WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02-11-2026

Pronounced on : 19-11-2026

CORAM

THE HON'BLE MR. JUSTICE M. NIRMAL KUMAR

AND

THE HON'BLE MR.JUSTICE N.GUNASEKARAN

CRL A(MD) No. 904 of 2023

CNR:{HCMD011101462023}

Case QR

1. Manikandan
   S/o.Ganapathy,
   Karisalkulam Colony,
   Gangaikondan,
   Tirunelveli District.

2. Shanmugam
   S/o.Sasi,
   Karisalkulam Colony,
   Gangaikondan,
   Tirunelveli District.

3. Balakrishnan
   S/o.Ramasubbu,
   Karisalkulam Colony,
   Gangaikondan,
   Tirunelveli District.

..Appellants / Accused Nos.1 to 3

Vs

The Inspector of Police
Gangaikondan Police Station,
Tirunelveli District.
(Crime no.54/2015)

..Respondent

PRAYER: Criminal Appeal is filed under Section 374(2) of the Criminal Procedure Code to call for the records and set aside the

https://www.mhc.tn.gov.in/judis (Uploaded on: 19/11/2026 02:48:29 pm)

WEB COPY

conviction and sentence imposed upon the appellants in S.C.No.547 of 2017 vide; judgment dated; 01.09.2023 on the file of the III Additional District and Sessions Court, Tirunelveli.

For Appellants : M/s M/s.Thalaimutharasu.G
M/s Rajaravivarma M

For Respondent : Mr.G.Karuppasamy Pandian,
Additional Public Prosecutor

JUDGMENT

(Judgment of the Court was made by N.GUNASEKARAN, J.)

Accused Nos.1 to 3 in the Sessions Case in S.C.No.547 of 2017 on the file of the III Additional District and Sessions Court, Tirunelveli had preferred this Appeal challenging the following conviction and sentence imposed against them in the impugned judgment dated; 01.09.2023.

Accused No.	***Sentence of law***	***Sentence of imprisonment***	***Fine***
A1	*Section 302 of IPC*	*To undergo life imprisonment*	*Rs.1000/- i/d to undergo one month simple imprisonment*
A2	*Section 302 of IPC*	*To undergo life imprisonment*	*Rs.1000/- i/d to undergo one month simple imprisonment*
	Section 341 of IPC	*To undergo one month of simple imprisonment*	*Rs.500/- i/d to undergo one week simple imprisonment*
A3	*Section 302 of IPC*	*To undergo life imprisonment*	*Rs.1000/- i/d to undergo one month simple imprisonment*
	Section 341 of IPC	*To undergo one month of simple imprisonment*	*Rs.500/- i/d to undergo one week simple imprisonment*
Period of detention already undergone by the accused nos.1 to 3 / appellants were ordered to be set off and the sentences are to run concurrently.			

https://www.mhc.tn.gov.in/judis (Uploaded on: 19/11/2026 02:48:29 pm)

WEB COPY

2). Case of the prosecution in brief reads as follows:

2.1. On 08.04.2015, at about 07.00 a.m., there arose an animosity on a puppy of the Manikandan / Accused No.1 being bitten by the pet dog of the defacto complainant and as a result, on the same day at about 19.00 hours, he along with co-accused viz., A2 to A7 waylaid and wrongfully restrained the son of the defacto complainant viz., Murugan nearby Karisalkulam Bus stop Junction while he was returning home in a two wheeler after his work and assaulted indiscriminately by the Accused No.1 to 5 with their sickle and murdered him and fled away from the scene of occurrence on shouting at them by the defacto complainant and Kumar / L.W.2.

2.2. The defacto complainant / P.W.1 had lodged a complaint in Ex.P1 with respondent police on very same day and the First Information Report in Ex.P12 was registered by Dhanalakshmi / P.W.13 / Sub-Inspector of Police, Gangaikondan Police Station at about 19.45 hours in Crime No.54 of 2015 under Sections 147, 148, 341, 294(b) r/w 302 of Indian Penal Code and sent the same along with the complaint to the Judicial Magistrate Court No.III, Tirunelveli through Venkatachalam / P.W.8 who being the Special Sub-Inspector of Police, Gangaikondan Police Station.

