



Crl.A(MD)No.609 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.01.2026

CORAM:

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

**Crl.A(MD)No.609 of 2022
and
Crl.M.P.(MD)No.8675 of 2025**

Kumar

... Appellant/Sole Accused

Vs.

The State rep. by its
The Inspector of Police,
Keeranur Police Station,
Pudukkottai District.
(Crime No.305 of 2019)

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 372 of Criminal Procedure Code, to call for the records allow the appeal and acquit the appellants by setting aside the Judgment dated 16.06.2022 passed in S.C.No.98 of 2020 on the file of the Principal District and Sessions Judge, Pudukkottai.

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For Appellant : Mr.K.Baalasundaram
Senior Counsel
for M/s.A.Devaki
For Respondents : Mr.R.M.Anbunithi,
Additional Public Prosecutor

JUDGMENT

(Judgment of the Court was delivered by R.POORNIMA, J.)

This Criminal Appeal is filed against the conviction and sentence passed against the appellant/sole accused in the judgment dated 16.06.2022 made in S.C.No.98 of 2020 by the Principal District and Sessions Judge, Pudukkottai, in which judgment, Accused had been convicted for offence punishable under Sections 302 and 201 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs. 5,00,000/- in default to undergo three years simple imprisonment for the offence punishable under Section 302 of IPC and sentenced him to undergo seven years rigorous imprisonment for the offence punishable under Section 201 IPC.

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2. The case of the prosecution in brief is as follows :

(a) In this case the accused was charged under Sections 302 and 201 IPC for committing the murder of one Bhuvaneswari, concealing the truth inducing P.W.1 and P.W.2 to inform the Doctor the false reason for the cause of death.

(b) The complaint was lodged by P.W.1, daughter of the deceased Bhuvaneswari. She stated that on 05.12.2019 at about 7.00 p.m., her mother Bhuvaneswari went outside in her two wheeler. At about 7.45 p.m., a call was received from phone No.97153 22341 and the person on the other side, informed that her mother came and quarreled with him and threatened him that she would commit suicide and disconnected the call. At about 8'o clock the deceased called P.W.1 over phone and informed that she would come home and asked her to prepare dinner. Subsequently, within 15 minutes a call was received from another Phone No.79045 14144 by one Kumar informing that her mother became unconscious at Narthamalai poultry farm and asked her take her home. Immediately she took her brother Krishna (P.W.2) in a bus and reached Narthamalai. The said Kumar (accused) contacted over phone and

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directed the way to reach the place. Thereafter, they reached the place and witnessed their mother in unconscious state, she was lying with inskirt and blouse and a white cloth was wrapped on her body. When they tried to wake her up, they found that she was unconscious. Immediately the accused brought an auto and sent them along with their mother to the hospital. P.W.1 admitted their mother in Keeranur Government Hospital. After examination the Doctor informed that she died half-an-hour back. Since she had a doubt in her death, she lodged the complaint.

(c) P.W.9 Thiru.Jeyakumar, Sub Inspector of Police, Keeranur Police Station received the complaint (Ex.P1) on 06.12.2019 at about 9.30 p.m., and registered FIR (Ex.P10) in Crime No.305 of 2019 for the offence under Section 174 IPC. He sent the FIR to the concerned Executive Magistrate/Tahsildar, Kulathur and other copies to the Officers for reference and placed a copy before the Inspector for investigation.

(d) P.W.10 Thiru.Ramalingam, Inspector of Police took the case for investigation and went to the place of occurrence and prepared observation mahazar (Ex.P6), rough sketch (Ex.P11) in the presence of



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witnesses Ramamoorthy (P.W.5), Muthukumar. Thereafter, went to the Government Medical College Hospital, Pudukkottai and conducted inquest on the dead body in the presence of Panchayatars and witness and prepared inquest report (Ex.P12). He examined the witnesses and recorded their statements. He recovered the scooty bearing Registration No.TN.55 BT 2289 (M.O.1) under Form-91.

(e) On 15.03.2020 he altered the penal provision from Section 174 Cr.P.C to 302 IPC under section alteration report (Ex.P19).

(f) On the same day, he arrested the accused at about 14.00 hours and recovered yellow flowered blue colour saree and recorded his confession statement (Ex.P15). Thereafter, he forwarded the material objects to the Court and remanded the accused for judicial custody.

(g) On 17.03.2020, he examined the witnesses and recorded their statements. Thereafter, he sent a requisition letter to the Judicial Magistrate with a request to record 164 statements of the witnesses Logasree, Krishnakumar, Raja, Muthulakshmi, Subramanian and the Judicial Magistrate also examined the above witnesses and recorded their 164 statements under Exs.P2 to P5.



