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Crl.A.Nos.734, 688 and 762 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**RESERVED ON : 28.01.2026
DELIVERED ON : 17.02.2026**

CORAM :

THE HON'BLE MR. JUSTICE P.VELMURUGAN

AND

THE HON'BLE MR. JUSTICE M. JOTHIRAMAN

Crl.A.Nos.734, 688 and 762 of 2019

Anitha Devi .. Appellant in Crl.A.No.734 of 2019/A1
G.Jayaprakash .. Appellant in Crl.A.No.688 of 2019/A2
J.Sankar .. Appellant in Crl.A.No.762 of 2019/A3

Versus

State represented by
The Inspector of Police,
Matthur Police Station,
Krishnagiri District.
(Crime No.360 of 2011)

... Respondent / Complainant

Criminal Appeals filed under Sections 374(2) of Criminal Procedure Code, praying to set aside the judgment of conviction and sentence dated 22.08.2019 in S.C.No.117 of 2016 passed by the learned Additional District and Sessions Judge, Krishnagiri.



CrI.A.Nos.734, 688 and 762 of 2019

For Appellants

CrI.A.No.734 of 2019 : M/s.A.L.Ganthimathi, Senior Advocate
for M/s.C.Santhosh Kumar

CrI.A.No.688 of 2019 : Mr.V.Rajamohan

CrI.A.No.762 of 2019 : M/s.K.Thilageswaran

For Respondent in all appeals : Mr.R.Muniyapparaj, APP
Assisted by Mr.M.Karthikeyan

COMMON JUDGMENT

M.JOTHIRAMAN, J.

The criminal appeal No.688 of 2019 has been filed by the appellant / accused No.2. The criminal appeal No.734 of 2019 has been filed by the appellant / accused No.1. The criminal appeal No.762 of 2019 has been filed by the appellant / accused No.3.

2. The prosecution story runs thus:

2.1 A1 belonged to Athikanoor Village, A2 belonged to Aruiyur Village, Tirupattur Taluk, and A3 belonged to Seethapatti Village, Aravankurichi Taluk. A2 and A3 are drivers of the brother of A1 and they are friends. A1 is the wife of deceased, Sanjeevan. For the past six months



there was illicit intimacy between A1 and A2. The deceased was a drunkard and he used to regularly suspect the character of A1. Having all these things in mind, A1 planned to do away the deceased with the help of A2 and A3. On 31.10.2011, A2 and A3 dropped a TATA SUMO Car bearing Regn.No.TN 70 D 5802 around 2.00 p.m. A1 brought a spade and a crowbar from her uncle's house and went to Arunapathy Lake to keep them. They parked the TATA SUMO car at Nallagounder Village and took one two wheeler bearing Regn.No.TN 24 S 1857. They went to the lake at 5.00 pm., and they dug a pit. After 11.45 pm, A1 called A2 and A3 to her house. Thereafter, A1 to A3 smothered the deceased with a pillow. Then A2 had cut the throat of the deceased, due to which, the deceased died. Thereafter, A2 and A3 covered the dead body with a bedsheet and tied it around and took the body to the lake and buried the body.

2.2 P.W.1, Indhumathy, the then Village Administrative Officer deposed that she received an information from her Assistant Swaminathan on 09.11.2011 that a body of a male was lying at Arunapathy Lake near Muthampatty bus stop. P.W.1 and her assistant proceeded to the lake to see



the body in the evening at 6.00 pm. Thereafter, P.W.1 gave a written complaint Ex.P1 before P.W.24.

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2.3 P.W.24, Sivalingam, Inspector of Police deposed that on 09.11.2011, he had received the complaint from P.W.1 and in pursuance thereof, registered the case in Cr.No.581 of 2011 under Section 176(3) of Cr.P.C and also registered the First Information Report Ex.P.28. He took the case for investigation and he gave a requisition letter to Tahsildar, Uthankarai to exhume the body. On 10.11.2011, P.W.15, Tahsildar, exhumed the body in the presence of P.W.1, her assistant, P.W.23, Sub Inspector of Police. Thereafter, P.W.15 conducted inquest on the body of the deceased. P.W.24 has prepared observation mahazar, Ex.P2 and drawn rough sketch, Ex.P.29 in the presence of P.W.1 and one Swaminathan.

