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CRL.A.(MD).No.459 of



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserved	14/10/2025
Date of Pronounced	04 /11/2025

CORAM

**THE HONOURABLE MR JUSTICE P.VELMURUGAN
AND
THE HONOURABLE MRS JUSTICE L.VICTORIA GOWRI**

Crl.A(MD)No.459 of 2022

State rep. By
The Inspector of Police,
Andipatti Police Station,
Theni District.
Through the Public Prosecutor,
Madras High Court,
Madurai Bench.

: Appellant/Complainant

Vs.

Siva

: Respondent/Accused

PRAYER: Appeal filed under Section 378(i) of the Criminal Procedure Code, to call for the records in SC No.48 of 2016, dated 27/11/2019 on the file of the Court of the Additional District and Sessions Court, (FTC), Theni and to set aside the same and consequently to convict the respondent/accused in accordance with law.

For Appellant : Mr.T.Senthil Kumar
Additional Public Prosecutor

For Respondent : Mr.C.Jeganathan



JUDGMENT

(Judgment of the Court was made by the Hon'ble **P.VELMURUGAN J.**)

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This criminal appeal is filed against the judgment of acquittal passed by the learned Additional District and Sessions Judge, (FTC), Theni, in SC No.48 of 2016, dated 27/11/2019 and to set aside the same and consequently to convict the respondent/accused.

2.The case of the prosecution that the accused had love affair with the deceased Saranya and the deceased got engagement with another person and so, on 22/01/2015 at about 05.00 am, the accused went to the house of the deceased with an intention to murder her and assaulted the deceased indiscriminately on the face, neck, chest etc., in the presence of her mother and sister and caused the death of the deceased.

3.Based on the complaint given by the de-facto complainant who is the mother of the deceased, the Police registered a case in Crime No.31 of 2015 for the offences punishable under Sections 323 and 302 IPC against the accused. On completion of the investigation, the Police laid a charge sheet before the learned Judicial Magistrate, Andipatti and the same



was taken on file as PRC No.15 of 2015. After completing the formalities, since the offences are triable exclusive by the Court of Session, the case was committed to the Principal District and Sessions Judge, Theni and it was taken on file as SC No.48 of 2016 and thereafter, the same was made over to the Additional District and Sessions Court, (FTC), Theni, for disposal.

4.After completing the formalities, since there were *prima facie* materials to frame charges against the respondent/accused the learned Additional District and Sessions Judge, (FTC), Theni, framed the charges for the offences punishable under Sections 323 and 302 IPC.

5.In order to prove the charges against the accused, on the side of the prosecution, 35 witnesses were examined as PW1 to PW35 and 24 documents were marked as Exs.P1 to P24, besides marking 17 material objects as MO1 to MO17.

6.When the accused was questioned under Section 313 Cr.P.C in respect of the incriminating circumstances appearing against him on the evidence adduced by the prosecution, the accused denied the same as false. On the side of the defence, no oral or documentary evidence was adduced.



7. After completing the trial and upon hearing the arguments advanced on either side and also considering the oral and documentary evidence, the learned Additional District and Sessions Judge, (FTC), Theni found that the prosecution has not proved the guilt of the respondent/accused and acquitted the respondent/accused.

8. Now the State has filed the present appeal before this Court, challenging the judgment of acquittal.

9. The learned Additional Public Prosecutor appearing for the appellant State would submit that the prosecution has proved its case beyond all reasonable doubt, whereas the trial Court failed to consider the evidence of the eye witnesses and the medical evidence and also recovery and had given benefit of doubt based on the immaterial contradictions and discrepancies. Further, he would submit that stab on the deceased has caused the death, according to the postmortem report (Ex.P13) and the same was also corroborated by the evidence of the eye witnesses namely PW1 who is the mother of the deceased and PW2 who is the sister of the deceased; The trial Court relied on mere suggestion put in the cross examination to PW1 and PW2 without any corroborating materials and



