



Crl. A(MD)No.210 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 25.06.2026

CORAM:

THE HONOURABLE Mr. JUSTICE N.ANAND VENKATESH

AND

THE HONOURABLE Mr. JUSTICE K.K.RAMAKRISHNAN

Crl. A. (MD)Nos.210 and 918 of 2024

1.Suresh

2.Nanthakumar

.. Appellants/accused 9 and 11
in Crl.A(MD) No.210 of 2024

1.A.Raja

2.S.Saravanan

3.Sundar @ Maduvpet Sundar @ Sakthivel

4.Ravivarman @ Bomb Ravi

.. Appellants/accused 1 to 4

Vs.

The State rep. by
The Inspector of Police,
Lalaoettai Police Station,
Lalapettai
Karur District
Crime No.399/ 2021

..Respondent/Complainant

Appeals filed under Section 374(2) of Criminal Procedure Code,
against the judgment and order dated 15.02.2024 in S.C.No.30 of 2022
on the file of the Principal District and Sessions Judge, Karur.



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For Appellants

: Mr.K.M.Karunakaran
Crl.A(MD) No.210/2024
Mr.B.Mohan
Crl.A(MD) No.918/2024

For Respondent

: Mr.C.Christopher
Counsel for State

COMMON JUDGMENT

(Judgment of the Court was delivered by N.ANAND VENKATESH, J)

These appeals have been filed by A1 to A4, A9 and A11 against the judgment and order passed by the Principal District and Sessions Judge, Karur, in SC No.30 of 2022 dated 15.02.2024, convicting and sentencing the appellants in the following manner:

Rank of the accused	Offences for which convicted (IPC)	Sentenced to undergo
A1 to A4	302	Life imprisonment and to pay a fine of Rs.10,000/-, in default to undergo one year simple imprisonment each
A9 and A11	212 r/w 302	Rigorous imprisonment for two years and to pay a fine of Rs.1,000/- in default to undergo six months rigorous imprisonment



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WEB COPY 2. The case of the prosecution is that the deceased Gopal @ Gopalakrishnan was the Karur District Secretary of Devendra Kula Vellalar Community Association. A5 was the State President of the said Association. There was a previous enmity between A5 and the deceased. Five months before the occurrence, there was a clash between A1 and one Shankar @ Vettu Shankar in which A1 was attacked and he sustained injuries. A1 complained about this to the deceased Gopal and requested him to admonish the said Shankar. However, the deceased did not talk with the said Shankar since he happened to be his relative from the wife's side. Therefore there was an independent enmity between A1 and the deceased. Under these circumstances, the accused persons are said to have entered into a conspiracy to do away with the deceased.

2.1. On 06.10.2021, at about 4.30 a.m., the deceased went to his agricultural lands for watering the crops. At about 7.00 a.m., PW3, who found the dead body of the deceased in the agricultural lands informed about the same to PW1, who is the wife of the deceased. Immediately PW1 along with her sister-in-law/PW2 rushed to the scene of occurrence.



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Thereafter went to the police station and gave the complaint (Ex.P1) to PW29, who registered the FIR (Ex.P44) in Crime No.399/2021 for offence under Section 302 IPC against the unknown accused person.

3. The investigation was taken over by PW34, who went to the scene of crime at about 9.00 a.m. and he found the dead body in the scene of crime, which was immediately sent to mortuary. He prepared the observation mahazar Ex.P7/Ex.P8 and rough sketch Ex.P51/Ex.P52. The material objects MO3, MO4, MO5 and MO6 were seized under Ex.P9 from the scene of crime. The Photographer was summoned to the scene of crime and it was recorded in the CD, which was sent to the Court under Form 91(Ex.P53). The dog squad was summoned and PW17 came with the dog, based on which, a report Ex.P10 was prepared.

