

Crl. A(MD)No.123 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 17.03.2026
Pronounced on : 25.03.2026

CORAM:

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

AND

THE HONOURABLE Mr. JUSTICE P.DHANABAL

Crl. A. (MD)No.123 of 2024

Muthukumar

.. Appellant/Sole accused

Vs.

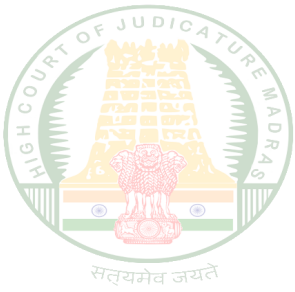
The State rep by
The Inspector of Police,
Parthibanoor Police Station,
Ramanathapuram District
Crime No.320/2017

..Respondent/Complainant

Appeal filed under Section 374(2) of Criminal Procedure Code, against the judgment and order dated 31.07.2023 in S.C.No.20 of 2021 on the file of the Fast Track Mahalir Court (Mahalir Neethimandram), Ramanathapuram.

For Appellant
For Respondent

: Mr.G.Karuppasamy Pandian
: Mr.A.Thiruvadikumar
Additional Public Prosecutor



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*Crl. A(MD)No.123 of 2024***JUDGMENT**

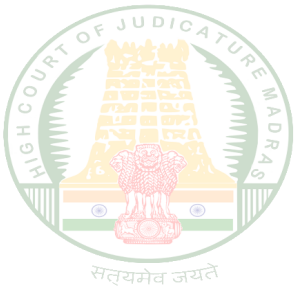
(Judgment of the Court was delivered by N.ANAND VENKATESH, J)

The sole accused has assailed the judgment passed in SC No.20/2021 dated 31.07.2023 on the file of the Fast Track Mahalir Court (Mahalir Neethimandram), Ramanathapuram, wherein, the accused person was convicted and sentenced in the following manner:

S.No.	Convicted u/s.	Sentence and fine imposed
1	342 IPC	Simple imprisonment for six months
2	302 IPC	To undergo life imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo simple imprisonment for six months

The sentences were ordered to run concurrently.

2. The case of the prosecution is that the accused belongs to Panaikudi Village, Virudhunagar District and he was married to the deceased Pon Irul, who is a resident of Peerankurichi, Paramakudi Taluk, Ramanathapuram District. They were blessed with four children. Dispute arose between the husband and wife since the accused person started



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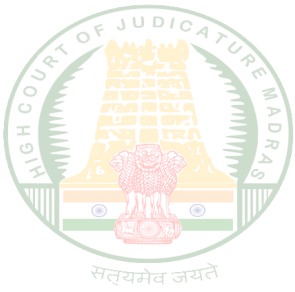
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suspecting the loyalty and chastity of the deceased. In view of the same, the deceased came to her parents house at Peerkankurichi along with her children. The further case of the prosecution is that the accused person used to make visits to see his wife and children.

2.1. On 24.11.2017, at about 8.50 a.m., when the deceased was going along with her parents to Parthibanur Hospital through Pidariseri, the accused person was standing in the property belonging to one Shankar, S/o.Alagar in Unduthi Village. The accused person called the deceased and hence, the deceased went towards the accused person asking her parents to wait. At that time, the accused person is said to have pulled the deceased and slit her throat with knife and also cut the right ear of the deceased.

2.2. PW1 and PW2, on seeing this incident, started running towards the scene of crime and the accused ran away on the northern side. With the help of others, they arranged for an ambulance and the deceased was taken to Paramakudi Government Hospital. PW8, who is the Doctor attended the deceased and prepared the Accident Register (Ex.P9). Considering the serious health condition of the deceased, she was referred to the

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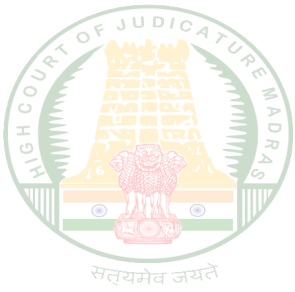
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Government Rajaji Hospital, Madurai. However, on the way, the deceased succumbed to the injuries. Hence, the deceased was taken back to Paramakudi Government Hospital.

