

Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 15.06.2026

CORAM:

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
AND
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

Crl.A.(MD) No.1071 of 2023

Sebastin Ashok

: Appellant/A4

Vs.

1. The State Rep. through
The Inspector of Police
Dindigul Town South Police Station, Crime,
Dindigul District.
Crime No.591 of 2016

: Respondent(s)

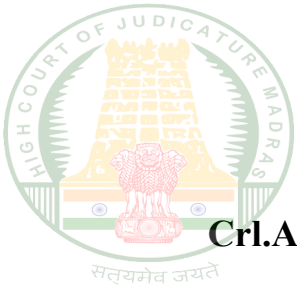
PRAYER: Criminal Appeal is filed under Section 374(2) of the Code of Criminal Procedure, to call for records relating to judgment of conviction dated 25.09.2023 in S.C.No.122 of 2019 on the file of the learned Additional District and Sessions Judge, Dindigul and set aside the same and to allow this criminal appeal by acquitting the appellant.

For Appellant

: Mr.T.Antony Arulraj

For R1

: Mr.C.Chrishtopher
Government Advocate



Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

Crl.A.(MD) No.1081 of 2023

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: Appellant/A3

Vs.

1.The State Rep. through
The Inspector of Police
Dindigul Town South Police Station, Crime,
Dindigul District.
Crime No.591 of 2016

: Respondent(s)

PRAYER: Criminal Appeal is filed under Section 374(2) of the Code of Criminal Procedure, to call for records relating to judgment of conviction dated 25.09.2023 in S.C.No.122 of 2019 on the file of the learned Additional District and Sessions Judge, Dindigul and set aside the same and to allow this criminal appeal by acquitting the appellant.

For Appellant : Mr.C.Mayilvahana Rajendran
for Mr.R.Arunkumar
For R1 : Mr.C.Chrishtopher
Government Advocate

Crl.A.(MD) No.171 of 2024

John Vivek @ Mani

: Appellant/A3

Vs.

1.The State Rep. through
The Inspector of Police
Dindigul Town South Police Station, Crime,
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: Respondent(s)

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Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

Criminal Procedure, to call for records relating to judgment of conviction dated 25.09.2023 in S.C.No.122 of 2019 on the file of the learned Additional District and Sessions Judge, Dindigul and set aside the same and to allow this criminal appeal by acquitting the appellant.

For Appellant : Mr.K.Pratap Sudarsan
For R1 : Mr.C.Chrishtopher
Government Advocate

Crl.A.(MD) No.34 of 2024

A.Jeba @ Jebastin : Appellant/A3

Vs.

1.The State Rep. through
The Inspector of Police
Dindigul Town South Police Station, Crime,
Dindigul District. : Respondent(s)
Crime No.591 of 2016

PRAYER: Criminal Appeal is filed under Section 374(2) of the Code of Criminal Procedure, to call for records relating to judgment of conviction dated 25.09.2023 in S.C.No.122 of 2019 on the file of the learned Additional District and Sessions Judge, Dindigul and set aside the same and to allow this criminal appeal by acquitting the appellant.

For Appellant : Mr.S.Ashok Kumar
Senior Counsel
for Mr.M.Jegadeesh Pandian
Mr.T.Sugadev

For R1 : Mr.C.Chrishtopher
Government Advocate



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Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

COMMON JUDGMENT

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

All these criminal appeals have been filed by A4, A3, A1 and A2 respectively, against the judgment and order passed by the Additional District and Sessions Court, Dindigul, in S.C. No. 122 of 2019 dated 25.09.2023, convicting and sentencing the appellants as follows:

Rank	Offence	Sentence
A1 and A2	Section 148 of IPC	3 years rigorous imprisonment.
	Section 506(2) of IPC	2 years rigorous imprisonment.
	Section 302 of IPC	Life imprisonment and fine of Rs.10,000/- each, in default to undergo 3 months simple imprisonment.
A3 and A4	Section 147 of IPC	2 years rigorous imprisonment.
	Section 342 of IPC	One year rigorous imprisonment.
	Section 302 r/w 149 of IPC	Life imprisonment and fine of Rs.10,000/- each, in default to undergo 3 months simple imprisonment.

The above sentences were ordered to run concurrently.



Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

WEB COPY 2. The case of the prosecution is that one Alexraj, who is the brother of A1 eloped with one Geetha Lakshmi, who is the daughter of PW1, in the year 2016. The deceased Dakshinamurthy and, Sakthivel who are the sons of PW1 brought back Geetha Lakshmi and a panchayat was conducted and the panchayatharas instructed the said Geetha Lakshmi to be sent to the house of PW1 since she was a minor and had not attained the age of marriage at that point of time.

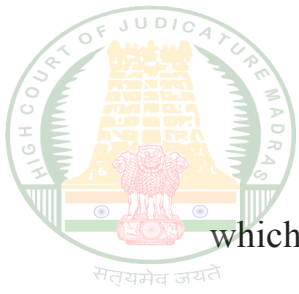
3. The further case of the prosecution is that the said Alexraj once again eloped with the said Geetha Lakshmi within a month and hence, a complaint (Exhibit P9) came to be given by PW1 to the All Women Police Station, Dindigul. PW10, who is the Inspector of Police, received the complaint on 13.06.2016 and conducted an inquiry in CSR No. 164 of 2016. In this inquiry, the said Alexraj is said to have given an undertaking that he will not disturb the said Geetha Lakshmi. Considering the undertaking, he was let out with a warning. Unfortunately, the said Geetha Lakshmi committed suicide during June 2016.



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4. The further case of the prosecution is that the said Alexraj blamed Dakshinamurthy and Sakthivel, who are the sons of PW1, for the death of Geetha Lakshmi and it is alleged that he threatened to kill them. On the fateful day on 10.09.2016, when the deceased Dakshinamurthy came near the confectionery factory of PW1 at about 11 p.m., A3 and A4 shouted that he has to be killed and the said A3 and A4 and two minor offenders, who are the children in conflict with law, are said to have caught hold of the deceased and restrained him from running away. Immediately, A1 and Alexraj (child in conflict with law) attacked the deceased with Aruval (MO1 and MO2) indiscriminately. When PW1 and her son Sakthivel (LW2) attempted to prevent that, A1 and the said Alexraj are said to have threatened them with dire consequences. A2 is said to have stabbed the deceased with a knife (MO3). When the neighbour came to the scene of crime, the accused persons are said to have threatened them with dire consequences. The deceased Dakshinamurthy died on the spot.

5. PW1, who is the mother of the deceased, is said to have given a complaint (Exhibit P1) to PW14 on 11.09.2016 at about 2 a.m., based on



Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

which an FIR (Exhibit P12) was registered in Crime No. 591 of 2016 against three named accused persons and others for offences under Sections 147, 148, 302 and 506(2) of IPC. The printed FIR is said to have been sent to the court through PW11 on 11.09.2016 at 6 AM by PW14.

6. PW15 took up the investigation and went to the scene of occurrence at about 3.15 AM on 11.09.2016 and prepared the observation mahazar (Exhibit P13) and rough sketch (Exhibit P14). PW15 recorded the statements of witnesses under Section 161(3) of Cr.P.C. He seized MO9 and MO10 under Athatchi (Exhibit P15) in the presence of PW7 and PW8. He thereafter sent the dead body of the deceased to the Government Hospital, Dindigul. The inquest was conducted at the mortuary in the presence of panchayathars at 8.00 AM and the inquest report (Exhibit P16) was prepared. A request was made to the doctor to conduct autopsy and PW13 conducted the autopsy on the body of the deceased and gave the postmortem report (Exhibit P10) noting down the following injuries:

“Appearances found at Postmortem:

A moderately nourished Male body lies on its back,



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Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

Symmetrical, Eyelids -Closed, Tongue – Inside, Teeth - 88

External Injuries:

