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CRL A No.623 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20-02-2026

DATE OF DECISION : 27-02-2026

CORAM

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

CRL A No.623 of 2019

Udayalekha
W/o Udayabalan
New No.10, Old No.133
Jothi Nagar Main Road
Ekkattuthangal, Chennai-600 032
Presently Residing at
No.205, Gandhi Road, T.R.Pattinam
Karaikal District-609 606
Puducherry State

Appellant

Vs

State rep.by
The Inspector of Police
EF-II, Team III CCB, Vepery, Chennai
J3 Guindy Police Station, Chennai
(Crime No.1942/2017)

Respondent

Memorandum of Grounds of Criminal Appeal filed under Section 374(2) of Cr.P.C., against the judgment of conviction and sentence dated 08.08.2019 made in S.C.No.141 of 2018 on the file of the VI Additional Sessions Judge, Chennai.

For Appellant:

**Mr.John Sathyan
Senior Counsel for Mr.Swami Subramanian**



For Respondent: Mr.A.Damodaran
Additional Public Prosecutor
assisted by Ms.M.Arifa Thasneem for State
Mr.S.Seenuvasan
for de-facto complainant

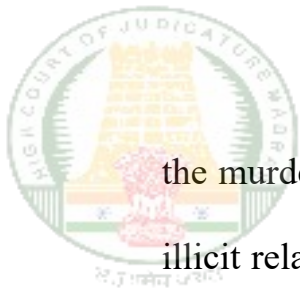
JUDGMENT

P.Velmurugan J.

This criminal appeal has been filed against the judgment of conviction and sentence passed by the learned VI Additional Sessions Judge, Chennai in S.C.No.141 of 2018 dated 08.08.2019 convicting and sentencing the appellant, who was tried as A2, to undergo life imprisonment each for the offence under Sections 120-B and 302 r/w 109 IPC, ordered to run concurrently.

2. Totally two accused were arrayed as A1 & A2 before the trial Court in S.C.No.141 of 2018 and pending trial, since A1 died, the charges framed him stood abated, necessitating the passing of the judgment of conviction and sentence against A2 by the trial Court. For convenience, the accused will be referred to as arrayed before the trial Court, in this judgment.

3. The respondent Police filed the charge sheet against the accused stating that the de-facto complainant is the father of the deceased, A1 is a call taxi driver and A2 is the wife of the deceased; that A1 and A2 were having illicit intimacy; that the accused joined together and criminally conspired to commit



the murder of Udayabalan to grab his properties, as he was a hindrance to their illicit relationship; that in order to execute the criminal conspiracy, A1 prepared a duplicate key for the outer door of the house of Udayabalan with the help of A2, who told A1 that she was going to her native village for festival along with her children and he can execute the plan when her husband was alone in the house, thereby abetted A1 to commit the murder; that in continuation of the criminal conspiracy, on 04.06.2017 at about 04.30 hours, A1 from his mobile phone 9884993953 called A2 on her mobile phone 9884993952 and went to her house with knife, chilly powder, duplicate key and brandy bottle and hid himself under the cot in the room at the ground floor. Later A2 left to her native village at Thirumalairayanpattinam, Karaikal along with her children at 10.10 night hours; that on 05.06.2017 at 02.30 early hours, A1 went to the room in the first floor and murdered Udayabalan, who was in sound sleep, by inflicting grave cut injuries with a knife on his head, face and hands; that he also took the gold chain weighing 5 sovereign and cash of Rs.30,000/- from the house; that in order to screen the offence, A1 spilled the chilly powder all over the floor; that after completing the crime, he locked the outer door with the duplicate key and fled from the spot, thereby A1 committed the offence punishable under Sections 450, 302 and 380 IPC and A2 committed the offence punishable under Sections 120-B and 302 r/w 149 IPC.



4. The case was taken on file by the learned IX Metropolitan Magistrate, Saidapet, Chennai in PRC No.81 of 2017. At that point of time, the prosecution filed the death certificate of A1 before the learned IX Metropolitan Magistrate, Saidapet and as such, the case was proceeded against A2 alone. After completing the formalities under Section 207 Cr.P.C., the learned IX Metropolitan Magistrate, Chennai committed the case for trial to the learned Principal Sessions Judge, Chennai, since the case was exclusively triable by the Court of Session. The Hon'ble Principal Sessions Judge, Chennai has taken up the case for trial in S.C.No.141 of 2018 and made over to the learned VI Additional Sessions Judge, Chennai for disposal of the case in accordance with law.

5. The learned VI Additional Sessions Judge, Chennai, finding sufficient materials, framed the charges under Sections 120-B & 302 r/w 109 of IPC against A2.

6. In order to substantiate the charges, the prosecution examined 36 witnesses as PW1 to PW36 and marked 76 documents as Exs.P1 to Ex.P76, besides exhibiting 22 material objects as M.O.1 to M.O.22. After examining the evidence of prosecution witnesses, when A2 was questioned under Section 313 Cr.P.C with reference to the incriminating materials culled out from the



evidence of prosecution witnesses, she pleaded not guilty and opted for trial. However, on the side of defence, Ex.D1 was alone marked and no oral evidence was let in.

7. On conclusion of trial and after hearing the arguments advanced on either side, the trial Court found A2 guilty of the charged offences and convicted and sentenced her to undergo life imprisonment for the offence(s) as stated above. Aggrieved by the same, A2 has preferred the present appeal before this Court.

8. The case of the prosecution, in short, is as follows:-

(a) PW1 Sadasivam is the father of the deceased. He preferred the Ex.P.1 complaint before the Guindy police. In the complaint he has stated that he was residing with his wife at Porur and his son was living with his family at Ekkattuthangal. On 04.06.2017 his son was alone in his house after sending his wife and children to Thirumalairayanpattinam at Karaikal. On 05.06.2017 at 11.00 A.M he went to the company at Thirumudivakkam, taking his food. Udhayabalan did not come to the company. So he made a call to his son's mobile phone. He did not attend the call. PW1 went to his house and informed his wife. She also made a call to her son's mobile phone. He did not attend the call. So they took the food and went to their son's house at Ekkattuthangal. The



door was locked. Another key of the house was with them. By using the same, they unlocked the door and went to his room on the first floor and found their son lying dead in a pool of blood with injuries on his head, face and hand.

