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Crl.A(MD)No.132 of 2022



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	09/09/2025
Pronounced on	16/10/2025

CORAM

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

Crl.A(MD)No.132 of 2022

Julibharath : Appellant/Sole Accused

Vs.

The State Rep. by
The Inspector of Police,
Vilathikulam Police Station,
Thoothukudi District.
(Crime No.225/2015)

: Respondent/Complainant

Prayer:-This Criminal Appeal is filed under Section 374(2) of Criminal Procedure Code, to call for the records and set aside the judgment of conviction and sentence imposed by the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi in S.C.No.221 of 2018, dated 05.10.2021 and acquit the appellant from the charge leveled against him.



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Cr1.A(MD)No.132 of 2022



For Appellant : Mr.Gopalakrishna Laxmana Raju
Senior Counsel for
for Mr.R.Venkateshwaran
For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

J U D G M E N T

P.VELMURUGAN, J.,

This Criminal Appeal is filed against the judgment of conviction and sentence passed by the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi in S.C.No.221 of 2018, dated 05.10.2021.

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

Penal Provisions	Sentence of Imprisonment	Fine Amount
302 of IPC	Life Imprisonment	Rs.1000/- i/d to undergo six months Rigorous imprisonment



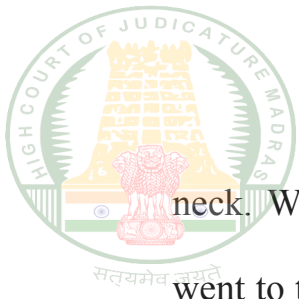
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Cr1.A(MD)No.132 of 2022



3.The case of the prosecution in brief:-

3.1. The deceased and the appellant are husband and wife. Their marriage was love-cum-arranged and they were living together in Tirunelveli since the appellant was working in Tirunelveli. Out of their wedlock, a child was born to them on 02.11.2013. Since the father of the deceased died during the year 2013 and the mother of the deceased, who is P.W.1, was living alone in Vilathikulam, the deceased went to her parents' house and stayed with her mother. Thereafter, she resided in a separate house in Vilathikulam at the backside of her mother's house as her mother was living alone, and the appellant used to come to Vilathikulam on Saturday and Sunday. In the meantime, the accused asked the deceased to come and settle at Tirunelveli, where he was working and staying. Therefore, there was some quarrel between them on 07.11.2015 and the appellant stayed with the deceased on the night of 07.11.2015 and later in the midnight, on 08.11.2015 at about 01.00 hours, while she was in deep sleep along with the child, the accused shut her mouth with his left hand and cut her neck with his right hand by using a blue and white colored knife and the cut was made across her throat from left to right up to her right side ear. He further stabbed her neck with another knife near the right side of her neck and again he stabbed her with a knife on her right neck and also stabbed her with a sharp-edged, large size punching needle on her right



neck. When the defacto complainant, who is the mother of the deceased, went to the house of the deceased in the morning hours at about 06.30 a.m., she found her dead with injuries. Therefore, she informed the police and lodged the complaint. A case was originally registered against the appellant for the offence punishable under Section 302 of IPC in Crime No.225 of 2015.

3.2 After completion of investigation, the respondent police laid the charge sheet before the learned Judicial Magistrate, Vilathikulam for the offence under Sections 498(A), 302, 450 and 307 of IPC. The Magistrate took cognizance of the case in PRC No.9 of 2016.

3.3 On appearance of the appellant, the procedures under Section 207 of Cr.P.C. were complied with, and the case was committed to the Court of Session and the case was taken on file in S.C.No.221 of 2018 and the same was made over to the Sessions Court, Mahalir Neethimandram (Fast Track Court), Thoothukudi, for trial. The trial Court framed charges against the appellant for the offences punishable under Sections 498(A), 302, 450 and 307 of IPC.



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3.4 In order to substantiate the case of the prosecution, the prosecution examined 21 witnesses P.Ws.1 to 21 and marked 20 documents Exs.P1 to 20 and exhibited 21 material objects MOs.1 to 21.