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(h) Thereafter, on 22.04.2020, he send a requisition to Dr.Ramkumar and received his answers for the question raised .Dr.Ramkumar (P.W.8) who had conducted postmortem on the dead body stated about the injuries as follows :

“External injuries :

1. Horizontally placed faint reddish abrasion (ligature mark) measuring 20 cms x 01-1.5 cm present over front and sides of neck running horizontally backwards towards the back of neck where it is interrupted. It lies below the level of thyroid cartilage, situated 8 cms below the right ear lobule, 7 cms below the chin, 2.5 cms above the sternal notch and 7.5 cms below the left ear lobule. The base of the ligature mark is soft and reddish. On dissection of neck: Soft tissues and superficial strap muscles of the lower part of neck beneath the ligature mark appear contused, Tissues around the larynx and trachea appear contused, c/s shows blood stained mucus; Hyoid bone and other laryngeal cartilages and the blood vessels of neck were intact.

2. Scratch abrasion measuring 01 cm x 0.2 cm present just below the lower eyelid of left eye.

3. Oblique scratch abrasion (nail mark)



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measuring 0.5 cm in length present over the right cheek situated 0.5 cm from the right ala of nose.

4. Oblique scratch abrasion (nail mark) measuring 0.3 cm in length present over the upper part of right side of neck situated 02 cms below the chin

(i) He examined all the witnesses and recorded their statements. After completing the investigation, on 28.05.2020 he filed final charge sheet against the accused for the offence under Sections 302, 201 and 203 of IPC.

3. On receipt of the records, the Judicial Magistrate, Keeranur, took up the case in P.R.C.No.4 of 2020 and issued summons to the accused. After the appearance of the accused, copies of the entire records were furnished to them free of cost under Section 207 Cr.P.C.

4. Since the offence is exclusively triable by the Court of Sessions, the learned Judicial Magistrate committed the case records to the Principal District and Sessions Judge, Pudukkottai, under Section 209(a) Cr.P.C. for further action.

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5. The Principal District and Sessions Judge, Pudukkottai, received the case records and numbered it as S.C.No.98 of 2020 and framed charges against the Accused under Sections 302 and 201 IPC. The charges were read over and explained to the accused. The accused denied the charges and claimed to be tried. Therefore, the case was posted for trial.

6. On the side of the prosecution, P.W.1 to P.W.10 were examined and Ex.P1 to Ex.P15 were marked. Material Objects M.O.1 to M.O.3 were produced. Viscera report was marked as Ex.C1. On the side of the accused, neither oral nor documentary evidence was examined.

7. On conclusion of trial, the learned Principal District and Sessions Judge, Pudukkottai, convicted the accused by judgment dated 16.06.2022, against which, the present Criminal Appeal has been filed by the appellant / accused.

8. Mr. K.Baalasundaram, learned Senior Counsel appearing for the appellant assailing the judgment of conviction and sentence, made the

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following submissions :-

(i) The registration of FIR itself is creating a doubt. As per the evidence of prosecution witness the dead body was found in the house of the deceased on the night of the alleged date of occurrence and was then brought to the hospital. The police received the intimation on the same date i.e., 05.12.2019. The case was registered only on 06.12.2019, i.e., the next day and it creates a reasonable doubt.

(ii) Further, the offence was altered into Section 302 of I.P.C. on 04.03.2022, after 3 months from the date of occurrence.

(iii) That the prosecution case is completely based on circumstantial evidence and the prosecution failed to prove the chain link of the circumstantial evidences beyond reasonable doubt.

(iv) That one of the eye witness, P.W.6 turned hostile, which was not appreciated by the trial Court.

(v) Further the medical evidence also did not support the prosecution case.

(vi) The accused clearly submitted his answers when he was questioned under Section 313 of Cr.P.C against the incriminating



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evidences but the same was not considered by the trial Court.

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(vii) Further P.W.7, Dr.Nandakumar who had seen the dead body, stated that there was no external injury on the dead body and also the inquest conducted by the Inspector of Police also stated that there was no injury on the dead body. Subsequently, the father of the deceased P.W.4 clearly stated that the dead body was taken to his house and was brought to the mortuary only on the next day and there is every chance for the injury to have occurred during that period of time, but the same was not answered by the prosecution.

(viii) The prosecution failed to prove any incriminating case against the accused and hence, he prayed to set aside the judgment of the trial Court and to acquit the accused from all charges.

