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CrI.A(MD) No.623

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	21.07.2026
Pronounced on	07.08.2026

CORAM:

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA
and
THE HONOURABLE MS. JUSTICE R. POORNIMA

CrI.A(MD) No.623 of 2023

Thangeswari

... Appellant

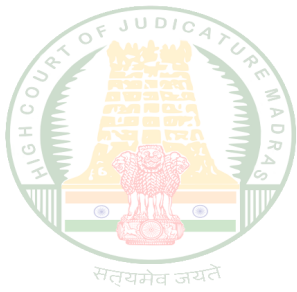
vs.

The Inspector of Police,
Thalavaipuram Police Station,
Virudhunagar

...Respondent

Criminal Appeal filed under Section 374(2) of Cr.P.C., to call for the records and set aside the conviction and sentence imposed by the Fast Track Mahila Court, Virudhunagar District at Srivilliputhur in S.C. No. 56 of 2017 dated 23.03.2023 and allow this criminal appeal.

For appellant : Mr.M.Jothi Basu
For respondent : Mr.Christopher
Counsel for State of Tamil Nadu
(Criminal Side)



J U D G M E N T

A. D. JAGADISH CHANDIRA, J.

The instant criminal appeal is filed by the accused (hereinafter referred to as “the appellant”) seeking to set aside the judgment of conviction and sentence dated 23.03.2023 passed by the Fast Track Mahila Court, Virudhunagar District at Srivilliputhur (hereinafter referred to as “the Trial Court”) in S.C. No.56 of 2017 (hereinafter referred to as “the impugned judgment”).

2. *Vide* the impugned judgment, the Trial Court convicted and sentenced the appellant as tabulated below:

Penal Provision	Imprisonment	Fine amount
302 of IPC	Life Imprisonment	Rs.5,000/- in default of which to undergo six months rigorous imprisonment
404 of IPC	Three years rigorous imprisonment	Rs.1,000/- in default of which to undergo one month rigorous imprisonment
450 of IPC	Seven years rigorous imprisonment	Rs.2,000/- in default of which to undergo three month rigorous imprisonment
Period of detention already undergone by the appellant was ordered to be set off and the sentences were ordered to run concurrently.		

3. The case of the prosecution, in a nutshell, is as follows:

3.1. One Jayalakshmi (hereinafter referred to as “the deceased”) was a widow, who had four children namely, Ramamoorthy (P.W.3), Dhanalakshmi (P.W.2), Thirulogasundari (P.W.4) and Vijayalakshmi. The deceased being a widow, preferred



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to live in the village where her son Ramaoorthy (P.W.3) was living, but, in a separate house. The deceased was engaged in the business of lending money on pledge of gold jewels and was in the habit of retaining the pledged jewels in her safe custody at her house. She would often recover her monies by resorting to use of harsh words.

3.2. The appellant, a neighbour of the deceased, availed a loan at a very high interest rate and was constantly struggling to repay both principal and interest components. Being a neighbour, the appellant would frequently visit the deceased and provide her with household help whenever possible. During one of her such visits, she quarreled with the deceased over a denial by the deceased to advance loan to her. On seeing the same, the other neighbours of the deceased, viz., one Muthu Selvi and Kosimani (P.W.13) intervened and resolved the issue. On hearing about the quarrel, when Ramamoorthy (P.W.3) confronted the appellant with regard to the reason for the quarrel, the appellant informed him that the deceased had tarnished her image in various public places, by repeatedly making a fuss about her failure to repay the loan.

3.3. While so, after a few days, the appellant, due to her being unable to cope with the huge financial burden from her surmounting debts [i.e. (1) Rs.12,000/- from the deceased; (2) Rs.60,000/- from one Iyyaraja (P.W.20) on deposit of title deeds of her house; and (3) Rs.1,70,000/- from a Self Help Group], sought further

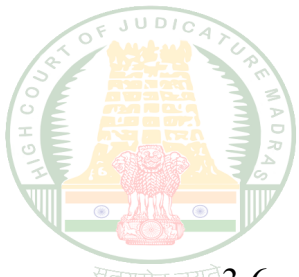


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loan from the deceased to which she sternly refused stating that thenceforth, only upon pledging of jewels, she would advance loan to the appellant.

