

Crl.A(MD)No.1027 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Reserved on : 31.01.2025

Pronounced on : 26.02.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**Crl.A(MD)Nos.1027, 1069 & 1099 of 2023,
101, 779, 908 & 1127 of 2024**

Crl.A(MD)No.1027 of 2023:

Jeyaprabhu

... Appellant /
Accused No.1

Vs.

The State represented by
The Inspector of Police,
Uthamapalayam Police Station,
Theni District.
(Crimine No.147 of 2020)

... Respondent /
Complainant

Prayer: Criminal Appeal filed under Section 378(2) of Code of Criminal Procedure, 1973 to call for the records and allow this appeal and set aside the judgment, conviction and sentence passed by the learned Additional District (Fast Track) Court, Theni dated 19.10.2023 in S.C.No.120 of 2021.



WEB COPY



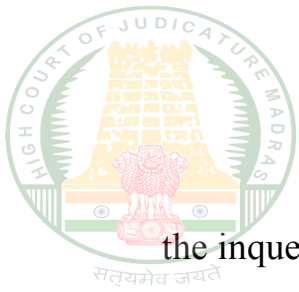
Crl.A(MD)No.1027 of 2023

For Appellant : Mr.C.Iyyappa Raj
For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

COMMON JUDGMENT

These appeals are directed against the judgment dated 19.10.2023 made in S.C.No.120 of 2021 on the file of the Additional District (Fast Track) Court, Theni.

2.On 06.03.2020 at about 3.30 p.m, one Ranjithkumar was heading towards Poomalai Theatre in his motorcycle from Govindanpatti. His vehicle was knocked down and he was hacked to death. P.W.1 Selvanderan, the brother of the deceased, lodged Ex.P3 complaint before Uthamapalayam Police Station at 09.00 p.m on the same day. Crime No.147 of 2020 (Ex.P28) was registered for the offences under Sections 147, 148, 149, 302, 120B and 109 of IPC against as many as 10 persons. P.W.20 took up investigation and he went to the spot at 22:35 PM. He prepared observation mahazar (Ex. P11) and rough sketch Ex. P29) in the presence of witnesses. He collected earth samples and seized the vehicle driven by the deceased. On 07.03.2020, from 7:00-10:00 AM, he conducted inquest in the presence of panchayatars and witnesses and prepared



Crl.A(MD)No.1027 of 2023

the inquest report. He examined the witnesses and recorded their statements. He

sent requisition to conduct postmortem to Uthamapalayam Government Hospital. Alteration report was filed. The number of accused became 12. Except A8 and A10, the other accused were arrested in the course of investigation. Based on the disclosure statements of the accused, the weapons used for committing the crime as well as the car in which the accused travelled were recovered. Statements of PW.1, PW2, PW4 and PW5 were recorded under Section 164 of Cr.P.C by the learned Judicial Magistrate, Uthamapalayam.

3.After examining the witnesses and after obtaining forensic reports, the Investigation Officer filed final report before the learned Judicial Magistrate No.1, Theni. It was taken on file and committed to the Sessions Court and made over to the Additional Sessions (Fast Track) Court, Theni in S.C.No.120 of 2021. As many as 6 charges were framed against A3 to A12. Charges were framed under Sections 147, 148, 149, 120B and 302 of IPC. The second accused was done to death during trial itself. The case against the first accused was originally split up and subsequently, charges were framed against A1, A3 to A12 under Section 120B read with Section 302 of IPC. The accused denied the charges and claimed to be tried.

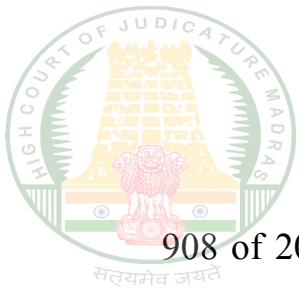


Crl.A(MD)No.1027 of 2023

4.The prosecution examined PW1 to PW21 and marked ExP1 to ExP48. MO1 to MO16 were marked. On the side of the accused, no oral evidence was adduced. The incriminating circumstances were put to the accused during examination under Section 313 of Cr.P.C. They characterized them as false. Photo copy of the accident register of Ranjithkumar was marked as Ex.D1. After considering the evidence on record, the trial Court acquitted A6, A7 and A10 of all the charges. The remaining accused were found guilty and sentenced. The details of their conviction and sentence are as follows:

Accused Rank	Charge U/s.	Sentence
A-1, 3, 8 & 9	120(b) r/w 302 of IPC	Imprisonment of Life and to pay a fine of Rs.5,000/- each in default 6 months Simple Imprisonment
A6, A7 & A10	Acquitted of all charges	
A-4, 5, 11 & 12	302 of IPC	Imprisonment of Life and to pay a fine of Rs.5,000/- each in default 6 months Simple Imprisonment

