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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.10.2026
PRONOUNCED ON : 19.11.2026

CORAM

THE HON'BLE MR JUSTICE A.D.JAGADISH CHANDIRA

AND

THE HON'BLE MR.JUSTICE B.KARTHIKEYAN

Crl.A.No.198 of 2024

Sarath Kumar
S/o. Lakshmanan,
East Street, Chinnasetipalayam,
Kanagananthal, Melathazhanur Village,
Tirukoilur Taluk, Villupuram District.

.. Appellant / Sole Accused

Vs

State represented by Inspector of Police,
Tirukoilur Police Station,
Tirukoilur Village,
Villurpuram District.
(Crime No.1034 of 2017)

..Respondent / Complainant

Prayer: Criminal Appeal filed under Section 374 (2) of Crl.P.C., praying to set aside the conviction under Section 302 IPC and sentenced him to life imprisonment and to pay a fine of Rs.5000/- in default to undergo simple imprisonment for one year by the learned Sessions Judge, Magalir Neethi Mandram (Fast Track Maila Court) Villupuram made in S.C.No.150 of 2018 on his file by Judgment dated 02.09.2023.

For Appellant : Mr. K.Selvarangan
For Respondent(s): Mr.C.R.Malarvannan
Additional Public Prosecutor

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JUDGMENT

B. KARTHIKEYAN, J.

This Criminal Appeal has been filed seeking to set aside the conviction and sentence imposed on the appellant by judgment dated 02.09.2023 passed in S.C. No. 150 of 2018 by the learned Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Villupuram.

2. The appellant is the sole accused before the Trial Court in S.C. No. 150 of 2018. The Trial Court found him guilty and convicted him for the offence punishable under Section 302 of the Indian Penal Code (IPC) and sentenced him to undergo imprisonment for life and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for one year.

3. The case of the prosecution is that the accused was a friend of Parasuraman (P.W.3). Parasuraman was running centring business. However, due to financial losses and accumulated debts, he decided to go to Chennai. Before leaving, he handed over the centring materials to the accused and instructed him to pay the rental amount for the materials to his parents, namely, the deceased Anjalai Ammal and P.W.1 Singaravelu. Parasuraman (P.W.3) had also instructed the accused to collect the amounts due to him from persons for

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whom he had undertaken work in the neighbouring villages and hand over the same to his parents. However, the accused failed to pay the rental amount to Anjalai Ammal and Singaravelu. Consequently, Anjalai Ammal used to reprimand the accused, demanding payment of the outstanding rent, which resulted in enmity between them.

3.1 On the evening of 09.12.2017, the accused came to the house of P.W.1 Singaravelu on a two-wheeler bearing Registration No. TN 32 AC 4358. He informed P.W.1 that Parasuraman (P.W.3) had instructed him to collect the amounts due from certain persons and hand over the same to P.W.1. Since P.W.1 was unwell, he informed the accused that he was unable to accompany him and requested him to take his wife, Anjalai Ammal, instead. Accordingly, the accused took Anjalai Ammal on his two-wheeler and left the house.

3.2 At about 8.00 p.m., while they were proceeding along the Memalur–Keelathalanur Road in Eravallam Village, near the agricultural land belonging to one Perumal, son of Venkatachalam, a quarrel arose between Anjalai Ammal and the accused, resulting in both of them falling from the two-wheeler. Thereafter, the accused pushed Anjalai Ammal into the canal on the western side of the road. With the intention of causing her death and knowing that his

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act was likely to cause her death, he took a rough stone lying nearby and repeatedly hit her on the head and face, causing severe injuries.

3.3 P.W.1 Singaravelu, who had sent Anjalai Ammal along with the accused at about 6.00 p.m. on 09.12.2017, waited for her return. Since she did not return even after a considerable period, he informed the neighbours. They went in search of her and found her lying unconscious at the scene of occurrence.

3.4 Anjalai Ammal was thereafter taken in an ambulance to the local hospital and subsequently referred to JIPMER Hospital, Puducherry. She remained unconscious while undergoing treatment.

3.5 Criminal law was set in motion by P.W.1 Singaravelu, who lodged a complaint, marked as Ex.P1, on 10.12.2017 at about 8.00 a.m. The complaint was received by P.W.24 Yesu, the Special Sub-Inspector of Police attached to Thirukkovilur Police Station, who registered a case in Crime No. 1034 of 2017 under Section 307 IPC. The First Information Report was marked as Ex.P16.

