



WEB COPY

CRL RC Nos.764, 932/20
& 39 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-01-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL RC Nos.764, 932 of 2021 and 39 of 2022

1. Prabhu S/o.Manoharan,
Santhaipettai St., Veeraganur,
Kengavalli, Salem District.

2. Arun S/o.Manoharan,
Santhaipettai St., Veeraganur,
Kengavalli, Salem District.

A3 & A4/Petitioners in
Crl.RC 764/2021

Thomas Arun Prasath S/o.Simbarnoss
No.15/386, New Colony Street,
Chinnamuttam Post,
Kanyakumari District.

A2/Petitioner in
Crl.RC 932/2021

Chandrasekar @ Vasudevan,
S/o.Maadhu,
6/128, Thindalanur,
Kadathur Post,
Dharmapuri.

A1/Petitioner in
Crl.RC 39/2022

Vs

The State Rep By
The Inspector of Police,
Palladam Police Station,
Cr No. 381/2013
Tiruppur District.

Respondent in all the
three Appeals



Prayer in Crl.A.No.764/2021

To call for the records relating to the conviction imposed in the judgment dated 18.6.2021 made in C.A.No.89 of 2018 on the file of the Principal Sessions Court, Tiruppur, confirming the conviction imposed in the judgment dated 13.8.2018 made in S.C.No.148 of 2013 on the file of the Assistant Sessions Judge/Sub Judge, Palladam and set aside the same by allowing the Criminal Revision Case.

Prayer in Crl.A.No.932/2021

To set aside the judgment and conviction dated 18.6.2021 made in C.A.No.89 of 2018 on the file of the Principal Sessions Judge, Tiruppur, confirming the judgment and conviction order in S.C.No.148 of 2013 on the file of the Sub Judge/Assistant Sessions Judge, Palladam by its judgment dated 13.8.2018 and acquit the petitioner/2nd accused.

Prayer in Crl.A.No.39/2022

To call for the records culminating the impugned judgment dated 18.6.2021 passed in C.A.No.89 of 2018 by the Principal Sessions Judge, Tiruppur, modifying the judgment dated 13.8.2018 passed in S.C.No.148 of 2013 by the Assistant Sessions Judge/Sub Judge, Palladam, examine the correctness, legality and propriety of the findings made therein and set aside the same.

For Petitioners in
Crl.RC 764/2021:

N. Manoharan

For petitioner in
Crl.RC 932/2021:

Mr.N.Damodaran



WEB COPY

CRL RC Nos.764, 932/20
& 39 of 20



For petitioner in
Crl.RC 39/2022:

Mr.Deepan Uday

For Respondent:

M/s.S.Udayakumar,
Government Advocate (Crl. Side)
assisted by Ms.Harshana.T

COMMON ORDER

Challenging the judgment of conviction dated 13.8.2018 rendered by the Subordinate Judge, Palladam in S.C.No.148 of 2013, which stands confirmed except with a slight modification in respect of legal provision with regard to conviction alone by the Principal Sessions Judge, Tiruppur in Criminal Appeal No.89 of 2018 vide judgment dated 18.6.2021, the present Criminal Revision Cases have been filed.

2. Criminal Revision Case No.764 of 2021 has been filed by A3 and A4. Criminal Revision Case No. 932 of 2021 has been filed by A2 while Criminal Revision Case No.39 of 2022 has been filed by A1. Since all the revisions arise out of the common Criminal Appeal and Sessions Case, they are taken up and disposed by a common order.