came to the conclusion that the deceased lived with the accused at Hosur and she did not work at Erode, but the trial Court failed to give proper reason for rejecting the eye witnesses namely PW1 and PW2 regarding the occurrence; and the ocular evidence has been corroborated by PW3 neighbour to PW1 and PW2 relating to the time and place of the occurrence; Minor discrepancies, variations and improvements are bound to occur due to multiple factors governing the human behaviour and the background of a particular witness on examination and therefore, unless such discrepancies and improvements affect the core of the prosecution case, no undue importance should be given to such minor discrepancies, variations and improvements, which usually creep in the testimony of any witness due to multiple factors, for which he placed reliance on the judgment in the case of **Mukesh Singh Vs. State (NCT Delhi)**. Further, he would submit that though the Investigating Agency is expected to be fair and efficient, any lapse on the part of the Investigating Agency cannot be ousted the prosecution case, when there is sufficient evidence to prove the offence, for which he has also placed reliance on the judgment of the Hon'ble Supreme Court in the case of **State of Karnataka Vs. Suvarnamma (2015-1-SCC-323)**. Further, he would submit that the trial Court failed to consider the medical evidence fully corroborated the



evidence of the eye witnesses namely PW1 and PW2; The prosecution case was proved beyond all reasonable doubt against the accused, but the trial Court acquitted the accused without considering the materials on record; The ocular evidence of the two eye witnesses fully corroborated by the medical evidence; In such a case, conviction was confirmed in the case of ***S.K.Khabir Vs. The State of West Bengal [2020(1)SC (Cr.)398]***; The defence has not denied the presence of the accused at the scene of the occurrence and also the discovery of the weapon marked as MO1 based on the voluntary confession made by the accused, which is admissible as per Section 27 of the Indian Evidence Act and the said confession was made in the presence of the Village Administrative Officer (PW7) and the recovery was also effected before him and so, the prosecution has established its case beyond all reasonable doubt; The trial Court has also failed to consider the injuries sustained by PW1 and also the medical records, AR entry and the evidence of the Doctor. Therefore, the finding of the trial Court is perverse and the same is liable to be set aside and the appeal is to be allowed.

10.The learned Counsel for the respondent/Accused would submit that though PW1 and PW2 have stated that the accused entered into their house and stabbed the deceased, but whereas mahazar witnesses and



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other records shows that the body of the deceased was lying on the road in front of the house of the deceased and there is no proper explanation on the side of the prosecution, how the body came to outside of the house when the occurrence took place inside the house. Further, he would submit that the recovery of the cell phone is also highly doubtful and the prosecution has stated that the respondent/accused called the deceased over cell phone and immediately after the occurrence while escaping from the scene of occurrence, the accused dropped the cell phone in the place of occurrence, but even subsequent to the occurrence, there were two outgoing calls, which were also recorded and hence, the recovery of the cell phone in the place of the occurrence is doubtful. Further, he would submit that PW1 and PW2 suppressed the fact that the respondent/accused and the deceased were living together in one roof at Hosur and therefore, that itself creates doubt and also the testimony of the evidence of PW1 and PW2 and therefore, the evidence of PW1 and PW2 is not reliable; When the Police arrested the accused, he made a confession and the confession statement recorded by the Police is inadmissible in evidence, which is hit by Section 25 of the Indian Evidence Act; both PW1 and PW2 are mother and sister of the deceased and they are interested witnesses and in this case, there is no independent witness to corroborate the evidence of PW1 and PW2. Therefore, the trial



Court, while appreciating the evidence, both oral and documentary found that the prosecution has failed to prove its case beyond all reasonable doubt and there are material contradictions and discrepancies and improvements, therefore, rightly extended the benefit in favour of the respondent/accused and acquitted the respondent/accused and there is no merit in the appeal.

11.He would further submit that this is the appeal against the acquittal, the Appellate Court just like that should not interfere with the judgment of the trial Court since the respondent/accused already proved his innocence before the trial Court; But the prosecution has to prove the rebuttable presumption. He would further submit that when two views are possible, the view in favour of the accused has to be taken into consideration and the benefit of doubt has to be extended in favour of the accused; Therefore, there is no perversity in the judgment of acquittal passed by the trial Court and there is no merit in the appeal and the appeal is liable to be dismissed.

12.He would also submit that in this case, no independent witness was examined and no motive was substantiated by examining any of the witnesses and the earlier complaint was suppressed by the



prosecution and in the confession statement, there are some insertions and therefore, under these circumstances, the trial Court extended the benefit in favour of the the accused and therefore, the appeal is liable to be dismissed.

13.Heard both sides and perused the materials available on record.

