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CRL A No. 388 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 29-01-2026

DELIVERED ON : 25-02-2026

CORAM

THE HON'BLE MR JUSTICE P. VELMURUGAN

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

CRL A No. 388 of 2019

The State Rep By
The Deputy Superintendent Of Police, CBCID,
Coimbatore Range, Thalavady Police Station,
Cr.No.90/2000.

..Appellant(s)

Vs

1. Maran @ Senguttavan @ Manivannan @
Mullaivalavan @ Kannaiyan
S/o.Singaram, Mullankuzhi,
Thiruvidaimaruthur, Tanjore District.
2. Govindaraj @ Megananthan @ Sabha @ Iniyan
@ Paranjothi @ Raju,
M/A 48 years, S/o.Sridharan,
No.97, Bodichetti street,
Thirupapuliyur, Cuddalore District.
3. Andril @ Elumalai @ Paranjothi
S/o.Devaraja vanna,
Mettu Theeru, P.Villayanur,
Villupuram Taluk.
4. Selvam @ Sathya @ Raju
S/o.Ramasamy Padayatchi,
Jayamkondam,Ariyalur,
Ariyalur District.



5. Amirthalingam @ Lingam @ Chelzhiyan
S/o.Kaliaperumal, East Street,
Thattathimoolai, Anaikuppam,
Nannilam Taluk.
6. Basuvanna
S/o.Basappa, Malkuthipuram Village,
Thalavadi, Erode District.
7. Nagaraj
S/o.Ruthurappa,
Malkuthipuram Village,
Thalavadi, Erode District.
8. Puttusamy
S/o.Chikkana Chetty,
Malkuthipuram Village,
Thalavadi, Erode District.
9. Rama @ Kalmandipuram Rama
S/o.Subbu Chetty,
Kalmandipuram Village,
Thalavady, Erode District.

..Respondent(s)
/ Accused 1 to 8 & 10

Prayer: Criminal Appeal filed under Section 378(1)(b) CrPC against the judgment of acquittal dated 25.09.2018 in S.C.No.51/2011 on the file of the III Additional District and Sessions Judge, Erode @ Gobichettipalayam, Erode District.

For Appellant(s): Mr.A.Damodaran,
Additional Public Prosecutor
assisted by Ms.M.Arifa Thasneem

For Respondent(s): Mr.B.Mohan
assisted by B.M.Subash for R3
Mr.C.Samivel,
Legal Aid Counsel for R1 and R2
and R4 to R9



JUDGMENT

(Judgment of the Court was delivered by M.Jothiraman J.)

The State has preferred this criminal appeal, as against the judgment of acquittal dated 25.09.2018 made in S.C.No.51/2011 passed by the learned Additional District and Sessions Court, Erode at Gobichettipalayam, in and by which the respondents / Accused 1 to 8 and 10 are acquitted for the offences as under:

Rank of the Accused	Charges framed under Sections
A1, A2 and A5	120(B), 452, 148, 364A and 365 IPC
A3	120(B), 452, 148, 364A and 365 IPC and 25(1B)(a) and 27(1) of Arms Act, 1959
A4	120(B), 452, 148, 364A and 365 IPC and 25(1B)(a) and 27(1) of Arms Act, 1959
A6 and A7	120(B), 365 r/w. 109, 364 r/w.109 IPC, 25(1B)(a) and Section 27(1) of Arms Act and Section 4(b) of Explosive Substances Act, 1908
A8 to A10	120(B), 364(A) r/w. 109, 365 r/w.109 IPC.

2. Brief case of the prosecution as per the prosecution witness:

2.1. PW1-Tr.Gopalan- Village Administrative Officer deposed that he came to know about the kidnapping of actor Dr.Rajkumar. He went to the house of actor Dr.Rajkumar and enquired the same. On enquiry, he came to know that the deceased accused Veerappan and his associates at gun point they kidnapped the said actor Dr.Rajkumar. PW2-Tr.Nagappa and PW3-



Tr.Govindaraj were also kidnapped. Since no one lodged complaint in this regard, he lodged Ex.P1- complaint before PW45. Thereafter, PW45 visited the occurrence place and prepared Observation Mahazar - Ex.P2.

2.2. PW2 – Tr.Nagappan deposed that on 30.07.2000 at 8.30 p.m., after having dinner, actor Dr.Rajkumar was watching TV in his old house. PW2, PW3-Tr.Govindaraj, PW10- Tr.Ravi and PW5-Tr.Nagaraj while they were proceeding to new house, at that time, suddenly 9 persons have arrived and tried to assault them at gun point. At that time, A1, A3, A5 and A4 asked them to sit. Thereafter, the deceased accused Veerappan, A1, A4 and A3 gone to the old house of actor Dr.Rajkumar and they took him from his house. They threatened them by saying not to disclose to anyone. They also gave a cassette to Mrs.Parvathamma / wife of actor Dr.Rajkumar and asked her to handover the said cassette to the Hon'ble Chief Minister of Karnataka. They kidnapped 4 persons. After some time, PW2 took them to the forest. PW2 escaped from the accused and ran through forest and went to Karnataka and met the Hon'ble Chief Minister of Karnataka. Thereafter, after a lapse of 108 days, one Mr.Nedumaran brought actor Dr.Rajkumar to the Hon'ble Chief Minister of Karnataka. PW2 also deposed that he has participated in the Test Identification Parade and he has also identified A3 and A4 in the Test Identification Parade.



2.3. PW3- Tr.Govindaraj, who is the son-in-law of actor Dr.Rajkumar, deposed that on 30.07.2000, while he was staying with his uncle actor Dr.Rajkumar in his house, PW2 after having dinner, while proceeding to new house to go to bed, at that time 7 or 8 persons have kidnapped him and also abducted PW2- Nagappa, PW4- Nagesh, PW10-Ravi and PW5- Nagaraj. Thereafter, they asked them to sit in the same place and gone to the old house of actor Dr.Rajkumar and brought him. Further he has deposed in similar lines as that of PW2.

2.4. PW4- Nagesh deposed that on 30.07.2000 between 8.00 to 9.00 a.m., when they proceeded from the old house of actor Dr.Rajkumar to his new house, at that time the deceased and his close associates restrained them and the accused have gone to the old house of actor Dr.Rajkumar and brought him. At that time, they made certain demands to the Government of Karnataka. Thereafter, the accused took them to forest. PW2 – Nagappa escaped from the forest. PW3 accompanied one Nedumaran and after 108 days, said Nedumaran brought actor Dr.Rajkumar. PW4 also deposed that he has identified A3 in the Test Identification Parade conducted in Coimbatore Central Prison.

2.5. PW5- Nagaraj deposed similar to the version of PW2. PW5 informed the accused that he was not feeling well and the accused left him. Next day, he informed to the Village Administrative Officer about the occurrence.



2.6. PW6- Tmt.Deepa deposed that in the year 2000, while they were watching TV with actor Dr.Rajkumar and his wife Mrs.Parvathamma, the accused Veerappan came, tied the hands of actor Dr.Rajkumar from behind, also threatened his wife by showing gun, handed over a cassette to Mrs.Parvathamma and asked her to handover the same to the Hon'ble Chief Minister of Karnataka. He took actor Dr.Rajkumar.

2.7. PW7- Tr.Gandhiraj deposed that on one Sunday, while PW7, actor Dr.Rajkumar and his wife Mrs.Parvathamma, Pallavi, Sona and Anumantharao after dinner while they were watching TV, at about 9.00 p.m. the deceased accused Veerappan and his associates arrived. Two persons were standing outside and four persons entered inside the house. The deceased accused Veerappan asked Mrs.Parvathamma not to speak anything, otherwise he will shoot her and also handed over one cassette to her and asked her to handover the same to the Hon'ble Chief Minister of Karnataka. Then, they took actor Dr.Rajkumar by tying his hand from behind and while taking actor Dr.Rajkumar, they said that if anyone follows, then they will shoot him.