(b) On receipt of the complaint at 14.45 hours, PW35-Inspector of Police, Guindy Police station registered a case in Cr.No.1942 of 2017 under Section 302 IPC. The printed form of F.I.R is Ex.P45. Immediately he rushed to the place of occurrence on the same day at 15.30 hours and prepared the Ex.P.47 observation mahazar in the presence of witnesses P.W.18 Aswin and P.W.19 Vigneswaran and drew the Ex.P.46 rough sketch. On the same day between 15.00 and 17.00 hours, he conducted inquest and prepared the Ex.P.49 inquest report in the presence of Panchayatars at Royapettah Government Hospital. On the same day at 15.00 hours, PW35 Dhanaselvan recovered a piece of blood stained pink colour cloth from the bed cover, blood stained green towel, blood stained vests and blood stained briefs under Ex.P.48 seizure mahazar in the presence of same witnesses PW18 and PW19.

(c) He instructed PW27 Sophia Joseph to take photographs of blood stained foot prints. She handed over the CD, which was recovered under Ex.P.50 seizure mahazar. He recorded the statement of the witnesses. He submitted the Ex.P.51 requisition to medical officer to conduct autopsy through PW31 Velraj. The blood stained cloths worn by the deceased were recovered under Ex.P.52 mahazar. The properties which were recovered from the place of



occurrence and the blood stained cloths were sent to chemical analysis through the Court under Ex.P53 requisition.

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(d) On 15.06.2017, at 9.30 hours, on suspicion A1 was arrested near Poonamallee – Ekkattuthangal junction. He voluntarily confessed in the presence of PW20 Baskaran and Kanakaraj. He recorded the confession in the presence of the witnesses. Based on his confession, the admissible portion of which is Ex.P54, he recovered M.O.10 Knife, M.O.5 Gold Chain, M.O.6 to M.O.8, 3 bundles of hundred rupee notes, M.O.9 key and M.O.20 blood stained dark blue color pant under seizure Mahazar Ex.P55. He submitted the alteration report Ex.P56 altering the Section from 302 IPC to 302, 380 IPC. The recovered properties were submitted to the Court in Form 95 under Exs.P57 to P60. The properties were sent to chemical analysis under Ex.P61. The City Commissioner of Police transferred the investigation to Central Crime Branch, Chennai.

(e) PW36 V.Arokia Ravindran took up further investigation on 20.06.2017. He inspected the place of occurrence and recorded the statement of the witnesses. On secret information he called for the cell phone call details. A1 was taken into police custody and interrogated. A1 had confessed that the deceased was his friend and since he refused to lend him money, he killed the deceased. Since there was no evidence for having conversed with the deceased, PW36 asked him to demonstrate the occurrence. A1 was taken to the house of the deceased on 26.06.2017 at 17.00 hours. He once again confessed in the



presence of PW21 K.Dilip Kumar and PW22 Manikandan. Based on the confession, A1 was taken to his house on 27.06.2017, where A1 handed over a white colour Samsung cell phone, (SMJ1104/DD), another Samsung cell phone (SMJ200GDD), Ash colour Lenova cell phone (A6020A40), unregistered rent agreement between A1 and Renukadevi, an identity card and RC book of Bajaj Discover Motorcycle TN20AV5028. The said properties were recovered under seizure Mahazar. In the meanwhile, A2 was brought to the police station by PW1. A2 voluntarily confessed in the presence of PW21 Dilipkumar and PW23 Arumugham. Based on her confession, empty card board box of Samsung cell phone was recovered. A2 was taken to her father's house at Thirumalairayanpattinam and in the presence of PW24 Kiruba and Mangalraj Samsung cell phone was recovered from A2. A2 was remanded to judicial custody. The statement of the witnesses and the doctor who did the autopsy were recorded. PW16 Sundarrajan gave statement that the accused A1 and A2 attended the 'Dyana' programme from 15.05.2012 to 21.05.2012 at Sanantha Marriage Hall, Rajakilpauk. He obtained the cell phone call details of 9884993952, 9884993953, 9840385954, 8012712771 with 65(B) Evidence Act Certificate. On 29.11.2017, the foot print was taken in the presence of learned IX Metropolitan Magistrate for comparison with the foot prints found at the scene of occurrence. PW27 obtained the foot impression of A1 in the presence of learned Metropolitan Magistrate. Both foot prints were found to be identical.



The order passed by the Commissioner was marked as Ex.P62. The order for transfer of investigation to CCB was marked as Ex.P63. The intimation sent to the Court was marked as Ex.P64. A1 was taken into police custody based on the requisition under Ex.P65. The admissible portion of the subsequent confession of A1 was marked as Ex.P66. The seizure mahazars were marked as Exs.P67 & P68. The admissible portion of the confession of A2 was marked as Ex.P69. The seizure mahazar of the samsung card board box handed over by A2 was marked as Ex.P70 and the form 95 was marked as Ex.P71. The seizure mahazar for recovery of samsung cell phone from the father's house of A2 was marked as Ex.P72 and the form 95 was marked as Ex.P73. The requisitions sent through the Court for forensic analysis of the foot prints taken of A1 and the foot prints of A1 taken from the place of occurrence were marked as Exs.P74 & P75. The seizure of the application forms submitted by A1 & A2 before the meditation centre were seized under the mahazar, Ex.P76. After completing the investigation, he laid the charge sheet against the accused.

