



CrI.A.No.659 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**RESERVED ON : 27.01.2026
DELIVERED ON : 12.02.2026**

CORAM :

THE HON'BLE MR. JUSTICE P.VELMURUGAN

AND

THE HON'BLE MR. JUSTICE M. JOTHIRAMAN

CrI.A.No.659 of 2019

The State represented by
The Inspector of Police,
Thittakudi Police Station,
Cuddalore District.
[Crime No.247 / 2010]

.. Appellant / Complainant

Versus

1.Ambedkar

2.Pennadathan @ Muthukumar

... Respondents / A1 and A2

Criminal Appeal filed under Sections 378 of Criminal Procedure Code, praying to set aside the judgment of acquittal in Sessions Case No.51 of 2018 dated 07.02.2019 passed by the learned III Additional District and Sessions Court, Cuddalore at Vridhachalam.

For Appellant : Mr.A.Damodaran,
Additional Public Prosecutor,
assisted by

Mr.Arifa Thasneem

For Respondents : Mr.P.Vijendran



JUDGMENT

M.JOTHIRAMAN, J.

The State has preferred this criminal appeal as against the judgment of acquittal dated 07.02.2019 made in S.C.No.51 of 2018 on the file of the III Additional District and Sessions Court, Cuddalore at Virudhachalam, in and by which the trial Court has acquitted the accused 1 and 2 for the offences under Sections 120(B) r/w. 302 IPC. Originally there are four accused, out of which the case against the 3rd accused was quashed as per the order of the High Court and 4th accused died pending trial. The accused 1 and 2 are the respondents herein.

2. Brief case of the prosecution is as follows:

2.1. PW1 – Muthumizhvannan is the brother of the deceased – Kanthamizh Ilavazhagan. Accused 1 and 2 are friends. Accused 1 and 3 are the sons of A4, who died pending trial. PW1 deposed that there is enmity between the family of PW1 and the deceased family with regard to land. The deceased had illegal intimacy / relationship with the sister of A1. Both families warned them, but they did not accede to. In this regard, a criminal complaint has been lodged against the deceased by A1 before Vaniyampadi All Women Police Station and thereafter, the said case was dismissed.



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2.2. There was a marriage proposal initiated to the deceased to convene the marriage on 25.04.2010. While so, A1 warned the deceased saying that the deceased spoiled the life of his sister and if the deceased got married, he will kill him or otherwise, the deceased should pay Rs.1 lakh. PW1's family continued the marriage process. On 23.04.2010, the deceased went to buy dinner for her mother from Keezhservay to Thittakudi in his motorcycle at 10.00 p.m. The deceased did not return back to home and at about 11.00 p.m. PW1 was informed by many people saying that the deceased was lying in front of one Manickam's house with cut injuries. Immediately, PW1, his mother and wife rushed to the place of occurrence and saw that the deceased was lying in a pool of blood with cut injuries at 11.30 p.m. He went to the police station and lodged the complaint – Ex.P1.

2.3. PW3 – Tr.Jothimani deposed that he knew PW1. He knew that there is enmity between PW1's family and accused family with regard to land. He also deposed that there is an illicit relationship between the deceased and A1's sister. While he was returning home from Thittakudi on 23.04.2010 at 10.30 p.m., he saw the deceased travelling in his motor cycle



towards his house. While so, A1 and A2 waylaid him and A1 tried to assaulted the deceased with billhook on his neck. The deceased prevented the same in his hand and therefore, he received cut in his hands. A2 assaulted the deceased with billhook on his left leg. Then, A1 again assaulted the deceased on his neck and he fell down with his motorbike. A1 and A2 repeatedly assaulted the deceased with billhooks. The deceased died. He saw the occurrence from a distance and due to fear, he did not went near where the deceased was lying dead. Thereafter many people arrived and he informed the same to PW1.

2.4. PW7-Tr.Thandapani deposed that there is a land dispute between PW1 family and the accused family. He knew both of them. He deposed that there is an illegal relationship between the deceased and A1's sister. On the date of the alleged occurrence at 1.00 p.m., A1 and A2 involved in a wordy quarrel with the deceased. When he tried to get near them, they left the place. He asked the deceased about the same. He told that A1 and A2 threatened him not to marry anyone. In-turn PW7 told the deceased to inform this to PW1. PW7 also informed the same to PW1 about the wordy quarrel held between the deceased and A1 and A2.



