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CRL A No. 582 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2026

CORAM

**THE HON'BLE MR JUSTICE P. VELMURUGAN
AND
THE HON'BLE MR.JUSTICE M.JOTHIRAMAN**

CRL A No. 582 of 2019

Ezhumalai, S/o.Etiappan

..Appellant

Vs

1. Murugan, S/o.Kanniyappan
2. Kanniyappan, S/o.Ragavan
3. Murugan, S/o.Ranganathan ,
4. Sankar, S/o.Sammanthan
5. Kumar, S/o.Aandavan Naicker,
6. State By

The Inspector Of Police, Sriperumbudur Police
Station, Sriperumbudur.

..Respondents

Prayer: Criminal Appeal filed under Section 372 CrPC against the judgment of acquittal passed by the Addl. District Court passed by the Sessions Judge, Fast Track Court, Kancheepuram in SC.No.107 of 2015 dated 02.04.2019.

For Appellant:

For Respondents:

Mr.N.Manokaran

M/s.R.Vijayakumar

K.G.Senthil Kumar For R1 To R5

Mr.A.Damodaran, Additional Public Prosecutor
assisted by Mrs.M.Arifa Thasneem for R6



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ORDER

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

Today, the matter is listed under the caption “for being mentioned” at the instance of the learned counsel for the appellant.

2 It is represented by the learned counsel for the appellant that the trial Court name was wrongly mentioned in paragraph no.23 of the judgment and seeks to rectify the same.

3 It is seen in paragraph no.23 of the judgment dated 21.01.2026 the trial Court name was wrongly mentioned as District Munsif cum Judicial Magistrate Court, Sriperumbudur, instead of Additional District Court, (Fast Track), Kancheepuram.

4 Therefore Registry is directed to rectify the above and issue fresh copy.

[PVJ] [MJRJ]
10.02.2026

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To

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1. The Additional District Court (Fast Track), Kancheepuram.
2. The Inspector of Police, Sriperumbudur Police Station, Sriperumbudur.
3. The Public Prosecutor, High Court, Madras.



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AND
M.JOTHIRAMAN, J.**

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CRL A No. 582 of 2019

Ezhumalai

S/o.Etiappan, Naadu Street, Kannan Thangal
Village, Sriperumandur Taluk, Kancheepuram
District.

..Appellant(s)

Vs

7. Murugan

S/o.Kanniyappan

8. Kanniyappan

S/o.Ragavan

9. Murugan

S/o.Ranganathan , 1 To 3 Accused Residing At
No.3/225, Nadu Street, Kannanthangal
Village, Sriperumbudur Taluk

10.Sankar

S/o.Sammanthan



11.Kumar

S/o.Aandavan Naicker, 4 To 5 Accused
Residing At Othavadi Stret, Kannanthangal
Village, Sriperumbudur Taluk

12.State By

Inspector Of Police, Sriperumbudur Police
Station, Sriperumbudur

..Respondent(s)

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For Appellant(s): Mr.N.Manokaran

For Respondent(s): M/s.R.Vijayakumar

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Mr.A.Damodaran, Additional Public Prosecutor
assisted by

Mrs.M.Arifa Thasneem, Govt. Advocate for R6

JUDGMENT

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

The defacto complainant / PW1 has preferred this criminal appeal,
challenging the judgment of acquittal dated 02.04.2019 made in S.C.No.107 of



2015 on the file of the Additional District Court (Fast Track), Sriperumbudur, in and by which the Trial Court has acquitted the respondents 1 to 5 herein, arrayed as A1 to A5, who are charged for the offences under Sections 147, 148, 342 and 302 r/w. 149 of Indian Penal Code.

2. Brief case of the prosecution is as follows:

2.1. PW1 – Tr.Elumalai is the father of the deceased. On 06.09.2014, A2 quarrelled with him stating that PW1's son had taken photographs in cellphone while A2's second daughter was taking bath in the bathroom. A2 informed to PW1 that he will bring relatives to conduct Panchayat. Accordingly, A2 brought 5 members and made quarrel with PW1. PW1 sought apology and informed them that his son did not commit any mistake. Even though PW1 admitted his son's mistakes and sought apology, the respondents / accused had assaulted PW1 and also threatened him with dire consequences.

2.2. PW2-Tr.Murugesan is the uncle of the deceased. The deceased went to PW2's house. PW2 brought the deceased to PW1 on 07.09.2014. PW1 called the respondents to conduct panchayat, but they postponed the panchayat by saying that village elders are not available in the village.

2.3. On 07.09.2014 night at 2'O clock, the deceased left his house in his motor bike to attend nature's call at Vannankuttai. PW1 informed the deceased



to go along with the company of PW2, but the deceased left from the house at 3.00 a.m. in the night. The deceased returned back in his bike to his house screaming that 5 persons had waylaid and chased him. PW1 called “108” Ambulance and one doctor arrived in the ambulance. In front of his house, the doctor administered glucose by way of drips to the deceased and thereafter took the deceased to Sriperumbudhur Government Hospital, where the deceased had given statement stating that the respondents 1 to 5 / A1 to A5 poured petrol on him and set him ablaze.

2.4. Thereafter, the deceased was referred to Kilpauk Medical College Hospital, Chennai. While the deceased was in Sriperumpudhur Government Hospital, two Inspectors of Police came to the hospital and obtained statements from the deceased. While the deceased was taking treatment in Kilpauk Medical College Hospital, Chennai, two policemen came and obtained statement from the deceased. PW1 went to Sriperumbudhur Police Station and lodged a complaint under Ex.P1. On 09.09.2014 at night 1.15. a.m. deceased died. He has laid another complaint under Ex.P2 on 09.09.2014.