1. Cut laceration 17 x 1 cm., x Bone depth over Right Parietal region.
2. Cut laceration 8 x 1 cm., x Bone depth over Frontal region of Scalp with.
3. Cut laceration 7 x 2 cm., x Bone depth over Left Parieto Temporal region.
4. Cut laceration 12 x 2 x 2 cm., over Right Cheek.
5. Cut laceration 12 x 2 x 1.5 cm., over Right side of Neck.
6. Cut laceration 9 x 2 x 1 cm., over Right side of Chin.
7. Cut laceration 6 x 2 x 2 cm., over Left side of Nose with fracture Nasal Bone present.
8. Cut laceration 10 x 3 x 1 cm., over Left Cheek.
9. Cut laceration over 7 x 0.5 x 0.5 cm., over Right Shoulder.
10. Cut laceration 24 x 9 cm., x Bone depth over Right Wrist with fracture Wrist present.
11. Cut laceration 4 x 3 x 1 cm., over Right Elbow - 2 in numbers.
12. Cut laceration 3x x 2 x 1 cm., over Right Scapular region.
13. Cut laceration 4 x 2 x 1 cm., over Right side of Abdomen.
14. Cut laceration 6 x 3 x 1 cm., over Right Hip.
15. Stab injury 2 x 1 x 1 cm., over Right Scapular region.
16. Stab injury 5 x 2 x 1 cm., over Mid Chest, with Fracture Lower 1 to 4 Ribs present.
17. Stab injury 4 x 3 cm., over Left Chest.
18. Stab injury 5 x 4 x 3 cm., over Left Chest deep into Thoracic Cavity with Fracture Lower 4 to 6 Ribs present.



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Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

19. Stab injury 6 x 4 x 2 cm., over Left Axilla.

20. Cut laceration 6 x 4 x 2 cm., over Left Wrist with Fracture Wrist present, Bone exposed.

21. Cut laceration 8 x 2 x 1 cm., over Left Palm.

22. Cut laceration 6 x 2 x 1 cm., over Right Knee.

23. Cut laceration 6 x 2 x 2 cm., over Left Upper arm.

Post-mortem Examination

Ribs - Multiple Ribs Fracture present as mentioned above.

Around 1 liter of Blood present in the Thoracic Cavity. Heart

Chambers – Punctured and Pale, Lungs - Left Lung

Punctured and Pale. Hyoid Bone - Intact. Stomach - 500 ml.,

of partially digested food particles present. Liver – Pale,

Spleen – Pale, Kidneys - Pale. Skull - No Fracture.

Membranes - Intact. Brain-Pale.

OPINION: Reserved pending for Chemical Analysis Report and Death could have occurred about 12 to 16 Hours prior to autopsy.”

7. The final opinion was given under Exhibit P11 stating that the death of the deceased had occurred due to shock and haemorrhage due to injuries to vital organs.

8. PW15 arrested A1 and Alexraj (child in conflict with law) on 11.09.2016 at about 16.00 hours in the presence of PW5 and his assistant and recorded the confession and based on the same, MO1 and MO2 were

9/26



Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

recovered and the dresses MO4 and MO5 were also seized under Athatchi (Exhibit P3) in the presence of the said witnesses.

9. Later, on the same day, at about 22.00 hours, PW15 arrested A2 and A5 in the presence of the same witnesses and based on the confession of A2, MO3 was recovered and dresses/MO6 to MO8 were also recovered under Athatchi Exhibit P5. The accused persons were sent to the judicial custody.

10. PW15 thereafter arrested one Arokia Deepak Penito (child in conflict with law), A3 and A4 at about 15.00 hours in the presence of PW6 and another witness and based on their confession, a bike was seized.

11. The dresses from the body of the deceased (MO13 and MO14) were recovered under Exhibit P18 and it was sent for forensic examination.

12. PW15 completed recording the statements of witnesses under Section 161(3) of CrPC., and collected the postmortem certificate



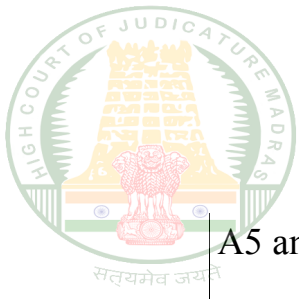
Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

(Exhibit P10), biological report (Exhibit P20), serological report (Exhibit P21) and viscera report (Exhibit P22) and on completion of investigation, the final report came to be filed before the Judicial Magistrate No.III, Dindigul, against six accused persons and the same was taken on file in P.R.C. No. 7 of 2017. The other two accused persons were children in conflict with law and hence, a separate final report was filed before the Juvenile Justice Board.

13. The committal court after furnishing the copies under Section 207 of CrPC., committed the case under Section 209 of CrPC., and it was made over to the file of the Additional District and Sessions Court, Dindigul and was taken on file in S.C.No.122 of 2019.

