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CRL.A.(MD).Nos.553 of 2022 and 62 of



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**DATED: 20.01.2026**

CORAM

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

**Crl.A(MD)Nos.553 of 2022 and 62 of 2023**

(1)Crl.A(MD)No.553 of 2022:-

1.Ayyappan  
2.Annamalai  
3.Chandraboss

:Appellants/A3 to A5

Vs.

1.The State rep. By  
The Deputy Superintendent of Police,  
Pattukottai Sub Division,  
Peravoorani Police Station,  
Thanjavur District.  
(Crime No.229 of2017)

: 1<sup>st</sup> Respondent/Complainant

2.Chinnaiah

: 2<sup>nd</sup> Respondent/De-facto Complainant

**PRAYER:** Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code, to call for the records relating to the judgment, dated 26.07.2022 made in SSC No.68 of 2018 on the file of the I Additional District and Sessions Judge, (PCR), Thanjavur, and to set aside the conviction and sentence imposed against the appellants/A3 to A5 and consequently to acquit the appellants/A3 to A5.



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CRL.A.(MD).Nos.553 of 2022 and 62 of



|                                |                                                           |
|--------------------------------|-----------------------------------------------------------|
| For Appellants                 | : Mr.R.Anand                                              |
| For 1 <sup>st</sup> Respondent | : Mr.R.Meenakshi Sundaram<br>Additional Public Prosecutor |
| For 2 <sup>nd</sup> Respondent | : No appearance                                           |

(2)Crl.A(MD)No.62 of 2023:-

|              |                        |
|--------------|------------------------|
| 1.Seenivasan |                        |
| 2.Allirani   | : Appellants/A1 and A2 |

Vs.

|                                                                                                                                                     |                                                   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|
| 1.The Deputy Superintendent of Police,<br>Pattukottai Sub Division,<br>Peravoorani Police Station,<br>Thanjavur District.<br>(Crime No.229 of 2017) | : 1 <sup>st</sup> Respondent/Complainant          |
| 2.Chinnaiah                                                                                                                                         | : 2 <sup>nd</sup> Respondent/De-facto Complainant |

PRAYER: Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code, to call for the records in SSC No.68 of 2018, dated 26.07.2022 passed by the I Additional District and Sessions Judge, (PCR), Thanjavur and to set aside the same and consequently to acquit the appellants/A1 and A2.

|                                |                                                           |
|--------------------------------|-----------------------------------------------------------|
| For Appellants                 | : Mr.G.Karuppasamy Pandian                                |
| For 1 <sup>st</sup> Respondent | : Mr.R.Meenakshi Sundaram<br>Additional Public Prosecutor |
| For 2 <sup>nd</sup> Respondent | : No appearance                                           |



## COMMON JUDGMENT

(Common Judgment of the Court was made by the Hon'ble **R.POORNIMA, J.**)

These Criminal Appeals are filed against the judgment of conviction and sentence passed by the I Additional District and Sessions Judge (PCR), Thanjavur, in S.S.C. No. 68 of 2018, dated 26.07.2022, seeking to set aside the conviction and consequently to acquit the appellants.

2. A1 to A5 were charged for offences punishable under Section 148 IPC read with Section 3(2)(va) of the SC/ST (Prevention of Atrocities) Act, for having formed an unlawful assembly with the common object of committing the murder of the deceased, allegedly on account of his illicit intimacy with A2. They were also charged under Section 302 IPC for the murder of the deceased.

3. The de-facto complainant, Chinnaiyah, father of the deceased Boominathan, lodged a complaint stating that on 09.09.2017 at about 11.18 p.m., he received a phone call from his son's mobile phone. Upon answering the call, an unidentified woman informed him that his son had sustained injuries. Immediately, he, along with his wife, proceeded to Pattangadu Village and found his son lying injured in front of the house of Allirani (A2).