2.4 P.W.15, Baskaran, Tahsildar deposed that on 10.11.2011, he had received an information that a body of a male was lying at Arunapathy Lake



from P.W.24. He went to the scene of occurrence along with P.W.1 and other witnesses and saw the deceased body and he had given a requisition letter (Ex.P16) through P.W.18-Head Constable to conduct Autopsy. He noticed a pillow, a nylon rope and one rope in the scene of occurrence. P.W.15 conducted inquest on the body of the deceased, he found that the body was in a decomposed condition and has prepared inquest report Ex.P.17. At that time, P.W.3 and P.W.4 came there and told that the deceased was their brother, P.W.3 and P.W.4 could identify their brother with the help of inner wear, waist rope, teeth and the ropes tied around his hands.

2.5 Thereafter, P.W.24 sent the deceased body to conduct post-mortem through P.W.18. P.W.24 also recovered green coloured white striped lungi (M.O.1), a white rope (M.O.2) having length of 3 cm. and width of 177 cm., A coconut coir rope (M.O.3) and broken bangle pieces (M.O.4) and a pillow cover (M.O.5) and the same were recovered under mahazar Ex.P.3. After having examining P.W.15, P.W.24, altered the F.I.R. under Section 302



and 201 of IPC. The alteration report is Ex.P.25. He also sent the case properties to the Court concerned. Meanwhile, P.W.24, got information from P.W.25, Inspector of Police, Mathur Police Station that A1 had given a complaint stating that her husband i.e., deceased was missing and based on that complaint a man missing case was also registered by P.W.25.

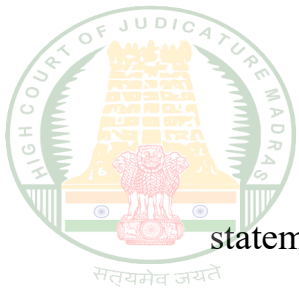
2.6 P.W.16, Dr.Sivaraj Muralidharan and P.W.17, Dr.Kesavan, jointly conducted the post-mortem on the body of the deceased on 10.11.2011. They begun the post-mortem at 2.15 pm. They found that the body was fully decomposed. Whiles, they could not recognize the identification marks. Rigor mortis was absent, eyes were fully decomposed. Similarly, his private parts were also decomposed. Since the body was fully decomposed, external injuries could not be noted. P.W.17, Dr.Kesavan issued post-mortem certificate, Ex.P.21. P.W.20, Dr.RamaniSekar deposed that he examined the hyoid bone and he has issued the report, Ex.P.19. According to P.W.20, he found the hyoid bone was broken and hence, he



gave opinion that there was no possibility for suicide. P.W.16 and P.W.17

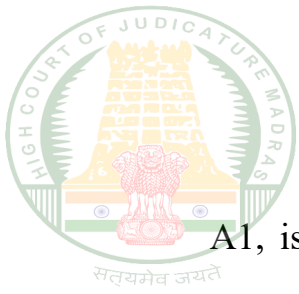
have opined that due to fracture of hyoid bone, the deceased would have died of asphyxia and failure of heart and lungs within 72 to 92 hours prior to the time of conducting the post-mortem. The post-mortem report is Ex.P.21.

2.7 P.W.24, in continuation of his investigation on 14.11.2011 arrested A2 and A3 at Uthankarai bus stop. On enquiry, A2, voluntarily given confession statement and the same has been recorded in the presence of P.W.10 and one Rajamanickam. The admissible portion of the confession statement is Ex.P.30. In pursuance of his confession statement A2 stated that A1 gave a ring imprinted as ASR (M.O.11) and the same was recovered under mahazar Ex.P.14. On enquiry, A3 voluntarily gave confession statement and the same is recorded in the presence of P.W.10 and one Rajamanickam. The admissible portion of confession statement is Ex.P.9. According to A3, A1 gave cell phone (M.O.12) of the deceased and the same has been recovered by P.W.24 under Ex.P.15. In pursuance of the confession



statement of A2, took them to the house of one Govindasamy and identified the two wheeler bearing Regn.No.TN 24 S 1857 (M.O.16) and the said vehicle was recovered under mahazar Ex.P.13. The A3 took P.W.4 to the place, where the deceased was murdered and buried. A2 produced a spade, M.O.9 and crowbar, M.O.10 and the same were recovered under mahazar Ex.P.12 and P.13.

