

Seenu @ Srinivasan Vs. State Represented By

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Court : Chennai

Decided On : Sep-04-2015

Judge : S.Nagamuthu

Appellant : Seenu @ Srinivasan

Respondent : State Represented By

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED :

04. 09.2015 CORAM THE HONOURABLE MR.JUSTICE S.NAGAMUTHU AND THE HONOURABLE MR.JUSTICE V.S.RAVI CrI.A(MD)No.2 of 2009 Seenu @ Srinivasan .. Appellant/ Accused No.3 Vs. State represented by The Inspector of Police, Kallaperambur Police Station, Thanjavur District. (Crime No.140 of 2004) .. Respondent/ Complainant PRAYER: Criminal Appeal filed under Section 374(2) of Cr.P.C. praying this Court, to set aside the conviction and sentence imposed upon the appellant/accused No.3 in S.C.No.223 of 2007 dated 01.12.2008, on the file of the learned I Additional Sessions Judge(Protection of Civil Rights), Thanjavur. For appellant : Mr.V.Kathirvelu, Senior Advocate for Mr.A.Thiruvadi Kumar For Respondent : Mr.A.Ramar Additional Public Prosecutor :

JUDGMENT

(Judgment of the Court was made by V.S.RAVI, J.) The appellant is the third accused in Crime No.140 of 2004, in S.C.No.223 of 2007 on the file of the learned

I Additional Sessions Judge(Protection of Civil Rights), Thanjavur. The Lower Court, by judgment dated 01.12.2008, convicted him and sentenced him to undergo Life Imprisonment and also imposed fine of Rs.5,000/- and, in default, to undergo three years Simple Imprisonment for the offence under Section 302 r/w 34 I.P.C and the accused Nos.1 and 2 and Accused Nos.4 to 7 are acquitted from all charges and the accused Nos.1 and 4 are set at liberty and the accused No.2 and accused Nos.5 to 7 are set at liberty, if their custody is not required in any other case. Further, the cases with regard to the other accused Raja Sekeran and the other accused Karthik @ Pallu Karthi have been split up. Challenging the said judgment passed in S.C.No.223 of 2007, the appellant/accused No.3 in Crime No.140 of 2004 in S.C.No.223 of 2007 is before this Court with this present appeal and he has been enlarged on bail as per the order of this Court dated 16.02.2010.

2.The brief case of the prosecution is as follows; There arose a previous enmity between the deceased and the accused No.1 and all the other accused have been engaged by the accused No.1 and all of them have conspired to murder the deceased and on 28.11.2004 at about 11.45A.M, when the deceased Periyal @ Dharmadurai has done the work of fishing near Singaperumal Tank, accused Nos.2 to 9 came with deadly weapons and accused Nos.2 to 5 came with long sword known as return sword and accused Nos.6 to 9 came with sickle and cut the deceased in various parts of the body near Singaperumal Tank. Further, the accused No.2 has also attacked the P.W.3 Siddharthan with the sword who has come to rescue the deceased and the accused No.3 has cut on the hand of P.W.4 Manoharan, who has prevented the attack caused to the deceased and the accused have caused murder to the deceased and thereby the appellant / accused No.3 has committed the offence liable for punishment under Section 302 r/w 34 I.P.C. 2.1. In order to prove the case of the prosecution, the prosecution has examined 21 witnesses as P.W.1 to P.W.21 and also marked 18 exhibits as Ex.P.1 to Ex.P.18 and also Material Objects as M.O.1 to M.O.24. 2.2. P.W.1, Thangadurai is the brother of the deceased and he has spoken about the occurrence and also, about the lodging of the complaint as per Ex.P.1 with Kallaperambur police station. P.W.2, Samy (a) Palanivel, P.W.5, Renald Reegan and P.W.6 Sundararajan have also spoken about the occurrence and P.W.7, Sakthi @ Sakthivel has identified M.O.1 Aruval and P.W.9 Ansan and P.W.10