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3.6 Upon receipt of the FIR, P.W.25, the Inspector of Police, commenced the investigation at about 9.00 a.m. on the same day. He visited the scene of occurrence and prepared an observation mahazar in the presence of witnesses Vijayaraman and Kumaresan. At about 9.30 a.m. on 10.12.2017, in the presence of the same witnesses, he recovered blood-stained earth and sample earth from the scene of occurrence under a seizure mahazar marked as Ex.P11. On the same day, he examined and recorded the statements of Singaravelu, Chandrasekar, Murugadas, Mani, Velmurugan, Madhavan, Sivakumar, Vijayaraman and Kumaresan.

3.7 While searching for the accused, at about 1.15 p.m., the Inspector of Police found him near the Keezhathanoor Bus Stop and arrested him in the presence of Saravanan (P.W.10) and Suresh Kumar (P.W.20). The accused gave a voluntary confession statement in the presence of the same witnesses, during which he offered to identify and produce the stone used for committing the offence from the place where it had been concealed.

3.8 Accordingly, at about 3.00 p.m. on the same day, the accused took the police party and the witnesses to the place of concealment and produced a rough stone weighing 9 kg and 920 grams. The Inspector of Police recovered the said stone under a seizure mahazar. The admissible portion of the confession

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statement was marked as Ex.P18. On the same day, at about 4.00 p.m., the accused and the recovered material objects were forwarded to the jurisdictional Court for remand.

3.9 On 14.12.2017, at about 7.20 a.m., Anjalai Ammal, who was undergoing treatment as inpatient at JIPMER Hospital, Puducherry, did not respond to the treatment and died. Consequently, the Inspector of Police altered the penal provision from Section 307 IPC to Section 302 IPC and forwarded the alteration report (Ex.P19), to the jurisdictional Magistrate.

3.10 Thereafter, between 1.30 p.m. and 3.30 p.m. on the same day, the Inspector of Police conducted inquest over the body of Anjalai Ammal at the mortuary of JIPMER Hospital and prepared the inquest report (Ex.P20). At about 3.35 p.m., he sent a requisition through the Special Sub-Inspector of Police, Yesu, requesting the hospital authorities to conduct post-mortem examination of the body of the deceased.

3.11 During the course of further investigation, he once again examined Singaravelu, Chandrasekar and Murugadas and recorded their statements. He

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also examined Parasuraman, Annadurai, Poovarasan, Anandan and Raghothaman on the same day.

3.12 On 15.12.2017, the Inspector of Police forwarded the material objects recovered during the investigation to the Forensic Science Laboratory through Police Constable Thiagarajan for chemical analysis.

3.13 On 28.12.2017, at about 9.00 a.m., he recovered the two-wheeler bearing Registration No. TN 32 AC 4358, allegedly used by the accused at the time of the occurrence, from P.W.14 Sarveswaran, in the presence of Chandrasekar and Ayanar, under a seizure mahazar marked as Ex.P11.

3.14 On the same day, he examined Thangadurai and recorded his statement. On 30.01.2018, he examined Dr. Sanjay Kumar, who had conducted the post-mortem examination. On 14.02.2018, he examined the forensic experts and recorded their statements. On 01.03.2018, he examined Dr. Rajavinayagam, Assistant Surgeon, Government Hospital, Thirukkovilur, and other police officials. On 17.05.2018, he examined Rahul Srivastava and recorded his statement.

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3.15 After completing the investigation, on 29.05.2018, the Inspector of Police laid the final report before the jurisdictional Court, alleging that the accused had committed the offence punishable under Section 302 IPC.

4. After following due procedure, the case was committed to the Principal Sessions Court, Villupuram, which took the case on file as S.C. No. 150 of 2018 and made it over to the Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Villupuram. The learned Trial Judge, after following the due procedure, framed a charge against the accused for the offence punishable under Section 302 IPC. The accused denied the charge and claimed to be tried.

