

**Thangavel Vs. the State**

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**Court :** Chennai

**Decided On :** Feb-28-1997

**Reported in :** 1998CriLJ546

**Judge :** M. Karpagavinayagam and ;S.M. Sidickk, JJ.

**Acts :** [Indian Penal Code \(IPC\), 1860](#) - Sections 300 and 302

**Appeal No. :** Criminal Appeal No. 640 of 1987

**Appellant :** Thangavel

**Respondent :** The State

**Advocate for Def. :** S. Anbalagan, Addl. Public Prosecutor

**Advocate for Pet/Ap. :** K.S. Ramachandran and ;S.N. Thangaraj, Adv.

**Judgement :**

**M. Karpagavinayagam, J.**

1. This appeal is directed against the judgment in S.C. No. 62 of 1987 on the file of the Sessions Judge, Anna District at Dindigul, convicting the appellant Thangavel for the offence under Section 302 I.P.C. and sentencing him to undergo imprisonment for life on the allegation that on 24-7-1986 the deceased Veeramani, a girl aged about 14 years, who was studying in the High School at Oddanchatram

returned to her village Rayagoundanpudhur at 4.45 P.M. by town bus and got down at Rayagoundan Pudurvilakku bus stop along with her schoolmate P.W. 3, and others and that the accused and the deceased Veeramani stopped near Kalikattappu and then the appellant took Veeramani to the eastern side and pushed her down and hit on her head with heavy stone resulting in her instantaneous death.

2. The short facts leading to the conviction need narration.

(a) P.W. 1 Shanmughavel is the father of the deceased Veeramani. He is residing in Rayagoundanpudhur village with his family. The appellant is the sister's son of P.W. 1 Shanmughavel, who is hailing from Chinna-goundanvalasu village. P.W. 3 Kavitha, a resident of Rayagoundanpudur village, aged about 10 years is the schoolmate of the deceased Veeramani. P.W. 2 Chellammal is the grand-mother of P.W. 3, residing at Thirumalai Rayapuram village. The deceased Veeramani was studying IX Standard in the Girls High School at Oddanchatram. P.W. 3 Selvi Kavitha also was studying in the same school. Both the deceased Veeramani and P.W. 3 Kavitha used to leave from the village for the school at about 7.45 a.m. and get the bus to go to Oddanchatram High School. After school hours, both would come back home through the town bus at about 5.00 p.m.

(b) The fateful occurrence took place on 24-7-1986. As usual on the said day the deceased Veeramani and P.W. 3 Kavitha both left for the school at about 7.45 A.M. from the village. At about 4.00 P.M. after the school hour was over, both the deceased and P.W. 3 came to the bus stop at oddanchatram and got into the town bus No. 11. In the bus P.W. 2 Chellammal, the grand-mother of P.W. 3 was also travelling in order to go to Rayagoundan Pudhur village to visit her daughter's house. Along with them one Krishna Achari, and the appellant also were travelling. In Malaimedu bus stop, all the five persons got down. Then they proceeded in the cart track towards northern side to go to Rayagoundanpatti village. P.Ws. 2, 3 and Krishna Achari were going in advance. The deceased Veeramani and the appellant followed them talking with each other. At a short distance from the bus stop near Kallikattappu, the deceased Veeramani and the appellant stopped. P.W. 2 Chellammal and P.W. 3 Kavidha, both called the deceased Veeramani to come

home. But the deceased told them, that she would talk to the appellant, then come home, and asked P.Ws. 2 and 3 to proceed.

(c) P.W. 1 Shanmugavel, father of the deceased, at 6.00 P.M., since the deceased did not return home on suspicion went to the house of P.W. 3 and enquired about his daughter. P.W. 3 Kavidha and P.W. 2 Chellammal told P.W. 1 that the deceased Veeramani, while on her way to home, she was talking with a young man, aged about 25 years and asked them to go home, stating that she would come later, after talking with the said young man. Then, P.W. 1 went in search of his daughter Veeramani.

