



Crl.A(MD)No.99 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2026

CORAM:

**THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

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**Ayyappan @ Vaithilingam ... Appellant/PW1(Victim & Defacto
complainant)**

Vs.

**1.Vaithilingam
2.Sathasivam
3.Kulanthaivel
4.Sellathurai
5.Raja
6.Saminathan
7.Selventhiran
8.Aravinthan
9.Appakkannu**

... Respondents 1 to 9/Accused 1 to 9



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10. The State rep. through
The Inspector of Police,
Pappanadu Police Station,
Thanjavur District.
(Crime No.278 of 2020)

... 10th Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 372 of Criminal Procedure Code, to call for the records relating to the impugned Judgment passed in S.C.No.208 of 2022 dated 28.11.2022 on the file of the I Additional District and Sessions Judge (PCR), Thanjavur and to set aside the same.

For Appellant : Mr.R.Gowrishankar
For Respondents : Mr.AN.Ramanathan – for R1 & R2
Mr.Arun Prasad – for R5, R6 & R7
No appearance – for R3, R4 & R8
Refused - R9
Mr.R.M.Anbunithi – for R10
Additional Public Prosecutor

JUDGMENT

(Judgment of the Court was delivered by R.POORNIMA, J.)

This Criminal Appeal has been filed by the *de facto* complainant, challenging the judgment 28.11.2022 made in S.C.No.208 of 2022 on the



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file of the I Additional District and Sessions Judge (PCR), Thanjavur in which judgment, the accused were acquitted of all charges.

2. The case of the prosecution in brief is as follows :

(a) The deceased and the accused were involved in a dispute concerning the use of a motor pump set. About one week prior to the occurrence, P.W.1 and his father had developed enmity with the accused regarding the watering of their agricultural field using the said motor pump. Though village panchayatdars intervened, the dispute remained unresolved.

(b) On 08.04.2020 at about 12.00 a.m., P.W.1 was ploughing his paddy field using a tractor, while his father was engaged in watering the field. At that time, A9 demanded that the motor be stopped. The deceased informed A9 that the motor would be stopped after completing the watering of their field. This information was subsequently conveyed by A9 to A1.

(c) On 10.04.2020, P.W.1 received information that his father was lying dead near the bore pump set. Upon reaching the field, he witnessed



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the body of his father bearing severe injuries on the face, shoulder, and wrist. Suspecting the involvement of the accused, he immediately informed the police and requested appropriate legal action.

(d) The complaint (Ex.P1) was received by P.W.21, the Sub-Inspector of Police, Pappanadu Police Station. Based on the complaint, a case in Crime No.228 of 2020 was registered under Sections 147, 148, 448, 149, and 302 IPC. The First Information Report (Ex.P8) was duly forwarded to the jurisdictional Judicial Magistrate, and copies were sent to the higher officials.

(e) On 10.04.2020, P.W.23, ThiruNagarathinam, Inspector of Police, took up the investigation. He visited the scene of occurrence and prepared the Observation Mahazar (Ex.P9) and Rough Sketch (Ex.P11) in the presence of witnesses Ramesh and Mahadevan.

(f) During the course of investigation, he recovered Material Objects M.O.2 to M.O.9 under Seizure Mahazar (Ex.P10) in the presence of the same witnesses. The recovered objects were forwarded to the Court under Form-95 (Ex.P12).



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(g) Thereafter, he conducted an inquest over the dead body and prepared the Inquest Report (Ex.P13) in the presence of panchayatdars and witnesses. The dead body was then sent for post-mortem examination through Police Constable Pradeep.

(h) P.W.17, Dr. Naveen, conducted the post-mortem examination and issued the Post-Mortem Certificate (Ex.P2). The Doctor opined that the deceased would appear to have died due to multiple injuries sustained on various parts of the body, resulting in heavy bleeding.

(i) The Investigating Officer also forwarded the viscera for forensic examination. He examined the Doctor and other witnesses and recorded their statements.

(j) Upon the transfer of P.W.23, P.W.24, ThiruKarunakaran, took up further investigation on 01.12.2020. He examined additional witnesses, recorded their statements, and submitted the Section Alteration Report (Ex.P22).