5. To establish its case, the prosecution examined P.W.1 to P.W.25, marked Ex.P1 to Ex.P26 and produced M.O.1 and M.O.2.

6. P.W.1 Singaravelu, in his evidence, has stated that the accused and his son Parasuraman were working together. His son had left for Chennai in search of employment, stating that he had incurred substantial debts and had requested the accused, who was his friend, to take care of the work undertaken by him. P.W.1 has further deposed that his son had instructed the accused to collect the amounts due to him from various persons and hand over the same to P.W.1 and

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his wife, so that they could at least pay the interest on the loans availed by him. P.W.1 has also stated that he had suffered from typhoid and was admitted into a hospital for three days. After receiving inpatient treatment, he returned home and was taking rest. At that time, the accused came to his house and requested him to accompany him to collect the amounts due. Since P.W.1 was not feeling well, he requested the accused to take his wife along with him. Accordingly, the accused took Anjalai Ammal with him. However, she did not return even after a considerable period. At about 11.00 p.m., P.W.1 called a neighbour Rajeshwari, and requested her to call Murugadas, who was also residing close by. When Murugadas came, P.W.1 informed him that his wife had not returned. Murugadas thereafter went in a vehicle, stating that he would search for her. P.W.1 waited for nearly an hour at the house of Murugadas. Thereafter, Murugadas and another person returned and informed him that his wife was lying at Kachikuppam Odai in Eravallam Village. P.W.1 has further stated that he went to the scene of occurrence along with others and found his wife lying with severe injuries to her head. He also noticed two stones lying nearby. He would also claim that they immediately arranged for an ambulance and took his wife to the hospital. He identified the complaint, Ex.P1, and supported the prosecution case that it was the accused who had insisted on taking his wife along with him.

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6.1 P.W.2, who is one of the sons of P.W.1, and PW11 & PW12 are hearsay witnesses.

6.2 P.W.3 Parasuraman is the son of PW1 and the friend of the accused. According to the prosecution, he had handed over the centering materials to the accused, with instructions to pay the rental amount to his parents and collect the outstanding amounts from the debtors and hand them over to his parents. P.W.3 deposed in line with the prosecution case. He further stated that his mother had become annoyed with the accused for not paying the rental amount and was also upset with him for not questioning the accused about the failure to make such payment. P.W.3 further stated that a few days prior to the occurrence, the accused came to Chennai and stayed with him. He claimed that he had handed over Rs.50,000/- to the accused to be given to his mother. However, on the following day, the accused's mobile phone was switched off. P.W.3 stated that he contacted his sister Rajeshwari and requested her to collect the amount from the accused and hand it over to their mother. When his mother subsequently approached the accused's mother, she expressed ignorance about the money. This resulted in a quarrel, following which his mother returned home. P.W.3 further deposed that on the date of occurrence, at about 3.30 p.m., he contacted the accused over the telephone and instructed him to collect the outstanding amounts from certain persons and hand them over to his mother, Anjalai

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Ammal. According to him, thereafter, on 09.12.2017, the accused took his mother on a Platina two-wheeler. He also stated that whenever the accused came for work, he used to come in a Platina two-wheeler.

6.3 P.W.4 to P.W.7 are neighbours residing in the same village. Their evidence is that they came to know through P.W.1 that his wife, who had accompanied the accused, had not returned. They also spoke about the search for Anjalai Ammal, finding her lying with injuries and taking her to the hospital.

6.4 The prosecution has also relied upon the alleged arrest of the accused, the disclosure statement made by him and the consequent recovery of the stone said to have been used in the commission of the offence. P.W.8 Annadurai and P.W.15 Thangadurai are the other important witnesses relied upon by the prosecution. They deposed that they had seen the accused taking Anjalai Ammal on a two-wheeler in the evening, on a particular day approximately four years prior to the date of their deposition, and that she did not return thereafter. P.W.10 Saravanan supported the prosecution case regarding the arrest of the accused on 10.12.2017 at about 1.30 p.m. near the Keezhathanoor Bus Stop. He also deposed that, pursuant to the disclosure statement made by the accused, M.O.1, the stone allegedly used in the

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commission of the offence, was recovered from behind a bush situated in the agricultural land belonging to Perumal, son of Venkatachalam, in Eravallam Village.

6.5 PW13, Kumaresan, has deposed regarding the investigation conducted by the Investigating Officer and the recovery of blood-stained soil from the scene of occurrence under the seizure mahazar Ex.P5.

6.6 PW14, Sarveshwaran, has deposed regarding the recovery and seizure of the vehicle. He has stated that the accused had taken the motorcycle about five years earlier, along with Anjalai Ammal, and subsequently returned the vehicle to his house. However, he claimed that he did not remember the registration number of the vehicle. He further stated that the accused took the vehicle at about 4.00 p.m. and returned it during the night. According to him, when he returned home from his wife's place at about 11.00 p.m., he found the vehicle at his house.

