



Crl.A(MD)Nos.325 & 607 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2026

CORAM:

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

**Crl.A(MD)Nos.325 & 607 of 2022
and Crl.M.P(MD)No.5690 of 2022**

1.Crl.A(MD)No.325 of 2022:

Karthick @ Karthikeyan

... Appellant/Accused No.3

Vs.

The Inspector of Police,
Perungudi Police Station,
Madurai.

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 374 of Cr.P.C to call for the records in S.C.No.67 of 2015 dated 29.03.2019 passed by the learned 1st Additional District and Sessions Judge, Madurai and to set aside the same.

For Appellant : Mr.G.Karuppasamy Pandian

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor



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2.Crl.A(MD)No.607 of 2022:

Sonai

... Appellant/Accused No.1

Vs.

The State represented by,
The Inspector of Police,
Perungudi Police Station,
Madurai City.
(Crime No.45 of 2010).

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 374(2) of Cr.P.C to call for the records in S.C.No.68 of 2015 dated 29.03.2019 passed by the learned 1st Additional District and Sessions Judge, Madurai and to set aside the same.

For Appellant : Ms.M.Baby Sudha
Legal Aid Counsel

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

COMMON JUDGMENT

**(Judgment of the Court was delivered by
G.K.ILANTHIRAIYAN, J.)**

Criminal Appeal(MD)No.325 of 2022 is directed as against
the Judgment passed in S.C.No.68 of 2015 dated 29.03.2019 on the



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file of the learned 1st Additional District and Sessions Judge, Madurai, thereby convicting the appellant/A.3 for the offence punishable under Sections 120(b), 449, 302 r/w 34 (2 counts), 394 r/w 397 I.P.C.

2.Criminal Appeal(MD)No.607 of 2022 is directed as against the Judgment passed in S.C.No.67 of 2015 dated 29.03.2019 on the file of the learned 1st Additional District and Sessions Judge, Madurai, thereby convicting the appellant/A.1 for the offence punishable under Sections 120(b), 449, 302 r/w 34 (2 counts), 394 r/w 397 I.P.C.

3.The case of the prosecution is that both the deceased persons were residing in a separate house at Ramankulam, Kusavangundu. While being so, the accused visited the house of the first deceased for the purpose of white washing. The first accused was a friend of the third accused. The first and second accused



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conspired together with the third accused to rob in the house of the first deceased. In furtherance of their conspiracy, on 10.04.2010 at about 10.30 p.m., the accused had gone to the house of the first deceased and knocked on the door, asking for water. When the first deceased went inside the house to bring water, the first accused trespassed into the house and strangled the second deceased. When the second accused shouted, the third accused entered into the house and held the first deceased from behind.

4.The second accused also trespassed into the house of the first deceased and stabbed him in the stomach with a dagger. The first and third accused had borrowed the said dagger from the second accused and stabbed the first and second deceased multiple times on various places of their bodies and thereby caused death. Thereafter, they robbed two cell phones, silver articles, one pair of ear stud, one nose stud, gold rings and a sum of Rs.2,000/-.



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5. Based on the complaint, the respondent registered an F.I.R in Crime No.45 of 2010 for the offences punishable under Sections 449, 302, 394 read with 397 and 120(b) of I.P.C. After completion of the investigation, a final report was filed and the same was taken cognizance by the Trial Court.

6. In order to bring the charges to home, the prosecution examined P.W.1 to P.W.19 and marked Exs.P1 to P26. The prosecution also produced Material Objects M.O.1 to M.O.16. On the side of the accused, no witnesses were examined and no documents were produced before the Trial Court.

7. During trial, the second accused claimed to be a Juvenile and as such, the second accused was sent to the Juvenile Justice Board.



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8. On perusal of the oral and documentary evidence, the trial Court found the first and third accused guilty for the offences punishable under Sections 120(b), 449, 302 read with 34 (2 counts) and 394 read with 397 of I.P.C and sentenced them to undergo life imprisonment each and imposed a fine of Rs.10,000/- each in default, to undergo one year Simple Imprisonment each for the offence punishable under Section 120(b) of I.P.C; they were sentenced to undergo 10 years Rigorous Imprisonment each and imposed a fine of Rs.10,000/- each in default, to undergo one year Simple Imprisonment each for the offence punishable under Section 449 of I.P.C; they were sentenced to undergo life imprisonment each for every count and imposed a fine of Rs.10,000/- each for every count in default, to undergo one year Simple Imprisonment each for every count for the offence punishable under Section 302 read with 34 of I.P.C (2 counts) and they were sentenced to undergo 10 years Rigorous Imprisonment each and imposed a fine of Rs.10,000/- each in default, to undergo one year Simple Imprisonment each for the

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offence punishable under Section 394 read with 397 of I.P.C.