9. In order to substantiate the charges, the father of the deceased Sadasivam was examined as PW1 before the Court. He has deposed that on 04.06.2017, he attended the dance programme of his grand children at their school, along with his wife, son (deceased) and daughter-in-law (A2). The programme got prolonged. A2 already planned to go to her father's house at



Thirumalairayanpattinam. He asked her to cancel the programme and to go on next day, but A2 refused. His son, with his family, went to their house and he and his wife went to their home. On 05.06.2017 he called the deceased through cell phone. He did not answer. He came to house, took meals for the deceased and went to the house of the deceased along with his wife PW2. They reached the house at 1.00 P.M. The outer door was locked inside. He asked a passerby boy to open the door. The boy jumped over the door and opened the door. PW2 was having another key of the house. She tried to open the main door. Meanwhile, he asked the driver of the opposite house to climb on the ladder and call his son. He attempted, but failed. By the time PW2 opened the door, went upstairs and found the deceased in a pool of blood with injuries all over the body. He preferred a complaint before the Guindy Police. Later he informed that the gold chain which the deceased was wearing was found missing. So the police came to the conclusion that it is a murder for gain. After postmortem, the corpse was handed over to them. A2 did not participate in the funeral rites. Later PW9 Vinoth Kumar informed PW1 certain facts on 13.06.2017. He told that a person used to come at midnight to meet A2. Further he told that the said person came on 04.06.2017 and parked his motorcycle and went to the house of A2 with a bag. A2 took him inside the house. Again on 05.06.2017 he came out from the house and took away his motorcycle. The said person was residing in the next street. PW1 passed this information to the Guindy Police. They



informed him that the culprit who murdered his son was arrested. PW1 went to the police station along with A2. PW35 showed the knife, gold chain and 3 bundles of Rs.100/- notes recovered from A1. A2 was so tensed on seeing him. PW1 took a photo of the accused in his cell phone. The photo was shown to PW4 and PW5. They told him that he was a call taxi driver, used to come to pick them up to school whenever school van fails to come. A2 told the children that he was a resident of next village of their grand father. They all went to Kishkintha, Sivan Park, Saravana Store etc several times. A2 was sitting very close in roller coaster with A1. Likewise, PW4 told him one day night at 8.30 P.M., when they went to their father's room, A1 was seated there. When she informed A2, she told her that it was her imagination. They went again and he was not there, but the outdoor in upstairs was opened. In yet another situation, when PW4 and PW5 were sleeping in their room, A1 came crawling. On seeing the shadow she woke up and saw A1. He kept his finger on his mouth and told her not to make noise. He went out and locked the room. This was also informed to A2. Whenever PW4 attempted to inform the deceased, A2 stopped her. PW1 informed the same to the officers of CCB. They inquired and told him that A1 and A2 were known to each other for the past 5 ½ years. A2 was arrested. He identified the weapon, gold chain, Rs.100/- note bundles, the dresses of the deceased. The evidence of PW1 was corroborated by his wife PW2 Ramani.



10. PW3 Kanchana is the domestic servant. She has deposed that when she asked for leave on 3rd, A2 told her to take leave on 4th. She went to Thiruvannamalai to get TC for her son. She returned on the next day and came to know that her boss was murdered.

11. PW4 Minor Udhaya Anusha is the daughter of the deceased and A2. She narrated the incident which had happened on 04.06.2017. Further she added that A2 was talking all along in the bus when they were going to their grandfather's house. They were about to go to the temple and at that time news came from PW1 that her father was murdered. When they were returning, the car was parked to go to washroom, A2 told her to say 'don't know' what ever the police asks. Later PW1 showed the photo of A1. She told him that she knew A1 already. She also told him that A1 used to take them to Kishkintha, Sivan Park and Saravana Stores many times. After 2 days, A2 asked what she will do if she also goes to jail. She asked A2 why she was talking like this. She also told PW1 that A1, A2 went together in roller coaster. When she asked A2, she told, "if you want you also go". About 2 to 3 months prior to the death of her father, one day A1 was inside her father's room. She told her mother, for which she said "don't imagine". She and her sister took the cricket and shuttle cock and started to go upstairs. A2 stopped them and told that she will go first. She went upstairs and was talking to someone and came down and said no one was there.



Later when she was asleep, she saw the shadow of some one standing. A1 came crawling. She got up and sat. He kept his index finger on her mouth and told not to make noise. She locked the door. She was awake throughout the night. A2 prevented her from telling her father. She kept quiet, since she did not want to create problem once again between her parents. Once A2 handed over the debit card to A1. He took money and returned the card. She informed PW1 on seeing the photo. PW5 minor Riya corroborated the evidence of PW4.

12. PW6 Vedavalli is another house maid. She has deposed that she went on leave for 4 days. Later she came to know that her master was murdered.

13. PW7 Parthiban Balasubramanian is the friend and class mate of the deceased. He has deposed that after marriage, both were concentrating on their own business. He was at Bangalore and the deceased was at Chennai. He saw the deceased for the last time on 26.05.2017. Later he came to know that his friend was murdered.

14. PW8 Jothi Kriplani came to know the deceased through her friend Saravanan. Later, she came to know the death of deceased. She was at Bangalore. This was corroborated by PW17 Vijay Baradwaj.



15. PW9 Vinoth Kumar was having rubber moulding shop near the house of the deceased. He knew the deceased and A2. About 3 to 4 years before the occurrence, A1 used to park his motorcycle before his shop and go to the house of the deceased. Later about 2 years back, A1 shifted his residence nearby the house of A2. He saw A1 and A2 talking together for about an hour. One day prior to the occurrence, A1 went to the house of A2 early in the morning at 4.30 A.M. He was having a bag with him. A2 opened the door and A1 went inside the house. On the same day at 11.00 P.M., the deceased came in a car. A cow was lying in front of the house. So he was honking. He chased away the cow. On next day early morning about 4.30 A.M., again A1 came back. He seemed to be tensed. In the afternoon, he came to know that Udayabalan was murdered. He did not reveal the same immediately out of fear and after a week, he disclosed these facts to PW1.

16. PW10 Ganesan is an auto driver. A2 used to come in his auto. About 4 years back, the accused A2 called him to bring the children from school. When he was near the police booth, A2 received a phone call. She got down near Ambal Nagar bus stop. After a while, one person came in a motorcycle wearing helmet. The child was made to sit on the fuel tank and A2 sat on the pillion covering her face and they left. He used to play cricket in the ground. He used to see A1 and A2 driving the car. He had a doubt about the behaviour of A2. He



informed PW1. Later the police came and recorded his statement.