6.7 PW16, Chandrasekar, and PW17, Ayyanar, have deposed regarding the recovery of the two-wheeler under the seizure mahazar. PW19 has deposed regarding the investigation conducted by the Inspector of Police at the scene of crime, the preparation of the observation mahazar, and the recovery of blood-

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stained soil from the scene of occurrence.

6.8 PW20, Suresh Kumar, is a witness to the arrest of the accused, the confession statement given by him, and the subsequent recovery of M.O.1, namely, the stone. He has supported the case of the prosecution.

6.9 PW21, Dr. Rajavinayagam, has deposed that, on 10.12.2017, while he was working as an Assistant Doctor at the Tirukoilur Government Hospital, the deceased was brought to the hospital at about 4.00 a.m. for treatment. At that time, he found the woman unconscious and noticed injuries on her face and head. He thereafter referred the deceased to Korimedu Government Hospital for further treatment.

6.10 PW22, Dr. Sunitha, the Medical Officer at JIPMER Hospital, has deposed based on the medical records that Anjalai Ammal was brought to JIPMER Hospital on 10.12.2017, on the recommendation of the Tirukoilur Government Hospital, and was admitted as an inpatient. She has spoken about the injuries sustained by the deceased, the treatment provided to her, and her subsequent death on 14.12.2017 at 7.20 a.m. She has also identified and spoken about the death intimation and treatment certificate, marked as Ex.P15.

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6.11 PW23, the police official who handed over the case properties to the Forensic Sciences Laboratory, has also deposed in support of the prosecution case.

6.12 PW24, Yesu, the Sub-Inspector of Police, has deposed that he received the complaint lodged by PW1, Singaravelu, at the police station on 10.12.2017 at about 8.00 a.m. He has also spoken about the alteration of FIR case and the subsequent steps taken during the investigation. He has further deposed that he handed over the requisition for conducting the post-mortem examination of the deceased on 14.12.2017. He identified the body of the deceased and assisted in the conduct of the post-mortem examination. He also spoke about handing over the viscera to the Regional Forensic Sciences Laboratory, Villupuram.

6.13 PW25, the Inspector of Police, Tirukoilur Police Station, is the Investigating Officer. He has deposed regarding the investigation conducted by him, including the inspection of the scene of occurrence, the arrest of the accused, the confession statement given by him, and the subsequent recovery of M.O.1, viz., the stone allegedly used in the commission of the offence. He has further deposed that he completed the investigation and filed the final report on 29.05.2018 against the accused under Section 302 of the Indian Penal Code.

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6.14 The doctor (PW18) who conducted the post-mortem examination supported the post-mortem certificate, marked as Ex.P8, and the final opinion (Ex.P9) and deposed that the deceased had sustained the following external and internal injuries:

External Examination:

1. Laceration, 3cms x 0.5cm x bone deep, over the left temporal region of the scalp, 10cms above the tragus of the left ear.
2. Abraded contusion, 13cms x 8cms, over the left cheek.
3. Laceration, 1cm x 0.5cm x skin deep, over the left side of the forehead, 1cm above the outer aspect of the left eyebrow.
4. Laceration, 1cm x 0.5cm x skin deep, 2cms below injury number 2.
5. Laceration, 3cms x 0.5cm x skin deep, over the pinna of the left ear.
6. Contusion, 3cms x 2cms, over the back of the right elbow joint.
7. Multiple abrasions over the front of the left knee joint.
8. Multiple abrasions over the front of the left ankle joint.

Internal examination:

Scalp	*: Subscalpular haemorrhage all over.*
Skull	*: Intact.*
Brain	*: Diffused subdural and subarachnoid haemorrhage over the temporo-parieto-occipital region bilaterally and over the cerebellum.*
Larynx & trachea	*: Intact.*
Hyoid bone	*: Intact.*
Heart	*: Intact.*
Lungs	*: Intact and congested.*
Liver	*: Intact and congested.*
Spleen	*: Intact and congested.*
Kidneys	*: Intact and congested.*
Stomach	*: Contains about 200ml of cream coloured fluid. Mucosa normal. No unusual smell.*
Intestine	*: Contains gas and faecolith*
Uterus	*: Intact*
Bladder	*:Empty*

The doctor opined that the deceased would have died due to cranio-cerebral (head) injuries sustained by her.