CrI.A.No.659 of 2018

WEB COPY

2.5. PW12- Tr.Jothimanickam deposed that while he was working as Executive Officer in Tittakudi Town Panchayat, on the request made by the police, he had enquired and informed that there was a street light in the alleged place of occurrence. He has issued the Certificate – Ex.P9.

2.6. PW14 – Tmt.C.Jaya -Scientific Officer deposed that she has received 8 material objects from the Court for examination and she has issued the Report Ex.P10. PW15- Dr.Selvendiran, who conducted autopsy, deposed that on 24.04.2010, he received a requisition from the Inspector of Police and he conducted inquest over the dead body and issued postmortem certificate under Ex.P11 and he has given opinion that the deceased would have died of injury to brain, injury to long bones, shock and hemorrhage.

2.7. PW16- Tr.Sivasenthil, Head Constable deposed that on 24.04.2010, as per the instructions of the Inspector of Police, he took the Sniffer Dog to the occurrence place and the Sniffer Dog proceeded towards Kizhservai Iyyanar Temple and stopped near Panchayat Union Primary School.



CrI.A.No.659 of 2018

2.8. PW17- Tr.Loganathan deposed that he has received the tapal from the Sub-Inspector of Police, Tittakudi and handed over the same to the Court concerned. PW18- Tr.Kumaraswamy, Special Sub-Inspector of Police, deposed that on 24.04.2010, while he was working as Head Constable, the Inspector of Police has received an information that one person was lying with cut injuries in front of the house of one Manickam. He went there and saw that he was dead. The Inspector of Police enquired the persons who have gathered and they informed that the deceased name is Kanthamizh Ilavazhagan. Since huge people have gathered, the Inspector of Police has given a requisition to keep the body in the Government Hospital, Tittakudi. On the next day, the Inspector of Police conducted inquest over the dead body and he assisted him on 24.04.2010. Thereafter, on completion of autopsy, he had handed over the dead body to the relatives. He has seized material objects M.O.1- Green Colour Pant, M.O.2- Biscuit Colour Shirt, M.O.3 – Full Hand Banian, - M.O.4 – Viking inner panty – 90 cm from the deceased body and handed over the same to the Inspector of police.

2.9. PW20 – Tr.Perumal, Special Sub Inspector of Police deposed that on 23.04.2010, while he was in police station, he has received the complaint



CrI.A.No.659 of 2018

from PW1 and registered a case in Crime No.247/2010 for the offence under Section 302 IPC and registered the FIR under Ex.P12. He informed about registration of the case to the Inspector of Police.

2.10. PW21 – Tr.Ramadoss, Inspector of Police deposed that on 23.04.2010, while he was on patrolling duty at night 23.30 hours, he had received an information from PW20 about the registration of the case and also informed that a person was murdered in front of the house of one Manickam. Upon receiving the information, he instructed PW16- Head Constable, Sniffer Dog Division to summon sniffer dog and also arranged photographer to take photographs at the occurrence place. He went to Thittakudi Police Station on 24.04.2010 at 00.15 hours and he received Ex.P12-FIR and commenced his investigation. He went to the occurrence place along with the head constables Kandhaswamy, Kumaraswamy and Murugesan with the help of the Photographer – Raja, who took photographs under M.O.5 series (6 photos) in the occurrence place.

2.11. At 00.45 hours, PW21 prepared Observation Mahazar – Ex.P13 and Rough Sketch – Ex.P14 in the presence of one Subbiah and



CrI.A.No.659 of 2018

Tr.Muruganandham – PW10. Thereafter, he went to Thozhudhur Main Road and he has seized Hero Honda Splendor Motorbike Reg.No.TN42AZ0986 – M.O.6 and Green Colour and Red Colour mixed wire bag – M.O.7, small silver bucket – M.O.8, Silver Box small size – M.O.8 and Nokia Cellphone Black Colour Model No.73- M.O.10 viz., under Mahazar- Ex.P15 in the presence of witnesses. Thereafter, at 2.30 hours, he has seized M.O.11 – Blood Stained Tar Stone / Sand and Plain Tar Stone – M.O.12 under Mahazar – Ex.P16 and also seized note book containing 87 pages under Ex.P17 – Mahazar.