2.3. PW10, Inspector of Police, received the intimation from Paramakudi Government Hospital at about 11.20 a.m. on 24.11.2017 and he went to the hospital around 12 noon. He recorded the statement of the mother of the deceased (PW1) and prepared the complaint (Ex.P1). He came back to the police station and registered an FIR (EX.P14) in Crime No.320/2017 for offence under Section 302 IPC.

2.4. PW10 took up the investigation and he went to the Paramakudi Government Hospital at about 2 p.m., on the same day and conducted inquest on the body of the deceased in the presence of Panchayatdars and inquest report (Ex.P15) was prepared. Thereafter, the investigating officer requested the Woman Constable to take the deceased for postmortem. The postmortem was conducted by PW8 and in the postmortem report (Ex.P10), the following injuries were recorded:

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“External Examination: Thin built body of female aged about 30-35 years lying on its back with rigor mortis present all over the body.

Neck – clear cut injury (lacerated injury) size of about 10 x 15cm x 4 cm size anterior aspect of neck region with blood clots seen. Exposing the trachea and major, minor small blood vessels with clots seen. Tongue pallor, conjunctiva pallor in appearance. Torn ear lobules with blood clots ® ear.

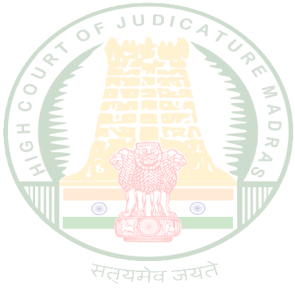
Internal Examination: Skull vault intact. Brain intact concussions and pallor seen.

Lungs: Pallor in appearance

Trachea: Open to air size is of about 4 x 4 x 4 cm deepens with blood clots seen. Hyoid bone also injured and broken into pieces.

Death could have occurred about 6 to 8 hours prior to autopsy. Death due to massive hemorrhage from the open blood vessels from the injured site (massive hemorrhage) Hypovolemic shock cardio respiratory arrest. ”

2.5. In the meantime, the investigating officer went to the place of occurrence, at about 4.30 p.m., and prepared observation mahazar Ex.P7 and a rough sketch Ex.P16 in the presence of witnesses. The investigating



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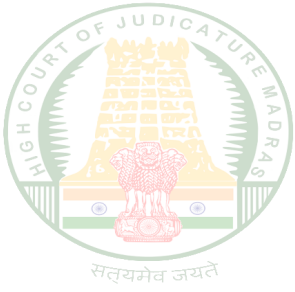
WEB COPY officer gathered bloodstained earth, normal earth, black bag, photocopy of the ration card and photo of the accused (MO4 to MO8) under mahazar.

2.6. The investigating officer arrested the accused person on 25.11.2017 at about 12.30 p.m. and the accused person is said to have voluntarily given his confession statement in the presence of Village Administrative Officer (PW5) and based on the admissible portion of the confession statement, a knife (MO1) was recovered under Mahazar Ex.P6. The accused person was sent for remand.

2.7. All the properties recovered were sent to the jurisdictional Magistrate under Form 95 and thereafter it was sent for chemical analysis to the Regional Forensic Sciences Laboratory at Ramanathapuram.

2.8. The investigating officer altered the FIR through an alteration report Ex.P18 and altered the offences to Sections 342 and 302 IPC. The investigating officer also produced PW1, PW2 and PW4 before the Judicial Magistrate, Paramakudi, for recording their statements under Section 164

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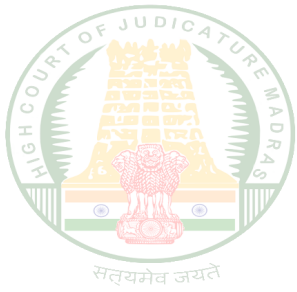
WEB COPY Cr.P.C. and their statements were marked as Ex.P2 to Ex.P4.