14.It is the specific case of the prosecution that the accused had love affair with the deceased Saranya and the deceased got engagement with another boy and so, on 22/01/2015 at about 05.00 am, the accused went to the house of the deceased with an intention to murder her and assaulted the deceased indiscriminately with knife on the face, neck, chest etc., in the presence of the mother and sister of the deceased and caused the death of the deceased.

15.After committal, the trial Court framed the charges against the respondent/accused for the offences punishable under Sections 323 and 302 IPC. In order to substantiate the case, the prosecution examined as many as 35 witnesses and marked 24 documents as Exs.P1 to P24, besides 17 material objects were exhibited. Out of 35 witnesses, PW1 and PW2 are



the eye witnesses. PW1 is the mother of the deceased and PW2 is the sister of the deceased. A reading of the evidence of PW1 and PW2 and the Complaint (Ex.P1), PW1 who gave the complaint to set the law in motion and the occurrence took place in the house of PW1. The respondent/accused is a know person, who is also a relative of the deceased, came to the house to meet the deceased, at that time, the respondent/accused attacked the deceased with knife, which is a deadly weapon.

16.As per the evidence of the Doctor and also the medical evidence, it is seen that the deceased died due to the grievous injuries sustained on the vital parts and therefore, the prosecution has proved that the deceased died due to the injuries caused by the respondent/accused.

17.In this case, the occurrence took place on 22/01/2015 between 04.45 am and 05.15 am, that too in the house of PW1. Therefore, no eye witness can be expected at that time. Further, the recovered materials and the Forensic Lab report would clearly prove that in the knife, which is said to have been recovered and in the shirt of the respondent/accused, human blood of 'O' Group was found, which belongs to the accused. Therefore, the medical evidence and the evidence of the Doctor one who



registered the AR and also the Doctor who conducted autopsy also clearly proved that the deceased sustained grievous injuries and PW1 also sustained simple injuries in her finger.

18.Though the confession statement is not admissible in evidence under Section 25 of the Indian Evidence Act, however, there is exception that Section 27 of the Indian Evidence Act states that statement leading to recovery is admissible in evidence. PW7-The Village Administrative Officer has clearly stated in his evidence that in his presence, the recovery was effected from the place where the accused identified. Therefore, recovery is admissible and all the recovered materials were sent for Forensic Expert opinion, which also clearly shows that all the materials were found human blood, which is 'O' Group. Therefore, in this case, though certain defects regarding the stay of the respondent/accused and the deceased together in House and not spoken about PW1 and PW2, that may be some reasons to safeguard the reputation of the deceased, however, the occurrence took place on 22/01/2015 between at 04.45 am and 05.15 am, only in the house of the deceased, at that time, PW1 and PW2 were there and the dead body was also found in front of the house of PW1. Further, Ex.P1 complaint would clearly show that after stabbing the



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deceased, the respondent/accused run away from the place of occurrence, at that time, PW1 to PW3 were following the respondent/accused to catch him, however, the respondent/accused escaped and the deceased fell down on the road in front of the house and subsequently succumbed to injuries. On hearing the sound raised by PW2, PW3 came there and he also corroborated that the deceased sustained injuries. Therefore, from the evidence of PW1 to PW3, it is clear that the deceased sustained injuries on her vital parts and the same was corroborated by medical evidence Exs.P10 to P13. All the recovered materials were also sent to Forensic Lab, which detected human blood 'O' Group. Therefore, the prosecution has proved its case beyond all reasonable doubt through the oral and documentary evidence. Even otherwise, there are certain discrepancies and contradictions, which are all not the material contradictions. In this case, the eye witnesses namely PW1 and PW2 have clearly spoken about the occurrence. Though there are certain suppressions regarding the character and relationship of the respondent/accused and the deceased, it is only for the reputation and welfare of the family of the deceased and it is not a sole ground to reject the evidence of PW1 and PW2. The defence has also not denied that on the date of the occurrence, the respondent/accused was not in the occurrence village and he was in Hosur or somewhere else. Therefore,



though the cell phone call details were not tallied with the evidence of PW1 and PW2, that itself may not be a sole ground to disbelieve the case of the prosecution. When PW1 and PW2 though the mother and sister of the deceased, that may not be a sole ground to reject their evidence considering the place of the occurrence and time of the occurrence. Further, the presence of PW1 and PW2 in the occurrence place is highly probable. Therefore, the evidence of PW1 and PW2 cannot be rejected in *toto*.