2.12. PW21 enquired the witnesses and recorded their statements. Since huge people gathered and caused traffic hindrance, to avoid law and order problem, he sent the deceased body through Head Constable to the Government Hospital, Tittakudi. At morning 7.30 a.m., he went to the hospital, conducted inquest in the presence of Panchayatdars and witnesses and issued Inquest Report – Ex.P18. He has seized from the deceased body, a gold ring weighing 4 gms – M.O.13, Silver Waist Rope – M.O.14. He has sent the body for autopsy through the Head Constable. He examined the witnesses and recorded their statements. The head constable has also



CrI.A.No.659 of 2018

handed over the seized dresses worn by the deceased and the same were sent to the Court under Form 95. In continuation of his investigation, he has examined the witnesses and recorded their statements.

2.13. On 26.04.2010 at 4.00 a.m. PW21 arrested A1 and A2 in the presence of PW11-Tr.Palanivel and one Mani. On enquiry A1 voluntarily gave confession statement and the same has been recorded. The admissible portion of confession statement of A1 is Ex.P19. A2 also gave confession statement and the same has been recorded. The admissible portion of confession statement of A2 is Ex.P20. In pursuance to the confession statements, the accused 1 and 2 took them to Kilservai River Shore, identified and handed over M.Os.15 and 16 – 2 Billhooks and the same has been recovered under Mahazar – Ex.P21 in the presence of witnesses. He sent the accused to judicial custody and also sent the case properties to the Court under Form 95. He enquired the witnesses and recorded their statements.

2.14. On 28.04.2010, PW21 altered the Sections from 302 IPC to Section 120(B) r/s. 302 IPC. The Alteration Report is Ex.P22. He has



CrI.A.No.659 of 2018

examined the witnesses and recorded their statements. Upon completion of investigation, he has laid the final report against the accused.

2.15. The prosecution, in order to prove the guilt of the accused, has examined PWs.1 to 21, marked 23 documents and produced 16 material objects. Upon completion of prosecution side evidence, the accused were questioned under Section 313(1)(b) CrPC with regard to incriminating circumstances which has been culled out from the evidence of the prosecution witnesses and they have denied the same as false. Upon appreciating the oral and documentary evidence, the Court below found that the prosecution has miserably failed to prove the case beyond all reasonable doubt and acquitted all the accused. Aggrieved over the judgment of acquittal, the State / prosecution has preferred the present Criminal Appeal.

3. Mr.A.Damodaran, learned Additional Public Prosecutor appearing for the appellant / State would put forth the following contentions:

(i) The Court below failed to note that there are severe cut injuries over the neck and other parts of the deceased as inflicted by the respondents / accused 1 and 2 in the main road at midnight and the same has



been corroborated by the witnesses, since the street electrical post brightly lighting the occurrence place.

(ii) The deceased was waylaid by the accused, who gained knowledge that the deceased was going to get married soon and threatened that unless he marries his sister, he would be dead. In this regard, PW30 clearly deposed about the occurrence happened prior to the murder.

(iii) PW3 categorically deposed that he came to the place of occurrence casually and witnessed the entire occurrence and therefore, the evidence of PW3 is self-explanatory and convincing and does not require any other sort of corroboration. PW7 also corroborated the evidence of PW3. PW3 has given cogent evidence regarding the overt acts and previous incident, but the Trial Court gave much importance to the mode of transport to arrive at the time of occurrence, whether by two wheeler or not.

(iv) The Trial Court has taken an imaginative stand of disbelieving the F.I.R., without any basis, or material evidence but also from the answers wantonly elicited in the cross examination by the defence counsel what he had orally stated at about 11.00 p.m., in the night was just heard by police, but they wrote it roughly. But those words were taken as important evidence by the Court below and presumed and acquitted that it was the first



CrI.A.No.659 of 2018

information about the murder.

