



Crl.A(MD) No.432 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated: 11.03.2026

CORAM:

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

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Senthilkumar

... Appellant

-VS-

The Inspector of Police
Thiruchuli Police Station,
Virudhunagar District
Crime No.74 of 2013

...Respondent

Criminal appeal filed under Section 374(2) of Cr.P.C., to call for the records and set aside the judgment passed by the Fast Track Mahila Court, Virudhunagar District at Srivilliputhur in SC No.24 of 2014 dated 09.12.2022 by allowing this appeal.

For Appellant : Mr.S.Mayaperumal

For Respondent : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



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J U D G M E N T

P.DHANABAL, J.,

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Challenging the conviction and sentence rendered by the Fast Track Mahila Court, Virudhunagar District at Srivilliputhur in SC No.24 of 2014 dated 09.12.2022, the present criminal appeal has been filed by the appellant.

2.. The trial Court has convicted the appellant as follows:

Penal Provisions	Sentence of Imprisonment	Fine Amount
364 of IPC	10 years rigorous imprisonment	Rs.1,000/- I/d to undergo three months rigorous imprisonment
302 of IPC	Life Imprisonment	Rs.3,000/- i/d to undergo six months rigorous imprisonment
404 of IPC	3 years rigorous imprisonment	Rs.1,000/- I/d to undergo three months rigorous imprisonment

3. The case of the prosecution is that the appellant had intimacy with the deceased Shanmugalakshmi and thereafter the said Shanmugalakshmi insisted the appellant to marry her and thereby inorder to commit murder of the deceased, on 07.03.2013 the appellant took the deceased in a two wheeler bearing Reg.No. TM 67 F 3493 saying that they are going to clan deity temple and dropped her near Gundar bridge in a bush area and

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thereafter he pushed her down and gagged her mouth and nose and at that time the juvenile Nagathangam and Rajaselvam were also present there and they caught hold the legs of the deceased and thereafter the appellant pressed the mud in the mouth of the deceased and the deceased died on the spot. Thereafter he had taken the jewels of the deceased.

3.1. P.W.1/Village Administrative Officer of the concerned village had after seeing the body of the deceased lodged complaint/Ex.P.1 before the respondent police. P.W.4 has registered a case in Crime No.74 of 2013 for the offence under Section 302 of IPC. Thereafter P.W.17 had taken over the investigation of the case and went to the place of occurrence and prepared observation mahazhar/Ex.P.2 and rough sketch/Ex.P.14 in the presence of the witnesses. On 10.03.2013 the doctor/PW.12 conducted autopsy on the body of the deceased and there was no relative to the deceased. After taking steps to identify the body of the deceased he was unable to identify the relatives of the deceased and thereby they disposed the body of the deceased. While so, on 04.04.2013 when the Village Administrative Officer/P.W.1 was on duty at about 9.30 am., the juvenile Nagathangam and Kandavel appeared before him and they stated that on 3/16



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07.03.2013 one Senthil Kumar had taken the lady to the bushes area near to the Gundaru bridge while they were waiting near Thoottiyankulam bus stop, the appellant called them and they also arrived there. While they were going near Thiruchuli to Kamuthi road near Gundar bridge they pushed the said lady and stuffed the face of the deceased with mud. The juvenile Rajaselvam caught hold of the legs of the deceased and thereby the deceased died. Thereafter they have taken the anklet and purse of the deceased. The statement of the Nagathangam was recorded. Thereafter the said juvenile was handed over to the police. There after the appellant on 01.08.2013 appeared before PW.3 and gave an extra judicial confession statement /Ex.P.4 and thereafter he handed over the appellant along with the confession statement to the respondent police. Again he lodged complaint /Ex.P.5 and thereafter the appellant again gave a confession statement before the respondent police and based on the disclosure statement the police have recovered material objects 2 to 8 and arrested the appellant and remanded to judicial custody. P.W.17 examined witnesses, recorded statements, collected documents and filed final report as against the appellant for the offences under Sections 364,302 and 404r/w.34 of IPC.

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3.2. On appearance of the accused, and compliance of Section 207 of Cr.P.C., finding that the case was exclusively triable by the Court of Sessions the learned Magistrate had committed the case to the Court of Sessions and it was made over to the Fast Track Mahila Court, Virudhunagar District at Srivilliputhur in S.C.No.24 of 2014 for trial

3.3. After receipt of case records, the trial Court has framed charges for the offence under Sections 364,302 and 404 of IPC and the above charges were read over and explained to the appellant. The appellant denied the charges and claimed to be tried.

