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Muthu Vs. The State by Inspector of Police, Erode District

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Court : Chennai

Decided On : Jul-25-2016

Judge : S. Nagamuthu &Amp; V. Bharathidasan

Appeal No. : Criminal Appeal No. 704 of 2015

Appellant : Muthu

Respondent : The State by Inspector of Police, Erode District

Judgement :

(Prayer: Criminal Appeal filed under Section 374(2) Cr.P.C., against the judgment dated 04.11.2015 made in S.C.No.144 of 2014 on the file of the learned II Additional Sessions Judge, Erode.)

S. Nagamuthu, J.

1. The appellant is the sole accused in S.C.No.144 of 2014 on the file of the learned II Additional District and Sessions Judge, Erode. He stood charged for offence under Section 302 I.P.C. By judgment dated 04.11.2015, the trial Court convicted the accused under Section 302 I.P.C., and sentenced him to undergo imprisonment for life and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for three months. Challenging the said conviction and sentence, the appellant is before this Court with this Criminal Appeal.

2. The case of the prosecution, in brief, is as follows:-

The deceased in this case was one Mr.Gopikarar @ Natarajan. He was aged about 60 years at the time of his death. The deceased was a resident of Marudham Kattu Thottam, Kodumudi in Erode District. The accused belongs to Pongalivel Venkambu Village, Kodumudi Taluk, Erode District. P.W.11 Mr.Muthuraman was a friend of the accused. P.W.11 was in need of money for constructing a house. He made a request to the accused for the same. The accused, in turn, had borrowed a sum of Rs.3 lakhs from the deceased, Mr.Gopikarar @ Natarajan and paid the same to P.W.11. The accused from his own pocket, paid yet another sum of Rs.2,30,000/- to P.W.11 as loan. P.W.11 accordingly, completed the construction of the house. Even thereafter, he did not settle the loan dues to the deceased. The deceased started pressurizing the accused to pay the said amount. The accused was enraged over the same. In order to get rid of the said problem, according to the prosecution, the accused decided to do away with the deceased. This is stated to be the motive for the occurrence.

3. It is alleged that on 26.04.2014, around 6.30 pm, the accused had gone to Ganapathipalayam Othakadai in his TVS 50 motorcycle bearing registration No.TN 37 A 8956. The deceased came to the said place in a bicycle with a milk can. Both of them purchased cool drinks from a nearby shop and drunk. Then the deceased, kept the bicycle with the milk can near a shop and went along with the accused in his TVS 50 motorcycle. The accused drove the vehicle and the deceased traveled as a pillion rider. The accused took the deceased on the assurance that he would pay the amount due to him. Believing the words that the accused was taking him for paying the loan dues, the deceased also innocently went along with him in the motorcycle. On the way, the accused drove the motorcycle towards the sugar cane field belonging to PW.1. The accused was employed by P.W.1 for watering the crops. In such a way, the accused had acquittance with P.W.1 and the field in question. The deceased had a torch light in his hand. The accused stopped the motorcycle near the field. As soon as the deceased got down from the motorcycle, the accused attacked him with the said torch light and also pushed him down. Then he took out a wooden log lying there and attacked the deceased on his face,

body and other parts of the deceased. It happened around 7.15 pm on 26.04.2014. The deceased died on the spot.

4. It is further alleged that P.W.1 was at his house around 10.00 pm on 26.04.2014. The accused called him over phone and informed him that a dead body of a man aged 60 years was found lying in his sugar cane field. Immediately, P.W.1 went to the said field and found the dead body of a man aged about 60 years. The accused was very much present by the side of the dead body. P.W.1 enquired the accused about the identity of the dead body and as to how he died in the said place. The accused told that he did not know the identity of the dead body. By the side of the dead body, a brandi bottle, 7 up cool drinks bottle and an empty tumbler were found lying. A torch light and a pair of chapels were also found lying on the side of the dead body. P.W.1 believed that the deceased would have died by a violent fall due to over drunkenness. Therefore, he immediately went to Kodumudi Police Station at 2.00 am on 27.04.2014 and made a complaint. In the complaint, he has stated that the deceased would have died by violent fall due to over drunkenness. Ex.P.1 is the complaint. P.W.20, the then Special Sub Inspector of Police, on receipt of the said complaint registered a case in Crime No.97/2014 for offence under Section 174 Cr.P.C., (suspicious death).