(d) When he reached the Kallikattappu, he met one Murugesan, who told P.W. 1, that his daughter Veeramani was lying dead with injuries on the east Kallukuttaiparai. He also stated that he was instructed by P.W. 4 Sankarappan to inform this to P.W. 1. P.W. 1 immediately rushed to the scene and found his daughter Veeramani lying dead with injuries on her head. P.W. 4 Sankarappan also was there, near the dead body. A big stone (M.O. 1) and a small stone with bloodstains were found near the dead body. Plastic wire bag (M.O. 2), note books, tiffin box (M.O. 3) were all lying scattered near the deceased. Then, P.W. 1 requested P.W. 4 Sankarappan and Murugesan to be near the dead body, stating that he would go to the police station for giving complaint. It was then at 6.45 P.M.

(e) P.W. 14-Duraipandi, was the Sub-Inspector of Police in Ottanchatram police station. At 8.00 P.M., on 24-7-1986, P.W. 1 gave oral statement to P.W. 14, which was reduced to writing and the signature of P.W. 1 was obtained thereon. Ex. P1 is the complaint. A case was registered in Cr. No. 455 of 1986, under Section 302, I.P.C. Ex. P11 is the printed F.I.R. P.W. 14 sent these documents to the Court, as well as to the senior officials.

(f) At about 8.30 P.M., on the same day, P.W. 18-Inspector of Police, on receipt of information sent by P.W. 14-Sub-Inspector of Police, along with police party went to the spot at 9.00 P.M. He prepared Ex. P2-observation mahazar attested by P.W. 7 and another. P.W. 18 drew rough sketch-Ex. P20. Then he arranged to take photographs through P.W. 15. M.O. 26 is the negatives and M.O. 27 is the photos.

(g) Between 10.00 P.M., on 24-7-1986 and 3.00 A.M., on 25-7-1986, P.W. 18, held inquest over the dead body and examined P.Ws. 1 to 5 and one Krishnan Asari and Murugesan. Ex. P21 is the inquest report. At 3.15 A.M., on 25-7-1986, P.W. 18 recovered M.O. 1-big stone, M.O. 2-wire basket, M.O. 3-eversilver tiffin box, M.O. 4 series-text books, M.O. 5 series-note books, M.O. 12 series-star geometry box with a pen, pencil, rubber and scale, M.O. 14-bloodstained earth, M.O. 15-sample earth, M.O. 16 bloodstained stone pieces, M.O. 17-used beedies, M.O. 18-half burnt match stick, M.O. 19 series-one rupee coins, M.O. 20-one five rupee note and M.O. 21-one ten rupee note, under Ex. P3 mahazar.

(h) On examination of these witnesses during the course of inquest and preparation of these documents, since P.W. 18 felt that an offence under Section 376, I.P.C., was also committed by the culprit he sent a report-Ex. P22 to the Court, for adding Section 376, I.P.C., in this case. Then at about 5.20 A.M., he handed over the dead body to P.W. 13-Police Constable, to take the same for post-mortem by Doctor.

(i) P.W. 13-Police Constable, at about 5.25 A.M., on 25-7-1986 handed over the dead body to Doctor for post-mortem. P.W. 11-Doctor Rajalakshmi, attached to Government Hospital, Dindigul, conducted autopsy, over the dead body at about 10.30 A.M., on 25-7-1986. She found the following ante-mortem injuries :-

1. Lacerated injury 1 cm x 6.5 cm x bone deep.

2. Lacerated injury 1 cm x 0.5 cm. x 0.5 cm lateral aspect of left eye brow.

3. Lacerated injury 1 cm x 1 cm x 0.5 cm. left temporal region.

4. Lacerated injury 1 cm x 0.5 cm x 0.5 cm left temporal occipital region.

5. Abrasion right scapular region at the back 3 cm x 1 cm. Left eye-lids were congested and swollen up, on opening skull haematoma present under the scalp over right temporal region.

Stellate fracture seen over the temporal bone-right-covering the whole right temporal bone. Subdural haematoma present. Blood in the brain matter present.

Fracture occipital bone over right side present. Laceration of right temporal lobe of brain present.

Pale stomach-250 grams empty liver 900 cms pale spleen 50 grams. Kidneys each-100 grams uterus smaller than normal size.

Vaginal examination : Pubic hair sparse.

Hymen absent : No injuries over the genitals.

No bloodstain : Vaginal orifice easily admits two fingers.'