3.4. The prosecution examined P.W. 1 to P.W.17 and marked exhibits Ex.P.1 to P.16 and eight material objects M.O.1 to M.O.8 were produced. After completion of prosecution witnesses the appellant was questioned under Section 313 (1)(b) of Cr.P.C., with regard to the incriminating circumstances appearing against him, he denied the same as false. On the side of the appellant no one was examined and no documents were marked.

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3.5. After analyzing the evidence and upon hearing both sides, the trial Court has convicted the appellant for the offences as stated supra. Aggrieved by the said judgment of conviction the present appeal has been filed by the appellant.

4. The learned counsel appearing for the appellant would submit that the appellant has been charged for the offences under Sections 364,302 and 404 of IPC. Initially the First Information Report has been registered as against the unknown persons and thereafter the name of the appellant has been included in this case and the respondent police have not investigated the case properly. In this case there is no eye witness and the case is based on circumstantial evidence. While so there is no evidence for motive and the last seen theory is also not proved. There is no evidence to link chain without any snatches. Only based on the alleged extra judicial confession statement the appellant has been implicated in this case and the prosecution has not even identified the deceased through relatives of the deceased. There is no evidence to prove the identity or name of the deceased and the trial Court without any evidence convicted the appellant.

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Already the juveniles were acquitted by the concerned Juvenile Justice Board. There is no cogent evidence adduced by the prosecution to link the appellant with the crime. Therefore the trial Court failed to consider the above said aspects and convicted the appellant and thereby the appellant is entitled for benefit of doubts and the judgment of conviction passed by the trial Court is liable to be set aside and the appeal is to be allowed.

5. The learned Additional Public Prosecutor would submit that the deceased is the wife of one Tamilselvan. Due to affair between the appellant and the deceased the appellant had taken the deceased to lodge at Aruppukkottai and taken a room. The deceased insisted the appellant to marry her, hence he decided to kill the deceased and thereby he had taken the deceased to the place of occurrence i.e., bushes near Gundar bridge in a two wheeler bearing Reg.No. TN 67 F 3493, further on the way to place of occurrence he also informed the same to the Juvenile Nagathangam and Rajaselvam and they also arrived at the place of occurrence and thereafter the appellant took the deceased near the bridge pulled her down and thereafter the appellant along with the juvenile assaulted the deceased and both the juvenile caught hold of the legs of the deceased and the appellant

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stuffed the mud on the nose and mouth of the deceased and thereby the deceased died.

5.1. In order to prove the case the prosecution examined P.W. 1 to P.W.17 and marked exhibits Ex.P.1 to P.16 and eight material objects M.O.1 to M.O.8 were produced. P.W.1 is the defacto complainant. The appellant appeared before the PW.3 and gave extra judicial confession statement that he committed the offence. Thereafter based on the disclosure statement of the appellant they recovered material objects which were worn by the deceased and the investigation officer has deposed about the fair investigation . The prosecution witnesses have also deposed about the staying of the appellant with the deceased in the lodge. Further the official witnesses have deposed about registering of First Information Report and fair investigation. The trial Court also after elaborate discussion based on evidence came to a conclusion that the prosecution has proved the charges levelled as against the appellant and rightly convicted the appellant and awarded sufficient punishment and hence the appeal is liable to be dismissed



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6. This Court heard both sides and perused the materials available on record.

7. In this case P.W.1 is the complainant who lodged the complaint as about the deceased found dead in the place of occurrence and P.W.4 had registered First Information Report based on the complaint lodged by P.W.1. P.W.17 had conducted investigation. P.W.2 has deposed about the preparation of observation mahazhar and rough sketch. P.W.3 is the crucial witness in this case. As per the evidence of P.W.3 on 01.08.2013 the appellant appeared before him at 9.00 a.m., and gave an extra judicial confession statement and the said confession statement has been marked as Ex.P.4. As per Ex.P.4 the appellant along with juvenile had taken the deceased to the place of occurrence and he killed her and thereafter he had taken the jewels worn by the deceased. First of all the P.W.3 is not the known person to the appellant and no way connected with the appellant, while so how the appellant approached the P.W.3 creates serious doubt.