4. He thereafter informed Kallimuthu, a resident of Solaikadu West Village, and Palanisamy, the then Ex-Panchayat President, who also came to the place of occurrence. The injured was taken in a car to Vijay Hospital at Manamelkudi; however, the hospital refused to admit him. Subsequently, the injured was taken to Meenakshi Hospital, Thanjavur. Due to anxiety, the complainant initially informed the doctors that the injuries were the result of an accident. As Meenakshi Hospital also refused treatment, the injured was admitted to the Thanjavur Government Medical College Hospital, where he was placed in the ICU in a serious condition.

5. Upon further enquiry, the complainant came to know that his son had illicit intimacy with A2. According to the prosecution, owing to the said relationship, the relatives of A2, namely A1 and A4, along with other accused persons, attacked the deceased with an iron rod and wooden logs. Thereafter, the complainant lodged the complaint under Ex.P1.

6. The complaint was received by P.W.14, Janarthanan, Inspector of Police, who registered a case in Crime No. 229 of 2017 under Sections 147, 148, and 307 IPC against A1 and A4 under Ex.P11 (FIR).



7. P.W.14 took up the investigation, visited the place of occurrence, prepared the Observation Mahazar (Ex.P12) and Rough Sketch (Ex.P13) in the presence of witnesses, and recovered the Hero Honda Splendor Plus motorcycle (M.O.4), iron rod (M.O.3), and two wooden reapers (M.O.1 & M.O.2) under Seizure Mahazar (Ex.P4).

8. On 11.09.2017, P.W.14 received intimation from the Thanjavur Government Medical College Hospital that the injured Boominathan had succumbed to injuries on 10.09.2017 at about 10.15 p.m. Upon learning that the deceased belonged to a Scheduled Caste community and that the accused belonged to other caste Hindus, P.W.14 altered the case from Sections 147, 148, and 307 IPC to Section 302 IPC read with Section 3(2)(v) of the SC/ST (PoA) Act under Alteration Report (Ex.P19).

9. Since the deceased belonged to an SC community, the Superintendent of Police, Thanjavur District, by proceedings dated 11.09.2017, appointed P.W.15, Sengamalakannan, Deputy Superintendent of Police, Pattukottai Sub-Division, to conduct further investigation (Ex.P14).

10. P.W.14 conducted the inquest (Ex.P15), recovered the bloodstained dhoti from the body under a seizure mahazar (Ex.P16), examined



P.W.7, Dr.A.R. Sampath, who issued the Accident Register (Ex.P3), and examined P.W.12, Dr. Tamilmani, who conducted the post-mortem.

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11. The following injuries were noted during autopsy

Abrasion :

- 1 × 1 cm over right forearm
- 2 × 1 cm over left eyebrow
- 2 × 1 cm over right cheek
- 21 × 8 cm over right side of neck and right shoulder

Contusion:

- 6 × 4 cm over left cheek
- 13 × 3 cm over left shoulder
- Diffuse contusion over both eyes

12. After completing the investigation, the Final Report was filed on 07.05.2018 for offences under Sections 147, 148, and 302 IPC read with Section 3(2)(v) of the SC/ST (PoA) Act. The Trial Court took cognizance in S.S.C No.68 of 2018. Charges were framed under Section 148 IPC read with Section 3(2)(va) of the SC/ST (PoA) Act and Section 302 IPC. The accused denied the charges and stood trial.



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13. The prosecution examined P.W.1 to P.W.15, marked Exs.P1 to P25, and produced M.O.1 to M.O.4. The accused did not adduce evidence.

14. Upon appreciation of evidence, the Trial Court convicted A1 to A5 under Section 148 IPC r/w. Section 3(2)(va) of the SC/ST (PoA) Act and sentenced them to two years Rigorous Imprisonment with fine. They were also convicted under Section 302 IPC and sentenced to Life Imprisonment with fine. Sentences were ordered to run concurrently.