3.4. Hence, the appellant, having had the knowledge of the pledged jewels kept in the safe custody of the deceased at her house, planned to murder the deceased and thief the pledged jewels kept there. In furtherance of the said plan, on 02.12.2016 at about 2 a.m., the appellant, with an intention to murder the deceased and thief the pledged jewels, trespassed into the deceased's house and murdered the deceased by striking her with a billhook machete i.e. aruval (M.O.12). After murdering the deceased, the appellant thieved the pledged jewels and left the deceased's house. At about 1:45 p.m., Balasaraswathy, the daughter-in-law of the deceased (hereinafter referred to as "the *de facto* complainant (P.W.1)") who came to visit the deceased, found her brutally murdered.

3.5. Thereafter, at about 7.00 p.m., the *de facto* complainant (P.W.1) gave a complaint (Ex.P.1) to the Special Sub Inspector of Police (P.W.26), Thalavaipuram Police Station. Based on the complaint (Ex.P.1), the Special Sub Inspector of Police (P.W..26) registered an FIR (Ex.P.10) in Crime No.450 of 2016 for the offence under Section 302 of IPC and handed over the investigation of the case to the Inspector of Police (P.W.27), Thalavaipuram Police Station.



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3.6. The Inspector of Police (P.W.27) took up the case for investigation and went to the scene of occurrence at about 7.45 p.m. on the same day i.e. 02.12.2016, and prepared an observation mahazhar (Ex.P.2) and rough sketch (Ex.P.11) in the presence of the independent witnesses, Aadhinarayanan and Thothiappan (P.W. 15). During the investigation, at about 8.45 p.m., the Inspector of Police (P.W.27) recovered bloodstained wood pieces from the wooden bench (M.O.8), a bloodstained brick (M.O.9), a brick (M.O.10), a bloodstained white striped pink color towel (M.O. 11), a bloodstained billhook machete (M.O.12) and a cotton swab of blood (M.O.16). Upon recovery, the Inspector of Police (P.W.27) prepared an observation mahazar (Ex.P3) reflecting the said recovery. Thereafter, the Inspector of Police (P.W.27) examined the *de facto* complainant (P.W.1), Dhanalakshmi (P.W.2) and Ramamoorthy (P.W.3) and recorded their statements. On the same day, in the presence of the members of the panchayat, he conducted an inquest at 11:15 p.m. and prepared inquest report (Ex.P.12). After completion of the inquest, he further enquired the *de facto* complainant (P.W.1) and obtained her further statement. Based on the same, he, by way of an alteration report (Ex.P.13), altered the provisions to include Section 404 and 450 of IPC. Thereafter, he sent a requisition through the Head Constable (P.W.25), Thalavaipuram Police Station, for the postmortem examination of the deceased. Since it was late in the night, the postmortem examination was conducted by Dr. Arun (P.W.23) on the next day i.e. 03.12.2016 at



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about 11:30 a.m. Dr. Arun (P.W.23) issued a postmortem report (Ex.P.9) opining that the death of the deceased was caused due to shock and hemorrhage from to the injuries [i.e (1) 4 cm. X 2 cm. X 1 cm. cut injury in sub-occipital region, (2) 2 cm. X 1 cm. X 1 cm. cut injury in right temporal region and (3) fracture in occipital bone, left parietal bone and right temporal bone] sustained by the deceased.

3.7. Simultaneously, on 03.12.2016, the Inspector of Police (P.W.27) also enquired one Muthuselvi, one Annaporanam, one Jeya, Thirulogasundari (P.W.4), Kaliasammal (P.W.6), Senthamilselvam (P.W.7), Kannan (P.W.8), Kosimani (P.W.13), and Saraswathi (P.W.14) and recorded their statements. Based on their statements, the Inspector of Police (P.W.27) recovered a bloodstained jacket (M.O.17), a bloodstained saree (M.O.18) and a bloodstained white color in-skirt (M.O.19). Thereafter, on 04.12.2016 and 05.12.2016, the Inspector of Police (P.W.27) examined Muthulakshmi (P.W.5), Maheswari (P.W.10), Valarmathi (P.W.12), Maadathi (P.W.18), Ramalakshmi (P.W.19), Chitradevi (P.W.21) and Karthesswari (P.W.22) and recorded their statements.