3.5 After examination of witnesses, when the appellant was questioned under Section 313 of the Code of Criminal Procedure on the incriminating circumstances appearing against him, he denied the same as false. No witness was examined on the side of the accused, nor was any document produced.

4. The trial court, after considering the oral and documentary evidence on record and hearing both sides, by judgment dated 05.10.2021, convicted and sentenced the appellant as detailed in Paragraph No.2 supra. Challenging the said conviction and sentence, the accused has filed the present appeal.

5. The learned Senior Counsel appearing for the appellant would submit that there is no direct evidence in this case, particularly, no eyewitness to the occurrence. The prosecution tried to establish the case through circumstantial evidence and relies upon three ingredients of



motive, last seen theory, and recovery under Section 27 of the Indian Evidence Act.

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5.1. As far as the motive is concerned, the prosecution relies upon the evidence of P.Ws.3 and 4, since P.Ws.1 and 2 turned hostile. There was no dispute while the deceased was living at Tirunelveli, and she became pregnant, which shows that they were leading a happy life. Further, a charge under Section 498-A IPC was levelled against the appellant, but he was acquitted as there was no evidence. With regard to P.W.3 also, her evidence is not admissible, since she stated in her chief examination that there was only a general allegation of frequent domestic quarrels between the husband and wife at Vilathikulam. She only heard of the occurrence through her husband Ramanujam, and the said Ramanujam was not examined by the prosecution. P.W.3 further stated in her evidence that her husband and P.W.2 Selvaraj frequently mediated the issues between the appellant and the deceased. But the said Selvaraj did not support the case of the prosecution. Therefore, the averments of harassment and quarrel are not proved.

5.2. The appellant asked the victim to come to Tirunelveli, and the well-wishers advised both the deceased and her mother, and the deceased agreed to come to Tirunelveli after Deepavali. As per the evidence of P.W.3,



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a panchayat was held on 07.11.2015, and Deepavali fell on 11.11.2015. This shows that no motive can be attributed as per the prosecution, and there was no quarrel on 07.11.2015 between the appellant and the deceased. Therefore, P.W.3 is not an eyewitness, and her evidence is hearsay and inadmissible.

5.3. Further, even during cross-examination, she admitted that she was living at Sivagnanapuram, which is 28 km away from Vilathikulam. Further, she admitted in cross-examination that she did not see the occurrence, and it was informed by the wife of Selvaraj, but the wife of Selvaraj was not examined. Further, she admitted that she has no personal knowledge about all the above incidents, and thus, her evidence is hearsay and cannot be relied upon.

5.4. Even P.W.4 deposed in his chief examination that there was a dispute between the husband and wife, and a week prior to the death of the deceased, she came to his shop and informed him that there was a dispute between the husband and wife. Except this, there is no evidence to prove motive. It is crystal clear that he is a hearsay witness and has no personal knowledge about the quarrel between the husband and wife. It is seen from the above evidence that there is nothing to connect the deceased with the



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quarrel. On the other hand, the threat was only against the mother of the deceased and not the deceased herself, and hence, the motive attributed by the prosecution against the appellant has not been established.

5.5. Except the above two witnesses, namely, P.W.3 and P.W.4, no other witnesses were examined to prove the motive, and the evidence of P.W.3 and P.W.4 is also only hearsay evidence. Therefore, through the circumstantial evidence, motive is not proved. The chain of circumstances is broken, and hence, the benefit of doubt is to be given to the appellant.

6. As far as the recovery is concerned, the recovery cannot be believed since the investigating officer, who was examined as P.W.21, searched the house on 08.11.2015 itself, and no recovery was effected on that day in the house of the appellant. Admittedly, the appellant voluntarily surrendered before the Judicial Magistrate, Saidapet. P.W.8, the Village Administrative Officer, in his cross-examination, has stated that when they went to the house of the appellant, it was kept open and 4 or 5 people were there, and the MOs were kept in a packet for putting to the waste. But the prosecution has not seized the packet, and it was in an open place where others can easily access, which shows that the alleged confession and recovery are stage-managed. There is no evidence that the materials were



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sealed at the time of seizure, and the Regional Forensic Science Laboratory report is not sufficient since the serologist report was not produced before the Court. Thus, the recovery also fails, and the chain is broken.

