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CRL A No.345 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**RESERVED ON : 19-01-2026**

**DATE OF DECISION : 30-01-2026**

CORAM

**THE HONOURABLE MR JUSTICE P.VELMURUGAN  
AND  
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**CRL A No.345 of 2019**

Mrs.Hemalatha  
W/o.Sekhar  
Moolakadai, Sankarapalayam  
Mandai, Anthiyur Taluk  
Erode District

Appellant

Vs

1. Inspector of Police  
Vellithiruppur Police Station  
Erode District
2. Chinnathangam @ Radhakrishnan  
S/o.Subramanian  
Oonjakadu Thottam, Anthiyur Taluk  
Erode District
3. Chinnadurai @ Gurusamy  
S/o.Nanjappa Gounder  
No.53, Sankarapalayam  
Anthiyur Taluk, Erode District
4. Ramesh @ Sitheswaran  
S/o.Ramasamy



Store Thottam, Sankarapalayam  
Anthiyur Taluk, Erode District

5. Erumaikkara Chinnasamy @  
Muthusamy  
S/o.Raja Gounder  
No.191, Gurunathapuram  
Sankarapalayam

6. Lokanathan @ Velusamy @ Velu  
S/o Erumaikkara Chinnasamy @  
Muthusamy  
No.191, Gurunathapuram  
Sankarapalayam

### Respondents

Memorandum of Grounds of Criminal Appeal filed under Section 372 (proviso) r/w 378 (4 & 5) of Cr.P.C against the judgment of acquittal passed by the learned II Additional Sessions Judge, Mahila Court (Mahila Fast Track Court), Erode in S.C.No.169 of 2015 dated 12.12.2018.

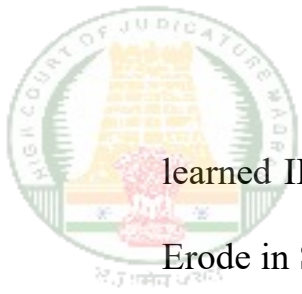
For Appellant: Mr.S.Kalyanaraman

For Respondents: Mr.A.Damodaran  
Additional Public Prosecutor  
assisted by  
Ms.M.Arifa Thasneem for R1  
Mr.S.Senthil for R3 & R4  
Mr.V.Anandhamoorthy  
for R5 & R6  
R2 - No appearance

### JUDGMENT

**P.Velmurugan J.**

This criminal appeal has been filed by the de-facto complainant, who was examined as PW1 during trial, against the judgment of acquittal passed by the



learned II Additional Sessions Judge, Mahila Court (Mahila Fast Track Court), Erode in S.C.No.169 of 2015 dated 12.12.2018 acquitting the respondents 2 to 6 of all the charges framed against them, namely, under Sections 120(B) r/w 302, 147, 148, 302 r/w 149, 506(ii) r/w 149 IPC against respondents 2 to 6 and under Sections 341, 149 r/w 302 IPC against respondents 3 & 6.

2. The first respondent Police registered the case against the respondents 2 to 6, based on the complaint given by the appellant in Crime No.206 of 2013 dated 09.11.2013 for the offences under Sections 147, 148, 341, 302 and 506(ii) IPC. After completion of investigation, the first respondent Police laid the charge sheet before the learned Judicial Magistrate, Bhavani for the altered offences under Sections 120(B), 147, 148, 341, 109, 302, 506(ii) r/w 149 IPC against the respondents 2 to 6, which was taken on file in PRC No.11 of 2014. The learned Magistrate, after completing the formalities under Section 207 Cr.P.C., committed the case, since one of the offences under Section 302 IPC was exclusively triable by the Court of Session. Therefore, the learned District & Sessions Judge, Erode has taken the case on file in S.C.No.169 of 2015 and made over to the learned IV Additional Sessions Judge, Bhavani for disposal of the case in accordance with law. The learned IV Additional Sessions Judge, Bhavani, on going through the materials, framed the charges against the respondents 2 to 6 under Sections 120(B) r/w 302, 147, 148, 302 r/w 149,



506(ii) r/w 149 IPC and under Sections 341, 149 r/w 302 IPC against respondents 3 & 6. When the charges were read over to the respondents 2 to 6, they denied the same as false. Since they did not plead guilty, the learned Sessions Judge posted the case for trial and sent summons to the witnesses. During the pendency of trial, the Mahila Court was constituted, therefore, the case was transferred to the learned II Additional Sessions Judge, Mahila Court (Mahila Fast Track Court), Erode.

3. During the trial, in order to substantiate the above said charges, on the side of the prosecution, as many as 20 witnesses were examined as PWs.1 to 20 and 35 documents were marked as Exs.P1 to P35, besides 9 material objects were exhibited as MOs.1 to 9. After examining the evidence of prosecution witnesses, when the respondents 2 to 6 were questioned under Section 313 Cr.P.C with reference to the incriminating circumstances culled out from the evidence of prosecution witnesses, they denied the same as false. However, on the side of the respondents 2 to 6, no oral and documentary evidence was let in.

