



Crl.A.No.700 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2026

CORAM :

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

Crl.A.No.700 of 2019

Murugesan

... Appellant / Accused

Vs.

The State represented by
The Inspector of Police,
Pollachi Town East Police Station,
Coimbatore District.
(Crime No.58/2015)

... Respondent / Complainant

PRAYER: Criminal Appeal filed under Section 374 (3) of Criminal Procedure Code, 1973 praying to set aside the judgment of conviction and sentence made in S.C.No.130/2015 dated 09.08.2017 on the file of the Sessions Court (Mahalir Needhi Mandram) Mahila Court, Coimbatore.

For Appellant : Mr.M.Rajkumar
for M/s.T.Muruganantham

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor
Assisted by
Ms.M.Arifa Thasneem

JUDGMENT

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

This criminal appeal has been filed by the appellant / sole accused
challenging the judgment of conviction and sentence dated 09.08.2017



Crl.A.No.700 of 2019

made in S.C.No.130 of 2015 passed by the learned Sessions Judge, (Mahalir Needhi Mandram) Mahila Court, Coimbatore in and by which the appellant was convicted under Section 302 IPC and sentenced to undergo Life Imprisonment and to pay a fine of Rs.5,000/-, in default to undergo 3 months rigorous imprisonment.

2. Brief case of the prosecution is as follows:

2.1. The accused is the younger brother of PW1. PW1 is the mother of the deceased Revathy. The marriage between the deceased and the accused was performed in the year 2007 and after marriage, they were residing in Pollachi, along with their son, aged about 4 years. The deceased used to inform PW1 over phone that the accused is not giving money even for food and that the accused is beating and harassing daily in drunken mood. PW1 used to visit the house of the deceased and give money for family expenses and pacify the deceased.

2.2. On 14.02.2015 at 7.00 p.m., the deceased contacted PW1 over phone and informed about Mariyamman temple festival and asked PW1 that she would come to perform the votive offering of Fire Pot holding and she would be in fasting. On the next day, one Arumugam – PW6



CrI.A.No.700 of 2019

informed PW1 that her daughter Revathy is not feeling well and she was in serious condition. Immediately, PW1 rushed to the house of the deceased and found that her daughter Revathy died. When PW1 enquired, neighbours informed that the accused forcibly took the deceased inside the house. The neighbours also informed that the accused started abusing the deceased and started beating and when they intervened and asked the accused why he was quarreling with his wife, the accused told them not to interfere with their family affairs.

2.3. PW1 lodged a complaint before PW15 – Tmt.Radha, Sub Inspector of Police. PW2 is the elder brother of the deceased and son of PW1. The deceased also used to tell about the harassment committed by the accused on her to PW2. PW2 also deposed in the similar version of PW1.

2.4. PW3 – Tr.Velliyangiri, PW4- Tr.Krishna, PW9- Tr.Nachimuthu and PW12- Bannari are the neighbours of the accused and they have deposed that on 15.02.2015 at about 9.00 p.m., they were standing near the house of the accused and chatting together. While so, the deceased was standing outside of her house and talking over cellphone. The accused,



Crl.A.No.700 of 2019

who was drunk, came out of his house, abused the deceased and started beating her. They have intervened and asked the accused why he was quarreling, for which the accused told them not to interfere with the family dispute. The accused caught hold of deceased hair, forcibly took the deceased inside the house and thereafter, they all returned back to their houses respectively. Further they deposed that, they were under the impression as if it is an usual quarrel between the deceased and the accused.

2.5. PW7- Annadurai is the husband of PW8 – Tmt.Subbulakshmi, who is the sister of the accused and they deposed that on 15.02.2015 at about 11.30 p.m., the accused came to their house and informed that his wife was not feeling well and requested them to come and see his wife. Immediately they went inside the accused house and found that the deceased was lying dead. They informed to PW6- Arumugham immediately to convey the same to PW1.