7. As far as the last seen theory is concerned, the trial Court relies upon the evidence of P.Ws.3, 4 & 11, but the entire evidence of all these witnesses is hearsay evidence, i.e., what they came to know was after the occurrence from P.Ws.1 & 2. Admittedly, P.Ws.1 & 2 did not support the case of the prosecution. Evidence of P.Ws.3, 4 & 11 clearly shows that they did not see the appellant in the village on 07.11.2015 or afterwards. It is the admitted case of the prosecution that P.Ws.3, 4 & 11 heard about the death of Aruna Devi long afterwards and went to her house, where they enquired with P.W.1 and P.W.2 and came to know about the presence of the appellant in Vilathikulam Village. But even according to them, P.Ws.1 & 2 are also not eyewitnesses to the occurrence. P.W.3, during cross-examination, has stated that she came to know about the occurrence through the wife of Selvaraj, but the wife of Selvaraj was not examined. P.W.4 is also not an eyewitness and is only a hearsay witness; he heard it through P.W.1, but P.W.1 did not support the case of the prosecution. Thus, his statement is not incriminating even if we accept the same for the sake of argument. P.W.11 is also not an eyewitness and is also a hearsay witness. She has stated that she



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came to know only from P.W.1; however, P.W.1 did not support the case of the prosecution. Thus, her statement is also contradictory to the evidence of other witnesses and is not incriminating, since even according to the investigation, P.W.1 is not an eyewitness and further she did not support the prosecution. Thus, all three witnesses have not seen the appellant in the village on 07.11.2015 or on 08.11.2015. Therefore, the last seen theory also fails. Except the evidence of P.Ws.3, 4 & 11, no other evidence is available to show that the accused was present in the said village on 07.11.2015 and 08.11.2015. As such, the last seen theory also fails. Hence, all the circumstances were not proved by the prosecution. The evidence, though relied upon by the prosecution, is highly artificial and unbelievable; thus, there is no iota of evidence to find the accused guilty. In support of his arguments, he has placed reliance on the judgment of the Hon'ble Supreme Court of India in the case of **Hansraj vs. State of Chhattisgarh**, reported in (2025) 3 Supreme Court Cases 350, and **Sohel Mehaboob Shaikh vs. State of Maharashtra**, reported in MANU/SC/0626/2009.

8. The learned Additional Public Prosecutor appearing for the respondent would submit that the appellant and the deceased loved each other, and though they belonged to different communities, subsequently, the parents of the deceased accepted their love and arranged for their marriage;



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therefore, the marriage was a love-cum-arranged marriage. After the marriage, they were living together at Tirunelveli, where the appellant was working as a Music Teacher in the Government School. After the marriage, her father died in the year 2013; hence, the deceased came to Vilathikulam and was residing in her parents' house since her father was no more. Therefore, the appellant called the deceased to live in Tirunelveli. But to satisfy the appellant, the deceased was residing in a separate house behind her mother's house. The appellant used to come to Vilathikulam on Saturdays and Sundays, and he called the deceased to live in Tirunelveli, but she did not come; therefore, there were frequent quarrel between the appellant and the deceased. One week prior to the occurrence, the appellant was so adamant to take his wife to Tirunelveli, and her relatives and well-wishers informed that the deceased would come soon after Deepavali, since Deepavali fell within a week. However, the appellant came on leave on the date of occurrence and was staying with the deceased at night on 07.11.2015 and in the late night, i.e., on 08.11.2015 early morning, the appellant attacked the deceased with a sharp-edged weapons, namely knives, and punching needles, closed the mouth of the deceased, and cut the neck of the deceased with a knife; therefore, the deceased died, and thereafter, the appellant left the place. In the morning, P.W.1, who is the mother of the deceased, went to the house of the deceased, where she was