4. On conclusion of trial and after hearing the arguments advanced on either side, the trial Court found the respondents 2 to 6 not guilty of any of the offences charged and acquitted them by stating that the prosecution failed to prove its case beyond all reasonable doubt. Aggrieved by the judgment of



acquittal passed by the trial Court, though the first respondent/State has not filed any appeal, the de-facto complainant, who is the wife of the deceased and examined as PW1 in the case, has filed the present appeal. For convenience, the respondents 2 to 6 will be hereinafter referred to as A1 to A5 in this judgment.

5. The case of the prosecution is that A1 was doing real estate business and the deceased was a financier. There was a land dispute between the deceased and A1. Due to the enmity between the deceased and A1, A1 to A5 hatched a conspiracy and unlawfully assembled with lethal weapons with the common intention to take away the life of the deceased and that on 09.11.2013, at about 8.30 P.M., when the deceased and his wife/PW1 came in a two-wheeler bearing Registration No.TN 36 7866 and were nearby the Lathe Works owned by one Jayaprakash, A1 to A5 waylaid the deceased and pushed the two-wheeler. At that time, A1 attacked the deceased with a sickle on his head indiscriminately and A3 & A4 attacked the deceased with wooden logs on his head and face. Due to such attack, the deceased sustained injuries and fell down. On seeing the occurrence, the appellant started screaming, for which A1 to A5 threatened her with dire consequences and thereafter ran away from the scene. Immediately PW2 came to the spot on seeing A1 to A5 running in the opposite direction. Since it is a residential area, the neighbours also gathered. Thereafter, PW2 informed the occurrence to one Shanmugasundaram, who instructed PW4



to bring his car to the spot and the injured was taken by PWs.2 & 5 driven by PW4 to the Anthiyur Government Hospital and the doctor directed them to take the injured to the Government Hospital at Erode, where the injured was declared dead at 10.15 P.M. Subsequently, PW1 gave the complaint, Ex.P1 to the first respondent Police, who registered the case and laid the final report before the jurisdictional Magistrate after completion of investigation as stated above.

6. In order to substantiate the case, the de-facto complainant, who is none other than the wife of the deceased, was examined as PW1. She has categorically stated that there was a land dispute between A1 and her husband. Since A1 encroached the land of the deceased and when the same was questioned by the deceased, an enmity arose between them. On the date of occurrence i.e., 09.11.2013, when PW1 and her husband travelled in a two-wheeler bearing Registration No.TN 36 7866 to Axis Bank and after inspecting the ongoing construction site owned by them, while returning to their house, at about 8.00 P.M., when they were near the Lathe Works owned by PW3, the deceased stopped the vehicle and went inside the Lathe Works to have discussions with PW3. Thereafter, both the husband and wife were returning to their house and since the house of A3 is nearby the Lathe Works, A1 to A5 were in the house of A3 and they intercepted the vehicle and pushed PW1 and her



husband and when they fell down, A1 attacked her husband with a sickle on his head and A3 & A4 attacked her husband with wooden logs on his head and face in the presence of A2 & A5. Though PW1 started screaming and also sought water from neighbours initially, nobody provided the same and therefore, A1 to A5 threatened PW1 with dire consequences and left the place with the weapons. When PW2 was on his way and reached the spot, he was informed by PW1 about the occurrence. Thereafter, PWs.2, 4 & 5 took the injured in a car to the Anthiyur Government Hospital and PW1 followed them in a separate vehicle to the hospital, where the doctor, PW11, after examining the injured, made an entry in the Accident Register, Ex.P22. Since the injured sustained severe head injury, he referred the injured to the Government Hospital, Erode and when PW2 took the injured to the Government Hospital, Erode, he was declared dead there.

7. PW2 is a relative of the deceased. On the date of occurrence, he saw A1 to A5 running away from the place in the opposite direction. Suspecting their behaviour, he proceeded towards the occurrence place, where PW1 was found screaming and she informed PW2 about the attack on her husband. Thereafter, PW2 informed the occurrence to one Shanmugasundaram, who instructed PW4 to bring his car to the spot and PWs.2, 4 & 5 took the injured in that car to the Anthiyur Government Hospital for treatment, where PW11,



doctor referred the injured to the Government Hospital, Erode and also made entry in the Accident Register, Ex.P22. Thereafter, they took the injured to the Government Hospital, Erode where he was declared dead.

8. PW3 has spoken that on the date of occurrence, between 7.30 and 7.45 P.M., the deceased came to his Lathe Works to discuss about the erection of a shed in his house and thereafter left the place. After sometime, when he came out of the Lathe Works, there was a huge crowd and the deceased was lying down with injuries. PW4 has deposed that on the date of occurrence i.e., 09.11.2013, on being informed by the wife of one Shanmugasundaram over cellphone, he visited the place of occurrence, where Shanmugasundaram instructed him to bring his car. Therefore, PW4 went to the house of Shanmugasundaram and brought the car to the place of occurrence. They took the injured in that car with PWs.3 & 5 accompanying them to the Anthiyur Government Hospital, where the doctor referred the injured to be taken to the Government Hospital at Erode and later heard about the death of the injured. PW5, a distant relative of Shanmugasundaram, has also spoken that he accompanied the injured to the hospital in the car.