She issued Ex. P8-post-mortem certificate. P.W. 11 was of the opinion that the deceased would appear to have died of head injury about 16 to 24 hours prior to post-mortem. She also gave Ex. P9-certificate, after receiving the chemical analysis report, stating that there was no evidence of recent intercourse.

(j) After the post-mortem was over, P.W. 13-Police Constable recovered the clothes of the deceased M.Os. 6 to 9, a plastic bangle-M.O. 10, a black thread-M.O. 11 and a pair of gold ear studs-M.O. 13 series, from the dead body, and handed over the same at the police station.

(k) In the mean time, P.W. 18 examined P.W. 8, who stated that he saw the appellant at about 5.30 P.M., near Ramalingaswamy Madam, with bloodstained shirt and dhoti. On the basis of this statement, P.W. 18, took steps to arrest the accused, but he was absconding.

(l) However, on 26-7-1986, at about 2.00 P.M., P.W. 18, arrested the appellant at Vettaikaran temple near Porulur, in the presence of P.W. 9. On his being interrogated, he produced one yellow bag (M.O. 25) contained M.O. 22-bloodstained shirt, M.O. 23-dothi, which were worn by him at the time of occurrence, and M.O. 24-bunch of beedies with red colour thread, numbering 16. They were recovered under Ex. P5 mahazar. During interrogation, the appellant gave a confession, the admissible portion of, which is Ex. P4. Then, P.W. 18, sent the appellant for potency test to the Hospital, on the same day.

(m) P.W. 12-Doctor Mohan, attached to Government Hospital, Dindigul, examined the appellant for potency test and gave opinion that the appellant was potent, and capable of performing intercourse. Ex. P10 is the potency certificate issued by him to the appellant. As per this certificate, the Doctor did not find any external injuries on the appellant.

(n) P.W. 18 sent all these M.Os. to the Court for being sent the same to Forensic Science Laboratory. P.W. 16-Court clerk, on receipt of these M.Os., and Ex. P12 requisition, on 28-7-1986, sent the same to Forensic laboratory with Ex. P13, the covering letter of the judicial Magistrate. Ex. P14 is the chemical analyst's report Ex. P18 is the serologist's report.

(o) Meanwhile, P.W. 18, sent a requisition to the Judicial Magistrate at Dindigul, to conduct identification parade. P.W. 17-Judicial Magistrate, Dindigul, in pursuance of the said requisition conducted identification parade on 4-8-1986 at about 3.00 P.M. He observed all the required formalities in the parade. P.W. 2 Chellammal, P.W. 3-Kavidha and P.W. 5-Nachimuthu, identified the appellant on all the three times. One Krishnan, who also participated in the identification proceedings, was able to identify the accused on two times. Ex. P19 is the identification parade proceedings.

(p) After completion of the investigation, P.W. 18-Inspector of Police filed the charge sheet on 9-1-1987 against the appellant for the offences under Sections 354, 376 read with 511 and 302 I.P.C.

3. On committal, the trial Court framed the charges against the appellant for the above offences, and read over the same to him. The appellant pleaded not guilty and claimed to be tried.

4. In proof of the above charges, the prosecution examined P.Ws. 1 to 18, filed Exs. P1 to P22 and marked M.Os. 1 to 27.

5. After the evidence was over, the appellant was questioned under Section 313, Cr. P.C., to explain the incriminating circumstances appearing against him in evidence brought on record, the appellant chose to deny his complicity in the

commission of crime. He further stated that P.W. 2-Chellammal and P.W. 3-Kavidha are known to him previously as they are his relations and that he was informed that Veeramani, his relative died, and so he along with his mother went to the house of the deceased in order to enquire about the death of the deceased, but he was taken to the police station, and a false case has been foisted against him. However, no evidence was adduced on the side of defence.

6. On termination of trial, the learned Sessions Judge, on meticulous analysis of the materials adduced by the prosecution, concluded that the offence under Section 302, I.P.C., was proved against the appellant beyond doubt, and dealt with him as referred above. However, since the materials are not sufficient to hold that the accused as guilty of the offence under Section 354 and Section 376 read with 511 I.P.C., the trial Court, acquitted the appellant in respect of the said charges.