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found dead, and therefore, she informed the police. Though there is no eyewitness in this case, the prosecution has proved their case beyond reasonable doubt through circumstantial evidence. He would further submit that the prosecution has proved the case under Section 106 of the Evidence Act. Since the appellant and the deceased were living together at night, and the next morning, the wife was found dead and the husband/appellant absconded, the burden of proof shifts to the appellant, and he has to explain as to how his wife sustained the injuries. In this case, the prosecution has proved its case beyond reasonable doubt with circumstantial evidence.

9. Admittedly, the appellant was working as a Music Teacher in the Government School. The Head Mistress of the school was also examined as P.W.10, and she clearly deposed that the appellant took medical leave on 02.11.2015 by contacting her through phone. She further deposed that the appellant undertook to return to duty on 09.11.2015, and she granted the same orally. Therefore, the appellant was very much available at Vilathikulam, where the occurrence took place. Though the appellant attempted to take a defense of alibi, he did not prove the said defence in the manner known to law. Though the mother of the deceased gave a complaint and made a statement before the Investigating Officer, for reasons best known to her, she turned hostile and did not support the case of



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the prosecution. Though she stated that she suffered from chest pain and the appellant took her to the hospital, and they stayed in the house of the appellant at Tirunelveli, the next day morning, she received information from the respondent police over the phone and came to the hospital, which is unbelievable. Most of the prosecution witnesses were not cross-examined by the defence counsel and did not strictly challenge the availment of leave; he did not establish a plea of alibi. Further, the appellant absconded from the occurrence place and after 10 days, voluntarily surrendered. Thereafter, he made a confession, and based on the confession, the investigating officer recovered the Material Objects in the presence of the Village Administrative Officer, P.W.8. Therefore, the prosecution clearly established the circumstantial evidence. Though some of the witnesses turned hostile, the prosecution proved their case beyond reasonable doubt based on circumstantial evidence. Therefore, there is no merit in the appeal, and it is liable to be dismissed.

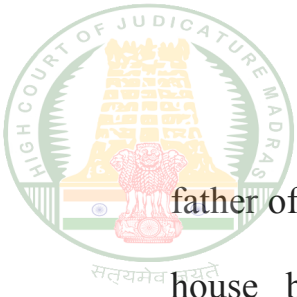
10. We have considered the submissions of the learned counsel for the appellant and the learned Additional Public Prosecutor for the State and have carefully gone through the entire evidence and materials on record.



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11. The case of the appellant is that he belongs to the Scheduled Caste community and the deceased belongs to the Pillaimar Community and hence, the Pillaimar community people and the relatives of the deceased did not agree to the inter-caste marriage due to caste superiority. The appellant hailed from Sivagiri while the deceased hailed from Vilathikulam and as such, the appellant had no connection with the Vilathikulam Town people. The marriage took place on 07.02.2013 and was registered on 11.03.2013. In the year 2015, she became pregnant and went to P.W.1's house for delivery, where she gave birth to a male child and she was living there since her father died. On 08.11.2015 she was found dead and the appellant was falsely implicated to screen the real accused. Her death may be due to honour killing or some other reason, which is not known to the appellant. The appellant is innocent and did not commit any offence.

12. Admittedly, the appellant and the deceased were husband and wife, and their marriage was a love-cum-arranged marriage. The appellant was working as a Music Teacher in the Government School at Tirunelveli and he was residing in Tirunelveli. After the marriage, both the appellant and the deceased were living in Tirunelveli. Thereafter, the father of the deceased died and during the pregnancy, the deceased went to her parental house and resided with P.W.1, who is the mother of the deceased, as the



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father of the deceased was no more. Thereafter, the deceased took a separate house behind P.W.1's house in Vilathikulam and resided there. On 08.11.2015, the deceased was found dead in the house where she was residing; hence, a case was registered, and a post-mortem was conducted, which found that it was a homicidal death due to multiple grievous injuries.