3. For convenience and clarity, the parties are referred as per their ranking before the Trial Court.



4. The petitioners/A1 to A4 were tried by the Trial Court in S.C.No.148 of 2013 and an order of conviction and sentence was imposed as under:-

Ranking	Legal Provision	Sentence
A1	Section 397 r/w 34 IPC	5 years rigorous imprisonment and fine of Rs.5000/- in default to undergo 3 months simple imprisonment
A2	Section 397 IPC	5 years rigorous imprisonment and fine of Rs.5000/- in default to undergo 3 months simple imprisonment
A3 & A4	Section 397 r/w 109 IPC	5 years imprisonment and fine of Rs.2000/- in default to undergo 3 months simple imprisonment

5. All the accused preferred appeal in Criminal Appeal No.89 of 2018. The Principal Sessions Judge, Tiruppur, by judgment dated 18.6.2021, dismissed the Appeal except modifying the legal provision of conviction in respect of A1, A3 and A4. Challenging the said conviction and sentence, the present appeals have been filed by all the accused.

6. The case of the prosecution is as under:-

i) The de facto complainant Arulprakash, PW1, is a driver employed at A.K. Travels, Coimbatore, owned by PW2. The petitioners herein are friends. The petitioner/accused 1, 2 and 4 are working in Brookefield, Sathyam Cinemas at Coimbatore. A3 is the brother of A4. A3 had illicit intimacy with one lady by name Vennila and since her husband was an obstacle, they planned to



eliminate him and all accused joined together, conspired to commit murder.

ii) For that purpose, A1 and A2, at the instigation of A3 and A4, hatched a plan and decided to steal a car and to use the car to eliminate the husband of the said Vennila. A3 agreed to pay a sum of Rs.70,000/- to A1 and A2 and A4 had permitted A1 and A2 to withdraw a sum of Rs.25,000/- using ATM card for that purpose.

iii) Thereafter, A1 and A2, on 8.3.2013 at about 8.00 pm, called A.K.Travels and hired a car to travel to Palani. PW2, the owner of the said Travels insisted their address. A1 and A2 forwarded their address through SMS Saravana Complex, Punniagodi Street, Coimbatore-2 and informed they are staying at CIG Pride Lodge. PW2 directed his Driver PW1/de facto complainant for the Trip and gave the address of A1 and A2.

iv) The de facto complainant picked up A1 and A2 in TATA Indica Car, bearing reg. No. TN 38 BD 6797. The de facto complainant was asked by A1 and A2 to stop the car near Palani Temple and after one hour, they again asked him to drop them at Palladam Bus stand. When the car was nearing Pulliappampalayam Junction, A1 and A2 asked PW1 to stop the car.

v) On 09.03.2013 at about 05.00 a.m., one of the occupant of the car viz., A2, who was sitting in the front seat, punched the driver/PW1 on his face and the other accused viz., A1, who was sitting in the rear seat, caught hold of PW1 and shut his mouth and pulled him out of the car, A2 inflicted cut injuries on the cheek of the de facto complainant and thereafter, both A1 and A2 pushed him to



a thorny bush off the road and fled from there taking away the car.

vi) On hearing the cry of the de facto complainant, PW5, a passer-by, rushed there, with the help of local people, sent PW1 to the Government Hospital, Palladam for treatment through 108 Ambulance. From Palladam Government Hospital, information sent to the respondent police.

vii) PW9, Head Constable, on receiving of information from the Government Hospital, Palladam, went there, recorded the statement of the victim, Ex.P1 and registered the First Information Report, Ex.P12 and informed PW10, the Inspector of Police about the case.

viii) PW10, Inspector of Police, took up the case for investigation, visited scene of occurrence, prepared Observation Mahazar, rough sketch, collected blood stained earth, plain earth and other articles from the scene.

ix) In the meanwhile, PW2 was informed about the incident. On receiving information, PW2 alongwith PW7 rushed to Government Hospital, Palladam and took PW1 to Kongunadu Hospital, Coimbatore.

x) PW10, Inspector of Police collected call details of A1 and A2 and found tower location showing both in Cuddalore. Following the lead, PW10 alongwith PW2 and PW7 went to Cuddalore, found A1 and A2 were in occupation of a room in RR Lodge, Cuddalore, enquired PW6, Manager of the said Lodge, who confirmed A1 and A2 coming to the lodge in a TATA Indica car at the time of taking the room on 9.3.2013. Thereafter, PW10 along with PWs.2, 7 and 10 went to Room No.213, where A1 and A2 were staying. Both



were enquired and they admitted about the occurrence, A1 produced M.O.1 stainless steel knife with blood stains and M.O.2 TATA Indica car. Thereafter, both accused arrested in the presence of witnesses, confession statements, Exs.P15 and P16 recorded, on confession of A1 and A2, M.O.3 and M.O.4 mobile phones and sim cards seized.