15. Aggrieved by the said conviction and sentence, the present Criminal Appeals have been filed.

16. The learned counsel for the appellants/A1 and A2 in Crl.A(MD)No.62 of 2023 would submit that the prosecution projected two sets of motive. One is that the deceased and A2-Allirani had illegal intimacy and the another that the deceased prevented the illegal sand theft committed by the accused. Therefore, in order to do away the deceased, they attacked him brutally and killed him. However, none of the motive for the offence is proved by the prosecution. He further stated that as per the medical records, one Ramesh, who brought the victim to the hospital informed that the injured sustained the injury by self-fall. To that effect, the Doctor who had first treated the injured issued AR entry (Ex.P10), in which he has clearly stated that the injury sustained by the



deceased is self-fall. After enquiry, the prosecution got improved the case stage by stage and projected as if it is a case of gruesome murder. PW1, PW2, PW4 and PW5 have stated first time in their chief examination that they happen to witness the occurrence where the deceased was done to death by all the accused. This sort of the improvement has clearly confronted either to the witness concerned or to the Investigating Officer. The improved part of the evidence is proved to be the embroidery version of the witnesses by the defence. The Trial Court simply overlooked the same and proceeded to convict the accused. The Trial Court failed to consider the evidence of the Investigating Officer in a judicious manner because the Investigating Officer (PW15) categorically admitted that the prosecution case has no eye witness's account.

17. He further contended that in the 161 Statement recorded by the Investigating Officer, PW1 has stated that his son was attacked by unknown persons or some body. But it is the case of the prosecution that PW1 was informed about the condition of his son by someone via cell phone. Further, no investigation as to who made a phone call. There was no investigation as to how PW1 was informed about the complicity of the accused in the crime. The Investigating Officer himself admitted the above flaw. It affects, not only the prosecution, but also affects the very substratum of the prosecution.



18. He further stated that as per Rule 7 of SC/ST (PoA), Rules 1995, an offence committed under the Act, should be investigated by a Police Officer not below the rank of a Deputy Superintendent of Police and the Investigating Officer so appointed under sub-rule (1) shall complete the investigation on top priority, submit the report to the Superintendent of Police, who in turn shall immediately forward the report to the Director General of Police or Commissioner of Police of the State Government and the Officer in-charge of the concerned police station, shall file the charge sheet in the Special Court or the Executive Special Court within a period of sixty days (the period is inclusive of investigation and filing of charge-sheet). The delay, if any, in investigation or filing of charge-sheet in accordance with sub-rule(2) shall be explained in writing by the Investigating Officer. But however, in this case, the date of appointment by the Investigating Officer by the Superintendent of Police is, by order, dated 11.09.2018. However, the Investigating Officer-PW15 has completed the investigation only on 07.05.2019 and filed the charge sheet almost a delay of six months, which is unexplained by the Investigating Officer. He has not made any report for his delay and no extension was also obtained, either from the police or Court. Therefore, the delay in investigating the case vitiates the entire prosecution. Under these circumstances, he prays that the impugned judgment of conviction and sentence recorded by the Trial Court is liable to be



set aside and the appellants/A1 and A2 have to be acquitted by allowing the appeal filed by them.

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19. The learned counsel for the appellants in Crl.A(MD)No.553 of 2022/appearing for A3 to A5 would contend that the Trial Court failed to see the delay of 18 hours in lodging the FIR, which was not explained by the prosecution and the Trial Court also failed to notice the improved version of PW1 and PW2 from stage by stage, such as FIR, 161(3) Statements, charge sheet and depositions. The prosecution failed to prove that the appellants had involved or their appearance in the alleged occurrence. The evidence of PW3 and PW4 is highly unreliable and contradictory, but convicting the appellants/A3 to A5 solely based on the interested witnesses, which is un-sustainable in law. The place of occurrence was not also properly spoken by the witnesses. The place of occurrence, as per the prosecution is the residential area, but none of the neighbours examined to speak about the attack made by the accused. The prosecution also failed to examine the official witnesses for the sand theft alleged to have been committed by the accused and prays for setting aside the conviction and sentence imposed on the appellants by allowing appeal.

20. Per contra, the learned Additional Public Prosecutor appearing on behalf of the respondent/State contended that P.W.1 and P.W.2 are eyewitnesses to the occurrence and that their evidence is corroborated by other witnesses. The



medical evidence also supports the prosecution case. It was further submitted that the initial statement describing the injury as resulting from a self-fall is not fatal to the prosecution. The arrest, confession, and recovery allegedly made from the accused further strengthen the prosecution case. The Trial Court, after due consideration, rightly convicted the accused. Hence, the appeal is devoid of merits and is liable to be dismissed.