2.6. PW6 informed the same to PW1 over phone about the death of PW1's daughter. Thereafter, PW1 and PW2, who were residing at Trichy, immediately rushed to Pollachi and went to the accused house on the next



Crl.A.No.700 of 2019

day at 16.02.2015 at 10.00 a.m. PWs.1 and 2 deposed that there were some injuries seen on the neck of the deceased.

2.7. PW15- Tmt.Radha, Sub-Inspector of Police, received the complaint – Ex.P1 from PW1 and registered an F.I.R. in Crime No.58 of 2015 under Section 174 CrPC and prepared Ex.P16 – First Information Report. She forwarded the FIR and complaint to the Court and to the higher officials for further action.

2.8. PW16- Tr.Somasundaram, then Inspector of Police, Pollachi Town East Police Station, on 16.02.2015 received a copy of the FIR and took up the investigation. He visited the scene of occurrence and prepared Observation Mahazar – Ex.P2 and Rough Sketch – Ex.P17 in the presence of PW10 and one witness Arumugham. He conducted inquest over the body of the deceased in the presence of the witnesses and Panchayatdars and prepared Inquest Report- Ex.P18. He has also arranged PW14 – Tr.Elango, Photographer to take photographs from the place of occurrence and on the body of the deceased. Exs.P10 to P15 are the photographs. PW16 examined the witnesses, recorded their statements and also sent a requisition to the Court to conduct autopsy to CMC hospital, Coimbatore.



CrI.A.No.700 of 2019

2.9. PW13 – Dr.Kulanthaivelu, on 17.02.2015 conducted autopsy on

the body of the deceased and noted the following injuries:

Reddish contusion 5 x 3 cm x muscle deep noted over chin and left side jaw.

A complete transverse pressure ligature abrasion encircling the upper part of neck at the level of upper border of thyroid cartilage measuring 41 x 4 to 3 cm.

The anatomical location of the ligature mark is as follows:

- 3 cms below to right ear,*
- 2 cms below to chin*
- 3 cms below to left ear.*

On bloodless dissection of neck:- The base of ligature mark is soft intermediary bruised.

Reddish contusion 4 x 2 x 2 cm noted over upper part of both side neck muscle.

On dissection of Scalp, Skull and Dura : Sub Scalpal Contusion reddish in colour 6 x 4 cm noted over left temporo parietal region and 6 x 3 cm noted over both frontal region. Thin sub arachnoid hemorrhage noted over both fronto parietal lobe.

- Heart – right side chambers contain about few cc of fluid blood and left side chambers empty.*
- Coronaries patent*
- Stomach contains about 250 grams of partially digested food particles, no specific smell, mucosa pale.*
- Small Intestine contains about 10 ml of bile stained fluid, no specific smell, mucosa pale.*
- Liver, Spleen, Kidneys, Lungs and Brain – Cut section pale.*
- Urinary Bladder – empty.*
- Uterus : Normal in size, cut section empty*
- Viscera preserved and sent for chemical analysis.*

2.10. PW13 issued the Postmortem Certificate-Ex.P7. After receiving the Chemical Analysis Report, he has issued Final Opinion – Ex.P9 opining that the deceased would appear to have died of violent



compression of neck (Strangulation) and the death would have occurred 12 to 24 hours prior to body kept in the cold storage room.

2.11. PW11- Village Administrative Officer deposed that when he was in his office along with his Assistant - Thangavel on 17.02.2015, the accused came to his office at about 11.00 a.m. and narrated about the occurrence. PW11 recorded the statement / extra judicial confession of the accused under Ex.P3, took him to the police station and handed over the accused to PW16 along with the statement recorded from him.