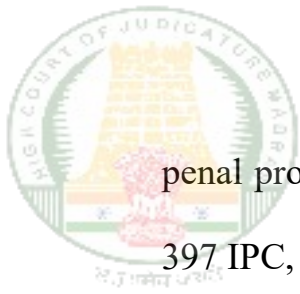
xi) Based on the confession statements of A1 and A2, the role of A3 and A4 revealed and they were arrested, A3 gave confession. Thereafter, A1 to A4 all produced for remand before the court alongwith alteration report, all remanded to judicial custody.

xii) On 28.3.2013, test identification parade conducted in the presence of PW12, Judicial Magistrate VI, Coimbatore, wherein, A1 and A2 were identified by PW1.

xiii) In the meanwhile, the Inspector of Police, PW10 was transferred and his successor, PW11 took up investigation and recorded the statements of witnesses, laid the charge sheet against all the accused.

xiv) Thereupon, the Trial Court framed charges against A1 under Section 394 read with Section 397/34 of IPC, against A2 under Section 394 read with Section 397 of IPC and against A3 and A4, under Section 394 read with Section 397/109 of IPC.

xv) Before the Trial Court, P.Ws.1 to 12 examined. Exs.P1 to P21 marked and M.O.s 1 to 4 produced. On conclusion of trial, the Trial Court convicted the petitioners as stated above. The lower appellate court, except modifying the



penal provision of conviction viz., to one under Section 394 instead of Section 397 IPC, confirmed the conviction and sentence rendered by the Trial Court.

WEB COPY

7. The crux of the contention of the learned counsel for the petitioners/A1 and A2 is as under:-

i) The petitioners convicted by the court below without proper analysis of evidence and materials.

ii) The alleged occurrence is said to have been taken place between the night of 8.3.2013 and at the odd hours of 9.3.2013. The petitioners arrested on 13.3.2013, however, the test identification parade conducted only on 28.3.2013, in the meanwhile, the arrest of the petitioners and their photos were published in newspapers and further telecasted in the media, and hence, test identification loses its significance.

iii) In this case, except the evidence of PW1, there is no iota of material to connect the petitioners with the crime. PW1 admits that whenever he was engaged as taxi driver, trip sheet would be prepared with the details of the passengers like name and mobile numbers and thereafter, the vehicle would be engaged, but, no such trip sheet details produced either by PW1 or PW2.

iv) Though the investigating officer had stated that he had collected the tower locations and based on which he went to Cuddalore, no such records obtained from mobile service provider and produced to show that the petitioners/A1 and A2 were in Cuddalore.



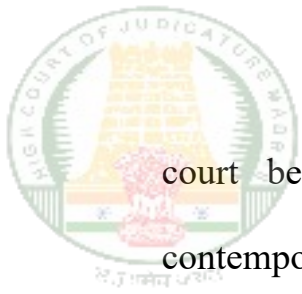
v) Similarly, A1 and A2 were attributed with the motive that they were engaged by A3 and A4 to murder the husband of one Vennila, but, neither the said Vennila nor her husband examined in this case. PW2 was closely associated with the respondent police and for statistical purpose, they are shown as accused in this case and projected car recovered from the petitioners.

vi) P.Ws.1, 2 and 7 are closely associated. PW1 and PW7 drivers employed by PW2. All are interested witnesses. In this case, the identity of the accused and recovery of M.Os. not proved. PW3 and PW4, witnesses to observation mahazar and rough sketch, not supported the case of the prosecution. PW6 not identified A1 and A2. The recovery of M.O.2 car is highly doubtful. These material contradictions not considered by the courts below and hence the petitioners are entitled to be acquitted.