5. The case was taken up for investigation by P.W.21, the then Inspector of Police. At 3.00 am on 27.04.2014, P.W.21 went to the place of occurrence. It was pitch dark. Using a torch light, he found the dead body and the surrounding place. Since, it was pitch dark, it was not conducive for him to conduct inquest on the body of the deceased. He made arrangement for a protection to the dead body and the surrounding place.

6. On 27.04.2014 at 6.15 am, after sun rise, he prepared an observation mahazar and a rough sketch in the presence of P.W.13 and another witness. With the help of a Photographer, he took photographs of the place of occurrence. He recovered the blood stained torch light (M.O.3), one pair of chapel (M.O.4); 7 'up' cool drink empty bottle (M.O.5) ; empty brandy bottle (M.O.6); empty plastric tumbler (M.O.7) blood stained grinding stone (M.O.8). He also recovered the blood stained earth and the sample earth (M.Os.1 and 2) from the place of occurrence under a

mahazar. The Forensic Expert arrived at the scene of occurrence collected the blood stains found on the stone by using a swab.

7. P.W.21 then lifted the body from the place of occurrence and forwarded the same to the Government Hospital at Kodumudi for being kept in the mortuary. This exercise, he had to do, with a view to ascertain the identity of the dead body. The dead body was received by one Dr.Kalaiselvi and she kept the same in the mortuary. P.W.21 took the photograph of the dead body and made vide publicity of the same, in an attempt to ascertain the identity of the dead body. On seeing the same, the relatives of the deceased came to the Police and told that the dead body was that of the deceased Mr.Gopikarar @ Natarajan. P.W.21 thereafter, conducted inquest on the body of the deceased between 12.00 noon and 3.00 pm on the same day and made a request to the Medical Officer at the Government hospital at Kodumudi, for conducting post mortem.

8. P.W.22 Dr.Malarvannan, an Assistant Surgeon in the hospital felt that it would be better if the post mortem was conducted by a senior doctor, as he had no previous experience in conducting post mortem and he had experience of only few months in the Government service. Therefore, the dead body was taken to the Government General Hospital, Erode where, P.W.14 Dr.Rasik Barid, conducted autopsy on the body of the deceased on 28.04.2014 at 7.30 am. He found the following injuries on the body of the deceased:-

External Injuries:-

A 5 x 5cm contusion injury around right orbit

A 5 x 5 cm contusion injury around left orbit

Two upper right inter teeth broken and hanging in the oral cavity

A 3x2x1 cm lacerated wound found on right cheek over the body of mandible defused

2x2x1 cm lacerated left cheek mandible injury

6x4cm contusion left wrist found defused

8x5cm contusion at right shoulder

Ex.P.14 is the post mortem certificate. Ex.P.15 is the report received from the Chemical Analyst regarding the chemical examination of viciral organs of the deceased. Ex.P.16 is the hyoid bone report and Ex.P.17 is the final opinion of Dr.Rasik Barid, who conducted autopsy on the body of the deceased. He gave opinion that the deceased would have died due to shock and hemorrhage due to the injuries found on the body.

9. P.W.21 continued investigation and examined many more persons. When the investigation was in progress, it is alleged that the accused, on his own volition, went to the office of P.W.5, the then Village Administrative Officer of Ichipalayam Village. On such appearance, the accused wanted to make a voluntary confession. P.W.5 having satisfied that the accused was ready and willing to make confession voluntarily, allowed him to orally confess. P.W.5 reduced the same into writing. It was witnessed by the Assistant of P.W.5, by name Mr.Kathirvel. In the said confession, the accused made a complete narration as to how he killed the deceased. Ex.P.5 is the said extra judicial confession. P.W.5 then took the accused along with a special report and produced him before P.W.21 at 9.30 am on 28.04.2014.