2.5. PW2-Tr.Murugesan, who is the brother-in-law of PW1 deposed that the deceased gone to PW2's house due to anger on 06.09.2014 and the same was informed to him by PW1. Since the deceased went to the house of PW2 due to some family issues, PW2 took the deceased to PW1's house on the next



day i.e., 07.09.2014 and left him in PW1's house and he stayed in PW1's house since he was not feeling well. The deceased informed to PW1 that he was leaving the house to attend nature's call and in the early morning on 08.09.2014, the deceased returned back to his house screaming that somebody poured petrol on him and set him ablaze. They called "108" Ambulance and took the deceased in the ambulance. While travelling in the ambulance, the deceased told to PW2 that A1 to A5 waylaid him, poured petrol and set him ablaze. They admitted the deceased in Sriperumbudhur Government Hospital and thereafter, police arrived to the hospital, enquired the same and thereafter, the deceased was referred for further treatment to Kilpauk Medical College Hospital, Chennai.

2.6. PW12-Dr.Jayabharathi, Doctor at the Sriperumbudhur Government Hospital, deposed that on 08.09.2014, the deceased was brought by his mother Rani – PW9 and she informed that 4 or 5 persons waylaid the deceased, poured Kerosene, set him ablaze. PW12 issued the Accident Register – Ex.P21.

2.7. PW16 – Inspector of Police deposed that on 08.09.2014, he has received a complaint from PW1 at 4.00 p.m. and registered a case in Cr.No.746/2014 for the offences under Sections 147, 349, 323 and 307 IPC. He conducted investigation and went to the scene of occurrence and prepared Observation Mahazar – Ex.P6 and Rough Sketch – Ex.P25 in the presence of PW5 – Tr.Viji and PW6- Tr.Muthu. He has also seized from the scene of

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occurrence M.O.1- Burnt Ash and M.O.2 – Half burnt cloth under Seizure Mahazar – Ex.P27. He went to the hospital and recorded the statement from the deceased. The deceased died on the next day and he has altered the Section to 302 IPC. The Alteration Report is Ex.P25. He conducted inquest over the body of the deceased in the presence of panchayatdars and witnesses and prepared Inquest Report- Ex.P29.

2.8. PW11- Tmt.Lakshmi Ramesh, deposed that while she served as 12th Metropolitan Magistrate, Chennai, based on the request made by the Inspector of Police, Sriperumbudhur, she went to the Kilpauk Medical College Hospital, Chennai on 08.09.2014 at 12.30 p.m. She has recorded Dying Declaration under Ex.P20.

2.9. PW14-Dr.Pradeep Anand, who conducted autopsy on the dead body deposed that he has noticed the following injuries:

“Moderately nourished male body which lies on its back frothy discharge from both nostrils. Hair over the frontal area of scalp singed. Body wrapped with guaze, on removal of the gauze, epidermal dermoepidermal burns with denuded cuticle exposing the reddish area seen over the face, neck, chest & abdomen, whole of back. Front and back of both upper limbs. Both gluteals involved. Muscle deep burns over right lower quadrant of abdomen, inner sides of both thighs and perineum. Epidermal and dermo epidermal burns over front and back of both lower limbs with area below the right knee, dorsum of right foot spared. Both soles free.

No other external injury.

Scalp, bones, membranes: Intact. Brain: c/s: congest



Hyoid bone: intact. Larynx and trachea: edematous & congested.

PW14 issued the postmortem certificate-Ex.P23 opining that the deceased would appear to have died of Shock due to Burns.

2.10. PW16 – Inspector of Police further deposed that in continuation of his investigation, on 09.09.2014 at 3.00 p.m., in Kolathur, he has arrested A1 to A5. On enquiry, A1 voluntarily gave confession statement and in pursuance of his confessional statement under Ex.P15, he has seized the Hero Honda motorbike bearing Reg.No.TN-22-BE-5922 under Seizure Mahazar-Ex.P30. Similarly, A3 voluntarily gave confession statement and in pursuance of the confessional statement of A3 under Ex.P13, A3 took him to his house and handed over M.O.3-Plastic Bottle and M.O.4- Match box and the same have been recovered under the Mahazar-Ex.P32. He has also seized motor bike belonging to A3 bearing Reg.No.TN-21-AC-8515 under Seizure Mahazar-Ex.P33. He subjected A1 to A5 to judicial custody. He recorded the statements of the witnesses. He sent the seized properties to the Court in Form-95 under Ex.P34. He has also obtained report from Forensic Science Department and after completion of investigation, he has laid final report charging the accused under Sections 147, 148, 342 and 302 r/w. 149 IPC.



2.11. In order to prove the guilt of the accused persons, the prosecution has examined 16 witnesses, marked 34 exhibits and produced 4 material objects. The Trial Court, upon considering the oral and documentary evidence, found that the prosecution has failed to prove the Motive, Last Seen Theory, Recovery of Material Objects and Arrest of A1 to A5 with cogent, consistent and reliable evidence and found that A1 to A5 are not found guilty and acquitted them. Being aggrieved over the judgment of acquittal, PW1/defacto complainant / father of the deceased has preferred the present criminal appeal.

3. Though the name of the appellant was printed in the daily cause list and the learned counsel on record has not chosen to appear before this Court, this Court appointed Mr.N.Manoharan, learned counsel as Amicus Curiae to assist the Court.

