judge, Thoothukudi received the



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case records, numbered as S.C.No.283 of 2017 and made it over to the learned II Additional District and Sessions Judge, Thoothukudi, for disposal according to law.

6. After receipt of the case records, the learned IInd Additional District and Sessions Judge, Thoothukudi framed charges against the accused under Sections 341, 294(b), 302, 506(ii) of 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.20 were examined and Exs.P1 to Exs.P.23 were marked. Material Objects M.O.1 to M.O.12 were produced. On the side of the accused, no witness was examined.

8. After a full trial, the Court acquitted the accused for the offence punishable under Sections 341, 294(b), 302, 506(ii) of IPC, against which, these present Criminal Appeals has been filed by P.W.2 and the State on the following among other grounds:-



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a) They eye witnesses, P.W.1 who is the wife of the deceased

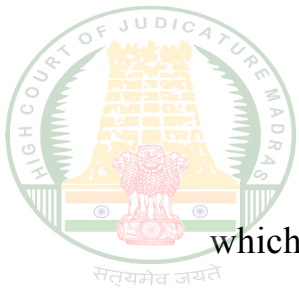
and P.W.2 who is the brother of the deceased have deposed about the occurrence of a brutal murder. However, the IInd Additional District Sessions Judge, Thoothukudi acquitted the accused without appreciating and considering the real facts and circumstances.

b) That the P.W.1, categorically and candidly deposed about the motive and previous enmity made between the accused and the deceased. Per contra, the Court below acquitted the accused without rebutting the motive ground. Hence, the acquittal judgment is liable to be set aside at once.

c) That the P.W.3, who is the doctor clearly stated about the 26 multiple grievous injuries caused on the body of the deceased. Per contra, the Court below simply acquitted the accused without disproving the medical evidence of P.W.3.

d) As per the deposition of P.W.18, Investigation Officer which reveals that the weapon namely a Knife was recovered from the accused. Whereas, without citing any reason to disprove the evidence of P.W.18, the trial Court acquitted the accused.

e) That the Trial Court failed to recognize the existence of enmity between the accused Ramakrishnan and the deceased Selvaraj,



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which formed the motive for the accused to kill the deceased. The deceased victim has filed a complaint against the accused and he was arrested in Crime No.63/2013 and later released by the Court. This fact explains the motive for the accused to assault the deceased victim.

f) That the confession given by the accused to the Investigation Officer concerning the place where the murder weapon was hidden and later the discovery of the same becomes relevant to prove the guilt of the accused under Section 27 of the Indian Evidence Act, irrespective of the question, whether it is a confession or not.

g) That the Court erred in not taking into account the fact that the blood-stained cloths M.O.6 to 12, which the accused wore when they were arrested matched the blood group of the deceased (AB Blood Group). This corroborates the statements of P.W.3, Dr. Ramalakshmi that the deceased blood would have splashed on the accused shirt when they assaulted the deceased with the Knives M.O.1 and 2.

h) That the trial Court ought not to see that the evidence of P.W.1 and P.W.2 along with the medical evidence by way of Ex.P5 and Ex.P19.

9. The learned counsel appearing for the respondent argued



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that P.W.1, and P.W.2, were not present at the time of occurrence. P.W.1

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is the wife of the deceased and P.W.2 is the brother of the deceased are planted witness. As per the eyewitnesses, P.W.1 and P.W.2, the victim went to purchase pooja materials, while returning, the occurrence took place. However, the Investigating Officer did not recover any such pooja materials from the place of occurrence.

10. He further argued that as per P.W.1, the complaint was written in her handwriting. The words Ramakrishnan son of Ramasamy and Sethuraman were written by some other person. P.W.18 while recording the statements of P.W.1, P.W.2, it was stated that A1 and the juvenile were involved in the occurrence. On contrary, the above witnesses stated before the Judicial Magistrate under Section 164 of Cr.P.C, stated that four persons were involved in the occurrence.

11. The motive against the deceased was not established by the prosecution. P.W.1 was travelling along with the deceased. No blood stain was found on her dresses, and the Investigating Officer did not recover the two-wheeler in which the P.W.1 and the deceased were travelling with blood stains from the place of occurrence. The ocular



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evidence is not supported with medical evidence.

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12. The confessions, arrest and recovery not properly proved. The accused was arrested on 05.02.2015 and blood stained dresses were recovered from A1, it is unbelievable that the accused continuously worn the blood stained dresses after knowing that they were searched by the police, and the Investigating Officer created such document to unnecessarily include the accused against the crime.

13. The weapon was not shown to the victim for identification. P.W.2 is a habitual offender. His brother, deceased also resembled P.W.2, has been killed by the enemies of P.W.2 by mistaken identity. The prosecution failed to prove the case beyond all reasonable doubt, and the judgement of the trial Court is proper and no interference required and prayed to dismiss the appeal by confirming the judgement of the trial Court.

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



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15. Now we have to decide whether the judgement of the

trial Court is perverse or arbitrarily liable to be set aside.

16. After careful perusal of the records, as per the prosecution case, motive for the offence is that the deceased Selvaraj filed a case against the accused, it was ended acquittal, both had enmity against each other.

17. P.W.1 in her evidence states that the accused while assaulting the deceased stated that he was acquitted on the case filed by the deceased. However whenever the accused crossed the deceased, the deceased was staring at him, and he should not live, took the knife and stabbed him. P.W.1 admitted in her cross-examination that the case was ended acquittal in the year 2013. From the year 2013 to 2015, there was no problem between the accused and the deceased. Further it was not established that prior to the occurrence, her husband quarrelled with the accused in this regard. P.W.2 also did not state anything about the previous quarrel between the accused and the deceased. Motive for the occurrence was not properly established by the prosecution.