7. Challenging this conviction and sentence, the appellant filed the present appeal before this Court.

8. Mr. Ramchandran, learned counsel representing Mr. K. M. Subramaniam, learned counsel for the appellants, took us through the entire evidence and contended that the evidence adduced by the prosecution is not reliable, and the materials could not be sufficient to come to the conclusion that the appellant is the culprit, and that this case which purely rests on the circumstantial evidence, did not have the links, forming complete chain of circumstances. It is further contended by learned counsel for the appellant, that there are so many flaws in the conduct of investigation, and infirmities in the testimony adduced by the witnesses, and therefore, the benefit of doubt must be given to the appellant, and as such so he is entitled to be acquitted.

9. Mr. S. Anbazagan, learned Additional Public Prosecutor would, per contra say that the materials produced by the prosecution would be sufficient to hold that the appellant alone had committed the murder of the deceased, and the various pieces of circumstantial evidence collected and produced by the investigating agency would form a complete chain giving out the hypothesis that the appellant alone is the perpetrator of the crime and liable to be punished under Section 302, I.P.C.

10. We have carefully scrutinized the evidence adduced by the prosecution, and considered the submissions made by both the counsel. There is no eye-witness to the occurrence in this case. The entire case rests upon the various pieces of circumstantial evidence.

11. It is well settled that in a case depending on circumstantial evidence, the prosecution must establish all the circumstances by independent evidence and the circumstances so established must form a complete chain in proof of guilt of the accused beyond all reasonable doubts. The circumstances so proved must also be consistent only with the guilt of the accused. The circumstances from which the conclusion of guilt is to be drawn should be fully established. The circumstances should be of conclusive nature, and there must be a chain of evidence, so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused. It must necessarily show that in all human probabilities, the act must have been done by the accused and the accused alone in the backdrop of this legal position, as pointed out by the Apex Court, on various occasions, we shall now endeavour to examine the various pieces of evidence available in this case.

12. There is no dispute regarding the fact that the deceased died due to homicidal violence. P.W. 11 Doctor would say that the external injuries as well as the internal injuries as found in body of the deceased would have caused by dropping a stone like M.O. 1, from one foot height. She further opined that the injuries are necessarily fatal. Therefore, it can be concluded that the deceased died out of the act of culprit, hitting on the head of the deceased by means of a stone. But the question to be decided, on the materials available, is as to whether the appellant could be said to have committed this offence.

13. There are three links to form the complete chain of circumstances found available in this case :

(a) The first link of circumstance is spoken to by PW 2 Chellammal, PW 3 Kavidha and PW 5 Natchimuthu relating to the aspect of having last seen the deceased alive in the company of the appellant.

(i) PW 2 Chellammal is the grandmother of PW 3 Kavidha. She belongs to Thirumalairayapuram village, situate at a distance of 20 K.Ms. from Rayagoundanpudur, to which both PW 3 Kavidha and deceased belong. Her daughter Palaniammal was married to one Muthusamy, father of PW 3. On the date of occurrence, PW 2 Chellammal left her village in a bus and came to Ottanchatram at about 3.00 p.m. From there, she boarded No. 11 town bus at 4.00 p.m., to proceed to Rayagoundanpudur. On its way the town bus stopped in the bus stop near the Girls High School at Ottanchatram. Her grand-daughter PW 3, the deceased Veeramani got into the town bus. The said bus stopped at Malaimettu bus stop, near Rayagoundanpudur. It was at about 4.45 p.m. PW 2, PW 3, the deceased Veeramani and an young man aged about 25 years, and one Krishnan Asari, alighted from the bus, and they proceeded towards Rayagoundanpudur. PWs 2, 3 and the said Krishnan Asari were proceeding in front, and at a short distance following them, the deceased Veeramani and the young man of 25 years came. At a particular point, they stopped walking. PWs 2 and 3 asked the deceased Veeramani, to come with them, for which the deceased said that she would talk with the young man for some time, and then come home soon. She also asked PWs 2 and 3 to go home.