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7. After completion of the prosecution evidence, the incriminating circumstances appearing against the accused were put to him under Section 313 Cr.P.C. The accused denied the same. On his behalf, D.W.1 and D.W.2 were examined. D.W.1 and D.W.2 deposed that the accused, who was sleeping at his house, was taken away by the police on 10.12.2017 at about 10.00 a.m. The accused also disputed the prosecution version implicating him in the assault on the deceased. The defence further sought to suggest that P.W.1 Singaravelu was responsible for the assault.

8. Upon consideration of the oral and documentary evidence, the Trial Court found the accused guilty of the offence punishable under Section 302 IPC and convicted and sentenced him as stated above. The judgment of conviction and sentence is under challenge in the present appeal.

9. The learned counsel appearing for the appellant would contend that, since the prosecution case is based entirely on circumstantial evidence, the prosecution is required to establish each and every circumstance relied upon by it beyond reasonable doubt. Further, all the circumstances so established must form a complete chain of evidence leading only to the conclusion that the accused is guilty of the offence, without leaving any scope for another reasonable inference. The learned counsel also contended that the prosecution

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has failed to establish the alleged motive as well as the arrest and recovery of the stone said to have been used in the commission of the offence, pursuant to the alleged disclosure statement made by the accused.

9.1 The learned counsel would specifically contend that the reliance placed by the Trial Court on Section 106 of the Indian Evidence Act to convict the accused is wholly misplaced. According to him, the prosecution must first establish a reasonable inference of guilt beyond reasonable doubt before any adverse inference can be drawn against the accused under Section 106. It is further contended that the prosecution has failed to prove the circumstances relied upon by it and, therefore, the invocation of Section 106 of the Indian Evidence Act to draw an adverse inference against the accused cannot be sustained. In support of his contention, the learned counsel for the appellant relied upon the decisions of the Hon'ble Supreme Court in ***Laxman Prasad alias Laxman v. State of Madhya Pradesh, reported in (2023) 6 SCC 399***, and ***Kanhaiya Lal v. State of Rajasthan, reported in (2014) 4 SCC 715***.

10. Per contra, the learned Additional Public Prosecutor appearing for the respondent / State would contend that the evidence of P.W.1, P.W.8 and P.W.15 clearly establishes that the accused was last seen in the company of the deceased before she was found at the scene of occurrence with serious injuries.

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He would further submit that the evidence of P.W.3 Parasuraman, P.W.2 and P.W.5 Sivakumar establishes the motive for the accused to commit the offence. The learned Additional Public Prosecutor would also contend that the prosecution has successfully established the arrest of the accused, the disclosure statement made by him regarding the weapon used for committing the offence and the consequent recovery of the said weapon, namely, the stone, from behind a bush at the instance of the accused. According to the learned Additional Public Prosecutor, the prosecution has thereby established the motive, the last-seen circumstance and the recovery of the weapon pursuant to the disclosure made by the accused.

10.1 The learned Additional Public Prosecutor further contended that the accused alone had special knowledge of what had happened to the deceased after he took her on his two-wheeler on the evening of 09.12.2017. However, he has not offered any satisfactory explanation and has instead claimed that P.W.1 had quarrelled with his wife and assaulted her, without producing any material in support of such a defence. According to the learned Public Prosecutor, the explanation offered by the accused is false, and the same supplies the missing link regarding the events that occurred at the scene of occurrence and resulted in the severe injuries sustained by the deceased. Therefore, he would submit that the findings rendered by the Trial Court are in accordance with the evidence

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available on record and that there is no ground warranting interference by this Court.

11. As already pointed out, the prosecution case is based entirely on circumstantial evidence. The circumstances relied upon by the prosecution are as follows:

(i) Motive, namely the alleged previous enmity between the accused and the deceased Anjalai Ammal, arising out of the failure of the accused to collect the amounts due to P.W.3 and pay the rental amount for the centring materials to P.W.1 and the deceased.

(ii) That the deceased was last seen in the company of the accused by P.W.1, P.W.8 and P.W.15 at 6.00 pm on 09.12.2017 and that she was subsequently found with injuries near the agricultural land belonging to Perumal on 09.12.2017 at 8.00pm.

(iii) The alleged arrest of the accused on 10.12.2017 at about 1.30 p.m. near the Keezhathanoor Bus Stop, his alleged disclosure statement and the consequent recovery of M.O.1 stone, said to have been used in the commission of the offence.

(iv) The admission of the deceased in JIPMER hospital and her death on 14.12.2017 at 7.30 a.m on account of the cranio-cerebral (head) injury sustained by her.