Questioning the said judgment of conviction and sentence, A1 Jeyaprabhu filed Crl.A(MD)No.1027 of 2023, A8 Chokkar has filed Crl.A(MD)No.1069 of 2023. Aggrieved by the acquittal of A6, A7 and A10, PW1 Selventhiran filed Crl.A(MD)No.1099 of 2023. A4 and A5 filed Crl.A(MD)No.101 of 2024. A12 Velmurugan has filed Crl.A(MD)No.779 of 2024. A9 has filed Crl.A(MD)No.



Crl.A(MD)No.1027 of 2023

908 of 2024. A11 Raja has filed Crl.A(MD)No.1127 of 2024. A3 Selvam @

WEB COPY Subbu Selvam alone has not preferred any appeal challenging the impugned judgment.

5.The learned Senior Counsel appearing for the appellants / accused contended that the impugned judgment passed by the trial Court deserves to be set aside insofar as it found them guilty. They pointed out that while the occurrence took place at 03.30 p.m, complaint was lodged only at 09.00 p.m. The distance between the place of occurrence and the Police Station was hardly 5 kms. Admittedly, Ranjithkumar died on the spot. According to the prosecution, PW1 and PW2 were following Ranjithkumar in a two wheeler. Therefore, there could not have been delay in lodging the complaint. There is no convincing or acceptable explanation for the delay. According to the defence, the complaint is a product of careful deliberation and after thought. They would contend that PW1 and PW2 have been falsely projected as eye witnesses. They also submit that the charge of conspiracy has not at all been proved as PW6 Mutheeswari is obviously a set up witness. Her testimony is unnatural and artificial and could not have commanded the Court's confidence. Finding of guilt cannot be rendered on the strength of recovery of weapons. The testimonies of the witnesses are not in consonance with each other. They



Crl.A(MD)No.1027 of 2023

called upon this Court to set aside the impugned judgment and acquit all the accused.

6.The learned counsel appearing for the defacto complainant submitted that there was sufficient and convincing evidence even against the three accused who were acquitted by the Court below. He called upon this Court to sustain the impugned judgment insofar as it convicted the remaining accused. After reiterating the contentions set out in the memorandum of grounds of appeal, he called upon the Court to find all the accused guilty.

7.The learned Additional Public Prosecutor appearing for the State submitted that a dastardly crime was committed in a public place. An advocate had been done to death over a land dispute. The crime was captured in CCTV also. He pointed out that there is overwhelming evidence against each of the accused who had been found guilty by the Court below. He called upon this Court to sustain the impugned judgment and dismiss the appeals.

8.We carefully considered the rival contentions and went through the evidence on record.



Crl.A(MD)No.1027 of 2023

9.The deceased is one Ranjithkumar, an advocate by profession. The

prosecution had convincingly established that there was sufficient motive to commit the crime. Ranjithkumar had entered into two agreements (Ex.P1 and Ex.P2) with one Rajakantham, mother of A9 Vijayan, on 14.11.2019. One was a sale agreement and the other was a lease deed. A sum of Rs.10,00,000/- was paid as advance under the sale agreement. A sum of Rs.3,30,000/- was paid as first installment under the lease agreement. Physical possession of the coconut grove and the agricultural land belonging to Rajakantham was taken by Ranjithkumar. According to the prosecution, this was seriously objected by A9 Vijayan. Two days later, when Ranjithkumar was ploughing the field at around 10.00 a.m, A8 Chokkar, A1 Jeyaprabhu, A2 Mathan, A9 Vijayan and 10 others entered the grove and picked up quarrel. A1 Jeyaprabhu hacked PW1's shoulder with a bill hook. In this regard, Crime No.239 of 2019 was registered on the file of Gudalur South Police Station. In February 2020, Ranjithkumar faced threats and intimidation at the hands of some of the accused. He even lodged a written complaint before the Inspector of Police, Cumbum South Police Station on 12.02.2020. He named A1, A8, A2, A3 and others in his complaint. Ex.P2 CSR receipt was issued by the Police. Ranjithkumar had clearly mentioned therein that A9 was upset about the land transaction which he had entered into with his mother Rajakantham and therefore the accused wanted to do away with



Crl.A(MD)No.1027 of 2023

him. It is in this background the occurrence had taken place. We therefore conclude that the motive for the crime had been established beyond reasonable doubt. However, motive by itself is not sufficient to find the accused guilty. There must be convincing evidence to link the accused with the crime.