4. Mr.N.Manoharan, learned Amicus Curiae appearing for PW1/defacto complainant would put forth the following submissions:

- i. The Court below failed to discord the evidence of PWs.1, 2, 9 and 10 on the ground that they are closely related to the deceased is unbelievable.
- ii. The Trial Court not believed the trustworthy of the deceased statement which has been recorded by PW13.



iii. The deceased dying declaration was recorded by PW11 in support of the prosecution, unfortunately the Court below failed to consider his evidence.

iv. The entire chain of circumstances coupled with the motive pointing out towards the guilt of the accused has been proved by the prosecution beyond reasonable doubt.

v. The evidence of PW21-Doctor, who registered Accident Register copy on 08.09.2014 in Ex.P21 and the Doctor – PW14 who conducted postmortem and issued the postmortem certificate- Ex.P3 clearly proved that the deceased died due to burn injuries.

vi. The dying declaration of the deceased under Ex.P20 recorded by PW11- learned Metropolitan Magistrate, Egmore, would clearly prove that the respondents / A1 to A5 poured petrol on the deceased and set him ablaze due to which he succumbed to death.

vii. The recovery of material objects under M.Os.1 to 4 by PW16/ I.O. based on the confessional statement of the accused proved that A1 to A5 poured petrol on the deceased, set him ablaze and caused his death.

viii. The motive for the commission of offence was also clearly proved by the statements of PWs.1, 2, 9 and 10. After the occurrence, the deceased was conscious and he narrated the entire occurrence to PWs.1 and 2 and even while he was taking treatment in Kilpauk Medical College Hospital, he has clearly given statement and the same has been recorded as dying declaration by the learned



Metropolitan Magistrate, Egmore.

ix. Disbelieving the evidence of PWs.1,2, 9 and 10 supporting the prosecution case, the Trial Court without considering the statement made by the deceased and without considering the dying declaration, acquitted the accused which is unsustainable in law.

x. Though the prosecution proved the case beyond all reasonable doubt, the Court below simply acquitting the accused is unsustainable in the eye of law and therefore, it is prayed that the judgment of acquittal passed by the Court below is liable to be set aside and the respondents / A1 to A5 are liable for conviction and sentence as per the charges framed by the Court below.

5. *Per contra*, learned counsel appearing for the respondents / accused would submit that this is a case of circumstantial evidence. PWs.1, 2 and 9 are not eyewitnesses to the occurrence, they are only hearsay witnesses. Though the prosecution has relied upon the evidence of PWs.1, 2 and 8, who are eye witnesses to the occurrence, there are many contradictions in their evidence and they cannot be relied upon. The dying declaration under Ex.P20 recorded by PW11 on the basis of Ex.P19- requisition given by the Investigating Officer would go to show that the prosecution has not come out with a true story, since while the deceased was admitted in Government Hospital at Sriperumbudhur, police came to the hospital and recorded the statement from the deceased. There are two versions coming out in this case and therefore, the prosecution has not



come forward with true case. The learned Trial Court, after analyzing the entire evidence brought by the prosecution, found that the evidence of PW1 is untrustworthy, not credible and the same is inconsistent with his complaint under Ex.P1. The prosecution has failed to prove the chain of circumstances of Motive, Last Seen Theory, Recovery and Medical Evidence in the manner known to law. The Court below rightly found that the respondents/ Accused 1 to 5 are not found guilty and acquitted them and there is no merit in the appeal and the same is liable to be dismissed.

6. We have considered the submissions made and perused the materials available on record.

7. It is the specific case of the prosecution that the alleged occurrence is said to have taken place at 2.00 a.m. on 08.09.2014 at Kaduvancherri Vannankuttai and thereafter, the deceased returned back at 3.00 a.m. and informed about the occurrence to PW1. Thereafter, the deceased was taken to Sriperumbudhur Government Hospital and again he was shifted to Kilpauk Medical College, Hospital and during the course of treatment, the deceased died at 1.15. a.m on 09.09.2014. According to the prosecution, PW1 lodged Ex.P1-complaint at 5.00 p.m. on 08.09.2014 before PW16 when the deceased was alive. PW16 registered the F.I.R under Ex.P24. The Trial Court observed that there is a delay of 15 hours to set the law in motion and there is no explanation,



since the distance between the scene of occurrence and police station is about 9 Kms. The respondents / A1 to A3 names were mentioned in Ex.P1, has come into existence after a delay of 15 hours. It is an admitted fact that between 3.00 a.m. and 6.00 p.m., on 08.09.2014, there are number of statements / reports recorded by PW16 and the Sub-Inspector of Police and also by the doctors attached to the Government Hospital, Sriperumbudhur and Kilpauk Medical College Hospital, Chennai as per the evidence of PW1.

8. PW1 has deposed that in the early morning hours on 08.09.2014, since after his admission, police from Sriperumbudhur Police Station came to the hospital and recorded statement from the deceased, obtained signatures in the statement at 5.00 a.m. In the statement also, as if doctors signed as witness and the earliest information given by the deceased in that report has not been produced before the Trial Court by the prosecution. PW1 further deposed that on 08.09.2014 at 9.00 a.m. at Kilpauk Medical College Hospital, the same Sriperumbudhur police came there and recorded statement from the deceased, in which both PW1 and the deceased signed in the said statements. According to PW1, apart from the two statements, the third statement was given at 6.00 p.m., at the police station as Ex.P1 and therefore, these statements have not been placed before the Trial Court, which raises a serious doubt about Ex.P1-complaint itself.



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9. PW12-Dr.Jayabharathi, who issued Ex.P21-Accident Register copy deposited that the deceased was brought by his mother Rani – PW9 and informed that 4 or 5 known persons abducted the deceased, poured kerosene and set him ablaze. The earlier information as per Accident Register copy indicates that 4 or 5 known persons abducted him, poured kerosene and set fire, but in Ex.P1/complaint it was alleged that petrol was poured and set fire.