Selvam have seen the accused with Aruval on the date of occurrence. Further, P.W.11, Suresh Pandian has stated about the previous enmity between the deceased and the first accused and also stated that two days after the dispute, the deceased Periyal has been murdered. P.W.12, Dr.Malarvizhi has issued X-Ray Report for P.W.3 Sidharthan as per M.O.3 and P.W.13 Dr.Subbaiyan has issued Accident Register of P.W.3 Sidharthan as per Ex.P.2. P.W.14, Dr.Vijayalakshmi has conducted Postmortem on the dead body of the deceased Periyal @ Dharmadurai and issued Postmortem Certificate as per Ex.P.4. Further, P.W.15, Karthikeyan has also stated that the deceased has worked under him and also about the occurrence. P.W.16, Thangaraj has worked along with the first accused in Trichy Government Hospital and he has also spoken about the leave taken particulars of the first accused. P.W.17, Arumugham has taken photos with negatives of the deceased as per M.O.4(series). P.W.18 Murugesan has stated about attestation made in the Observation Magazar as per Ex.P.5 and Seizure Magazar as per Ex.P.6 and also, about the recovery of the M.O.Nos.5 to 15 in his presence. P.W.3, P.W.4 and P.W.8 have been treated as hostile witnesses. Further, P.W.19, Rethinasamy, Village Administrative Officer has stated about the signatures made in the confession statement given by the other accused Pallu Karthi as per Ex.P.8 and also, about the recovery of M.O.16, the sword measuring 67cm in the Magazar as per Ex.P.9 and also about the recovery of the other swords in the Magazars as per Ex.P.10 and Ex.P.11. Ex.P.12 is the admissible portion of the confession statement. Further, the P.W.20,Thiru. Saravanan, Sub Inspector of Police has stated that he has received the Ex.P.1 complaint from P.W.1 Thangadurai and registered a case in Crime No.140 of 2004 under Section 147, 148, 324, 307 and 302 I.P.C and Ex.P.13 is the F.I.R and he has submitted the said F.I.R to the Court through Thiru.Beemaraj, Head Constable. P.W.21, Thiru.T.Natarajan, Inspector of Police has conducted further investigation in the present case and he has prepared Observation Magazar and Rough Sketch as per Ex.P.5 and Ex.P.14 respectively and he has also recovered the material objects in the Magazar as per Ex.P.6 and Ex.P.7 and he has also prepared Inquest Report as per Ex.P.15 and after conducting Postmortem, he has submitted the M.O.Nos.17 to 21, namely, the dresses of the deceased to the Court and he has enquired the P.W.14, Dr.Vijayalakshmi, who has conducted Postmortem on

the dead body of the deceased and received the Ex.P.4 Postmortem Certificate and he has received the confession statement from the other accused Pallu Karthick and he has recovered M.O.2(series) and M.O.16 in the Magazar as per Ex.P.9 and he has received the confession statement from the third accused Seenu @ Srinivasan and he has also received the confession statement from the fourth accused Koothaselvam and the Ex.P.12 is the admissible portion of the confession statement and he has recovered the M.O.22 in the Magazar as per Ex.P.10 and he has recovered M.O.23 and M.O.24 in the Magazar as per Ex.P.11 and Ex.P.16 is the admissible portion of the confession statement given by the sixth accused Balu. Further, Ex.P.17 is the Serology Report and Ex.P.18 is the Biology Report and after completing the investigation he has filed Final Report on 28.02.2005, in the present case.

3. On completion of the evidences on the side of the prosecution, the accused have been questioned under Section 313Cr.P.C., as to the incriminating circumstances mentioned in the evidences of prosecution witnesses and he has stated that he is an innocent and he is not involved in the case.

4. Having considered all the above materials on record, the trial Court has convicted the third accused/appellant, as mentioned in the beginning of this judgment and challenging the said judgment, the appellant has come forward with the present appeal.