2.3. Prathaban / P.W.14, Inspector of Police, Gangaikondan Police

https://www.mhc.tn.gov.in/judis (Uploaded on: 19/11/2026 02:48:29 pm)

WEB COPY

Station had took the investigation of the case at about 20.30 hours and visited the scene of occurrence and prepared observation mahazar in Ex.P13, rough sketch in Ex.P14 and seized two wheeler bearing Registration No.TN-72-J-1861 in M.O.7, blood stained soil in M.O.8, unblood stained soil in M.O.9 and empty liquor bottle in M.O.10 under seizure mahazar in Ex.P15 in the presence of witnesses viz., Kanthavel / P.W.3 and Kanthaiya / L.W.6 and conducted inquest in the presence of panchayatars and prepared inquest report in Ex.P16. P.W.14 had sent the body of the deceased to the Government Hospital at Tirunelveli for postmortem and separately, examined witnesses viz., Thangavel / P.W.1, Kumar / L.W.2, Karuppammal / L.W.3, Mallika / P.W.2, Kanthaiya / L.W.6, Kanthavel / P.W.3 and Dhanalakshmi / P.W.13 and recorded their statement.

2.4. On 08.04.2015 at about 23.10 hours, Murugan / accused No.4 was arrested nearby Karisalkulam Bus stop by the P.W.14 and recorded his voluntary confession in the presence of witnesses viz., Arunachalam / P.W.5 and Isakki / L.W.8 and recovered five number of sickle involved in the offence in M.O.1 to M.O.5 under seizure mahazar in Ex.P18 and such admissible portion of confession leading to recovery is marked as Ex.P17.

2.5. On 09.04.2015 at about 06.00 a.m., P.W.14 / Investigation

https://www.mhc.tn.gov.in/judis (Uploaded on: 19/11/2026 02:48:29 pm)

WEB COPY

Officer had arrested the Balakrishnan / accused No.3 nearby Paruthikulam bus stop and seized a sum of Rs.12,000/- in M.O.11 from him in the presence of Murugan / P.W.4 and Arumugam / P.W.6 under seizure mahazar in Ex.P19 and subjected to the custody of the Court under Form 95 in Ex.P23 and photo of denomination of such currency notes is Ex.P24. Further, P.W.14 had seized bloodstained shirts in M.O.13 and M.O.14 from the aforesaid accused viz., Murugan / Accused No.4 and Balakrishnan / Accused No.3 and subjected to the custody of the Court under Form 95 in Ex.P20 to Ex.P23.

2.6. On 10.04.2015, P.W.14 had arrested Marimuthu / Accused No.5 near Aladippatti junction at Gangaikondan and remanded him to judicial custody. In the meantime, the Manikandan / Accused No.1 and Shanmugam / Accused No.2 had surrendered before Judicial Magistrate Court No.II at Thoothukkudi and Kovilpatti, respectively, and P.W14 had took them on police custody with permission of the Judicial Magistrate Court No.III at Tirunelveli and examined them on 19.04.2015 in the police station in the presence of witnesses viz., Isakki / L.W.8 and Arunachalam / P.W.5 and recorded the voluntary confession statement from the Manikandan / Accused No.1 and recovered the two wheeler involved in the offence bearing Registration No.TN-76-X-3002 in M.O.15 under seizure mahazar in Ex.P26 and the admissible portion of

https://www.mhc.tn.gov.in/judis (Uploaded on: 19/11/2026 02:48:29 pm)

WEB COPY

his confession statement is marked as Ex.P25. On the basis of such confession, Mohanlal / Accused No.6 was arrested on 19.04.2015 at about 17.00 hours from his house and he along with accused No.1 and 2 were subjected to the judicial custody whereas the Nishanth / Accused No.7 was granted with anticipatory bail by the Court and Section of the offence were altered from Sections 147, 148, 341, 294(b), 302 IPC to Sections 147, 148, 341, 294(b), 302, 302 r/w 34 of IPC as per alteration report in Ex.P27. Later, P.W.14 had examined Venkatachalam / P.W.8 and Nathode / P.W.9 and recorded their statement. The cloths from the body of deceased in M.O.5 and M.O.6 were seized under Form 95 in Ex.P29 and Ex.P28 is Form 95 in respect of the bloodstained cloths being seized from the accused viz., Murugan / Accused No.4 and Balakrishnan / Accused No.3. On 05.06.2015, P.W.14 had examined Dr.Selvamurugan / P.W.10 who conducted postmortem and issued postmortem certificate in Ex.P8. He had also examined Balamurugan / P.W.11, who being the scientific officer attached to Forensic Department and the biological and serological report are marked as Ex.P9 and Ex.P10, respectively. M.O.11 is the photo in respect of currency to the tune of Rs.12,000/- having seized from Balakrishnan / Accused No.3 and M.O.12 is the sickle seized from Murugan / Accused No.4.