10. The Dying Declaration under Ex.P20 has been recorded by PW11, learned XII Metropolitan Magistrate, Egmore, Chennai at 2.30 p.m. on 08.09.2014 at the Kilpauk Medical College Hospital. PW11 admitted that she received a requisition under Ex.P19 at 2.00 p.m. on 08.09.2014 from the Sub Inspector of Police, Sriperumbudhur, who recorded dying declaration by quoting the Cr.No.746/2014, on that basis only, she reached the hospital and recorded the dying declaration. From the evidence of PW11, the deceased was conscious even prior to 2.00 p.m. when FIR was registered by Sub Inspector of Police and therefore, the evidence of the Investigating Officer / PW16 is not acceptable one, since as per PW16 he had received information only at 6.00 p.m. on 08.09.2014. PW16 categorically deposed that he has not received any information prior to that and also deposed that he does not know anything about registration of the case in Cr.No.746/2014 by the Sub Inspector of Police prior



to 2.00 p.m. and also does not know about the requisition sent by the Sub Inspector of Police to record the dying declaration. The prosecution has not chosen to examine the Sub Inspector of Police, who has given Ex.P19-Requisition to PW11 by mentioning the crime number, by citing him as witness and also not chosen to examine him as witness on the side of the prosecution.

11. It is seen from Ex.P20-Dying Declaration that the names of A2, A4 and A5 have not been mentioned, but only the name of Murugan has been mentioned and in this case, two accused persons are named as Murugan viz., A1 and A3 and the deceased has not specifically stated which Murugan has poured Petrol and set him ablaze. In Ex.P20, it was also mentioned that the deceased informed the family members that the neighbours have set fire without mentioning the name of the persons. If that be the case, how PW1 has mentioned the names of the accused in the complaint given after a delay of 15 hours, which creates doubt over the prosecution case that PW1 deliberately has introduced the names of the accused after due embellishments.

12. As regards motive aspect, according to PW1, on 6.09.2014 the deceased is said to have seen A2's daughter bathing in the bathroom and in that regard only dispute arose and the same has been mentioned in Ex.P1. On the other hand, PW1 has deposed that A2 had quarrelled with PW1's family due to the reason that when A2's daughter was taking bath, the deceased had taken



photographs in his mobile phone. This is a contradictory version adduced by PW1.

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13. PW2 is the brother-in-law of PW1 and he is living at Elumayinkottur Village, which is far away from the place of occurrence. PW2 deposed that on 07.09.2014, he brought the deceased to the house of PW1 and he stayed in the night as he was not feeling well. On the next day on 08.09.2014, he saw burn injuries on the deceased and therefore, he took him in “108” Ambulance and in the ambulance, he asked about the alleged occurrence and the deceased in-turn informed that all the accused set fire by pouring petrol. Whereas PW16/Investigating Officer clearly deposed that PW2 was only a hearsay witness and he was not present in the alleged occurrence place at the time of occurrence.

14. PW1 categorically admitted that on 06.09.2014, PW2 came to his house and returned back to PW2’s home. PW16 admitted that PW1 never stated that PW2 stayed in his house on 07.09.2014. There are material contradictions appreciated by the Trial Court and therefore, rejected the testimonies of PWs.1 and 2.

15. PW2 has deposed that at Government Hospital, Sriperumbudhur, police have recorded statements and also taken photographs. PW9, who is the



wife of PW1, in her cross examination categorically deposed that her son was enquired both in the Government Hospital, Sriperumbudhur and Kilpauk Medical College Hospital, Chennai and recorded his statements. PW10 – Tmt.Ponnambal, who is the grandmother of the deceased, deposed that the deceased was assaulted by the accused by using wooden log.

16. PWs.1 and 9 did not depose anything about the presence of PW10. Further PW16 / Investigating Officer categorically admitted that PW10 is not related to PW1 and his family and she was staying along with her daughter at Ellaiamman Temple and the Investigating Officer admitted that both the family of PW1 and PW10 are different and therefore, the evidence of PW10 was rightly rejected by the Trial Court.

17. As per the dying declaration in Ex.P20, it has been stated that petrol was poured on the deceased, whereas in Ex.P21 – Accident Register copy, it has been mentioned that kerosene was poured on the deceased, but Ex.P22 – Forensic Analysis Report did not detect any petrol or kerosene in the material objects in M.Os.1 to 3. Further, M.O.3 – Plastic Bottle which was used for collecting petrol has not been sent to forensic department for analysis.

18. It is seen that prior to lodging complaint under – Ex.P1 on 08.09.2014 at 6.00 p.m. before PW16, many number of statements are said to have been



given by the deceased from early morning onwards to the doctor at Sriperumbudur Government Hospital and also to the Police Officer attached to Sriperumbudur Police Station and the same has been established from the evidence of PW1 and the above statements were not placed before the Court below by the prosecution for the reasons best known to them, which creates suppression of material statements in this case and also proved that earlier statement given by the deceased to the authorities is a different one contra to Ex.P1.

19. PW5- Tr.Viji and PW6-Tr.Muthu were examined to prove the preparation of Observation Mahazar, but they did not support the case of the prosecution and turned hostile. They deposed in their chief examination that 2 of 3 years prior to the occurrence, the deceased committed suicide by self immolation. Though the prosecution has treated them as hostile witness, they have not challenged this aspect in the cross examination done by them. Therefore, the evidence adduced by PW5 and PW6 that the deceased committed suicide by self immolation cannot be ruled out, since PW14- Doctor has admitted in the cross examination that even when a person tries to commit suicide by self immolation, the injuries would be caused.