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17. PW11 Harikrishnan is the duplicate key maker. His cousin brother Munusamy was also doing same profession at Jaffer Khanpet. A1 asked Munusamy to make a duplicate key. Since the key has to be made by machine, that facility was available only at his son's shop. A1 took Munusamy to his son's shop. His son PW12 Venkatesh made a duplicate key and gave it to A1. PW12 corroborated the evidence of PW11.

18. PW13 Kandan is the Photographer, who took photographs of the deceased in different angle and gave 11 photos to the police, which were marked as M.O.21 series and the CD containing the photographs was marked as M.O.22.

19. PW14 Manikandan was working at Johnson and Johnson company in the year 2016. A1 was also working in the same company. Police told him that the SIM card stands in the name of the company. He told them that he did not know because he was site incharge.

20. PW15 Karthikeyan is the Manager of Samantha Marriage Hall. In March 2014, there was a programme conducted in the name as True Realisation



Centre. Tr.Sivasamy conducted the programme. Organizer was one Sundarrajan. The programme was conducted from 19th March 2016 to 26th March. The participants list was with Sundarajan.

21. PW16 Sundarrajan was the organizer of meditation centre. A1 and A2 participated in the programme. The application forms of A1 & A2 were marked as Ex.P2 and Ex.P3. The entire list of participants was marked as Ex.P4.

22. PW18 Aswin and PW19 Vigneswaran are the mahazar witnesses, who witnessed the preparation of observations mahazars and rough sketch. In their presence, properties were recovered from the scene of occurrence. Photograph of blood stained foot prints were also taken in their presence. They were marked under Ex.P5 to Ex.P10 respectively.

23. PW20 Baskaran is a worker in the company. When he was proceeding on Jawarharlal Road on 15.06.2017 at 10.00 A.M., Guindy police asked him and Kanagaraj to be the signatories to the confession given by A1. Based on the confession, A1 handed over the gold chain, Rs.100 rupee notes 3 bundles and house key, which are M.Os.5 to 9, respectively. The said properties were recovered under seizure mahazar, Ex.P11 & Ex.P12.



24. PW21 Dilip kumar is the Senior Revenue Inspector and PW22 Manikandan auto driver witnessed the confession given by A1 before CCB on 26.06.2017. Based on the confession under Ex.P13, police recovered 2 samsung cell phones, 1 Lenova cell phone, A1's ID card, Rent agreement and RC book of motorcycle, which were marked as M.Os.11 to 14 respectively, which were recovered under the seizure mahazar, Ex.P.14. On the same day evening A2 voluntarily gave a confession under Ex.P17 in the presence of PW21 and in the presence of Arumugham. Based on her confession, a card board box of cell phone, M.O.15 was recovered. The said card board box was recovered under seizure mahazar, Ex.P18. PW23 corroborated the evidence of PW21.

25. PW24 Kiruba is the VAO of Thirumalairayanpattinam. In his presence and Mangalraj presence, the police recovered the black colour Samsung cell phone, M.O.16 from A2's father's house under the seizure mahazar, Ex.P23.

26. PW25 is the Alternate Nodal Officer of Vodafone Company. On receipt of requisition under Ex.P26, he gave the mobile phone call details of 9884993952 and 9884993953 under Exs.P24 & P25. The mobile number 9884993952 and 9884993953 both stands in the name of A1, Johnson and Johnson Company. He also gave 65B Evidence Act certificate under Ex.P27.



27. PW26 David Joseph Paulraj is the Nodal Officer of Bharati Airtel Company. On receipt of requisition under Ex.P28, he gave the call details of 9840385954 and 8012712771 under Exs.P29 & P30 along with 65B Evidence Act certificate under Ex.P31.

28. PW27 Sophia Joseph is the Assistant Director of Forensic Lab. She was called to recover the blood stained vests, briefs and piece of bed sheet cloth. She took photograph of the blood stained foot prints through her cell phone and copied in a CD, M.O.17. Later on 28.11.2017 she took the foot prints of A1 in the presence of learned IX Metropolitan Magistrate under Ex.P32 series.

29. PW28 Vijayalakshmi is the Scientific Officer who chemically analyzed the visera and detected no poisonous substance. She issued the Toxicology report under Ex.P33.

30. PW29 Dr.Naleena is the Assistant Director of Forensic Lab who chemically analyzed the piece of cloth, towel, vests, screen cloth and banian. The blood found in the above items were human blood. Out of which item 1, 2 and 4 belong to 'A' group and 3 and 5 are inconclusive. Likewise she analyzed the knife and pant, which contained human blood. Out of which the blood in knife belong to 'A' group and the blood in pant was inconclusive. She also



analyzed the blood collected from the deceased body and found it to be 'A' group. She issued the Serological reports under Exs.P34 to 36 respectively.

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31. PW30 Sebastian is the sniffer dog trainer. Sniffer dog Juli was deployed, but the dog did not detect anything.

32. PW31, Head Constable Velraj identified the corpus before the Doctor who conducted autopsy. He collected the belongings of the deceased and handed over the same to the investigating officer.

33. PW33, Dr.K.V.Vinoth conducted the autopsy and he noted the following antemortem injuries:-

“oblique cut injury: i) 6x2-1 cm x cavity deep cm on right side of the scalp Diffuse subdural and subarachnoid haemorrhage all over the brain;
ii) 6x3-2cm x cavity deep on right parietal region of scalp;
iii) 6x4-3x3cm on left temporal region of scalp;
iv) 4x3-2x2cm on right first web space;
v) 3x2x1cm on left cheek;
vi) 4x2-1x1cm on right forehead. All above mentioned injuries margins are clear cut.”

He issued the post-mortem certificate, Ex.P37 opining that the deceased would have died due to shock and haemorrhage due to cut injury to the head.

34. PW33, Murthy is the Nodal Officer of Flipkart at Bangalore Corporate office. He gave the reply and copy of invoice for the purchase of



Samsung Guru cell phone under Ex.P.39 and Ex.P.40. His company delivered Samsung Guru cell phone to A1 under Ex.P41. It was delivered on 05.01.2015 at 10.30 A.M.

35. PW34, Nalini Natarajan is the Assistant Director of Forensic Lab at Chennai, who compared the blood stained foot print taken in the place of occurrence and the foot print taken in the presence of learned IX Metropolitan Magistrate, which are M.Os.18 & 19. She issued the certificate under Ex.P43 stating that both the foot prints are found to be of the same person.