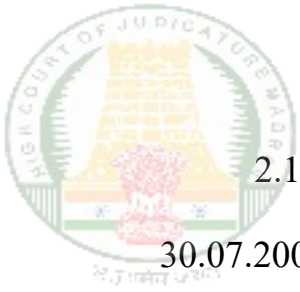
2.8. PW8- Tr.Chennan deposed similar to the version of PW7. PW9- Tr.Anuman deposed that on 30.07.2000 at 8.00 to 9.00 p.m., the deceased accused Veerappan and his associates 10 or 15 persons have arrived. Four



persons entered inside the house and remaining were standing outside. They surrendered them and tied the hands of actor Dr.Rajkumar and took him from the house by five persons. They were standing in the house for only 5 to 10 minutes. A1 to A3 entered into the house. The deceased accused Veerappan handed over a cassette to Mrs.Parvathamma and asked her to hand over the same to the Hon'ble Chief Minister of Karnataka and threatened them that they should not disclose to anyone, otherwise the accused will kill them.

2.9. PW10- Tr.Ravi driver deposed similar to the version of PW3- Govindaraj. PW11- Tr.Gopal deposed that on 30.07.2000 at 8.45 p.m., while he was in his kitchen, a girl came and stated that her grandfather was tied from behind. PW11, his wife and relatives came to the hall. At that time, the deceased accused Veerappan threatened them by showing gun and said not to enter into the house. The accused handed over a cassette to Mrs.Parvathamma and took actor Dr.Rajkumar along with them.

2.10. PW12- Tr.Vethiappan deposed that he was an agricultural coolie worker along with other 11 people in actor Dr.Rajkumar's garden and on 30.07.2000 at 8.00 p.m., when they were staying in the shed, one person came, shown gun and threatened them not to shout. After 10 minutes, they saw that actor Dr.Rajkumar hands were tied from behind and took by the deceased accused Veerappan along with 8 persons. All the persons are having gun in their hands.



2.11. PW13- Tr.Ramamurthy deposed that while he was sleeping on 30.07.2000 at night 10.00 p.m., he came to know that there was a quarrel in his village and actor Dr.Rajkumar has been abducted by the deceased accused Veerappan and his men. PW14- Tr.Sennimalai Gounder deposed that 10 or 11 years prior, at about night 3 a.m. he and his garden workers while watching TV heard noise from outside. At that time, the deceased accused Veerappan and his associates totalling 11 persons by holding gun, asked them to bring Basuvanna / A6 and Nagaraj / A7 through their people. Basuvanna/A6 only came and they talked with each other for half an hour. During investigation, he heard that they are going to kidnap after 6 months and they need more money.

2.12. PW16- Tr.Nagarajan deposed that on 30.07.2000 at night between 8.00 to 8.15 p.m., 5 or 6 persons came to the farm house of actor Dr.Rajkumar, out of which 3 of them took him to the back side of the farm house.

2.13. PW17- Tr.Duraisamy, JCB driver deposed that he works as a JCB Operator in the farm lands belonging to actor Dr.Rajkumar. On 30.07.2000 between 8.00 to 9.00 p.m., he went for his dinner after completing his work, at that time, 7 or 8 persons came to the house of actor Dr.Rajkumar with gun and after 10 minutes, they took actor Dr.Rajkumar by tying his hands from behind.



2.14. PW18- Chandrakumar deposed that during October, 2001 while he was talking with his friends, while nearing to Malkuthipuram in the forest area, A6 and A7 were talking with each other and they questioned why they are standing, for which they replied that they are about to buy rice, dhal, country made gun and detonator and they also informed that police are searching them. So they were hiding.

2.15. PW19- Tr.Govindan- VAO deposed that on the request made by Thalavadi Inspector of Police, he gone to the police station along with his Assistant Tr.Salim Basha. On 12.02.2001, A2 was present in the police station. In their presence A2 gave confessional statement with regard to the occurrence held on 30.07.2000. Again the Inspector of Police called them to the police station on 22.02.2001 and they saw that A1 was in the police station and the Inspector of Police recorded confession statement of A1 and the signatures found in the confession statement of the accused is Exs.P3 and P4.

2.16 PW20– Tr.Velliyangiri deposed that 10 years before, the Inspector of Police, Bangalapudhur has obtained his signature and the signature of PW20 is Ex.P5.



2.17. PW22- Tr.Subramani-VAO of Sikkarasampalayam deposed that on 18.09.2001, Banglapudhur Inspector of Police brought one Andril / A3 to his office. A3 took them to a place near Pudukuyyanoor Bridge, in the forest area at a distance of 200 feet North to the Bridge and took the gun which was hidden near Karuvelam Tree (Prosopis Juliflora) and handed over the same and musket gun – M.O.1 and the same has been recovered under Seizure Mahazar – Ex.P6.

2.18. PW23-Tr.Kulandaiya – VAO of Pudupattinam, Tanjore deposed that on 07.09.2001, while he was standing near the road proceeding to Tanjaore Nanjikottai road, near Village Farmers Market, PW42-Inspector of Police, Tr.Rajendran has arrested A4 and he voluntarily gave confession statement and the signature of PW23 found in the confession statement of A4 is Ex.P7.

2.19. PW24- Tr.Govindarj, VAO of Dikanar village deposed that on 30.10.2001, while he was in his office, A6/ Basuvenna surrendered before him and he took him to Thalavadi police station at 12.00 noon. The Inspector of Police enquired A6 and on enquiry, A6 voluntarily gave confession statement. The admissible portion of the confession statement of A6 is Ex.P8. In pursuance to the confession statement, A6 took them to a place in Malkuthipuram Garden road and identified country made gun- M.O.2, detonator and lighting thread and the same were seized under Seizure Mahazar – Ex.P9. A6 identified A7- Nagarajan and on enquiry, A7 voluntarily gave confession



statement and the same has been recorded and the admissible portion of the confession statement of A7 is Ex.P10. A7 took them to his farm where he concealed the country made gun – M.O.3, detonator and lighting thread and the same were seized under Seizure Mahazar – Ex.P11 and thereafter, PW24 prepared Observation Mahazar – Ex.P12.

2.20. PW25- Tr.Guru deposed that on 30.07.2000 at 8.40 pm., the deceased accused Veerappan and 3 persons tied the hands of actor Dr.Rajkumar from behind and the accused informed that if anyone follows them, he will shoot them. PW2-Nagappa handed over M.O.4 – Pant / shirt before Thalavadi Police Station and the same has been recovered under Mahazar – Ex.P13.

2.21. PW26- Tr.Dhandapani VAO- deposed that while he was serving as VAO of Thuraiyampalayam, on 08.09.2001 the Bangalapudhur Inspector of Police called him. PW26 and Village assistant went to the police station and saw that A4 was in the police station. A4 took them with the Inspector of Police along with 6 of 7 persons to a place called Kuthiayalathur Forest Area at Manakarai, where A4 identified a place, dug the ground and identified the weapons which were buried in a blue colour polythene cover – M.O.5 and the same has been seized under Mahazar-Ex.P14. Blue colour polythene cover – M.O.5, 2 Nos. of Musket gun- M.O.6., SPPL gun – M.O.7, country gun – M.O.8, Cleaning rod – M.O.9, Rose Colour rope – M.O.10, Red Polythene Bag



– M.O.11, Orange colour pot – M.O.12, Musket gun bolt 2 Nos. – M.O.13, Red Colour Bullet 17 Nos.– M.O.14, Blue Colour Belt – M.O.15, Axe Saw blade 10 Nos. – M.O.16, Axe Saw Frame 2 Nos. – M.O.17, Blue colour Rotomax Pen – 6 Nos – M.O.18, Arrow Weighing Machine – M.O.19, Torch Light – M.O.20, 500 ml bottles – 2 Nos – M.O.21, Gun Medicine in Parachute Bottle – M.O.22, Bullet Loading wood – M.O.23, Elephant Tusks -12 Nos. – M.O.24, Aluminium Bullets 30 Nos – M.O.25, Polythene Matt- M.O.26, Aluminium Bar – M.O.27, Green Full Sleeve Shirt- M.O.28, Green Colour Mask- M.O.29, Black and White checked Lungi – M.O.30 were seized under Seizure Mahazar and they have signed as witness in the confession statement as well as in the Mahazar. The signature of PW26 in the confession statement of A4 is Ex.P15.

2.22. On 19.09.2001, PW26 again went to Bangalapudhu Police Station along with Village assistant, on the request made by the Inspector of Police and saw that A3 was present in the police station and on enquiry, A3 voluntarily gave confession statement and the same has been recorded. The admissible portion of the confession statement of A3 is Ex.P16.