3. On completion of recording the statement of the witnesses under Section 161 Cr.P.C. and after gathering all the materials and reports, the police report came to be filed before the Judicial Magistrate, Paramakudi, which was taken on file in PRC No.16/2018. After serving the copies under Section 207 Cr.P.C., the case was committed and tried by the Fast Track Mahalir Court (Mahalir Neethimandram), Ramanathapuram.

4. The trial Court framed charges under Sections 342 and 302 IPC and the accused person denied the charges.

5. The prosecution examined PW1 to PW10 and marked Ex.P1 to Ex.P19 and also relied upon MO1 to MO8.

6. The incriminating evidence and circumstances were put to the accused person, when he was questioned under Section 313(i)(b) of Cr.P.C., and he denied the same as false.



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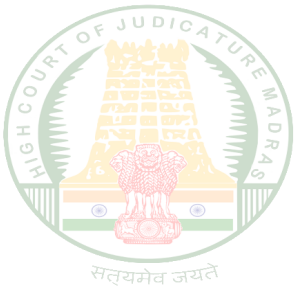
7. The accused person did not examine any witness nor relied upon any documents.

8. The trial Court, 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 proceeded to convict and sentence the accused person in the manner stated supra. Aggrieved by the same, the present criminal appeal has been filed before this court.

9. We have heard the learned counsel on either side and perused the materials available on record.

10. The main ground that was urged by the learned counsel for the appellant is that the eyewitness account of PW1 and PW2, who happened to be the mother and father of the deceased, is highly doubtful since they have given evidence as if the incident happened in an open field, whereas, the

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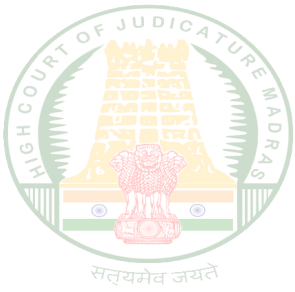


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WEB COPY earliest version that was given by the deceased to PW8 – Doctor and which was recorded in the Accident Register shows that the alleged incident had happened inside the house. Therefore, PW1 and PW2 could not have seen this incident. The learned counsel further submitted that if really PW1 and PW2 were present in the scene of crime, their bloodstained clothes should have been seized by the police, since they admitted that they had lifted the body of the deceased, who was profusely bleeding. Apart from that the statement of PW1 and PW2 recorded under Section 161 Cr.P.C. reached the Court only at the time of filing the police report. Therefore, all the circumstances clearly established the fact that PW1 and PW2 could not have seen the incident.

11. Per contra, the learned Additional Public Prosecutor submitted that if the statement given by the deceased before the Doctor-PW8 is to be entirely acted upon along with the entries made in the Accident Register marked as Ex.P9. It has to be taken to be the dying declaration of the deceased, which is a very relevant factor under Section 32 of the Indian Evidence Act and based on the same, the prosecution has clearly established

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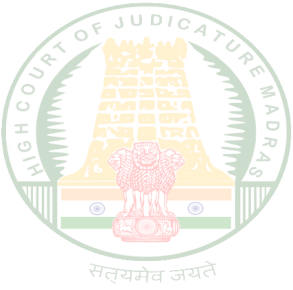
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the involvement of the accused person in the commission of crime beyond reasonable doubts. Therefore, it was submitted that the charge of murder against the accused person, assuming this Court does not rely upon PW1 and PW2, who are eyewitnesses, can be established by the evidence of PW8 Doctor and the Accident Register Ex.P9.

12. In reply to the above submission, the learned counsel for the appellant submitted that the prosecution has developed the case on the basis of the eyewitness account of PW1 and PW2 and the charges were framed based on their statements recorded under Section 161 Cr.P.C., and if this foundation laid by the prosecution falls, the entire case of the prosecution must also fall and the prosecution cannot be allowed to come up with a new case relying upon the dying declaration since it will cause grave prejudice to the accused person and it is not a mere omission or an error which can be cured and it will go to the root of the matter.