(ii) This aspect of the evidence is also spoken to by P.W. 5, who was Assistant Conductor of No. 11 town bus. He would say that at the Malaimettu bus stop, near Rayagoundanpudur village, two girls students, one old man, one widow and one young man of 25 years, got down from the bus at the relevant time. The evidence of these witnesses would show that both P.W. 2 and P.W. 3 along with the deceased travelled together and they got down at the bus-stop near Rayagoundanpudur village.

(iii) It is the case of the prosecution that P.Ws. 2 and 3 were not known to the appellant earlier. Though in the cross-examination, it was suggested to these witnesses, that they knew the appellant already, since he is related to them, and even in the statement under Section 313, Cr. P.C., the appellant said that they knew him earlier, it cannot be taken to be true, because, if that be so, P.Ws. 2 and 3 would have mentioned the name of the appellant or atleast the identity of the person to P.W. 1, who came to enquire about the whereabouts of the deceased, to

their house.

(iv) In this case, the evidence of P.Ws. 2 and 3, which is corroborated by the evidence of P.W. 5, to some extent, is fully supported by the evidence of P.W. 1, who is the father of the deceased. The deceased Veeramani used to come home from her school at 5.00 p.m. Since she did not come back home till 6.00 p.m., on 24-7-1986, P.W. 1, went and enquired with P.W. 3-Kavidha, the school-mate of the deceased. At that time, P.W. 2, grand-mother of P.W. 3, who came from Thirumalairaya-puram, would inform P.W. 1, that the deceased was stopped at a particular point on the way to home, and she was found talking with one young man of 25 years. Immediately, thereafter, P.W. 1, came near the scene of occurrence, and at that time, he was informed about the dead body of his daughter lying at the scene, by one Murugesan, on information given by P.W. 4 Sankarappan.

(v) P.Ws. 2, 3 and 5 have indentified the accused in the identification parade conducted by P.W. 17-Judicial Magistrate. In fact, though the occurrence had taken place on 24-7-1986, the accused was arrested on 26-7-1986. Thereafter, P.W. 18-Inspector of Police sent a requisition to Court, in pursuance of which, P.W. 17 conducted identification parade on 4-8-1986 itself without any delay. Moreover, in the identification parade, the appellant did not complain to the Judicial Magistrate-P.W. 17, that he was shown to P.Ws. 2, 3 and 5 even at the earlier point of time.

(vi) It is contended by learned counsel for the appellant, that the evidence of P.Ws. 2 and 3 cannot be believed. P.W. 2, though in her evidence would say that she came to the village Rayagoundan-pudur, for the purpose of visiting the house of her daughter. But she has not stated so, the police officer-P.W. 18, during investigation. However, the fact remains that P.W. 2 along with P.W. 3 came to Rayagoundanpudur. There is no dispute reading the fact that P.W. 3 is the grand-daughter of P.W. 2. So, even assuming that she has not stated the very fact that she came to the village, but the fact that she was found in the house of P.W. 3, when P.W. 1 came and enquired about his daughter with them, would show that P.W. 3 must have come to Rayagoundanpudur, only to visit her daughter's house.

(vii) Furthermore, P.W. 1 in Ex. P1 specifically stated that he was informed by both P.Ws. 2 and 3, that they came in No. 11-town bus, and when they were proceeding to their house, the deceased lagged behind at a particular distance, and was found talking with the appellant, and that when P.W. 2 asked her to come, she requested them to go home, since she would go home after talking with the appellant for sometime. This would show that P.W. 2, came to the Rayagoundanpudur village, at the relevant time, in order to visit the house of P.W. 3.

(viii) It is also submitted by learned counsel for the appellant that P.Ws. 2 and 3, being the close relatives of the accused could have known about the appellant earlier, and that the fact that they have not mentioned the name of the appellant to P.W. 1, would reveal that only at a later point of time, the accused has been implicated in this case wantonly, for the best reasons to the prosecution. Ofcourse, P.W. 1 admits that the son-in-law of P.W. 2 is related to him. But P.W. 3 would say that she never had gone to the house of the deceased and the parents of the deceased also never came to her house. 'But the evidence of P.W. 2 would throw some light on this aspect. P.W. 1 is related to the son-in-law of P.W. 2. But, P.W. 2, who belongs to some other village may not know all the relations of her son-in-law. Furthermore, suppose P.Ws. 2 and 3 knew the accused earlier, there is no necessity for them to suppress the same, while they gave information to P.W. 1. If, P.W. 1 knows about that through P.Ws. 2 and 3, there is no reason for P.W. 1, to give complaint-Ex. P1, without mentioning the identity of the culprit, especially when his daughter was done to death. Therefore, we are not able to see any infirmity in the evidence of P.W. 2. Moreover, there is no necessity for P.W. 2 to speak falsehood against the appellant.