20. The prosecution has relied upon the evidence of PW7 and PW8 with regard to arrest, confession and recovery, but they did not support the



prosecution case and turned hostile. Even as per the prosecution case, the respondents 1 and 2 used Motorcycle TN22-BE 5924 to go the place, likewise respondents 3 to 5 used the vehicle bearing Reg.No.TN 21 AC 8515. Though PW16 / I.O., has deposed that these two vehicles were seized from the accused, they were not produced before the Trial Court during trial and therefore, that circumstance was not established positively.

21. According to the prosecution, the deceased used motorbike bearing Reg.No.TN03 E 5407 to go to the place of occurrence, but PW16 during investigation has not seized the aforesaid vehicle and there is no proof that the said motorcycle was taken by the deceased. Had it been produced before the Trial Court, the truth would have come into light whether there was any damage or not and also about the ownership.

22. The prosecution miserably failed to bring home the guilt of the respondents / Accused and the Trial Court on a complete analysis of the oral and documentary evidence, had rightly acquitted the respondents/accused. The appellant/PW1 has not raised any valid ground in this appeal and the appellant has not brought out any evidence to support the case of the prosecution. There is no perversity in appreciation of evidence by the Trial Court. Therefore, there is no merit in this appeal and the same is liable to be dismissed.



23. Accordingly, this Criminal Appeal stands dismissed, confirming the judgment of acquittal dated 02.04.2019 made in S.C.No.107 of 2015 on the file of the District Munsif cum Judicial Magistrate Court, Sriperumbudur.

(P.V.,J.) (M.J.R.,J.)
21-01-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

JVM

4. State By

Inspector Of Police, Sriperumbudur Police Station, Sriperumbudur

5. The Public Prosecutor,
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3.The Additional District Court (Fast Track),
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motor bike to attend nature's call at Vannankuttai. PW1 informed the deceased to go along with the company of PW2, but the deceased left from the house at 3.00 a.m. in the night. The deceased returned back in his bike to his house screaming that 5 persons had waylaid and chased him. PW1 called "108" Ambulance and one doctor arrived in the ambulance. In front of his house, the doctor administered glucose by way of drips to the deceased and thereafter took the deceased to Sriperumbudhur Government Hospital, where the deceased had given statement stating that the respondents 1 to 5 / A1 to A5 poured petrol on him and set him ablaze.

2.4. Thereafter, the deceased was referred to Kilpauk Medical College Hospital, Chennai. While the deceased was in Sriperumpudhur Government Hospital, two Inspectors of Police came to the hospital and obtained statements from the deceased. While the deceased was taking treatment in Kilpauk Medical College Hospital, Chennai, two policemen came and obtained statement from the deceased. PW1 went to Sriperumbudhur Police Station and lodged a complaint under Ex.P1. On 09.09.2014 at night 1.15. a.m. deceased died. He has laid another complaint under Ex.P2 on 09.09.2014.

2.5. PW2-Tr.Murugesan, who is the brother-in-law of PW1 deposed that the deceased gone to PW2's house due to anger on 06.09.2014 and the same was informed to him by PW1. Since the deceased went to the house of PW2



due to some family issues, PW2 took the deceased to PW1's house on the next day i.e., 07.09.2014 and left him in PW1's house and he stayed in PW1's house since he was not feeling well. The deceased informed to PW1 that he was leaving the house to attend nature's call and in the early morning on 08.09.2014, the deceased returned back to his house screaming that somebody poured petrol on him and set him ablaze. They called "108" Ambulance and took the deceased in the ambulance. While travelling in the ambulance, the deceased told to PW2 that A1 to A5 waylaid him, poured petrol and set him ablaze. They admitted the deceased in Sriperumbudhur Government Hospital and thereafter, police arrived to the hospital, enquired the same and thereafter, the deceased was referred for further treatment to Kilpauk Medical College Hospital, Chennai.

2.6. PW12-Dr.Jayabharathi, Doctor at the Sriperumbudhur Government Hospital, deposed that on 08.09.2014, the deceased was brought by his mother Rani – PW9 and she informed that 4 or 5 persons waylaid the deceased, poured Kerosene, set him ablaze. PW12 issued the Accident Register – Ex.P21.

2.7. PW16 – Inspector of Police deposed that on 08.09.2014, he has received a complaint from PW1 at 4.00 p.m. and registered a case in Cr.No.746/2014 for the offences under Sections 147, 349, 323 and 307 IPC. He conducted investigation and went to the scene of occurrence and prepared Observation Mahazar – Ex.P6 and Rough Sketch – Ex.P25 in the presence of

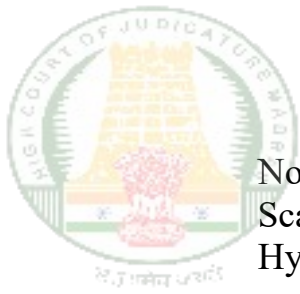


PW5 – Tr.Viji and PW6- Tr.Muthu. He has also seized from the scene of occurrence M.O.1- Burnt Ash and M.O.2 – Half burnt cloth under Seizure Mahazar – Ex.P27. He went to the hospital and recorded the statement from the deceased. The deceased died on the next day and he has altered the Section to 302 IPC. The Alteration Report is Ex.P25. He conducted inquest over the body of the deceased in the presence of panchayatdars and witnesses and prepared Inquest Report- Ex.P29.