13. According to the prosecution, the deceased was residing in Vilathikulam, and the appellant asked the deceased to come to Tirunelveli; the deceased refused, and therefore, there was a quarrel between them. On 07.11.2015, there was a quarrel between the appellant and the deceased in the late night and early morning of 08.11.2015. The appellant is alleged to have brutally attacked the deceased with a sharp-edged weapons, and she sustained multiple injuries; due to the injuries, she died on the spot, and the appellant escaped from the scene of occurrence. In the morning, the mother of the deceased went to the spot and found the deceased dead with injuries. Therefore, she informed the police and preferred a complaint, and the police came to the spot and proceeded with the investigation.

14. According to the defence, the appellant married the deceased out of love and affection, and during the pregnancy period, she went to her parental home; thereafter, she did not return. On the date of occurrence, the



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appellant was not in Vilathikulam. The last seen theory was not established, the motive was also not established, and the recovery of material objects was not established. None of the witnesses have spoken about the presence of the appellant at the occurrence place either immediately before the occurrence or soon after the occurrence, or nearby. Therefore, in the absence of any eyewitness, circumstantial evidence without any proof, the conviction recorded by the trial Court is erroneous.

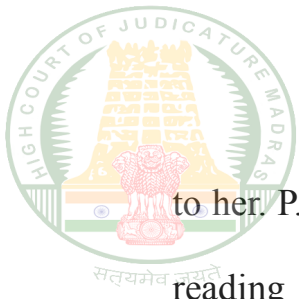
15. Admittedly, in this case, based on the circumstantial evidence, the trial Court has convicted the accused, and there was no eyewitness in this case. Though the mother of the deceased gave a complaint before the police and set the law in motion, and the prosecution registered a case and proceeded with the investigation, however, during trial, P.W.1, who is the mother of the deceased, turned hostile and did not support the case of the prosecution. She further stated that on the date of occurrence, she suffered from chest pain, and the appellant took her to the hospital at Tirunelveli and they stayed there for the night, and the next morning, i.e., on 08.11.2015, she received a phone call from the Vilathikulam police station that her daughter was murdered, and therefore, she came to the hospital. The appellant, during the question under Section 313 Cr.P.C., when the Court asked him if he wanted to say anything about the case, stated that he was in



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no way connected with the case, as on the date of occurrence, i.e., 07.11.2015, his mother-in-law felt unwell and he took her to the hospital at Tirunelveli and thereafter, they stayed in the Government Quarters at Tirunelveli. But the learned counsel for the appellant would submit that there is no material to show that the appellant came to Vilathikulam on 07.11.2015. P.W.1, during the investigation, stated before the police that the appellant and her daughter were staying in their house just behind P.W.1's house, and in the morning, she came to the house of the daughter, found her dead, and the appellant was not in the house. During the chief examination, she deposed that due to chest pain, the appellant took her to Tirunelveli for treatment. P.W.1 has not stated where she took treatment, what type of treatment she received, and at which hospital she took the treatment. It is seen from both the evidence of P.W.1 and also her answer to the questioning under Section 313 Cr.P.C. that on the date of occurrence, the appellant was in Vilathikulam.

16. According to the prosecution, late at night, the appellant killed his wife and absconded, but according to the defence, on the date of occurrence, he never came to Vilathikulam. However, there are contradictions in the evidence of the victim's mother for reasons best known