(ix) As regards P.W. 3, it was pointed out, that she is a child witness. Ofcourse, when she was examined in the trial Court, she was aged about 12 years. But the very first line in her deposition shows that the trial Court is satisfied with her competency to let in evidence. Besides that, a close reading of the chief and cross-examination of this witness also would make it clear, that the answers given by her would reflect her understanding of the situation and she is a witness of truth. Therefore, merely because she is a child witness, we cannot reject her

evidence, especially when her evidence has been well corroborated by the evidence of P.W. 2 and P.W. 5. Moreover, she also identified the accused correctly in the identification parade, as spoken to by P.W. 17-Judicial Magistrate. Therefore, regarding the link of the deceased last seen alive in the company of the appellant, we hold that it has been clearly established through the evidence of P.Ws. 2, 3 and 5.

(x) With reference to the evidence of P.W. 5, Conductor it is submitted by learned counsel for the appellant as he was not able to give the batch number, his evidence could not be relied upon. In our view, this submission has no substance. According to P.W. 5, he became Assistant Conductor only six days prior to the date of occurrence. He was examined in Court on 1-9-1987, nearly an year thereafter, So, in those circumstances, he could not have been able to give his correct batch number. As per the evidence of P.W. 18 Inspector of Police, P.W. 5 was also examined during the course of inquest along with P.Ws. 2 and 3, and his statement reached the Court, next day itself. A reading of the entire evidence of P.W. 5, who is an independent witness, would inspire confidence, especially when he says in the re-examination that he could remember the appellant, deceased and the witnesses, who travelled in the bus and alighted from the bus in the evening at Malaimettu bus-stop, since he heard about the horrible incident. He would also correctly say the number of bus stops in between Ottanchatram and Kothaiyan stop. Therefore, the details which have been given by P.W. 5, in his chief and cross examination would make it clear that his testimony is natural and acceptable, and as referred to earlier, P.W. 17 the Magistrate would say that the appellant was correctly identified by P.W. 5 also.

(xi) Of course, a suggestion was put on behalf of the appellant to P.W. 18-Inspector of Police, that prior to the identification parade, the appellant was shown to one Krishnan Asari. But no such suggestion was put with reference to the other witnesses, including P.W. 5. Even at the time of identification parade, the accused never complained anything of that sort against any of the witnesses to P.W. 17-Judicial Magistrate. Therefore, we hold that the evidence adduced by P.Ws. 2, 3 and 5 would clinchingly establish that the accused was found in the company of the deceased, and they were last seen alive together, at about 5.00 p.m., on the

date of occurrence.

(b) The second link of the significant circumstance of vital importance is through the evidence of P.W. 8, who saw the appellant near Ramalingaswamy Madam, with the bloodstained shirt and dothi. P.W. 8 is neither interested in P.W. 1, nor having any animosity against the appellant.

(i) On 24-7-1986, P.W. 8 along with one Chinnasamy Gounder left Ottanchatram for various places for the purpose of buying buffaloes. He along with his junior paternal uncle was doing commission agent business. After visiting various places, both of them came to Ramalingaswami Madam, and while they were standing together at about 5.30 p.m., the accused came from east towards the western side of Ramalingaswami Madam. P.W. 8 knew the accused earlier. He asked him, as to why he was proceeding so fast. When the accused came near to him, P.W. 8 also found bloodstains in the biscuit colour shirt and white colour dothi worn by the appellant. The accused said 'nothing nothing'. He immediately left speedily towards the Coorikarankadu area. Thereafter, at about 5.45 a.m., both of them boarded on at R.R. bus and went to Otanchatram.