5. It is stated in the Grounds of Appeal, that the judgment of the Trial Court is against law, weight of evidence and opposed to the probabilities of the case. The evidences of eyewitnesses are contradictory with regard to the assailants and their individual overt act. P.W.20 has admitted about the alteration in the complaint, however, the prosecution has not explained about the alteration in the complaint. P.W.3 and P.W.4 have turned hostile witnesses and their statement to the Doctor is to the effect that they have been attacked near Kalyana Mandapam and as such the prosecution submission that the witnesses have been attacked near pond is unreliable. The occurrence has been witnessed by many independent witnesses, but, in fact, only P.W.1 the brother of the deceased and P.W.2, 5, 6 and 7 who are the friends of the deceased only have been examined and the prosecution is not

clear about the scene of occurrence. The identification parade has not been conducted by the prosecution and the eyewitnesses have admitted that the accused are not known to them, and they have seen them in the Court for the first time, after the occurrence.

6. The points that arise for consideration in the present Criminal Appeal are as follows:- i) Whether the Lower Court has passed the impugned judgment, after properly appreciating the materials on record, in the proper perspective?. ii) Whether the Criminal Appeal has to be allowed for the reasons and grounds stated in the Memorandum of Appeal and also for the submissions made on behalf of the appellant?.

7. Analysis, discussions and findings with regard to the above mentioned points:- The learned senior counsel for the appellant has vehemently contended that the prosecution case has suffered from serious infirmities and inconsistencies and the evidences of the prosecution cannot be believed and also not acceptable, as there are vital contradictions in the evidences of the prosecution. Further, the learned senior counsel for the appellant has submitted that because of the vital contradictions, which are material, the appellant is entitled for acquittal. He has also pointed out about, certain other contradictions in the evidences of the prosecution and also referred to the reasons mentioned in the Memorandum of Appeal. Further, the learned senior counsel for the appellant has submitted that the conviction and sentence imposed on the appellant is not sustainable.

8. Per contra, the learned Additional Public Prosecutor has submitted that the crime is committed so brutally by the appellant/accused and that the complete chain of evidences of eyewitnesses have been established by the prosecution, which leads to the only inference of the appellant's guilt. There is no ulterior motive for the witnesses to falsely implicate the appellant for this heinous crime. He has further submitted that all the evidences of the eyewitnesses, exhibits and material records produced by the prosecution have proved beyond all reasonable doubts clearly about the crime committed by the appellant and thus, complicity of the accused in the said crime has been proved. Therefore, the appellant should be punished, he contended.

9. P.W.1, Thangadurai has manifestly deposed in his evidence that he is the brother of the deceased Periyal @ Dharmadurai and on 28.11.2004 at 11.45A.M, due to the previous enmity between the first accused Guna and the deceased, with regard to the case pending, the first accused and all other accused have assaulted the deceased Periyal @ Dharmadurai in various parts of his body, with swords and the deceased has died in the ditch, and the occurrence has taken place at the eastern side of Singaperumal Tank and the P.W.3 Sidharthan and P.W.4 Manoharan have also sustained injuries due to the assault caused by the accused and P.W.1 has gone to Kallaperambur police station and lodged the complaint as per Ex.P.1 and M.O.1 and M.O.2(3) are Aruvals. Further, the P.W.1 has undoubtedly stated in his evidence that the third accused Seenu @ Srinivasan has assaulted on the head of the deceased. The evidence of the P.W.2, Sami @ Palanivel has also corroborated with the evidence of P.W.1. Further, P.W.2 has also pointed out in his evidence that the third accused has assaulted the deceased on the date of occurrence. Further, the evidences of the P.W.5, Renold Reegan, P.W.6, Sundararajan and P.W.7 Sakthi @ Sakthivel have also corroborated with the evidences of P.W.1 and P.W.2.