14. The trial court framed the following charges against the accused persons:

Rank of the accused person	Offence for which charges framed
A1 and A2	Sections 120B, 148, 302 r/w 149 and 506(2) of IPC
A3 and A4	Sections 120B, 148, 302 r/w 149 of IPC



Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

A5 and A6

Sections 120B, 148, 302 r/w 109 of
IPC

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When the accused persons were questioned on the charges framed against them, they denied the charges and pleaded not guilty.

15. The prosecution examined PW1 to PW35 and marked Exs.P1 to P22 and placed reliance upon MO1 to MO14.

16. The incriminating circumstances and evidence was put to the accused persons when they were questioned under Section 313(1)(b) of Cr.P.C., and they denied the same as false.

17. The accused persons did not examine any witnesses nor relied upon any documents.

18. The trial court on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to the conclusion that the prosecution has proved the case beyond reasonable doubts as against A1 to A4 and accordingly convicted and sentenced them in the manner stated supra. A5 and A6 were not found guilty for any of the charges and they were acquitted from all charges.



Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

WEB COPY 19. A1 to A4, aggrieved by the judgment of the trial court convicting and sentencing them, have filed the present appeals before this Court.

20. Heard the learned Senior Counsel/Counsel appearing for the appellants and the learned Government Advocate appearing on behalf of the respondent.

21. The main ground that was urged by the learned Counsel appearing for the appellants is that PW1 was projected as an eyewitness in this case and that the evidence of PW1 is not reliable and it is vitiated with serious discrepancies. Hence without any corroboration, the evidence of PW1 cannot be acted upon. It is further submitted that though the occurrence is said to have taken place at 11.00 PM on 10.09.2016, the complaint came to be lodged only at 2.00 AM on the next day in the police station which is hardly 1.5 kilometres from the place of occurrence and there is no explanation for the delay. Apart from that, there is also a huge delay in the FIR reaching the Court only at 6.00 AM.



Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

WEB COPY 22. It is further submitted that the very origin of the case of the prosecution starts from the alleged conspiracy between the accused persons and the same has not been proved and all the accused persons were acquitted from the charge of criminal conspiracy.

23. A further submission has been made to the effect that if PW1 was actually an eyewitness and her clothes were also stained with the blood of the deceased, there has no reason as to why it has not been seized and sent to the FSL to get the report. It is therefore contended that the prosecution has failed to prove the charges against the accused persons and hence, the judgment of the trial court requires the interference of this Court.

24. Per contra, the learned Government Advocate appearing for the State submitted that the evidence of PW1, who is the eyewitness, has not been discredited in the cross-examination and that the discrepancies pointed out do not go to the root of the matter to disbelieve the evidence of PW1. It is further submitted that the evidence of PW1 is also supported by the medical evidence in terms of postmortem report. The



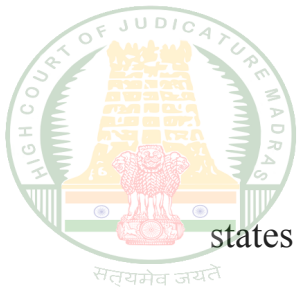
Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

learned Government Advocate submitted that the trial court has taken into consideration the entire evidence and rendered its findings and the same does not warrant the interference of this Court. Accordingly, the learned Government Advocate for the State sought for the dismissal of these criminal appeals.

25. This court has carefully considered the submissions made on either side and the materials available on record.

26. In the case in hand, PW1, who is the mother of the deceased, is the only eyewitness available for the prosecution. Her son Sakthivel (LW2) was originally shown as an eyewitness and he was not able to be examined before the court since by then he died due to murder.

27. PW1 in her evidence has stated about the motive for this murder. She has stated that her daughter Geetha Lakshmi eloped along with Aelxraj and later, it resulted in a complaint given to PW10 which resulted in inquiry and the suicide committed by the said Geetha Lakshmi. As a result, there was previous enmity between the accused persons and the sons of PW1. While deposing about the incident, she



Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

states that on 10.09.2016 at about 11.00 PM, the deceased Dakshinamurthy came to the confectionery factory and she was present at the factory. At that point of time, A3, A4 and two juvenile offenders caught hold of the deceased and A1 and Alexraj attacked the deceased with MO1 and MO2 on his head and legs repeatedly. When she along with her son Sakthivel attempted to prevent the same, they were threatened by A1 and the said Alexraj. She further states that A2 also attacked the deceased with knife (MO3) indiscriminately. All the accused persons threatened the neighbours and others who had rushed to the spot.