13. The learned counsel by relying upon Section 212 of the Cr.P.C. submitted that a charge must necessarily contain the time and place of the

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alleged crime and if the charge was not based on the so called dying declaration of the deceased, the prosecution cannot be allowed to come out with a new case since the foundation of their case based on eyewitness account of PW1 and PW2 will fall to the ground and the benefit of doubt has to be necessarily given to the accused person.

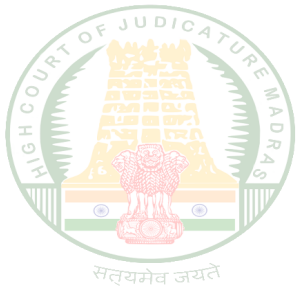
14. This Court has carefully considered the submission made on either side and the materials available on record.

15. The warp and woof of the entire case is now to balance the eyewitness account of PW1 and PW2 on the one hand and the evidence of PW8 Doctor and the Accident Register (Ex.P9) on the other and see if the entry made in the Accident Register and the evidence tendered by PW8 completely takes away the very foundation of the case of the prosecution and consequently the benefit of doubt must be extended in favour of the accused person.



WEB COPY 16. Before dwelling into the evidence, this Court must keep in mind certain fundamental principles with respect to the effect of entries made in an accident Register and how far it has to be acted upon. The Apex Court in ***Pattipati Venkaiah v. State of Andhara Pradesh*** reported in **1985 (4) SCC 80** dealt with the effect of entry made in the Accident Register. In that case, the eyewitnesses, while taking the deceased to the hospital, did not reveal the name of the assailant and that was taken as a ground on the side of the accused person. Considering this ground, the Apex Court held as follows:

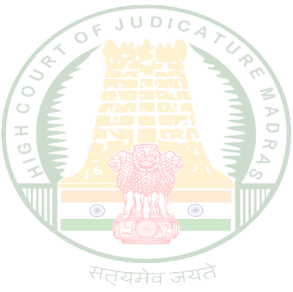
“17. Another argument advanced before us was that although PWs 1 and 2 were supposed to be eye-witnesses, they never cared to disclose the name of the assailant to the doctor when the body of the deceased was taken to the hospital. This argument is only stated to be rejected. A doctor is not at all concerned as to who committed the offence or whether the person brought to him is a criminal or an ordinary person. His primary effort is to save the life of the person brought to him and inform the police in medico-legal cases. It is well settled that doctors before whom dead bodies are produced or injured persons are brought, both themselves take the dying declaration or hold the postmortem immediately and if they start examining the informants they



WEB COPY *are likely to become witnesses of the occurrence which is not permissible.”*

17. Useful reference can also be made to the judgment of the Apex Court in ***P.Babu and others v. State of A.P.*** reported in ***1994 SCC Crl. 424*** and the relevant portion is extracted hereunder:

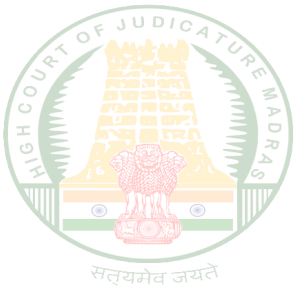
“6. PW 1 is a young doctor and a highly independent witness. There is no reason whatsoever for him to speak falsehood. The recording of Ex. P- 1 by PW 1 is not in dispute. PW 1 has clearly stated that the injured gave the said statement and he duly recorded it and obtained his thumb impression. PW 10, the Casualty Medical Officer who examined the injured and admitted him, asserted that Ex. P- 1 was recorded by PW 1 as per his instructions. PW 10 also deposed that he asked the Inspector to secure the presence of the Magistrate but he was told that the Magistrate was not available. Therefore the Circle Inspector requested him to record the dying declaration. He, however, asked PW 1 to record the same. PW 10's evidence shows that he was present when the dying declaration was being recorded by PW 1 and that the patient was fully conscious when the dying declaration was recorded. PW 10 further deposed that after