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12. Insofar as the motive is concerned, the prosecution relies upon the evidence of P.W.1 and P.W.3 and claims that the same has been corroborated by the evidence of P.W.2 and P.W.7. However, a careful perusal of the evidence of P.W.1 would show that he has not stated anything about any previous dispute between his wife and the accused or between himself and the accused, prior to 09.12.2017, on account of the alleged failure of the accused to collect the outstanding amounts or to pay the rental amount for the centring materials. P.W.1 merely stated that, on the fateful day, the accused came to his house and requested him to accompany him to collect the amounts due from certain persons. Since P.W.1 was unwell, he requested the accused to take his wife along with him. P.W.2 as well as P.W.7 who is the brother of P.W.3, are hearsay witnesses. They have not spoken about any fact concerning the alleged motive from their personal knowledge. Similarly, P.W.4 and P.W.5 have also not spoken about the alleged motive from their personal knowledge. They admit that they deposed based on what they heard.

13. It is only the evidence of P.W.3 that is in line with the prosecution case regarding the alleged previous enmity. However, admittedly, P.W.3 was not residing in the village and was living in Chennai. If P.W.3 had any knowledge about the alleged quarrels between his mother and the accused, such knowledge could only have been derived from his mother or his father, namely,

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P.W.1. Since his mother is no more and P.W.1 has not deposed about any such quarrel prior to the fateful day, the evidence of P.W.3 in this regard cannot be accepted without scrutiny.

14. Moreover, even after the alleged failure of the accused to pay the rental amounts and collect the outstanding amounts and hand them over to his parents, P.W.3 claims that the accused came to Chennai a few days prior to 09.12.2017 and stayed with him in his room. He further claims that he entrusted the accused with a sum of Rs.50,000/- to be handed over to his parents. If the accused had really been evading payment of money to P.W.3 and his parents, particularly when they were under financial pressure to repay their loans and pay the interest thereon, the claim of P.W.3 that he simply entrusted the accused with Rs.50,000/- to be handed over to his parents does not inspire confidence. Similarly, even when this amount of Rs.50,000/- was not handed over by the accused to the deceased, which according to PW3 led to quarrel between the deceased and the mother of the accused, PW3 claims to have called the accused over telephone and instructed him to collect the outstanding amounts from certain persons and hand them over to his mother, the deceased. These claims do not appear believable and cast a serious doubt over his claim of previous enmity.

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15. These material aspects have not been considered by the Trial Court. The Trial Court has merely accepted the prosecution version regarding the alleged motive without analysing the inconsistencies in the evidence. In fact, the Trial Court has not specifically stated the basis on which it accepted the prosecution case regarding motive. It has merely observed that the materials available on record establish the existence of motive, without identifying the particular evidence upon which such a finding was based. In these circumstances, the finding of the Trial Court that the prosecution has established the motive for the accused to commit the offence cannot be sustained.

16. Insofar as the last-seen theory is concerned, the prosecution relies upon the evidence of P.W.1, P.W.8 Annadurai and P.W.15 Thangadurai. P.W.1, in his deposition, claimed that on 09.12.2017, when his wife did not return even by about 11.00 p.m., he contacted Murugadas through Rajeshwari. Murugadas (PW6), along with another person, went in search of her and subsequently returned and informed him that his wife was lying with injuries at the scene of occurrence. According to P.W.1, he, thereafter, went to the scene of occurrence and found his wife lying with severe injuries to her head, with two stones lying nearby. He further stated that they took his wife, along with the two stones, in an ambulance to the hospital. He also identified the complaint as Ex.P1.

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17. On the other hand, Murugadas, P.W.6, gave a different version. According to him, after 12.30 midnight, Mani informed him that Anjalai Ammal was lying with injuries at the scene of occurrence. P.W.6 has further stated that he went to the scene of occurrence in an auto-rickshaw and found Anjalai Ammal lying unconscious and that, with the assistance of the 108 Ambulance service, she was taken to the Government Hospital. However, instead of admitting her there, she was taken to JIPMER Hospital, Puducherry, where she was admitted as an inpatient and subsequently died after three days. P.W.6 has also stated that a stone was lying near Anjalai Ammal at the scene of occurrence. He further deposed that she was moved from the canal and placed on the road. According to him, Madhavan, Velmurugan, Mani and Sivakumar had called him after going in search of Anjalai Ammal. He also stated that the stone was taken to the hospital.