9. The learned Additional Public Prosecutor appearing for the State contended that the accused and the deceased had an illegal affair. The deceased was separated from her husband and the accused was also having his family. Subsequently, the accused was cautioned by her family, he stopped talking with the deceased. Therefore, she had gone to

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his farm house on 05.12.2019 at about 7.00 p.m., and created a quarrel by questioning why he stopped talking to her and had fought with the accused.

10. The accused strangled her with her saree and thereby, committed the murder under Section 302 IPC. Subsequently, he called the daughter of the deceased and informed her that her mother became unconscious. After receipt of the information she went there, but he falsely induced P.W.1 to inform the Doctor that her mother became unconscious due to heart attack because the same occurred at his poultry farm and he is bound to answer for the same. P.W.1 and P.W.2 clearly stated that the accused was the one who contacted them over phone and asked them to take their mother to hospital. On intimation, they went and took the dead body of the deceased and admitted in the hospital without knowing about her death. The father of the deceased P.W.4 corroborated the evidence of P.W.1 and P.W.2. The arrest, confession was proved. The medical evidence also supported the case of prosecution. The evidence of Dr.Ramakumar (P.W.8) clearly answered that the deceased died due to

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strangulation and also declared that it is a homicide and not suicide. The trial Court after appreciating the oral evidence and documentary evidence rightly held that the accused is guilty of the offence and convicted him, which is proper, and there is no merit in appeal and the same is liable to be dismissed.

11. Heard the learned counsel on either side and perused the materials available on record.

12. The accused admitted that there existed an illicit relationship between the accused and the deceased. It is also undisputed that the death occurred in the poultry farm belonging to the accused. PW1 categorically deposed that the accused contacted her over the phone, informing her that her mother had become unconscious and requested that she be taken to the hospital. PW1, along with PW2, proceeded to the poultry farm of the accused, where they found the deceased lying unconscious. Notably, the saree worn by the deceased was missing, and her body was covered only with a towel.

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13. The accused compelled PW1 and PW2 to take the deceased to the hospital and arranged for transportation in an auto. This version is corroborated by PW3, the auto driver, who stated that on 05.12.2019 at about 9.00 p.m., the accused engaged his service, stating that a person was unwell and required immediate transport to the hospital. PW3 testified that upon reaching the poultry farm, he saw the deceased. On enquiry, he was informed that she had become unconscious due to chest pain. P.W.1 and P.W.2 then put the deceased in the auto, while the accused followed them to the Keeranur Government Hospital. After the deceased was admitted, PW3 left the premises upon receiving the fare from the accused.

14. Thus, the prosecution has clearly established that the occurrence took place in the poultry farm of the accused.

15. According to the defence theory, the deceased had committed suicide. Even assuming such a version to be true, the accused ought to have informed the police about the alleged suicide. However,



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instead of doing so, the accused contacted P.W.1 and falsely stated that the deceased had become unconscious due to chest pain.

16. Furthermore, the body of the deceased was not found hanging, as would ordinarily be expected in a case of suicide by hanging. Rather, P.W.1 and P.W.2 consistently testified that the deceased was found lying on the floor without her saree. P.W.2 fully corroborated the evidence of P.W.1 in this regard.

17. Both witnesses also clearly stated that the accused compelled them to inform the doctor that the deceased had become unconscious due to chest pain. This conduct of the accused unequivocally demonstrates an attempt to conceal the true circumstances of death by providing false information to P.W.1, P.W.2, and P.W.3.

18. P.W.7, Dr. Nandakumar, who first examined the deceased, stated that on 05.12.2019 at about 09.15 p.m., P.W.1 brought the deceased to the hospital seeking treatment. Upon examination, he found



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that the deceased had died approximately half an hour earlier. He accordingly informed them and prepared the Accident Register (Ex.P.7).

19. The evidence of P.W.7 lends full corroboration to the testimonies of P.W.1 to P.W.3.

20. P.W.8, Dr.Ramkumar, in the postmortem report (Ex.P8) noted the following injuries on the dead body :

“External injuries :

1. Horizontally placed faint reddish abrasion (ligature mark) measuring 20 cms x 01-1.5 cm present over front and sides of neck running horizontally backwards towards the back of neck where it is interrupted. It lies below the level of thyroid cartilage, situated 8 cms below the right ear lobule, 7 cms below the chin, 2.5 cms above the sternal notch and 7.5 cms below the left ear lobule. The base of the figure mark is soft and reddish. On dissection of neck: Soft tissues and superficial strap muscles of the lower part of neck beneath the ligature mark appear contused, Tissues around the larynx and trachea appear contused, c/s shows blood stained mucus; Hyoid bone and other laryngeal cartilages and the blood vessels of neck were intact.