3.8. On 05.12.2016, based on the information received from an informer, the Inspector of Police (P.W.27), along with a Woman Sub Inspector of Police, Thalavaipuram Police Station, summoned the Village Administrative Officer (P.W.16) and went to the house of the appellant at about 4.30 p.m. and arrested her in the



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presence of independent witnesses. Upon arrest, the appellant gave a voluntary confession statement (Ex.P4) and handed over the thieved jewels [i.e. 8 sovereigns wheat model chain (M.O.1), 4 sovereigns thalapathy model chain (P.W.2), half sovereign curved ring (M.O.3), half sovereign coral ring (M.O.4), three grams leaf stud pair (M.O.5), silver hip chain (M.O.6) and silver anklet pair (M.O.7)] from a boost bottle (M.O.13) placed on a shelf at her house. The appellant also handed over her bloodstained saree (M.O.14) and bloodstained in-skirt (M.O.15) worn by her at the time of the occurrence. The material objects as stated above were recovered by the Inspector of Police (P.W.27) and an observation mahazar (Ex.P5) was prepared reflecting the recovery of the said material objects.

3.9. Thereafter, on 06.12.2016, he sent the appellant for remand and sent the case properties to the Magistrate through Form-91 (Ex.P14). On 08.12.2016, 16.12.2016, 23.12.2016, 03.01.2017, and 06.01.2017, he examined and recorded the statement of the various witnesses, including the official witnesses involved and prepared and filed a final report in Crime No.450 of 2016 on 02.02.2017 for the offences under Section 302, 404 and 450 of IPC.

4. On appearance of the appellant, the provisions of Section 207 Cr.P.C. were complied with and the Judicial Magistrate No. I, Virudhunagar took cognizance of the said final report in P.R.C. No.12 of 2015 and committed the case to the Court



of Session, Virudhunagar, which made over the case to the file of the Trial Court which was taken up as S.C.No.56 of 2017.

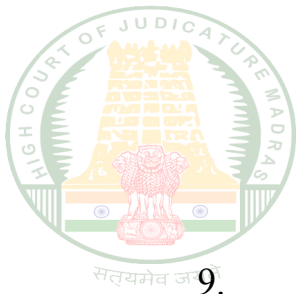
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5. The Trial Court framed charges against the appellant for having committed the offences under Section 302, 404 and 450 of IPC. When the charges were read over and explained to the appellant, she pleaded not guilty.

6. In order to prove the prosecution case, the prosecution examined 27 witnesses and marked 14 exhibits and 16 material objects.

7. After examination of the prosecution witnesses, when the appellant was questioned under Section 313 of Cr.P.C. on the incriminating circumstances appearing against her, she blatantly denied the same as false without offering any explanation whatsoever and she did not examine any witness or mark any document on her side.

8. The Trial Court, after hearing the arguments on both sides, found the appellant guilty and convicted and sentenced her as tabulated at paragraph 2, *supra*, *vide* the impugned judgment and challenging her conviction and sentence, the instant criminal appeal has been filed by the accused i.e. appellant.



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9.

The learned counsel for the appellant made the following submissions:

9.1.

The occurrence is said to have taken place in a crowded locality and despite the police having resorted to the use of a sniffer dog to identify the offender, the police investigation reached a standstill wherein the police were unable to identify the offender. Even as per the evidence of the prosecution witnesses, more specifically, the *de facto* complainant (P.W.1), the use of the sniffer dog did not yield any result and hence, nearly ten individuals, including Ramamoorthy (P.W.3) and Kannan (P.W.8) were taken to the Thalavaipuram Police Station under suspicion for investigation. They were investigated in the Thalavaipuram Police Station till the next day and were subsequently released. Therefore, when ten individuals were under suspicion and when Kannan (P.W.8) himself was investigated among others, it is highly unsafe to rely on his testimony to pin the appellant to the occurrence.

9.2.

The evidence of Senthamizh Selvam (P.W.7) and Kannan (P.W.8) cannot be believed as they have not seen the appellant along with the deceased prior to the occurrence and but have only seen the appellant wandering in the street in which deceased's house is located. Therefore, the evidence of Senthamizh Selvam (P.W.7) and Kannan (P.W.8) cannot be the sole basis to establish that the appellant was last seen with the deceased. Without the aid of the last seen theory, the prosecution's chain of circumstances would suffer from a missing link. When a missing link has



been established by the defence, circumstantial evidence would not suffice to convict the appellant.