2.23. PW27 – Tr.Viswanathan, VAO of Thalavadi village deposed that on the request made by the Inspector of Police, he went to Thalavadi Police Station along with Village Assistant on 08.11.2011 and he saw that A8 was found arrested. On enquiry made by the Inspector of Police, A8 voluntarily gave



confession statement and the same has been recorded. The signature of PW27 found in the confession statement of A8 is Ex.P17. Thereafter, the Inspector of Police arrested A9, which has been recorded and the signature of PW27 found in the confession statement of A9 is Ex.P18.

2.24. PW28 – Tr.Balchandran, then Erode District Collector deposed that in the year 2003, he has passed orders to take action against A6 and A7 under Ex.P19 with regard to their possession of 20 gelatine sticks, 10 detonator and Ex.P20 with regards to holding weapons and ammunitions without proper licence which gave permission against A6 and A7.

2.25. PW29- Tr.Mahesan Kasirajan, then Erode District Collector deposed that in the year 2008, he has issued orders to take action against A4 under Arms Act. The orders issued to him is Ex.P21. PW30 – Tr.Ramaiah, Scientific Officer deposed that after receiving 6 material objects from the Judicial Magistrate, Sathyamangalam, he examined and issued a report under Ex.P22.

2.26. PW31- Tr.Nallasamy deposed that on 22.01.2001 while he was in duty in Special Task Force, on surveillance over the deceased accused Veerappan and his associates, at about 7.30 p.m. the Inspector of Police has arrested A5 and he has given confession statement and the same has been



recorded. The signature of PW31 found in the confession statement of A5 is Ex.P23.

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2.27. PW32- Tr.Arulanandham, Inspector of Police, Task Force, on 22.01.2001 while he was in surveillance duty, at 7.30 p.m., he arrested A5 and handed over A5 before Thalavadi Police Station on the next day along with a separate report under Ex.P24.

2.28. PW33- Tr.Balasubramaniam, then Inspector of Police, Q Branch deposed that on 15.02.2001, while they were searching the accused and his associates, near Velliyangiri Seetha Hill, A1 was roaming with a bag on his shoulder. On suspicion, they surrounded and enquired him and found in his waist bag, Pipe Bombs, Electric Detonator, Solar Panel, Solar Charges, 12 Recharge Batteries, Nokia Binocular, Vodafone Mobilephone, Cellphone stand, Kenwood Walkie Talkie User Manual, Pink Colour Bedsheet, Dark Green Colour Plastic Tent, Black Hand Gloves, Toothpaste, soap and other things in a plastic bag and they were seized by the Deputy Superintendent of Police Mr.Sampathkumar – PW44 under Seizure Mahazar. The said material objects were handed over to Alandurai Police Station along with a report and they registered a case against the accused.

2.29. PW36 – Tr.Thyagaraj, Explosive Substance Control Officer, deposed that he has received a requisition letter from the Judicial Magistrate,



Sathyamangalam with regard to explosive substances and after examining the material objects and destroyed the same for public safety and he has issued a report in this regard under Ex.P25.

2.30. PW37- Tr.Chandrasekaran, Inspector of Police has spoken about the arrest of A1 by the DSP while they were in surveillance duty. PW39 – Tr.Selvaraj and PW40- Tr.Kuppusamy have deposed with regard to identification of musket guns. PW41- Tr.Somasundaram, Circle Inspector deposed about the material objects recovered from A1 and handing over the same through Special Report in Ex.P26 and registration of case in Crime No.31/2001. The registered F.I.R is Ex.P27.

2.31. PW42 – Tr.Rajendiran, Q Branch Inspector of Police deposed that on 31.08.2001, he arrested A3 near Aavin Booth in Tanjore New Bus Stand in the presence of PW21 Amudhan and one Manoharan. On enquiry, A3 gave confession statement. He handed over the accused before Thalavadi Police Station and received acknowledgement to that effect under Ex.P28. He further deposed that on 07.09.2001, he arrested A4 and on enquiry, A4 gave confession statement voluntarily and the same has been recorded in the presence of PW23 – Kulandaiya (VAO) and one thachinamorthy. In pursuance to the admissible portion of confession statement under Ex.P29, A4 handed over 410 Musket Guns and Elephant Tusks and the same were recovered under Mahazar. PW42

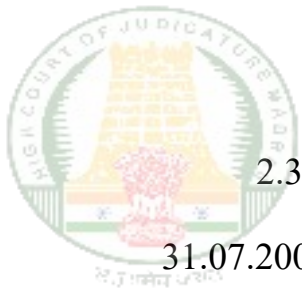


handed over the case properties along with the Special Report – Ex.P30 before the Bangalapudhur Police Station.

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2.32. PW43- Tr.Murugesan, Inspector of Police, Q Branch deposed that on 08.01.2001 at 4.00 p.m., he arrested A2 in Ayanavaram High Road, Chennai and he has recovered cash and explosive substances and registered a case in Cr.No.1 of 2001 and he has handed over the material objects before the V-Judicial Magistrate, Chennai and also subjected the accused for judicial custody. The First Information Report is Ex.P31.

2.33. PW44-Tr.Sampathkumar, Special Task Force Deputy Superintendent of Police, deposed that on 14.2.2001, while he was in surveillance duty in Velliyangiri hills, found that A1 was standing in a suspicious manner. They arrested and enquired him. He gave confession that he is involved in the kidnapping of actor Dr.Rajkumar and he has handed over pipe bomb, 2 cellphones without sim card, Solar cell charger panel, 12 watt recharge batteries, kenwood walkie talkie, pink colour, bed sheet, leather hand gloves, lungi and clothes and the same were recovered under mahazar in the presence of Sub Inspector of Police – Tr.Murugesan – PW43 and produced the same before Alandurai Police Station with a report and a case was registered in Cr.No.31/2001.



2.34. PW45 – Tr.Lakshmanaswamy, Inspector of Police deposed that on 31.07.2001 at 9.00 a.m., PW1 lodged a complaint and he registered a case in Crime No.90/2000 for the offences under Sections 147, 148, 452, 364, 307 and 506(ii) IPC r/w. 25(1B)(a) of the Arms Act, 1959. Ex.P32 is the registered F.I.R. He went to the scene of occurrence at Thottakajanur and drawn Rough Sketch – Ex.P33 in the presence of witnesses. He examined the witnesses and recorded their statements. He examined Nagappa/PW2 and recorded his statement and recovered torn White Colour Half Sleeve Shift and torn Wood Colour Pant under Form 91– Ex.P34. Further, on 19.12.2000, he examined, Mrs.Parvathammal, PW3 and PW4 and recorded their statements and handed over the case records for further investigation on 01.08.2000 to Thalavadi Inspector of Police Mr.Kaliappan. But the said Inspector of Police died. Thus PW41 deposed on behalf of Mr.Kaliappan on the case he investigated since he known the signature of Mr.Kaliappan. He arrested A5 and subjected him to judicial custody. He recovered cash of Rs.500/- and sent the same to the Court under Form 91. He further deposed that he has taken the accused to police custody from judicial custody. He had also arrested A1 and the admissible portion of the confession statement of A1 is Ex.P35 and in pursuance of his confession statement of A1, material objects were seized. He has given a requisition to the learned Judicial Magistrate to sent the explosive substances for chemical analysis.



2.35. PW46- Tmt.Sasikala, then Judicial Magistrate, Gobichettipalayam deposed that she had recorded statements under Section 164 CrPC of the witnesses and the compilation of such statements is Ex.P50. On 12.09.2001, she conducted Test Identification Parade and issued the Test Identification Report – Ex.P51.

2.36. PW47- Tr.Jayabal, Additional Superintendent of Police deposed that he and one Soundarajan examined 123 witnesses with regard to demanding ransom based on the instructions received from the Government. After completion of examination of witnesses, PW47 recorded their statements and gave report to the Director of Vigilance and Anti Corruption under Ex.P52.