2.8. PW11- Tmt.Lakshmi Ramesh, deposed that while she served as 12th Metropolitan Magistrate, Chennai, based on the request made by the Inspector of Police, Sriperumbudhur, she went to the Kilpauk Medical College Hospital, Chennai on 08.09.2014 at 12.30 p.m. She has recorded Dying Declaration under Ex.P20.

2.9. PW14-Dr.Pradeep Anand, who conducted autopsy on the dead body deposed that he has noticed the following injuries:

“Moderately nourished male body which lies on its back frothy discharge from both nostrils. Hair over the frontal area of scalp singed. Body wrapped with guaze, on removal of the gauze, epidermal dermoepidermal burns with denuded cuticle exposing the reddish area seen over the face, neck, chest & abdomen, whole of back. Front and back of both upper limbs. Both gluteals involved. Muscle deep burns over right lower quadrant of abdomen, inner sides of both thighs and perineum. Epidermal and dermo epidermal burns over front and back of both lower limbs with area below the right knee, dorsum of right foot spared. Both soles free.



No other external injury.

Scalp, bones, membranes: Intact. Brain: c/s: congest

Hyoid bone: intact. Larynx and trachea: edematous & congested.

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PW14 issued the postmortem certificate-Ex.P23 opining that the deceased would appear to have died of Shock due to Burns.

2.10. PW16 – Inspector of Police further deposed that in continuation of his investigation, on 09.09.2014 at 3.00 p.m., in Kolathur, he has arrested A1 to A5. On enquiry, A1 voluntarily gave confession statement and in pursuance of his confessional statement under Ex.P15, he has seized the Hero Honda motorbike bearing Reg.No.TN-22-BE-5922 under Seizure Mahazar-Ex.P30. Similarly, A3 voluntarily gave confession statement and in pursuance of the confessional statement of A3 under Ex.P13, A3 took him to his house and handed over M.O.3-Plastic Bottle and M.O.4- Match box and the same have been recovered under the Mahazar-Ex.P32. He has also seized motor bike belonging to A3 bearing Reg.No.TN-21-AC-8515 under Seizure Mahazar-Ex.P33. He subjected A1 to A5 to judicial custody. He recorded the statements of the witnesses. He sent the seized properties to the Court in Form-95 under Ex.P34. He has also obtained report from Forensic Science Department and after completion of investigation, he has laid final report charging the accused under Sections 147, 148, 342 and 302 r/w. 149 IPC.



2.11. In order to prove the guilt of the accused persons, the prosecution has examined 16 witnesses, marked 34 exhibits and produced 4 material objects. The Trial Court, upon considering the oral and documentary evidence, found that the prosecution has failed to prove the Motive, Last Seen Theory, Recovery of Material Objects and Arrest of A1 to A5 with cogent, consistent and reliable evidence and found that A1 to A5 are not found guilty and acquitted them. Being aggrieved over the judgment of acquittal, PW1/defacto complainant / father of the deceased has preferred the present criminal appeal.

3. Though the name of the appellant was printed in the daily cause list and the learned counsel on record has not chosen to appear before this Court, this Court appointed Mr.N.Manoharan, learned counsel as Amicus Curiae to assist the Court.

4. Mr.N.Manoharan, learned Amicus Curiae appearing for PW1/defacto complainant would put forth the following submissions:

xi. The Court below failed to discord the evidence of PWs.1, 2, 9 and 10 on the ground that they are closely related to the deceased is unbelievable.

xii. The Trial Court not believed the trustworthy of the deceased



statement which has been recorded by PW13.

xiii. The deceased dying declaration was recorded by PW11 in support of the prosecution, unfortunately the Court below failed to consider his evidence.

xiv. The entire chain of circumstances coupled with the motive pointing out towards the guilt of the accused has been proved by the prosecution beyond reasonable doubt.

xv. The evidence of PW21-Doctor, who registered Accident Register copy on 08.09.2014 in Ex.P21 and the Doctor – PW14 who conducted postmortem and issued the postmortem certificate- Ex.P3 clearly proved that the deceased died due to burn injuries.

xvi. The dying declaration of the deceased under Ex.P20 recorded by PW11- learned Metropolitan Magistrate, Egmore, would clearly prove that the respondents / A1 to A5 poured petrol on the deceased and set him ablaze due to which he succumbed to death.

xvii. The recovery of material objects under M.Os.1 to 4 by PW16/ I.O. based on the confessional statement of the accused proved that A1 to A5 poured petrol on the deceased, set him ablaze and caused his death.

xviii. The motive for the commission of offence was also clearly proved by the statements of PWs.1, 2, 9 and 10. After the occurrence, the deceased was conscious and he narrated the entire occurrence to PWs.1 and 2 and even while he was taking treatment in



Kilpauk Medical College Hospital, he has clearly given statement and the same has been recorded as dying declaration by the learned Metropolitan Magistrate, Egmore.

xix. Disbelieving the evidence of PWs.1,2, 9 and 10 supporting the prosecution case, the Trial Court without considering the statement made by the deceased and without considering the dying declaration, acquitted the accused which is unsustainable in law.

xx. Though the prosecution proved the case beyond all reasonable doubt, the Court below simply acquitting the accused is unsustainable in the eye of law and therefore, it is prayed that the judgment of acquittal passed by the Court below is liable to be set aside and the respondents / A1 to A5 are liable for conviction and sentence as per the charges framed by the Court below.

