



WEB COPY

Crl. A(MD)No.1117 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 16.06.2026

CORAM:

THE HONOURABLE Mr. JUSTICE N.ANAND VENKATESH

AND

THE HONOURABLE Mr. JUSTICE K.K.RAMAKRISHNAN

Crl. A. (MD)No.1117 of 2023

Ramesh @ Baskar Ramesh

.. Appellant/sole accused

Vs.

The State rep. by
The Inspector of Police,
Ammaiyanaickanur Police Station,
Dindigul District
Crime No.109/2012

..Respondent/Complainant

Appeals filed under Section 374(2) of Criminal Procedure Code,
against the judgment and order dated 27.10.2023 in S.C.No.84 of 2016
on the file of the Fast Track Mahila Court, Dindigul.

For Appellant
For Respondent

: Mr.C.Mayil Vahana Rajendran
: Mr.G.Karuppasamypandian
Counsel for State



Crl. A(MD)No.1117 of 2023

WEB COPY

JUDGMENT

(Judgment of the Court was delivered by N.ANAND VENKATESH, J)

The appellant has assailed the judgment and order passed by the Fast Track Mahila Court,Dindigul in SC No.84 / 2016 dated 27.10.2023, convicting and sentencing the accused person in the following manner:

Offences for which convicted (IPC)	Sentenced to undergo
449	Rigorous imprisonment for ten years and to pay a fine of Rs.1,000/-, in default to undergo simple imprisonment for six months
302	Life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo rigorous imprisonment for one year
392	Rigorous imprisonment for seven years and to pay a fine of Rs.1,000/- in default to undergo six months simple imprisonment

The sentences are ordered to run concurrently.

2. The case of the prosecution is that the deceased Innasiammal was sleeping inside her house situated at Nilakottai Sankarapuram, Dindigul District on 08.05.2012 at about 3.30 p.m., and the accused person is said to have criminally trespassed into the dwelling house with an intention to commit theft of the golden Thandatti (lac - filled gold ear pendants) and he pushed0 down

2/22



Crl. A(MD)No.1117 of 2023

WEB COPY

the deceased and sat over her chest and strangled her, as a result of which, she died on the spot and thereafter the accused person is said to have stolen the Thandatti from both the ears each weighing one sovereign.

3. PW1, who is the daughter of the deceased, was informed about the demise of her mother by PW2 and she immediately rushed from Vellotti to Sankarapuram and found her mother dead and both her Thandattis were stolen. Immediately PW1, PW2 and PW3 lifted the body of the deceased and kept it in the pial. On the advise given by the well-wishers, PW1 went to Ammaiyanackanur Police Station and gave a complaint (Ex.P1), which was taken on file by PW24 and an FIR (Ex.P22) came to be registered in Crime No.109/2012 for offence under Sections 380 and 302 IPC against unknown accused person. The express FIR was sent to the Court by PW24.

4. The investigation was taken up by PW21 and he went to the scene of crime at about 24.00 hrs., and prepared the observation mahazar



Crl. A(MD)No.1117 of 2023

WEB COPY

Ex.P2 and rough sketch (Ex.P12). PW21 also recovered MO2, MO3 and MO4 under Athatchi Ex.P3. PW21 conducted the inquest over the dead body of the deceased in the presence of Panchayatdars and prepared the inquest report (Ex.P14).

5. The dead body was handed over to the Head Constable PW11 with a requisition letter to conduct the postmortem and the dead body was taken to the Government Hospital Nilakottai.

6. The postmortem was conducted by PW8 and the autopsy report Ex.P5 was issued by recording the following injuries:

“1.Tiny laceration over lt side face and right forearm (near elbow rt posterior aspect)

2.Tiny multiple laceration over the back of the chest and posterior aspect of both lower limbs.

3. Moderate laceration over the lt sided face

4. Tongue out sided

5. Eye closed

6.Both ear lobes cut injuries

7.No other external injuries.”



Crl. A(MD)No.1117 of 2023

WEB COPY 7. A final opinion was given to the effect that the deceased would appear to have died of Asphyxia.

8. PW21 recorded the statement of the witnesses under Section 161(3) of Cr.P.C. and in the course of investigation, the involvement of the accused person came to light. Hence on 10.05.2012 at about 6.00 a.m., the accused person was arrested in the presence of PW9 and PW23 and based on the admissible portion of his confession, the Thandatti (MO1) was recovered under second cemetery at Kallarai Thottam under Athatchi Ex.P16. It was sent under Form 95 to the Court.

9. PW21 was transferred and therefore, the investigation was taken over by PW22 and he prepared the alteration report Ex.P28 and altered the offence under Sections 392 and 302 IPC. The clothes belonging to the deceased (MO5 and MO6) were sent for chemical analysis through a requisition letter.



