



Crl.A(MD) No.1045 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 10.03.2026

CORAM:

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

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Govindaraj

... Appellant

-vs-

The Inspector of Police
All Women Police Station,
M.Pudupatti Police Station,
Virudhunagar District
Crime No.09 of 2016

...Respondent

Criminal appeal filed under Section 374(2) of Cr.P.C., to call for the records and set aside the judgment and conviction passed in SC No.240 of 2016 dated 30.08.2023 on the file of the Fast Track Mahila Court, Virudhunagar District at Srivilliputhur and acquit the appellant herein.

For Appellant : Mr.V.Saravanakumar
for M/s.Mathuram Law Associates
For Respondent : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor



J U D G M E N T

P.DHANABAL, J.,

Challenging the conviction and sentence rendered by the Fast Track Mahila Court, Virudhunagar District at Srivilliputhur in SC No.240 of 2016 dated 30.08.2023, 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
302 of IPC	Life Imprisonment	Rs.5,000/- i/d to undergo six months rigorous imprisonment
201 of IPC	seven years rigorous imprisonment	Rs.2,000/- i/d to undergo three months rigorous imprisonment

3. The case of the prosecution is that on 26.01.2016 at about 6.00 p.m., after consuming alcohol the appellant herein picked up quarrel with his wife and strangled her neck and thereafter hanged her and thereby committed murder and caused disappearance of the evidence of offence, thereby charged for the offence under Section 302 and 201 of IPC.



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3.1. PW.1 who is the mother of the deceased lodged complaint/Ex.

P.1 before the respondent police and based on the said complaint P.W.8 registered First Information Report/Ex.P.7 in Crime No.9 of 2016 for the offence under Section 174 of Cr.PC., and thereafter the case was altered to Section 302 of IPC. The investigation officer/P.W.13 investigated the case, went to the place of occurrence, prepared observation mahazhar/Ex.P.8 and rough sketch/Ex.P.9. Thereafter the appellant himself gave extra judicial confession before the Village Administrative Officer/P.W.6 and thereafter PW.6 handed over the appellant to the investigation officer and thereafter the appellant gave confession statement in the presence of P.W.6 and based on the confession statement the investigation officer recovered M.O.1 to M.O.3 in the house of the appellant and the same was recovered through mahazhar/Ex.P.4 Further the Investigation Officer conducted inquest on the body of the deceased and prepared inquest report/Ex.P.6 and thereafter P.W.13 was transferred to some other place. P.W.14 had taken over further investigation and he sent the parts of the body of the deceased to forensic lab and also he examined the witnesses and he also altered the offences from Section 302 of IPC to Sections 498(A),352,302 and 201 of IPC and thereafter he filed final report as against the appellant.

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3.2. On the appearance of the appellant, the provisions of Section 207 of Cr.P.C. were complied with, and the case was committed to the Court of Session, where it was taken on file in in SC No.240 of 2016 and made over to the Fast Track Mahila Court, Virudhunagar District at Srivilliputhur for trial.

3.3. After receipt of case papers, the trial Court has framed charges for the offence under Sections 302 and 201 of IPC 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.16 and marked exhibits Ex.P.1 to P.13 and three material objects 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 in this case the deceased died by hanging and the appellant has been falsely roped in this case simply because he is the husband of the deceased. In this case there is no eye witness and it is a case of circumstantial evidence and there is no chain linking the appellant with the crime. P.W.1 who is the mother of the victim in her chief examination has stated that “ எதிரி அடித்துதான் என் மகளை கொலை செய்திருப்பார் என்று சந்தேகம் வந்தது. என் மகளின் உடம்பில் எந்த காயமும் இல்லை. There is suspicion that the appellant had assaulted the deceased. Further no injuries found on the body of the deceased. P.W.7/the doctor who conducted autopsy also found that there are no external injuries and he also admitted that while hanging there is a possibility of breaking of hyoid bone and there are no nail marks on the neck of the deceased.