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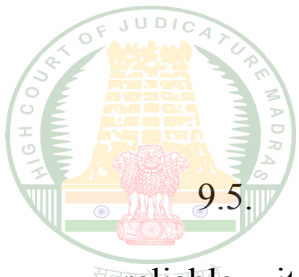
9.3. The *de facto* complainant (P.W.1) has categorically admitted that on 03.12.2016, she was taken to the Thalavaipuram Police Station for identifying the jewels worn by the deceased. However, it is the case of the prosecution that based on the information received from an informer, the appellant was arrested on 05.12.2016 and the jewels of the deceased were recovered from her on the same day. Moreso, the *de facto* complainant (P.W.1), who is also the daughter-in-law of the deceased, has not stated anything about the missing of jewels (M.O.1 to M.O.7) in her complaint (Ex.P.1). Further, Dhanalakshmi (P.W.2), Ramamoorthy (P.W.3) and Thirulogasundari (P.W.4), who are the children of the deceased have also not deposed as to the missing of jewels (M.O.1 to M.O.7). Further, when there is no whisper about the missing of jewels (M.Os.1 to 7) in the complaint (Ex.P1), not conducting a test identification parade before a Court of law assumes greater significance. Therefore, the jewels (M.O.1 to M.O.7) recovered remain unidentified and when there is no evidence to demonstrate that the recovered jewels (M.O.1 to M.O.7) belong to the deceased, it is apparent that the recovery is highly doubtful. Hence, when the defence has created a sufficient doubt in the



recovery of the missing jewels (M.O.1 to M.O.7), the same cannot be a link in the chain of circumstances to establish the guilt of the appellant.

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9.4. The entire case of the prosecution is based on circumstantial evidence and when the prosecution has put forth a case based on circumstantial evidence, the prosecution is required to prove each and every link in the chain of circumstances pointing towards the guilt of the appellant. In the present case, the prosecution has failed to prove every link in the chain of circumstances put forth by them and when some of the links in the chain of circumstances stand not proved, the circumstantial evidence put forth cannot form the basis on which a conclusion of guilt is to be drawn. Further, even if for the sake of argument, it is assumed that all the links in the chain of circumstances have been proved by the prosecution, it is still incumbent upon the prosecution to show that the circumstantial evidence has excluded all other hypothesis so as to be consistent with only one hypothesis, which is none other than the conclusion of guilt of the appellant. When one or more inferences can be drawn from the available circumstantial evidence, the inference favouring the accused must be drawn. In this regard, reliance was placed on the judgment of the Supreme Court in **Sharad Birdhichand Sarda v. State of Maharashtra [(1984) 4 SCC 116]**.



9.5.

Therefore, when the last seen theory has not been established by a reliable witness and when the recovery of the missing jewels (M.O.1 to M.O.7) is also highly doubtful, the links in the chain of circumstances cannot be said to have been established beyond reasonable doubt and hence, the instant criminal appeal may be allowed and the impugned judgment convicting the appellant may be set aside.

10. *Per contra*, the learned counsel appearing for the respondent/State submitted that the prosecution has proved each and every link in the chain of circumstances by adducing cogent evidence. According to him, only based on the voluntary confession of the appellant before the Village Administrative Officer (P.W. 16), the jewels (M.O.1 to M.O.7) of the deceased were recovered from the appellant's house. Further, he placed reliance on the recovery of the bloodstained clothes of the appellant from her and its corresponding serology report obtained to confirm that the group of the blood found on the recovered clothes matches with the deceased's blood group. Therefore, he submitted that when the established chain of circumstances points towards the guilt of the appellant, the Trial Court has rightly convicted the appellant. Hence, he prayed for dismissal of the criminal appeal.

11. The learned counsel for the appellant, in reply to the submissions of the learned counsel for the respondent/State, submitted that the above referred serology report was not produced or exhibited as evidence before the Trial Court. However, he



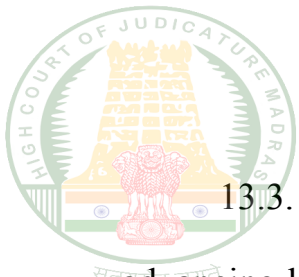
further submitted that even, for the sake of argument, if the serology report was produced and exhibited before the Trial Court, merely establishing that the group of the blood found on the recovered clothes matches with the group of the deceased's blood would not, by itself, be sufficient to convict the appellant.

12. This Court gave its careful and anxious consideration to the rival contentions put forth by the learned counsel on either side and thoroughly scanned through the entire evidence available on record, including the impugned judgment of conviction and sentence.