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2. *Scratch abrasion measuring 01 cm x 0.2 cm present just below the lower eyelid of left eye.*

3. *Oblique scratch abrasion (nail mark) measuring 0.5 cm in length present over the right cheek situated 0.5 cm from the right ala of nose.*

4. *Oblique scratch abrasion (nail mark) measuring 0.3 cm in length present over the upper part of right side of neck situated 02 cms below the chin*

Internal Examination:

Scalp: On reflection of scalp shows diffuse extravasation over both temporal region. Temporalis muscles contused on both sides.

Skull: Intact.

Brain: Contusion measuring 05 cms x 03 cms present over right temporal lobe of brain. Surface vessels engorged and congested. c's shows multiple petechial haemorrhages in the white matter of brain.

Thorax: Intact.

Ribs: Intact.

Lungs: Multiple sub pleural petechial hemorrhages seen over the interlobar surface of both lungs with marked congestion.

C/S exudes dark colored fluid blood.

Heart: Intact, Coronaries-patent

Stomach: contains about 30 ml of greenish brown colored



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fluid, no unusual smell and mucosa normal.

Peritoneal cavity: Intact

Liver: Intact and congested.

Spleen: Intact and congested.

Intestine: contains gas and its contents, mucosa normal.

Kidneys: Intact and congested.

Bladder: Empty

Uterus: normal in size, cavity contains menstrual blood.

Spinal column and cord: Intact.

NOTE:

- 1. All injuries are antemortem in nature and fresh.*
- 2. Injuries appear homicidal in manner.*
- 3. Blood and viscera sent for chemical analysis.*
- 4. Time since death is approximately 12 to 24 hours before the commencement of postmortem*

Provisional opinion as to cause of death:

Death is due to asphyxia as a result of ligature strangulation over the neck.”

The postmortem report conclusively establishes that the deceased died due to strangulation.

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21. The testimonies of P.W.1, P.W.2, and P.W.3, who were the first to witness the deceased at the poultry farm, clearly indicate that the body was discovered within the poultry farm belonging to the accused. These witnesses consistently deposed that the deceased was found in an unconscious state and that her saree was missing at the time. The medical evidence adduced through P.W.8, Dr. Ramkumar, fully corroborates this version by affirming that the death was caused by strangulation.

22. Thus, it stands proved that the deceased was found in the poultry farm of the accused. The circumstances unmistakably suggest that the accused alone possessed exclusive knowledge regarding the events leading to the death of the deceased. In such a factual matrix, Section 106 of the Indian Evidence Act becomes applicable.

23. Section 106 of the Indian Evidence Act stipulates that when any fact is especially within the knowledge of a person, the burden of proving such fact rests upon him. While this provision does not relieve the prosecution of its primary burden, it casts an evidentiary obligation upon the accused to explain facts peculiarly within his knowledge.



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24. In the present case, the accused had not disputed that the occurrence took place in his poultry farm. However, he sought to contend that the death was not due to strangulation but was a case of heart attack. If such were indeed the case, it would have been natural and expected for the accused to promptly inform the police. Significantly, the accused failed to lodge any complaint immediately after the incident. Instead, he falsely informed the children of the deceased (P.W.1 and P.W.2) and the auto driver (P.W.3) that the deceased had merely become unconscious due to chest pain.

25. Furthermore, the conduct of the accused assumes importance. He absconded from the scene and was apprehended only on the following day. The prosecution has successfully established the arrest and recovery in accordance with law.

26. The evidence on record also reveals that the deceased and the accused were known to each other and were in close association. On the date of occurrence, the deceased was in the company of the accused.

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The accused attempted to create a misleading narrative and sought to dispose of the body under suspicious circumstances by involving P.W.1 with the assistance of P.W.3, the auto driver, before fleeing.

27. These incriminating circumstances, when viewed cumulatively, form a complete chain linking the accused to the commission of the offence. The prosecution has satisfactorily proved all material circumstances. The trial court, upon proper appreciation of both oral and documentary evidence, rightly found the accused guilty and recorded the conviction. This Court finds no merit in the Criminal Appeal.

28. In the result, this Criminal Appeal is dismissed and the Judgment dated 16.06.2022 passed in S.C.No.98 of 2020 on the file of the Principal District and Sessions Judge, Pudukkottai, is hereby confirmed.

[G.K.I.J.] & [R.P.J.]
07.01.2026

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Internet :Yes
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Copy to

1.The Principal District and Sessions Judge,
Pudukkottai.

2.The Inspector of Police,
Keeranur Police Station,
Pudukkottai 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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