10. On such production, P.W.21 arrested the accused. While in custody, the accused gave a voluntary confession in which, he disclosed the place where he had hidden a wooden log and a towel. In pursuance of the same, he took the Police and witnesses to the place of hide out and produced the wooden log; TVS 50 motorcycle; blood stained T.shirt and blood stained half pant. P.W.21 recovered all these material objects under a mahazar. On returning to the Police Station, he forwarded the accused to Court for judicial remand. He collected the personal belongings of the deceased viz., the clothes found on the body of the deceased and forwarded all the material objects to Court, with a request to the Court to forward the same for chemical examination. The report revealed that there were blood stains on all the material objects including the Torch light and the properties recovered through the accused on his confession. On completing investigation, P.W.21 laid charge sheet against the accused on 28.04.2014.

11. Based on the above materials, the trial Court framed a lone charge for offence under Section 302 I.P.C., against the accused. The accused denied the same. In order to prove the case of the prosecution, on the side of the prosecution, as many as 22 witnesses were examined and 51 documents were exhibited, besides 22 Material Objects were marked.

12. Out of the said witnesses, P.W.1, is the employer of the accused. He has stated that on 26.04.2014, around 10.00 pm, the accused called him through his cell phone and informed him that a dead body of a man aged 60 years was found lying in the sugar cane field. He has further stated that he went there and enquired the accused about the identity of the dead body. The accused told him that he did not know the deceased at all. Since, there were empty brandy bottle, 7 'up' cool drink bottle, tumbler and a torch light, according to him, he believed that due to over drunkenness, the deceased had fallen and died. He has further stated that therefore, he made a complaint to the Police Station on those lines. P.W.2 has got his land by the side of the sugar cane field of P.W.1. He has stated that he witnessed the observation mahazar and a rough sketch prepared by the police and also recovery of material objects at the place of occurrence at 6.45 am on 27.04.2014. P.W.3 is a resident of Vetrikonar Palayam. According to him, on 27.04.2014, at 9.00 am, when he had come to Othakadai to a Tea shop, the Inspector of Police, Kodumudi Police Station came there and he started showing the photograph of a dead body to the persons standing there to enquire about the identity of the deceased. He has further stated that on seeing the said photograph, he identified the same as that of the deceased by name Mr.Gopikarar @ Natarajan. He has further stated that, on the previous day, that was on 26.04.2014, around 6.30 pm, he went to the milk society for selling the milk. That society is situated at a distance about half a furlong from Othakadai. After selling milk in the society when he was returning, he found the deceased and the accused also in the society and then they were returning by pushing their respective vehicles. The milk can was hanging in the said bicycle. He has identified the TVS 50 motorcycle bearing registration No.TN 37 A 8956 as that of the accused. He has further stated that near a shop known as SCP Shop, the deceased parked his bicycle and went along with the accused in his TVS 50 motorcycle. The accused drove the motorcycle and the deceased travelled as a pillion rider. He has further

stated that to his knowledge, the deceased and the accused were known to each other closely. P.W.4 is a resident of Ichipalayam Malaikattu Thottam. According to him, he knew the deceased as well as the accused. He has stated that on 26.04.2014, around 6.45 pm, when he was near the three road junction at Othakadai, engaging work to his workmen, he found the accused and the deceased having cool drinks in SCP Shop then they went together in the TVS 50 motorcycle (M.O.9). The accused drove the said vehicle and the deceased travelled along with him as pillion rider. On the next day, when he was standing near the Ichipalayam Bakery at Othakadai, the Inspector of Police came there with a photograph of a dead body and enquired him. On seeing the photograph, he identified the same as that of the deceased.

13. P.W.5 is the then Village Administrative Officer of Ichipalayam Village. He has stated that on 28.04.2014, at 7.00 am, when he was at his office along with his Assistant by name Mr.Kathirvel, the accused appeared before him and made a voluntary confession. He reduced the same into writing (vide Ex.P.4). He produced the accused along with the special report before P.W.21. He has further spoken about the arrest of the accused, disclosure statement made by him and the consequential recovery of M.Os.9 to 15.