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(v) The Court below had arrived at a conclusion on the basis of surmises and conjectures by finishing that the oral evidence of PW3 to police could have been registered as FIR, which itself doubted the presence of PW3 in the scene of occurrence and the prosecution has deliberately concealed the truth by getting a complaint from PW1 and then registered as FIR and hence the complaint itself was a suspicious one.

(vi) The findings of the Trial Court are not based upon any material evidence or record and to acquit the accused, is not sustainable either in law or on facts since there is strong motive to do away the life of the deceased, who once eloped with the sister of the main accused.

(vii) The prosecution has proved the case beyond all reasonable doubt and therefore, the judgment of the Court below is liable to be set aside and the respondents / A1 and A2 are liable to be convicted and sentenced as per the charges framed against them.

To strengthen his contentions, the learned Additional Public Prosecutor has relied upon the judgment of the Hon'ble Supreme Court in ***K.P.Tamilmaran v. State by Deputy Superintendent of Police [2025 SCC Online SC 958]*** to



show that the evidence of hostile witnesses can also be relied upon by the prosecution to the extent to which it supports the prosecution version of the incident. The evidence of such witnesses cannot be treated as washed off the records, it remains admissible in trial and there is no legal bar to base the conviction of the accused upon such testimony, if corroborated by other reliable evidence.

4. *Per contra*, learned counsel appearing for the respondents / accused 1 and 2 would submit that the prosecution has miserably failed to prove its case beyond all reasonable doubt. The prosecution has failed to prove the motive for the occurrence. The evidence of PW3 was not cogent and unnatural one, since PW3 has not stated how he has come to the occurrence place and also the mode of transport to arrive the scene of occurrence, whether by two wheeler or not. The Court below has rightly found that the mode of transport of PW3 to arrive at the time of occurrence has not been established by the prosecution and concluded that PW3 was not at all present at the time of occurrence and there is nothing to interfere with the judgment of acquittal passed by the Trial Court.



5. We have considered the submissions made on either side and perused the entire materials available on record.

6. PW1 – Muthumizhvannan is the brother of the deceased – Kanthamizh Ilavazhagan. PWs.2 to 6 have been cited as eye witnesses to the occurrence, whereas except PW3 – Tr.Jothimani, other witnesses have not supported the case of the prosecution and treated as hostile witnesses and the prosecution also cross examined them. PW1 deposed that there was enmity between PW1's family and accused family with regard to property and also there is enmity with regard to the deceased having illicit relationship with A1's daughter. The prosecution has not filed any document to prove that there was enmity between PW1's family and accused family with regard to property. Except the oral evidence of PW1, no material has been placed before the Court below. The motive relied upon by the prosecution is the illegal relationship between the deceased and A1's daughter one Manonmani.

7. PW3- Jothimani deposed that he knew PW1 and he heard that A1's daughter Manonmani and the deceased had illegal relationship. On



23.04.2010 at 10.30 p.m., while he returned from Tittakudi and proceeded to his native place and when nearing Ilamangalam Manickam house, the deceased came in his two wheeler from Tittakudi and at that time, A1 and A2 have waylaid the deceased. A1 tried to assault the deceased with billhook on his neck, which was prevented by the deceased and therefore, he sustained cut injury on his hand. A2 assaulted the deceased with billhook on his left leg. Thereafter, A1 assaulted the deceased on his neck. The deceased fell down along with his vehicle. A1 and A2 thereafter repeatedly assaulted the deceased and the deceased died. PW3 witnessed the same at a distant place A1 and A2 has left the place. Since A1 to A3 holding billhooks, he did not want to go near. Thereafter, people have gathered. PW1 also arrived the occurrence place and PW1 lodged the complaint before the police station. On the next day, police enquired him. PW3, in his cross examination deposed that on 24.04.2010 at 12.00 noon, police enquired him in the hospital and further stated that, immediately after the occurrence at 10.45p.m., 3 police personnel have arrived to the occurrence place. He admits that in the night 11-12.00 hours, police did not enquire him, but he orally informed the occurrence to the police. On the next day, police enquired and recorded his statement. When the police reached at night 11.00



p.m. to the place of occurrence, they did not ask PW3 to give written complaint. When he narrated the occurrence orally to the police, they have recorded the same. He admits that he did not inform the same to the police immediately. He was there till the deceased body was taken from the occurrence place and thereafter, he went to his house. In the night time, police did not record his statement. He went to the hospital at early morning hours 2.00 a.m. and till day next day 12.00 p.m., he was in the hospital. Further, he deposed that on the occurrence day, he went to Tittakudi at 9.30 p.m. through his two wheeler to have food and he returned to his two wheeler.