2.8 Thereafter, A2 also handed over Soori knife, M.O.8 and the same was recovered under mahazar Ex.P.11. On the same day at 5.30 p.m., A2 has also produced two woollen bedsheets under mahazar Ex.P.31, bed sheets M.O.17 and M.O.6. A3 also produced pillow M.O.18 and bed cover M.O.7 and the same were recovered under mahazar M.O.7 and the same were recovered under mahazar Ex.P.10. P.W.24, in continuation of his investigation on 14.11.2011, arrested A1 at 8.00 p.m. and on enquiry A1 voluntarily given confession statement and the same has been recorded in the presence of P.W.2. The admissible portion of the confession statement of



A1, is Ex.P.5. In pursuance of confession statement, A1 produced a Titan watch (M.O.19) belonging to deceased and the same has been recovered under mahazar Ex.P32. A1 also identified a TATA SUMO car (M.O.20) and the same has been recovered under mahazar Ex.P.33.

2.9 P.W.25, enquired A1 and others with regard to man missing case. When he came to know about the registration of a crime in this case he gave the details about the registration of man missing complaint to P.W.24. P.W.26, the Inspector of Police deposed that he had conducted investigation subsequent to the investigation conducted by P.W.25. He had examined the witnesses and recorded their statements and upon completion of his investigation he had laid the final report before the jurisdictional Court.

2.10 On appearance of the accused, the provisions of Section 207 Cr.P.C. were complied with and the case was committed to the Court of Session in S.C.No.117 of 2016 and was made over to the Additional District and Sessions Court, Krishnagiri, for trial.



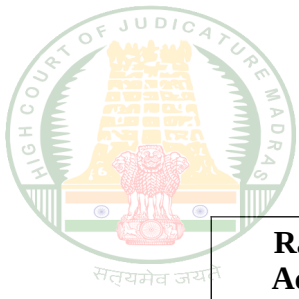
2.11 The trial Court framed the following charges against the accused:

Accused	Charges framed under Section
A1 to A3	120(B), 302 r/w 34 and 201 IPC

When questioned, the accused pleaded 'not guilty'.

2.12 In order to prove the guilt of the accused, the prosecution has examined P.W.1 to P.W.26 and marked Exs.P.1 to P.50 and also placed M.O.1 to M.O.20. After completion of prosecution side evidences, the accused were examined under Section 313 of Cr.P.C. regarding the incriminating materials produced by the prosecution side evidences. The accused had denied as false case. No witness was examined on the side of the defence and no document was marked.

2.13 Upon appreciation of oral and documentary evidences, the Court below found the accused guilty and convicted them as follows:



Rank of Accused	Convicted under Section	Sentence
A1 to A3	120(B) IPC	to undergo life imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo six months simple imprisonment
A1 to A3	302 r/w 34 IPC	to undergo life imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo six months simple imprisonment
A1 to A3	201 IPC	to undergo seven years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo six months simple imprisonment

2.14 Aggrieved over the same, the appellant / A1 preferred Crl.A.No.734 of 2019. The appellant / A2 preferred the Crl.A.No.688 of 2019 and the appellant / A3 preferred Crl.A.No.762 of 2019.

3. The learned Senior Counsel appearing for the appellant / A1 would submit that the deceased whereabouts were not known from 01.11.2011 and the appellant has lodged the complaint on 08.11.2011. Subsequent, to which the respondent police has concocted the story against the appellant herein, which has been accepted by the Court below without



evidence either direct evidence or substantial evidence. The Court below

erred in convicting the accused on the basis of alleged confession by A1 to

A3. P.W.13 who said to have deposed that A1 and A2 stayed in Anbu Lodge

itself is doubtful since he has not identified the accused and had only stated

that Police has investigated and taken the hotel register. The Court below

failed to consider the fact that except confession statement of A1 to A3 there

is no material to show that there was a conspiracy between A1 to A3 and no

independent witness had been examined to prove either conspiracy or the

offence as alleged by the prosecution. Even, the vehicle which is said to be

used by A2 and A3 and the bed sheet and sheet that have been recovered in

the presence of P.W.1, Village Administrative Officer and there is no

independent witnesses or the evidences to prove the recovery. The

conviction and sentence imposed by the Court below is erroneous incorrect

and unsustainable in law and liable to be set aside.