13. On doing so, this Court finds that the chain of circumstances proposed by the prosecution to infer the guilt of the appellant are as follows:

13.1. The appellant had surmounting debts [i.e. (1) Rs.12,000/- from the deceased; (2) Rs.60,000/- from one Iyyaraja (P.W.20) on deposit of title deeds of her house; and (3) Rs.1,70,000/- from a Self Help Group].

13.2. The appellant had previous animosity against the deceased owing to the deceased having tarnished her image in various public places, by repeatedly making a fuss about her failure to repay the loan.



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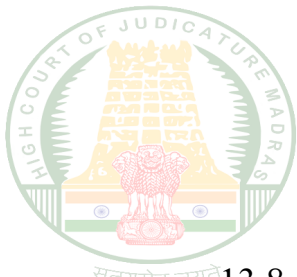
13.3. The appellant had a motive as the deceased had sternly refused advancing loan to the appellant stating that only upon pledging of jewels, she would advance loan to the appellant.

13.4. The appellant would frequently visit the deceased and provide her with household help whenever possible and thus, the appellant had the knowledge of the deceased's custody of jewels.

13.5. Senthamizh Selvam (P.W.7) and Kannan (P.W.8) saw the appellant wandering in the street in which the deceased's house is situated at about 2:30 a.m. on the day of the occurrence.

13.6. The *de facto* complainant (P.W.1), at about 1:45 p.m. on the same day of the occurrence, found the deceased murdered in her house and at about 8:45 p.m. on 02.12.2016, the Inspector of Police (P.W.27) recovered the bloodstained billhook machete (M.O.12) from the place of occurrence.

13.7. The postmortem examination of the deceased resulted in a postmortem report (Ex.P.9) opining that the death of the deceased was due to shock and hemorrhage caused from injuries consistent with the recovered billhook machete (M.O.12).



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13.8. Based on information received from an informer, the Inspector of Police (P.W.27) arrested the appellant and upon arrest, the appellant gave a voluntary confession, thereby leading to the recovery of the thieved jewels (M.O.1 to M.O.7) from the appellant which were identified by the *de facto* complainant (P.W.1) as belonging to the deceased.

14. On perusal of the evidence on record, this Court finds that the prosecution has brought forth the following evidence to establish the chain of circumstances to infer the guilt of the appellant:

14.1. The prosecution has examined Kosimani (P.W.13) and Ramamoorthy (P.W.3) to establish that the appellant was a neighbour of the deceased who had harboured a previous animosity with the appellant. Kosimani (P.W.13) and Ramamoorthy (P.W.3) deposed that Ramamoorthy (P.W.3) confronted the appellant with regard to the quarrel between the appellant and the deceased arising out of the deceased having tarnished the appellant's image in various public places, by repeatedly making a fuss about the appellant's failure to repay the loan.

14.2. The prosecution had examined one Iyyaraja (P.W.20) to establish that the appellant was burdened by surmounting debts. Iyyaraja (P.W.20) deposed that the



appellant had obtained a loan of Rs.60,000/- on deposit of title deeds of her house and that the appellant paid only two installments and thereafter, she was not properly repaying the loan.

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14.3. The prosecution had examined Senthamizh Selvam (P.W.7) and Kannan (P.W.8) to establish that the appellant was last seen within close proximity of the place of occurrence. Senthamizh Selvam (P.W.7) and Kannan (P.W.8) deposed that they saw the appellant wandering in the street in which the deceased's house is situated at about 2:30 a.m. on the day of the occurrence.

14.4. The prosecution had examined the *de facto* complainant (P.W.1) to establish that the deceased was found murdered on the same day of the occurrence. The *de facto* complainant (P.W.1) deposed that she found the deceased murdered in her house at about 1:45 p.m. on the same day of the occurrence.

14.5. The prosecution had examined the Inspector of Police (P.W.27) and Thothiappan (P.W.15) and further exhibited observation mahazar (Ex.P.3) to establish that the billhook machete (M.O.12) used to murder the deceased was recovered from the place of occurrence. The Inspector of Police (P.W.27) and Thothiappan (P.W.15) both deposed that at about 8:45 p.m. on 02.12.2016, the Inspector of Police (P.W.27) recovered the bloodstained billhook machete (M.O.12)

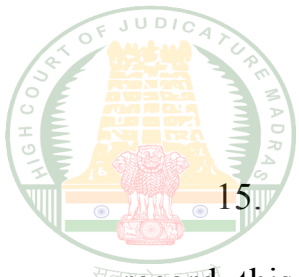


at the deceased's house and prepared observation mahazar (Ex.P.3) reflecting the said recovery.