19.Further, a reading of the chief examination of PW1 and PW2, it is very clear that the respondent/accused one who came to the house of the deceased and caused injury and the medical evidence and the Expert opinion also proved the case of the prosecution beyond all reasonable doubt. So, mere lapse on the part of the investigation is not a ground to reject the case of the prosecution and defective investigation is also not a ground to reject the case of the prosecution. Therefore, from the reading of the evidence of the eye witnesses namely PW1 and PW2 coupled with the medical evidence, it is clear that the respondent/accused one who caused injuries to the deceased on the vital parts with deadly weapon namely knife and caused the death of the deceased. Further, PW1 also sustained injuries and she also went to the hospital for treatment, for which



AR was registered, which would go to show that PW1 was present in the occurrence place at the time of the occurrence. But the trial Court only pointed out certain contradictions, discrepancies and improvements. According to this Court, those are not the material contradictions, which will not go the root of the case of the prosecution. Though, PW1 and PW2 are the relatives of the deceased, their evidence cannot be simply thrown away for the reason that they are relatives of the deceased, unless the Court believes that their evidence is not reliable and reasons for disbelieving their evidence, who are the relatives of the deceased.

20.From the evidence of PW1, PW22 and Ex.P8 Wound Certificate, it is clearly that PW1 is the injured witness and therefore, her presence in the place of occurrence is believable and her evidence is also significance to this case.

21.In this regard, it is pertinent to refer the judgment of the Hon'ble Supreme Court reported in the case of ***Kalabhal Hamirbhai Kachhot Vs. State of Gujarat*** reported in [(2021)19 SCC 555], wherein it is observed as follows:-

“22.We also do not find any substance in the



argument of the learned counsel that there are major contradictions in the deposition of PWs-18 and 19. The contradictions which are sought to be projected are minor contradictions which cannot be the basis to discard their evidence. The judgment of this Court in the case of **Mohar [(2002)7 SCC 606]** relied on by the learned counsel for the respondent-State supports the case of the prosecution. In the aforesaid judgment, this Court has held that convincing evidence is required, to discredit an injured witness. Para 11 of the judgment reads as under:-

“11.The testimony of an injured witness has its own efficacy and relevancy. The fact that the witness sustained injuries on his body would show that he was present at the place of occurrence and has seen the occurrence by himself. Convincing evidence would be required to discredit an injured witness. Similarly, every discrepancy in the statement of a witness cannot be treated as fatal. A discrepancy which does not affect the prosecution case materially cannot create any infirmity. In the instant case the discrepancy in the name of PW 4 appearing in the FIR and the cross-examination of PW 1 has been amply clarified. In cross-examination PW 1 had clarified that his brother Ram Awadh had three sons: (1) Jagdish, PW 4, (2) Jagarnath, and (3) Suresh. This witness, however, stated that Jagarjit had only one name. PW 2 Vibhuti, however, stated that at the time of occurrence the son of Ram Awadh, Jagjit @ Jagarjit was milching a cow and he was also called as Jagdish. Balli (PW 3) mentioned his name as Jagjit and Jagdish. PW 4 also gave his name as Jagdish.”

23.Learned counsel for the respondent-State has also relied on the judgment of this Court in the case of **Naresh & Ors..[(2011)4 SCC 324]** In the aforesaid judgment, this Court has held that the evidence of injured witnesses cannot be brushed aside without assigning



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cogent reasons. Paragraphs 27 and 30 of the judgment which are relevant, read as under :

“27.The evidence of an injured witness must be given due weightage being a stamped witness, thus, his presence cannot be doubted. His statement is generally considered to be very reliable and it is unlikely that he has spared the actual assailant in order to falsely implicate someone else. The testimony of an injured witness has its own relevancy and efficacy as he has sustained injuries at the time and place of occurrence and this lends support to his testimony that he was present during the occurrence. Thus, the testimony of an injured witness is accorded a special status in law. The witness would not like or want to let his actual assailant go unpunished merely to implicate a third person falsely for the commission of the offence. Thus, the evidence of the injured witness should be relied upon unless there are grounds for the rejection of his evidence on the basis of major contradictions and discrepancies therein. (Vide Jarnail Singh v. State of Punjab [(2009) 9 SCC 719 : (2010) 1 SCC (Cri) 107] , Balraje v. State of Maharashtra [(2010) 6 SCC 673 : (2010) 3 SCC (Cri) 211] and Abdul Sayeed v. State of M.P. [(2010) 10 SCC 259 : (2010) 3 SCC (Cri) 1262])

.....