Crl. A(MD)No.1117 of 2023

WEB COPY 10. PW22 recorded the statements of the other witnesses under Section 161(3) Cr.P.C., and collected the postmortem certificate (Ex.P5), viscera report (Ex.P26) and on completion of the investigation, filed the police report before the Judicial Magistrate Court, Nilakottai, which was taken on file in PRC No.49 of 2012. The learned Magistrate after issuing copies under Section 207 of Cr.P.C., committed the case under Section 209 Cr.P.C. and the case was made over to the file of the Fast track Mahila Court, Dindigul, and it was taken on file in SC No.84 of 2016.

11. The trial Court framed charges for offence under Sections 449, 302 and 392 IPC and when questioned the accused person denied the charges.

12. The prosecution examined PW1 to PW24 and marked Ex.P1 to Ex.P30 and also relied upon MO1 to MO6.

13. The incriminating circumstances and evidence were put to the accused person when he was questioned under Section 313(i)(b) of



CrI. A(MD)No.1117 of 2023

WEB COPY Cr.P.C. and he denied the same as false.

14. The accused person did not examine any witness nor relied upon any documents.

15. The trial Court, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the prosecution has proved the case beyond reasonable doubts and accordingly convicted and sentenced the accused person in the manner stated supra. Aggrieved by the same, the present appeal has been filed before this Court.

16. The learned counsel for the appellant submitted that the entire case of the prosecution hinges upon the circumstantial evidence. It is submitted that two main circumstances were relied upon by the prosecution and they are, (i) last seen theory and (ii) the arrest, confession and recovery of MO1. It is submitted that PW7 and PW19 were examined on the side of the prosecution to prove the last seen



Crl. A(MD)No.1117 of 2023

theory and both these witnesses turned hostile. Therefore, this circumstance was not proved.

17. Insofar as the recovery of MO1 is concerned, PW21 is said to have recovered in the presence of PW9 and PW23 and here again PW23 turned hostile. The recovery of MO1 has not been proved by the prosecution. In view of the same, none of the circumstances were proved by the prosecution and consequently the accused person has to be acquitted from all charges.

18. Per contra, the learned counsel for State submitted that the prosecution has clearly proved the recovery of MO1 based on the admissible portion of the confession made by the accused person and the accused person did not give any explanation and merely denied the recovery.

19. This is a case of murder for gain and the recovery and the murder are intrinsically connected and one proves the other. It is



Crl. A(MD)No.1117 of 2023

WEB COPY

submitted that the trial Court had taken into consideration the evidence available and had rightly convicted and sentenced the accused person and the judgment of the trial Court does not warrant interference of this Court.

20. This Court carefully considered the submissions made on either side and materials available on record.

21. In the case in hand, the prosecution has projected a case of murder for gain. The deceased, who was an old lady, is said to have been murdered inside her house by the accused person and he had taken away Thandatti (MO1) along with him. After the incident came to light, based on the complaint given by PW1, the FIR was registered against unknown accused person. Later PW21 on recording the statement of witnesses, ascertained the involvement of the accused person in this case.

22. The ascertainment was based on the evidence given by the witnesses, who have seen the accused person going into the house of the

9/22



Crl. A(MD)No.1117 of 2023

WEB COPY

deceased. Unfortunately, the witnesses, who were examined on the side of the prosecution to substantiate the last seen theory, turned hostile.

23. In view of the above, the one and the only circumstance, which stands in favour of the prosecution is the arrest, confession and recovery (Thandatti MO1) based on the admissible portion of the confession.

24. The accused person was arrested by PW21 on 10.05.2012 at about 6.00 am., in the presence of PW9 and PW23. PW9 has stated that the accused person after arrest voluntarily confessed and identified MO1 from the cemetery. The admissible portion of the confession of the accused person was marked as Ex.P15. MO1 Thandatti was recovered under the second cemetery after it was dug, under Athatchi Ex.P16. PW9 is one of the witness for this Athatchi. Even though PW23 also stood as a witness, he turned hostile.

25. PW21, who is the investigating officer, speaks about this recovery. During cross-examination of PW9 and PW21, not a single



Crl. A(MD)No.1117 of 2023

WEB COPY

question has been put to these witnesses regarding the recovery of MO1.

Thus, the evidence of PW9 and PW21 stood unrebutted insofar as the recovery of MO1 is concerned.

26. The learned counsel for the appellant submitted that PW5, who stood as a witness for the observation mahazar, has stated that MO1 was also recovered from the scene of crime and therefore, the very recovery is in question.

27. The above submission made by the learned counsel for the appellant does not carry any force. PW5 in the same deposition clarifies that by mistake he has mentioned about the recovery of MO1 from the scene of crime, whereas the same was not recovered from the scene of crime.

28. The above clarification given by PW5 is in line with the observation mahazar marked as Ex.P2 and the Athatchi marked as Ex.P3, which clearly points out to what was actually recovered from the scene of crime.