9. PWs.6 & 7 are the mahazar witnesses to the scene of occurrence. They have spoken that on 10.11.2013, at 2.30 A.M., after hearing the news about the death of the deceased, they went to the occurrence place and at that time, the



Investigating Officer came there and prepared the Observation Mahazar, Ex.P2 and also recovered the bloodstained earth under the mahazar, Ex.P3 and the two-wheeler along with a pair of chappals under the mahazars, Exs.P4 & P5.

10. PWs.8 & 9 are the witnesses to the confessional statements of A1, A3 & A5, the admissible portion of which are Exs.P7, P8 & P9 and in pursuance of which, they took the Investigating Officer to the bush near the Moolakadai petrol bunk and handed over the sickle, MO1 and the two wooden logs, MO.2 series, which were seized under the mahazars, Exs.P10, P11 & P12.

11. PW10 is the Village Administrative Officer, who has spoken about the surrender and the extra-judicial confession given by A5 to the effect that on 12.12.2013 at about 10.00 A.M., when PW10 was in his office, A5 voluntarily surrendered before him and made the confession, Ex.P19. PW10 recorded the extra-judicial confession given by A5 and thereafter prepared the special report, Ex.P20 and handed over A5 to the Investigating Officer, who arrested A5 and recorded his voluntary confession.

12. PW11 is the doctor, who was working in the Anthiyur Government Hospital at the relevant point of time. When the injured was initially taken there, he first saw the injured and made entry in the Accident Register, Ex.P22 and due to the severe head injury sustained by the injured, he referred him to the



Government Hospital at Erode.

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13. PW12 is the doctor, who conducted post-mortem on the body of the deceased. He has spoken that on receipt of the requisition, Ex.P23 from the first respondent Police at 9.10 A.M. on 10.11.2023, he commenced the post-mortem at 9.15 A.M., and he found the following external injuries on the body of the deceased:-

- (1) 4 cm lacerated wound centre of forehead
- (2) 4 cm lacerated wound forehead (L) side above eyebrow
- (3) 3 cm lacerated wound forehead (R) side above eyebrow
- (4) Bleeding from both nostrils
- (5) Bleeding from (R) ear
- (6) Injury to the incisors & canine
- (7) 1 cm lacerated wound nose (R) side
- (8) Nasal bone fracture present
- (9) 4 x 4 cm contusion in neck

He concluded the post-mortem at 10.15 A.M., and issued the post-mortem certificate, Ex.P24 with his opinion that the deceased would appear to have died 12 to 14 hours prior to autopsy due to shock and haemorrhage due to sustained injuries.

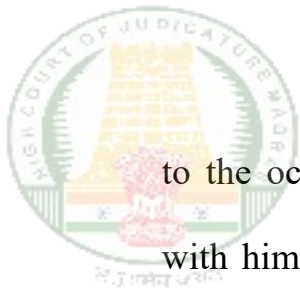
14. PW13 is the Zonal Forensic Scientific Officer, who conducted forensic examination on the seized material objects and issued the forensic report, Ex.P26. The other witnesses are the official witnesses who have spoken about the information received about the incident, the receipt of complaint and



the registration of First Information Report, inspection of the scene of occurrence, preparation of observation mahazar and the arrest of the accused and the consequent recovery based on the confessional statements of A1 to A4 and the requisition for conduct of post-mortem and the collection of viscera and the forwarding of the same to the forensic lab.

15. After a full-fledged trial, the trial Court found that the prosecution has not proved its case beyond all reasonable doubt and therefore, acquitted A1 to A5 of all the charges giving the benefit of doubt in favour of them, necessitating the filing of the present appeal before this Court by the wife of the deceased.

16. The learned counsel for appellant would submit that the appellant is none other than the wife of the deceased and also an eye-witness to the occurrence. The evidence of PW2, though not an eye-witness, is res gestae. PW2 has corroborated the evidence of PW1 stating that soon after the occurrence, PW2 reached the occurrence place on seeing A1 to A5 running in the opposite direction and at that time, PW1 informed him that A1 to A5 attacked her husband and left the place. Further he would submit that from the evidence of PW1, the presence of PW2 is also established. Further from the evidence of PW3, though he turned hostile and not supported the entire case of the prosecution, it is clear that on the date of occurrence and immediately prior



to the occurrence, the deceased went to the Lathe Works of PW3 and talked with him. Then he left the place and after sometime, when PW3 came out of Lathe Works, he saw the husband of PW1 lying with injuries. Though PW3 turned hostile, it is settled law that the entire evidence of hostile witness need not be brushed aside and even a portion of the evidence of hostile witness can be taken for limited purpose. Therefore, from the evidence of the other witnesses, when the place of occurrence and the time of occurrence are not in dispute, the evidence of PW3 need not be discarded.

17. The learned counsel further submitted that the evidence of PWs.4 & 5 clearly shows that soon after the occurrence, they came to the occurrence place and they took the injured to the Anthiyur Government Hospital at the first instance and admitted him, where PW11-Doctor, who made the entry in the Accident Register, Ex.P22, referred the injured to be taken to the Government Hospital, Erode and therefore all the witnesses were only residing in the same place. The evidence of PWs.6 & 7 also shows that on receiving information about the attack on the husband of PW1, they came to the occurrence place and at that time, the Investigating Officer came to the spot and prepared the observation mahazar and also recovered the two-wheeler of the deceased.