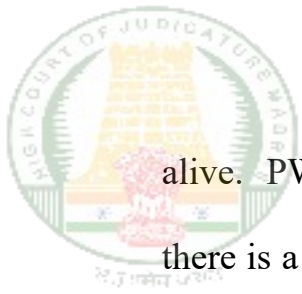
5. *Per contra*, learned counsel appearing for the respondents / accused would submit that this is a case of circumstantial evidence. PWs.1, 2 and 9 are not eyewitnesses to the occurrence, they are only hearsay witnesses. Though the prosecution has relied upon the evidence of PWs.1, 2 and 8, who are eye witnesses to the occurrence, there are many contradictions in their evidence and they cannot be relied upon. The dying declaration under Ex.P20 recorded by PW11 on the basis of Ex.P19- requisition given by the Investigating Officer would go to show that the prosecution has not come out with a true story, since while the deceased was admitted in Government Hospital at Sriperumbudhur,



police came to the hospital and recorded the statement from the deceased. There are two versions coming out in this case and therefore, the prosecution has not come forward with true case. The learned Trial Court, after analyzing the entire evidence brought by the prosecution, found that the evidence of PW1 is untrustworthy, not credible and the same is inconsistent with his complaint under Ex.P1. The prosecution has failed to prove the chain of circumstances of Motive, Last Seen Theory, Recovery and Medical Evidence in the manner known to law. The Court below rightly found that the respondents/ Accused 1 to 5 are not found guilty and acquitted them and there is no merit in the appeal and the same is liable to be dismissed.

6. We have considered the submissions made and perused the materials available on record.

7. It is the specific case of the prosecution that the alleged occurrence is said to have taken place at 2.00 a.m. on 08.09.2014 at Kaduvancherri Vannankuttai and thereafter, the deceased returned back at 3.00 a.m. and informed about the occurrence to PW1. Thereafter, the deceased was taken to Sriperumbudhur Government Hospital and again he was shifted to Kilpauk Medical College, Hospital and during the course of treatment, the deceased died at 1.15. a.m on 09.09.2014. According to the prosecution, PW1 lodged Ex.P1-complaint at 5.00 p.m. on 08.09.2014 before PW16 when the deceased was



alive. PW16 registered the F.I.R under Ex.P24. The Trial Court observed that there is a delay of 15 hours to set the law in motion and there is no explanation, since the distance between the scene of occurrence and police station is about 9 Kms. The respondents / A1 to A3 names were mentioned in Ex.P1, has come into existence after a delay of 15 hours. It is an admitted fact that between 3.00 a.m. and 6.00 p.m., on 08.09.2014, there are number of statements / reports recorded by PW16 and the Sub-Inspector of Police and also by the doctors attached to the Government Hospital, Sriperumbudhur and Kilpauk Medical College Hospital, Chennai as per the evidence of PW1.

8. PW1 has deposed that in the early morning hours on 08.09.2014, since after his admission, police from Sriperumbudhur Police Station came to the hospital and recorded statement from the deceased, obtained signatures in the statement at 5.00 a.m. In the statement also, as if doctors signed as witness and the earliest information given by the deceased in that report has not been produced before the Trial Court by the prosecution. PW1 further deposed that on 08.09.2014 at 9.00 a.m. at Kilpauk Medical College Hospital, the same Sriperumbudhur police came there and recorded statement from the deceased, in which both PW1 and the deceased signed in the said statements. According to PW1, apart from the two statements, the third statement was given at 6.00 p.m., at the police station as Ex.P1 and therefore, these statements have not been placed before the Trial Court, which raises a serious doubt about Ex.P1-



complaint itself.

9. PW12-Dr.Jayabharathi, who issued Ex.P21-Accident Register copy deposed that the deceased was brought by his mother Rani – PW9 and informed that 4 or 5 known persons abducted the deceased, poured kerosene and set him ablaze. The earlier information as per Accident Register copy indicates that 4 or 5 known persons abducted him, poured kerosene and set fire, but in Ex.P1/complaint it was alleged that petrol was poured and set fire.

10. The Dying Declaration under Ex.P20 has been recorded by PW11, learned XII Metropolitan Magistrate, Egmore, Chennai at 2.30 p.m. on 08.09.2014 at the Kilpauk Medical College Hospital. PW11 admitted that she received a requisition under Ex.P19 at 2.00 p.m. on 08.09.2014 from the Sub Inspector of Police, Sriperumbudhur, who recorded dying declaration by quoting the Cr.No.746/2014, on that basis only, she reached the hospital and recorded the dying declaration. From the evidence of PW11, the deceased was conscious even prior to 2.00 p.m. when FIR was registered by Sub Inspector of Police and therefore, the evidence of the Investigating Officer / PW16 is not acceptable one, since as per PW16 he had received information only at 6.00 p.m. on 08.09.2014. PW16 categorically deposed that he has not received any



information prior to that and also deposed that he does not know anything about registration of the case in Cr.No.746/2014 by the Sub Inspector of Police prior to 2.00 p.m. and also does not know about the requisition sent by the Sub Inspector of Police to record the dying declaration. The prosecution has not chosen to examine the Sub Inspector of Police, who has given Ex.P19-Requisition to PW11 by mentioning the crime number, by citing him as witness and also not chosen to examine him as witness on the side of the prosecution.

11. It is seen from Ex.P20-Dying Declaration that the names of A2, A4 and A5 have not been mentioned, but only the name of Murugan has been mentioned and in this case, two accused persons are named as Murugan viz., A1 and A3 and the deceased has not specifically stated which Murugan has poured Petrol and set him ablaze. In Ex.P20, it was also mentioned that the deceased informed the family members that the neighbours have set fire without mentioning the name of the persons. If that be the case, how PW1 has mentioned the names of the accused in the complaint given after a delay of 15 hours, which creates doubt over the prosecution case that PW1 deliberately has introduced the names of the accused after due embellishments.