10.The case of the prosecution is as follows:

On 06.03.2020 in the afternoon, Ranjithkumar came out the Uthamapalayam Court and was heading in his two wheeler towards Poomalai Theatre from Govindanpatti. A4, A5, A11 and A12 followed him in a red Maruthi car driven by A3. At around 03.30 pm., the aforesaid accused hit Ranjithkumar from behind making him fall on the road. Thereafter, A4, A5, A11 and A12 got down from the car with weapons. They hacked Ranjithkumar and killed him on the spot. This was witnessed by PW1 and PW2 who coming from behind. The prosecution case is that the red car in which the aforesaid 5 accused were travelling overtook the two wheeler ridden by PW1 and PW2. Thus, this part of the crime primarily rests on the ocular testimony of PW1 and PW2. The crime itself is a fallout of a conspiracy. The charge of conspiracy levelled against the accused primarily rests on the testimony of PW6 Mutheeswari. The preparatory acts committed by the accused pursuant to the



Crl.A(MD)No.1027 of 2023

said conspiracy were sought to be established by examining PW7 Rafiqraja and

WEB PW3 Rajavikram.

11.PW1 Selventhiran is the elder brother of the deceased Ranjithkumar. He deposed about the land transaction between his deceased brother and Rajakantham, the mother of A9 Vijayan. He further stated that he was attacked by some of the accused A8, A1, A2, A9 and others on 16.11.2019, when he and his brother were ploughing the field. He also deposed that his brother was threatened in February 2020 by A1 to A8 and that his brother gave written complaint before Cumbum South Police Station. The complaint dated 12.02.2020 given by Ranjithkumar and CSR receipt No.51 of 2020 issued by the Sub Inspector of Police, Cumbum Police Station were marked as Ex.42.

12.The names of A4 and A5, namely, Rajesh and Anandan had not been introduced for the first time. Ranjithkumar, when he was alive, had named them as the persons who attempted to attack him with deadly weapons. According to Ranjithkumar, he escaped because of the intervention of the persons working in the liquor bar. The only question which has to be answered is whether the presence of PW1 could be doubted. PW1 is the elder brother of Ranjithkumar and he was fully aware of the threats faced by his younger



Crl.A(MD)No.1027 of 2023

brother. In fact, PW1 himself was a victim who was attacked at the hands of A1

Jeyaprabhu in November 2019. Therefore, there is nothing unnatural in PW1 following his younger brother on the occurrence date and time. PW1 had named A4 and A5 in his complaint. In his complaint, he had mentioned that apart from A4 and A5, there were two other persons aged between 20 and 25 who were not known to him and who could be identified. In the Court, he identified A4 Rajesh, A5 Anandan, A11 Raja and A12 Velmurugan as persons who hacked Ranjithkumar with weapons and killed him. He deposed that A4 Rajesh hacked Ranjithkumar with MO3 bill hook. A5 Anandan hacked with MO4 bill hook. A12 Velmurugan hacked with MO5 knife. A11 Raja hacked with MO6 knife. All these weapons were recovered pursuant to the respective disclosure statements made by the accused. MO3 was recovered under Ex.P19 pursuant to the disclosure statement Ex.P33. MO4 was recovered under Ex.P16 pursuant to Ex.P32. MO5 and MO6 were recovered under Ex.P20. Ex.P34 is the disclosure statement of A12. It is true that there was no test identification parade. But PW1 identified the aforesaid four accused in Court. Identification in the Court alone would constitute substantive evidence. PW4 had identified the aforesaid 4 persons (A4, A5, A11 and A12) as the persons who had inflicted the cut injuries on his brother Ranjithkumar. The testimony of PW1 sounds convincing. PW1's testimony is amply collaborated by PW2. PW2 was riding



Crl.A(MD)No.1027 of 2023

along with PW1. He also spoke on the same lines. Therefore failure to hold test identification parade does not weaken the prosecution case.

13.The occurrence had taken place in a public road. Some of the defence counsel had argued before the Court below that Ranjithkumar had actually died in an accident and that it was not a case of murder. This submission is baseless and absurd. It is liable to be rejected with contempt. The occurrence was captured in a CCTV. The footage was in fact downloaded and marked. The killing has been captured. Only the identity of the killers could not be established through the said footage. The post mortem report Ex.P21 speaks for itself. PW12 Dr.Jameela Fathima deposed that on 07.03.2020, she conducted post mortem from 10.05 a.m to 10.40 a.m and noticed as many as 14 external injuries on the body of Ranjithkumar. Most of them were cut injuries and one was a skull injury. She deposed that the injuries noted on the body of Ranjithkumar could be caused by cut injuries inflicted by sharp weapons. We are satisfied that the version projected by PW1 is corroborated by medical evidence. Admittedly, PW1 has no motive against A4, A5, A11 and A12. PW1 as well as Ranjithkumar had serious dispute only with A9 and on this account with A1, A2 and A8. There is absolutely no motive for PW1 to falsely implicate A4, A5, A11 and A12. His testimony could not be shaken during cross examination also.