14. P.W.6 is a resident of Othakadai at Kodumudi. He is the owner of the SCP Bakery at Othakadai. According to him, both the deceased and the accused were known to him. On 26.04.2014, around 6.30 pm, according to him, the accused came in his motorcycle and the deceased came in his bicycle to his shop. Both had cool drinks in his shop. Thereafter, leaving the bicycle with a milk can in the same, the deceased went along with the accused in his motorcycle (M.O.9) as a pillion rider. Thereafter, he did not see either the deceased or the accused. On 27.04.2014 around 10.30 am, according to him, the Inspector of Police came to his shop with a photograph of a dead body. On seeing the same, he identified the same as that of the deceased.

15. P.W.7 is the daughter-in-law of the deceased and she was residing at Ichipalayam Village. She has further stated that there was money transaction between the deceased and the accused for quite some time. She has further

stated that on 27.04.2014, she identified the dead body in the photograph shown by the Police as that of the deceased. Then she identified the dead body itself as that of the deceased.

16. P.W.8 is the daughter of the deceased. She has also stated about the money transaction between the accused and the deceased. According to her, the deceased was doing money lending business. She has further stated that she identified the dead body on 27.04.2014 as that of the deceased. P.W.9 is again a resident of Ichipalayam Village. He was running an electrical store at Othakadai. He knew the accused as well as the deceased. The deceased used to supply milk at the co-operative society. According to him, on 26.04.2014, around 6.45 pm, when he was in his shop, the accused and the deceased were proceeding in M.O.9 motorcycle towards West. Thereafter, he did not see either the accused or the deceased. P.W.10 is a resident of Ganapathipalayam. He was an employee of Ganapathipalayam Co-operative Milk Producers Society. According to him, on 26.04.2014, around 6.30 pm, the deceased came to the society and sold milk. Within a short while, the accused came in his motorcycle. Then both went together. Thereafter, he did not see either the accused or the deceased but, came to know about the occurrence later.

17. P.W.11 has stated about the money transaction between the deceased and the accused. According to him, he is in need of money. Hence, he asked the accused for loan. But, the accused told him that he was not having money but, he will borrow the same from the deceased and pay the same to him. But, according to P.W.11, he returned the said loan amount to the accused, in the month of April. Thus, he has spoken about the acquaintance between the accused and the deceased.

18. P.W.12 is also a resident of Ichipalayam Village. He has stated that on 26.04.2014, around 7.00 pm, from Marudhangadu to Virupampalayam when he so proceeding in his motorcycle, he saw A.1 proceeding in his motorcycle through a small pathway into the sugar cane field of P.W.1. The deceased was sitting in the said vehicle as a pillion rider. He has identified the dress worn by the deceased at that time. He came to know about the occurrence later. P.W.13 is yet another

resident of Ichipalayam Village. According to him, on 26.04.2014, around 8.00 pm, he was standing along with one Mr.Senthil Kumar near Pongalivalasu Vinayakar Temple. In the light of sodium vapor at that place, he found the accused driving the TVS 50 motorcycle (M.O.9). This time, the deceased was not seen with him. There was blood stains on the dress of the accused.

19. P.W.14 has spoken about the post mortem conducted on the body of the deceased and his final opinion regrading the cause of death. P.W.15 has spoken about the examination conducted on the hyoid bone of the deceased. According to him, the hyoid bone was found broken. Ex.P.16 is his final opinion. According to him, the said breaking of hyoid bone could have occurred by strangulation with a ligature. P.W.16, the Forensic Expert has stated that as requested by P.W.21, he visited the place of occurrence on 27.04.2014 at 6.00 am and collected the blood stains from the stone found at the place of occurrence. P.W.17, the Head Clerk of the learned Judicial Magistrate of Court has stated that he forwarded the material objects for chemical examination as requested by P.W.21 and as ordered by the learned Judicial Magistrate. Exs.P.25 to 27 are the analyst reports. P.W.18, the Photographer, has spoken about the fact that on receiving intimation from P.W.21, he visited the place of occurrence and took photographs of the dead body of the deceased as well as the surrounding places. P.W.19 has stated that on 27.04.2014, at 3.00 pm, the Inspector of Police gave a letter to him to hand over the dead body to the Kodumudi Government hospital for conducting post mortem. As the Doctor available in the said hospital told him that he could not conduct post mortem on the dead body of the deceased, he asked him to forward the body to the Government Hospital at Erode. Accordingly, the said Doctor also gave a requisition letter to him. On receipt of the said letter, he again took the dead body and handed over the same to the Government Hospital, Erode at 5.00 pm on 27.04.2014. P.W.20 has spoken about the registration of the case on the basis of the complaint made by P.W.1. P.W.21 has spoken about the investigation done and the final report filed in this case. P.W.22 Dr.Malarvannan has spoken about the fact that when he was on duty at Kodumudi Government Hospital, a requisition letter was given by P.W.21 to conduct post mortem on the body of the deceased. He decided that the post mortem could be conducted by a senior Doctor as he has got only little experience. Hence, he forwarded the dead body to the Government

