



Crl. A(MD)No.279 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 02.03.2026

CORAM:

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
AND
THE HONOURABLE MR.JUSTICE P.DHANABAL**

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1. Muruganantham

2. Chellamuthu : Appellant(s)

Vs.

The Inspector of Police,
Kulithalai Police Station,
Kulithalai,
Karur District.
(Crime No.438/2020).

: Respondent(s)

PRAYER: Criminal Appeal is filed under Section 372 of the Code of Criminal Procedure, against the judgment dated 22.11.2022 in S.C.No.1 of 2021 on the file of the Principal District and Sessions Court, Karur and set aside the same as illegal and acquit the appellants.

For Appellant : Mr.N.Pragalathan

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor



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J U D G M E N T

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

This appeal assails the judgment of the Principal District and Sessions Court, Karur, dated 22.11.2022 made in S.C.No.1 of 2021 wherein the appellants were convicted and sentenced in the following terms;

<i>Provision under which convicted</i>	<i>Sentence</i>
Sec. 341 of IPC	One month simple imprisonment and fine of Rs.500/- each, in default to undergo 7 days simple imprisonment.
Sec. 302 of IPC	Life imprisonment and fine of Rs. 10,000/- each, in default to undergo 1 year simple imprisonment.
Sec. 506(ii) of IPC	Two years rigorous imprisonment and fine of Rs.1,000/- each, in default to undergo 3 months simple imprisonment.

2. The case of the prosecution is that the deceased Saravanan owned a medical shop and clinical laboratory at Nachalur. The accused persons were close relatives. On 21.04.2020, one Anbalagan, cousin of A1 was murdered and A1 is said to have suspected the involvement of



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the deceased in the murder of the said Anbalagan. In view of the same, A1 and A2 are said to have conspired among themselves and waylaid the deceased during the early hours on 08.05.2020 and attacked him with Aruval indiscriminately. The deceased succumbed to the injuries on the spot.

3. PW1, who is the wife of the deceased was informed about this incident by PW2 and PW3 who are eyewitnesses and based on the same, PW1 to PW3 and other relatives went to the Kulithalai Police Station at about 4.00 a.m., on 08.05.2020 and based on their complaint, an FIR (Ex.P15) came to be registered in Crime No.438 of 2020 for offences under Sections 341, 302 and 506(ii) of IPC.

4. PW13, who is the investigation officer took up the investigation and went to the scene of crime at about 7.00 a.m., and in the presence of witnesses, prepared the observation mahazar (Ex.P2) and rough sketch (Ex.P16). The Splendor bike (MO1), Blood-stained Soil (MO5), Soil without blood-stain (MO6) were recovered under recovery mahazar (Ex.P3).



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5. The investigation officer thereafter recorded the statements of the witnesses under Section 161 of Cr.P.C. On the same day between 9.00 a.m. to 11.00 a.m., the investigation officer conducted inquiry and prepared the inquest report (Ex.P17). The dead body was sent for postmortem through PW10 along with the requisition letter of PW4 and the postmortem was conducted at Kulithalai Government Hospital by PW6, Doctor. Postmortem certificate (Ex.P5) was given by PW6 and the following injuries were recorded in the postmortem certificate;

“A moderately built male body lies on his back with arms by his sides. Mouth partially open; tongue inside the mouth. Right eye open, Left eye closed; Both pupils dilated.

External injuries:-

- (i) 27×4 cm, cut injury over the lower part of the occipital region, starting from the left infra-auricular region to the right infra-auricular region;
- (ii) $8 \times 2 \times 2$ cm cut injury $\frac{1}{2}$ cm above the first injury;
- (iii) $8 \times 1.5 \times 5$ cm cut injury 1cm above the second injury;
- (iv) $7 \times 1 \text{cm} \times 3 \text{cm}$ cut injury just 10 cm above the first wound;
- (v) $10 \times 1 \times 5$ cm cut injury $\frac{1}{2}$ cm just above the fourth injury;
- (vi) $12 \times 3 \times 5$ cm cut injury $\frac{1}{2}$ cm just above the fifth injury;



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- (vii) 4x1x1 cm cut injury just 1 cm lateral (Right) to the sixth injury;
- (viii) 20x2x3 cm cut injury 1 cm below the first injury;
- (ix) 8x1x2 cm cut injury in the left axillary region;
- (x) 12x1/2cm abrasion over the left shoulder region;
- (xi) 6x5cm abrasion and contusion just below the right clavicular region;
- (xii) 16cmx1/2 cm contusions over the left arm
- (xiii) 5x2x2cm cut injury over to the left scapular region;
- (xiv) 6x1cm abrasion and contusion over the right shoulder;
- (xv) 4x1x3cm cut injury over the right scapular region;
- (xvi) 2x1x2 cm cut injury 10 cm below the 15th wound;
- (xvii) 1 ½ x1cmx1cm cut injury below 1cm of the 16th injury;
- (xviii) Fracture of left humerus present;
- (xix) Fracture of the right scapular present.