Crl.A(MD)No.1027 of 2023

WEB COPY

14. Even according to the prosecution, the aforesaid 4 accused are hired killers and mercenaries. According to them, the entire operation was organised by A3 Selvam. A3 has not filed any appeal before us. A3 is said to have purchased a red colour Maruthi car bearing No.KL 05 M7171 from PW7 Rafiqraja. On the occurrence date, A4, A5, A11 and A12 travelled in the said car driven by A3. After hitting Ranjithkumar's two wheeler, they got down from the car and inflicted cut injuries on him leading to his instant death.

15. PW1, who is the elder brother of the deceased, had categorically implicated the aforesaid 4 accused as the persons who had actually committed the crime. There is no reason to disbelieve the said testimony. It is true that information was not lodged immediately. There has been a delay of more than five hours in registering the FIR. But the prosecution case cannot be thrown out completely on the ground of delay. That a murder took place in a public place is beyond dispute. It is the duty of the Court to carefully scrutinize the evidence and acquit those who have been falsely implicated. As already mentioned, the names of A4 and A5 have not popped up for the first time. They had been named as the persons engaged by A1, A2 and A9 in the complaint given by Ranjithkumar on 14.02.2020.



Crl.A(MD)No.1027 of 2023

WEB COPY

16.The remaining accused, namely, A1, A8 and A9 have been found guilty of conspiracy. Let us now analyse if there is any credible evidence to support the said charge under Section 120B read with 302 of IPC. The prosecution has examined PW6 Mutheeswari to prove criminal conspiracy. Mutheeswari deposed that she knew A1 Jeyaprabhu, A8 Chokkar, A9 Vijayan and A10 Mayilammal directly. She is a resident of Alagar Nagar, K.Pudur, Madurai. KG Patti is her native place. One Petchiammal gave complaint against her before Gudalur South Police Station. Hence, she was arrested on 29.11.2019 and remanded along with PW6, one Archana who was a co-prisoner. The said Archana requested PW6 to meet an advocate by name Chokkar and arrange him to apply for bail for her. After PW6 came out on bail, she came to know that Archana was still inside. Hence she went to Gudalur to the office of Advocate Chokkar. This was 10 days prior to the occurrence. She was accompanied by her daughter Jenitha. When she went to the office of Chokkar, Chokkar was discussing with Mathan, Mayilammal, Vijayan and Jeyaprabhu. She heard Vijayan telling Chokkar to retrieve his coconut grove if necessary by killing Ranjithkumar and that he was willing to pay any sum for that purpose. Jeyaprabhu (A1) intervened and said that Ranjithkumar should have been killed in Cumbum itself but he some how escaped, and that on the



Crl.A(MD)No.1027 of 2023

next occasion, he will not be able to escape. PW6 claimed that she overheard the aforesaid accused discussing this. After meeting Chokkar and requesting him to secure bail for Archana. PW6 and her daughter went to KG patti. She happened to meet PW1 Selvendran outside her house. PW6 alerted PW1 Selvendran about what she had overheard in the office of Advocate Chokkar. PW6 was cross examined at length. During the cross examination, it was specifically suggested that A8 Chokkar never had any office at Gudalur. This suggestion was denied by PW6. But she was not able to give the address of A8 Chokkar. She did not tell the date on which she went to his office. She was not able to mention the name of the street. Even her claim that she went to meet A8 Chokkar to make arrangements for filing bail application for Archana appears to be too far fetched. It is not as if PW6 was already known to Archana. PW6 admitted that her brother was an advocate. More than anything else, it is simply unbelievable and improbable that conspiracy to commit murder would be hatched or discussed in the presence of an outsider. If really PW6 had overheard the aforesaid accused hatching a conspiracy to murder Ranjithkumar, she would have definitely informed the jurisdictional Police about the same. PW6 would claim that she alerted PW1. If that was true, PW1 would have definitely filed a complaint before the Police concerned. The entire evidence of PW6 is a cock and bull story. Since the Police could not secure legally



Crl.A(MD)No.1027 of 2023

admissible evidence to establish the charge of conspiracy, they had picked up

PW6 to depose falsely in support of the charge of conspiracy. PW6 admittedly is not a stranger to Police. She had already been detained under the law relating to Preventive Detention. To pointed questions, PW6 was not even able to come out with the relevant particulars about Archana. She admitted that she knew Ranjithkumar even before going to jail. She admitted that Ranjithkumar met her twice when she was in Madurai prison. She added that her brother who is an advocate brought Ranjithkumar. She added that her brother and the deceased Ranjithkumar were close to each other.