2.12. PW16, on production of the accused by PW11 in the police station, arrested the accused at about 15.15 hours and on enquiry, the accused voluntarily gave confession statement and the same has been recorded in the presence of PW11 and his assistant Thangavel. The admissible portion of the confession statement of the accused is Ex.P19. In pursuance to the confession statement, the accused took them to the place of occurrence and produced M.O.1-Dupatta, M.O.2 – Mobile phone and the same has been seized under Mahazar – Ex.P5. In continuation of his investigation, PW16 examined the witnesses and recorded their statements. Upon completion of investigation, he has laid the charge sheet against the accused under Section 302 IPC.



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2.13. In order to prove the guilt of the accused, the prosecution has examined PWs.1 to 16, marked 21 exhibits and produced 2 material objects. On the completion of prosecution side evidence, when the accused was questioned under Section 313(1)(b) CrPC with regard to incriminating circumstances / materials appearing against him, the accused denied the same and pleaded not guilty. On the side of the defence, no witness was examined and no document was marked.

2.14. The Court below, upon considering the oral and documentary evidence, found the accused guilty under Section 302 IPC and convicted and sentenced him as stated above. Being aggrieved over the same, the appellant / accused has preferred the present criminal appeal.

3. The learned counsel appearing for the appellant / accused would submit that most of the prosecution witnesses are relatives of the deceased and they are interested witnesses. The evidence of PW1 with regard to extra judicial confession given by the accused, which creates serious doubt about the prosecution case, since the appellant / accused is not known to PW11. The prosecution was able to recover only a screen cloth, whereas it



Crl.A.No.700 of 2019

has been marked as Dupatta – M.O.1 and the said material object does not contain any blood stain. There are no direct eye witnesses to the occurrence and the case rests upon circumstantial evidence. PWs.3, 4, 9 & 12 have come to the scene after the occurrence and they have not supported the case of the prosecution. The medical evidence also not supported the prosecution case. Once an F.I.R. is registered by police, PW11-VAO is not authorized to record any statement. The Court below failed to consider the fact that it is a case of suicide of deceased by herself and therefore, the judgment of conviction and sentence imposed by the Court below is liable to be set aside.

4. *Per contra*, learned Additional Public Prosecutor would submit that the neighbors of the deceased and the accused, namely PWs.3, 4, 9 and 12 have clearly deposed that on 15.02.2015 at 9.00 p.m., when they were standing near accused house and chatting together, at that time, the deceased was standing outside and talking over phone and the accused, who was in drunken mood, abused her and started beating her and when they intervened and asked why he was quarreling, the accused told them not to interfere with his family affairs and pulled the deceased hair and forcibly dragged her inside his house. It is the evidence of PWs.7 and 8



Crl.A.No.700 of 2019

that on 15.02.2015 at 11.30 p.m., the accused came to their house and informed that his wife was not feeling well and immediately, they proceeded to the house of the accused and found that the deceased was lying dead on the floor. Therefore, the prosecution is able to prove that there was a quarrel between the accused and the deceased on 15.02.2015 at about 9.00 p.m., and subsequently, the accused himself informed PWs.7 and 8 that his wife was not feeling well and requested them to go and see his wife and it is for the appellant / accused to explain the circumstances which are within his exclusive knowledge. The learned Additional Public Prosecutor would further submit that the evidence of PW1 clearly shows that the accused did not maintain his family and PW1 used to give money to her daughter to meet out the family expenses and the deceased also informed about the harassment given by the accused to PWs.1 and 2. Therefore, motive has been proved by the prosecution through the evidence of PWs.1 and 2 and the Last Seen Theory through the evidence of neighbors PWs.3, 4, 9 and 12. The accused himself has voluntarily surrendered and gave confession before PW11-VAO which is extra judicial confession and further the accused / appellant voluntarily gave confession statement and in pursuance to his confession statement, material objects were recovered and the medical evidence also



Crl.A.No.700 of 2019

corroborates the case of the prosecution. The Court below, upon considering the materials, found the appellant guilty under Section 302 IPC and even when incriminating materials / circumstances were put before the accused under Section 313(1)(b) CrPC, the accused instead of making an attempt to explain / clarify, he has totally denied and stated that it is a false case and there is no reason to interfere with the judgment of conviction and sentence passed by the Court below.