Aggrieved by the same, the appellants have filed the present Criminal Appeal.

9.The learned counsel appearing for the appellants submitted that there was no eyewitness to the alleged occurrence and that the Trial Court convicted both the appellants solely on the basis of circumstantial evidence. Though the Trial Court itself held that no circumstances had been proved by the prosecution, it nevertheless convicted the appellants. The prosecution also failed to prove the “last seen” theory and did not establish the charge of conspiracy. However, the Trial Court arrived at an illusory conclusion, as if the prosecution had proved the charges.

10.Although several articles were allegedly robbed, only two silver lamps and one vermilion kit were recovered. There was no visible, much less tangible, evidence against the appellants to



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incriminate them in the case. The recovery of these articles does not ipso facto render the appellants guilty of the present serious crime, which is based entirely on circumstantial evidence.

11. Even according to the case of the prosecution, based on the complaint lodged by P.W.1, which was marked as Ex.P.1, P.W.16 registered the F.I.R., which was marked as Ex.P.17. When P.W.2 found the bodies of the deceased, he informed P.W.3, who in turn informed P.W.1.

12. The first accused allegedly surrendered before the Deputy Tahsildar, and based on the confession statement, the second and third accused were arrested and remanded to judicial custody. However, the prosecution failed to examine the said Deputy Tahsildar, who had recorded the confession statement of the first accused.



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13.As per the inquest report of the dead bodies, the gold ring and other articles were very much available. If it was a case of murder for gain, the accused would not have left even a single piece of ornament on the deceased. Further, the prosecution failed to prove the conspiracy as well as the recovery with any clinching evidence. In fact, even after identifying the accused, the prosecution failed to conduct a fingerprint test.

14.Therefore, in the overall circumstances, the prosecution miserably failed to prove the charges, and even then, the Trial Court convicted the appellants.

15.Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that though the case is based on circumstantial evidence, the prosecution has categorically proved the circumstances in which the accused were involved in the crime. The appellants brutally assaulted the deceased and murdered them



for gain. The complaint was lodged by P.W.1 and marked as Ex.P.1.

16.The learned Additional Public Prosecutor further submitted that P.W.1 categorically deposed about the lodging of the complaint. He stated that upon receiving information from P.W.3, he lodged the complaint. P.W.3 had received the information from P.W.2 and, in turn, informed P.W.1. Further, minor discrepancies and contradictions cannot be taken into consideration when there are clinching evidences to substantiate the charges against the accused. Therefore, the Trial Court rightly convicted the appellants, and the same does not warrant any interference of this Court.

17.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

18.Both the deceased were husband and wife. The entire case of the prosecution is based on circumstantial evidence. The



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Village Administrative Officer lodged a complaint before P.W.16, who registered the F.I.R., which was marked as Ex.P.17. P.W.1 stated that P.W.2 had sensed a foul smell emanating from the house of the deceased and informed P.W.1. Thereafter, P.W.1 and P.W.2 went to the house of the deceased and found it under lock and key. Consequently, they broke open the window and found both the deceased lying inside the house, after which the complaint was lodged. The said version was corroborated by P.W.2.

19.In fact, P.W.1 and P.W.2 were informed by P.W.3 about the suspected murder of the deceased. While purchasing vegetables, P.W.3 had noticed a foul smell coming from the house of the deceased. The complaint was lodged on 12.04.2010. Both the bodies of the deceased were recovered and subjected to postmortem. The Doctor who conducted the autopsy was examined as P.W.17. According to him, the deceased had died 23 to 27 hours prior to the postmortem. Both the bodies were subjected to postmortem on



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13.04.2010 at about 10.15 a.m. As per the autopsy reports, the deceased were murdered approximately one day prior to the lodging of the complaint.

20. According to the case of the prosecution, on 19.04.2010, the Investigating Officer received an extra-judicial confession statement recorded by one Rajendra Boopathi, Deputy Tahsildar, from the second accused, who was a juvenile. He was arrested and remanded to judicial custody. Based on the said confession, a dagger and a cell phone were recovered.

21. On the strength of the said confession statement, the Investigating Officer arrested the third accused. After recording his confession statement, 50 grams of silver articles, kungumasimizh, and a sum of Rs.500/- were recovered from him on 19.04.2010. Thereafter, the offences were altered, and an alteration report was sent to the Court.

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22.On 20.04.2010, the first accused surrendered voluntarily before the Judicial Magistrate. Thereafter, he was taken into police custody for one day, during which his confession statement was recorded by the Investigating Officer. Based on his confession statement, it was revealed that after committing the robbery, he had pledged jewels weighing 2.800 grams, 0.800 grams, 0.500 grams, and 2.000 grams. The mortgaged jewels were recovered and produced before the Court.