4. PW24 went to the mortuary at the Government Hospital Karur and conducted the inquest and the inquest report Ex.P54 was prepared. The dead body was handed over to PW20 with a requisition to conduct postmortem. The clothes from the dead body were seized and sent to the Court under Form 91 (Ex.P12). The postmortem was conducted by



WEB COPY PW15, who issued the postmortem report (Ex.P4), in which the following injuries were noted:

“Following Ante mortem wounds were seen on the body:

- 1. An oblique heavy cut wound of 16 x 1.5 x 2.5 cm over right shoulder and scapula 2 cm behind right acromion;*
- 2. A horizontal heavy cut wound of 27 x 1.5 x 4 cm over right cheek, right ear and occipital region 2 cm above right mastoid, underlying ear cartilage, occipital bone, meninges and occipital lobe of brain were cut.*
- 3. An horizontal heavy cut wound of 7 x 0.5 x 1 cm) over right parietal region, 8 cm above to injury no.2;*
- 4. An oblique heavy cut wound of size 6 x 02 x 1 cm on right parietal scalp, 2 cm above to injury no.3.*
- 5. A horizontal heavy cut wound of 10 x 1.2 x 1.5 cm on left parietal region, 8 cm above left ear, underlying parietal bone was cut;*
- 6. A horizontal heavy cut wound of 8 x 1.5x 2 cm on left frontal region 10 cm above left eyebrow,*
- 7. An oblique heavy cut wound of 10 x 1.5 x 2 cm on back of the neck 15 cm inner to left shoulder;*
- 8. An oblique cut wound of 08 x 1.2 x 1.5 cm on left scapula, 7 cm below left acromion,*
- 9. An oblique heavy cut wound 15x0.5x1.5 cm over left cheek, eye, eyebrow and forehead, 5 cm inner to left ear.*
- 10. A horizontal heavy cut wound 8 x 1.5 x 2 cm on left shoulder, 1 cm below to left acromion*
- 11. A horizontal cut wound 7 x 1.5 x 9.5 cm on left arm, 10*



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12. A horizontal cut wound 5.2 x 0.5 x 1.5 cm on left forearm, 2 cm above left wrist 15 cm above left knee

13. A vertical cut wound 12 x 1.5 x 9.5 cm on back of left thigh,

14. A vertical cut wound 8 x 1.5 x 2.5 cm on left gluteal region, 10 cm inner to right up (Anterior superior iliac spine).

15. Dark red subarachnoid haemorrhage on all the surface of both cerebral hemispheres”

5. After receiving the viscera report (Ex.P5), final opinion was given (Ex.P6) to the effect that the deceased would appear to have died of head injuries due to heavy cut wounds.

6. PW34 arrested A1 and A2 at about 23.00 hrs. and brought them to the police station and in the presence of witnesses, they gave voluntary confession. A two wheeler and a mobile phone were seized. Apart from that, aruval was also seized under Athatchi Ex.P35. A9 was arrested on 07.10.2021 at about 2.30 a.m. in the presence of witnesses and based on the confession, the two wheeler, one mobile phone consisting of two sim cards were seized under Athatchi Ex.P36. A11 was arrested at about 6.00 a.m. in the presence of witnesses and based on his confession, a mobile phone was seized under Athatchi Ex.P37. On the same day, at about



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10.30 a.m., A7 and A8 were arrested in the presence of witnesses and based on their confessions, a two wheeler was seized under Athatchi Ex.P38. On the same day, A10 was arrested in the presence of witnesses and based on his confession, mobile phone with two sim cards were seized under Athatchi Ex.P39. All the arrested persons were produced before the Court and remanded to judicial custody and the seized material objects were sent to the Court under Form 91.

7. PW34 was also simultaneously recording the statements of the witnesses under Section 161(3) Cr.P.C. and was also collecting the call details. On 13.10.2021, A5 and A6 were arrested in the presence of witnesses and based on their confession, a four wheeler and mobile phone containing two sim cards were seized apart from aruval under Athatchi Ex.P33 and Ex.P34. They were also remanded to judicial custody. A3 and A4 surrendered before the Judicial Magistrate, No.I, Kulithalai and on coming to know of the same, PW34 took steps to take them in police custody and when they were enquired, they made a confession voluntarily and it was marked as Ex.P55. An alteration report was prepared (Ex.P56) by altering the offence to Sections 147, 148,



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WEB COPY 120(B), 341, 302 r/w 109 IPC and it was submitted to the Judicial Magistrate, No.I, Kulithalai.

8. After recording the statements of all the witnesses under Section 161(3) Cr.P.C., and collecting call detail records and other reports, the final report was filed before the Judicial Magistrate, No.I, Kulithalai, which was taken on file in PRC No.3 of 2022. The police report was filed as against 11 accused persons. The learned Magistrate issued the copies under Section 207 Cr.P.C., and committed the case under Section 209 Cr.P.C., to the file of the Principal District and Sessions Court, Karur. The same was taken on file in SC No.30 of 2022.