5. We have considered the rival submissions and also perused the materials available on record.

6. The prosecution has relied upon the following circumstances in order to establish the guilt of the accused :

- (I) *Motive*
- (II) *Last Seen Theory*
- (III) *Extra Judicial Confession*
- (IV) *Recovery*
- (V) *Medical Evidence.*

MOTIVE

7. The deceased Revathy is the daughter of PW1. PW2 is the son of PW1 and they have deposed that the marriage of the deceased with the accused was performed in the year 2007. After marriage, they were



residing in Pollachi along with a male child, aged about 4 years. The deceased used to tell PWs.1 and 2 over phone that the accused is not maintaining the family and not providing money even for food and the accused used to harass the deceased in drunken mood. PW1 used to give money to the deceased to meet out family expenses and pacified her. The neighbors of the deceased and accused viz., PWs.3, 4, 9 & 12 have deposed that the accused in drunken condition, came out from the house and started abusing the deceased. PWs.4 and 9 have deposed about the drinking habit of the accused and when the deceased not giving money for consuming alcohol, he used to beat the deceased. PWs.1 to 4 have not been cross examined by the appellant / accused. Therefore, the prosecution has proved the case that the accused used to involve in frequent quarrel with the deceased in a drunken mood and assault his wife / deceased.

LAST SEEN THEORY

8. PWs.3, 4, 9 & 12 are neighbours of the deceased and they have deposed that on 15.02.2015 at 9.00 p.m., when they were standing near the house of the accused chatting together, at that time the deceased was standing outside and talking over cell phone and the accused was in drunken mood, started abusing the deceased with unparliamentary words,



Crl.A.No.700 of 2019

started beating her and when they intervened and asked why he is quarreling with his wife, for which the accused told them not to interfere with his family affairs. Thereafter, the accused caught hold of the deceased, pulled her hair and forcibly took her inside the house and they were under the impression that this is a usual quarrel by the accused. From the evidence of PWs.3, 4, 9 & 12, it is clear that the accused assaulted the deceased and forcibly taken her inside by caught holding her hair. From the above evidences of witnesses, the prosecution has proved the Last Seen Theory.

9. Further PW8 and 7, who are the sister and brother-in-law of the accused, deposed that at about 11.30 p.m. on 15.02.2015, the accused came to their house and told that his wife / deceased was not feeling well and requested them to come and see his wife. Then PWs.7 and 8 immediately proceeded to the house of the accused and found that the deceased was lying dead on the floor and immediately, they informed this to PW6-Arumugham and requested him to convey the incident to PW1, the mother of the deceased. Thereafter, PWs.3, 4, 8 and 12, who are neighbors heard the noise of the accused and went there and came to know about the death of the deceased. PWs.7 and 8 are closely related to the



accused and the deceased. PWs.1 and 2 deposed that they also found injuries on the deceased neck. The evidence of PWs.7 and 8 reveals the presence of the accused in the occurrence place at the relevant point of time. In this regard, when the above incriminating circumstance was put against the accused during questioning under Section 313(1)(b) CrPC., the accused totally denied and stated that it is a false case. The accused has not given any explanation for the death of the deceased and it is for the accused to explain the circumstance, as it is within the knowledge of the accused as to what happened inside the house. It is the duty of the accused to discharge his burden as per Section 106 of the India Evidence Act.

10. Though the appellant / accused has taken a stand that it is a case of hanging and not strangulation, from the evidence of PWs.7 and 8, the accused has not informed about the alleged hanging, but only informed that his wife was not feeling well. It is not the case of the defence that there are no materials found in the place of occurrence as to the alleged hanging by the deceased and no evidence was found in the place of occurrence as seen from Ex.P2 – Observation Mahazar, Ex.P17- Rough Sketch and Photographs – Exs.P10 to P15.