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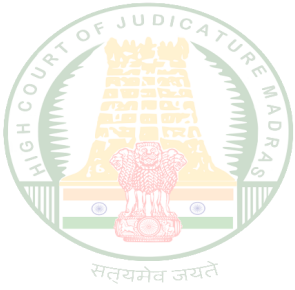
the statement was recorded, he verified it and the same was read over to the victim who affirmed the same to be correct and therefore his thumb impression was taken. PW 10 was cross-examined at length. In the first instance he was cross-examined about the availability of the Magistrate and the time taken to get the information that the Magistrate was not available. Then he was cross-examined with reference to actual recording. PW 10 asserted in the cross-examination that he asked PW 1 to record and he himself had gone through the entire dying declaration recorded by PW 1. PW 10 also stated that they noted in the accident register that the dying declaration was recorded. Ex. P-6 is the injury certificate. It appears that it was noted in Ex. P- 6 against an entry that the injured was said to have been stabbed by somebody. Placing much reliance on this entry, PW 10 was asked in the cross-examination as to how it was made. PW 10 stated that the deceased stated so in the first instance. The learned counsel relying on this admission sought to contend that the deceased was not aware as to who stabbed him. We see no force in this submission. It is a matter of common knowledge that such entry in the injury certificate does not necessarily amount to a statement. At that stage the doctor was required to fill up that column in a normal manner and it was not the duty of the



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doctor to enquire from the injured patient about the actual assailants and that the inquiry would be confined as to how he received the injuries namely the weapons used etc. It is next submitted that the condition of the injured was very serious and therefore it is highly doubtful whether he would have been in a position to make the statement. In support of this submission, the learned counsel relied on the evidence of PW 20 and also PW 9 another Doctor, who conducted the postmortem. PW 20 deposed that he found that the condition of the injured was serious and that the Magistrate should be informed for recording the dying declaration. Relying on this admission made by PW 20, the learned counsel contended that the condition of the injured was serious and therefore it would not have been possible to record the dying declaration. The other submission is that since PW 20 made an entry that the Magistrate should be informed, it becomes doubtful that Ex. P-1 was already recorded and if, in fact, the same was already recorded, PW 20 would not have made such an entry. We do not find any substance in this submission. PW 20 does not say that he inquired of PW 10 whether any dying declaration was recorded already. Further, the accident register itself reveals that PW IO had already made an entry in the relevant column that the dying declaration was

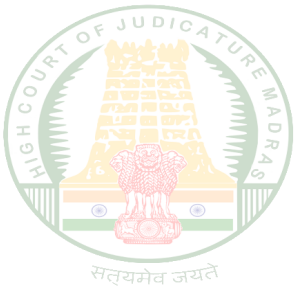


WEB COPY recorded. Therefore the entry made by PW 20 that he visited the hospital at about 9 p.m. would not in any manner affect the veracity of the evidence of PWs 1 and 10 who are respectable doctors.”

18. The Apex Court in the above judgment held that entry in the injury certificate does not necessarily amount to an admission. At that stage, the Doctor was only required to fill up the columns in a normal manner and it is not the duty of the Doctor to make further enquiries and prepare the detailed report about the incident.

19. The next judgment that can be relied upon is the judgment in ***Ravikumar @ Kutti Ravi v. State of Tamil Nadu*** reported in ***2006 (9) SCC 240*** and the relevant portion is extracted hereunder:

“13. It is also urged by the counsel for the appellant that when Pushpa was admitted in the hospital the doctor has written in the accident register that she has lit fire on herself which indicates that it was a case of suicide and not homicide. In the statement of the doctor (PW 9), he has explained the position that along with Pushpa her father came