9. The trial Court framed charges against the accused persons in the following manner:

Rank	Charges
A1, A8 to A10	120B r/w 302 IPC
A1 to A4, A6,A7 and A10	302 r/w 120B r/w 109 IPC
A9 and A11	212 r/w 302 IPC



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The accused persons were questioned on the charges and they denied the same and did not plead guilty.

10. The prosecution examined PW1 to PW34 and marked Ex.P1 to Ex.P56 and relied upon MO1 to MO19 and Ex.C1 to Ex.C4 were marked as Court documents.

11. The incriminating circumstances and evidence were put to the accused persons when they were questioned under Section 313 Cr.P.C. and they denied the same as false.

12. The accused person did not examine any witness nor relied upon any documents.

13. The trial Court, on considering the facts and circumstances of the case and on appreciation of evidence, came to the conclusion that the prosecution has not proved the charges against A5 to A8, and A10 and accordingly acquitted them from all charges. Insofar as the other accused



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are concerned, they were convicted and sentenced in the manner stated supra. Aggrieved by the same, A1 to A4, A9 and A11 have filed the present appeals before this Court.

14. This Court carefully considered the submissions made on either side and the materials available on record.

15. The entire case of the prosecution is based on circumstantial evidence. It is now too well settled that the prosecution has to prove every circumstance and each circumstance must form a chain of evidence so complete as to exclude every hypothesis other than the guilt of the accused.

16. The sequence of events as was attempted to be projected by the prosecution is that the accused persons were seen parking their vehicles at Mallankovil on 05.10.2021 at about 7.00 p.m. The next day on 06.10.2021, the deceased left his house to the agricultural field at 4.30 a.m. and this has been spoken to by PW1. PW7 states that at about 5.00



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a.m., the accused persons were seen taking the two wheeler from Mallankovil. PW8 also speaks about the accused persons seen near Karur Bus Stand at about the same time ie., 5.00 a.m. PW6 in his evidence states that A1, A2 and two other persons were seen together near the railway gate at about 5.15 a.m. Thereafter a murder had taken place for which there is no direct evidence and the next piece of evidence that is available is that of PW3, who saw the dead body at the agricultural field at about 7.00 a.m. and informed the same to the wife of the deceased PW1.

17. PW3 in his evidence states that 10 policemen arrived at the scene of occurrence at about 7.15 a.m. and at about 8.00 a.m., the dead body of the deceased was sent to the hospital. PW1 states that the policemen came at about 9.00 am. Based on the complaint Ex.P1 given by PW1, the investigation was taken up by PW34.

18. The circumstances that were relied upon by the prosecution are,

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- (a) Motive
- (b) Last seen theory
- (c) Arrest, confession and recovery; and
- (d) medical evidence

19. Insofar as motive is concerned, the prosecution has attempted to come up with two sets of motives, namely, an independent motive of A5 against the deceased and an another independent motive of A1 against the deceased.

20. On a careful reading of the complaint, Ex.P1, it is seen that PW1, who is the wife of the deceased has not stated anything about the so called enmity between A1 or A5 and the deceased. For the first time, the motive aspect is sought to be developed from the inquest report Ex.P54. In column 9 of the inquest report, A1 was fixed as an accused person and from there, the aspect of motive is developed by the prosecution.

21. The trial Court, on appreciation of evidence, did not find any



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materials to sustain the charge of criminal conspiracy and/or abatement and disbelieved the story about A5 having an independent dispute against the deceased, which touched upon the Devendra Kula Vellalar Community Association. Therefore, the only motive based on which the case was developed is the so called motive between A1 and the deceased. At this juncture, the very genesis of the case of the prosecution looks very shaky. As per the evidence of PW1 and PW2, the respondent police came to the scene of crime after the registration of the FIR. However, the evidence of PW3 shows that the police man came to the scene of crime by 7.00 a.m. and an enquiry was made including the enquiry conducted with PW3. Therefore, the involvement of the police even before the complaint was given at 8.00 a.m. comes to light.

22. The very manner in which the complaint was given also assumes significance. PW2, who is the sister-in-law claims that she is the author of the complaint (Ex.P1). However, PW34, who is the investigating officer, in the cross-examination admitted that the complaint was scribed by PW34 and to an extent it can be inferred by



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comparing Ex.P1 with Ex.P7, Ex.P8 etc. Thus, the very genesis of the case is under suspect and the motive aspect has not been proved by the prosecution.