18. Similarly, PWs.8 & 9 have clearly spoken about the arrest, the



recording of confessional statements and the recovery of weapons used by A1, A3 & A4 and PW10-Village Administrative Officer has clearly spoken about the surrender of A5 and his confessional statement under Ex.P19. The doctor, PW11, who made entry in the Accident Register, Ex.P22 has spoken about the injuries sustained by the deceased and the post-mortem doctor, PW12 has also spoken about the external injuries sustained by the deceased. Therefore, the prosecution witnesses have clearly established the presence of PW1, who is none other than the wife of the deceased, and her evidence cannot be doubted. However, the trial Court gave much importance to some immaterial contradictions between the evidence of PWs.1 & 2 and their presence was totally disbelieved by the trial Court. Further the trial Court mainly relied on the copy of Accident Register, Ex.P22 issued by PW11, in which PW2 informed the doctor during admission that the injured was attacked by five unknown persons, whereas in his evidence, PW2 stated that he saw A1 to A5 running in the opposite direction and on seeing them, he came to the occurrence place and enquired PW1 and she informed PW2 that the deceased was attacked by the accused. If that be the case, PW2 could have stated the names of the accused before PW11-doctor at the first instance and since PW2 did not mention the names of the accused or at the best, he did not say that the injured was attacked by some known persons, the trial Court disbelieved the evidence of PWs.1 & 2 and failed to note the fact that PW1-Wife, who is an eye-witness in this case,



did not go the hospital in the car while the injured was taken and only PWs.2, 4 & 5 went in the car to the hospital, whereas PW1 went in a separate vehicle.

Since the deceased is closely related to PW2, in order to save the life of the deceased, they rushed to the hospital and at that time, they only focussed on giving treatment to the injured in order to save his life and therefore, PW2 did not say the name of the accused or the known persons. That itself will not shake the case of the prosecution and the evidence of PW1 cannot be totally ignored. Even in cross examination, PW1 clearly stated that she did not go the hospital along with her husband and she went only after admitting the injured in the hospital and since the doctor referred the injured to be taken to the Government Hospital, Erode for further treatment, they rushed him there. Therefore, in the Accident Register, Ex.P22, it is stated that the injured was attacked by unknown persons. That will not raise a doubt on the entire prosecution case. The trial Court failed to appreciate the evidence of PWs.1 to 5 and simply gave importance to the immaterial contradictions and discrepancies and failed to consider the confessional statements made by A1, A3 & A4 and the recovery effected from them. The trial Court also failed to consider the admissible portions of the confessional statements made by A1, A3 & A4 under Exs.P7, P8 & P9 and also the extra-judicial confession made by A5 before PW10-Village Administrative Officer as well as the injuries sustained by the deceased and also the evidence of PW12-Post Mortem Doctor, who issued the post-mortem



certificate, Ex.P24, which clearly corroborates the evidence of PW1. PW1 has categorically mentioned the names of all the accused and there was specific overt act against each of the accused and the injuries sustained by the deceased were also corroborated. Therefore, he submitted that the finding of the trial Court is perverse and the judgment of acquittal passed by the trial Court is liable to be set aside and the appeal is to be allowed by convicting and sentencing A1 to A5 with suitable punishment.

19. Though the State has not filed any appeal, the learned Additional Public Prosecutor appearing on behalf of the first respondent would submit that despite the prosecution proving its case beyond all reasonable doubt, the trial Court acquitted A1 to A5 based on certain immaterial contradictions and discrepancies and therefore the appeal filed by PW1 is to be allowed.

20. Per contra, the respective learned counsel appearing on behalf of A2 to A5 would submit that there is a delay in registering the case and also there are material contradictions between the evidence of PWs.1 & 2 regarding the specific overt act attributed against the accused. Though PW2 has stated that he saw A1 to A5 nearby the occurrence place and they ran away with the weapons, since they are known persons belonging to the same village, if at all PW2 saw A1 to A5 nearby the occurrence place and if at all PW1 informed PW2 about



the attack on her husband soon after he reached the occurrence place and thereafter PW2 took the injured to the Anthiyur Government Hospital and got him admitted there and when PW11-Doctor asked him about the reason for the attack, he should have named the accused or otherwise should have stated the known persons. But whereas, the evidence of PW11 as well as the Accident Register, Ex.P22 clearly shows that the attack was made by unknown persons. Therefore, the presence of PW2 is highly doubtful and also if at all PW1 met PW2 immediately after the occurrence, she would have informed the names of the accused to PW2, who in turn would have mentioned the names or the known persons before the doctor. Therefore, the presence of PW1 & PW2 are doubtful and the genesis of complaint, Ex.P1 said to have been given by PW1 itself is doubtful.