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14.6. The prosecution had examined Dr. Arun (P.W.23) and exhibited postmortem report (Ex.P.9) to establish that the death of the deceased **was** due to shock and hemorrhage caused from injuries consistent with the recovered billhook machete (M.O.12). Dr. Arun (P.W. 23) deposed that he conducted the postmortem examination of the deceased and that he issued a postmortem report (Ex.P.9) opining that the death of the deceased was due to shock and hemorrhage caused due to the injuries sustained by the deceased.

14.7. The prosecution had examined the Inspector of Police (P.W.27) and the Village Administrative Officer (P.W.16) and further exhibited the confession statement (Ex.P4) and observation mahazar (Ex.P5) to establish that the thieved jewels (M.O.1 to M.O.7) were recovered from the appellant. The Inspector of Police (P.W.27) and the Village Administrative Officer (P.W.16) deposed that the Inspector of Police (P.W.27) along with a Woman Sub Inspector of Police, summoned the Village Administrative Officer (P.W.16) and in her presence, arrested the appellant at her house and obtained a voluntary confession statement (Ex.P4) from her which led to recovery of the thieved jewels (M.O.1 to M.O.7).



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15. That being so, from a holistic reading of the evidence available on record, this Court finds that there is merit in the contention of the appellant that the *de facto* complainant (P.W.1), being the daughter-in-law of the deceased, failed to mention the missing of jewels (M.O.1 to M.O.7) whilst giving the complaint (Ex.P1) about the death of the deceased. The appellant's case is also supported by the fact that the children of the deceased *viz.* Dhanalakshmi (P.W.2), Ramaoorthy (P.W.3) and Thirulogasundari (P.W.4) have also not deposed as to the missing of jewels (M.O.1 to M.O.7). It is noteworthy that the weight of the missing gold jewellery was not negligible or minuscule but a whopping 13 sovereigns and it is indeed beyond the ken of this Court as to how these three witnesses who are none other than the children of the deceased, omitted to utter even a single word about the missing of the gold jewels. Therefore, this Court finds the circumstances pertaining to the recovery of the deceased's missing jewels to be highly doubtful and unreliable.

16. Further, in this regard, the appellant has also elicited from the *de facto* complainant (P.W.1) during the cross-examination that the *de facto* complainant (P.W.1) identified the recovered jewels (M.O.1 to M.O.7) at the Thalavaipuram Police Station on 03.12.2016, whereas, the Inspector of Police (P.W.27) has, in total contravention to the same, deposed that the jewels were recovered only upon the arrest of the appellant on 05.12.2016. Therefore, the appellant is right in contending that the identification of the recovered jewels (M.O.1 to M.O.7) at Thalavaipuram



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Police Station would be inadmissible. Various rulings including **Arumugam v. State** [2024 SCC OnLine Mad 6116] have categorically held that the identification of property before a police officer during investigation is a fact which would attract Section 162 of CrPC and that such identification would become inadmissible.

17. Hence, this Court is inclined to appreciate that when the missing of jewels (M.Os.1 to 7) has not been stated in the complaint (Ex.P.1) the prosecution ought to have, at least, sought for the witnesses to identify the recovered jewels (M.O.1 to M.O.7) by conducting a test identification of the jewels. The failure on the part of the prosecution to conduct a test identification of the jewels through the relatives (P.W.1 to P.W.3) or through P.W.11, the jeweller who is said to have made jewels for the deceased or any of the persons who are said to have pledged their jewels with the deceased is a serious lapse which is sufficient to cause doubt as to whether the recovered jewels (M.O.1 to M.O.7) belong to the deceased.