36. PW35 is the Inspector of Police, Guindy Police Station who investigated the case till it was transferred to CCB, Chennai and later it was investigated by PW36 Arokia Ravindran, as mentioned already.

37. The trial Court, on appreciation of evidence, found the appellant/A2 guilty of the charged offences and convicted and sentenced her to undergo life imprisonment as stated already. Hence, the present appeal.

38. Assailing the judgment, the learned Senior Counsel appearing on behalf of the appellant/A2 would submit that there is no eye-witness in this case. PWs.1 & 2 are the father and mother of the deceased and the in-laws of



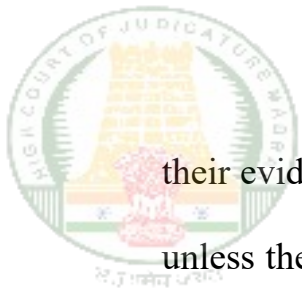
the appellant herein and on the next day morning, they went to the scene of occurrence and saw the deceased lying in a pool of blood and thereafter informed the police. Similarly, PWs.4 & 5 are the minor children and they were not in the custody of PWs.1 & 2. However, they tutored PWs.4 & 5 against the appellant and there is no material to show that A1 and A2 were having illicit intimacy and thereby both conspired to murder the deceased. Therefore, PWs.1 & 2 are only interested witnesses and there will be embellishments and improvements in their version, as they are not the eye-witnesses, and their evidence cannot be of much importance to convict the appellant. The evidence of PWs.4 & 5 also cannot be taken into consideration, since they are not the eye-witnesses and they have spoken about A1 visiting their house in the absence of the deceased. PWs.4 & 5 have not stated that the appellant and A1 had illicit intimacy and after the arrest of A2, they were in the custody of PWs.1 & 2. Therefore, they have been tutored and their evidence cannot be believed to convict the appellant. In this case, A1 already died during the trial. There is no material to show that this appellant was involved in the crime. Since the case rests upon the circumstantial evidence, the prosecution has not proved the circumstances without a break in chain. The motive was not established and the last seen theory also not established, besides recovery against this appellant. Whatever materials collected against A1 and produced before the Court, even if the prosecution proved its case against A1, there is no material to connect this



appellant with A1 for causing the murder of the deceased. There is no direct evidence to prove the motive and the prosecution relied upon the confession statements of A1 & A2, as prior to the death of the deceased, he was appointed as Director of the company by PW1, which provoked A2 to take away his life. This motive is hard to believe. The main motive attributed against this appellant is that after taking away the life of her husband, she can enjoy the property and run the business on her own, which is highly improbable. There is no material to show that in order to enjoy the property, this appellant set up A1 and there are no materials to show that there was illicit intimacy between A1 & A2. The deceased was cordial with the appellant till his death. At the time of occurrence, the appellant and children were staying in her parents house to attend the festival in native place, Thirumalairayanpattinam, Karaikal. Only after hearing the news, they came from that place. Even on the date of occurrence, the appellant was not present either in the house or in Chennai. Further he would submit that the deceased was having illicit relationship with one Jothi, PW8. She used to visit the house of the deceased and they used to reside in the room of the deceased located upstairs. Further the deceased was having enmity with other people due to the business and the appellant need not take away her husband's life when she was blessed with three children through him. The criminal conspiracy was not made out between A1 & A2 and there is no evidence to prove the criminal conspiracy. The call details of Vodafone



network cell phone numbers 9884993952 and 9884993953 were obtained from PW25. Likewise, the mobile cell phone call details of Bharati Airtel network for the numbers 9840385954 and 8012712771 were obtained from PW26. The call details are marked as Exs.P24, P25, P29 & P30. Though the prosecution case is that A2 was having mobile number 9884993952 and A1 was having mobile number 9884993953, admittedly, no SIM cards were recovered and the same have not been proved in the manner known to law. They were having the above said cell phones for their usage. Though the prosecution has stated that several calls went from one mobile to another mobile, which were alleged to have been used by A1 & A2, the said allegation was also not proved by the prosecution in the manner known to law. Apart from the above said documents, there is no evidence on record to show that the mobile numbers stand in the name of A1. The prosecution did not secure the KYC form alleged to have been submitted by A1 at the time of obtaining the connection. The investigating authority did not recover the SIM card from A2 pertaining to the mobile number 9884993952. The prosecution, though relied upon the confession and recovery of Samsung Guru cellphone from the father's house of A2, the said cellphone was purchased by A1 through Flipkart and was handed over to A2. According to the prosecution, the purchase of cellphone through Flipkart was proved. The evidence for call details was supported as per S.65 B of the Evidence Act. PWs.25 & 26 were cross examined in detail. But there is nothing to disprove



their evidence. It is not admissible under Section 27 of the Indian Evidence Act unless the confession stood proved leading to the recovery. The other portion of the confession statement cannot be relied on, which is not admissible in evidence. The recovery portion alone is admissible and the same was not recovered in the manner known to law. Therefore, the same will not be helpful to the prosecution to connect this appellant. This appellant is no way connected with the purchase or usage of any of the above said cellphones and the same was not proved in the manner known to law. Therefore, from this evidence, the appellant cannot be connected with the murder of the deceased. Further there is no material to prove that at the relevant point of time, either the appellant contacted A1 or A1 contacted A2. The prosecution has not recovered any material regarding the location of tower and that can be easily proved. If two cellphones were used by A1 & A2 and at the relevant point of time, when A1 was in the house of the deceased, if the appellant had any contact, the location of tower of the said cellphone can be easily identified, which has not been done by the prosecution. Even the recovery effected from A1 under the seizure mahazars will not connect the appellant. When A1 died, there was no chance of challenging the materials placed against A1. Now the case had been proceeded against the appellant/A2. Whatever materials collected based on the confession and recovery from A1, cannot be put against the appellant even assuming that the confession and recovery stood proved. Only the confession leading to