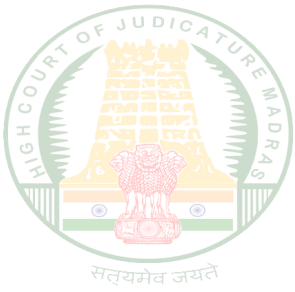


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to the hospital and when he enquired about how the accident happened he said that he did not know. In this state of affairs, it can very well be presumed that the doctor assumed that the burn injuries were caused due to some act on her part and he, therefore, wrote in the register that she had lit fire on herself. When he came to know about the correct state of affairs, he erased that entry. In the factual scenario, it appears to us that the doctor made enquiries from the father and as the cause of injuries was not informed to him, he by himself put the entry in the accident register that the deceased lit fire on herself and when the correct picture emerged he erased the entry. The entry made in the accident register has been explained by the doctor in his statement. On the basis of this entry, the defence version of suicide cannot be accepted on the face of the two dying declarations of the deceased Pushpa recorded by the Magistrate and the Head Constable on the basis of which the FIR was registered. The evidence of the Magistrate, PW 8 and the doctor, PW 9 is absolutely clear and unambiguous.”

20. In the above judgment, the Apex Court has held that it is even possible for a Doctor to erase the entry made in the Accident Register and to explain about the same in his evidence. One more judgment of this Court



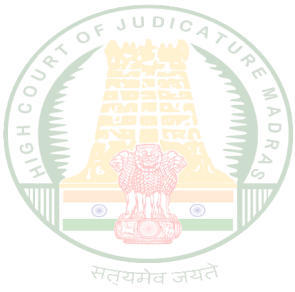
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can also be taken into consideration in *Saranraj v. State rep. by its Inspector of Police, K7 Police Station, Chennai* reported in *2018(1) MLJ Crl. 119*, wherein this Court took into consideration all the earlier judgments of the Apex Court and held that the Doctor is not at all concerned as to who committed the offence or whether the person brought to him is a criminal or to record any finer details about the case and what the Doctor is concerned about is to treat the patient and while doing so, the Doctor has to merely make the entry and fill up the columns provided in the Accident Register.

21. It is quite clear from all the above judgments that entries that are omitted to be made in the accident register or the entries that have been made in the accident register cannot become a gospel truth to lay the entire case of the prosecution based on such accident register. It is only a relevant piece of evidence, which can be acted upon to understand the treatment that was given by the Doctor to the injured/deceased taken to the hospital and the nature of the injuries sustained and the further course of action taken by the Doctor. The entries made in the accident register need not be elevated to

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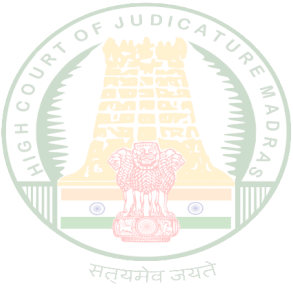
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the status of a statement in order to develop the case from the accident register. This principle of law will be kept in mind while dealing with the facts of this case.

22. PW1 is the mother of the deceased. She has stated about the misunderstanding between the deceased and the accused person and she was going along with PW2 to the hospital along with the deceased. She has also deposed as to how the accused person made a phone call to the mobile number of PW2 at about 8.50 a.m. on the date of occurrence. She clearly states that when she along with PW2 and the deceased were proceeding to Parthibanur hospital and were crossing Unduthi, the accused person was standing on the road side and he called the deceased. The deceased informed PW1 and PW2 that she will speak with her husband and come back. However, the accused is said to have caught hold of the hair of the deceased and pulled her down and had slit her throat with MO1. On seeing the same, PW1 and PW2 ran towards the place of occurrence and the accused person fled from the scene. She also talks about arranging for the ambulance to take the deceased to the hospital and the complaint that was given in Ex.P1.

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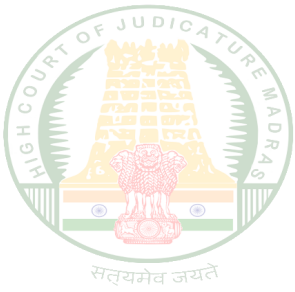
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23. The evidence of PW2, who is the father of the deceased, is also to the same effect. Apart from recording the statement of PW1 and PW2 under Section 161 Cr.P.C., their statements were also recorded by the Judicial Magistrate under Section 164 Cr.P.C.

24. On a careful reading of the evidence of PW1 and PW2, it gives a clear description regarding the manner in which the entire incident took place and there is nothing to discredit their evidence in the cross-examination. Their evidence certainly inspires the confidence of this Court and it also inspires the confidence of the trial Court.