10. Further, P.W.9, Anson and the P.W.10, Selvam have also deposed in their evidences that on the date of occurrence they have seen the accused with Aruval at the place of occurrence. Further, P.W.11 Suresh Pandian has undeniably deposed that the deceased has worked under him and he came to know about the murder of the deceased Periyal on the date of occurrence. Further, P.W.12, Dr.Malarvizhi has pointed out in her evidence that on the date of occurrence, she has taken X-Ray to P.W.3, Sidharthan and she has issued X-Ray Film as M.O.3. Further, P.W.13, Dr.Subbaiyan has clearly deposed about X-ray taken for the said Sidharthan, and also about the issuance of the Accident Register as per Ex.P.2 and he has certified in the Ex.P.2 Accident Register that P.W.3 Sidharthan has got grievous injuries. P.W.14, Dr.Vijayalakshmi has specifically deposed that on 29.11.2004, she has conducted Postmortem on the dead body of the deceased Periyal @ Dharmadurai and issued Postmortem Certificate as per Ex.P.4 and she has also pointed out in the Postmortem Certificate of Ex.P.4, the following injuries. ?.External Injuries:- 1) A transversely wide gaping cut wound 30 x 3cm ?. skull cavity deep noted encircling the anterior half of the head involving the frontal and

both temporo parietal regions. 2) Cut wound 9 x 1cm ?. skull cavity deep over the left temporo-parietal region just below wound No.1. 3) Cut wound 18 x 2cm ?. skull cavity deep involving the frontal, temporo-parietal region on the left side. 4) Cut wound 17 x 1cm ?. skull cavity deep over the left temporo-parietal region situated just below wound No.3. 5) Cut wound 6 x 1cm ?. bone deep over the left parieto-occipital region. 6) Cut wound 6 x 1cm ?. bone deep over the left mastoid region. On dissection cut fracture of left mastoid noticed underneath. 7) Cut wound 12 x 6cm ?. bone deep involving the upper 2/3 of left cheek, the skin and muscles found missing exposing the maxilla. 8) Transversely placed gaping out wound noted involving both cheeks and nose 22 x 2 x 7cm situated 1cm above the alveolus of nose on dissection fracture of maxilla and nasal bone found cut. 9) Transversely placed cut wound 10 x 2 x 2cm noted over the angle of mouth on the left side found extending laterally up to angle of mandible. On dissection cut fracture of mandible just below the left side of angle of mandible. 10) Oblique cut wound 6 x 2 + ?. bone deep noted involving the front and left side of chin. On examination a chip of bone + x + x , cm in size found chipped off from the body of mandible underneath and found adherent to surrounding muscles. 11) Four patterned abrasions over an area of 5 x 3cm noted over the right side of upper lip extending to right cheek. Each abrasion is found to be 3/4cm broad with interruption just less than + cm. 12) Cut wound 10 x + x muscle deep noted across the sole of left heel near its posterior end. 13) Cut wound 4 x 1cm ?. muscle deep ?. just above the front of left knee. 14) An amputating cut wound noted at the level of left wrist completely separating the left hand at the level of wrist. Another amputating cut wound over the palmar aspect of left thenar separating the left thumb and 4 cut wounds over the palmar aspect one on each finger noted over the proximal phalanx of left little ring, middle finger and distal phalanx of left little finger. 15) Two cut wounds 5 x 2cm ?. muscle deep and 3 x 1 +cm muscle deep noted over the lateral aspect and back of lower 3rd of left forearm. 16) Multiple scratch abrasions sizes ranging from 18 x , cm to 10 x , cm noted involving medial aspect of lower half of right thigh, front of chest, back of right shoulder and lateral aspect of upper 3rd of left thigh. Internal Injuries:- 17) On opening the skull cap, a cut injury 8 x 8 x + cm slicing the superior surface of both frontal lobes corresponding to external injury No.1 noted with corresponding dural cut. 18) On

examination of the base of the skull multiple comminuted fracture with cut fractures, noted involving the left middle cranial fossa and posterior cranial fossa on the left side. Opinion:- The deceased would appear to have died of shock and haemorrhage due to multiple cut injuries involving the vital organ ?. Brain.