Crl. A(MD)No.1117 of 2023

WEB COPY

29. The other evidence pointed out by the learned counsel for the appellant is the evidence of PW17, who is the Photographer. The learned counsel submitted that the Photographer had taken five to six photographs, but, however, those photographs were not marked on the side of the prosecution. Hence, it was submitted that those photographs would have established that MO1 was available in the scene of crime.

30. The above submission made by the learned counsel for the appellant also does not carry any force. Not a single question has been put to PW17 regarding what was available in the scene of crime when the photographs were taken. Therefore, just because the investigating officer missed out in marking the photographs, that by itself will not raise a presumption that MO1 was available in the scene of crime.

31. The accused person while being questioned under Section 313(i)(b) of Cr.P.C., with respect to the recovery of MO1, merely denies the same as false without giving any explanation with regard to the



Crl. A(MD)No.1117 of 2023

WEB COPY

recovery of MO1 based on the admissible portion of the confession given by the accused person.

32. At this juncture, it must be clarified that Ex.P18 photographs has been marked as if it is a photograph taken at the scene of crime. Such recording by the trial Court is patently wrong. This Court verified the original records and found that Thandatti (MO1) was returned to PW1 based on the application filed for return of property and the two Thandattis were photographed and marked along with a negative in order to identify MO1. It is certainly not the photograph that was taken in the scene of crime. Even the accused person has not questioned either the photographer or PW1 in this regard.

33. It will be relevant to take note of Section 114 of the Indian Evidence Act corresponding to Section 119 of Bharatiya Sakshya Adhiniyam 2023. For proper appreciation, the same is extracted hereunder:

“The Court may presume existence of certain facts –



Crl. A(MD)No.1117 of 2023

WEB COPY

the Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.

Illustration

The court may presume -

(a) That a man who is in possession of stolen goods soon after the theft is either the thief or has received the goods knowing them to be stolen, unless he can account for his possession.”

34. The presumptions provided under this provision gives room for a Court to exercise its power of inference and the Court can throw the burden of proof on whichever side it chooses. Drawing of presumption under this section is discretionary and not mandatory. A presumption once drawn under this provision can be rebutted by leading cogent evidence to the contrary. At this juncture, this Court recalls a metaphor alluded to the American Judge Lamm, J., that “*presumptions are like bats, flitting in the twilight but disappearing in the sunshine of facts.*”



Crl. A(MD)No.1117 of 2023

WEB COPY 35. The effect of this provision is to enable the Courts to use their own common sense and experience in judging the effect of particular facts and that is the reason why illustrations have been given based on decided cases in English Law. The section authorises the Court to make certain presumptions of fact and this presumption naturally arise on the facts of the case.

36. A presumption is not evidence or proof. It only shows on whom the burden of proof lies, in effect, presumptions of law or fact may shift the burden of proof and they may be rebutted not only by evidence but also by presumption of law or fact. A man is presumed to know and intend the natural consequences of his acts. That is the basis on which the entire provision has been brought into Indian Evidence Act/Bharatiya Sakshya Adhiniyam, 2023. In this provision, the Court may presume the existence of any fact which it thinks likely to have happened having regard to the common course of natural events, human conduct and public and private business in their relation to the facts of the case.



Crl. A(MD)No.1117 of 2023

WEB COPY

37. For the facts of the present case, illustration (a) will have a lot of relevance. The illustration raises two presumptions, viz., that the person in possession of stolen goods soon after the theft, is either (a) thief or (b) has received the goods knowing them to be stolen. The presumption contemplated under this illustration is not a presumption as to the fact of possession, but the presumption of guilt which arises from the accused not accounting for his possession of stolen goods, which he is proved to be in possession soon after the theft.

38. Where a person is found in possession of the fruits of crime and unless he explains as to how he came into possession thereof, two inferences can be drawn by the court; first – that somebody sold or gave the same to him or second - he removed them while committing the crime. Both these facts would be within the personal knowledge of the possessor. Hence, the burden of proof is on the accused person to explain as to how he came in possession of the stolen property, since the prosecution has no means to ascertain his knowledge.