21. The learned counsel further contended that though PW3 was also cited as one of the eye-witnesses, he did not support the case of the prosecution and turned hostile. Therefore the presence of the deceased nearby the occurrence place at the time of occurrence itself is doubtful. A combined reading of the evidence of PW11-Doctor with Ex.P22-Accident Register and also the time of occurrence and the registration of case on receipt of complaint with much delay, was not even properly explained and that the First Information Report also not reached the Court within a reasonable time, the prosecution



story cannot be believed. Further the confessional statement recorded by the police officer is not admissible in evidence, which is hit by Section 25 of the Evidence Act and therefore the accused cannot be convicted based on the confessional statement, which is inadmissible and therefore, the trial Court rightly appreciated both the oral and documentary evidence and acquitted A1 to A5 of all the charges. When two views are possible, the view which is favourable to the accused has to be given consideration and in an appeal against acquittal, the appellate Court has to interfere sparingly and the appellate Court has to come to the conclusion that there would be only one possible view that the accused alone have committed the offence, unless the appellate Court comes to the conclusion that when the other view is possible, the appellate Court shall not interfere with the finding of the trial Court. Therefore, the appeal is devoid of merits and the same is liable to be dismissed.

22. We have considered the submissions advanced by the learned counsel for the parties and perused the materials available on record.

23. The specific case of the prosecution is that due to the land dispute between A1 and the deceased, there was previous enmity between them and therefore, in order to wreak vengeance, on the date of occurrence, i.e., 09.11.2013 at about 8.30 P.M., when the deceased along with his wife, PW1



proceeded in the Hero Honda motor-cycle bearing Registration No.TN 36 7866, nearby the Lathe Works of PW3, A1 to A5, after entering into a conspiracy in the house of A3, which is nearby the Lathe Works, unlawfully assembled with lethal weapons, waylaid and pushed the deceased and his wife from the vehicle and when they fell down, started to attack the deceased with lethal weapons and due to that, the deceased sustained severe injuries. Therefore, the complaint, Ex.P1 was given to the first respondent Police and based on the complaint, the first respondent investigated the matter and registered the case. However, after a full-fledged trial, the trial Court found A1 to A5 not guilty of the charges and acquitted them, giving rise to the filing of the present appeal by the de-facto complainant.

24. The appellate Court, as a final Court of fact finding, has to re-appreciate the entire evidence independently and arrive at an independent conclusion by giving independent finding. Therefore, this Court, on hearing the arguments, while re-appreciating the evidence, finds that PW1, who is the de-facto complainant and who has set the law into motion, has given the complaint, Ex.P1 to the first respondent Police on the same day at about 12.45 midnight (early hours of 10.11.2013). A reading of Ex.P1 shows that there existed a land dispute between A1 and the deceased and due to that, there was previous enmity between them and on the fateful day, both PW1 and her husband went to Axis



Bank and also inspected the ongoing construction work and while returning to their house, at about 8.00 P.M., on 09.11.2013 in the Hero Honda motor-cycle bearing Registration No.TN 36 7866, on the way, they met PW3 and thereafter proceeded to their house and when they were nearby the house of A3, A1 to A5 unlawfully assembled with lethal weapons and waylaid the deceased and PW1 and after pushing them down from the vehicle, attacked the deceased with lethal weapons. The specific overt act of PW1 against A1 is that A1 attacked the deceased with a sickle indiscriminately on his head and A3 & A4 attacked the deceased indiscriminately with wooden logs, thereby causing grievous injuries. She has also stated that at the time of attack, A1 also uttered the words that since he was troubling his profession, with an intention to kill him, he attacked the deceased with sickle on his head and A3 & A4 attacked her husband with wooden logs on his face and head, as a result of which the deceased fell down and while she was screaming for help, A1 to A5 threatened PW1 with dire consequences. At that time, PW2 came to the occurrence place and on the instructions given by one Shanmugasundaram, PW4 brought the car to the occurrence place and PWs.2, 4 & 5 took the injured to the Anthiyur Government Hospital for treatment. Based on that, the First Information Report was registered. Subsequently, the de-facto complainant was examined as PW1 before the Court during the trial. At that time she reiterated the version given in the complaint. Though there are only minor discrepancies and contradictions,



but, however, the enmity, place of occurrence and time of occurrence regarding the overt act against A1 to A5 and other things are on the same lines. From the evidence of PW1 and Ex.P1 complaint, the time of occurrence is on 09.11.2013 at about 8.30 P.M. Though the complaint was given at 12.45 midnight (early hours of 10.11.2013), the trial Court found that the said delay is inordinate and the First Information Report also reached the Court on 10.11.2013 at 7.30 A.M. A reading of the entire evidence of PW1, who is none other than the wife of the deceased, shows the place of occurrence is nearby her residence and the evidence of PW3, who is also a resident of the same locality, also shows that he was running a Lathe Works and on the date of occurrence between 7.15 P.M. and 7.45 P.M., the deceased came to his Lathe Works and held discussions. Though he is cited as an eye-witness, he did not support the case of the prosecution and so far as the scene of occurrence is concerned, he admitted that on the fateful day, just before the occurrence, the deceased came there and left and therefore the place of occurrence is not doubtful and the prosecution has proved the same. Further the evidence of PW1 clearly shows that the deceased went to meet PW3 and that she did not go inside the Lathe Works and thereafter, when her husband came, they proceeded in the two-wheeler to their house. Since the house of A3 was also nearby the Lathe Works, the occurrence place was not disputed by the defence.