4. The learned counsel appearing for the appellant / A2 would

submit that it is a case of circumstantial case and in a case of circumstantial evidence, the prosecution must first of all fully establish the circumstances against the accused then the prosecution has to form a chain of circumstances with connecting links pointing to the guilt of the accused and that chain of circumstances leading to the hypothesis of the guilt of the accused and nothing else. The prosecution has not established even a single circumstance against the accused except the fact that A1 is the wife of the accused. The Court below erred in taking into consideration the alleged confession given by the Police officers and their recovery. Even if the recoveries are admitted, the guilt of the accused is not proved through that single circumstance. The prosecution first of all has not identified the dead body as that of the accused. A man missing complaint is pending and they could only identify with the help of sisters of the deceased. Further, he would submit that the body was fully in a decomposed position and the



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prosecution has not taken any scientific steps to identify the dead body of the accused. The prosecution has failed to produce any evidence with regard to the illicit intimacy between A1 and A2 except the confession of A1, there is no independent material put forward by the prosecution with regard to the illicit intimacy of A1 and A2. The Court below erred in awarding two life imprisonment for the accused under Section 120(B) of IPC and another offence under Section 302 of IPC especially when there is no direct evidence and even the circumstances put forward by the prosecution are not fully established. The reasons given by the Court below are not sound and sustainable in law. Therefore, the conviction and sentence imposed by the Court below against A2 is liable to be set aside.

5. The learned counsel appearing for appellant / A3 would submit that none of the prosecution witnesses including the blood relatives of the deceased have not supported the case of the prosecution and turned hostile. The motive alleged by the prosecution is not supported by any of the



prosecution witnesses. The Court below has rightly observed that the confession made before the Police officer is invalid, however, erroneously convicted the appellant and when there were remarkable contradictions in the case of prosecution in the case of prosecution with regard to recovery itself. When A1 was residing along with her two children and her mother-in-law, where as per the prosecution the alleged occurrence had taken place, the prosecution has not even examined them as witnesses. The prosecution miserably failed to prove the chain of circumstances and therefore the conviction and sentence imposed by the Court below is liable to be set aside.

6. *Per contra*, the learned Additional Public Prosecutor would submit that there was an illicit intimacy between A1 and A2 and the deceased was a drunkard and he used to regularly suspect the character of A1. Having all these things in mind, A1 planned to do away the deceased with the help of A2 and A3. Though the A1 had lodged a complaint before P.W.25 for missing of her husband stating that her husband has not turned up



from 01.11.2011. But she chosen to lodge the complaint only on 08.11.2011.

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The recovery of material objects recovered from the accused persons in pursuance of their confession statements which clearly establish the case of the prosecution. As per the final opinion of the Doctors, P.W.16 and P.W.17 who conducted the Autopsy stated that due to fracture of Hyoid bone, the deceased died of Asphyxia and failure of heart and lungs within 72 to 92 hours prior to the post-mortem. Appellant / A2, voluntarily confessed that A1 gave M.O.11 ring to A2 which belongs to the deceased imprinted as ASR. In pursuance of the confession statement, A2 has also produced M.O.8, Soori knife which was used for murdering the deceased. A1 called A2 and A3 and in turn A2 and A3 brought the TATA SUMO car M.O.20 and A1 brought a spade, M.O.9 and crowbar, M.O.10 and went to Arunapathylake to keep them. They dropped the car and took a two wheeler bike M.O.16 and dug a pit. Thereafter, A1 called A2 and A3 and they smothered the deceased with a pillow and A2 cut the throat of the deceased. There cannot be any direct



evidence to prove the criminal conspiracy and it can be ascertained from the subsequent and prior conduct of the accused persons from the date of occurrence. Upon appreciating oral and documentary evidences, the Court below has rightly found the accused guilty and imposed punishment. There is no infirmity in the judgment of the Court below and the appeals are liable to be dismissed.

