



Crl.A(MD)No.1334 and 1364 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2026

CORAM:

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

Crl.A(MD)Nos.1334 and 1364 of 2025

and

Crl.M.P(MD)No.20217 of 2025

Crl.A(MD)No.1334 of 2025

Yogaraj

... Appellant/Accused No.1

Vs.

State of Tamil Nadu,
Through Inspector of Police,
Eral Police Station,
Thoothukudi District.
(CRime No.24/2017)

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 415(2) of B.N.S.S, to call for the records and to set aside the judgment passed in S.C.No.50 of 2019, dated 08.09.2025, on the file of the I Additional District and Sessions Court, Thoothukudi District and acquit the above accused from the charges.

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For Appellant : Mr.KA.Raamakrishnan

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

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Sudalaimani ... Appellant/Accused No.2

Vs.

State of Tamil Nadu rep. by,
The Inspector of Police,
Eral Police Station,
Thoothukudi District.
(Crime No.24/2017)

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 415(2) of B.N.S.S, to call for the records and to set aside the judgment passed in S.C.No.50 of 2019, dated 08.09.2025, on the file of the I Additional District and Sessions Court, Thoothukudi District and acquit the above accused from the charges.

For Appellant : Mr.K.Prabhu
for Mr.S.M.Mohan Gandhi

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor



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COMMON JUDGMENT

**(Judgment of the Court was delivered by
G.K.ILANTHIRAIYAN, J.)**

These appeals are directed as against the Judgment passed in S.C.No.50 of 2019, dated 08.09.2025, on the file of the I Additional District and Sessions Court, Thoothukudi, thereby convicting the accused for an offence under Section 302 r/w 34 of IPC.

2. The case of the prosecution is that the accused and the deceased were friends and were jointly engaged in construction work for the erection of a building under a contract awarded in favour of the first accused. While matters stood thus, the deceased was subsequently awarded a separate contract without the knowledge of the first accused. Therefore, there was professional competition between the deceased and the first accused, which led to enmity between them. Thereafter, both the accused conspired



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together and on 29.01.2017 at about 17.00 hours, they had taken the deceased from his house by a two-wheeler belonging to the first accused to the river bank on the south of the Rasi bricks chamber at Valavallan over the sand surface and the second accused strangled the deceased with saffron colour towel of the second accused and held him preventing him from moving anywhere and shouting and the first accused stabbed the deceased with knife on his upper part of his stomach and left hip and the second accused received the knife from the first accused and stabbed him on his right head, right cheek, right thigh, right side back, left neck and left side back. Therefore, the deceased sustained grievous injuries and died on the spot.

3. Based on the complaint, FIR was registered by the Inspector of Police, Eral Police Station, Thoothukudi District, in Cr.No.24 of 2017 for an offence punishable under Sections 120(B) r/w 302, 342 of IPC. After completion of investigation, a final report was filed and the same has been taken cognizance by the trial Court.



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4. In order to bring the charges to home, the prosecution had examined P.W.1 to P.W.23 and marked Ex.P.1 to Ex.P.26. On the side of the accused, no witnesses were examined and no documents were produced before the trial Court. The prosecution has produced Material Objects in M.O.1 to M.O.10.

5. On perusal of oral and documentary evidence, the trial Court found the accused guilty for the offence punishable under Section 302 r/w 34 of IPC. They were sentenced to undergo Life Imprisonment and to impose a fine of Rs.10,000/- each, in default, to undergo three months Simple Imprisonment for the offence punishable under Section 302 r/w 34 of IPC. Aggrieved by the same, the appellants have preferred these appeals.

6. The learned counsel for the appellants submit that the prosecution failed to prove the motive behind the crime. In order to prove the motive, the prosecution had examined P.W.4. He deposed



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that he does not know about the motive between the deceased and the first accused. The prosecution has failed to establish the arrest of the accused and the recovery of the material objects in accordance with law. The present case rests entirely on circumstantial evidence. In such circumstances, the learned Trial Court ought not to have placed reliance on Material Object No. 5 (M.O.5) or on the alleged matching of the blood group of the deceased to connect the appellants with the commission of the offence. Merely producing the forensic laboratory reports, which were marked as Ex.P10 and Ex.P11 that the blood group of the appellants and the blood in the alleged weapon and the clothes worn by the deceased were the same is not sufficient to connect the appellants with the crime. Therefore, the trial Court ought not to have convicted the appellants and the entire conviction and sentence imposed by the trial Court cannot be sustained and it is liable to be set aside.