Hospital, Erode.

20. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., he denied the same as false. On his side, one Mr.S.Thangamuthu, the then Village Administrative Officer of Venkambur Village was examined as D.W.1 and three documents were marked as Exs.D.1 to D.3. Though the said witness was examined on the side of the accused, nothing has been elicited to support the case of the accused. Ex.D.1 is a representation made by one Ms.Selvi on 31.03.2015. Ex.D.2 is a copy of the letter given by Ms.Selvi under a Right to Information Act and Ex.D.3 are the postal receipts. These documents relating to the information about the working of the Village Administrative Officer (P.W.5) and the related matters. In effect, the defence of the accused was a total denial.

21. Having considered all the above materials, the trial Court convicted the appellant for offence under Section 302 I.P.C. Challenging the same, the appellant is before this Court with this Criminal Appeal.

22. We have heard the learned counsel for the appellant and the learned Additional Public Prosecutor appearing for the State.

23. When this appeal came up for hearing on 20.07.2016, the learned counsel for the appellant submitted that according to P.W.22, the dead body of the deceased was received from the Policeat the Government Hospital at Kodumudi at 1.45 am on 27.04.2014, whereas, according to P.W.20, the F.I.R., itself was registered only at 2.00 am on 27.04.2014. Thus, according to the learned counsel, it is crystal clear that prior to 1.45 am, on 27.04.2014, there should have been some other information and the said information has been suppressed by the prosecution. This according to the learned counsel, creates enormous doubts in the case of the prosecution. We gave anxious consideration to the said argument. We perused the lower Court records as well as the case diary and since it was not clear, as to whether the dead body of the deceased was received at Government Hospital, Kodumudi at 1.45 am on 27.04.2014, we deemed it necessary to examine the Doctor concerned. Accordingly, in exercise of the power under Sections 311 and 391 Cr.P.C., we summoned Dr.Kalaiselvi and Dr.Malarvannan (P.W.22).

24. Today, Dr.Malarvannan (P.W.22) as well as Dr.Kalaiselvi appeared before this Court along with the medical records including the in and out register showing the arrival and disposal of the dead bodies and the accident register maintained at the Government Hospital, Kodumudi to show the time of the receipt of dead body and exit of the dead body from the mortuary.

25. We allowed P.W.22 to go through all the records and then we examined him by putting questions to him as provided under Section 165 of the Indian Evidence Act. During such examination, for the question hurled by this Court regarding the receipt of dead body of the deceased, P.W.22 answered that on 26.04.2014, he was on leave. He returned to duty only around 8.30 am on 27.04.2014. The dead body of the deceased was not at all received by him. According to him, in the early morning on 27.04.2014, the dead body of the deceased was in fact received only by Dr.Kalaiselvi. She made entry in the in and out register and kept the body in the mortuary. From 8.30 am when he was on duty in the hospital, around 3.00 pm, he received a requisition from P.W.21 for conducting post mortem. He further deposed that since, he was an in-experienced Doctor having put in few months of Government service, he thought that some other senior Doctor should conduct post mortem on the body of the deceased, considering the complex nature of the issues involved. Therefore, according to him, he wanted to forward the dead body to the Government hospital at Erode for post mortem as there was no other senior Doctor available at the Government Hospital at Kodumudi. He further deposed that since, he was not well aware of the procedure for conducting post mortem, he contacted the Joint Director of Medical Services, who was his superior officer and he in turn instructed him to prepare an accident register and then to forward the body along with the accident register to the Government hospital at Erode. Therefore, according to him, he prepared the accident register (vide Ex.P.49) and a reference letter (vide Ex.P.50) and then forwarded the dead body for post mortem to the Government Hospital, Erode. For a specific query, he answered that he did not receive the dead body and he was not aware of the time at which the dead body was received. The further examination of the witness was made in the presence of the accused who made appearance before this Court. The said witness was cross examined by the learned counsel for the appellant/accused.