2.7. On completion of investigation, on 07.09.2015, P.W.14 had

https://www.mhc.tn.gov.in/judis (Uploaded on: 19/11/2026 02:48:29 pm)

WEB COPY

laid final report against the accused under Sections 147, 148, 341, 294(b), 302 and 302 r/w 34 of IPC and the Judicial Magistrate Court No.III, Tirunelveli had took the cognizance of the offence in Preliminary Registration Case No.8 of 2016 and furnished copy of relevant records to the accused as per Section 207 of the Criminal Procedure Code and committed the case to the Court of Sessions under Section 209(a) of the Criminal Procedure Code.

2.8. On such committal, the Principal District and Sessions Court at Tirunelveli took the case on file in Sessions Case No.547 of 2017 and made over the same to the III Additional Sessions Court, Tirunelveli for disposal according to law. Pending case, accused no.6 and 7 were discharged by the Trial Court vide order dated; 04.04.2018 in Cr.M.P.No.869 of 2017. Subsequently, the trial was ordered to be conducted against accused no.1 to 5 since they denied the charges levelled against them and claimed to be tried.

2.9. During the trial, the prosecution had examined 14 number of witnesses viz; P.W.1 to P.W.14 and marked documentary evidence in Ex.P1 to P29 along with material objects in M.O.1 to M.O.15. On completion of evidence on behalf of the prosecution, the accused had denied all the incriminating circumstances appearing against them in such evidence as false when they were questioned under Section 313(1)(b) of

https://www.mhc.tn.gov.in/judis (Uploaded on: 19/11/2026 02:48:29 pm)

WEB COPY

the Criminal Procedure Code, and on their side, D.W.1 was examined and no documentary evidence was marked.

2.10. On conclusion of trial, the accused Nos. 1 to 4 were found guilty and convicted and sentenced to undergo punishment. Aggrieved over the same, the accused nos.1 to 3 alone had preferred the Appeal under judgment.

3). Submission of the learned counsel appearing for the Appellants / accused nos.1 to 3 is as follows:

Thangavel / defacto complainant / P.W.1 is the father of the deceased and the trial Court failed to notice that, he is an interested witness with discrepancy in his evidence; the First Information Report was not registered as stated by the prosecution; he is not an eyewitness to the occurrence and his evidence is not corroborated by any other evidence. The trial Court also failed to note that the alleged arrest, confession, recovery of material objects are not proved in the manner known to law and hence, sought to set aside the conviction and sentence imposed upon the accused nos.1 to 3 / Appellants by the trial Court.

4). Submission of the learned Additional Public Prosecutor is as follows:

The death of the son of the defacto complainant is not in dispute and the trial Court had come to correct conclusion of finding the accused

https://www.mhc.tn.gov.in/judis (Uploaded on: 19/11/2026 02:48:29 pm)

WEB COPY

nos.1 to 3 being guilty on the strength of the evidence of P.W.1 who being the one of eyewitness to the occurrence having corroborated by the other evidences. The motive in the murder is also established from the evidence of P.W.2 and the quality and not the quantum of evidence is required under law and hence, sought to dismiss the Appeal.

5). Whether the prosecution has established the guilt of the accused beyond reasonable doubt to sustain the conviction and sentence against them?

6). Both side heard. Records perused. Thangavel / defacto complainant / P.W.1 and Karuppammal / L.W.3 are the husband and wife, and Murugan / deceased and Mallika / P.W.2 are their son and daughter-in-law, respectively and were residing in a house opposite to the Manikandan / Accused No.1. Kumar @ Sureshkumar / L.W.2 and Arunachalam / P.W.5 are the nephew of the Thangavel / defacto complainant. All the accused and the defacto complainant are belonged to scheduled community having brotherhood relationship hailing from the same locality of Karisalkulam colony.

7). As per the case of the prosecution, the puppy of the Manikandan / Accused No.1 having bitten by the pet dog of the defacto complainant is the motive behind the occurrence. The prosecution had chosen to examine the Thangavel / defacto complainant / P.W.1 alone

https://www.mhc.tn.gov.in/judis (Uploaded on: 19/11/2026 02:48:29 pm)

WEB COPY

though he along with Kumar @ Sureshkumar / L.W.2 were cited as an eyewitness to the occurrence. Though interested witness, he had not deposed any evidence in relation to motive to the occurrence as claimed by the prosecution. Moreover, the Investigation Officer / P.W.14 during the cross examination would admit that the puppy of the accused no.1 having bitten by the pet dog of the deceased was the primary cause of the motive behind the occurrence and in the scenario, he would admit his failure to investigate the same. Thus, the contention of the defence that the prosecution had miserably failed to prove the motive behind the occurrence cannot be ruled out.