EXTRA JUDICIAL CONFESSION

11. It is the specific case of the prosecution that the accused surrendered before PW11- VAO and gave Extra Judicial Confession – Ex.P3 about his involvement in the occurrence and PW11 recorded the statement of the accused on 17.02.2015. PW11 prepared Special Report and produced the accused along with his statement before PW16 on the same day at 3.00 p.m. Ex.P3 has been signed by the accused. It is to be noted that extra judicial confession is a weak piece of evidence. If it corroborates the prosecution case, it can otherwise be established, probative value to such an incident to be given to provide satisfaction to the case so warrants.

12. In this case, other incriminating evidence clearly pointing out the guilt of the accused is the evidence of PWs.3, 4, 9 & 12, who clearly deposed about the quarrel between the deceased and the accused just prior to the occurrence. During cross examination, nothing elucidated as to the veracity of the evidence of PW11.

RECOVERY

13. On production of the accused by PW11 – VAO before the police station, PW16, Inspector of Police arrested the accused and at that time,



the accused voluntarily gave confession statement, based on which M.Os.1 and 2 were recovered under Seizure Mahazar- Ex.P5 in the presence of PWs.11 and his Assistant Thangavel. In pursuance of the confession statement of the accused, the recovery of M.Os.1 and 2 by PW16 has been proved by the prosecution. PW5 – Selvakumar, who is the relative of the accused, gone to the police station along with PW11 at the time of surrender of the accused and thereafter, PW16 prepared Observation Mahazar-Ex.P2 and Rough Sketch–Ex.P17. PW14- Photographer deposed about taking photographs in Exs.P10 to P15. Therefore, the recovery of M.Os.1 and 2 viz., Dupatta and Cellphone have been proved through the evidence of PW11.

MEDICAL EVIDENCE

14. PW13- Doctor Kulandaivelu, who conducted postmortem on the body of the deceased opined that the death of the deceased would have been caused by M.O.1 – Dupatta. PW13 opined that the deceased would appear to have died of violent compression of neck (strangulation). In his cross examination, PW13 denied the suggestion that it is a case of hanging and he has given his explanation and reasons for his opinion that it is only a case of strangulation. From the evidence of PW13 coupled with the



evidence of PWs.1 and 2, it is evident that it is a clear case of strangulation. Therefore, the prosecution has proved its case of homicidal death.

15. The evidence of PWs.1 to 5, 9 and 12 shows that the accused was in the habit of beating his wife / deceased in drunken mood frequently and he suspected his wife when she was talking in cellphone. The deceased used to object for the drinking habit of the accused, which caused the quarrel between them. The accused has not given any explanation when he was questioned under Section 313 CrPC.

16. Thus the prosecution has proved the case beyond all reasonable doubt through the testimonies of the witnesses. The Trial Court, on a proper consideration of oral and documentary evidences, has rightly convicted and sentenced the accused as stated above, which does not warrants any interference.

17. In the result, this Criminal Appeal stands dismissed, confirming the judgment of conviction and sentence dated 09.08.2017 made in S.C.No.130 of 2015, passed by the learned Sessions Judge, Magalir



Crl.A.No.700 of 2019

Needhimandram, Mahila Court, Coimbatore. The respondent shall secure the custody of the accused for undergoing the remaining period of sentence, less the period already undergone.

(P.V.,J.) (M.J.R.,J.)
06.01.2026

Jvm
Index : Yes / No
Internet : Yes / No
Speaking /Non speaking Order

To

1.The Inspector of Police,
Pollachi Town East Police Station,
Coimbatore District.
(Crime No.58/2015)

2.The Sessions Judge,
Mahalir Needhimandram,
Mahila Court, Coimbatore.

3.The Superintendent of Prison,
Central Prison, Coimbatore.

4.The Public Prosecutor,
High Court, Madras.



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Crl.A.No.700 of 2019

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

Jvm

Crl.A.No.700 of 2019

06.01.2026