26. After the said examination was over, the incriminating facts spoken by this witness today were put to the accused under Section 313 Cr.P.C. He told the Court that he was not aware of the time at which the dead body was received at the Government Hospital, Kodumudi and he was not aware of the facts spoken by P.W.22 before this Court. Then we continued to hear the arguments of the learned counsel for the appellant and the learned Additional Public Prosecutor appearing for the State in this regard.

27. The learned counsel for the appellant submitted that F.I.R., is a doubtful document in this case and the original information which was probably received at or about 1.45 am on 27.04.2016 has been suppressed by the prosecution. This argument is based on the surmise that the dead body had been received at 1.45 am on 27.04.2014 at Government Hospital, Kodumudi as extended in the Accident Register. As we have already pointed out, there is absolutely no evidence to show that the dead body was received at 1.45 am on 27.04.2014 and P.W.22 has stated that he did not know anything about the receipt of the dead body at all. Therefore, this argument raising doubt about the timing of the F.I.R., is rejected.

28. The learned counsel would further submit that the evidence of P.W.1 cannot be believed. According to the learned counsel, the accused was not at all employed by P.W.1 for watering the sugar cane field. He would further submit that due to some other enmity, P.W.1 has deposed against the accused. We find no force at all in the said argument of the learned counsel, as we have already pointed out, when the complaint was made by P.W.1 at 2.00 am on 27.04.2014, he was not even aware of the identity of the dead body. At that odd hour, there was no need for P.W.1 to go to his field but for the message given by the accused. According to him, it was only this accused who spoke to him through his cell phone and informed him that a dead body of a man aged 60 years was found lying in the sugar cane field. Because of that communication only, P.W.1 had gone to the place of occurrence. From the manner in which, the dead body was lying and the other material objects lying there, P.W.1 believed that the deceased would have died by way of violent fall due to over drunkenness. That is what he had incorporated in the complaint so made. This was his honest belief. Had it been true, as projected by the learned counsel for the appellant, that P.W.1 had any

enmity with the accused and he wanted roping him falsely in this case, going by the natural conduct, he would not have mentioned in Ex.P.1 that the deceased would have died due to violent fall due to over drunkenness. This statement of P.W.1 in Ex.P.1 would dispel the argument of the learned counsel that Ex.P.1 would not have come into being as it is alleged and that P.W.1 has deposed falsely against the accused. We hold that P.W.1 is fully trustworthy.

29. It is in evidence of the daughter of the deceased and various other witnesses, we have referred to herein alone that the deceased and the accused were known to each other. The deceased was doing money lending business. The accused had borrowed money from the deceased. This has been spoken by the daughter as well as by the daughter-in-law of the deceased. But the accused, while informing P.W.1 did not inform him that the dead body was that of the deceased. Instead he had told him that a dead body of a man aged 60 years was found lying. He did not inform P.W.1 that the deceased who was known to him was lying dead. P.W.1 immediately rushed to the place of occurrence and enquired the accused about the identity of the deceased. At that time also, the accused told P.W.1 that he was not aware of the identity of the deceased. That is the reason why at 2.00 am, on 27.04.2014, when P.W.1 made a complaint to the Police, he mentioned that the identity of the dead body was not known. The identity of the dead body was known only around 9.30 am on the same day by the people in that locality.

30. As we have already pointed out, the deceased was closely known to the accused. It is not explained to the Court as to why on both occasions, the accused did not disclose the fact that the dead body was that of the deceased. Until, 9.30 am, on 27.04.2014, the identity of the deceased was not disclosed by the accused. This conduct of the accused in not disclosing that the dead body was that of the deceased is fully inconsistent with the plea of innocence which he now makes before this Court. In our considered view, the unnatural conduct of the accused in not disclosing about the identity of the dead body as that of the deceased would be consistent with his guilt. In our considered view, the failure of the accused in not explaining as to why he made statement that he was not aware of the identity of the dead body would be a strong incriminating circumstance against the accused pointing to his guilt. But the learned counsel for the appellant would

submit that there was no occasion for this accused to make any explanation. This argument does not persuade us because during cross examination of P.W.1, the accused has not challenged the fact spoken by P.W.1 that the accused on both the occasions told him that he was not aware of the identity of the dead body.