2.37. PW48 – Tr.Basheer Ahmed, Deputy Superintendent of Police deposed that he went to the office of the Vigilance and Anti Corruption and received the FIR on 09.04.2003. He gave a letter on 01.09.2003 for adding Sections under Arms Act to the District Collector, in respect of A3 and A4

2.38. In order to prove the charges framed against the accused, the prosecution has examined PWs.1 to 48, marked Exs.P1 to 52 and produced 31 material objects. Upon completion of prosecution side evidence, when the accused were questioned under Section 313(1)(b) CrPC with regard to incriminating materials appearing against the accused, they have denied the



charges and claimed that it is a false case. On behalf of the defence side, one Mr.Sugumaran was examined as DW1 and Exs.D1 to D4 were marked and no material object was produced. Upon appreciation of oral and documentary evidence, the Trial Court found that the prosecution has failed to prove the guilt / charges framed against the accused and acquitted all the accused. Aggrieved over the same, the State has preferred this criminal appeal.

3. The learned Additional Public Prosecutor appearing for the State put forth the following contentions:

(i) The Court below has completely ignored the evidence of PW14, who has spoken about the conspiracy as an eye witness.

(ii) The Court below failed to appreciate the evidence of the material witnesses PW2 to PW5, who have spoken about the overt acts of A1 to A5. The Trial Court failed to appreciate the evidence of the witnesses PWs.6 to 12. PW16 & PW17 have corroborated the evidence of the witnesses PWs.2 to 5 and the said witnesses have also deposed about the overt act of A6 to A10 in aiding A1 to A5 in committing the offence of abduction and wrongful confinement of the witnesses PWs.2 to 4.

(iii) The Trial Court failed to consider that non-examination of the main victim actor Dr.Rajkumar and his wife will not affect the case of the prosecution and their evidence were substantiated by the evidence of PW2 to PW5, PW16 and PW17.



(iv) The evidence of the witnesses PWs.1 to 12, 16 and 17 are not only eye witnesses, but their evidence are also corroborating and convincing.

(v) The Trial Court failed to appreciate the evidence of PWs.1 to 12, PW22 and PW23 to prove possession of Arms with A3 and A4 and the same is also corroborated by the evidence of PW42 and PW45.

(vi) PW26-VAO categorically deposed that A6 voluntarily gave confession statement and in pursuance of his confession statement, M.O.3 – country made gun was seized and the same was also corroborated by the evidence of PW45 / I.O.

(vii) In pursuance of the confession statement of A6, A7 was found in possession of country made gun, gelatin sticks, detonators and the same were seized under Mahazar Ex.P11 in the presence of PW24 and the Trial Court has failed to consider that charges under Explosive Substances Act and Arms Act have been proved against A6 and A7.

(viii) The Trial Court failed to consider that the witnesses have identified the accused in the Identification Parade conducted by the Judicial Magistrate- PW16, which clearly proves that the material witnesses were genuine. Identification of the accused persons have been clearly proved and she has also given report in this regard under Ex.P51.

(ix) The First Information Report is not a substantive piece of



evidence and it only helps to set the law in motion and the Trial Court has failed to consider that any person can set the law in motion.

(x) The Court below erroneously came to the conclusion stating that the case was not registered under the first information.

(xi) The trial Court has failed to note that while appreciating the evidence of the prosecution witnesses, benefit of doubt can be given to the accused, but it cannot be given as a bonus in favour of those who are guilty of polluting the society and the mankind.

(xii) The prosecution has proved its case beyond all reasonable doubt. Therefore, the judgment of acquittal is liable to be set aside and the accused are liable to be convicted and sentenced as per the charges framed against them.

4. *Per contra*, learned counsel appearing for the respondents 1, 2, 4 to 9 would submit that the prosecution has failed to prove the conspiracy through reliable witnesses. In order to establish the conspiracy, the prosecution though chosen to examine PW14, his evidence is unreliable one, since the alleged eye witness to the occurrence have not clearly deposed about number of accused involved at the time of alleged abduction. Though the prosecution has claimed that actor Dr.Rajkumar, PW2 and PW3 have sustained injuries during the alleged occurrence, they have not chosen to produce any medical record and not chosen to examine any medical evidence. The main victim in this case namely



actor Dr.Rajkumar as well as his wife Mrs.Parvathammal were not examined in this case. When the specific case of the prosecution is that deceased accused Veerappan handed over a cassette to Mrs.Parvathammal, she in-turn handed over to the Hon'ble Chief Minister of Karnataka, before that she had lodged a complaint before the the Deputy Inspector General of Police [DIG], Karnataka, but the prosecution has failed to produce the said cassette allegedly given to the Hon'ble Chief Minister of Karnataka. The prosecution has also failed to explain as to why the earliest complaint given by Mrs.Parvathamma before the DIG, Karnataka has not been registered and the same has been suppressed. The statements of the eye witnesses were recorded belatedly and sent to the Court, which creates doubt over veracity of the prosecution case. Upon considering the oral and documentary evidence, the Court below has rightly acquitted the accused and there is no illegality or perversity in the judgment of the Court below.

5. The learned counsel appearing for respondent No.3 / A3 would submit that the charge framed under Section 364A IPC would not get attracted, since as per the evidence of PW2 to PW4, the accused person have not demanded ransom and as per their evidence, they voluntarily gone along with the deceased accused Veerappan. The entire prosecution case has been falsified through the evidence of DW1 and as per Ex.P52, since as per Ex.P52, the Director of Vigilance and Anti Corruption has conducted enquiry and submitted a letter



under Ex.P52 to the DSP, CBCID, Chennai, wherein it has been stated that the team headed by the Superintendent of Police, Additional Superintendent of Police, was constituted to probe into the allegations of payment of ransom for releasing the actor Dr.Rajkumar from the custody of the deceased accused Veerappan. The team which conducted inquiries, had almost examined 21 witnesses including the main victim Actor Dr.Rajkumar and his wife Mrs.Parvathamma, his son Sivarajkumar, Raghavendra Rajkumar and Punith Rajkumar, PW3 – Govindaraj, PW4-Nagesh, PW2-Nagappa and other witnesses and they denied payment of money to the deceased accused Veerappan.

6. The learned counsel for A3 would further submit that there is enormous delay in lodging the complaint by PW1-VAO, as the alleged occurrence said to have held on 30.07.2000 at night between 8.00 to 9.00 p.m., whereas PW1 lodged the complaint only on the next day i.e., 31.07.2000 at 9.00 p.m. According to the prosecution, the investigation in this case commenced only after receiving the complaint from PW1, after a lapse of 24 hours delay, whereas according to the prosecution, the wife of the main victim actor Dr.Rajkumar in the midnight on 30.07.2000 she had gone to the DIG Office, Karnataka and also met the Hon'ble Chief Minister of Karnataka in the early morning hours at 4'O Clock and also handed over the cassette which was allegedly given by the deceased accused Veerappan. Therefore, Ex.P1-



complaint given by PW1 has no value, since the victim's wife Mrs.Parvathamma has lodged the complaint before DIG, Karnataka. The prosecution has also not produced the alleged cassette given by the deceased accused Veerappan to the victim's wife. The Test Identification Parade was conducted only after a lapse of 1½ years without following due procedure, since the photographs of the accused persons have been published widely in news channels and news dailies, as such there may be possibility of accused persons seen in the news papers and TV channels. The learned Judicial Magistrate who recorded the statement of the witnesses under Section 164 CrPC has not followed the procedure contemplated under the said Section and there is a delay in recording the statements and there is no details and descriptions given while recording the statement. There are contradictions between the evidence of PWs.2 to 5 with regard to number of accused persons who have allegedly involved in the kidnapping. The alleged occurrence said to have held in the dark night and the Observation Mahazar prepared by the Investigating Officer has not mentioned about any street light situated in the scene of occurrence. As per the evidence of PWs.2 to 5, actor Dr.Rajkumar has not been abducted, but they voluntarily went along with the accused and other witnesses and they have also not spoken about the forcible abduction by the accused persons apart from the main victim / actor Dr.Rajkumar.



7. The learned counsel appearing for A3 would further contend that the prosecution has miserably failed to prove the conspiracy and the alleged abduction for ransom. Though the prosecution was able to produce M.O.31 – Micro CD, but has not chosen to produce the alleged cassette given by the deceased accused Veerappan to Mrs.Parvathamma. It is an admitted fact that the State of Tamil Nadu and the State of Karnataka have jointly constituted a Special Team to rescue Actor Dr.Rajkumar. In this regard, Special Team comprising of Mr.Nakeeran Gopal, Mr.Palanedumaran, Tmt.Kalyani, Mr.Sugumaran, and Mr.Sivasubramanian and they went to the forest and involved in the rescue operations, but the prosecution has miserably failed to examine the aforesaid persons as witnesses on the prosecution side. Though the Investigating Officer admitted that he has recorded the statements of the aforesaid persons and also collected materials from them, however has not chosen to place the same before the Trial Court. The prosecution has also not chosen to examine actor Dr.Rajkumar and his wife Mrs.Parvathamma in this case as well as identifying the accused persons through the Test Identification Parade in the manner known to law. Therefore, there is no perversity or illegality in the judgment of acquittal passed by the Trial Court in acquitting the accused.

