



Crl.A.No.747 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.01.2026

PRONOUNCED ON : 29.01.2026

Coram:

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

**Crl.A.No.747 of 2019 and
Crl.M.P.No.15717 of 2019**

Manikandan @ Mickel @ Appu

...Appellant

Vs.

State represented by
The Inspector of Police,
Town Police Station,
Karaikal, Puducherry.
(Crime No.79 of 2014)

...Respondent

Prayer: Criminal Appeal is filed under Section 374(2) Cr.P.C. to call for records and set aside the judgment dated 20.08.2019 made in S.C.No.3 of 2017 by the learned District and Sessions Judge, Karaikal.



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For Appellant : Mr.S.Santhosh Kumar

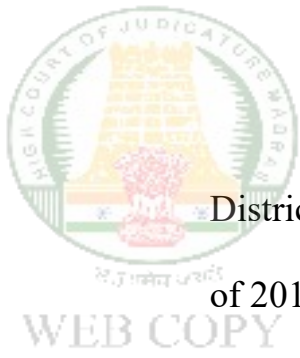
For Respondent : Mr.M.V.Ramachandramoorthy,
Public Prosecutor (Pondy) Assisted
by Mr.M.Thamizhmani

JUDGMENT

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

This criminal appeal has been filed to set aside the judgment of conviction and sentence passed against the appellant in S.C.No.3 of 2017, dated 20.08.2019 by the learned District and Sessions Judge, Karaikal.

2 The case of the prosecution is that on 23.03.2014, at the instigation of A2 to A5, in furtherance of their common intention, A1 murdered the deceased, who is none other than husband of A2 and uncle of A1. Hence a case in Cr.No.79 of 2014 was registered for the offence under Section 302 IPC and after investigation, the respondent police laid charge sheet before the learned Judicial Magistrate No.II, Karaikal, which was taken up in P.R.C.No.05 of 2017. Since the offence charged against the appellant/A1 is exclusively triable by the Court of Session, the learned Judicial Magistrate No.II, Karaikal, committed the case to the learned



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District and Sessions Judge, Karaikal, which was taken on file in S.C.No.03 of 2017.

3 Before the trial Court, in order to prove the charges, prosecution examined 18 witnesses as P.Ws.1 to 18 and marked 20 documents as Exs.P1 to 20 and one Court Document as Ex.C1. 13 material objects were exhibited as M.Os.1 to 13.

4 On completion of examination of the prosecution witnesses, incriminating materials were culled out from the evidence of prosecution witnesses and put before the accused under Section 313(1)(b) Cr.P.C. and they denied the same as false. On the side the defence, no oral and documentary evidence was let in.

5 The learned Sessions Judge, after trial and hearing the arguments advanced by the learned counsel on either side, by judgement dated 20.08.2019, while acquitting the other accused A2 to A5, found the appellant/A1 guilty for the offence under Section 302 IPC and convicted and sentenced him to undergo imprisonment for life and to pay a fine of



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Rs.5,000/-, in default, to undergo simple imprisonment for a further period of 6 months.

6 Aggrieved over the said judgment of conviction and sentence, the appellant/A1 is before this Court with the present Criminal Appeal.

7 Learned counsel for the appellant/A1 would submit that in this case, there is no direct evidence or eye witness and the whole case rests upon the circumstantial evidence. Therefore it is the bounden duty of the prosecution to establish three links of chain, namely motive, last seen theory and recovery of weapon.

7.1 The trial Court made conviction only based on the evidence of P.W.3, who is a neighbour, but his evidence is not reliable, since the same is artificial. P.W.3 deposed that while he was standing near the Vulcanising Workshop, the appellant came and told him that he murdered the deceased and should not reveal the same to anyone. No accused would voluntarily reveal about the offence committed by him to anyone. Therefore the evidence of P.W.3 is unnatural and cannot be relied upon and the trial Court ought to have disbelieved the evidence of P.W.3.



7.2 P.W.4, who is the sister of the deceased, in her cross examination clearly stated that a week prior to the occurrence, the deceased was remanded for the commotion taken place in the village. Therefore the deceased used to pick up quarrel with the Villagers. Further he is also habitual drinker. The trial Court failed to appreciate the evidence of P.W.4 in a proper perspective.

7.3 The trial Court disbelieved the evidence of the prosecution witnesses with regard to the involvement of the other accused A2 to A5 and based on the same set of evidence the trial Court convicted the appellant/A1, which is not legally and factually tenable.

7.4 In this case, which is based on only circumstantial evidence, most of the prosecution witnesses have turned hostile and did not support the case of the prosecution. Even the defacto complainant P.W.1 has turned hostile. Under these circumstances, the conviction recorded by the Trial Court is perverse.



7.5 P.W.3 in his evidence stated that on 23.03.2014 at the evening hours, he saw the appellant with blood stained shirt and knife. But prosecution has not offered any reason as to why P.W.3 did not inform the same to the police immediately, which itself proves that he has been tutored by the prosecution to depose against the appellant.