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to her. P.W.1 did not support the case of the prosecution. However, from the reading of the evidence of P.W.1 and also answer to the question under Section 313 Cr.P.C., of the appellant, the appellant was very much present in Vilathikulam on 07.11.2015. Further, the headmistress of the school in which the appellant was working was examined as P.W.10, and she stated that on 02.11.2015, over the phone, the appellant asked for leave and he undertook to return to duty on 09.11.2015; therefore, leave was granted orally, but he did not come to school on 09.11.2015. She further deposed that the Vilathikulam police approached her to get the details of the appellant, and she gave the details of date of joining, and other details vide Ex.P17, and the details about his suspension from service on 12.11.2015; however, the appellant did not cross-examine P.W.10. Though the learned counsel for the appellant would submit that the attendance particulars were not called for, the Headmistress of the school deposed that the appellant applied for leave orally on 02.11.2015, and she also granted the same. The said statement was not disputed or challenged by the appellant. It is clearly proved from the evidence of P.W.10 that the appellant did not attend the school on 07.11.2015, but it is seen from the answer to the question under Section 313 Cr.P.C. that on the date of occurrence, the appellant was present at Vilathikulam and he took his mother-in-law to Tirunelveli for treatment. If the appellant took a plea of alibi, he had to prove the same by showing



that he was not present at Vilathikulam at the time of occurrence and he was elsewhere.

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17. The main contention of the appellant is that he was not present at Vilathikulam on the date of occurrence, i.e., on 07.11.2015 midnight and 08.11.2015 early morning. However, admittedly, the appellant was working in the Government School at Tirunelveli as a music teacher and he did not attend the school from 02.11.2015 to 09.11.2015, and he took P.W.1 for treatment from Vilathikulam to Tirunelveli; therefore, the appellant was very much available on 07.11.2015 at Vilathikulam. Though P.W.1, during her evidence, stated that the appellant only took her to the hospital for treatment, she did not mention the name of the hospital where she took treatment. From the evidence of P.W.1 that if it is true that she was in Tirunelveli along with the appellant in the residence of the appellant, when P.W.1 received a phone call from the Vilathikulam police station regarding the death of her daughter, immediately, the appellant could also have rushed to Vilathikulam along with P.W.1 to see his wife, and he could have lodged a complaint before the police that in his absence somebody murdered his wife. If the evidence of P.W.1 is true, as the appellant accompanied P.W.1 on 07.11.2015 and went to Tirunelveli for treatment, immediately soon after receiving the phone calls from the police she might



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have informed the same to her son-in-law regarding the death of the deceased. But in this case, P.W.1 received the phone calls from the police and she reached the occurrence place on 08.11.2015 and found the deceased dead. The appellant absconded from the scene of occurrence and he surrendered before the Magistrate only on 25.11.2015. If the appellant was not present at Vilathikulam and he was not involved in the crime, he should have immediately reached to Vilathikulam and made a statement before the police during the investigation. Even the evidence of P.W.1 shows that on the date of occurrence, the appellant was available at Vilathikulam on 07.11.2015; therefore, the contention of the appellant is not acceptable. If it is taken as true that P.W.1 was very well available with the accused at Tirunelveli, the accused could very well have come to Vilathikulam along with P.W.1 and every possibility existed for him to come to Vilathikulam. Hence, the hostile evidence of P.W.1, P.W.2, P.W.5, P.W.6, and P.W.7 does not become fatal to the prosecution. Furthermore, the material objects such as the lungi and towel, which were recovered as per the disclosure statement of the accused, were found to have blood stains, as per Ex.P.20. The appellant failed to give any explanation regarding the availability of blood stains in the above-mentioned materials.



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18. Further, regarding recovery, P.W.8, the Village Administrative Officer, has spoken about the recovery. Though some of the injuries were found on her right neck, he further deposed that there was a cut injury on her neck between the two ears. He also found two stab injuries near her umbilicus. He further deposed that the Inspector of Police prepared the Observation Mahazar. He further deposed that the accused gave a voluntary confession before the police in his presence on 25.11.2015, and as per the confession statement given by the accused, the respondent police recovered the lungi, towel, white-colored Samsung cellphone, and one unused punching needle (Kuthusi) from his house at about 13.45 p.m. In support of his evidence, Ex.P6 was also marked. The recovered material objects were marked as M.O.7 to M.O.10. Further, in his cross-examination, he deposed that the punching needle (Kuthusi) was recovered as per the confession statement made by the accused on 25.11.2015. Even though he did not specifically depose to the particular place where it was recovered in the chief examination, he clearly deposed that the kuthusi, lungi, towel were recovered from the bathroom of the accused's house from a white-coloured "gunny bag" during his cross-examination. It is seen from the evidence of P.W.8 and from the document Ex.P6 that the recovery of lungi, pillow, Samsung cellphone, and kuthusi (M.O.7 to M.O.10) were clearly proved by the evidence of P.W.8. The occurrence took place on 07.11.2015, and based