8). It is to reiterate that all the accused including the deceased and the defacto complainant are relatives, and are the residents of Karisalkulam colony, which is located 300 metres away from scene of occurrence even as per the observation mahazar in Ex.P13. Even as per the evidence of Mallika / P.W.2, the scene of occurrence is one kilometre away from her house. As per the evidence of P.W.2, the Murugan was murdered on 08.04.2015 at about 19.00 hours in consequent to wordy quarrel that took place in the morning at about 07.00 a.m. In contra, from the final report, it could be inferred that both the wordy quarrel behind the motive and the murder had taken place at one and the same time at about 19.00 hours. Further, P.W.2 would depose her non-disclosure of

https://www.mhc.tn.gov.in/judis (Uploaded on: 19/11/2026 02:48:29 pm)

WEB COPY

inimical person of her husband, if any, to the police when she was enquired at about 19.30 hours, immediately after occurrence.

9). Thangavel / P.W.1 was the sole witness examined by the prosecution as eyewitness to the occurrence and he would depose evidence that he along with Kumar / L.W.1 went on to search his son and noticed his body was lying in a pool of blood nearby Karisalkulam bus stop and in contra to the same, during cross examination, he would depose evidence that no one from his locality had accompanied him during such search. He would further depose evidence during cross examination that he had informed his son's father-in-law on noticing the dead body of his son. Moreover, Arunachalam / P.W.5 in his evidence would depose that he is an auto driver and on 08.04.2015 at about 21.00 hours had noticed the body of Murugan was lying in a pool of blood nearby by Karisalkulam bus stand and went to police station and brought them to the scene of occurrence. He would further depose that Thangavel / P.W.1 and Mallika / P.W.2 came to the place of occurrence during such intervening period. P.W.1 had not deposed evidence to show the accused had fled away from the scene of occurrence on shouting at them by him and Kumar / L.W.2 as claimed by the prosecution in the final report.

10). Further case of the prosecution is that the Murugan was

https://www.mhc.tn.gov.in/judis (Uploaded on: 19/11/2026 02:48:29 pm)

WEB COPY

wrongfully restrained by the accused while he was returning home in a two wheeler after his work and was assaulted indiscriminately by the Accused No.1 to 5 with their sickle and murdered him. Admittedly, none of the belongings of the deceased including lunch bag, purse, licence, footwear, mobile and identity card were found in the place of occurrence. As per the evidence of investigation officer / P.W.14, the deceased was not even worn by any inner wear. P.W.2 in her evidence would affirm the availability of such belongings if the offence was committed while he was returning home. As per the evidence of investigation officer / P.W.14 and observation mahazar in Ex.P13, the dead body of Murugan was found lying on the government poramboke land and in contra, P.W.1, P.W.3 and P.W.5 would depose that the said body was found lying on the road and Karisalkulam bus stand, respectively.

For the reasons stated above, the contention of the defence that neither the Thangavelu / defacto complainant / P.W.1 nor Kumar @ Sureshkumar / L.W.2 is the eyewitness to the occurrence cannot be ruled out.

11). The case of prosecution is that the accused Nos.1 and 2 were taken on police custody and on examination, the accused no.1 had voluntarily given confession statement in the presence of Arunachalam / P.W.5 and Isakki / L.W.8 leading to recovery of two wheeler in M.O.15

https://www.mhc.tn.gov.in/judis (Uploaded on: 19/11/2026 02:48:29 pm)

WEB COPY

under the seizure mahazar in Ex.P26. However, the alleged witness viz., Arunachalam / P.W.5 in his evidence had turned hostile to the case of prosecution. Moreover, such alleged confession is also not proved against the accused no.1 as per Section 26 of the Indian Evidence Act, 1872 (Section 23(2) of the Bharatiya Sakshya Adhiniyam, 2023). Therefore, the prosecution had failed to prove the confession and recovery of M.O.15 from the accused no.1 in accordance with law. Further, the factum of the examination of accused no.2 by the investigation officer / P.W.14 while he was in police custody was also not substantiated from the evidence of P.W.5. Murugan / P.W.4 being the cited witness to the arrest of the Balakrishnan / accused no.3 and recovery of material objects had also turned hostile to the case of prosecution on examination before the Court. Thangavel / P.W.1 during cross examination would admit that the Balakrishnan / accused no.3 was brought to the police and examined by the police.

Thus, the arrest of concerned accused, confession statement and recovery of material objects are not proved in accordance with law.