25. According to the prosecution, A1 to A5, due to the previous enmity between A1 and the deceased, entered into a conspiracy and were waiting for the arrival of the deceased and that when the deceased and PW1 came nearby the Church, the accused with weapons waylaid them and started to attack the deceased. There is a specific overt act against each of the accused. PW1 also stated that PW4 brought the car, but she did not accompany PWs.2, 4 & 5 in the car when they admitted the injured in the hospital. From the evidence of PW1, it is seen that she did not accompany her husband in the car and she went in a separate vehicle. Though the evidence of PW2 could be an exaggeration to some extent that he saw the accused nearby the occurrence place, but, however, the presence of PW2 soon after the occurrence cannot be doubted, because the evidence of PW1, PW2, PW4 and PW5 clearly would show that they took the injured in the car and admitted him in the hospital. The Accident Register, Ex.P22 also clearly shows that PW2 brought the injured to the hospital at about 9.00 P.M., on 09.11.2013. Therefore, the occurrence was said to have taken place between 8.00 and 8.30 P.M., and they went to the hospital at 9.00 P.M. Therefore the presence of PW2 soon after the occurrence cannot be doubted. However, the discrepancy and contradiction regarding the entry of unknown persons is concerned, if at all PW2 was not aware of these things, he could not have stated that the attack was by five unknown persons. Whereas the Accident Register entry clearly shows that the deceased was attacked by unknown five



persons. Though PW2 is not an eye-witness and also could not have seen the face of persons at that time and came to know about the accused at a later point of time, he has clearly stated that five persons attacked and even though PW1 did not go along with the injured and she did not admit the injured in the hospital and the mere mentioning of the number of persons in the Ex.P22 as unknown, that will not vitiate the case of the prosecution. However, when the complaint was preferred on the same day at about 12.45 midnight by PW1, the names of the accused persons have been mentioned.

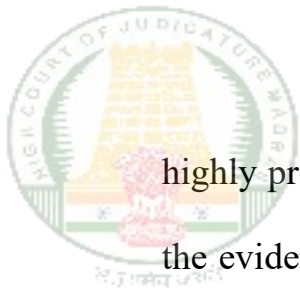
26. So far as the delay is concerned, when the husband sustained grievous injuries and was struggling for his life, no woman will first think about rushing to the police station to lodge a complaint. Admittedly, as per Ex.P22, soon after the occurrence, the injured was brought to the hospital and admitted at 9.00 P.M. itself. Therefore the time of occurrence cannot be doubted and further as far as the complaint is concerned, it was given on the same day at 12.45 midnight. Again it is not out of place to say that when the woman rushed to the Anthiyur Government Hospital where the injured was originally admitted and after reaching there, she was informed that the doctor in the said hospital referred the injured to the Government Hospital at Erode, she will rush only to the hospital to safeguard the life of the injured, who is none other than the husband of PW1. Even in the complaint, it is stated that through ambulance,



they sent the injured to the Government Hospital at Erode and the doctor, who saw the injured at about 10.05 P.M., declared that the injured was brought dead.

Thereafter, they sent the body to mortuary. Nobody can judge the plight of a woman, who lost her husband, to first rush to the police station to lodge a complaint, when the complaint was admittedly lodged at 12.45 midnight. When the injured was brought dead to the Government Hospital at Erode at 10.05 P.M. and thereafter they sent the body to mortuary, it will take sometime for the formalities and also for the wife, who lost her husband, to recover from the shock and therefore the delay cannot be said to be inordinate and though one of the contentions raised by the learned counsel for the defence is that they deliberated and also discussed with their Advocate and thereafter gave the complaint and also one of the grounds taken is that the villagers agitated to arrest the accused.

27. Now the core question is whether the presence of PW1 was probable. If the presence of PW1 is probable at the time of occurrence, rest of the things can be ignored, because the wife, who lost her husband, is not a worldly-wise woman and mechanically or mathematically calculate the minute wise programme and set the law into motion without the help of anybody. Considering the place of occurrence and the time of occurrence, this Court finds that the presence of PW1 at the time of occurrence along with the deceased is



highly probable. Though there are certain improvements or exaggerations, from the evidence of PW2 and the entry in Ex.P22, it is seen that PW2 only brought the injured to the hospital. The occurrence was said to have taken place at about 8.30 P.M., and the injured was admitted in the Anthiyur Government Hospital at 9 O' clock itself. Therefore the evidence that soon after the occurrence PW2 came to the place is also not doubtful. Even the evidence of PWs.4 & 5 also clearly shows that soon after the occurrence, they rushed to the place and took the injured to the hospital and when they reached the Anthiyur Government Hospital at 9 O' clock, on the reference given by the doctor, PW11, they took the injured to the Government Hospital at Erode and admitted him. Though PW3 turned hostile, it is settled proposition that the evidence of hostile witness need not be considered at all and the portion of the hostile witness can be also taken into consideration. In this case, PW3 also clearly stated that on the date of occurrence, the deceased came to his place and met him and thereafter he left. When he came out of the Lathe Works, he saw the injured lying on the ground with injuries. Therefore, a conjoint reading of the evidence of PWs.1 to 5 would show that the place of occurrence and the time of occurrence is also not doubtful and the prosecution has proved the place of occurrence, time of occurrence and the date of occurrence.