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4.1. P.W.8 who is the Sub Inspector of Police in his evidence admitted that as per the complainant the deceased died by hanging. PW.9 who is the father of the deceased stated that he made phone call to the deceased on the date of occurrence at about 8.00 am., and the deceased stated that she was fine, whereas the prosecution case is that the appellant harassed the deceased. If so, P.W.1 ought to have stated about the harassment made by the appellant. P.W. 10 brother of the deceased also stated that the panchayat president village has told that him that the deceased died due to hanging. PW.12 who is the mahazhar witness has stated that he did not enter into the house where the occurrence took place. Whiles, the evidence of prosecution witness are not sufficient to prove the guilt of the accused and there is no linking of chain to connect the accused with the crime. More over P.W. 13/investigation officer has admitted that none of the witnesses have stated about witnessing the occurrence and there is no any dowry harassment as per the enquiry of the Revenue Divisional Officer and prior to the occurrence no complaint was lodged by the deceased as against the deceased. P.W.15 who conducted enquiry has also stated that there is no dowry harassment by the appellant and P.W.16 the Deputy Superintendent of Police also stated that as per the investigation none of

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the witnesses have stated about the scene of occurrence. Therefore there is no clinching evidence adduced by the prosecution to connect the appellant with the crime. However the trial Court without any appreciation of evidence in a proper perspective convicted the appellant without any cogent evidence. There is no witness to prove the last seen theory. Therefore the trial Court failed to consider the above said aspects and convicted the appellants and thereby the appellant is entitled for benefit of doubts and the judgment and 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 appellant is none other than the husband of the deceased and the appellant due to wordy quarrel throttled the neck of the deceased and thereby committed the murder and thereafter the appellant in order to screen the offence and disappear the evidence hanged the deceased with rope and thereafter he escaped from the place of occurrence and on 29.01.2026 when P.W.6 who is the Village Administrative Officer was on duty at about 11.15a.m., the accused came to his office and surrendered and expressed his willingness to give confession statement. Immediately the appellant

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was sent to the police station by P.W.6 and thereafter the appellant was examined by the Investigation Officer and in his presence the appellant gave confession statement. Based on the disclosure statement the investigation officer seized M.O.1 to M.O.3 (five broken glass bangles, while colour shirt, four white colour buttons). Thereafter the investigation officer examined the witnesses and filed final report. Based on the final report the trial Court has framed charges.

5.1. P.W.1 is the mother of the deceased who lodged complaint and she deposed about lodging of complaint and about the death of the deceased. P.W.2 who is the brother of the deceased also deposed about the occurrence after hearing about the occurrence he came to the occurrence place and saw the deceased. P.W.3 and 4 have deposed about the quarrel between the appellant and the deceased. P.W.6 has deposed about the surrender of the appellant and confession statement, recovery of material objects. P.W.7 has deposed about the autopsy conducted on the body of the deceased and he deposed that hyoid bone was broken and the deceased died due to asphyxia and neurogenic shock. Further the official witnesses have deposed about registering of First Information Report and

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fair investigation. The trial Court also after elaborate discussion based on evidence came to 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

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

7. The appellant has been charged for the offence under Sections 302 and 201 of IPC. In this case there is no eye witness. It is a case on circumstantial evidence. The prosecution case mainly relied upon the evidence of P.W.6 and the extra judicial confession /Ex.P.3. According to the evidence of P.W.6 on 29.01.2016 at about 11.15a.m., when he was in his office the appellant appeared before him and stated that on 26.01.2016 at about 7.30 a.m., he killed his wife by strangulating her and the police were searching him, thereby he came there to give confession statement. Immediately P.W.6 sent a letter /Ex.P.2 to the Inspector of Police and the Inspector of Police who is the investigation officer examined the appellant

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and the appellant gave confession statement. Based on the confession statement they recovered the material objects. Further as per Ex.P.2 there is no reference about the extra judicial confession statement. When the appellant was examined by the respondent police, at that time he gave confession statement. As per disclosure statement of appellant M.O.1 to M.O.3 were recovered and the material objects are in no way relevant to connect the appellant with the crime. The occurrence has not been explained by the prosecution. Even as per the complaint /Ex.P.1 the deceased died due to hanging and there is a suspicion over the appellant, there by the P.W.1 lodged the complaint.

8. The prosecution failed to establish the last seen theory. None of the witnesses have stated about lastly seeing the appellant with the deceased prior to the occurrence. Moreover there is no evidence as to who saw the deceased first while she was hanging and how the deceased was laid down in the house of the appellant when she was hanging. The prosecution has failed to examine witnesses to speak about the hanging of the deceased and who released the deceased from hanging and how she was brought to surface and more over there is no linking evidence to connect the appellant

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with the crime. The doctor who conducted autopsy also stated that the following injuries were found on the body of the deceased.