Crl. A(MD)No.1117 of 2023

WEB COPY 39. At this juncture it is also relevant to take note of the judgment of the Apex Court in ***Earabhadrapa v. State of Karnataka*** reported in ***AIR 1983 SC 446*** and the relevant portion is extracted hereunder:

“13.This is a case where murder and robbery are proved to have been integral parts of one and the same transaction and therefore the presumption arising under illustration (a) to [Section 114](#) of the Evidence Act is that not only the appellant committed the murder of the deceased but also committed robbery of her gold ornaments which form part of the same transaction. The prosecution has led sufficient evidence to connect the appellant with the commission of the crime. The sudden disappearance of the appellant from the house of P.W.3 on the morning of March 22, 1979 when it was discovered that the deceased had been strangled to death and relieved of her gold ornaments, coupled with the circumstance that he was absconding for a period of over one year till he was apprehended by P.W.26 at village Hosahally on March 29, 1980, taken with the circumstance that he made the statement Ex.P-35 immediately upon his arrest leading to the discovery of the stolen articles, must necessarily raise the inference that the appellant alone and no one else was guilty of having committed the murder of the deceased and robbery of her gold ornaments. The appellant had no satisfactory explanation to offer for his possession of the stolen property. On the contrary, he denied that the stolen property was recovered from him. The false denial by itself is an



Crl. A(MD)No.1117 of 2023

WEB COPY

incriminating circumstance. The nature of presumption under illustration (a) to Section 114, must depend upon the nature of the evidence adduced. No fixed time limit can be laid down to determine whether possession is recent or otherwise and each case must be judged on its own facts. The question as to what amounts to recent possession sufficient to justify the presumption of guilt varies according as the stolen article is or is not calculated to pass readily from hand to hand. If the stolen articles were such as were not likely to pass readily from hand to hand, the period of one year that elapsed cannot be said to be too long particularly when the appellant had been absconding during that period. There was no lapse of time between the date of his arrest and the recovery of the stolen property.”

40. In the above case, the accused person is said to have committed the murder and stolen gold ornaments from the deceased. Like, in the case in hand, the recovery of the gold jewelry was based on the admissible portion of the confession given by the accused person. The Apex Court held that where the murder and robbery are proved to have been integral parts of one and the same transaction, the presumption under illustration (a) of Section 114 of the Indian Evidence Act corresponding to 119 (a) of the Bharatiya Sakshya Adhiniyam, 2023 is



Crl. A(MD)No.1117 of 2023

WEB COPY

that not only the accused person committed the murder of the deceased but also committed robbery of the golden ornaments, which forms part of the same transaction. If the accused person had no satisfactory explanation to offer for his possession of the stolen property, the legal presumption will apply and it will be put against the accused person.

41. In the case in hand, the murder and the robbery forms part of one and the same transaction. MO1-Thandatti was recovered from a very remote place, after digging a cemetery under which it had been concealed. The prosecution would never have discovered this fact unless the accused person had confessed to the same. As held supra, this fact has been sufficiently proved by the prosecution and no questions have been put to the concerned witnesses regarding recovery during cross-examination and no explanation has been given by the accused person when he was questioned under Section 313(i)(b) of Cr.P.C. in this regard. Therefore, the prosecution has clearly proved the possession of stolen property based on the recovery of MO1.



Crl. A(MD)No.1117 of 2023

WEB COPY

42. If the accused person had not trespassed into the house of the deceased and committed the murder of the deceased and taken away MO1 Thandatti and concealed the same, there is no explanation on the side of the accused person as to how he exactly knew the place where MO1 was concealed. This is the presumption to be drawn by the court having regard to the common course of natural events and human conduct. In a case involving murder for gain, in the absence of any direct evidence, such crucial recovery of stolen property having been proved by the prosecution will clinch the case of the prosecution. This is more so, where the accused person did not have any explanation as to how he came in possession of MO1.

43. The false denial on the part of the accused person by itself will become an incriminating circumstance against the accused person and that will lead to the conviction and sentence in a case of this nature.

44. The upshot of the above discussions leads to the only conclusion that the prosecution has proved the charges against the



Crl. A(MD)No.1117 of 2023

WEB COPY

accused person beyond reasonable doubts and the trial Court has properly appreciated the evidence and had come to the right conclusion and the same does not warrant the interference of this Court in the present appeal.

45. In the result, the criminal appeal is dismissed and the conviction and sentence passed by the Fast Track Mahila Court, Dindigul, in SC No.84 of 2016 stands affirmed.

[N.A.V, J.] & [K.K.R.K, J.]
16.06.2026

NCC : Yes

Index : Yes

RR

To

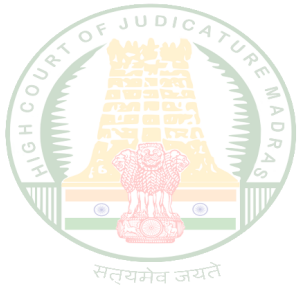
1.The Fast Track Mahila Court, Dindigul.

2.The Inspector of Police,
Ammainaickanur Police Station,
Dindigul District.

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

4.The Section officer (English Records)
Madurai Bench of Madras High Court, Madurai.

21/22



WEB COPY



Crl. A(MD)No.1117 of 2023

**N.ANAND VENKATESH, J
AND
K.K.RAMAKRISHNAN, J.**

RR

Judgment made in
Crl. A. (MD)No.1117 of 2023

16.06.2026