7. We have considered the submissions made on either side and perused the materials on record.

8. In a case of circumstantial case, the prosecution must first of all fully establish all the chain of circumstances against the accused, when the prosecution has to form chain of circumstances with connecting links pointing to the guilt of accused and that chain of circumstances leading only to the hypothesis of the guilt of the accused and nothing else.



9. According to the prosecution, A2 and A3 are drivers of the brother of A1 and they are friends. For the past six months there was illicit intimacy between A1 and A2 and the deceased was a drunkard and apart from that he used to regularly suspect the character of A1. Having all these things in mind, A1 planned to do away the deceased with the help of A2 and A3. In order to prove the above said facts, the prosecution has not examined any witnesses. P.W.2 to P.W.6 and P.W.11 have turned hostile.

10. P.W.25 Thiru.S.Rajkumar, Inspector of Police, Matthur Police Station deposed that while he was in Police Station on 08.01.2011, A1, Anitha Devi lodged the complaint before the Sub Inspector of Police and he has received the complaint and registered the case in Cr.No.360 of 2011 as man missing and the same was placed before him for investigation. In the said complaint, it is alleged that her husband i.e., the deceased was missing from 01.11.2011. P.W.1, the Village Administrative Officer received an information from her assistant one Mr.Swaminathan, that a body of a male



was lying at Arunapathy Lake near Muthampatty bus stop. Hence, P.W.1 and

her assistant have immediately proceeded to the lake to see the body.

Thereafter, P.W.1 gave written complaint Ex.P.1 before P.W.24. P.W.24

received the complaint and registered a case in Cr.No.581 of 2011 under

Section 176(3) of Cr.P.C and also registered the First Information Report

Ex.P.28. After registration of the case, P.W.24 gave requisition letter to

Tahsildar, P.W.15.

11. On 10.11.2011, P.W.15, P.W.1 and P.W.23 have exhumed the body and thereafter, P.W.15 conducted inquest on the body of the deceased on 10.11.2011, he found that the body was found in a decomposed condition and has prepared inquest report Ex.P.17. At that time, P.W.3 and P.W.4 and claimed that the deceased was their brother and identified their brother with the help of his inner wear, waist rope and the ropes tied around his hand. Thereafter, P.W.24 sent the body for post-mortem through P.W.18. P.W.24 also recovered M.O.1 to M.O.5 from where the body was exhumed.



Thereafter, altered the FIR under Section 302 and 201 of IPC under Ex.P.25.

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At that time, P.W.24 got information from P.W.25 Inspector of Police, Mathur Police Station stating that A1 had already given a complaint stating that the deceased was missing. P.W.16 and P.W.17, the Doctors, who conducted autopsy on the dead body on 10.11.2011 deposed that the body was fully decomposed so they could not recognise the identification mark. P.W.20, opined that due to fracture of hyoid bone, the deceased died out of asphyxia and failure of heart and lungs within 72 to 92 hours prior to the post-mortem. P.W.20 who examined the hyoid bone of the deceased and issued Ex.P.19 report and according to P.W.20 he found that the hyoid bone broken and hence he gave an opinion that there was no possibility of suicide.

12. It is the evidence of P.W.24 on 14.11.2011, arrested A2 and A3 at Uthankarai bus stand and on enquiry they have voluntarily given confession statement and the same has been recorded in the presence of



P.W.10 and another. In pursuance of the confession according to A2, A1 gave a ring imprinted as ASR (M.O.11) was recovered. A3 took PW.24 and others to the place where the deceased was murdered and buried. A cell phone (M.O.12) was recovered from A3 and A2 also produced M.O.9 Spade and crowbar, M.O.10. A2 produced M.O.8 Soori knife and the same way A2 also produced two woollen bed sheets M.O.17 and M.O.6. P.W.24 also states that he arrested A1 on 14.01.2011 at 8.00 pm. in the presence of P.W.2 and another and A1 voluntarily given a confession statement, in pursuance of confession statement, A1 handed over watch M.O.19 and also identified M.O.20 TATA SUMO car and the same has been recovered in the presence of P.W.10 and another. The prosecution has not come forward with any definite circumstances against the accused except the arrest and recovery.