3. On receipt of the records, the District Munsif-cum-Judicial Magistrate Court, Orathanadu, took up the case in P.R.C.No.1 of 2021



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and issued summons to the accused. After the appearance of the accused, copies of the entire records were furnished to them free of cost under Section 207 Cr.P.C.

4. Since the offence is exclusively triable by the Court of Session, the learned Judicial Magistrate committed the case records to the Principal District and Sessions Judge, Thanjavur, under Section 209(A) Cr.P.C. for further action.

5. The Principal District and Sessions Judge, Thanjavur received the case records and numbered it as S.C.No.208 of 2022 and made it over to the I Additional District and Sessions Judge (PCR), Thanjavur.

6. On receipt of the records, the I Additional District and Sessions Judge (PCR), Thanjavur, framed charges against the Accused under Sections 120B, 147, 148, 114, 302 r/w.149 IPC. The charges were read over and explained to the accused. The accused denied the charges and claimed to be tried. Therefore, the case was posted for trial.



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7. On the side of the prosecution, P.W.1 to P.W.24 were examined and Ex.P1 to Ex.P22 were marked. Material Objects M.O.1 to M.O.12 were produced. On the side of the accused, no oral evidence was adduced and marked 3 documents as Ex.D1 to Ex.D3 were marked.

8. On conclusion of trial, the learned I Additional District and Sessions Judge (PCR), Thanjavur, acquitted the accused from all the charges by judgment dated 28.11.2022, against which, the present Criminal Appeal has been filed by the *de facto* complainant.

9. The learned counsel for the appellant contended that:

(a) The trial Court stated that there is no direct eyewitness to the occurrence, but the prosecution has proved the case with the chain of circumstantial evidence.

(b) The prosecution proved the prior motive which was spoken by P.W.1, P.W.8 & P.W.9. The conspiracy stated the motive that due to operating motor for irrigation, the accused have quarreled with deceased and P.W.1 and the accused disconnected the electricity connection.



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(c) The evidence of P.W.3, P.W.5, to P.W.7 and P.W.19 who seen the accused near the occurrence place and they also deposed that the accused proceeded to the place of occurrence with white gunny bag. P.W.6 and P.W.7 also stated that they seen the accused near the place of occurrence. P.W.6 stated that the accused along with 4 others stood near the place of occurrence and they were talking. Soon after the occurrence, A7 took the blood stained knife and also put bindi in the forehead of A5 and stated that they achieve their target. P.W.19 also corroborated the evidence of P.W.7.

(d) There is no delay in FIR as the occurrence took place at about 6.00 a.m., immediately it was lodged at 10.00 a.m., but the trial Court failed to consider the same.

(e) The trial Court wrongly came to conclusion that there was delay in receiving the FIR, which was speak volume that the complaint have been created afterwards. But it is settled principle law that the delay in reaching FIR to the Court should not be used to cause injustice to the victim.



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Hence, the order of the trial Court is perverse and prayed to convict all the accused as per the charges framed against them.

10. The learned Additional Public Prosecutor appearing for the State contended that the motive for the occurrence was spoken to by P.W. 1 to P.W.5. It was further argued that the accused were arrested and based on their alleged confessions, material objects were recovered. According to the prosecution, all the accused confessed to having committed the murder. P.W.2 stated that he saw the accused at the place of occurrence. P.W.5 also deposed that he saw the accused at the place of occurrence. The weapons were recovered from the accused, and the medical evidence was tallied with the weapons used. It was therefore submitted that the trial Court, without properly considering the evidence, acquitted the accused, rendering the judgment which is perverse. Hence, the State prayed that the judgment of the trial Court be set aside.

11. The learned counsel for the respondents, in the course of arguments, contended that the case rests entirely on circumstantial



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evidence. None of the witnesses spoke about the direct involvement of the accused or about having last seen the accused with the deceased. Merely stating that the accused were proceeding along the pathway to the field cannot form the basis for conviction. It was further submitted that the motive was not spoken to by any independent witness. There was also an unexplained delay in the lodging of the FIR. According to the respondents, the prosecution failed to establish the guilt of the accused beyond reasonable doubt, and the accused were falsely implicated due to a civil dispute. Therefore, it was argued that the trial Court had properly appreciated the evidence on record and acquitted the accused, warranting no interference. Accordingly, the appeal was prayed to be dismissed.