8. The submissions of the learned counsel for A3 and A4 are as under:-

i) There is no material to connect A3 and A4 with the case projected by the prosecution along with A1 and A2, no material produced except a version recorded in the confession statements of A1 and A2 that A3 having illicit relationship with one Vennila and her husband was an obstacle for their relationship and hence planned to eliminate him and A3 and A4 engaged A1 and A2 to hire a car and kill the husband of the said Vennila and the above incident had taken place.

ii) The confession of A3 does not make out any disclosure. Though the



court below found that a mobile phone was recovered from A3, no contemporary material produced to connect A3 with the offence. Except the confession statements of A1 and A2, there is nothing even to remotely suggest that A3 and A4 were connected with the act of A1 and A2.

iii) The courts below wrongly applied the decision of the Apex Court in ***Raju Manjhi vs. State of Bihar*** (2019) 12 SCC 784 to the facts of the present case to confirm the conviction of A3 and A4 as in the said decision, it is seen, there was some recovery, which led to inference of participation of the co-accused with the act of the main accused, whereas in the present case, nothing recovered even remotely to suggest that there is any connection between A3 and A4 with the other accused viz., A1 and A2.

9. The submissions of the learned Government Advocate (Criminal Side) are as under:-

PW1, a tourist car driver, is the victim, who suffered severe injuries. PW2 is running AK Travels Tourist cab centre. A1 and A2 called PW2 and hired a car on the premise that they need to go to Palani temple. PW2 had entrusted the job to PW1 and accordingly, PW1 picked up A1 and A2 in his car and went to Palani and after spending some time there, A1 and A2 while returning and when the car was nearing Pulliappampalayam Junction, A1 and A2 attacked PW1 using knife M.O.1 and caused grievous injuries and forcibly pulled PW1 from the car and thrown in a nearby bush. Thereafter, A1 and A2



had fled from the scene of occurrence taking the car. On the cry of PW1, PW5, a passer by, came there and took him to the Government Hospital, Palladam and on receipt of information from the Hospital, the Sub Inspector of Police PW9, rushed to the hospital, recorded the statement of the victim. By that time PW2 and PW7 also reached the hospital. Thereafter, PW2 took the injured to Kongunadu Hospital, Coimbatore. In the meanwhile, PW9, Head Constable, recorded the statement of the victim and registered the FIR. PW10, Inspector of Police, during the course of investigation, visited the scene of occurrence, prepared Observation Mahazar, rough sketch collected blood stained earth, plain earth and other articles from the scene of occurrence, A1 and A2 traced from the call details of their mobile numbers given by them to PW1 and PW2 when they hired the Cab and tower location lead to Cuddalore, PW2, PW7 went along with PW10 to RR Lodge at Cuddalore. PW6 confirmed stay of A1 and A2 in the said lodge, PW10 went to the room where A1 and A2 staying, enquired and arrested them, seized the weapon viz., knife used for the offence from A1 and A2 and the car taken by them. Both A1 and A2 gave confession statement disclosing the fact of involvement of A3 and A4 in the offence, they were also arrested thereafter, all the four accused produced for judicial remand. The Test Identification Parade conducted by PW12, Judicial Magistrate VI, Coimbatore, where PW1 identified A1 and A2. The prosecution proved its case with the chain of sufficient evidence and materials and both Trial Court and the lower appellate court found the accused guilty of the offences and



rendered the judgment of conviction and sentence, which do not warrant any interference.