13. The prosecution first of all has not identified the dead body as that of the deceased. A man missing complaint was pending and they could be only identified with the help of sisters of the deceased, P.W.3 and P.W.4.



First of all the body was fully in a decomposed position. The prosecution has not taken any scientific steps to identify the body of the deceased. In such case, accusing A1 for having murdered her husband on account of illicit intimacy between A1 and A2 is not believable one. The prosecution treating the confession of the accused as the basis of the prosecution case it has in detail gone into the confession given by A1 or to hold that there was an illicit intimacy between A1 and A2. The prosecution has failed to produce any evidence with regard to the illicit intimacy between A1 and A2, except the confession of A1 there is no independent material put forward by the prosecution with regard to illicit intimacy of A1 and A2. When there is no evidence with regard to that the very foundation of the prosecution case is shaken.

14. Further, none of the prosecution witnesses including the blood relatives of the deceased P.W.3 and P.W.4 are not supported the case of prosecution and turned hostile. P.W.13, Anbu who is the lodge owner



deposed that A1 and A2 stayed in his lodge itself is doubtful since he has not identified the accused and had not only stated that the Police has investigated and taken the hotel register. Though P.W.13 categorically stated that the Police has taken the Hotel register and the same has not been placed before the Court below to establish the fact that A1 and A2 stayed in P.W.13's lodge in particular date and time with their identification. Except the confession statement of A1 to A3 there is no material to show that there was conspiracy between A1 to A3 and no independent witness has been examined to prove either conspiracy of offence as alleged by the prosecution.

15. Even, the vehicle which is said to have been used by A2 and A3 and bed sheet and sheet that have been recovered in the presence of VAO and there is no independent witness or evidence to prove the recovery. The Court below had proceeded the entire case only on the basis of confession given by A1 to A3 without any other material and the Court below erred in



convicting the appellants only on the basis of confession statements and not on the material evidence. The prosecution has failed to prove the chain of circumstances that is motive, last seen theory, recovery and medical evidence. When the recovery was effected based on the alleged confession statement given by the accused while in Police custody, the Court below should not have given much importance to the case put forth by the prosecution.

16. When A1 was residing along with her two children and her mother-in-law, where as per the prosecution, the prosecution has not even examined them as witnesses. The judgment of the conviction and sentence by the Court below is without basis or evidence to prove the alleged occurrence and the offence by the appellants and as such is liable to be set aside. This Court is of the view that the Court below committed error in convicting the appellants only on the basis of confession statement and not on any material evidence and in any view of the matter, the Judgment of



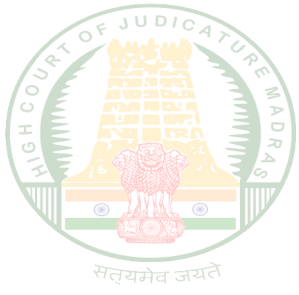
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conviction and sentence imposed by the Court below is erroneous and unsustainable in law and is liable to be set aside. There are merits in the appeals.

17. Accordingly, the appeals are allowed. The conviction and sentence dated 22.08.2019 in S.C.No.117 of 2016 passed by the learned Additional District and Sessions Judge, Krishnagiri is set aside. The fine amount, if any, paid by the appellant shall be refunded. The bail bond, if any, executed shall stand discharged.

[P.V., J.] [M.J.R., J.]
17.02.2026

NCC : Yes / No
rap/nsd

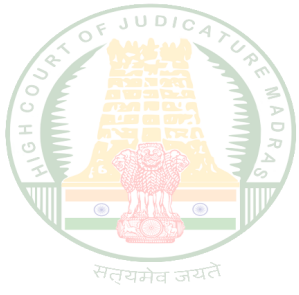


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To

1. The Inspector of Police,
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Krishnagiri District.
2. The Additional District and Sessions Judge, Krishnagiri
3. The Public Prosecutor,
High Court, Madras.



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