“ A dry brown abrasion seen just below the mandibular bone on right side of 3cmx0.75cm size. No other marks or injuries seen all over the skin of the neck. No other external injuries seen all over the body. No other injuries seen in and around the genital areas and thigh”.

Further he opined that due to hanging there may be chances for breaking of hyoid bone and there are no external injuries or any contusion over the neck of the deceased. By strangulating the neck certainly would reflect injury but no external injuries were found on the neck, of the deceased as per medical evidence.

9. As per the prosecution witness P.W.1 and P.W.2 the appellant harassed the deceased but PW.9 who is the father of the deceased deposed that on the date of occurrence in the morning at 8.00 a.m, the deceased made phone call to him and stated that she was fine and there is no disclosure about the quarrel between the appellant and the deceased. Therefore the evidence of P.W.1 and 2 are doubtful as about the alleged quarrel between the deceased and the appellant. Even as per the complaint

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on suspicion P.W.1 gave complaint. None of the witnesses have spoken about the appellant by connecting him with the hanging of the deceased and there is no clinching evidence to connect the chain link without any snatches to prove the guilt of the appellant. Moreover the recovery of material objects which are having no direct nexus with the occurrence and the same is not sufficient to prove the guilt of the appellant. Further the appellant has another daughter Mareeswari and she was also residing along with deceased but the Investigating Officer failed to examine the said Mareeswari as one of the witness. The P.W.1 also admitted that the appellant had another daughter Mareeswari and she was residing along with her daughter. The PW.2 also admitted that her sister deceased Suganya and the younger daughter of the appellant are residing in the same house. The said Mareeswari is a material witness and non examination of the witness is fatal to the case of the prosecution.

10. So far as circumstantial evidence is concerned motive plays a vital role and the prosecution failed to prove the motive for the occurrence. As per Ex.P.2/letter sent by P.W.6 to the investigation officer it refers only the words spoken by the appellant and there is no record of statement from the
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appellant. The Village Administrative Officer/P.W.6 failed to record the statement of the accused and thereby the prosecution failed to prove the charges levelled against the appellant through sufficient evidence. There is no evidence as to whether during recovery of material objects in the shirt buttons were present or not and even according to the case of prosecution the deceased died due to hanging through rope but the said rope has not been seized by the investigation officer. Further the neighbors P.W.4 and P.W.5 have not supported the prosecution case and they turned hostile.

11. More over PW.6 is not a known person to the appellant and there is no chance to come before the Village Administrative Officer by the appellant who is a stranger to PW6. Moreover the First Information Report has been registered under Section 174 of Cr.PC., and therefore there is no necessity to the appellant to surrender before the Village Administrative Officer by stating that the police are searching him. Therefore the prosecution case is highly doubtful. More over trial Court framed charges under Section 302 of IPC without even mentioning the date and place of occurrence. Further the prosecution case is that the appellant strangled the deceased and thereafter hanged the deceased. None of the witnesses

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have stated about the alleged strangulation and the hanging, while so how the investigation officer came to conclusion that the appellant strangled the deceased and thereafter hanged the deceased through nylon rope, if so how the deceased was rescued from the rope and no witnesses have stated about the same.

12. Even according to the case of prosecution there was a scuffle between the appellant and the deceased, since the appellant gave money to his elder daughter Pandiselvi. How these words came to knowledge of the witnesses and who has stated about the said words spoken between the deceased and the appellant is also not clear. These are all major discrepancies and no explanation has been offered in that regard. The trial Court without clinching evidence merely on conjectures and surmises came to conclusion that the charges have been proved as against the appellant. The trial Court failed to consider that there is no evidence of last seen theory , motive and there is no materials available to connect the appellant with the crime. Without proving the last seen theory the Court cannot invoke Section 106 of Indian Evidence Act and there are no evidence that the appellant was seen with the deceased

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prior to the occurrence and there is no cogent evidence 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 302 and 201 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.

13. In the result, the Criminal Appeal is allowed and the Judgment of conviction dated 30.08.2023, made in SC No.240 of 2016, 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]
10.03.2026

Internet : Yes / No

Index : Yes / No

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To

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1. The Special Court for Prevention of Children from Sexual Offences Act cases, Virudhunagar camp @ Srivilliputhur
2. The Inspector of Police
All Women Police Station,
Aruppukottai
Virudhunagar District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Record keeper
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai



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