23.In order to prove the “last seen” theory to connect the accused with the crime, the prosecution examined P.W.5. P.W.5 deposed that about five years prior, one morning at around 8.30 a.m., police personnel had enquired whether he had seen any persons in that area. He stated that three days earlier, he had seen two or three persons passing through the area, who, on enquiry, told him that they were going to hunt rabbits. Thereafter, he came to know that both the deceased had been murdered.



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24.Further, the prosecution examined P.W.6. P.W.6 deposed that he had made a contract with the first and second accused for whitewashing the house of the deceased. Accordingly, they completed the work and received payment. Thereafter, he did not see them. Though P.W.5 claimed to have seen the accused, he did not even whisper the date on which or the place where he had allegedly seen them.

25.That apart, the statements of these witnesses were recorded only after the arrest of the accused persons, and their statements were forwarded to the Court along with the charge sheet. Therefore, the prosecution miserably failed to prove the “last seen” theory so as to connect the accused with the crime. Except P.W.5 and P.W.6, no other witness was examined to even whisper about the last seen theory with regard to the accused.



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26.The prosecution also examined P.W.10, who allegedly received the pledged jewels from the accused. According to him, on 12.04.2010, the first accused had pledged some jewels. However, he did not produce any documentary or other tangible evidence to show that the first accused had, in fact, pledged the jewels.

27.The daughter of both the deceased was examined as P.W.14. She identified the dead bodies as those of her parents. She further deposed that some of the silver articles and gold ornaments were missing from the house of the deceased and that one of the cell phones belonging to the deceased was also missing. After recovery, the said missing ornaments were produced as material objects. However, all the articles were not matched with the articles that were allegedly robbed by the accused.



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28.The police personnel who registered the F.I.R. was examined as P.W.16. He deposed that on 12.04.2010, he received the complaint from P.W.1 and registered the F.I.R. The Investigating Officer was examined as P.W.18. According to him, on 19.04.2010, the second accused surrendered before the Deputy Tahsildar, one Rajendra Boopathi, and gave an extra-judicial confession statement. Only on the basis of the said confession statement, the second accused was arrested and remanded to judicial custody. Thereafter, at the police station, his confession statement was recorded by P.W.18.

29.However, the prosecution failed to produce the extra-judicial confession statement allegedly recorded from the second accused by the Deputy Tahsildar, Rajendra Boopathi. The said statement was the first statement recorded, and the person who allegedly recorded it was also not examined by the prosecution before the Trial Court. In fact, he was not even examined by the Investigating Officer. The alleged extra-judicial confession



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statement, being the very first document, was not marked by the prosecution. Therefore, the very genesis of the prosecution case is not believable.

30. That apart, the so-called “last seen” theory witnesses and the jewels allegedly pledged with P.W.10, as well as P.W.5, P.W.6, and P.W.10, were examined only after 20.04.2010. Further, their statements were sent to the Court along with the final report belatedly, which was also categorically admitted by the Investigating Officer. The inquest reports of both the deceased were marked as Ex.P.23 and Ex.P.24. Both inquest reports revealed that the Thali and gold ornaments were found on the bodies of the deceased. If this was a case of murder for gain, no accused would have left any gold ornaments on the dead bodies. Further, the prosecution did not produce any evidence, such as receipts or ledger entries, to prove that the jewels were pledged with P.W.10.



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31.In the overall circumstances, the prosecution failed to prove the chain of evidence connecting the accused to the crime. In fact, even though the Trial Court found that the charge of conspiracy was proved, there is no evidence whatsoever to substantiate the existence of any conspiracy in this case.

32.The law on circumstantial evidence is no longer res integra. The incriminating circumstances projected by the prosecution must become proved circumstances, and they must form a complete chain without any break.

33.In the case on hand, the prosecution mainly relied on an incriminating circumstance that the accused were seen near the place of occurrence at or about the time of the occurrence. Though the Trial Court itself held that the prosecution failed to prove this circumstance, it nevertheless convicted the accused.



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34.The evidence of P.W.5 is not helpful to the prosecution in proving the circumstances, and as such, a link between the accused and the alleged occurrence is missing. Once a link in the chain is found to be broken, the prosecution's case can no longer be sustained based on an incomplete chain of circumstances.

35.Even according to the prosecution, there was no “last seen” theory. Once there is no last seen theory and no evidence to show the ingress or egress of the accused into the house of the deceased, no conviction or sentence under Section 449 of the I.P.C. can be sustained. Except for the alleged recovery of two silver lamps and a vermilion kit, there is nothing visible, much less tangible, to incriminate the appellants in this case.

36.Even assuming that the recovery of incriminating materials is proved, it does not ipso facto render the accused guilty of the series of crimes, which are based on circumstantial evidence.