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on the confession statement, recovery was made on 25.11.2015 in the presence of P.W.18. Though the confession statement given by the appellant before the police officer is not admissible under Section 25 of the Evidence Act, it is admissible insofar as it leads to recovery under Section 27 of the Evidence Act, and further, the same were sent for forensic lab analysis.

19. As far as motive is concerned, the appellant married the deceased; the marriage was a love-cum-arranged marriage, and initially they resided in Tirunelveli. Subsequent to the death of the father of the deceased, she went to Vilathikulam for delivery, and thereafter she resided along with P.W.1. The appellant asked the deceased to come to Tirunelveli, but she refused to come to Tirunelveli and remained in Vilathikulam in a separate house near P.W.1's house. Since the deceased did not come to Tirunelveli, the appellant visited Vilathikulam every Saturday and Sunday, and on the date of occurrence, i.e., 07.11.2015 and 08.11.2015, it happened to be holidays, i.e., Saturday and Sunday, and the appellant was also on leave from 02.11.2015 to 09.11.2015, which was proved through the evidence of P.W.10. Therefore, the motive in this case is that the deceased refused to come to Tirunelveli and continued in residing at Vilathikulam. The evidence of P.W.1,3,11 clearly establishes that the accused was very well available at Vilathikulam on 07.11.2015 and hence, proves the last seen theory. Thus,



from the evidence of P.W.1, P.W.3, P.W.4, and P.W.11, this Court comes to the conclusion that the last seen theory and the motive aspect are proved by the prosecution beyond reasonable doubt. The decision referred to by the counsel for the appellant is not applicable to the present case, as the facts and circumstances therein are entirely different and, therefore, distinguishable from the case at hand.

20. It is alleged by the prosecution that the appellant trespassed into the house of the de facto complainant, P.W.1, and attempted to murder her. With respect to the allegation of house trespass, no substantive evidence is available in this case. P.W.1 herself stated that the appellant took her for treatment, and she did not depose that the appellant trespassed into the house of P.W.1 and attempted to commit murder; therefore, the trial Court has rightly acquitted the appellant for the offence under Section 450 of IPC. With regard to Section 307 of IPC, the recovery of nylon rope was not proved by the evidence of P.W.1. No fruitful evidence is available against the accused for the charge of attempt to commit murder. Hence, the trial Court has rightly acquitted the appellant under Section 307 of IPC.



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21. As far as Section 498(A) of IPC is concerned, it is alleged that the deceased was subjected to cruelty on 02.11.2015 and 07.11.2015. But there was no evidence available against the appellant for the alleged harassment/cruelty on 02.11.2015 and 07.11.2015. On perusal of the evidence of P.W.3, P.W.4, P.W.8, and P.W.11, it is seen that there was some quarrel between the deceased and the appellant on 07.11.2015 with respect to the shifting of the family from Vilathikulam. Mere quarrel between the appellant and the deceased on 02.11.2015 and 07.11.2015 is not sufficient to attract the offence under Section 498(A) of IPC. Therefore, the trial Court has rightly acquitted the appellant for the offence under Section 498(A) IPC.