17. We are therefore of the view that it would be most unsafe to act on the testimony of PW6. She is a rank liar. From a reading of her testimony, one can conclude that she is a planted witness. After eschewing the evidence of PW6, let us see if there is any other convincing evidence to prove the charge of conspiracy. There is one solid piece of evidence. There is no dispute that a red colour car was used for committing the crime. The said car was seized from A3 under Ex.P13. The said car belonged to one Robin. It was an old run down car. PW7 Rafiqraja is a dealer in second hand vehicles. He purchased the said car from Robin under Ex.P9. According to PW7, A1 Jeyaprabhu, A3 Selvam and others came on 06.03.2023 at about 7.45 a.m to 08.00 a.m. A1 and A3 took the



Crl.A(MD)No.1027 of 2023

said car from PW7 after paying a sum of Rs.17,500/-. The car was marked as

WEB MO2. This no doubt brings A1 and A3 within the ambit of the prosecution case. However, what connects A1 Jeyaprabhu with the purchase of the car is only the oral testimony of PW7. There is no documentary evidence to show his involvement. More over, MO2 car was eventually recovered only from A3. A3 has not filed any appeal before us. It would not be safe to convict A1 only on the strength of the oral testimony of PW7.

18.It is well settled that when the case rests on circumstantial evidence, the chain should be complete. The cumulative chain of circumstances should unerringly point to the guilt of the accused. We are of the view that the chain is not complete. The prosecution was obviously aware of this serious lacuna. That is why they had introduced PW6 as the prime witness.

19.We have no doubt in our minds that the land dispute between A9 Vijayan on the one hand and the deceased Ranjithkumar on the other is the cause for the crime. A9 alone has the motive to do away with Ranjithkumar. He has enlisted the services of A1, A2 and A8. A1, A2 and A8 had probably engaged A3 Selvam to organise the killing. A3 had in turn engaged A4, A5, A11 and A12 to actually carry out the killing. We are morally convinced that



Crl.A(MD)No.1027 of 2023

the prosecution has come out with the correct version. But there cannot be

something called moral conviction. Our conviction has to rest only on legally admissible evidence. Such a legally admissible evidence is available only against A4, A5, A11 and A12 since it was witnessed by PW1 and PW2.

20.A3 was also present on the spot and his presence was noticed. But then, A3 is not before us and therefore it would not be proper for us to render any adverse finding against A3. As regards A2, he was killed during the trial itself and the charge against him stood abated. We hold that as regards A1, A8 and A9, the charge of conspiracy has not at all been proved beyond reasonable doubt.

21.The Court below had held that there is absolutely no evidence against A6, A7 and A10. We carefully went through of testimony of all the prosecution witnesses. There is no legally acceptable evidence to implicate the said accused. It is well settled that in an appeal against acquittal, there can be interference only if the reasons given by the trial Court are perverse. In the case on hand, we hold that the trial Court adopted the right approach in acquitting A6, A7 and A10. The appeal filed by the defacto complainant is bereft of merit.



Crl.A(MD)No.1027 of 2023

WEB COPY

22. In this view of the matter, the impugned judgment passed by the trial Court is confirmed as regards A4, A5, A11 and A12. They shall be secured by the trial court if they are out on bail. The impugned judgment of the court below is set aside as regards A1, A8 and A9. They shall be at liberty forthwith if they are not out on bail. Their bail bonds stand cancelled. Fine amount, if any paid by them shall be refunded.

23. Crl.A(MD)Nos.1027 of 2023, 1069 of 2023 and 908 of 2024 are allowed and Crl.A(MD)Nos.1099 of 2023, 101 of 2024, 779 of 2024 and 1127 of 2024 are dismissed.

[G.R.S., J.] [R.P., J.]
26.02.2025

Internet : Yes / No
Index : Yes / No
MGA

To

1. The Additional District (Fast Track) Court,
Theni.
2. The Inspector of Police,
Uthamapalayam Police Station,
Theni District.



WEB COPY



Crl.A(MD)No.1027 of 2023

G.R.SWAMINATHAN, J

and

R.POORNIMA, J.

MGA

Crl.A(MD)Nos.1027, 1069 & 1099 of 2023,
101, 779, 908 & 1127 of 2024

26.02.2025