recovery is admissible in evidence and whatever statement made against the appellant will not be admissible in evidence. The confession made before the police officer is not admissible in evidence and therefore based on the confession of A1, the appellant cannot be convicted. Only the appellant was called to the police station. Since she believed PW1, she accompanied him to the police station, where they obtained the signature and she did not know what was written in the said paper and therefore the statement alleged to have been obtained from the appellant also is not admissible in evidence and based on that, the appellant cannot be convicted. The prosecution neither proved through eye-witnesses nor through circumstantial evidence that even at the time of occurrence, admittedly, the appellant was in her parents house at Thirumalairayanpattinam, Karaikal District and therefore there are lots of contradictions in the prosecution evidence and only based on some suspicious evidence and the same was tutored by PW1 to PWs.4 & 5, the trial Court believed the case and erroneously convicted the appellant and that the evidence of PWs.9 & 10 also cannot be believed, as it is not natural and it is only artificial. Even the evidence of PWs.11 & 12 is artificial one and there is no material to show that A1 produced the key of the house where the deceased lived and from that, they made the duplicate key and also the evidence of PW18 is unbelievable that the bloodstained photo footprint was taken from the house of the deceased. Even assuming that the bloodstained photo print was taken



from the occurrence place, which belongs to A1, the same will not be a proof to connect the appellant, unless it is proved that the appellant and A1 were seen together immediately prior to the occurrence and/or otherwise there was a conspiracy between A1 & A2. This appellant cannot be roped in the case, as she is no way connected with the murder of the deceased. All the confession and recovery are against A1 only. Except the evidence of PW23, all other evidences are only against A1. These materials are not sufficient to connect the appellant in this case. Therefore, though in the absence of any material to connect the appellant with A1 and the conviction against this appellant is perverse, the trial Court failed to appreciate both oral and documentary evidence and erroneously convicted only based on the circumstantial evidence, namely, motive, last seen theory and recovery. But the circumstantial evidence has not been proved without a break in chain. When two views are possible, the benefit of doubt should be extended to and in favour of the appellant, because unfortunately the trial Court failed to see that there was no absolute evidence to show that there was only one view possible that the appellant entered into a conspiracy with A1 and through A1, took away the life of the deceased. The learned Senior Counsel also vehemently contended that there is no valid reason given by the police as to why the case was transferred to CCB, which shows that they fixed the appellant and A1 in order to safeguard the real culprits and so the same will not be helpful to the prosecution. Therefore, the judgment of the trial Court is perverse, which



is liable to be set aside and the appeal is to be allowed and the appellant is to be acquitted.

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39. The learned Additional Public Prosecutor appearing on behalf of the State would submit that though the case rests upon the circumstantial evidence and there is no eye-witness, the evidence of PWs.1 & 2 is clear and the evidence of PWs.4 & 5 is very clear to prove the motive. They have clearly stated that several times, A1 was having close contacts with the appellant inside the house or outside the house and they also, in the absence of the deceased, went together along with the children. At times, the children were also picked up from the house and dropped in the school and they also went for picnic and at that time, A1 & A2 were so close. Even the evidence of PWs.4 & 5 clearly shows that in the absence of the deceased father, A1 was present in the house and when they questioned and informed the same to the appellant, the appellant denied the fact that A1 was present in their house. Though it is one of the main defence that PW8 was suspected to have illicit intimacy with the deceased, there is no material to show that PWs.8 & 17 were examined and nothing was elicited by the defence that the deceased was having illicit intimacy with PW8 and also the deceased was having some difficulty in the business and therefore the defence regarding the possibility of taking away the life of the deceased by some other person is not acceptable and the same was also not established. The evidence of



PW9 clearly shows that he saw A1 in the absence of the deceased, as he frequently visited the house of the deceased and also he saw on several occasions along with the appellant. PW10 auto driver has clearly stated that one day the appellant came in his auto and after attending one phone call, she got down and also informed that she would go in bus. However, when he was waiting for other trip, at that time, the appellant went along with A1 and therefore, PWs.11 & 12 have clearly stated that A1 got the duplicate key. Even PW13 photographer has clearly stated that he took photographs in the occurrence place. PWs.18 & 19 are the mahazar witnesses, who have spoken about the recovery of bloodstained footprints from the scene of occurrence under Ex.P32. PW20 is one of the witnesses who was present at the time of confession given by A1 and the consequent recovery of M.Os.5 to 9. PW22 is another auto driver who witnessed the confession given by A1 before CCB for recovery of the M.Os.11 to 14. PW23 is also an auto driver who witnessed the confession and has clearly spoken about the recovery of Samsung cellphone cover box, M.O.15 from the bedroom of the appellant and it clearly shows that A1 purchased the new phone and gave to the appellant. The appellant was using the cellphone and which was recovered in the presence of PW24 from the parental house of the appellant and only the cellphone box was recovered in the bedroom of the appellant. Therefore, how that cellphone went to the house of the parents of the appellant that too, in Thirumalairayanpattinam at Karaikal.



The appellant has not explained the same. Further the evidence of PW25 is clear regarding the furnishing of call details of the Vodafone mobile number 9884993952 and 9884993953 used by A1 and A2 and the prosecution also produced the certificate under S.65B of the Indian Evidence Act in Ex.P27, which clearly shows that A1 purchased the two cellphones in his name and one of the cellphones was handed over to the appellant and the call details also disclose that they frequently made contacts. PW26 Nodal Officer of Bharati Airtel company has also spoken about the call details furnished in respect of two numbers 9840385954 and 8012712771 along with the S.65B certificate under Ex.P31. PW27 Assistant Director of Forensic Lab has clearly stated that she has taken the bloodstained footprint photo in her mobile phone from the scene of occurrence and copied the same in a CD, M.O.17 and also the footprint of A1 subsequently in the presence of the learned IX Metropolitan Magistrate and after analysis, it was found that the footprint matched with A1. Therefore, it is clear that on the date of occurrence, A1 was present at the occurrence place and the evidence of PWs.4 & 5 clearly proved that in the absence of the deceased in the house, A1 frequently visited the house of the deceased and from the evidence of PWs.4 & 5, during midnight, when they woke up, they saw the appellant missing and also on one or two occasions they also saw A1 in their house even in the room used by the deceased. Further the post mortem doctor has clearly stated that the death is due to head injury and the serological report