8. As per the evidence of PW7-Dhandapani, prior to the occurrence on the day in the evening at 1.00 p.m., near Keezhservai School, A1 and A2 involved in a wordy quarrel with the deceased. When PW7 neared them, they left from the place. PW7 inquired the deceased what they were talking, for which the deceased told that A1 and A2 told him that the deceased should not marry him. PW7, in his cross examination, deposed that he did not know what the deceased and A1 & A2 have spoken between them.



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9. PW1, in his chief examination deposed that he had received information at night 11.00 p.m. that the deceased was murdered in front of one Manickam's house and immediately he rushed to the scene of occurrence and someone had already informed the police and the police have arrived to the occurrence place. The police informed him that it is only an accident and not murder. PW1 stated to police to see properly that it is only a murder. Police asked him whether he had any suspicion over the murderer. Thereafter, he went to the police station at 11.00 p.m. and lodged the complaint -Ex.P1.

10. It is the evidence of PW3 that he knew the deceased and accused family and PW3 also belongs to the same village. PW3 also deposed that police arrived to the occurrence place at night 11.00 p.m., enquired him and recorded his statement. Though PW3 witnessed the occurrence, did not chose to inform the police immediately and also not chosen to inform either the deceased family or to PW1. PW3 admittedly not tried to prevent the deceased from the assault by A1 and A2 and even not made any shout or call anyone for rescue. PW3 specifically states that A2 assaulted the deceased on



his left leg causing cut injuries, whereas PW15- Dr.Selvendiran, who conducted autopsy over the dead body and has issued the postmortem certificate, has not at all found any cut injuries on the deceased left leg. The evidence of PW3 is not cogent, inconsistent and not tallied with the specific overtact spoken by PW3 that A2 assaulted the deceased on his left leg and caused cut injury, whereas PW15 -doctor did not found any cut injury on the left leg of the deceased. Therefore, the presence of PW3 at the time of occurrence is highly doubtful.

11. As per the evidence of PW20-Special Sub Inspector of Police, on 23.04.2010, while he was in duty in Tittakudi Police Station, at 23.30 hours, PW1 has lodged a complaint, based on which he registered the case in Crime No.247/2010 – Ex.P12 for the offence under Section 302 IPC and informed the same to the Inspector of Police. PW21/I.O. deposed that on 23.04.2010 while he was in patrolling duty at 23.30 hours, he has received an information from PW20 about receiving of complaint and registration of FIR – Ex.P12. Immediately PW21 called the Sniffer Dog Expert to summon Sniffer Dog and also arranged photographer and went to the police station at 00.15 hours, perused Ex.P12-FIR and taken up the case for investigation.



CrI.A.No.659 of 2018

He went to the occurrence place at 00.45 hours and prepared Observation Mahazar – Ex.P13 and Rough Sketch – Ex.P14 and seized M.Os.2 to 6, 7, 8, 9, 10, 11 and 12 from the occurrence place under Seizure Mahazar. In continuation of his investigation, on 26.04.2010, he arrested A1 and A2 near Veppur Junction Road near bridge in the presence of PW11- Palanivel and one Mani. On enquiry, A1 & A2 voluntarily gave confession statements and the same has been recorded in the presence of the said witnesses. In pursuance to the admissible portion of the confession statement of A1 and A2 under Ex.P19 and Ex.P20, A1 & A2 took them to the place where they have identified and handed over two billhooks – M.Os.15 and 16.