25. PW3 is the owner of the land in which the incident took place and he speaks about seeing the accused running away from the land with a bag in his hand. The evidence of this witness will confine itself to what was seen immediately after the incident and it will be relevant as *res gestea* under Section 6 of the Evidence Act. Since the accused person belonged to Panaikudi of Virudhunagar District and he is said to have come to

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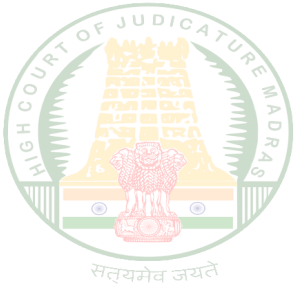


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Peerankurichi at Paramakudi Taluk to commit the offence, the prosecution has thought it fit to examine PW4, who speaks about the presence of the accused around 8.30 a.m., and the phone call made by the accused from the mobile phone belonging to PW4. In her evidence, she also speaks about hearing about the incident late in the day. Her statement was also recorded under Section 164 Cr.P.C.

26. The next important witness is PW8 – Doctor, who has deposed to the effect that the deceased was brought for emergency treatment in 108 ambulance on 24.11.2017 at about 10.40 a.m. and the deceased informed him that she was assaulted by her husband when she was working in her house. He also prepared the accident register (Ex.P9). Since PW8 found the condition of the deceased to be very serious, the deceased was referred to Government Rajaji Hospital, Madurai. However the deceased was brought back dead and he conducted the autopsy and issued the postmortem certificate (Ex.P10).

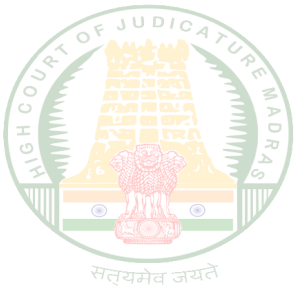


WEB COPY 27. The evidence of PW9 also assumes some significance. He is the scientific officer, who received the materials that were sent to the lab for examination and the witness had deposed that the material objects were sent to the Chennai Forensic Laboratory for chemical analysis and the biological report and the serological report were marked through this witness as Ex.P12 and Ex.P13. Under Ex.P12, it has been mentioned that the human blood group 'O' was found on the sample bloodstained earth, saree and blouse and it matched with the blood group of the deceased.

28. The injuries recorded in the postmortem certificate has already been extracted supra and the same corroborates the eyewitness account regarding the incident.

29. At this juncture, it will be more apposite to quote Paragraphs 7 and 8 of the judgment of the Apex Court in ***State of Haryana v. Bhagirath and others*** reported in ***1999 5 SCC 96*** and they are extracted hereunder:

“7. ... The pristine doctrine of benefit of doubt can be invoked when there is reasonable doubt regarding the guilt of



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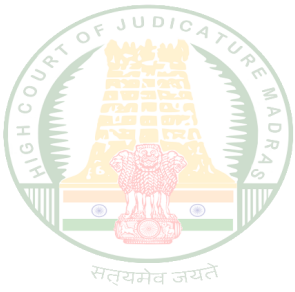
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the accused. It is the reasonable doubt which a conscientious judicial mind entertains on a conspectus of the entire evidence that the accused might not have committed the offence, which affords the benefit to the accused at the end of the criminal trial. Benefit of doubt is not a legal dosage to be administered at every segment of the evidence, but an advantage to be afforded to the accused at the final end after consideration of the entire evidence, if the Judge conscientiously and reasonably entertains doubt regarding the guilt of the accused.