also shows that no poison was detected in the alcohol, which clearly shows that on the date of occurrence, the deceased did not consume any alcohol and since A1 and A2 were having illicit intimacy and since the deceased was a hindrance to their illicit intimacy, they entered into a criminal conspiracy and on the date and time when the appellant was planning to go to her parents house at Tirumalairayanpattinam, Karaikal, taking advantage of the loneliness of the deceased, the crime was committed. Even as per the evidence of PW9, before going to Karaikal, the appellant facilitated A1 to enter the house. As if they were not in the town, they went to the parental house and therefore when PWs.1 & 2 came on the next day to see their son, the deceased, at that time, they saw the deceased lying in a pool of blood in his bedroom, thereby the prosecution has established the motive aspect in this case beyond reasonable doubt through the evidence of PWs.1, 2, 4 & 5. Similarly, the last seen theory has also been established through the evidence of PWs.9 & 10 and the arrest and recovery were proved through the evidence of PWs.19, 20, 21, 22, 23 and further the post mortem report also tallied with the same. Further the evidence of PW27 clearly shows that the bloodstained footprint photo was taken in the occurrence place and subsequently the sample was taken from A1 and sent for forensic lab and both were compared and it tallied with the footprint of A1. Therefore, the prosecution has proved its case beyond reasonable doubt and the trial Court rightly appreciated both the oral and documentary evidence and rightly



convicted the appellant, though pending investigation and before trial, A1 died.

However, the case was proceeded against the appellant and the prosecution has proved its case beyond reasonable doubt and the written statement filed by the appellant after S.313 proceedings are only an after-thought. S.313 proceedings were completed on 30.04.2019 and though the appellant has stated that a false case has been foisted against her, she did not file any statement on the date when the appellant was questioned under S.313 regarding the incriminating circumstances. Further she filed the written statement only on 11.09.2019. Therefore, it is only an after-thought. Since the trial Court rightly appreciated both the oral and documentary evidence and found that the prosecution proved its case with circumstantial evidence without any break in chain, there is no merit in the appeal and the same is liable to be dismissed.

40. The learned counsel appearing on behalf of the de-facto complainant adopted the arguments of the learned Additional Public Prosecutor and supported the judgment of conviction and sentence passed by the trial Court.

41. We have considered the rival contentions and perused the materials available on record.

42. The specific case of the prosecution is that A1, a call taxi driver and



A2, the wife of the deceased were having illicit intimacy and finding that the deceased Udayabalan was a hindrance to their illicit relationship and with an intention to grab his properties, they entered into a criminal conspiracy to murder the deceased and A1 prepared a duplicate key for the outer door of the house of Udayabalan with the help of A2, who told A1 that she was going to her native village for festival along with her children and he can execute the plan when her husband was alone in the house, thereby abetted A1 to commit the murder. In furtherance of the above motive, on 04.06.2017 at about 04.30 hours, A1 from his mobile phone 9884993953 called A2 on her mobile phone 9884993952 and went to her house with knife, chilly powder, duplicate key and brandy bottle and hid himself under the cot in the room at the ground floor. Later A2 left to her native village at Thirumalairayanpattinam, Karaikal along with her children at 10.10 night hours. On the next day i.e., 05.06.2017 at 02.30 early hours, A1 went to the room in the first floor and murdered Udayabalan while he was in sound sleep, by inflicting grave cut injuries with a knife on his head, face and hands and he also took the gold chain weighing 5 sovereign and cash of Rs.30,000/- from the house and that in order to screen the offence, A1 spilled the chilly powder all over the floor and locked the outer door with the duplicate key and fled from the spot.

43. Admittedly, there is no eye-witness in this case and the case rests



upon the circumstantial evidence. PW1 is the father of the deceased, who filed the complaint and set the law into motion. PW1 has stated that after the death of the deceased, he was informed by PW9 about the frequent visits made by A1 to the house of the deceased and he informed the same to the police. PW1 was called by the investigating officer to the police station and he saw A1 in the police station. At that time, he took a photograph of A1 in his cellphone and when he showed the same to his granddaughters, PWs.4 & 5 as to whether they know about A1, PWs.4 & 5 responded by saying that they knew A1 as he frequently took them in his vehicle and when they asked the appellant about the visits made by A1 to the house, she informed that he was a neighbour to their grandfather's house in Karaikal. Further PWs.4 & 5 informed PW1 that the appellant and A1 were so close and in the absence of the deceased, they went to picnic or some outings and even at that time, A1 & A2 were close and on two occasions, they saw A1 in their house and the same was informed to their mother. The mother denied the same and also informed that a ghost might have come and it was an imagination. At that time, the appellant was not arrested and they were under the control and custody of the appellant alone. There was no necessity for the daughters to question the fidelity of the appellant. Only after PW9 informed to PW1 about his suspicion and thereafter showed the photo to PWs.4 & 5, they stated about the frequent acquaintance of A1 with A2. Admittedly, PWs.1 & 2 were not residing with the appellant, as they were



residing in Porur. The appellant and the deceased along with PWs.4 & 5 were residing in Ekkattuthangal and even on the date of occurrence, they went to the school and since the programme got prolonged, PW1 and the deceased advised the appellant not to go to Tirumalairayanpattinam on that day and she can proceed on the next day. But the appellant refused to heed to the words of PW1 or the deceased and she was so adamant to leave from the place.