18. On the other hand, the appellant has also elicited during the cross-examination of the *de facto* complainant (P.W.1) that the police had resorted to use of a sniffer dog to identify the offender, but on failing to reap fruits by such attempt, the police had further resorted to investigate more than 10 individuals, including Ramamoorthy (P.W.3) and Kannan (P.W.8) under the suspicion of them being the offender. This fact assumes much significance and importance as the prosecution has



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attempted to establish through one of the individuals i.e. Kannan (P.W.8), so investigated under suspicion of murdering the deceased that the appellant was the last person seen near the place of occurrence. When Kannan (P.W.8) himself was investigated under suspicion, his evidence implicating the appellant does not inspire the confidence of this Court. Further, both Senthamizh Selvam (P.W.7) and Kannan (P.W.8) have not deposed that they saw the appellant along with the deceased at the place of occurrence but have merely deposed that they saw the appellant alone at 2.30 a.m. in the street where the deceased's house is located. Further during cross examination P.W.7 admitted that he disclosed the fact to police when they visited the place of occurrence. However such material facts does not find a place either in complaint or in the inquest. The omission in recording such an important circumstances at the earliest, cast serious doubt. The statements of P.W.7 and P.W.8 has reached the court belatedly. The same was not satisfactorily explained by the prosecution. Therefore, their evidence first does not inspire the confidence of this Court and even if it does, the same would not suffice to rule out the possibility of some other person having murdered the deceased before the *de facto* complainant (P.W.1) found the deceased murdered nearly after 12 hours (i.e. 1:45 p.m. on 02.12.2016) from the time of occurrence.

19. When the last seen theory and the recovery of the deceased's missing jewels are doubtful, this Court finds that these two pivotal links to the chain of



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circumstances put forth by the prosecution have not been sufficiently established by the prosecution. In order to draw an inference of guilt on the part of the appellant, the prosecution is required to prove beyond reasonable doubt each and every link to the chain of circumstances. In this regard, it is useful to turn to **Sharad Birdhichand Sarda**, *supra*, the relevant portion of which is as follows:

“153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. It may be noted here that this Court indicated that the circumstances concerned “must or should” and not “may be” established. There is not only a grammatical but a legal distinction between “may be proved” and “must be or should be proved” as was held by this Court in *Shivaji Sahabrao Bobade v. State of Maharashtra* [(1973) 2 SCC 793 : 1973 SCC (Cri) 1033 : 1973 CrI LJ 1783] where the observations were made: [SCC para 19, p. 807: SCC (Cri) p. 1047]

“Certainly, it is a primary principle that the accused *must* be and not merely *may* be guilty before a court can convict and the mental distance between ‘may be’ and ‘must be’ is long and divides vague conjectures from sure conclusions.”

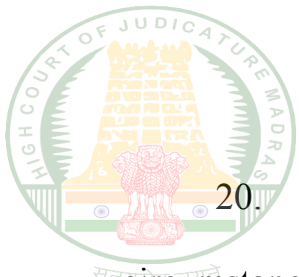
(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,

(3) the circumstances should be of a conclusive nature and tendency,

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.”

(emphasis supplied by us)



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20. Therefore, when the proved links in the prosecution's chain of circumstances is not complete so as to show that in all human probability, the deceased was murdered by the appellant, the appellant is entitled to the benefit of doubt in view of the missing links in the prosecution's chain of circumstances.

21. Since the learned counsel for the respondent/State relied on serology report which has neither been produced nor marked as an exhibit before the Trial Court, this Court finds that the same, even if so exhibited before the Trial Court, is of no aid to the prosecution, as the same can, at best, be an additional link in the chain of circumstances, but can never be the sole basis for conviction of the appellant. In this regard, it is apposite to advert to the judgment of the Supreme Court in **Sonvir @ Somvir v. State (NCT of Delhi) [(2018) 8 SCC 24]**, wherein, it was held as follows:

“26.3. Alleged recovery of bloodstained shirt

26.3.1. As per the prosecution, a bloodstained shirt was recovered at the instance of Sonvir alias Somvir (Appellant-Accused 2) from his room in the house of Teja Chaudhary, at the time of his arrest. The bloodstained shirt was sent for analysis to the FSL. As per the FSL report (Ext. P.W. 33/A), the shirt allegedly recovered from Sonvir alias Somvir (Appellant-Accused 2) was found to be stained with human blood of “B” group, which was the same “blood group” as that of the deceased.

26.3.2. In para 20, the High Court held the recovery of the bloodstained shirt from Sonvir alias Somvir (Appellant-Accused 2) to be incriminating against him, since the blood samples taken from the bedsheet at the scene of crime, were also found to be of the same blood group.



26.3.3. It is relevant to note that as per the FSL report (Ext. P.W. 33/A), both the bloodstained shirt allegedly recovered from Sonvir alias Somvir (Appellant-Accused 2) and the blood samples taken from the bedsheet at the scene of crime were found to be stained with human blood of “B” group.