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In cases based on circumstantial evidence, the Hon'ble Supreme Court of India has laid down certain parameters to be satisfied.

37.The said principles have been culled out in the Judgment of this Court in ***Karakkattu Muhammed Basheer Vs. State of Kerala (2024) 10 SCC 813***, paragraphs 13 to 15 therein read as follows:

“13.Before proceeding further, it would be appropriate to mention the principles as have been enunciated and settled by this Court, which would determine the parameters within which the case of the prosecution, if based on circumstantial evidence, is to be tested with regard to the establishment of the offence stated to be committed by the appellant.

14. This Court in Ramreddy Rajesh Khanna Reddy v. State of A.P. [(2006) 10 SCC 172: (2006) 3 SCC (Cri) 512] while referring to the various earlier judgments which have been passed by this Court from time to time, summarised key principles which act as a guide for the courts to come to a conclusion with regard to the guilt of an accused in cases which are solely dependent on the



circumstantial evidence. The same have been referred to as the 'panchsheel principles' and are discussed in paras 26 to 28 of the said judgment, which read as follows:

'26. It is now well settled that with a view to base a conviction on circumstantial evidence, the prosecution must establish all the pieces of incriminating circumstances by reliable and clinching evidence and the circumstances so proved must form such a chain of events as would permit no conclusion other than one of guilt of the accused. The circumstances cannot be on any other hypothesis. It is also well settled that suspicion, however grave it may be, cannot be a substitute for a proof and the courts shall take utmost precaution in finding an accused guilty only on the basis of the circumstantial evidence. (See Anil Kumar Singh v. State of Bihar [(2003) 9 SCC 67: 2004 SCC (Cri) 1167] and Reddy Sampath Kumar v. State of A.P. [(2005) 7 SCC 603: 2005 SCC (Cri) 1710])

27. The last seen theory, furthermore, comes into play where the time-gap between the point of time when the accused and the -deceased were last seen alive and the deceased is found dead is so small that possibility of any person other than



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the accused being the author of the crime becomes impossible. Even in such a case the courts should look for some corroboration.”

38. Thus, it is clear that the Trial Court has no option but to come to the one and only conclusion, i.e., the guilt of the accused person. If an iota of doubt creeps in at any stage in the sequence of events, the benefit thereof must flow to the accused. Mere suspicion alone, irrespective of its strength, cannot be a substitute for proof. The chain of circumstances must be so complete that it leads to only one conclusion: the guilt of the accused.

39. If the chain of evidence is found to be incomplete, the accused must be given the benefit of doubt, which would obviously lead to their acquittal. Therefore, the onus is on the prosecution to produce evidence that conclusively establishes the truth, and the only truth, regarding the guilt of an accused in respect of the charges framed against them. Such evidence must establish a chain of events



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so complete as to leave no reasonable ground for a conclusion consistent with the innocence of the accused.

40.As stated supra, the prosecution failed to establish the guilt by circumstantial evidence. In cases wherein the guilt of the accused is sought to be established by circumstantial evidence, if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and other to the accused innocence, the view which is favourable to the accused should be adopted in the prosecution.

41.In the present case, the prosecution has failed to connect the accused to the offence through any evidence such as medical or forensic evidence as no blood, hair or skin sample or fingerprint belonging to the accused have been found on the body of the deceased, the recovered articles or at the place of occurrence.

42.In fact, the prosecution failed to conduct any fingerprint



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test. The testimony of P.W.5 has also failed to link the accused to the place of occurrence as it has only established his proximity to the place, with him merely been seen on the road and not specifically out of the house of the deceased.

43.All the above aspects when seen in the context of case being dealt with by this Court, a case of circumstantial evidence it would be difficult to bring out the parameters set out by the Hon'ble Supreme Court of India and the prosecution miserably failed to prove the charges.

44.In view of the above, the convictions and sentences imposed on the appellants in S.C.Nos.67 of 2015 & 68 of 2015 dated 29.03.2019 passed by the learned 1st Additional District and Sessions Judge, Madurai, cannot be sustained and are liable to be set aside.

45.In the result, this Criminal Appeal is allowed and the



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Judgment made in S.C.Nos.67 of 2015 & 68 of 2015 dated 29.03.2019 passed by the learned 1st Additional District and Sessions Judge, Madurai, is hereby set aside and the appellants are acquitted of all the charges. The bail bond, if any, executed by the appellants shall stand cancelled. The fine amount, if any paid, shall be refunded to the appellants. The appellants shall be set at liberty forthwith, if they are no longer required in connection with any other case.

[G.K.I.J.] & [R.P.J.,]
02.02.2026

NCC :Yes/No

Index :Yes/No

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To

1.The Additional District and Sessions Judge,
Madurai.

2.The Inspector of Police,
Perungudi Police Station, Madurai.

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

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