28. It will be relevant to take note of the complaint (Exhibit P1) given by PW1. In the said complaint, PW1 had specifically named all the accused persons by giving full particulars as if they threatened two days prior to the occurrence and came to the house in search of the sons of PW1. However, while explaining what happened on the date of occurrence, PW1 has only mentioned the names of Alexraj, A1 and A6 and insofar as the other accused persons, she merely describes them as other known accused persons. If PW1 knows the names of all the accused persons since they belong to the same locality, there is no explanation as to why she only named three accused persons and did not



Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

name the others. Apart from that, if all the accused had come two days before the occurrence, PW1 does not say as to why not even a complaint was given to the police since allegedly the life of the sons of PW1 was in danger.

29. Only during evidence, PW1 after admitting that she knows all the accused persons, attributes specific overt act to each of the accused person. If really PW1 is an eyewitness and she knows all the accused persons by name, there is no reason as to why PW1 only named three persons in the complaint and did not name the others.

30. At this juncture, this Court has to take note of the judgment of the Apex Court in the ***State of Uttar Pradesh vs. Raghuvir Singh***, in Criminal Appeal No. 1588 of 2015 dated 23.01.2025, wherein it was held as follows:

“30.The first informant claiming to be an eye-witness has not explained why he omitted to name the other two co-accused in the FIR.

31.If he claims to be an eye-witness to the incident and is said to have witnessed three persons known to him assaulting his son i.e. the deceased then what was the good



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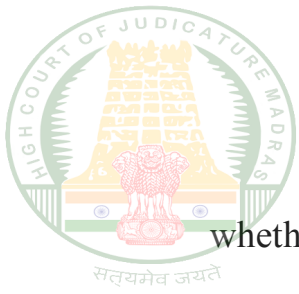
Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

reason not to name the other two accused (juvenile Accused) in the FIR. This omission assumes significance and is a relevant fact under Section 11 of the Evidence Act.”

31. As held by the Apex Court, if the eyewitness knows all the accused persons who were involved, there is no reason was to why only the names of three accused persons were mentioned in the complaint and this becomes a relevant fact while testing the credibility of the eyewitness account of PW1.

32. The incident had taken place at about 11.00 PM admittedly near the confectionery factory. PW1 admits that the residence is away from the factory and routinely the work will be over by 7 PM to 8 PM and the factory will be closed by 9 PM. If that is the case, the presence of PW1 in the factory by wearing nighty at 11 PM at the time of occurrence also throws some suspicion on the claim made by PW1.

33. PW1 admits that after the deceased was attacked, she along with another son Sakthivel carried the body of the deceased and her nighty had blood-stains of the deceased. She feigned ignorance as to



Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

whether she handed over the blood-stained clothes to the police. The easiest thing for the investigation officer was to recover the blood-stained nighty of PW1 to substantiate her presence in the scene of crime and the same has not been done.

34. The distance between the scene of occurrence and the police station is admittedly 1.5 kilometres. The incident had taken place at 11.00 PM on 10.09.2016 and whereas the complaint was given only at 2.00 PM on 11.09.2016 to PW14. There is absolutely no explanation for this delay in giving the complaint. Apart from that, the court is hardly 10 minutes away from the police station and whereas the printed FIR was handed over to the court only at 6.00 AM. There is no explanation for this delay also.

35. While examining the original documents, it is seen that the statement recorded under Section 161(3) of CrPC. from PW1 has reached the court only on 12.09.2016 and there is no explanation as to why there was a delay in the 161 statement reaching the court.

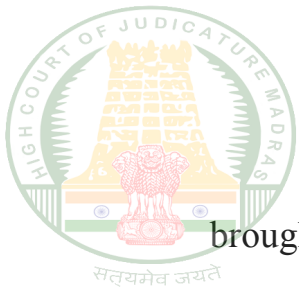


Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

36. The delay in registering FIR or the FIR reaching the court or the 161 statement reaching the court, by itself will not vitiate the case of the prosecution. However, it will gain significance when it is seen that an attempt is being made to develop the case and bring in new accused persons. The delay in such a case will be construed as the time taken for deliberation and developing the case of the prosecution.

37. PW1 had named only three accused persons in the complaint while she was aware of the names of all the accused persons and later, in the evidence, she has spoken about the overt acts of all the six accused persons. This is seen to be an improvement of the case of the prosecution at the time of giving evidence.