2. All the injuries are antemortem in nature.

3. Death would have occurred 12 to 36 hours prior to autopsy.?

11. Further, P.W.15, Karthikeyan has undeniably deposed about the previous enmity between the first accused Guna and the deceased and both of them are known to him and the first accused has informed about the said dispute before Deepavali festival in the year 2004 and two days, thereafter, he came to know about the murder of the said deceased. Further, P.W.16, Thangaraj undoubtedly deposed that he has worked at Trichy Government Hospital and the first accused has also worked in the same hospital and he has stated about the leave taken particulars of the first accused to the police. Further, P.W.17, Arumugham has manifestly deposed that on 28.11.2004 at 1.30P.M, he has taken photos of the deceased and M.O.4(series) is the photos with negatives of the deceased. Further, P.W.18, Murugesan has specifically deposed that on the date of occurrence, he has signed in the Observation Magazar as per Ex.P.5 and Seizure Magazar as per Ex.P.6 and the police have also recovered the knife as M.O.2 and M.O.5 to 15 in the Magazar as per Ex.P.7. Further, P.W.19, Thiru.Rethinasamy has pointed out that he has signed in the admissible portion of the confession statement given by the accused Pallu Karthick as per Ex.P.8 and the police have recovered the M.O.16 Sword as per Ex.P.9 and the police have also recovered the swords in the Magazar as per Ex.P.10, Ex.P.11. The Ex.P.12 is the admissible portion of the confession statement given by the fourth accused. P.W.20, Thiru.Saravanan, Sub Inspector of Police has evidently deposed that on 28.11.2004 at 13.00 hours, he has received the Ex.P.1 complaint from the P.W.1 and registered a case in Crime No.140 of 2004 under Sections 147, 148, 324 and 307 and 302 I.P.C and he has also submitted the F.I.R to the Court through one Thiru.Beemaraj, Head Constable and Ex.P.13 is the F.I.R.

12. Further, P.W.21, Thiru.Natarajan, Inspector of Police has undoubtedly deposed that on 28.11.2004, he has received the Ex.P.13, F.I.R and taken investigation in the present case and he has prepared Observation Magazar as per Ex.P.5 and Rough Sketch as per Ex.P.14 and he has recovered the material objects in the Magazar as per Ex.P.6 and he has also recovered the M.O.2, M.O.13 to M.O.15 in the Magazar as per Ex.P.7 and also he has prepared the Inquest Report as per Ex.P.15 and on 29.11.2004, after conducting the Postmortem, he has submitted the M.O.17 to M.O.21, namely, the dresses of the deceased to the Court and he has also enquired the P.W.14 Postmortem Doctor and recorded the statement and on 9.12.2004, he has also recovered the M.O.2(series) and M.O.16 in the Magazar as per Ex.P.9 and he has also recovered the M.O.22 Aruval in the Magazar as per Ex.P.10 and Ex.P.16 is the admissible portion of the confession statement given by the sixth accused Balu and he has also recovered the M.O.23 and M.O.24, namely, Aruvals in the Magazar as per Ex.P.11. Further, P.W.21 has also manifestly enquired the P.W.12 and P.W.13, who have given medical treatment to P.W.3 and P.W.4 and received the Ex.P.2 and Ex.P.3 Accident Registers of P.W.3 and P.W.4 respectively and Ex.P.17 is the Serology Report and Ex.P.18 is the Biology Report and after the completing the investigation, he has evidently filed the Final Report on 28.02.2005. Though, P.W.3, P.W.4 and P.W.8 have been treated as hostile witnesses, there is no serious infirmity in the case of the prosecution and the prosecution versions do not suffer from the manifest error.