12. Heard the learned counsel appearing on either side and perused the materials available on record.

13. As per the evidence of P.W.1 to P.W.4, there existed prior enmity between the accused and the deceased relating to civil dispute viz., watering of their respective lands. P.W.1 further stated that, on the



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previous day, A9 asked the deceased to stop the motor, to which the deceased replied that they would bore water thereafter. This was allegedly informed by A9 to A1. On the following day, P.W.1 found the dead body of his father in the field with injuries.

14. P.W.3, the granddaughter of the deceased, stated that on 09.04.2020, while she was studying at her house, she saw certain accused travelling on two motorcycles, and A5, A1, and A7 proceeding on foot. Thereafter, she completed her studies and went to sleep. On the next day, she was informed that her grandfather had been found dead in the field. However, she did not specify the exact place where she saw the accused nor the direction in which they were proceeding.

15. P.W.5 deposed that on 09.04.2020 at about 11.00 p.m., he saw A8, A2, and A6 travelling on a motorcycle, with A2 carrying a white gunny bag. In another motorcycle, A4, A3, and one Appavu Nadar were said to be travelling, while A1, A5, and A7 were following on foot. On the next day, he was informed that his father had died. However, P.W.5



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also failed to specify the place where he saw the accused or the direction in which they were proceeding.

16. The aforesaid witnesses have not spoken clearly so as to establish the “last seen” theory. It is further noted that though the statements of P.W.3 and P.W.5 under Section 161 Cr.P.C. were allegedly recorded on 25.05.2020, the same reached the Court only on 15.04.2021. If P.W.3 and P.W.5 had indeed seen the accused near the place of occurrence, they would have informed P.W.1 immediately, and such fact would have found place in the complaint itself. The delay in forwarding the statements to the Court creates serious doubt.

17. P.W.1 spoke about the motive and stated that he had complained to the Panchayat regarding prior disputes, which were allegedly settled. However, none of the Panchayathdars were examined to substantiate the same. There is no direct evidence, and the motive has not been satisfactorily established.



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the Judicial Magistrate, Orathanadu, is approximately 10 kilometers.

However, no explanation has been offered for the delay in forwarding the FIR.

20. The alleged criminal conspiracy said to have been hatched among the accused has not been established by cogent evidence.

21. The overt acts attributed to the accused in the charge have not been substantiated through reliable eyewitness testimony.

22. P.W.15 spoke about the alleged extra-judicial confession about A2 and A8 but admitted that he did not record any statement from the accused and that the police alone recorded the same. He did not speak about the place of recovery of material objects and specifically stated from whom the weapon were recovered .Though P.W.18 spoke about the arrest of A6 and recovery of M.O.1. Mere recovery of weapon from A6 in the absence of credible evidence, connecting him with occurrence is not sufficient to sustain a conviction



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23. The prosecution case rests solely on circumstantial evidence. It is incumbent upon the prosecution to establish a complete chain of circumstances linking the accused to the crime. In the present case, except for arrest, alleged confession, and recovery of certain material objects, no other reliable evidence connects the accused with the offence. Mere arrest and recovery, in the absence of corroborative evidence, cannot sustain conviction. The prosecution has failed to prove the case beyond reasonable doubt.

24. Upon consideration of the entire oral and documentary evidence, the trial Court acquitted the accused. We find that the appreciation of evidence and the conclusions arrived at by the trial Court do not suffer from perversity. Accordingly, no interference is warranted. The Criminal Appeal is devoid of merit and is liable to be dismissed.

25. Accordingly, this Criminal Appeal stands dismissed and the judgment dated 28.11.2022 passed in S.C.No.208 of 2022 on the file of



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the I Additional District and Sessions Judge (PCR), Thanjavur, is hereby confirmed.

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**[G.K.I.J.,] & [R.P.J.,]
29.01.2026**

NCC :Yes/No
Index :Yes/No
rm

Copy to

1. The I Additional District and Sessions Judge (PCR),
Thanjavur,

2.The Inspector of Police,
Pappanadu Police Station,
Thanjavur District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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G.K. ILANTHIRAIYAN, J.

AND

R. POORNIMA, J.

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