Internal injuries:

Skull: Open wound over the occipital region and occipital fracture present; 1/3rd of brain matter not found in the vault;

Brain and meninges lacerated.

Neck: Hyoid bone (both present).

Chestwall: Ribs no fracture; Heart – Pole lungs



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Abdomen: Stomach: 50 ml of brown-coloured fluid present;

Liver, spleen-pole, kidneys-pole; external genitalia-intact;

blood soaked gauze sent for blood analysis;

The deceased would appear to have died of shock and haemorrhage due to multiple fractures and head injury.”

6. The postmortem doctor opined that the deceased died of shock and haemorrhage due to multiple fractures and head injuries. In the meantime, the accused persons surrendered before PW7, who is the Village Administrative Officer and gave extra-judicial confession which was recorded (Ex.P6). They were handed over to the police by PW7 and they were arrested. Their confession was recorded in the presence of PW8. Based on the confession, MO2 and MO3 (Aruval) were siezed.

7. On completion of recording statements of the witnesses under Section 161 of Cr.P.C., and on collecting all the relevant materials, the police report was laid before the Judicial Magistrate No.II, Kulithalai and the case was committed to the Principal District and Sessions Court, Karur, after furnishing the documents to the accused persons under Section 207 of Cr.P.C.



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8. Charges were framed against the accused persons for offences under Sections 120b, 341, 302 and 506(ii) of IPC and when the accused persons were questioned, they denied the charges.

9. The prosecution examined PW1 to PW13 and marked Ex.P1 to Ex.P21 and MO1 to MO12. On completion of the examination of witnesses on the side of the prosecution, the incriminating materials were put to the accused persons when they were questioned under Section 313 of Cr.P.C. They denied the same as false.

10. The accused persons did not examine any witnesses nor relied upon any documents on their side.

11. The trial Court, on considering the facts and circumstances of the case and upon appreciation of the oral and documentary evidence, passed the judgment dated 22.11.2022 convicting and sentencing the accused persons in the manner indicated supra. Aggrieved by the same, the present appeal has been filed before this Court.



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

13. The prosecution in order to establish the motive behind the crime and also the commission of crime strongly relied upon the evidence of PW1 to PW3. PW2 and PW3 were examined as eyewitnesses to the occurrence. The prosecution also strongly relied upon the evidence of PW7, who is the Village Administrative Officer since the accused persons are said to have voluntarily given an extra-judicial confession before PW7 on the same date i.e., on 08.05.2020 at about 4.00 p.m. and the same was recorded as Ex.P6.

14. PW1, who is the wife of the deceased only talks about the motive for the involvement of the accused persons and in so far as the actual involvement, it is spoken by her only based on the information provided by PW2 and PW3. Therefore, the evidence of PW1 will gain significance only if the evidence of PW2 and PW3 can be relied upon. Apart from that, the evidence of PW1, at the best, can be helpful only for the purpose of establishing the motive behind the crime and nothing



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15. Insofar as the motive behind the crime is concerned, it is the evidence of PW1 to PW3 that one Anbalagan was murdered on 21.04.2020 and he was the cousin of A1 and that A1 suspected that the deceased was involved in the said murder. In view of the same, whenever the deceased returned late, PW2 and PW3 will go to the lab and bring him back home. Therefore, on 07.05.2020 since the deceased did not return back even at 10.00 p.m., PW2 and PW3 are said to have gone to the lab and they found their uncle (deceased) and he is said to have informed to them that he will return back at the earliest. Both PW2 and PW3 waited for the deceased and after the deceased walked towards the two-wheeler and started going to his house, PW2 and PW3 are said to have followed him. While so, A1 and A2 intercepted the deceased and also said to have indiscriminately attacked with Aruval (MO2 and MO3).

16. Even according to the case of the prosecution, the above incident had taken place at about midnight 12.30 on 08.05.2020. PW2 and PW3 are said to have travelled in a bike following the deceased with a gap of 20 feet. Thereafter, the deceased is said to have been



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discrimately attacked with Aruval. The normal human conduct would be to either stop the accused persons or immediately inform about this incident to the police and others. It is quite unnatural that PW2 and PW3 left the dead body and went and met PW1, who is the wife of the deceased. Thereafter PW1, PW2 and PW3 and some relatives came to the spot at about 4.00 a.m., and the complaint (Ex.P1) was given based on which PW11 registered the FIR (Ex.P15) in Crime No.438 of 2020.