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7. Per contra, the learned Additional Public Prosecutor appearing for the respondent would submit that there was a delay in lodging a complaint and registering the FIR. The evidence of P.Ws. 1 and 2 is very clear about the presence of footprints at the place of occurrence. No material contradictions or infirmity was elicited from the cross-examination of P.W.1 in order to negative the theory that the deceased was alone at the time of occurrence. The evidence of P.W.4 is very clear about the motive between the accused and the deceased. The wife of the deceased has deposed as P.W.8 and she stated that she came to know that her husband was murdered due to professional competition. Though P.Ws.6 & 7 turned hostile, it would not vitiate the case of the prosecution. The evidence of hostile witnesses can be discarded to the extent that it does not support the case of the prosecution and the conviction can be sustained on the basis of the reliable and cogent evidence available on record. The Forensic evidence conclusively corroborates the prosecution case. As per Ex.P.11-Serological Report, the blood



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found on M.O.5 knife belongs to 'B' group, which is the blood group of the deceased. The weapon was recovered from the accused. Therefore, the trial Court rightly convicted the appellants and it does not warrant any interference of this Court.

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

9. On 31.01.2017 at about 09.00 a.m., P.W.1 received phone call that one dead body is there in the scene of occurrence. After visiting the scene of occurrence, P.W.1 lodged a complaint and the same was marked as Ex.P.1. In the presence of P.W.1, M.O.1 was recovered by the respondent. It is a case of circumstantial evidence. In order to prove the circumstances by connecting the accused, the prosecution had examined P.W.6 and P.W.7. Both turned hostile and they did not support the case of the prosecution. As per their statement, on 29.01.2017 at about 5.45 p.m., when they



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were standing in the Subramaniapuram bus stop, they had seen the first accused and the deceased in the motorcycle belonging to the first accused. Therefore, he thought that the previous enmity between the accused and the deceased was solved and as such, they were going together. On the next day ie., on 30.01.2017 he heard that the deceased was murdered by unknown persons. One another witness was examined, who had lastly seen the conspiracy between both the accused, however, he turned hostile and did not support the case of the prosecution. The only witness available for the prosecution to prove the motive is the wife of the deceased. She had deposed as P.W.8 and she deposed that her husband used to say that there was business competition and in that regard, there was an issue. However, she did not even whisper about the enmity between the first appellant and the deceased. Therefore, the prosecution completely failed to prove the last seen theory and also motive behind the crime. There is no chain link to connect the appellant with the crime. More over, the statement of P.Ws.



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1,2,8,11,12,14,15,16 & 18 were recorded only on 27.02.2017. Both the accused were arrested on 03.02.2017. Only after fixing the accused, the respondent had recorded the statement of eye witnesses ie, 27.02.2017. In fact, P.W.6 & 7 were examined by the prosecution on 27.02.2017. Therefore, the entire case of the prosecution was projected as if P.W.6 and P.W.7 had lastly seen the appellants and the deceased and they projected the motive as if, without the knowledge of the deceased, A1 was awarded contract of construction work, however, the prosecution did not prove the same by any piece of evidence and only the arrest of the appellants and the statements of P.W.6 & 7 were recorded by the respondent. It creates a doubt. In fact, P.W.6 & 7 turned hostile and they did not support the case of the prosecution. Insofar as the motive is concerned, the prosecution failed to prove the same by any piece of evidence. Therefore, the prosecution failed to prove the last seen theory by cogent evidence to connect the accused.



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10. In this regard, it is relevant to rely upon the Judgment of the Hon'ble Supreme Court of India in the case of “**Arjun Marik v. State of Bihar**” [1994 Supp (2) SCC 372], wherein the Hon’ble Supreme Court of India held as follows:

“31.Even if it is accepted that they were there it would at best amount to be the evidence of the appellants having been seen last together with the deceased. But it is settled law that the only circumstance of last seen will not complete the chain of circumstances to record the finding that it is consistent only with the hypothesis of the guilt of the accused and, therefore, no conviction on that basis alone can be founded.”

11. In view of the above, the conviction and sentence imposed on the appellant in S.C.No.50 of 2019, dated 08.09.2025, on the file of the I Additional District and Sessions Court, Thoothukudi cannot be sustained and are liable to be set aside.

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12. In the result, this Criminal Appeal is allowed and the judgment made in S.C.No.50 of 2019, dated 08.09.2025, on the file of the I Additional District and Sessions Court, Thoothukudi, is hereby set aside and the appellants are acquitted of all the charges. The bail bond, if any, executed by the appellants shall stand cancelled. The fine amount, if any paid, shall be refunded to the appellants. The appellants shall be set at liberty forthwith, if they are no longer required in connection with any other case. Consequently, connected miscellaneous petition is closed.

**[G.K.I.J.] & [R.P.J.,]
10.02.2026**

NCC :Yes/No
Index :Yes/No
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- 1.The I Additional District and Sessions Court,
Thoothukudi District.
- 2.The Inspector of Police,
Eral Police Station,
Thoothukudi 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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