8. We have considered the rival submissions and also perused the entire



materials of record in the form of deposition of witnesses and exhibits.

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9. The prosecution, in order to prove the charges framed against the accused, has relied upon the following circumstances:

- (i) Conspiracy*
- (ii) Evidence of the victims – PWs.2 to 5*
- (iii) Eye witnesses*
- (iv) Extrajudicial Confession*
- (v) Arrest and Recovery*

CONSPIRACY

10. According to the prosecution, prior to 30.07.2000, the deceased accused Veerappan and his associates viz., A1 to A10 hatched criminal conspiracy to abduct actor Dr.Rajkumar and his relatives and to threaten them so that the Government of Karnataka to concede to their following demands :

- 1. Permanent solution to the Cauvery Water Issue should be found based on justice. The Government of Karnataka should implement the interim orders of the Cauvery Water Tribunal by releasing 205 TMC of water every year to Tamil Nadu.*
- 2. Adequate and just compensation should be paid to all the Tamil victims of the 1991 Cauvery riots and Government of Karnataka should ensure proper protection to the Tamils in Karnataka.*
- 3. The Government of Karnataka should accept Tamil as an additional official language of administration.*
- 4. The Government of Karnataka should unveil a statue of Thiruvalluvar at Bangalore.*



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5. *The Government of Karnataka should take immediate action to vacate the stay orders issued by the High Court against Justice Sadhasivam Commission enquiring in to the alleged atrocities committed by the Task Forces of the two States. The Government should grant compensation of Rs.10 lakhs each to all the rape victims and Rs.10 lakhs to the kith and kin of each murdered person and Rs.5 lakhs each to the persons otherwise affected. If the commission finds the police officers guilty, they should be punished.*

6. *The innocent persons languishing in Karnataka jail should be released.*

7. *Adequate compensation should be paid to the families of 9 SC and ST people in Karnataka.*

8. *In the Nilgiris District, minimum procurement price for tea leaves should be fixed at Rs.15/- per Kg.*

9. *Venkatesan, Muthukumar, Ponnivalavan, Sathyamurthy and Manikandan should be released from Tamil Nadu Prisons.*

10. *Immediate solution should be found to the problem of Manjulai Tea Estate workers in Tamilnadu. Minimum daily wages should be fixed at Rs.150/- for the coffee and tea estate workers in Tamilnadu and Karnataka.*

11. PW1 has lodged the complaint – Ex.P1, wherein there is no mention about the alleged criminal conspiracy hatched by accused persons. PW14, in his cross examination deposed that 10 or 11 years before, during night 3 a.m., while he was watching television along with his garden workers, he heard shouting noise. He came out from his house and saw that 11 persons along with the deceased accused Veerappan were holding gun in their hands. However, PW14 has not chosen to disclose anyone till the Investigating Officer examined him on 11.11.2001. PW14 categorically admitted that what was the actual



conversation between the deceased accused Veerappan and A6 were not known to him. PW14 also deposed that 11 persons came along with the deceased, talking with A6. As per the evidence of PW14, they hatched a conspiracy to kidnap after lapse of 6 months, whereas after a lapse of 1 week, the accused have kidnapped actor Dr.Rajkumar, which creates serious doubt over the credibility of his version. There is no explanation from PW14 that after seeing the deceased accused Veerappan and his associates and after hearing the alleged criminal conspiracy hatched between them, why he has not chosen to inform the same to the police also creates reasonable doubt about the evidence of PW14. PW14 also deposed that he came down from the hills. If it is so, what was the conversation between the deceased accused Veerappan and A6 has not been clearly established. PW14 also not stated about the correct date and time of identification of the accused and what was having spoken between them. It is to be noted that PW14 was examined by the Investigating Officer on 11.11.2001 i.e., after a lapse of 1 year from the alleged occurrence. Further, the statement of PW14 has been sent to the Court concerned on 13.01.2002 with enormous delay. PW14 has not stated anything about the street light facility available at the time of the conversation of conspiracy hatched by the accused persons. PW14 also not stated anything about identification of accused persons in his evidence and he has also not participated in the Test Identification Parade conducted by PW46- Judicial Magistrate. PW14, in his cross examination categorically admitted that when higher officials from Karnataka examined, he



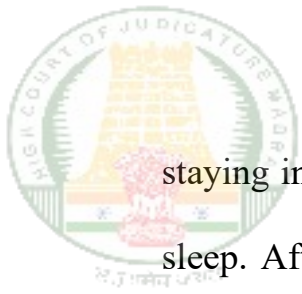
stated that he has not known anything. Further, in his chief examination also, when he was examined in the forest area, he deposed that not known anything.

From the evidence of PW14, it reveals that PW14's behaviour in leaving the place of occurrence not reporting the matter to anyone is extremely unnatural and the alleged incident having occurred in the dark night, as accepted by PW14. Therefore, the chance and opportunity for him to have identified the accused is also highly doubtful. The Trial Court has rightly discarded the evidence of PW14 and found that the prosecution has failed to prove the alleged conspiracy.

12. PW1 lodged the complaint before PW45. In the complaint, it has been stated that the alleged occurrence said to have taken place on 30.07.2000 in the night hours between 8.45 p.m., whereas the complaint has been lodged on the next day on 31.07.2000 at 9.00 p.m. In the complaint also there is a correction in the date from 30.07.2000 to 31.07.2000. As per the evidence of PW1, he is not an eye witness to the alleged occurrence and he examined the village people and he has lodged the complaint and also deposed that upon hearing the occurrence, he came to the scene of occurrence.

VICTIM EVIDENCE

13. PW2- Nagappan deposed that on 30.07.2000 between 8.30 to 9.00 p.m., after having dinner in old house, actor Dr.Rajkumar was watching TV,



staying in his old house. PW3, PW10 and PW5 proceeded to the new house to sleep. After crossing the road, while proceeding to the new house, suddenly 9 persons arrived and tried to attack them, whereas in the complaint lodged by PW1 and in his evidence it has been stated that the deceased accused Veerappan and 14 persons have come to the occurrence place, whereas the eyewitness to the occurrence PW2 categorically deposed that only 9 persons came to the occurrence place. PW2, in his cross examination deposed that after crossing the road when proceeding to the new house, 9 persons have arrived. Therefore the first alleged occurrence said to have held in the road. In this regard, PW45/ I.O. has drawn Rough Sketch under Ex.P33 wherein it has been held that the alleged first occurrence held in front of the new house. According to PW2, the occurrence held between 8.30 to 9.00 p.m. In Ex.P33, there is no mention about the existence of electrical post and electrical light glowing or not. PW2 also not stated anything that he had seen 9 persons in the street with the presence of street light. PW2 also not specifically stated who are all were standing. Though he has stated 9 persons, he has not given specific names or identification of the persons. PW2 categorically stated that he does not know about the deceased accused Veerappan and his associates before the occurrence.

14. PW2, in his chief examination, deposed that the deceased accused Veerappan asked them where is actor Dr.Rajkumar to PW3. In-turn PW3 told that actor Dr.Rajkumar is in his old house. Thereafter, the deceased accused



Veerappan, A2, A1, A4, A3 went to the house of actor Dr.Rajkumar. PW2 in his cross examination admits that he has not stated anything about the personal identification features of the accused persons.