18. This version of PW6 is in material contradiction with the evidence of P.W.1, who claimed that Murugadas returned, took him to the scene of occurrence and that P.W.1, along with his wife and the two stones, proceeded to the hospital in an ambulance. Similar discrepancies are found in the evidence of P.W.4, P.W.5 and P.W.7.

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19. Apart from these contradictions, the delay in lodging the FIR and the further delay in forwarding the same to the jurisdictional Magistrate also has to be addressed by the prosecution. No doubt, the delay in FIR is not fatal to the case of the prosecution in every case. However, if the said delay is unexplained, the possibility of embellishments and introduction of distorted version has to be ruled out, by scrutinised the evidence carefully. In the present case, though P.W.1 claims that his wife was taken to the hospital during the intervening night of 09.12.2017 and 10.12.2017, the complaint was lodged only on 10.12.2017 at 8.00 a.m. with P.W.24, who registered the FIR. A perusal of the FIR, Ex.P16, shows that it was forwarded to the jurisdictional Magistrate only on 11.12.2017 after 12.00 noon. There is absolutely no explanation for the delay of more than 8 hours in lodging the complaint and the further delay of 28 hours in forwarding the FIR to the jurisdictional Court.

20. Similarly, there is no explanation as to whether any information was received by the jurisdictional police from any of the hospitals, namely, Thirukkovilur Government Hospital, Mundiyampakkam Government Hospital and JIPMER Hospital, between 11.30 p.m on 09.12.2017, when the deceased was found with injuries and taken to hospital, till 8.00 a.m on 10.12.2017 when PW1 lodged the complaint, particularly when the deceased had sustained serious injuries and is a medico-legal case.

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21. In these circumstances, the evidence of P.W.1, particularly his claim that the deceased had accompanied the accused on 09.12.2017 at about 6.00 p.m and the evidence of PW8 and PW15, supporting the last seen theory of the prosecution have to be scrutinised carefully.

22. It is relevant to note that the Investigating Officer (PW28) commenced the investigation on 10.12.2017, whereas, admittedly, he has examined PW5 only on 28.12.2017, much after the arrest of the accused creating a serious doubt as to whether the FIR is the outcome of prior deliberation and groundwork.

23. Further, P.W.1, P.W.8 and P.W.15 have all claimed during their evidence that the accused took Anjalai Ammal on a two-wheeler / bike. While P.W.1 referred to the vehicle as a TVS 50, P.W.8 and P.W.15 did not specifically identify the vehicle in which the accused and the deceased were travelling. However, the prosecution claims to have recovered a Bajaj Platina two-wheeler bearing Registration No. TN 32 AC 4358, stating that the same was used by the accused at the time of the occurrence. None of the materials available on record explains how the prosecution identified the said vehicle as the one used by the accused for committing the offence.

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24. Moreover, though the prosecution claims that the vehicle belonged to P.W.14 Sarveswaran, no material has been produced to substantiate the said claim. The evidence of P.W.14 also does not advance the prosecution case. Though he is stated to be the owner of the vehicle, he could not even recollect its registration number. He has also not stated when the vehicle was taken by the accused or when it was returned. Further, the Investigating Officer claims to have recovered the vehicle from the house of Sarveswaran and not from the accused or at the disclosure of the accused. There is nothing to connect the accused to the bike so recovered from PW14. These circumstances create further doubt regarding the prosecution case that P.W.8 and P.W.15 had last seen the accused in the company of the deceased when she was taken by the accused in a two wheeler / bike at about 5.00 p.m. / 6.00 p.m.

25. Insofar as the alleged arrest, disclosure statement and recovery of M.O.1 are concerned, the prosecution relies upon the evidence of P.W.10 Saravanan. P.W.10 claims that the accused was arrested at about 1.30 p.m. near the Keezhathanoor Bus Stop by the Investigating Officer and that the accused gave a confession statement disclosing the place where M.O.1, the stone allegedly used in the commission of the offence, had been concealed. However, this evidence does not inspire confidence, particularly in the light of the evidence of PW1 and PW8 in this regard.

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26. P.W.1 has stated that he took the two stones that were lying near Anjalai Ammal at the scene of occurrence when he saw her and took them with him in the ambulance when she was shifted to the hospital. Similarly, P.W.5 Sivakumar, who claims to have been part of the group that went in search of Anjalai Ammal, has stated that there was a stone on her face. P.W.6 Murugadas has also stated that a stone was lying near Anjalai Ammal at the scene of occurrence. P.W.12 has further claimed that there was a stone on the face of Anjalai Ammal and that he removed the stone lying nearby before lifting her. These statements materially contradict the prosecution case regarding the subsequent recovery of M.O.1 at the instance of the accused from the alleged place of concealment. Therefore, the same, in our opinion, cannot be considered as a discovery of a fact under section 27 of Indian Evidence Act.