28. As far as the enmity is concerned, the evidence of PW1 is very clear



that A1 was running a real estate business. The deceased was a financier and A1 purchased the land nearby the deceased land and also A1 encroached a portion of the land of the deceased and further A1 also demanded to sell the deceased land for his real estate business, for which the deceased refused and therefore there was enmity. Due to the enmity, A1 hatched a conspiracy with the other accused and they attacked the deceased. From the evidence of PW1, there is a specific overt act against each of the accused and also from the evidence of PWs.6 & 7, soon after registering the case, the police officials came to the place of occurrence and they prepared the mahazars and also recovered the two-wheeler of the deceased along with the chappals and the bloodstained earth and normal earth for further investigation. The evidence of PWs.8 & 9 clearly shows that A1, A3 & A4 gave the confessional statement under Exs.P7, P8 & P9 respectively. Though the confessional statement recorded/made before the police officer is not admissible in evidence, which is hit by Section 25 of the Evidence Act, however, there is an exception that the confession which leads to recovery, that portion is admissible in evidence. The evidence of PW8 is very clear that A1 made the confessional statement before the Investigating Officer and also has stated that they had hidden the weapons which were used for committing the offence and that when they were taken to the place mentioned by them, A1 took the sickle and produced the same. The place where the weapon was hidden is not a public place and it is only a secluded place. In the



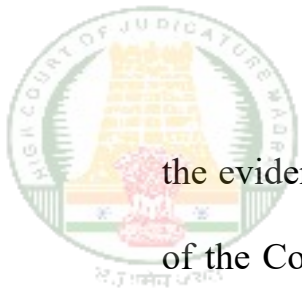
same way, A3 & A4 also made the confession and based on that, the Investigating Officer took A1, A3 & A4 and in the presence of PWs.8 & 9, they took the wooden logs and handed over them. The place where the weapons were hidden by the accused was within the exclusive knowledge of the accused. Based on the confession, they have taken the Investigating Officer and if they had taken and handed over the weapons, that portion is admissible in evidence under Section 27 of the Evidence Act. From the admissible portions of the confession made by A1, A3 & A4 and the weapons were recovered from the place have been proved, the confession made by A1, A3 & A4 is admissible in evidence with regard to the recovery is concerned.

29. Further as far as A5 is concerned, he voluntarily surrendered before PW10-Village Administrative Officer and gave an extra-judicial confession. PW10 also recorded the same under Ex.P19 and produced both Ex.P19 and the extra-judicial confession of A5 to the Investigating Officer, who received the same. Further A5 also gave a confessional statement separately to the Investigating Officer and he took the Investigating Officer to the occurrence place and demonstrated the manner in which the accused committed the offence. Therefore, PW1 has clearly stated about the offence committed by the accused and also there is a specific overt act against all of them. In the complaint also, PW1 named all the accused and subsequently they were all



arrested. Since because Ex.P22 discloses some unknown five persons, that will not make the prosecution case fatal. Therefore, from the evidence of PW1, motive has been established and also from the evidence of PW1, the overt act attributed against each of the accused also has been established. A combined reading of the evidence of PW1 and the eye witnesses and the evidence of the doctor, PW12 who conducted autopsy on the body of the deceased and the post-mortem certificate, Ex.P24 and the overt act attributed by PW1 clearly tally with the injuries found in the body of the deceased and though PW12 clearly stated that the injuries can be caused with an unsharpened sickle and if a person was attacked with the backside of the sickle, there is a possibility of causing injuries as found in the body of the deceased. When the ocular evidence of PW1 tallies with the medical evidence of PW12 coupled with the post-mortem certificate, Ex.P24, this Court finds that the prosecution has proved its case beyond all reasonable doubt.

30. It is well settled proposition that the weighing of evidence is not based on the quantity of witnesses, but it can be only the quality of evidence. Even if the prosecution proved its case with one quality eye-witness and the same inspires the confidence of the Court, the Court can rely on the evidence of the eye-witness and record the conviction. On a reading of the entire materials, this Court, as an appellate Court, while re-appreciating the evidence, finds that



the evidence of PW1 is cogent, consistent and the same inspires the confidence of the Court. Though PW1 is the spouse of the deceased, her evidence cannot be simply brushed aside and the Court can record the conviction based on such reliable evidence. This Court also, while re-appreciating the evidence, considers PW1 as an eye-witness to the occurrence and there is specific overt act against each of the accused, which also tallies with the evidence of PW12, post-mortem doctor and Ex.P24, the post mortem certificate. Therefore, this Court finds that the prosecution has proved its case beyond all reasonable doubt. The discrepancies and contradictions pointed out by the learned defence counsel and also the observations made by the trial Court as to the contradictions and discrepancies, which are only minor contradictions, the same cannot be considered as material contradictions to disbelieve the case of the prosecution and this Court, while re-appreciating the evidence, does not find any reason to discard the evidence of PW1 and therefore, this Court finds and concludes that PW1 is an eye-witness and from the overt act attributed against each of the accused and the reading of the medical evidence of the doctor, PW12 and the post mortem certificate, Ex.P24, this Court finds that A1 to A5 have committed all the charged offences and they are liable to be convicted for the proved charges.