15. PW3-Govindaraj, in his chief examination deposed that while they were proceeding to the new house of actor Dr.Rajkumar from 30 feet away from the road, they were surrounded by 7 or 8 persons and they were holding guns and pointed the guns and he was unable to note their physical features. They have instructed them to sit in that place and left 3 persons with them and the remaining persons left to the old house of actor Dr.Rajkumar. After 10 – 15 minutes, they brought actor Dr.Rajkumar by tying his hand from behind. As per the evidence of PW3, in the alleged occurrence, 7 or 8 persons have surrounded them. PW1, on enquiry, came to know that there are 14 persons involved in the alleged occurrence. PW2 says that there are 9 persons involved. PW3 says that 7 or 8 persons arrived to the occurrence place. PWs.2 and 3 categorically deposed that they were unable to note the physical identification of the persons. PW3 in his cross examination deposed that there are 4 or 5 persons, but he could not say whether they gone to actor Dr.Rajkumar's old house. Further, in his cross examination, PW3 admitted that before 30.07.2000, he did not know the accused and while enquired by the police, he did not say any physical identification of the accused persons. PW3 also deposed that there is a telephone facility available in the house of actor Dr.Rajkumar. As per Ex.P33 –



Rough Sketch, the distance between old house and new house of actor Dr.Rajkumar is within 100 mtrs distance. When 14 persons holding gun point near to the new house, they were making such a noise to reach the old house where actor Dr.Rajkumar and family members were residing. Between old house and new house, there is no other house and only a road is passing.

16. Next witness relied on by the prosecution is PW4, who in his chief examination, deposed that 10 persons including the deceased accused Veerappan have surrendered to them and 4 or 5 persons gone to the old house and the remaining persons have guarded them and sometime thereafter, they brought actor Dr.Rajkumar.

17. PW5- Nagarajan, in his chief examination, deposed that 9 persons came and pointed out guns and surrendered them and 3 accused guarded them and the remaining went to the old house of Actor Dr.Rajkumar, but in the chief examination categorically admits that he has identified the accused persons upon seeing the accused persons photographs in telephone and newspaper and also admitted that the police shown the photographs of the accused which was published in the newspaper.

18. With regard to the number of accused persons arrived to the



occurrence place, there are contradictions between the evidence of PWs.2 to 5.

Their evidence is also contradictory with regard to the first occurrence said to have held in the road and the alleged occurrence said to have held in the old house of actor Dr.Rajkumar. PWs.2 to 3 have not deposed who are all the accused pointing the gun with their physical features and who are all the accused gone to the old house of actor Dr.Rajkumar.

EYE WITNESS

19. PW6-Deepa, in his chief examination deposed that both the date and time of the occurrence said to have held, as to how many persons injured and as to the old house of actor Dr.Rajkumar. PW7 deposed in the chief examination that at 9.00 p.m., after completion of TV news, the deceased accused Veerappan and 6 persons came, out of which 2 persons were standing outside and 4 persons entered inside the house, two persons were standing near wife of actor Dr.Rajkumar and one person standing near actor PW8 and PW9. PW7 has not stated anything about the accused persons who entered into the house came along with gun. PW7 also not state anything about the physical identification of the accused persons. PW7, in his cross examination, categorically admits that he does not know whether the accused gave a cassette to Mrs.Parvathamma in the farm house there is facility of TV and Mrs.Parvathamma left the house in the night itself. When PW7 categorically admits that he did not know whether the cassette was given to Mrs.Parvathamma, he could not have witnessed the



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20. PW8- Sennan in his chief examination deposed that on 30.07.2000 9.45 p.m. the deceased accused Veerappan and his associates persons came and 5 persons entered inside the house of actor Dr.Rajkumar and the remaining were standing outside. PW7 says that 6 accused persons came and whereas PW8 deposed that suddenly 5 accused persons entered the house. PW9 says that the deceased accused Veerappan and 10-15 persons entered into the house. There are contradictions with regard to number of accused persons who came to the occurrence place. As per the evidence of PW7 and PW8, after closing the news, at about 9.00 p.m, the accused have entered into the house, whereas PW9 deposed that the accused came to the house at 8.45 p.m. PW5 and PW6 did not mention any time as to when the accused persons entered the house.

21. PW10- Tr.Ravi, Driver was examined as eye witness to the occurrence. He deposed that at about 8.45 p.m., after having dinner, they proceeded to the new house for sleeping along with PWs.2 to 5 and at that time, it was dark. While so, the deceased accused Veerappan and 5 or 6 persons came there and the deceased accused Veerappan went to the old house of Actor Dr.Rajkumar and brought him. From the evidence of PW10, the deceased accused Veerappan gone to the old house of Actor Dr.Rajkumar for abducting him and at the time of the alleged occurrence, it was dark. PW10, in his cross



examination, admits that he was unable to identify the accused persons.

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22. PW11 deposed in similar lines to that of PW10 and further deposed that the deceased accused Veerappan threatened Mrs.Parvathamma, wife of Dr.Rajkumar that if anyone follows, they would kill and also the deceased accused Veerappan handed over a cassette to Mrs.Parvathamma. In the cross examination, PW11 admitted that he has not stated anything about the personal identification of the accused persons.

23. PW12, in his chief examination, admits that he could not able to identify the accused persons who threatened by pointing guns and after 10 minutes, the hands of actor Dr.Rajkumar were tied behind and the deceased accused Veerappan and other persons have taken away actor Dr.Rajkumar from his old house. From the evidence of PW12, about 9 persons came to the occurrence place, whereas the evidence of PW11 is contradictory to other witnesses.

24. PW16 deposed that 5 or 6 persons came to the occurrence place and 3 persons were watching backside of the house and he has not stated anything about the threat made by the accused by pointing out gun. PW17 deposed that 7 or 8 persons came between 8 to 9 p.m. and he saw that actor Dr.Rajkumar was abducted from his house. PWs.16 and 17 have not specifically stated who are



all accused persons holding guns in their hands.

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25. PW6, PW7, PW11 and PW12 have deposed in their cross examination that on 31.07.2000 morning the Inspector of Police, Thalavadi came to the scene of occurrence and inquired them and also obtained signature from them. PW8, in his cross examination, categorically admitted that he reached Bangalore in the night itself and after reaching Bangalore, police inquired PW8 and on the next day early morning at 4.00 a.m., met the Hon'ble Chief Minister of Karnataka and narrated the same. In-turn the Hon'ble Chief Minister of Karnataka called all the DGP's, when Mrs.Parvathamma narrated the occurrence, the police have written the complaint.

26. PW8 is one of the eye witnesses to the occurrence. On the day of occurrence, in the night itself, the eye witness PW10 and PW8 and Mrs.Parvathamma went to Bangalore. In the early morning at 4.00 a.m., they have given oral complaint and the same has been recorded as complaint by the police officials of Karnataka State. The aforesaid statement of complaint has not been placed before this Court. Before lodging the complaint – Ex.P1 by PW1, the Inspector of Police, Thalavadi came to the scene of occurrence and inquired the witnesses and recorded their statement. In such circumstances, the said statement of complaint has not been registered as the First Information Report.

TEST IDENTIFICATION PARADE



27. PW46- then learned Judicial Magistrate, Gobichettipalayam has conducted Test Identification Parade in the Central Prison, Coimbatore and issued the report – Ex.P51, wherein it has been mentioned that the witnesses PWs.2, 3 and 4 have identified the accused. In the statement recorded under Section 164 CrPC, there is no mention about physical identification of the accused persons. Further the Investigating Officer recorded Section 161 CrPC statement of PW2 on 28.09.2000 and subsequently, after a lapse of 2 months from the date of the occurrence. Further Mrs.Parvathamma was examined on 19.12.2000 after a lapse of 4 ½ months and also sent their statement to the learned Judicial Magistrate only on 03.05.2001 and therefore, statements have been recorded from the eye witnesses only after a lapse of 4 months and also belatedly sent to the Court. In the statement given by the witnesses, PW2 have not mentioned about the identification of the accused. There is possibility of seeing the photographs of the accused in the newspaper or television. In this regard, PW5, in his cross examination, categorically admits that before conducting Test Identification Parade, he had seen the accused in the newspaper and television channels. So it is clear that after seeing the photographs of the accused persons in the newspaper and television, they have identified the accused in the Test Identification Parade. It is also to be noted that after a lapse of 4 ½ months, statement has been recorded by the Investigating Officer and only on 12.08.2000, Test Identification Parade has been conducted in this case. Therefore, there is possibility of the eye witnesses seeing the photographs of the



accused in the newspaper, could have identified the accused in the Test Identification Parade by the learned Judicial Magistrate. In the statement given by the witness before the learned Judicial Magistrate, admittedly they have not stated anything about the name of the persons or their physical identification. It is to be noted that when the witnesses have not described the physical identification of the accused in the cross examination, how they identified the accused on seeing the newspaper or television channels and the same would lead the Investigating Officer to come to a wrong conclusion. Upon considering the oral and documentary evidence, the Trial Court rightly found that the Test Identification report submitted under Ex.P51 is not acceptable one.