WEB COPY

10. Heard the learned counsel appearing for the parties and perused the materials available on record.

11. Considering the submissions and the materials produced, it is seen that in this case, PW1 is a injured witness and PW2 is the employer of PW1. They have deposed clearly about A1 and A2 calling PW2 and hired a car. PW1 took A1 and A2 to Palani and on return from Palani, when they were nearing Pulliappampalayam Junction, PW1 was attacked and inflicted with cut injuries and subsequently, thrown to a nearby fence. PW1 clearly deposed the occurrence and the evidence of PW5, a passer-by, who assisted in taking PW1 to the Government Hospital, Palladam corroborates the sequence without any doubt. Recording of the complaint from PW1 deposed by PW9, who, on receipt of information from the Government Hospital and visited the hospital without delay. The shifting of PW1 from Government Hospital, Palladam to Kongunadu Hospital by PW2 and PW7, the employer of PW1 and the co-employee of PW1 deposed clearly and the same confirmed by contemporary medical records. PW1 identified A1 and A2 in the test identification parade conducted by PW12, Judicial Magistrate VI, Coimbatore and before the Court. Thus, the active role and overtact against A1 and A2 clearly deposed by PW1



and well corroborated by PW2, PW7 and PW12.

WEB COPY

12. As regards A3 and A4, they are roped in the case on the confession of A1 and A2. Apart from confession, there is no material to connect them with the case. While the case of the prosecution is that A1, A2 and A4 employed at Brookefield, Sathyam Cinemas at Coimbatore and A3, the brother of A4, was having illicit intimacy with one lady called Vennila and to eliminate the husband of the said Vennila, A1 and A2 engaged and A3 gave Rs.75,000/- in cash and A4 permitted A1 and A2 to withdraw Rs.25,000/- using his ATM card is the case projected against A3 and A4 but, no material produced by the prosecution.

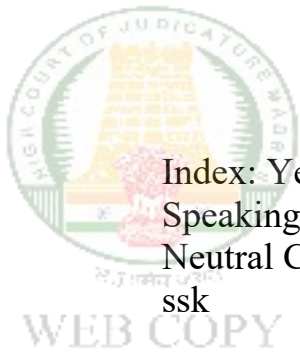
13. Further, PW1 and PW2 not stated anything about A3 and A4. There is nothing to connect A3 and A4 with A1 and A2 in any manner. There is no call details or any other link to prove that A3 and A4 are connected with A1 and A2. In this case, the only material against A3 and A4 is the confession statements of A1 and A2, which alone, without any corroboration, will not be sufficient and proper to link them in this case. Hence, the conviction of A3 and A4 not sustainable. The decision relied on by the courts below to convict A3 and A4 will not be applicable to the facts and circumstances of this case. The learned Government Advocate (Criminal Side) confirm that A3 and A4 have got no criminal antecedents, except the present case.



14. In view of the above, this court allows the Criminal Revision Case No.764 of 2021 filed by A3 and A4 and set aside the judgment of conviction and sentence rendered against them and acquits them from all of charges. They are set at liberty forthwith. Bail bond executed by them, if any, shall stand cancelled.

15. As regards A1 and A2, PW1 clearly spoken about their overtacts, which is corroborated by PW2, PW7 and PW12 along with materials. In view of the same, the conviction rendered against them is sustained. It is submitted by the learned Government Advocate (Criminal Side) that A1 and A2 were arrested in this case on 13.3.2013 and they were in prison till 2.5.2013 as under trial prisoners and after the conviction A1 had been in prison from 18.6.2021 to 12.4.2022 and A2 had been in prison from 18.6.2021 to 22.4.2022. Both A1 and A2 have no antecedents, both got into the entanglement, due to acquaintance and misadventure, after this case, not involved in any other case. Hence, this court, while confirming the conviction rendered against A1 and A2, modifies and restricts the sentence imposed against them to the period already undergone by them. Criminal Revision Case Nos.932 of 2021 and 39 of 2022 are allowed in part to the extent indicated above.

08-01-2026



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

To

1. Principal Sessions Court, Tiruppur,
2. Assistant Sessions Judge/Sub Judge, Palladam
3. Public Prosecutor, High Court, Madras.
4. The Inspector of Police,
Palladam Police Station,
Tiruppur District.



WEB COPY

CRL RC Nos.764, 932/20
& 39 of 20



M.NIRMAL KUMAR, J.

ssk

**CRL RC Nos.764, 932
of 2021 and 39 of 2022**

08-01-2026