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18. Though several houses were situated near the place of occurrence, only P.W.1, wife of the Deceased and the P.W.2, brother of the deceased were cited as eyewitnesses to the occurrence.

19. P.W.1, in her evidence stated that on 04.12.2014, she went along with her husband, to purchase pooja materials as he decided to wear sacred Thulasi garland to go to Ayyappan Temple. At 7.00 hours, she, her son Yoga Balan, the deceased travelled in splendor plus two-wheeler. Her grandmother and brother-in-law came in another two-wheeler. After the purchase of pooja materials, around 8:30 p.m., While they were near Kamaraja Vilakku, Manthithope Road, the accused Ramakrishnan and the juvenile Sethuraman intercepted their vehicle and spoke to her husband. She stood 10 feet away. Her grandmother and brother-in-law were following them. The accused Ramakrishnan then took a knife hidden from his hip and stabbed her husband on the right side of his neck, just above the chest repeatedly. While attacking, him the accused stated that although he had been acquitted in the case filed by the deceased, the deceased stared at him, whenever he crossed, he should not remain alive. The juvenile also attacked, the deceased below his stomach, and ribs, repeatedly. When her husband tried to prevent them,



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he had a fracture on his both hands wrist. When they raised hue and cry, the accused threatened them by saying that, the same would happen to them also and then they fled away from the place of occurrence. Her husband succumbed to injuries. She went to Kovilpatti West Police Station and gave complaint. Thereafter, police came to the occurrence place and examined her. P.W.2 also supported her evidence.

20. Her statement was recorded under 164 of Cr.P.C by the learned Judicial Magistrate on 06.02.2016. Before the Judicial Magistrate, she stated that four persons attacked her husband. P.W.2 also stated that his brother was attacked by four persons. The statements of P.W.1 and P.W.2 were recorded two months after from the date of the complaint. The eyewitnesses stated before the Magistrate that the deceased was attacked by four persons but in the complaint, it was stated that he was attacked by only two persons were attacked. During trial, they were stated that two persons attacked. They further stated that before the Magistrate, they mistakenly stated as four persons. If they had truly witnessed the occurrence, they would have been able to provide the exact details about the persons involved.



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21. Further P.W.1 in her cross-examination, admitted that she

left the pooja materials in the place of occurrence. The Investigating Officer either in Ex.P6 observation or in the Ex.P18 rough sketch did not mention anything about the pooja materials found in the place of occurrence. She further admitted that after the attack, her husband slumped off the bike with injuries. But no blood stain was found on the bike.

22. P.W.2, deposed that while the deceased was travelling on the bike, he was attacked by the accused. At that time P.W.1 also travelling with the deceased. It was admitted that blood was oozing from the deceased due to the injuries, there is possibility that blood splashed on the clothes of P.W.1, however no blood stained dresses of the P.W.1 and the child, were recorded as she were seated on the rear side of the bike, which create doubt about her presence at the place of occurrence. As per the P.W.1 evidence, before attack there was a conversation between the deceased and the accused, she was staying 10 feet away, however, P.W.2 claims that the deceased was attacked while he was travelling in the bike with P.W.1. It seems that there is discrepancy in the testimony of P.W.1 and P.W.2 regarding the circumstances of the



deceased's attack.

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23. Furthermore the eye witness testimony does not corroborate with the medical evidence. According to the medical evidence around 25 injuries were found on the body of the deceased which was not mentioned by the eye witnesses. The discrepancy between the eye witness testimony and the medical evidence is a crucial issue. The inconsistency potentially afford the credibility of the witness, which raises the questions about the reliability of the eye witness.

24. One of the important eyewitnesses Tamilselvi, grand mother of the P.W.1, who was also a witnessed the occurrence not examined by the prosecution, for the reason best known.

25. The accused were arrested the next day on the 05.02.2015 at 10 am approximately 12 hours after the occurrence. According to the prosecution version, the blood-stained clothes were recovered from the accused and juvenile at time of arrest, which appears highly improbable as one cannot reasonably expect the accused to have continued, wearing the same clothes for such a long duration.



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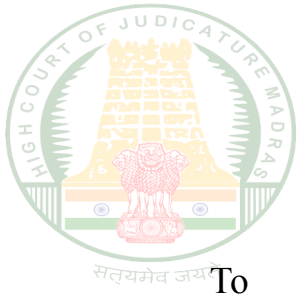
26. P.W.16, witness cited for arrest, confession of the accused and recovery. He did not support the prosecution case, he turned hostile, and the arrest, confession and recovery was not proved by the prosecution.

27. On careful perusal of the entire record, we conclude that the prosecution failed to prove the offence against the accused beyond all reasonable doubt and the benefit of the doubt was given to the accused, by the trial Court after analyzing the materials on record, we do not find any illegality or perversity in the judgement rendered by the trial Court.

28. Accordingly, these Criminal Appeals are dismissed and the judgment passed in S.C.No.283 of 2017 on the file of the II Additional District Sessions Judge, Thoothukudi District, dated 19.02.2021 is hereby confirmed.

(G.J., J.) & (R.P., J.)
29.04.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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To
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- 1.The IInd Additional District and Sessions Judge,
Thoothukudi.
- 2.The The Inspector of Police,(Crime)
Kovilpatti West Police Station,
Thoothukudi District.
(in Cr.No.941 of 2015)
- 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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G.JAYACHANDRAN J.
AND
R.POORNIMA, J.

GVN/RM

Judgment in
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