28. In this case, PW1 has lodged a complaint after a lapse of 26 hours, only on the next day i.e., 31.07.2000. PW1 is not an eye witness to the occurrence. Eye witnesses to the occurrence categorically deposed that at the time of the alleged occurrence, it was dark night hours and they could not able to say how many accused persons who are all holding gun in their hands, have not been clearly stated. According to the prosecution, the wife of actor Dr.Rajkumar and Mrs.Parvathamma was also one of the eye witnesses to the occurrence and admittedly, the deceased accused Veerappan has handed over a cassette to Mrs.Parvathamma, to be handed over to the Hon'ble Chief Minister of Karnataka, whereas the said Mrs.Parvathamma was not chosen to be examined as witness in this case. Though PW2 and PW3 stated that they have



been assaulted by the accused, but the prosecution has not produced any medical evidence in this regard. Therefore, the prosecution has failed to prove that who are all the accused holding weapons trespassed into the house of actor Dr.Rajkumar.

29. Eye witnesses to the occurrence, who are close blood relatives of Actor Dr.Rajkumar, have not lodged any complaint before any police station. PWs.6, 7, 11 and 12 in their cross examination categorically admits that on 31.07.2000 morning, the Inspector of Police, Thalavadi Police Station came to the scene of occurrence, recorded their statement and obtained their signature. PW8 in his cross examination categorically admitted that on the next day morning, police had come to the scene of occurrence and they have gone to Bangalore at night and police also enquired him. Next day morning 4'O clock, he met the Hon'ble Chief Minister of Karnataka and informed the same. The Hon'ble Chief Minister of Karnataka called DIG and Mrs.Parvathamma narrated the occurrence and written the complaint. Therefore, after the occurrence, on 31.07.2000 early morning 4.00 a.m., Mrs.Parvathamma has given complaint before DIG of Police, Karnataka, but the said statement has been suppressed by the prosecution. Whether First Information Report has been registered or not has also not been explained by the prosecution. Further, as per the prosecution witness, it is stated that the deceased accused Veerappan handed over a cassette to Mrs.Parvathamma with regard to demand and the same has



been handed over to the Hon'ble Chief Minister of Karnataka, but the Investigating Officer has not recovered the said cassette and produced before the Court. PW45/I.O. came to the occurrence place in the early morning hours on 03.07.2000 and examined PWs.6, 7, 11, 12 and obtained signatures from them, whereas PW1 lodged the complaint on 31.07.2000 at 9.00 p.m. When PW45 before lodging the complaint by PW1, came to the place of occurrence and recorded statement from the witness and obtained their signature but the prosecution has failed to explain with regard to the earliest information given by Mrs.Parvathamma before the DIG, Karnataka. The next information received by PW45 from the witness in the morning itself, have not been properly explained.

EXTRA JUDICIAL CONFESSION

30. PW24- Tr.Govindaraj, VAO deposed that on 30.10.2001, A6 surrendered before him while he was in office and on enquiry, A6 voluntarily gave confession statement and the same has been recorded by him in the presence of Village Assistant. Then he took him to Thalavadi Police Station at 12.00 p.m. and handed over the same to the police. At 12.30 p.m., the Inspector of Police came and enquired the accused. On enquiry, A6 voluntarily gave confession statement and the admissible portion of the confession statement of A6 is Ex.P8. In pursuance to the confession statement, the accused took them to a garden road in Malkuthipuram and identified the place where he buried the



weapons and handed over the same to PW45. The Inspector of Police recovered the same under Mahazar-Ex.P9. In this regard, PW45 deposed that PW24/VAO handed over A6 and he has arrested A6 and on enquiry, he has voluntarily gave confession statement. PW45 prepared Rough Sketch under Ex.P33, where weapons were handed over by the accused and the same has been recovered in the presence of PW24.

31. Extra Judicial confession is concerned, it is a weak piece of evidence and is generally used as a corroborative link to credibility to the other evidence on record. *In Chandrapal v. State of Chattisgarh [2022 SCC Online SC 705]*, the Hon'ble Supreme Court reiterated the evidentiary value of an extra judicial confession in the following words:

“11. At this juncture, it may be noted that as per Section 30 of the Evidence Act, when more persons than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and some other of such persons is proved, the court may take into consideration such confession as against such other person as well as against the person who makes such confession. ***However, this court has consistently held that an extra judicial confession is a weak kind of evidence and unless it inspires confidence or is fully corroborated by some other evidence of clinching nature, ordinarily conviction for the offence of murder should not be made only on the evidence of extra judicial confession.*** As held in case of *State of M.P. Through CBI v. Paltan Mallah*, the extra judicial confession made by the co-accused could be admitted in evidence only as a corroborative piece of evidence. In absence of any substantive evidence against the accused, the extra judicial confession allegedly made by the co-accused loses its significance and there cannot be any conviction based on such extra judicial confession of the co- accused.”

(emphasis supplied)



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32. It is no more res integra that an extra judicial confession must be accepted with great care and caution. If it is not supported by other evidence on record, it fails to inspire confidence and in such a case, it shall not be treated as a strong piece of evidence for the purpose of arriving at the conclusion of guilt. Furthermore, the extent of acceptability of an extra judicial confession depends on the trustworthiness of the witness before whom it is given and the circumstances in which it was given. The prosecution must establish that a confession was indeed made by the accused, that it was voluntary in nature and that the contents of the confession were true. The standard required for proving an extra judicial confession to the satisfaction of the Court is on the higher side and these essential ingredients must be established beyond any reasonable doubt. The standard becomes even higher when the entire case of the prosecution necessarily rests on the extra judicial confession.

33. In the case on hand, the alleged occurrence said to have held on 30.07.2000 and nearly after a lapse of more than 1 year, A6 voluntarily surrendered before PW24 - VAO and gave extra judicial confession and it is not supported by any corroborative evidence.

RECOVERY



34. On 31.08.2001, A3 was arrested by PW42- Q-Branch Inspector Rajendiran at Tanjore, gave a voluntary confession-Ex.P16 in which PW21 Amuthan, Manokaran were witnesses. Later, A3 was Handed over to Thalavadi Police on 01.09.2001 at 5.00 p.m. and submitted the special report, which was marked under Ex.P28.

35. Eventually, A4 was arrested on 07.09.2001 near Ulavar Santhai where he gave a confession-Ex.P29 in front of PW23-VAO Kulanthaiya and one Thanchinamoorthy. Later, A4 was handed over on 08.09.2001, 9.10 p.m. and prepared the special report under Ex.P30. Later, while examining the prosecution witnesses, PW21 turned hostile. PW23 did not clearly mention the time, persons or details of confession. PW42 through whom Ex.P30- special report, also failed to mention the arrest and handing over time.

36. A3 and A4 who got arrested gave voluntary confessions to PW45 Inspector Lakshmanasamy. A3 confession was marked under Ex.P26 through PW26 VAO Dhandapani, and A4 confession was marked under Ex.P29, which was marked through PW42. Seizure Mahazar Ex.P14 marked for the recovery of M.O.s 5-30, which was recorded in the presence of PW26 Dhandapani & Village Assistant - Sapipulla. While examining the PW26 about the seizure, PW26 didn't specify the time of reaching the station or recovery. There is also no proof of who conducted the recovery, whether it was from the police officers



in the Q-Branch or the STF. The claimed recovery from the Manakkarai forest also had no rough sketch prepared. When the material objects were buried under the 6-foot-deep in the ground, no tool which was used for digging the material objects was produced before this court, and the pit diggers were not examined as prosecution witnesses. PW26 is unaware if the musket-M.O.1 was loaded or not, and there are no details on sealing/packing in his deposition.

37. The report of A3 handover is under Ex.P28. The confession of A3 said two guns were hidden under a karuvel tree, in which the admissible portion of the confession statement of A3 is marked as Ex.P16. The Rough Sketch-Ex.P46 shows guns under a tree, 200 feet from the main road, Keelamel Pannari-Satti. There is a highly improbable location and no details if buried underground. While examining the deposition of PW26, he didn't confirm recovery in his presence.