8. It is nearly impossible in any criminal trial to prove all the elements with a scientific precision. A criminal court could be convinced of the guilt only beyond the range of a reasonable doubt. Of course, the expression 'reasonable doubt' is incapable of definition. Modern thinking is in favour of the view that proof beyond a reasonable doubt is the same as proof which affords moral certainty to the Judge." (emphasis supplied)

30. The above judgment gives a clear indication that when testing the ground of reasonable doubt raised by the accused, it is a reasonable doubt which a conscientious judicial mind will entertain on a conspectus of the

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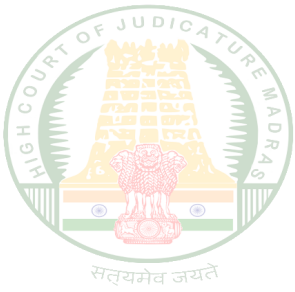
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entire evidence. It is an advantage to be afforded to the accused person at the final analysis after consideration of the entire evidence. This is in view of the fact that it is almost impossible in any criminal trial to prove all the elements with a scientific precision. Obviously, a Judge is expected to assess the entire evidence and see if the proof beyond reasonable doubt also falls within the judicial conscience of the Judge. Considering the sloppy nature in which investigations are conducted, if a Court is to expect for a scientific precision on every evidence collected by the prosecution, every other case will only end in acquittal and will become impossible for the Court to convict the accused person.

31. The evidence of PW1 and PW2 is sought to be discredited by relying upon the evidence of PW8 – Doctor, who recorded the entries in the accident register Ex.P9. The Doctor, while deposing and while making the entries, has stated that the deceased was in a position to talk and she stated that her husband (accused herein) was the one, who attacked her with knife. While making this statement, she seems to have told that she was working in the house and at that time, she was attacked. Considering the serious

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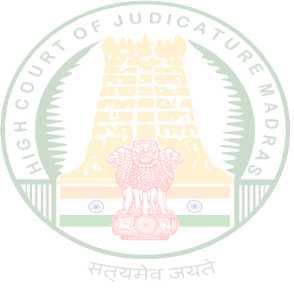
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condition of the deceased and considering the fact that a Doctor will only focus on giving treatment to the person, who is in a critical condition, every other entry made in the Accident Register cannot be taken to be a gospel truth and it cannot be pitted against the unassailable eyewitness account to disbelieve the same. In fact, the evidence of PW8 and the Accident Register only helps the prosecution to substantiate the fact that it was the accused person who attacked the deceased, which resulted to be fatal and where and what time it took place will all be irrelevant, insofar the reliance placed on the accident register is concerned. By no stretch, the entries made in an accident register and which is spoken to by a Doctor can be used to completely discredit an eyewitness account, which is otherwise unassailable.

32. The trial Court, while appreciating the evidence, has perfectly undertaken this exercise and rendered a finding that such entry made in the accident register does not in any way take away the merits of the eyewitness account and it rather corroborates the theory projected by the prosecution and this finding is perfectly in order and does not require the interference of

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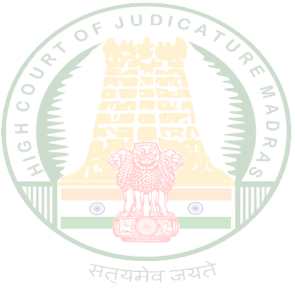
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33. In the light of the above discussions, this Court finds that the prosecution has proved the case beyond reasonable doubts and there is no ground to interfere with the judgment passed by the trial Court. Accordingly, the criminal appeal stands dismissed and the conviction and sentence imposed by the Fast Track Mahalir Court (Mahalir Neethimandram), Ramanathapuram in SC No.20 of 2021 are hereby confirmed.

[N.A.V, J.] & [P.D.B, J.]
.03.2026

NCC : Yes
Index : Yes

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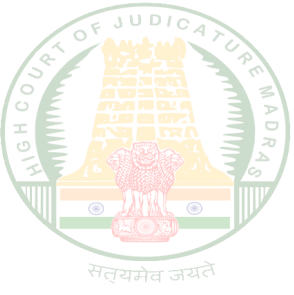
To

1.The Fast Track Mahalir Court (Mahalir Neethimandram),
Ramanathapuram.

2.The Inspector of Police,
Parthibanur Police Station,
Ramanathapuram 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.



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**N.ANAND VENKATESH, J
AND
P.DHANABAL, J.**

RR

Judgment made in
Crl. A. (MD)No.123 of 2024

.03.2026