26.3.4. The mere matching of the blood group of the blood samples taken from the bedsheet at the scene of crime, and the bloodstained shirt recovered from Sonvir alias Somvir (Appellant-Accused 2) cannot lead to the conclusion that the appellant had been involved in the commission of the crime.

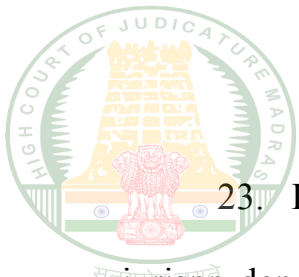
26.3.5. On this issue, reliance can be placed on two decisions of this Court in *Prakash v State of Karnataka* [Prakash v State of Karnataka, (2014) 12 SCC 133 : (2014) 6 SCC (Cri) 642] , paras 41 and 45 and *Debapriya Pal v State of W.B* [Debapriya Pal v State of W.B., (2017) 11 SCC 31 : (2017) 3 SCC (Cri) 832] , para 8 wherein this Court while deciding cases based on circumstantial evidence had held that mere matching of the blood group cannot lead to the conclusion of the culpability of the accused, in the absence of a detailed serological comparison, since millions of people would have the same blood group.

26.3.6. In the present case, the prosecution has not proved that the room from where the bloodstained knife and bloodstained shirt were allegedly recovered, was in the exclusive possession of the appellant. The prosecution case is that the said room was in the house owned by one Teja Chaudhary. The prosecution did not examine the said Teja Chaudhary to prove that the said room was rented to Sonvir alias Somvir and/or was in the exclusive custody of the appellant.

26.3.7. Therefore, the recovery of the bloodstained shirt from Sonvir alias Somvir (Appellant-Accused 2) cannot be used as an incriminating piece of evidence.

(emphasis supplied by us)

22. Taking into consideration the ratio in **Sonvir @ Somvir**, *supra*, this Court is of the opinion that the futile attempt of the prosecution to bring on record the serology report to probabalize the involvement of the appellant in the occurrence must be curbed at its threshold.



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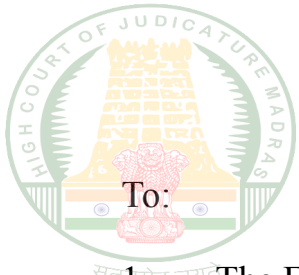
23. Lastly, this Court highlights that it is a basic tenet of criminal jurisprudence that an accused can be convicted only on legal evidence and not on mere surmises and conjectures and the law does not permit the Court to convict the accused on the basis of a moral conviction. In other words, to convict a person, the Court has to satisfy itself that the prosecution had proved the case beyond all reasonable doubt.

24. In the present case, taking into consideration the totality of the facts and circumstances, this Court finds that the prosecution has failed to prove its case beyond reasonable doubt and that the Trial Court, without proper appreciation of evidence, had erred in convicting the appellant on the basis of uncorroborated solitary evidence of the *de facto* complainant (P.W.1). In view of the doubts in the prosecution's case, the appellant is entitled to acquittal of all charges.

25. In the result, this criminal appeal is allowed and the impugned judgment passed by the Trial Court is hereby set aside and the appellant is acquitted of all the charges. Bail bond, if any, executed by the appellant shall stand discharged. Fine amount, if any paid, shall be refunded to the appellant.

[A.D.J.C.,J.] [R.P.,J]
07.08.2026

Index : Yes/No
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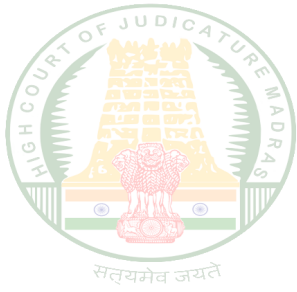


CrL.A(MD) No.623

To:

1. The Fast Track Mahila Court
Virudhunagar District at Srivilliputhur

2. The Inspector of Police
Thalavaipuram Police Station
Virudhunagar District
3. The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai
4. The Section Officer
Criminal Section (Records)
Madurai Bench of Madras High Court
Madurai



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Crl.A(MD) No.623

A.D.JAGADISH CHANDIRA, J.
and
R.POORNIMA, J.

aav

Pre-delivery judgment made
in
Crl.A(MD) No.623 of 2023

07.08.2026