38. The prosecution has claimed recovery through PW22-VAO Subramanian under the seizure Mahazar Ex.P6, which mentioned the rusted 410 musket, buried 1 ft deep in the forest. While examining the deposition of PW22, he did not know the case details of A3. PW22 also did not verify if the gun was loaded. PW22 also did not know the packing method, whether it was in a sealed sign seal and he forgot about the sketch. From the evidence of PW45 and PW22 there is a glaring contradiction in which PW22 says properly sealed,



whereas PW45 Inspector says *not properly sealed*. Both PW22 & PW26 failed to state time, place, who dug/sealed, or what tool was used. Thus, their evidence weakens the prosecution's recovery not proved beyond a doubt.

39. A6-Pasuvanna surrendered before PW24 VAO Govindaraj on 30.10.2001, gave confession (Ex.P38) and report (Ex.P37), in which the time of surrender not mentioned in both the handover to PW45 Inspector and the later confession Ex.P8 recorded before VAO & assistant. A7 Nagaraj was arrested at home and gave confession under Ex.P10. The recoveries as told by A6 from A7's land M.O.2 gun under Ex.P9 and from A6's land is M.O.3 gun under Ex.P11. While examining the PW24's evidence, he did not mention the time of recovery. Moreover, he claimed only the gun & detonator were recovered, but the mahazar shows many items. He also admitted to not being aware of A6's arrest status. In this case, there is no Independent witnesses despite nearby residents, PW14 Chennimalai Gounder, and Moorthy present. There is also no reason given by the prosecution for why they have not brought any independent witness to prove their case. PW45-Inspector also admitted seized materials were *not properly sealed*. Hence, recoveries from A6 & A7 not proved beyond a doubt.

40. The sanctions under Explosive Substances Act, 1908 and Arms Act, 1959 were given on 04.09.2003 to A6 & A7 under Exs.P19, P20, and Sanction



under Arms Act, 1959 for A3 & A4 under Ex.P21 by the PW28-District Collector, Erode. Where the FSL Reports mention that the Guns (Items 6 & 7) in working condition. The report is marked as Ex.P22 through PW30. the report also stated that M.O.1 could fire up to 30 metres. In this case, the Prosecution didn't show whether the guns were tested or packed safely during the seizure. The Explosive analysis under Ex.P25 marked through PW36 has only confirmed the explosive nature, not the chemical composition.

41. PW2 stated in his chief examination that after 59 days from the custody of the deceased accused Veerappan escaped from the forest. PW2 stated that he reached the place of Pudubeerkadau near Bannari in a Tent Hotel, where he stated that he was sustained injuries due to attack of bear and collected Rs.2/- and Rs.3/-, in total he collected Rs.12/-. From there, he travelled in a TVS 50 and reached the main road, thereafter through Bus he reached Bannari. The prosecution has not examined the person who drove the TVS 50 and helped PW2 to reach the main road. Why PW2 has not reported the same to police immediately after he had collected a sum of Rs.12/- in a tent hotel. PW2 has not clearly deposed about handing over pant, shirt (M.O.4 series) before police. The prosecution has relied upon the evidence of PW25 to prove M.O.4 has been handed over by PW2. PW25 has not sated specifically which date and time PW2 came to police station and handed over M.O.4.



42. Thus, this court comes to the conclusion that the recoveries was not proved from A3, A4, A6, A7 as there were no independent witnesses, improper sealing, inconsistent testimony and the FSL report alone was insufficient to establish guilt under the Arms Act (for A3, A4, A6 and A7) and Explosives Act (for A6 and A7). Hence, the alleged recoveries from A3, A4, A6, and A7 are unreliable, unsupported by proper documentation, and contradicted by witnesses. Therefore, the prosecution failed to prove recovery beyond a reasonable doubt.

43. PWs.2, 3, 4 and 5 categorically admitted in their chief examination that they were not abducted by the deceased accused Veerappan and they themselves gone with the accused. The witnesses, who are present in the farm house, have not identified the accused / A1 to A5. The presence of A1 to A5 has not been established by the prosecution as to alleged occurrence place or in the forest area where the abducted persons were kept. In this regard, the Government has constituted a Special Team to rescue actor Dr.Rajkumar. The said team comprised of Mr.Nakeeran Gopal, Mr.Palanedumaran, Tmt.Kalyani, Mr.Sugumaran, and Mr.Sivasubramanian. In this regard, PW45/ IO has not stated anything about recording the statement of the members of the Special Team, who are involved in the rescue process and also has not chosen to cite them as witness in this case and also not chosen to examined them before the Court of law.



44. The Trial Court noted that in order to give evidence, the Court below has sent notice / summons to Mrs.Parvathamma / wife of Actor Dr.Rajkumar, but she did not appear before the Trial Court and therefore, the Trial Court has dispensed with her appearance vide order dated 22.11.2016. Whereas on 31.07.2000, she had chosen to lodge a complaint before the DIG, Karnataka. The main victim actor Dr.Rajkumar has not been examined as witness in this case. In order to establish the overt act attributed against the accused persons who trespassed into house of Actor Dr.Rajkumar and who are all holding the weapons and who are all abducted him, have to be established by examining actor Dr.Rajkumar and his wife, whereas they have not chosen to appear before the Court below and they have not chosen to identify the accused persons while conducting Test Identification Parade by the learned Judicial Magistrate in the manner known to law.

45. According to the prosecution, the deceased accused Veerappan handed over a cassette to Mrs.Parvathamma, wife of the actor Dr.Rajkumar and demanded her to handover the same to the Hon'ble Chief Minister of Karnataka and she in-turn handed over the same to the Hon'ble Chief Minister of Karnataka on the same day, whereas the Investigating Officer has not chosen to recover the said cassette from Mrs.Parvathamma and also not chosen to mark the said cassette as material object in this case and what are all the demands and



what are all the conversations allegedly recorded in the cassette has not been placed before the Trial Court. The prosecution has chosen to place M.O.31 – Micro CD, which contains the alleged speech of actor Dr.Rajkumar in the forest area and the same has been seized under Mahazar-Ex.P45. The said M.O.31 was not sent to forensic analysis to confirm the speech of Actor Dr.Rajkumar. M.O.31 has been seized from one Dharmarajan and the said Dharmarajan was also not examined as witness. The prosecution has not chosen to examine higher officials, who involved in the rescue operations from either state (Tamil Nadu or Karnataka). On behalf of the accused side, the reports of the Special Team constituted by the Government has been marked as Exs.D1 to D4 and the same documents were not disputed by the prosecution. One of the person Tr.Sugumaran, who is a part of the Special Team, was examined on behalf of the defence side as DW1. The case of the prosecution of ransom has been falsified through the evidence of DW1. As per Ex.P52, the Director of Vigilance and Anti Corruption has conducted enquiry and submitted a letter under Ex.P52 to the DSP, CBCID, Chennai, wherein it has been stated that the team headed by the Superintendent of Police, Additional Superintendent of Police, was constituted to probe into the allegations of payment of ransom for releasing the actor Dr.Rajkumar from the custody of the deceased accused Veerappan. The team which conducted inquiries, had almost examined 21 witnesses including the main victim Actor Dr.Rajkumar and his wife Mrs.Parvathamma, his son Sivarajkumar, R.Raghavendra Rajkumar and



R.Punith Rajkumar, PW3 – Govindaraj, PW4-Nagesh, PW2-Nagappa and other witnesses and they denied payment of money to the deceased accused Veerappan.

46. The prosecution has miserably failed to establish a coherent chain of circumstances. The present case does not fall in the category of a light-hearted acquittal, which is shunned upon in law. We find no infirmity in the judgment of the Trial Court.

47. In the light of the reasons aforesaid, *this Criminal Appeal stands dismissed*, confirming the judgment of acquittal dated 25.09.2018 in S.C.No.51/2011 on the file of the III Additional District and Sessions Judge, Erode @ Gobichettipalayam, Erode District. No costs.

(P.V.,J.) (M.J.R.,J.)
25-02-2026

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

To
1. III Additional District and Sessions Judge,
Erode @ Gobichettipalayam, Erode District.

2.The Public Prosecutor, High Court, Madras.



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CRL A No. 388 of 2



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

JVM

**JUDGMENT
IN
CRL A No. 388 of 2019**

25-02-2026