23. The next strong circumstance that is relied upon by the prosecution is the last seen theory. PW6 to PW9 were the witnesses, who spoke about last seeing the accused persons. A7 states that he saw A1 and A4 at 7.00 p.m., on 05.10.2021 with two two wheelers, which were parked near the temple and they were moving towards east in the Banana field. He claims to have seen them again at 5.00 a.m. on 06.10.2021. This evidence of PW7 is belied by evidence of PW8 and PW9, who claims that they saw A1 and A2 along with two other accused persons at 5.00 a.m. at Madhanadhapuram bus stand, which is 7 kms away from Mallankovil.

24. The last seen theory moves from bad to worse with the evidence of PW6, who states that he saw A2 to A4 near the railway gate at 5.15 a.m. It is therefore quite clear that the evidence of PW6 to PW9



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cannot be relied upon to substantiate the last seen theory.

25. The prosecution has also relied upon the evidence of PW28, who is said to be working as an Assistant for PW32 Doctor, who treated A4, who suffered a dislocation and was given treatment on 06.10.2021. A4 is said to have been seen with A1 to A3.

26. In order to substantiate the last seen theory, the witnesses must have last seen the deceased and the accused persons together. Merely seeing the accused persons will not satisfy the requirement of last seen theory. Therefore, even for the sake of arguments, the evidence of A6 to A9 is acted upon, none of these witnesses talk about the presence of the deceased along with A1 to A4.

27. The trial Court itself had disbelieved the CCTV footages and also the CDR details. None of the witnesses had known A3 and A4 earlier. In the absence of a Test Identification Parade, they could not have identified A3 and A4 in the dock, considering the fact that they had only



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seen the glimpse of these two accused persons along with A1 and A2. In any event, the photographs of A1 to A4 were published in the newspaper and television channels and therefore, even if Test Identification Parade had been conducted, no useful purpose would have been served.

28. The mere recovery of vehicles, mobile phones and aruval does not in any way improve the case of the prosecution. So is the medical evidence brought in by way of autopsy report, biological report, serological report etc.

29. It is even more surprising that the prosecution has acquitted all the accused persons for the charge of criminal conspiracy and abatement and A1 to A4 have been convicted and sentenced for offence under Section 302 IPC simpliciter. None of the circumstances relied upon by the prosecution establishes charge under Section 302 IPC. The moment the prosecution failed to prove the vital circumstance namely the last seen theory, the entire case of the prosecution has to fall like a pack of cards.



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30. Even insofar as the charge under Section 212 r/w 302 IPC as against A9 and A11, the allegation is that they helped A4 for getting treatment with the Doctor PW32 and which was spoken to by PW28. This Court has already held that the charge has not been proved against A1 to A4. In such an event, the charge under Section 212 IPC must also fall.

31. In the light of the above discussions, this Court holds that the prosecution has failed to prove the charges against A1 to A4 and A9 and A11 and hence, they are entitled to acquittal from all charges. Accordingly, the judgment and order passed in SC No.30 of 2022 dated 15.02.2024 by the Principal District and Sessions Judge, Karur, is liable to be set aside.

32. In the result,

(a) Crl.A(MD) No.210 and 918 of 2024 are allowed and the conviction and sentence imposed in SC No.30 of 2022 dated 15.02.2024



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by the Principal District and Sessions Judge, Karur, is set aside;

(b) The appellants in Crl.A(MD) No.210 of 2024 are acquitted of all the charges and they are set at liberty forthwith unless their presence is required in connection with any other case. The bail bond shall stand terminated. Fine amount, if any paid, shall be refunded.

(c) The appellants in Crl.A(MD) No.918 of 2024 are acquitted of all the charges and they are set at liberty forthwith unless their presence is required in connection with any other case. Fine amount, if any paid, shall be refunded.

[N.A.V, J.] & [K.K.R.K, J.]
25.06.2026

NCC : Yes/No
Index : Yes/No
RR



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To

1.The Principal District and Sessions Judge,
Karur.

2.The Inspector of Police,
Lalapettai Police Station,
Karur District.

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

4.The Section officer (English Records)
Madurai Bench of Madras High Court, Madurai.



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**N.ANAND VENKATESH, J
AND
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Judgment made in
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