12). Dhanalakshmi / P.W.13, Sub-Inspector of Police, Gangaikondan Police Station would depose that on the date of occurrence i.e. 08.04.2015 at about 19.45 hours, the First Information Report in Ex.P12 was registered on the basis of complaint in Ex.P1 lodged by the

https://www.mhc.tn.gov.in/judis (Uploaded on: 19/11/2026 02:48:29 pm)

WEB COPY

Thangavel / P.W.1. In contra, P.W.1 would depose evidence during cross examination that he was kept in the police station for a whole night on the date of occurrence and was examined by CBCID Police and obtained his signature found in the complaint in Ex.P1. Such suspicious circumstances in registration of First Information Report in Ex.P12 was not dispelled by the P.W.13 in her evidence. Moreover, as per evidence of P.W.5, it can be inferred that he alone is the person who went to the police station and informed about the dead body of Murugan lying in the scene of occurrence. In the scenario, the serious doubt is created over the manner in which the First Information Report was registered in the case.

13). Thangavel / defacto complainant / P.W.1 would depose during cross examination that the body of his son was taken to the hospital at about 20.15 hours itself through an ambulance and in contra to the same, the inquest report in Ex.P16 would disclose that inquest was conducted in the scene of occurrence in between 21.45 hours and 23.00 hours on the date of occurrence. Thus, the evidence of P.W.1 is not corroborated by the inquest report.

14). Thangavel / P.W.1 during cross examination would depose that he is a native of Sidhdhar Sathiram Karisalkulam village which is located 3 kilometres away from the place of occurrence and he and the accused were leading their life by doing agricultural activities in a land

https://www.mhc.tn.gov.in/judis (Uploaded on: 19/11/2026 02:48:29 pm)

WEB COPY

owned by pannaiyar (landlord) at Karisalkulam village with residence of relatives in 38 number of houses therein. He would further depose that his relative viz., Ramkrishnan was murdered in front of the house of pannaiyar (landlord) in a riot and such houses were demolished and in result, the affected villagers had shifted their residence to other village and despite the same, the family of the accused no.1 and the defacto complainant alone are doing agricultural activities by holding the land belonging to pannaiyar even though they shifted their residence to colony houses constructed by the government on the south of Karisalkulam village surrounded by the land belonging to pannaiyar. P.W.1 would further depose that the land comprising the place of occurrence was handed over to Mayilpandian by the pannaiyar. He would further depose that he along with others had opposed and stopped the attempt to sell the land under their cultivation to third parties. By referring to the aforesaid evidence, the learned counsel appearing for the defence would submit that though the son of the defacto complainant was died in a mysterious manner, the accused herein cannot be held liable for his death and this Court finds that the said contention has a force in it.

15). It is settled law of principle that the quality and not the quantum of evidence is required in a case and on cumulative analysis of evidence, this Court hold that the evidence of the defacto complainant /

https://www.mhc.tn.gov.in/judis (Uploaded on: 19/11/2026 02:48:29 pm)

WEB COPY

P.W.1 / interested witness in relation to occurrence is found to be contradictory in nature having not corroborated by any other independent evidence and thus, failed to inspire the confidence of this Court to invite the guilt of the accused beyond reasonable doubt.

16). **Conclusion**:

In view of the foregoing discussion and perusal of records, this Court finds that the prosecution has failed to establish the guilt of the appellants / accused nos.1 to 3 beyond reasonable doubt and thus, the Criminal Appeal is allowed and the conviction and sentence of the Trial Court vide judgment dated; 01.09.2023 in S.C.No.547 of 2017 on the file of the III Additional District and Sessions Court, Tirunelveli is set aside and they are set at liberty at once and the fine amount, if paid, is ordered to be refunded and the bail bond, if any executed by them also shall stand cancelled.

(M.N.K.,J.) **(N.G.N.,J.)**

19-11-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
PAL

To
1. The III Additional District and Sessions Court, Tirunelveli.

2. The Inspector of Police,
   Gangaikondan Police Station,
   Tirunelveli District.

https://www.mhc.tn.gov.in/judis (Uploaded on: 19/11/2026 02:48:29 pm)

WEB COPY

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy To :
The Section Officer (VR Section)
Madurai Bench of Madras High Court
Madurai.

https://www.mhc.tn.gov.in/judis
(Uploaded on: 19/11/2026 02:48:29 pm)

WEB COPY

M.NIRMAL KUMAR, J.
AND
N.GUNASEKARAN, J.

PAL

Judgment made in
CRL A(MD) No. 904 of 2023

19-11-2026

https://www.mhc.tn.gov.in/judis
(Uploaded on: 19/11/2026 02:48:29 pm)