7.6 P.W.12, the Village Administrative Officer in his chief examination has deposed that the alleged shirt of A1 differs and he denied M.O.10 and hence the recovery, alleged to have been made in the presence of P.W.12 got serious doubt.

7.7 Therefore in the absence of any eye witness and also the chain of link without any break, the conviction recorded by the trial Court is perverse and the same is liable to be set aside.

8 The learned Additional Public Prosecutor appearing for the respondent police would submit that the deceased is husband of A2 and the other accused namely A1 and A3 to A5 are relatives. A1 to A5, due to previous enmity regarding the land dispute and family dispute, in



furtherance of common intention, at the instigation of A2 to A5, A1 brutally murdered the deceased with knife, which caused instantaneous death to the deceased.

8.1 The deceased used to pick up quarrel with A2, who is his wife and beat her and hence A2 often rushed to her brother's/A3 house. Like wise, on the fateful day, the deceased had quarrel with A2 and A2 as usual went to the house of A3, where they planned to murder the deceased through A1. A2 informed P.W.1, who is daughter of the deceased and A2 and was returning from Tanjore after participating in Karate competition, to come to the house of A3, knowing fully well that A1 had murdered the deceased.

8.2 P.W.3, who is a neighbour of the deceased has clearly deposed that on 23.03.2014 after attending obsequies of the neighbour, he was standing near the Vulcanising Workshop and at that time the appellant came with blood stained shirt and knife and told him that he had murdered the deceased.



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8.3 P.W.4 is the sister of the deceased and she also deposed that there was frequent quarrel between the deceased and his wife A2 and there was also land dispute between the deceased and A3.

8.4 Through the evidence of P.Ws.2, 3, 4 and 5 prosecution has clearly proved the motive for the occurrence and their evidences are corroborated with each other.

8.5 Ex.P4 is the confession statement of the appellant/A1, which led to recovery of M.O.7 to 13, has been proved through the evidence of P.W.12 VAO, who is the witness for confession and recovery.

8.6 Therefore prosecution has proved its case beyond all reasonable doubts and the trial Court also after appreciating the oral and documentary evidence let in by the prosecution, has recorded conviction against the appellant, which is reasonable and does not call for any interference of this Court.



9 Heard the learned counsel appearing for the appellant and the learned Additional Public Prosecutor for the respondent police and perused the materials available on record.

10 In this case, A2 is wife of the deceased, A3 is brother of A2, A4 is son of A3, A5 is mother of A2 and the appellant herein, who is A1 is son of A3. It is an admitted fact that there was frequent quarrel between the deceased and his wife A2 and further the deceased was a drunkard. P.W.1 is the daughter of the deceased and A2.

11 Admittedly in this case, there is no eye witness and the case is based on only the circumstantial evidence. It is true that when the case is based on the circumstantial evidence, it is the bounden duty of the prosecution to prove the cardinal principles of last seen theory, motive and recovery.

12 As far as motive is concerned, P.W.1, who is none other than the daughter of the deceased and A2, P.Ws.2, 3 and 5 who are neighbours and P.W.4, who is the sister of deceased, have clearly deposed that the



deceased used to pick up quarrel with A2 and beat her and their son P.W.7.

Further there was also land dispute between the deceased and A3 and also the deceased was requested to give his daughter P.W.1 in marriage to A1, but the deceased refused to give her daughter P.W.1 to A1. Therefore from the evidence of P.Ws.1 to 5, prosecution has clearly proved the motive for the occurrence.

13 Coming to last seen theory, P.W.3, who is the neighbour of the deceased has deposed that after attending the obsequies in the neighbour's house, was standing near Vulcanising Workshop and at that time the appellant came with blood stained shirt carrying the knife and informed him that he killed his uncle Shanmugam. From the evidence of P.Ws.2, 3 and 5 it is clear that they all saw the deceased on 23.03.2014 and on that day also there was quarrel between the deceased and A2. The next day morning i.e on 24.03.2014, when P.W.1 went to her house to take her cloth to attend the College, she found her father dead in blood seepage.

14 Further, P.W.13, the Doctor who treated the appellant for his injuries, issued the wound certificate marked as Ex.P8. He deposed that the



appellant was brought to the hospital on 27.03.2014 and that there were three injuries on the appellant. The first injury was a bite injury, and the second and third injuries were sustained by the accused while taking out the knife after inflicting a stab injury on the deceased. He further deposed that the appellant himself stated that he sustained the said two injuries while using the knife against the deceased. The said evidence is also corroborated by the testimony of P.W.3 and the wound certificate, Ex.P8.

15 As far as recovery is concerned, during investigation the appellant was arrested and he gave confession statement in the presence of P.W.12 VAO, in which the appellant has clearly narrated the entire event and how he caused multiple stab injuries to the deceased and how he sustained injury. Even though confession statement recorded by the police is not admissible in evidence and the same was hit by Section 25 of the Indian Evidence Act, however, the portion of the confession statement, which led to recovery/discovery of materials are admissible in evidence under Section 27 of the Indian Evidence Act. The said admitted portion of the confession statement of the appellant/A1 has been marked as Ex.P5.