22. It is seen from the records that though there was no eyewitness in this case to implicate the accused in the case, a reading of the material shows that the appellant committed the offence under Section 302 of IPC. Though some of the witnesses turned hostile, including the de facto complainant, the de facto complainant is not a reliable witness. It is seen from the evidence of P.W.1 that the appellant, along with P.W.1, went to the hospital at Tirunelveli on 07.11.2015, but the appellant did not come to the spot on 08.11.2015. If at all the appellant was not involved, he could have rushed to the spot to see his wife. A prudent man who married the deceased



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with love and affection certainly would have come to the spot, but he escaped from the scene of occurrence and surrendered before the Court on 25.11.2015. Though the eyewitnesses turned hostile, through circumstantial evidence, the prosecution has proved its case beyond reasonable doubt. If the appellant was not present at the scene of occurrence on the date, the plea of alibi ought to have been proved, but the appellant has failed to prove the same. In this regard, it is pertinent to refer the decision of the Hon'ble Supreme Court in the case of **Balvir Singh v. State of Uttarakhand** reported in **(2023) 16 Supreme Court Cases 575**. In paragraph 55 & 63 of the said judgment is extracted hereunder:-

"55. In the aforesaid context, we must look into the decision of this Court in Deonandan Mishra v. State of Bihar. In the said decision, there is a very important passage in which, the learned Judges deal with the effect of failure of the accused to offer any explanation for circumstances appearing in evidence against him in a prosecution based upon circumstantial evidence. At the cost of repetition, the law is very clear that the accused is not bound to offer any explanation, that there is no burden cast upon him to do so and that the onus of proof does not shift in respect of the vital matter of guilt at any stage of a criminal trial. But as stated by this Court: (SCC Online SC para 9)

"9..... It is true that in a case of



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circumstantial evidence not only should the various links in the chain of evidence be clearly established, but the completed chain must be such as to rule out a reasonable likelihood of the innocence of the accused. But in a case like this where the various links.... have been satisfactorily made out and the circumstances point to the appellant as the probable assailant, with reasonable definiteness and in proximity to the deceased as regards time and situation, and he offers no explanation, which if accepted, though not proved, would afford a reasonable basis for a conclusion on the entire case consistent with his innocence, such absence of explanation or false explanation would itself be an additional link which completes the chain."

63. These appeals remind us of what this Court observed in ***Dharm Das Wadhwani v. State of U.P*** (SCC pp. 272.73, para 14)

"14... The rule of benefit of reasonable doubt does not imply a frail willow bending to every whiff of hesitancy. Judges are made of sterner stuff and must take a practical view of legitimate inferences flowing from evidence, circumstantial or direct."

The role of Courts in such circumstances assumes greater importance and it is expected that the courts would deal with such cases in a more realistic manner and not allow the criminals to escape on account of procedural technicalities, perfunctory investigation or insignificant lacunae in the evidence as otherwise the criminals would receive encouragement and the victims of crime would be totally discouraged by the crime going unpunished. The courts are



expected to be sensitive in cases involving crime against women.

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Therefore, this Court does not find any reason to interfere with the judgment of the trial Court.

23. In the result:

i) This Criminal Appeal is dismissed.

ii) The conviction and sentence imposed by the Court of Session against the appellant in respect of charge under Section 302 of IPC are confirmed.

iii) The appellant/accused shall surrender to his bail bond to undergo the remaining portion of the sentence within a period of four weeks from today and if he fails to surrender as directed above, the trial court shall take appropriate steps to secure the accused to serve the remaining portion of sentence.

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

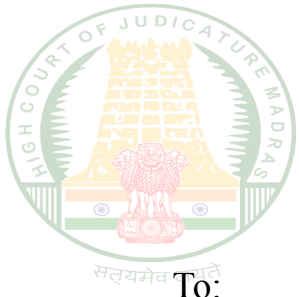
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27/29



Cr1.A(MD)No.132 of 2022

To:

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- 1.The Sessions Judge,
Mahalir Neethimandram
(Fast Track Mahila Court),
Thoothukudi.
- 2.The Inspector of Police,
Vilathikulam Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Section Officer
Criminal Records,
Madurai Bench of Madras High Court,
Madurai.



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Crl.A(MD)No.132 of 2022

P.VELMURUGAN,J.
and
L.VICTORIA GOWRI,J.
am

Crl.A(MD) No.132 of 2022

16/10/2025