21. Heard both sides and perused the materials available on record.

22. Upon perusal of the entire records, it is seen that the prosecution projected two versions. One version is that the deceased had an illicit relationship with one Alirani (A2). Upon learning of the same, A1 and A3 to A5, in connivance with A2, assembled at the place of occurrence with the intention of doing away with the deceased. It is alleged that they attacked the deceased with an iron rod and wooden logs, resulting in his death.

23. The complaint marked as Ex.P1 was lodged by P.W.1, the father of the deceased. A reading of Ex.P1 reveals that on 09.09.2017 at about 11.00 p.m., P.W.1 received a phone call from his son's mobile phone informing him that his son had sustained injuries. He immediately rushed to the place of occurrence and found the deceased lying unconscious in front of A2's house. He also noticed the



damaged two-wheeler belonging to his son. Subsequently, he came to know about the alleged illicit relationship between the deceased and A2. Enraged by the same, A1 and A3 along with other accused allegedly attacked the deceased. However, during chief examination, P.W.1 deposed in a manner wholly contradictory to Ex.P1, stating as though he had witnessed the occurrence. He claimed that he was informed by someone that his son was tied near A2's house and that he, along with other witnesses, saw the accused attacking his son. He further introduced an entirely new motive, alleging that the accused attacked his son because he objected to illegal sand mining of the accused. This version is materially inconsistent with Ex.P1.

24. Ex.P10, the medical opinion given by P.W.13 of Meenakshi Mission Hospital, Thanjavur, records that the deceased was initially admitted by one Ramesh, stated to be the brother of the deceased. The history of injury given was that the deceased had fallen from his motorcycle. The prosecution failed to examine the said Ramesh. Even Ex.P3, the Accident Register, refers to treatment for a road traffic accident.

25. If the deceased had indeed been attacked, P.W.1, who claimed to have taken his son for treatment, would have informed the doctor accordingly. No explanation has been offered for this discrepancy.



26. P.W.2, the mother of the deceased, also gave evidence inconsistent with both Ex.P1 and the testimony of P.W.1. She failed to attribute specific overt-acts to each accused. Though allegations of outraging modesty were made, no complaint was lodged, and no corresponding charge was framed.

27. The evidence of other witnesses does not establish that they witnessed the occurrence. The inquest report presents yet another inconsistent version regarding the motive and manner of attack. Given the contradictions and improvements in the testimonies of P.W.1 and P.W.2, their presence at the scene becomes doubtful.

28. Further, there is unexplained delay in lodging the complaint. The occurrence allegedly took place on 09.09.2017 at 11.00 p.m., whereas the complaint was lodged only on 10.09.2017 at 18.30 hours and reached the Magistrate on 11.09.2017. Such delay remains unexplained.

29. The Investigating officer was appointed by the Superintendent of Police though an order dated: 11.09.2017, as the offence involved provision of SC/ST Act. However the Investigating Officer completed the investigation only on 07.05.2018 and filed charge sheet after an inordinate delay of nearly six months for which no explanation offered.



30. Additionally, the investigation suffered from serious lapses, including failure to recover material evidence and failure to examine crucial witnesses.

31. Accordingly, this Court holds that the prosecution has failed to prove the case beyond reasonable doubt. The conviction recorded by the Trial Court is perverse and liable to be set aside.

32. In the result, both the appeals are **allowed**. The judgment of conviction and sentence passed by the 1<sup>st</sup> Additional District and Sessions Judge (PCR), Thanjavur, in Special S.C. No.68 of 2018 dated 26.07.2022 is set aside. The appellants are acquitted of all charges. Bail bonds, if any, shall stand cancelled. Fine amount, if any, paid shall be refunded.

(G.K.I., J) (R.P., J)  
20.01.2026

Index :Yes/No  
Internet :Yes/No

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To,



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

2.The Deputy Superintendent of Police,  
Pattukottai Sub Division,  
Peravoorani 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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