31. Since this is an appeal against acquittal and reversal judgment, this



Court, in the interest of justice, before pronouncing the sentence, is inclined to hear the accused on the question of sentence considering the mitigating circumstances involved in this case. Accordingly, while setting aside the judgment of the trial Court and convicting A1 to A5/respondents 2 to 6 for the charged offences, this Court directs the Registry to post the appeal on 05.02.2026 for hearing the accused on the question of sentence to be imposed against them.

32. Post the appeal on 05.02.2026.

**(P.VELMURUGAN J.) (M.JOTHIRAMAN J.)**  
**30-01-2026**

Index: Yes/No  
Speaking/Non-speaking order  
Internet: Yes  
Neutral Citation: Yes/No

SS



Crl A No.345 of 2019

P.VELMURUGAN,J.  
AND  
M.JOTHIRAMAN,J.

(Order of the Court was made by P.VELMURUGAN,J.)

In view of the judgment of reversal pronounced today convicting the respondents 2 to 6/A1 to A5 for the charged offences, the respondents 2 to 6/A1 to A5 are directed to appear before the Court on 05.02.2026 for hearing them on the question of sentence to be imposed against them, failing which the first respondent Police shall secure them and produce before the Court on the said date.

**(P.VELMURUGAN J.) (M.JOTHIRAMAN J.)**  
**30-01-2026**

SS



To

1. The II Additional Sessions Judge  
Mahila Court  
(Mahila Fast Track Court), Erode
2. The Inspector of Police  
Vellithiruppur Police Station  
Erode District
3. The Public Prosecutor  
High Court, Madras



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CRL A No.345 of 2019



**P.VELMURUGAN, J**  
**AND**  
**M.JOTHIRAMAN, J**

**SS**

**Judgment in CRL A No.  
345 of 2019**

**30-01-2026**



*Crl.A.No. 345 of 2019*

**Crl.A.No. 345 of 2019**

**P.VELMURUGAN, J.  
AND  
M.JOTHIRAMAN, J.**

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

This Court, by order dated 30.01.2026, while convicting respondents 2 to 6/A1 to A5, directed the matter to be listed before the Court for questioning the accused regarding the sentence to be imposed on them.

2. At the time of arguments, there was no representation for the second respondent/A1 and that neither the State nor the other accused have informed about the whereabouts of the second respondent/A1 before the Court. However, the learned counsel for the private respondents today submitted that they informed about the death of the second respondent/A1 even while they commenced their arguments. The said submission cannot be accepted in the absence of memo filed along with the proof of death before the Court. However, when the matter was taken up for hearing today, the learned Additional Public Prosecutor appearing for the State informed that the second respondent/A1 died on 03.02.2020 and produced the death certificate to that effect. In view of the same, the charges framed against the

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second respondent/A1 stand abated and the appeal stands dismissed as abated against the second respondent/A1.

3. Pursuant to the direction of this Court, respondents 3 to 6/A2 to A5 appeared before the Court. Upon questioning, (i) the third respondent/A2 stated that he is in no way connected with the case and that while he was sleeping in his house, the police came and took him into custody and a false case has been foisted against him; (ii) the fourth respondent/A3 stated that he has not committed any offence and that a false case has been foisted against him; (iii) the fifth respondent/A4 has stated that a false case has been foisted against him and that he is suffering from lung disease and therefore, prayed for lesser punishment; and (iv) the six respondent/A5 stated that at the time of occurrence he was out of station, and that he has not committed any offence and a false case has been foisted against him.

4. Considered the submissions made by Respondents 3 to 6/A2 to A5 on the question of sentence. They also produced their Aadhaar Cards as proof of identity, which were duly verified by this Court.



*Crl.A.No. 345 of 2019*

5. Considering the facts and circumstances of the case and the grave nature of the offences, this Court finds that the prosecution has proved that respondents 3 to 6 committed the offence punishable under Section 302 read with Section 149 IPC. Accordingly, respondents 3 to 6 are convicted and sentenced to undergo life imprisonment and to pay a fine of Rs.1,000/- each; in default of payment of fine, they shall undergo rigorous imprisonment for a further period of six months. Since the aforesaid respondents have been awarded a sentence of life imprisonment for major charge, this Court is of the view that to meet the ends of justice, no separate sentence be imposed for the other charges. The period of sentence, if any, already undergone by the accused shall be set off under Section 428 of the Code of Criminal Procedure.

[P.V.,J.] [M.J.R.,J.]  
06.02.2026

ms

**Note :**

- (i) Registry is directed to issue copy of the judgment by today itself (i.e, on 06.02.2026).
- (ii) The first respondent/Police is directed to commit the respondents 3 to 6 / A2 to A5 to prison to undergo the period of imprisonment.

**Copy to:** The Superintendent of Jail, Central Prison, Coimbatore.

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*Crl.A.No. 345 of 2019*

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To

1. The II Additional Sessions Judge,  
Mahila Court (Mahila Fast Track Court)  
Erode.
2. The Inspector of Police,  
Vellithiruppur Police Station,  
Erode District.
3. The Public Prosecutor,  
High Court, Madras.



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*Crl.A.No. 345 of 2019*

**P.VELMURUGAN, J.,**  
**AND**  
**M.JOTHIRAMAN, J.,**

ms

**Crl.A.No.345 of 2019**

**06.02.2026**