16 P.W.12 the VAO has deposed that the appellant has given his confession statement before the Investigating Officer and the appellant took them to the place, where he had hidden the material objects and demonstrated how he murdered the deceased. The signature of P.W.12 VAO made in the confession statement of A1 has been marked as Ex.P3. Therefore through the evidence of P.W.12 the Village Administrative Officer and P.W.18 the Investigating Officer and Exs.P3 and 5, prosecution proved the recovery of material objects.

17 P.W.1, who is the daughter of the deceased and A2 has clearly narrated the incident and how she preferred complaint. A1 is none other than the son of A3, who is the brother-in-law of the deceased. P.W.3 has clearly spoken about the presence of A1 on 23.03.2014 at evening hour with blood stained shirt and knife and A1 also, in his confession, admitted that he informed about the murder of the deceased to P.W.3. The appellant/A1, while giving confession statement has clearly stated about the manner in which he murdered the deceased and also how he sustained injuries, which corroborated with the evidence of the Doctor P.W.13 and the Wound Certificate Ex.P8.



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18 Even though the circumstantial evidence has to be established without any break of chain, in all the cases, it cannot be meticulously proved. Circumstantial evidence is evidence of circumstances which can be relied upon not as proving a fact directly but instead as pointing to its existence.

19 It is true that in cases based on circumstantial evidence, the burden is always on the prosecution to prove its case and the burden never shifts to the accused. However, in such circumstances where prosecution has been able to prove on the basis of cogent evidence that the weapon of crime was traced to the accused, as in the present case, it was incumbent upon the appellant to explain the circumstances of the recovery of the weapon with which a linkage has been established with the injury suffered by the deceased through scientific evidence. However, apart from claiming ignorance and denying the various incriminating evidence presented during the trial, the appellant chose not to adduce any evidence to explain these circumstances. Thus, his silence and failure to explain any of the



incriminatory circumstances, would strengthen the prosecution case based on circumstantial evidence against him as proved by the prosecution.

20 In this regard, we may also refer to the decision of the *Hon'ble Supreme Court* rendered in *Trimukh Maroti Kirkan v. State of Maharashtra* reported in (2006) 10 SCC 681, wherein, it was held that where the circumstantial evidence is the basis for any case, where no eyewitness account is available, and when the incriminating circumstances are put to the accused, if the accused does not offer any explanation or the explanation that is found to be false, it provides an additional link to the chain of circumstances as observed in para 21 of the aforesaid decision which reads as follows:

“21. In a case based on circumstantial evidence where no eyewitness account is available, there is another principle of law which must be kept in mind. The principle is that when an incriminating circumstance is put to the accused and the said accused either offers no explanation or offers an explanation which is found to be untrue, then the same becomes an additional link in the chain of circumstances to



make it complete. This view has been taken in a catena of decisions of this Court.”

21 While the accused is not obligated to answer the questions put to him under Section 313 Cr.P.C. and still can maintain his silence or deny the evidence, yet silence or evasive or wrong answers to the questions put by the court provides a perspective to the court in properly evaluating the incriminating materials which have been brought forth by the prosecution by drawing necessary inference including an adverse one. Examination of an accused under Section 313 Cr.P.C. will enable the accused to prepare and strategize his defence. He will have all the opportunities to discredit any prosecution witness or question any evidence through the tool of cross examination. He will thereafter have the opportunity to lead his defence evidence, if any. In the present case, despite the incriminating evidence which has come up against the appellant has been pointed out to him by the Court, he has not explained any of these but merely denied or feigned ignorance to which necessary inference can be drawn against him. Especially in this case, P.W.13, the Doctor, who gave treatment to the



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appellant/A1 and issued Ex.P8 wound certificate, stated that the appellant/A1 informed him that he sustained injury while stabbing the deceased with knife. The injury sustained by the appellant/A1 should be his self inflicted injury.

22 In the present case, even though the trial Court acquitted the other accused A2 to A5, neither the State nor the defacto complainant filed any appeal against their acquittal. This Court, as a final Court of fact finding, while re-appreciating the entire evidence, found the prosecution has proved the circumstantial evidence through the links of chain without break against the appellant/A1. Hence we do not find any reason to interfere with the judgment of convicted passed by the trial Court.

23 With the above observations and reasons, this Criminal Appeal stands dismissed. Consequently connected miscellaneous petition stands closed. The trial Court is directed to secure the appellant to undergo remaining period of imprisonment, if any.

[PVJ]

[MJRJ]

29.01.2026

Speaking Order/Non Speaking Order
Neutral Citation case: Yes/no
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To

1. The District and Sessions Judge, Karaikal.
2. The Inspector of Police, Town Police Station, Karaikal, Puducherry.
3. The Public Prosecutor, High Court of Madras.



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

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**Pre-Delivery Judgement in
Crl.A.No.747 of 2019 and
Crl.M.P.No.15717 of 2019**

29.01.2026