13. Further, the learned senior counsel for the appellant appearing on behalf of the appellant / accused has submitted that when several independent witnesses are available, the prosecution has purposely chosen to examine P.W.1 and P.W.2 who are the brother and friend of the deceased Periyal. Further, as rightly pointed out by the Lower Court, it is highly difficult for the witnesses, who have seen the brutal attack in a sudden manner, to give exact manner of attack and the part where the particular injury has been inflicted by each of the accused. Further, when the prosecution witnesses have encountered such a brutal attack unexpectedly caused on the deceased by the third accused and no man of ordinary intelligence could give exact version that in which part of the body of the deceased, particular attack has been carried out and it is highly difficult to give exact nature of injuries

suffered by the deceased Periyal and also to get independent witnesses from the public, for the above mentioned reasons. Further, as correctly pointed out by the Lower Court, since the deceased and the first accused Guna are involved in criminal cases, the P.W.3 and P.W.4, have turned hostile witnesses, and also independent witnesses from the public also cannot be expected, especially due to the criminal background of the deceased, as well as some of the accused. Further, the injuries on the deceased have been clearly substantiated by the medical evidences and also as per the Ex.P.4 Postmortem Certificate and the Accident Register copies of Ex.P.2 and Ex.P.3 issued to P.W.3 and P.W.4 and also by the evidences of P.W.12, Dr.Malarvizhi and P.W.13 Dr.Subbaiyan. Further, as per the Ex.P.14 Rough Sketch and also as per the statements made by the prosecution witnesses, it is clearly established that the occurrence has taken place only near Singaperumal Tank, and thereafter, the deceased has gone for certain distance, and fallen down near the 3rd Street, as pointed out in the said Rough Sketch. Further, the participation of the other absconding accused Pallu Karthi and the third accused Seenu @ Srinivasan, in the attack, has been undoubtedly established by the materials on record and also by the above mentioned witnesses and the presence of the appellant/third accused has been clearly established and also the injuries caused to the deceased on the various parts of the body has been evidently established by the materials on record. Further, the minor insignificant variations in the case of the prosecution, with regard to the nature of injuries cannot erase the genesis of the occurrence. Further, the P.W.14, Dr.Vijayalakshmi, has evidently pointed out about the 16 cut external injuries in the body of the deceased as per the Postmortem Certificate, Ex.P.4 and the evidences of P.W.1 and P.W.2 have clearly pointed out the overt act of the appellant, for causing injuries on the deceased. Further, the P.W.14 has also specifically pointed out that the nature of cut injuries on the body of the deceased.

14. Further, the material documents, records and evidences have clearly substantiated beyond reasonable doubt about the crime committed by the appellant and therefore, the order of the Lower Court is not liable to be set aside. Further, it is pertinent to point out that the evidences of P.W.1 and P.W.2 are natural and trustworthy and it cannot be discarded as interested witnesses. Further, P.W.1 and P.W.2 are natural eyewitnesses and their evidences are

consistent and corroborative with the Ex.P.1 complaint and the same cannot be brushed aside and their evidences are also corroborated by the medical evidences. Further, the evidences of P.W.1 and P.W.2 are corroborated by other contemporaneous materials collected, during the course of investigation. Further, the correction pointed out on behalf of the appellant in Ex.P.1, complaint, as to the description of street, cannot be a ground to show that no occurrence has taken place and certainly, it does not go to the root of the case. The prosecution has investigated the case in detail including the motive part. Further, P.W.1 has categorically deposed that he has seen the occurrence and the appellant herein has brutally assaulted the deceased and he has also identified the appellant in the Open Court, at the time of giving evidence.

15. Further, it is seen that the reasons pointed out on behalf of the appellant in the Grounds of Appeal are not acceptable for the above mentioned material evidences and acceptable records submitted on behalf of the prosecution side. Further, the prosecution has proved beyond reasonable doubt, with regard to the recovery of the body of the deceased Periyal, other things like recovery of dresses of the deceased and other material objects. Further, on a careful scrutiny of the entire materials on record, it is found that the case of the prosecution has been established with material evidences and also corroborated by the materials on record and also established the nexus of the appellant herein with the said crime. Further, the evidences of the prosecution witnesses are believable and acceptable, to convict the appellant herein, and there are no vital contradictions in the evidences of the prosecution prime witnesses.