8. The date of occurrence is 07.03.2013, First Information Report was registered on 07.03.2013 and the complaint was lodged on the same day at 9/16



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about 9.30 a.m. As per Ex.P.4 the appellant stated that on 07.03.2013 he committed murder of the deceased. P.W.17 also stated that inquest was conducted on the same day. More over Ex.P.4 on 07.03.2013 in the morning the deceased died and immediately at 9.30 a.m., the complaint was lodged which raised reasonable doubts about Ex.P.4. Even according to the case of prosecution already on 04.04.2013 itself the involvement of the appellant has been revealed through the confession statement of Nagathangam and Kandavel. Whiles the respondent police have not taken any steps to secure the appellant and to alter the section of law. More over as per Ex.P.4 the appellant already filed anticipatory bail applications and since the anticipatory bail has not been granted he surrendered before P.W.3, but there is no evidence to that effect. While so, when P.W.3 is stranger to the appellant how the appellant gave confession statement before P.W. 3 is doubtful. Therefore Ex.P.4 cannot be relied up. Except the evidence of P.W. 3 and Ex.P.4 no other evidences available to connect the appellant with the crime.

9. According to the case of prosecution the appellant along with the deceased stayed in the hotel and to that effect they examined P.W.10 who

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is the manager of J.V Hotel at Aruppukottai . According to his evidence on 06.03.2023 one Suresh asked room for his friend Senthil Kumar. Thereafter the appellant Senthil Kumar along with one lady came there and room No. 9 was allotted. Thereafter on the next day morning 6'0' clock they left the room and informed that they will vacate the room by 9.00 to 10.00a.m. However there is no evidence that the said lady stayed with the appellant is the deceased women. The ledger of the hotel has not been marked, and none of the witnesses have identified the deceased, thereby the evidence of P.W.1 alone is not sufficient to connect the appellant with the crime.

10. The doctor /P.W.16 who conducted autopsy on the body of the deceased also stated that there was injury on the neck 10x4 cm contusion and no any other external injuries found on the body of the deceased. The deceased died due to asphyxia due to pressing of neck and block in the nose. Therefore the prosecution has proved that the deceased died due to asphyxia . However there is no evidence to connect the appellant with the offence.



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11. Since it is a case of circumstantial evidence the prosecution has to establish motive, last seen theory and the evidence leading to recovery without any snatching of chain link and there is no evidence to prove the last seen theory and motive. Therefore the prosecution has failed to prove the charges levelled as against the appellant . However the trial Court based based on the evidence of P.W.9 that the appellant called P.W.9 who is the friend and asked him to book the room at Aruppukottai and thereby he also booked the room and he also saw the appellant with one lady at the lodge and also he handed over the key to the lodge manager on 07.03.2013 at 6.00a.m., and he also handed over the two wheeler on the same day at about 10.30am., and also after referring the evidence of P.W.1 to P.W.3 convicted the appellant.

12. The trial Court failed to consider that none of the witnesses have identified the deceased. Even assuming that the appellant was present along with one lady in the hotel the Court cannot presume that the deceased only stayed with the appellant and none of the witnesses have identified the person who stayed along with the deceased and whether the deceased was seen along with the appellant prior to the occurrence or not.

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As far as the Investigation is concerned the Investigation Officer failed to take steps to secure the appellant immediately after knowing the involvement of the appellant in this crime, through confession statement of juvenile who appeared before the P.W.1 on 14.04.2013. The prosecution failed to identify the body of the deceased through known persons. There is no evidence that the deceased name is Shanmugaselvi. As far as recovery of articles are concerned, the Investigation Officer already recovered the anklets of the deceased from the Juvenile. Then once against the same anklets were recovered is highly doubtful. Therefore the case of the prosecution is highly doubtful. More over there is no evidence that the recovered material objects are belongs to the deceased. None of the witnesses have spoken about the material objects which allegedly belongs to the deceased, therefore there is no sufficient evidence available to connect the appellant with this crime. There is no cogent evidence adduced by the prosecution to link the appellant with the crime and the prosecution has failed to prove the charges levelled as against the appellant for the offences under Section 364,302 and 404 of IPC, therefore the appellant is entitled for acquittal and the conviction and sentence passed by the trial Court is liable to be set aside and the appeal is liable to be allowed.

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13. In the result, the Criminal Appeal is allowed and the Judgment, dated 09.12.2022, made in SC No.24 of 2014, by the learned Sessions Judge, Fast Track Mahila Court, Virudhunagar District at Srivilliputhur is hereby set aside and the appellant is acquitted of all the charges. The bail bond, if any, executed by the appellant shall stand cancelled. The fine amount, if any paid, shall be refunded to the appellant. The appellant shall be set at liberty forthwith, if he is no longer required in connection with any other case.

[N.A.V.,J] [P.D.B.,J]
11.03.2026

Internet : Yes / No

Index : Yes / No

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To

1. The Fast Track Mahila Court, Virudhunagar District at Srivilliputhur

2. The Inspector of Police
Thiruchuli Police Station,
Virudhunagar District

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

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4. The Record keeper
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai



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and
P.DHANABAL, J.

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