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].”

24.Further, in the case of [Narayan Chetanram Chaudhary & Anr. v. State of Maharashtra](#) (2000)8 SCC 457, 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 statement of a witness on any material point, that is no ground to reject the whole of the testimony of such witness.

... ..”

Therefore, mere minor contradiction and discrepancy is not fatal to the case of the prosecution.

22.A reading of the entire evidence of PW1 and PW2, it is cogent, consistent and also reliable and there is no reason to discard the evidence of PW1 and PW2 and the presence of PW1 is also not doubtful. Therefore, considering the facts and circumstance of the case and the place of occurrence and time of occurrence and the motive behind the crime, this Court finds that the evidence of the eye witnesses namely PW1 and PW2 are reliable and inspire the confidence of this Court and there is no reason to discard their evidence. Therefore, reading of the entire evidence of the prosecution witnesses and the documents and the material objects, this Court finds that the prosecution has proved its case beyond all reasonable doubt and the trial Court failed to appreciate the evidence in a perspective



manner and has given much importance to the unimportant, immaterial discrepancies. Therefore, this Court finds that the judgment of acquittal passed by the trial court is perverse.

23.No doubt that when two views are possible, the view in favour of the accused has to be taken into consideration and the benefit of doubt has to be extended in favour of the accused. But in this case, a reading of the evidence of PW1 ad PW2 and the evidence of PW21, PW22 and PW29 and also the evidence of the Village Administrative Officer (PW7) and Exs.P7 to P15, this Court finds that the prosecution has proved its case beyond all reasonable doubt. Therefore, since this Court finds that the respondent/accused has committed the charged offence, the judgment of acquittal passed by the trial Court is liable to be set aside and accordingly, set aside and hence, the respondent/accused is liable to be convicted for the charged offences.

24.In the result, this Criminal Appeal is **allowed** and the judgment of acquittal passed by the trial Court is set aside.



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25. Since this appeal is against acquittal and the respondent/accused is now convicted for the offence under Sections 323 and 302 IPC, he has to be questioned regarding the sentence. Therefore, the respondent/accused is directed to appear before this Court on 11/11/2025 for questioning regarding the sentence. The appellant Police is directed to ensure the appearance of the respondent/accused on the said day, failing which the appellant Police shall secure the respondent/accused and produce before this Court on 11/11/2025.

26. Post the matter on 11/11/2025 for question of sentence.

(P.V.,J) (L.V.G.,J)
04 /11/2025

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**CRL.A(MD)No.459 of 2022**

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

When the matter came up for hearing on 04.11.2025, this Court directed the respondent/accused to appear before this Court today i.e., 11.11.2025 for questioning regarding the sentence. Pursuant to the direction of this Court, the respondent/accused appeared before this Court and he was heard on the question of sentence. He stated that he is innocent and he has not committed any offence. Therefore, lesser punishment may be imposed.

2. Heard the learned counsel for the respondent. Considered the submissions made by the respondent and his counsel. The respondent/accused was also explained about his right of appeal to the Hon'ble Supreme Court.

3. Already this Court by judgment dated 04.11.2025, found guilty of the respondent of all the charged offences. Therefore, the respondent/accused is hereby,



(i) convicted for the offence under Section 323 IPC and to pay a fine of Rs.500/- (Rupees Five Hundred only) in default to undergo one month simple imprisonment.

(ii) convicted for the offence under Section 302 of IPC and sentenced to undergo Life Imprisonment and also to pay a fine of Rs. 1,000/- (Rupees Thousand only), in default to undergo six months Rigorous Imprisonment;

(iii) The appellant is directed to take custody of the respondent and detain him at Central Prison, Madurai, to undergo the sentence imposed by this Court.

[P.V, J.] [L.V.G, J.]
11.11.2025

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Neutral Citation : Yes / No
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To

1. The Additional District and Sessions Court, (FTC),
Theni.
2. The Inspector of Police,
Andipatti Police Station,
Theni District.



3. The Superintendent,
Central Prison, Madurai.

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

5. The Section Officer
Criminal (Records) Section,
Madurai Bench of Madras High Court,
Madurai.



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JUDGMENT MADE IN
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DATED : 11.11.2025