16. The Lower Court has rightly observed that the witnesses examined and material objects produced by the prosecution are inspiring confidence to assert the guilt of the third accused / appellant. There is no material deficiency in the evidences of eye witnesses. Certainly, the practices and principles that served in the past must give way to innovative and creative methods in order to save our criminal justice system. Further, the emergence of new types of crimes and their level of sophistication have made in the necessity of new methods in crime detection. While assessing and evaluating the materials on record of the present case, it is seen that the case of the prosecution is probable and reliable. Further, it

is seen that the Lower Court Judgment does not suffer from any material infirmity. Further, the Lower Court has passed the Judgment on proper appreciation of evidences and also furnished cogent reasons for convicting the appellant herein. Therefore, there is no good reason for this Court to interfere with the judgment of the Lower Court. Further, it is seen that the view taken by the Lower Court is a reasonable view and well reasoned Judgment has been passed by the Lower Court and it cannot be said that the view of the Lower Court is not a reasonable conclusion on facts and also on law.

17. In this connection, it is useful to refer to the decision reported in AIR 1992 SC840 State of UP Vs. Ashok Kumar Srivastava : wherein it is clearly observed as follows: ?. The circumstance relied upon must be accepted. The circumstance relied upon must be found to have been fully established and the cumulative effect of all the facts is established must be consistent only with the hypothesis of guilt. But this is not to say that the prosecution must be consistent only with the hypothesis of guilt. But this is not to say that the prosecution must meet each and every hypothesis put forward by the accused however far fetched and fanciful it might be. Nor does it mean that prosecution evidence must be rejected on the slightest doubt because the law permits rejection if the doubt is reasonable and not otherwise.?. In the present case also, it is seen that the evidences of the above mentioned prosecution witnesses, exhibits and material objects are quite natural, reasonable, believable and acceptable to convict the appellant herein, and nothing, very much material, brought on record to ignore them. There are valid, cogent, convincing, corroborative evidences to support the case of the prosecution and also to convict the appellant herein.

18. Further, the learned senior counsel appearing for the appellant has vehemently contended that all the circumstances are inconsistent with the appellant / third accused and the evidences of prosecution witnesses and materials are very doubtful in the present case. However, on a cumulative consideration of the above mentioned entire evidences of the prosecution and also exhibits and material objects, it is found that the prosecution has established the allegation made against the appellant by producing the reliable, trustworthy and credible witnesses, exhibits and material objects, in the present case. Further, the

learned senior counsel appearing for the appellant has repeatedly contended that there is no positive and supportive evidences with regard to the allegations made by the prosecution as against the appellant. Further, it is settled law that if the Lower Court has not ignored material and relevant fact or the Lower Court has not misread the material evidences or ignored material records, then the Appellate Court is not competent to reverse the decision of the Lower Court. In the present case also, it is seen that the prosecution has established the chain of circumstances and also the allegations brought against the appellant, are sufficiently proved and established.

19. On a careful scrutiny of the entire materials available on record, it is found that the reasons given by the Lower Court for conviction of the third accused is fairly sound. Further, the finding given by the Lower Court is in accordance with proper appreciation of evidences and also the view taken by the Lower Court is reasonable.

20. In the result, the judgment of the learned I Additional Sessions Judge(Protection of Civil Rights), Thanjavur, passed in S.C.No.223 of 2007 dated 01.12.2008 is confirmed and the Criminal Appeal is dismissed. Consequently, the Lower Court is directed to secure the accused No.3/appellant/Seenu @ Srinivasan in Crime No.140 of 2004 in S.C.No.223 of 2007 and convict him to undergo the remaining period of sentence and the bail bonds executed by the appellant shall stand cancelled. To 1. The I Additional Sessions Judge(Protection of Civil Rights), Thanjavur.

2. The Inspector of Police, Kallaperambur Police Station, Thanajvur District.

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

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