12.PW11 – Palanivel in his chief examination admitted his signature found in the confession statement of the accused and the Seizure Mahazar. He deposed that he signed in the police station, but does not know anything about the case. PW11 did not support the case of the prosecution with regard to arrest and recovery of material objects. PW11 was treated as hostile witness and the prosecution during cross examination did not elicit anything in support of the prosecution case. The evidence of PW21/I.O. alone is not sufficient to prove the case of the prosecution with regard to recovery of



material objects based on the confession statement of the accused persons.

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13. PW1 deposed that on 23.04.2010, the deceased went to Tittakudi to buy food for his mother at night 10.00 p.m. The deceased did not return even after long hours and PW1 also unable to contact him. At night 11.00 p.m., PW1 was told by several persons that his brother was lying with cut injuries in the main road in front of one Manickam's house. Immediately PW1, his wife and mother went to the occurrence place and saw that the deceased was lying in a pool of blood with cut injuries. Someone already informed the police and the police arrived to the occurrence place. In the occurrence place, the police stating that the deceased died due to an accident, but PW1 asked the police to verify properly since it is a murder and thereafter, lodged the complaint – Ex.P1 at 11.30 p.m.

14. In Ex.P1-complaint it has been stated that the occurrence was witnessed by PW2-Senguttuvan and PW3-Jothimani and they have informed the manner of overtact on the deceased and they have witnessed the same in the street light and after identifying the deceased in the street light, in-turn they informed to PW1. Whereas PW1, in his chief examination, he did not receive any information either from PW2 or from PW3 and he has stated that



he has received information from many persons. PW3 in his chief examination not stated anything about PW3 immediately informed to PW1 about the occurrence. PW2-Senguttuvan did not support the case of the prosecution and turned as hostile witness and cross examined by the prosecution. During cross examination also, nothing was elicited in favour of the prosecution.

15. From the evidence of PW1 and PW3, there are contradictions between them with regard to the manner of occurrence and the information received by PW1 at the earliest point of time. PW1, in his cross examination, admits that he has not written the complaint – Ex.P1 and he only signed in the complaint and he did not remember who has written the complaint. PW1 also admits that on suspicion, he has lodged the complaint against the accused. As per the evidence of PW3, immediately after the occurrence, police has arrived to the occurrence place and enquired PW3 and in-turn PW7 has narrated the occurrence and the same has been recorded by police, whereas the prosecution has suppressed the earliest information received from PW7 in the scene of occurrence.



CrI.A.No.659 of 2018

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16. Though the prosecution has relied upon the following circumstance i.e., motive, eye witness, recovery and medical evidence, the prosecution has not proved its case through cogent and consistent evidence. As per the evidence of PW15- Dr.Selvendiran, autopsy doctor that the deceased death is homicidal. But the prosecution has failed to prove the motive for the occurrence. The prosecution has failed to prove the occurrence through the evidence of PW3, who has been cited as eye witness to the occurrence. PW11, who was cited as witness to arrest and recovery of material objects in pursuance to the confession statement of the accused, not supported the case of the prosecution. Therefore, except homicidal death, in respect of other aspects, the prosecution has miserably failed to prove the case beyond all reasonable doubt through cogent and convincing evidence. The Trial Court, upon appreciating the oral and documentary evidence, rightly has acquitted the respondents / accused 1 and 2. This Court is of the view that there is no perversity or infirmity in the judgment of the Trial Court. There is no merit in this appeal and the same is liable to be dismissed.

17. In the result, this Criminal Appeal stands dismissed, confirming



CrI.A.No.659 of 2018

the judgment of acquittal dated 07.02.2019 made in Sessions Case No.51 of 2018 passed by the learned III Additional District and Sessions Court, Cuddalore at Vridhachalam.

[P.V., J.] [M.J.R., J.]
12.02.2026

Index : Yes / No
Internet : Yes / No
Jvm

To

- 1.The Inspector of Police,
Thittakudi Police Station,
Cuddalore District.
2. III Additional District and Sessions Court,
Cuddalore at Vridhachalam.
- 3.The Public Prosecutor,
High Court, Madras.



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CrI.A.No.659 of 2018

P.VELMURUGAN, J.
and
M. JOTHIRAMAN, J.

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Judgment in
CrI.A.No.659 of 2019

12.02.2026