38. It is the specific case of the prosecution that the deceased died on the spot on 10.09.2016 at about 11 PM. As stated supra, the complaint was lodged on 11.09.2016 at 2.00 AM and investigation was commenced by PW15 at 3 AM. However, the inquest was conducted by PW15 in the hospital and it has been specifically spoken that the deceased was taken in a private ambulance to the Government Hospital, Dindigul, on 11.09.2016 at about 5:15 AM and only in the hospital he was declared



Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

brought dead. As between 11 PM on 10.09.2016 and 5:15 AM on 11.09.2016, it is not clear as to when the deceased actually died.

39. PW1 in her evidence states that all the accused persons dropped the weapons (MO1 to MO3) in the scene of occurrence and fled from there, whereas the recovery of weapons is said to have taken place only after the arrest of the accused persons by PW15 later on 11.09.2016 based on the confession. Hence, the version given by PW1 regarding the weapons also throws doubt on the reliability of the evidence of PW1 as an eyewitness.

40. There is yet another curious thing that has happened in this case. PW9 specifically talks about the dog squad taking the sniffer dog on 11.09.2016 at 4 PM to the scene of occurrence and a report that was given in this regard to PW15.

41. If really all the accused persons had been identified by PW1 who claims to have seen the occurrence, there is no need for the involvement of a sniffer dog by the dog squad. This is moreso since the sniffer dog was taken to the scene of crime on 11.09.2016 at 4 PM, after



Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

the arrest of A1 and Alexraj (Child in conflict with law). This once again throws some doubt on the evidence of PW1 regarding the identification of the accused persons.

42. In the complaint, PW1 had specifically named A1 and A6, whereas the trial Court, on appreciation of evidence, has acquitted A6 from all charges, since the very presence of A6 in the scene of crime was held to be not proved.

43. The upshot of the above discussion leads to the conclusion that the evidence of PW1 falls within the category of “neither wholly reliable nor wholly unreliable”. When a case falls under this category, the Court has to be circumspect and look for corroboration in material particulars. Useful reference can be made to the judgment of the Apex Court in *Vadivelu Thevar v. The State of Madras*, reported in A.I.R. 1957 S.C. 614.

44. In the case in hand, the evidence of PW1 has not been corroborated by any independent witness. Therefore, the benefit of doubt has to necessarily go in favour of the appellants.



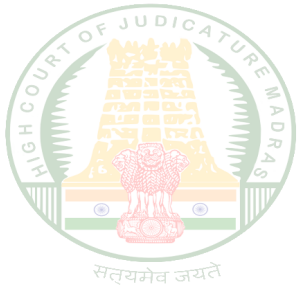
Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

WEB COPY 45. The trial Court has wholly relied upon the evidence of PW1 while convicting and sentencing the appellants without looking for corroboration. However, this Court holds that, considering the various doubts that have arisen about the actual presence of PW1 in the scene of crime, the evidence of PW1 certainly requires corroboration. In the absence of the same, it must be held that the prosecution has not proved the case beyond reasonable doubts against the appellants.

46. In the result, all these criminal appeals are allowed and the judgment and order passed by the learned Additional District and Sessions Judge, Dindigul, dated 25.09.2023, in S.C.No.122 of 2019, is hereby set aside and the appellants, who are undergoing the sentence, shall be released from the jail forthwith unless they are required in any other case.

[N.A.V., J.] [K.K.R.K., J.]
15.06.2026

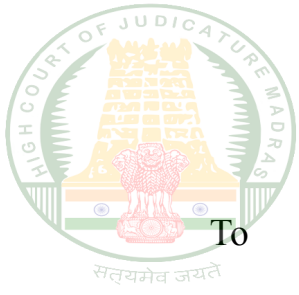
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Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

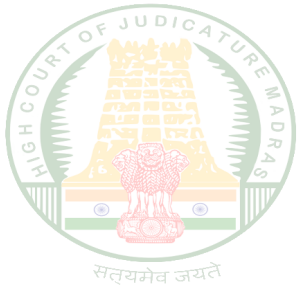


Crl. A(MD)Nos.1071 and 1081 of 2023, 34 and 171 of 2024

To

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1. The Additional District and Sessions Judge, Dindigul.
2. The Inspector of Police
Dindigul Town South Police Station, Crime,
Dindigul District.
3. The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH, J.
AND
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