44. The evidence of PW9 also clearly shows that prior to going to Thirumalairayanpattinam, A1 parked the vehicle and proceeded to the house of the deceased, where the appellant received A1 and allowed him inside the house and thereafter, he has deposed that on the next day morning, A1 came from the house of the deceased with a bag and took his vehicle. Later he came to know that the deceased died and due to fear, he did not inform immediately. Later he informed about the contacts of A1 & A2 to PW1. PWs.4 & 5 are none other than the daughters of the appellant and they have also clearly stated that on seeing the photo shown by their grandfather, they informed him that they knew A1, as he used to come and pick them up and also in the absence of their father, the appellant and A1 used to take them for picnic and also outings. At that time, A1 & A2 were so close. Once when PW4 asked the appellant as to why she was sitting closely with A1, the appellant replied that if she is interested, she can also sit with him. Can this be the behaviour of a mother towards the child. If at



all a necessity arises, the appellant has to be very close with the husband. The evidence of PWs.4 & 5 clearly shows that one day they saw A1 in their father's room and immediately when they informed to their mother informed them that it is their imagination and also a ghost might be present in the house. Therefore, from the evidence of PWs.1,2,4 & 5, the prosecution has proved the motive and from the evidence of PWs.9 & 10, the prosecution has proved that the appellant was seen together with A1. Even on the date of occurrence, as per the evidence of PW9, A1 went to the house of the appellant and the appellant only opened the door and accommodated him. Thereafter, they went to the school and returned back and the deceased dropped the appellant and his children in the bus stand and they went to their native. Later the deceased alone came to the house and stayed lonely in the house. On the next day morning PWs.1 & 2 tried to contact him over phone. Since they could not get any response from the deceased, as parents, they came to the house along with food. At that time they saw the deceased lying in a pool of blood in his bedroom. Therefore, from the evidence of PW9, A1 went inside the house on the previous day and only on the next day morning he took the vehicle. The same was informed to PW1, who informed the police. Thereafter, PW1 showed the photo of A1 to PWs.4 & 5 and they informed PWs.1 & 2 about the visits made by A1 to the house. Subsequently, A1 was arrested and the confession and recovery were effected. The admissible portion of the confession given by A1 was marked as Ex.P54 and the properties



were recovered and marked as M.Os.5 to 16. Therefore, the prosecution proved the motive, last seen theory and also recovery.

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45. Even though the prosecution tried to establish the relationship between A1 & A2 through their phone calls and also the call details and other materials as well their attendance in the meditation centre, it is only to connect the relationship between A1 & A2. As stated by the learned Senior Counsel, though the same was not proved in the manner known to law, however, that will not affect the case of the prosecution. Further it is settled proposition of law that the defects or lapses on the side of the investigation will not affect the case of the prosecution. As far as circumstantial evidence is concerned, in the absence of any direct witness, the prosecution has to prove the cardinal principles of motive, last seen theory and also recovery. Whereas in this case, the motive has been established and proved by the evidence of PWs.1,2,4 & 5. The last seen theory and also the relationship of A1 & A2 were proved by the evidence of PWs.4 & 5 and also PWs.9 & 10. Apart from the evidence of PWs.4 & 5, though there are improvements or exaggerations in the evidence of PWs.9 & 10, however, their evidence cannot be totally ignored, as they have seen A1 coming and parking his vehicle nearby the shop of PW9 and frequently he used to go towards the house of the deceased and one day, he also followed him and found him reaching the house of the deceased, which fact was confirmed by PWs.4 &



5, who are none other than the daughters of the appellant. Though the learned Senior Counsel for the appellant vehemently contended that PWs.4 & 5 were tutored by their grandfather PW1, it is to be seen that at the time when PW1 showed the photo of A1 to PWs.4 & 5, at that time the appellant was not arrested and she was staying in the house and that PWs.4 & 5 were under the care and custody of the appellant only. Only after recording the statement from PWs.4 & 5, based on the information given by PW1, the appellant was arrested. Therefore, the contention as regards tutoring is unsustainable. No children would give adverse remarks against their mother and there was no animosity or the defence has not established that the appellant used to beat the children and also she was acting against the welfare of the children or the appellant was harassing the children and therefore the children made a statement against their mother. Even on hearing the news about the death of their father, PWs.4 & 5 did not say anything about that. Though they were not aware that A1 was suspected and only when the information was given by PW9, A1 was arrested based on the information given by PW1 and when PW1 visited the police station and took the photograph of A1 and thereafter, when the photo was shown to the granddaughters, PWs.4 & 5, at that time only, they recollected and stated about the relationship and the visits of A1 to their house and that the appellant also engaged only A1 for going out and also picking up from the school and dropping them at the residence. Even for regular travels, the appellant always



engaged only A1 and in the absence of the deceased, both took the children for picnic and also outings. At that time the behaviour of A1 & A2 also was different and therefore it cannot be stated that PWs.4 & 5, at the instance of tutoring by PW1, made the statement against their own mother.

46. Considering the overall circumstances and the motive, last seen theory and also the recovery effected and even the bloodstained footprints taken from the place of occurrence and subsequently, they took the sample footprint of the suspected accused A1 and the forensic report clearly shows that both tallied, the presence of A1 at the occurrence place is not doubtful and the prosecution has proved its case beyond reasonable doubt.

47. Now the only question is whether the prosecution has proved its case as against the appellant to connect the appellant with A1, though he died before the trial. However, all the materials produced by the prosecution would clearly prove that A1 has committed the charged offences and further, from the evidence of PWs.4, 5, 9, 10, 21, 22, 23 & 24, the prosecution has proved its case beyond reasonable doubt through circumstantial evidence without any break in chain, namely, motive, last seen theory and also recovery against the appellant also. However, whatever contradictions and discrepancies and also flaw or defects in the investigation pointed out by the learned Senior Counsel for the



appellant will not affect the case of the prosecution, as it is settled proposition of law that the defect in investigation will not be a sole ground to disbelieve the prosecution case.

48. In the light of the above, this Court, on re-appreciation of evidence, finds that the prosecution has proved the cardinal principles of motive, last seen theory and recovery without any break in chain in this case and also does not find any perversity in the appreciation of evidence by the trial Court. Accordingly, the criminal appeal stands dismissed. Since the appellant/accused is on bail, the learned trial Judge is directed to secure the appellant and commit her to prison to undergo the sentence of life imprisonment. Bail bonds executed shall stand cancelled.

(P.VELMURUGAN J.) (M.JOTHIRAMAN J.)
27-02-2026

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

SS



To

1. The VI Additional Sessions Judge
Chennai
2. The Inspector of Police
EF-II, Team III, CCB, Vepery, Chennai
J3 Guindy Police Station, Chennai
(Crime No.1942/2017)
3. The Public Prosecutor
High Court, Madras



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CRL A No.623 of 2019



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

SS

**Judgment in
CRL A No.623 of 2019**

27-02-2026