27. Further, P.W.8 has stated that on the date of the occurrence, apparently referring to 09.12.2017, when he went to the police station along with about ten persons, the accused was already present there. During cross-examination, he asserted that on the date Anjalai Ammal went missing, he had gone to the police station and thereafter, had not visited the police station again. This evidence exhibits a serious contradiction regarding the time and manner of the alleged arrest of the accused, particularly when the prosecution claims that

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he was arrested only on 10.12.2017 at about 1.30 p.m. near the Keezhathanoor Bus Stop.

28. Thus, the prosecution's claim regarding the recovery of the alleged weapon, namely, the stone (M.O.1) said to have been used in the commission of the offence, stands seriously discredited. Even assuming that the recovery of M.O.1 is believable in the manner claimed by the prosecution, there is no forensic evidence establishing that any bloodstain was detected on M.O.1 or that the blood group found on the stone corresponded to the blood group of the deceased Anjalai Ammal.

29. In these circumstances, the only conclusion that can be arrived at is that the prosecution has failed to establish the alleged arrest of the accused, the disclosure statement made by him and the consequent recovery of M.O.1 pursuant to such disclosure.

30. Another crucial circumstance requiring consideration is the identity of the person who first found the deceased lying at the scene of occurrence and the person who took her to the hospital. P.W.1 claims that, after Murugadas returned and informed him about the deceased, he went to the scene of

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occurrence and thereafter accompanied her in the ambulance to the hospital. On the other hand, P.W.6 Murugadas claims that he went to the scene of occurrence after receiving information from Mani and took Anjalai Ammal in an ambulance to the hospital. Therefore, there is no clarity in the evidence regarding who first saw the deceased lying at the scene of occurrence and who actually took her to the hospital.

31. The cumulative effect of these contradictions and inconsistencies casts a serious doubt on the prosecution version concerning the last-seen theory propounded by the prosecution, the alleged arrest of the accused and the recovery of the stone (M.O.1).

32. In the light of the foregoing discussion, we are of the considered view that the circumstances relied upon by the prosecution viz., the alleged motive, the last-seen theory and the recovery of M.O.1 pursuant to the alleged disclosure statement made by the accused have not been established.

33. It is well settled that, in a case based on circumstantial evidence, the circumstances from which the conclusion of guilt is to be drawn should, in the first instance, be fully established, and all the facts so established should be

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consistent only with the hypothesis of the guilt of the accused. Such circumstances should be conclusive in nature and tendency, and they should be such as to exclude every hypothesis but the one proposed to be proved.

34. When none of the above circumstances was established, the Trial Court has erred in invoking Section 106 of the Indian Evidence Act to draw an adverse inference against the accused, without the prosecution first establishing the foundational circumstances pointing towards his guilt.

35. In these circumstances, we are of the considered view that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt. Consequently, the findings recorded by the Trial Court are unsustainable and the judgment of conviction and sentence is liable to be set aside.

36. In the result,

(i) this Criminal Appeal is allowed. The judgment of conviction and sentence dated 02.09.2023 passed by the learned Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Villupuram, in S.C. No. 150 of 2018, is hereby set aside.

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(ii) The appellant/accused is acquitted of the charge under Section 302 IPC. The bail bond, if any, executed by him shall stand cancelled, subject to compliance with Section 437-A Cr.P.C. The fine amount, if already paid, shall be refunded to him.

(iii) The appellant/accused shall be set at liberty forthwith, unless his detention is required in connection with any other case.

(A.D.J.C.,J.) (B.K.,J.)
19-11-2026

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

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To

1. The learned Sessions Judge,
   Magalir Neethi Mandram (Fast Track Maila Court)
   Villupuram.

2. The Inspector of Police,
   Tirukoilur Police Station,
   Tirukoilur Village,
   Villurpuram District.

3. The Superintendent of Prison
   Central Prison, Cuddalore.

4. The Public Prosecutor,
   Madras High Court, Chennai.

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A.D.JAGADISH CHANDIRA, J.
AND
B.KARTHIKEYAN, J.

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Pre-delivery Judgment made in
CRL A No. 198 of 2024

19-11-2026

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