17. Neither PW2 nor PW3 state as to whether any light was available at the place of occurrence. Even though they claimed that there were two lamp posts available, a close look at the rough sketch marked as Ex.P16 shows that there were no lamp posts available near the scene of crime. Neither PW2 nor PW3 went anywhere near the dead body to ascertain the state of the deceased after the incident.

18. The entire evidence of PW2 and PW3 is highly unnatural and their conduct after the incident had taken place is also unnatural and if really they had gone to the lab to protect the deceased, there was no reason as to why they left the deceased to go on his own and followed him and after the incident went away from the place without informing



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anyone even when phone facilities were available. Hence, their unnatural conduct is a very relevant fact under Section 8 of the Indian Evidence Act, 1872.

19. It must also be borne in mind that the statements of PW2 and PW3 recorded under Section 161 of Cr.P.C., did not reach the concerned Court till the police report was filed and PW13 during cross-examination admits to the fact that the statements of PW2 and PW3 reached the Court only on 04.12.2020. No explanation for the delay is forthcoming from the investigation officer. At this juncture, useful reference can be made to the judgment in *Sakthivel v. State* [reported in (2017) 4 MLJ (crl)] at page 724 and *Manickaraj v. State* [reported in 2019 (2) MWN (Crl.) 487].

20. Even though delay by itself may not be fatal in every case, it will assume importance in a case of this nature since PW2 and PW3 were the prime witnesses and their statements were recorded on the same day according to the investigation officer. But for unexplained reason, it was not transmitted at the earliest point of time as is mandated under Section 158 of Cr.P.C. It is also significant to note the fact that FIR itself reached the Court only at 4.25 p.m. on 08.05.2020 and even this delay has not



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been explained by the investigation officer. Curiously the extra-judicial confession was recorded according to PW7 at 4.00 p.m., and accused persons were taken to the police station and the FIR reaches the Court at 4.25 a.m., on 08.05.2020. This is certainly not coincidental.

21. In the light of the above discussion, the so-called eyewitness account of PW2 and PW3 is highly unreliable and their conduct is unnatural and by applying the test of a prudent man, this Court is of the view that PW2 and PW3 are highly unlikely to have witnessed this incident.

22. The next important evidence is that of PW7, who is the Village Administrative Officer. It must be kept in mind that the time when the incident took place in the early hours of 08.05.2020, it was during the first wave of Corona pandemic. Therefore, stringent restrictions were imposed on the movement of persons. Keeping that in mind, it is seen that PW2 and PW3 were moving around freely as per the case of the prosecution and after the commission of the offence, they travelled to the house of the Village Administrative Officer and are said to have given extra-judicial confession at about 4.00 p.m. The extra-judicial confession



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that is said to have been recorded by PW7 has been marked as Ex.P6. It does not even contain a date. In fact PW7 in his evidence admits that even the covering letter was prepared for the extra-judicial confession only in the police station when he is said to have taken both the accused persons to the police station where they were arrested in the the presence of PW8.

23. Extra-judicial confession is definitely a admissible piece of evidence which can be acted upon by the Court. However, the Court must be very wary when relying upon the same and the entire facts and circumstances must be looked into. Here is a case where the incident had taken place during the pandemic period and the incident had happened in the early hours on 08.05.2020 and the accused persons are said to have roamed around freely till evening and travelled all the way to the house/office of PW7 and have given their extra-judicial confession. The extra-judicial confession was not even accompanied by a covering letter and this covering letter admittedly was typed only in the police station. The extra-judicial confession which was recorded and marked as Ex.P6 does not carry the date and it is a common confession which is said to have been recorded by PW7.



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24. On a careful scrutiny of evidence of PW7 and the facts and circumstances of the case, it is seen that the investigation has attempted to strengthen their case by creating an extra-judicial confession apart from the eyewitness account of PW2 and PW3. This Court finds that the so-called extra-judicial confession is unnatural and it cannot be relied upon.

25. If the evidence of PW2, PW3 and PW7 become unreliable and cannot be acted upon, there is no other material worthy enough to sustain the conviction and sentence against the accused persons.

26. In the light of the above discussion, this Court has no hesitation in interfering with the judgment passed by the Principal District and Sessions Court, Karur, dated 22.11.2022 in S.C.No.1 of 2021 and accordingly, the same is hereby set aside. As a consequence, the accused persons are acquitted of all charges under Sections 341, 302 and 506(ii) of IPC and they be set at liberty. The bail bonds shall stand cancelled and the fine amount paid by the accused persons shall be refunded.



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27. In the result, this criminal appeal stands allowed.

[N.A.V., J.] [P.D.B., J.]
02.03.2026

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
PKN

To

1.The Principal District and Sessions Court, Karur.

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

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



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Judgment made in
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