12. As regards motive aspect, according to PW1, on 6.09.2014 the deceased is said to have seen A2's daughter bathing in the bathroom and in that regard only dispute arose and the same has been mentioned in Ex.P1. On the



other hand, PW1 has deposed that A2 had quarrelled with PW1's family due to the reason that when A2's daughter was taking bath, the deceased had taken photographs in his mobile phone. This is a contradictory version adduced by PW1.

13. PW2 is the brother-in-law of PW1 and he is living at Elumayinkottur Village, which is far away from the place of occurrence. PW2 deposed that on 07.09.2014, he brought the deceased to the house of PW1 and he stayed in the night as he was not feeling well. On the next day on 08.09.2014, he saw burn injuries on the deceased and therefore, he took him in "108" Ambulance and in the ambulance, he asked about the alleged occurrence and the deceased in-turn informed that all the accused set fire by pouring petrol. Whereas PW16/Investigating Officer clearly deposed that PW2 was only a hearsay witness and he was not present in the alleged occurrence place at the time of occurrence.

14. PW1 categorically admitted that on 06.09.2014, PW2 came to his house and returned back to PW2's home. PW16 admitted that PW1 never stated that PW2 stayed in his house on 07.09.2014. There are material contradictions appreciated by the Trial Court and therefore, rejected the testimonies of PWs.1 and 2.



15. PW2 has deposed that at Government Hospital, Sriperumbudhur, police have recorded statements and also taken photographs. PW9, who is the wife of PW1, in her cross examination categorically deposed that her son was enquired both in the Government Hospital, Sriperumbudhur and Kilpauk Medical College Hospital, Chennai and recorded his statements. PW10 – Tmt.Ponnambal, who is the grandmother of the deceased, deposed that the deceased was assaulted by the accused by using wooden log.

16. PWs.1 and 9 did not depose anything about the presence of PW10. Further PW16 / Investigating Officer categorically admitted that PW10 is not related to PW1 and his family and she was staying along with her daughter at Ellaiamman Temple and the Investigating Officer admitted that both the family of PW1 and PW10 are different and therefore, the evidence of PW10 was rightly rejected by the Trial Court.

17. As per the dying declaration in Ex.P20, it has been stated that petrol was poured on the deceased, whereas in Ex.P21 – Accident Register copy, it has been mentioned that kerosene was poured on the deceased, but Ex.P22 – Forensic Analysis Report did not detect any petrol or kerosene in the material objects in M.Os.1 to 3. Further, M.O.3 – Plastic Bottle which was used for collecting petrol has not been sent to forensic department for analysis.



18. It is seen that prior to lodging complaint under – Ex.P1 on 08.09.2014 at 6.00 p.m. before PW16, many number of statements are said to have been given by the deceased from early morning onwards to the doctor at Sriperumbudur Government Hospital and also to the Police Officer attached to Sriperumbudur Police Station and the same has been established from the evidence of PW1 and the above statements were not placed before the Court below by the prosecution for the reasons best known to them, which creates suppression of material statements in this case and also proved that earlier statement given by the deceased to the authorities is a different one contra to Ex.P1.

19. PW5- Tr.Viji and PW6-Tr.Muthu were examined to prove the preparation of Observation Mahazar, but they did not support the case of the prosecution and turned hostile. They deposed in their chief examination that 2 of 3 years prior to the occurrence, the deceased committed suicide by self immolation. Though the prosecution has treated them as hostile witness, they have not challenged this aspect in the cross examination done by them. Therefore, the evidence adduced by PW5 and PW6 that the deceased committed suicide by self immolation cannot be ruled out, since PW14- Doctor has admitted in the cross examination that even when a person tries to commit suicide by self immolation, the injuries would be caused.



20. The prosecution has relied upon the evidence of PW7 and PW8 with regard to arrest, confession and recovery, but they did not support the prosecution case and turned hostile. Even as per the prosecution case, the respondents 1 and 2 used Motorcyle TN22-BE 5924 to go the place, likewise respondents 3 to 5 used the vehicle bearing Reg.No.TN 21 AC 8515. Though PW16 / I.O., has deposed that these two vehicles were seized from the accused, they were not produced before the Trial Court during trial and therefore, that circumstance was not established positively.

21. According to the prosecution, the deceased used motorbike bearing Reg.No.TN03 E 5407 to go to the place of occurrence, but PW16 during investigation has not seized the aforesaid vehicle and there is no proof that the said motorcycle was taken by the deceased. Had it been produced before the Trial Court, the truth would have come into light whether there was any damage or not and also about the ownership.

22. The prosecution miserably failed to bring home the guilt of the respondents / Accused and the Trial Court on a complete analysis of the oral and documentary evidence, had rightly acquitted the respondents/accused. The appellant/PW1 has not raised any valid ground in this appeal and the appellant has not brought out any evidence to support the case of the prosecution. There is no perversity in appreciation of evidence by the Trial Court. Therefore, there



is no merit in this appeal and the same is liable to be dismissed.

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23. Accordingly, this Criminal Appeal stands dismissed, confirming the judgment of acquittal dated 02.04.2019 made in S.C.No.107 of 2015 on the file of the District Munsif cum Judicial Magistrate Court, Sriperumbudur.

(P.V.,J.) (M.J.R.,J.)
21-01-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

JVM

6. State By

Inspector Of Police, Sriperumbudur Police Station, Sriperumbudur

7. The Public Prosecutor,
High Court, Madras.

3.The Additional District Court (Fast Track),
Kancheepuram.



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CRL A No. 582 of 2



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

JVM

CRL A No. 582 of 2019

21-01-2026