31. Now comes the evidences of P.Ws.3,4,6,9,10,11 and 12. All these witnesses had seen the deceased and the accused together at Othakadai and going together in the motorcycle (M.O.9). M.O.9, belonged to the accused and the deceased travelled in the same as a pillion rider. Even the owner of the Shop, (P.W.6) has stated that the accused and the deceased had come together, had cool drinks in his shop and then they left in the motorcycle (M.O.9). The bicycle of the deceased was parked in front of his shop with a milk can. Earlier, the deceased had gone to the co-operative society to sell the milk. That has been spoken by the employer of the co-operative milk society (P.W.10). Thus, from these evidences, it is crystal clear that lastly, just before the alleged occurrence, the deceased was found in the company of the accused and the accused had carried him in his motorcycle (M.O.9).

32. According to P.W.13, around 8.00 pm, the accused alone was found leaving in his motorcycle (M.O.9) and at that time, there were blood stains on his dress. There is also evidence that the accused drove the motorcycle (M.O.9) taking the deceased into the sugar cane field. The said fact has been spoken by P.W.12. Thus, from this evidence, the prosecution has clearly established that the deceased was in the company of the accused at or about the time of the occurrence exclusively and thereafter, the accused alone was found leaving the place of occurrence. It was only thereafter, the accused had informed P.W.1 about the lying of the dead body at the place of occurrence, in an attempt to escape from the clutches of law. The recovery of material objects on the disclosure statement made by the accused more particularly, the blood stained clothes of the accused would add further strength to the case of the prosecution.

33. Now, let us consider the extra judicial confession. It is the case of the prosecution that the accused appeared before P.W.5 on 28.04.2014 at 7.00 am and made a voluntary confession vide Ex.P.5. In that confession, he has made a

complete narration of the entire occurrence. The learned counsel for the appellant would submit that the said confession cannot be true. The learned counsel would further point out that the accused had no reason to repose confidence in P.W.5, to make such a voluntary confession as he had no acquittance with him. Though attractive, this argument does not persuade us. In Ex.P.5 - the extra judicial confession itself, the circumstances under which, he had chosen to appear before P.W.5 to make a confession have been stated by the accused. It is the law that if an extra judicial confession inspires the confidence of the Court that by itself can be the foundation to convict the accused, even in the absence of any corroboration from any other source. It is only in a case where, the extra judicial confession is shrouded with any doubt, the same needs corroboration from independent sources. But in this case, in our considered view, the extra judicial confession (Ex.P.5) inspires the fullest confidence of the Court and thus, it does not require any corroboration. However, the proved circumstances about which we have dealt with herein before clearly adduce sufficient corroboration to the said extra judicial confession.

34. The Doctor who conducted autopsy (P.W.14) has stated that the death of the deceased was due to shock and haemorrhage due to the injuries found on the body of the deceased. Thus, the death of the deceased was a homicide.

35. In view of the foregoing discussions, we hold that the prosecution has proved all the circumstances projected by the prosecution and these proved circumstances form a complete chain, which, in our considered view, unerringly and un-mistakenly would go to prove that it was this accused who had taken the deceased in his motorcycle (M.O.9) to the sugar cane field belonging to P.W.1 and killed him. The trial Court was thus right in holding that the accused had committed the murder of the deceased.

36. In our considered view, the trial Court was right in convicting the accused for offence under Section 302 I.P.C. We do not find any perversity in the judgement of the trial Court warranting interference at the hands of this Court. The quantum of punishment imposed by the trial Court also cannot be stated to be disproportionate. Thus, we do not find any merit in this appeal.

37. In the result, the Criminal Appeal fails and accordingly, the same is dismissed. The conviction and sentence imposed by the trial Court are confirmed.

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