



Crl.A(MD)No.1368 of 2025

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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)No.1368 of 2025
and
Crl.M.P(MD)No.20289 of 2025**

K.Sasikumar

... Appellant/Sole Accused

Vs.

The state of Tamil Nadu rep. by
The Inspector of Police,
Thanjavur Medical College Hospital Police Station,
Thanjavur District.
(Crime No.384/2018)

... Respondent/Complainant

PRAYER:- Criminal Appeal is filed under Section 415(2) of B.N.S.S, to call for the records relating to the conviction and sentence imposed by the trial Court by its judgment dated 19.02.2021 in S.C.No.108 of 2019, on the file of the Principal Sessions Judge, Thanjavur and set aside the same, acquit the appellant.



Crl.A(MD)No.1368 of 2025

WEB COPY

For Appellant : Mr.A.Arun Prasad
For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

JUDGMENT

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

This appeal is directed as against the Judgment passed in S.C.No.108 of 2019, dated 19.02.2021, on the file of the Principal Sessions Judge, Thanjavur, thereby convicting the accused for an offence under Section 302 of IPC.

2. The case of the prosecution is that the accused and the deceased were friends. In the year 2010, the accused met with an accident, as a result of which, he sustained a fracture injury in his right hand and his leg had to be amputated. Later, he came to know that the deceased was responsible for the said accident and had received Rs. 50,000/- in connection therewith. Since then, the accused had been searching for the deceased to settle scores. While



Crl.A(MD)No.1368 of 2025

being so, on 20.07.2018, the accused saw the deceased while he was purchasing a liquor bottle at a liquor outlet near in Thanjavur Old Bus Stand. When the deceased came out of his house, the accused invited him to consume liquor. On this pretext, the accused took the deceased in an auto-rockshaw to his own house. While they were consuming liquor together, the accused repeatedly questioned the deceased about who had hit him with the lorry, but the deceased did not respond. Therefore, the accused became aggravated and attacked the deceased with an iron pipe on his right thigh and with a knife on his right upper arm. As a result, the deceased sustained grievous injuries and subsequently died.

3. Based on the complaint, FIR was registered by the Inspector of Police, Thanjavur Medical College Hospital Police Station in Cr.No.384 of 2018 for an offence punishable under Section 302 of IPC. After completion of investigation, a final report was filed and the same has been taken cognizance by the trial Court.

3/12



Crl.A(MD)No.1368 of 2025

4. In order to bring the charges to home, the prosecution had examined P.W.1 to P.W.8 and marked Ex.P.1 to Ex.P.16. 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.7.

5. On perusal of oral and documentary evidence, the trial Court found the accused guilty for the offence punishable under Section 302 of IPC. He was sentenced to undergo Life Imprisonment and to impose a fine of Rs.5,000/-, in default, to undergo two months Simple Imprisonment for the offence punishable under Section 302 of IPC. Aggrieved by the same, the appellant has preferred the present appeal.

6. The learned counsel for the appellant submits that the prosecution failed to prove the motive behind the crime. Though the prosecution projected that the deceased was the one who caused the



Crl.A(MD)No.1368 of 2025

accident to the accused and therefore, the accused had a motive to eliminate the deceased, it failed to establish the same by any piece of evidence. P.W.1 deposed that she had seen the accused before 10 years. Therefore, the prosecution failed to prove the last seen theory to connect the accused with the crime. Though the prosecution mainly relied upon the evidence of P.W.2 to prove the last seen theory, P.W.2 did not even whisper about the place and time when she lastly saw the accused along with deceased. Therefore, no witnesses had supported the case of the prosecution, even then, the trial Court mechanically convicted the appellant.

7. Per contra, the learned Additional Public Prosecutor appearing for the respondent would submit that, in order to prove the last seen theory, P.Ws.1 & 2 had categorically deposed that they had seen the accused lastly along with deceased, thereafter, the accused was arrested and his confession statement was recorded. The confession statement also led to recovery. Therefore, the



Crl.A(MD)No.1368 of 2025

prosecution categorically proved the charges and the trial Court rightly convicted the accused 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. It is a case of circumstantial evidence. In order to prove the circumstances, the prosecution ought to have proved the chain of link. In order to prove the motive, the prosecution projected the case that the appellant met with an accident, as a result of which, he sustained a fracture injury in his right hand and his leg had to be amputated. Later, he came to know that the deceased was responsible for the said accident. Therefore, the appellant had a motive to do away with the life of the deceased. According to the prosecution, the alleged accident took place in the year 2010 and the occurrence had happened on 20.07.2018. For the past 8 years, the



Crl.A(MD)No.1368 of 2025

appellant did not intend to do away with the life of the deceased.

Further, the prosecution also did not produce any piece of evidence to show that the accused met with an accident in the year 2010 and due to which, he sustained fracture in his right hand and his leg was amputated. Further, there is no piece of evidence to show that the appellant came to know that the deceased was one who was responsible for the said accident. Therefore, the prosecution miserably failed to prove the motive behind the crime. The next avenue for the prosecution is to prove the last seen theory and to connect the appellant to the alleged crime. P.W.1, who is the mother of the deceased, deposed that in the year 2018, on one night, the deceased was taken by one un-known person, thereafter, her son did not return to her house. She further stated that she identified the appellant only in the Court. She further deposed that she had seen the accused 10 years prior to the date of alleged occurrence. Even then, the prosecution failed to conduct any test identification parade to identify the accused as P.W.1 did not know the identity of the



Crl.A(MD)No.1368 of 2025

accused. In order to prove the last seen theory, the prosecution also examined P.W.2. He deposed that on 20.07.2018 he had seen the deceased and questioned where he was going. He had also seen the appellant along with the deceased. Thereafter, he heard that the deceased was murdered. Both P.Ws.1 and 2's statements were recorded after a very long time from the date of occurrence and their statements reached to the Court along with the final report. The prosecution has not explained the delay in recording the statements and sending the same to the Court. Therefore, it is clear that the prosecution, after foisting a false case as against the appellant, cooked up the witnesses by recording the statements belatedly. Even assuming that P.Ws.1 & 2 had lastly seen the accused along with deceased, both of them did not even whisper about the place and time in which, they had seen the appellant along with deceased. In fact, P.W.1 had seen the appellant 10 years prior to the date of occurrence. Therefore, the prosecution failed to prove the last seen theory by cogent evidence to connect the accused.



Crl.A(MD)No.1368 of 2025

WEB COPY

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. The Hon'ble Supreme Court in the case “**State of Goa Vs. Pandurang Mohite, AIR 2009 SC 1066**” and a plethora of other judgements has stated that the time gap between last seen alive and the recovery of dead body must be so small that the possibility of any person other than the accused being the author of the crime becomes impossible.



Crl.A(MD)No.1368 of 2025

WEB COPY

12. In view of the above, the conviction and sentence imposed on the appellant in S.C.No.108 of 2019, dated 19.02.2021, on the file of the Principal Sessions Judge, Thanjavur cannot be sustained and are liable to be set aside.

13. In the result, this Criminal Appeal is allowed and the judgment made in S.C.No.108 of 2019, dated 19.02.2021, on the file of the Principal Sessions Judge, Thanjavur, 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. 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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10/12



WEB COPY



Crl.A(MD)No.1368 of 2025

To

- 1.The Principal Sessions Judge,
Thanjavur.
- 2.The Inspector of Police,
Thanjavur Medical College Hospital Police Station,
Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.A(MD)No.1368 of 2025

G.K. ILANTHIRAIYAN, J.
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Crl.A(MD)No.1368 of 2025

10.02.2026

12/12