(ii) Next day, when he heard the information about the incident, he felt suspicion over the appellant, and went to Ottanchatram police station at about 6.00 p.m., and gave this information to P.W. 18-Inspector of Police. Admittedly the place of occurrence is situate at the western side of Ramalingaswami Madam, at a distance of one furlong. According to P.W. 8, the appellant was coming from eastern side by about 5.30 p.m. When the appellant was found in excited condition, P.W. 8 asked him as to what happened to him. His answer to P.W. 8 would also make more suspicion about the movements of the appellant, who suddenly left that place, by saying 'nothing, nothing'. So, immediately on knowing the incident, next day at 6.00 p.m., P.W. 8 went to the police station and gave the information about the appellant to P.W. 18.

(iii) As per the evidence of P.W. 1, he was informed by P.Ws. 2 and 3, at the time of his enquiry at 6.00 p.m., on 24-7-1986, that the young man of 25 years was wearing biscuit colour shirt and white dothi. The evidence of P.W. 18 is corroborated with the fact that M.O. 22, which was recovered from the accused on

his being arrested, was biscuit colour. Furthermore, M.Os. 22 and 23 also contained bloodstains. P.W. 8 was examined by the investigating officer on 25-7-1986. His statement under Section 161, Cr. P.C., reached the Court, next day, i.e. on 26-7-1986. That was how, the accused was fixed in the course of investigation by P.W. 18.

(iv) Learned counsel for the appellant vehemently argued that P.W. 8 could not be said to be a reliable witness, in view to the fact that he was not able to give the details as to what are all the places he went for the purpose of purchasing buffaloes. A reading of the evidence of P.W. 8 would tend to show that he is doing commission mandi business, as well as the purchase of buffaloes. In fact, on the said date, he did not purchase any buffalo, despite he was having in his hand a sum of Rs. 3,500/- obtained from his junior paternal uncle. He would also state, that he searched for a good buffalo, at various places from 9.00 a.m., onwards upto 5.30 p.m. So, merely because he was not able to purchase a buffalo, it cannot be said that his evidence could not be relied upon especially when he states that he left Ottanchatram along with Chinnasamy Gounder at 9.00 a.m., and went to various places including Periyakotai, in order to search for a good buffalo. Furthermore, in the absence of even a suggestion that he had any animosity against the appellant, there is no reason as to why the evidence of this witness, who had no connection whatever with P.W. 1, to reject his testimony. Therefore, we consider the evidence of P.W. 8, a star witness, as reliable cogent and acceptable.

(c) The last chain of circumstance is the recovery of the bloodstained clothes and beedibunch M.Os. 22 to 24 from the accused after his arrest.

(i) P.W. 18 would say that next day itself, the accused was fixed through the statement of P.W. 8. But, however, he was not available, and seem to be absconded. Ultimately he was arrested on 26-7-1986 at about 2.00 P.M., when he was sleeping in Vettaikaran koil near Porumalur village. When the accused was interrogated in the presence of P.W. 9, the appellant handed over M.O. 25-bag, contained M.O. 22-bloodstained shirt, M.O. 23-Bloodstained dothi and M.O. 24-beedibunch consisting of 16 beedies, and were recovered under Ex. P5. While the

observation mahazar. Ex. P2 was prepared by P.W. 18, on 24-7-1986, he found two pieces of beedies along with one half burnt match stick. As per the observation mahazar, two beedies were found tied with red thread. The recovery mahazar-Ex. P5 which was prepared for the recovery of M.Os. 22 to 25 also would show that the 16 beedies as a bunch was covered by a paper with a printing 'Mangalore 'Ganesh beedi', also tied with red colour thread.

(ii) P.W. 18, after arresting the accused sent these M.Os., for chemical analysis through Court Ex. P14-Chemical analyst's report shows that blood was detected from M.Os. 22 and 23, clothes of the appellant. Ex. P-18-serologist's report reveals that item Nos. 11 and 12 i.e., shirt and dothi of the accused contained human blood, though the result of grouping test was inconclusive. Therefore, it is clear that the appellant worn M.O. 22 shirt and M.O. 23 dothi at the time of occurrence, and the blood must have been washed on M.Os. 22 and 23, while he dropped the M.O. 1 stone on the head of the deceased.

(iii) Furthermore, it is to be noted, that P.W. 12-Doctor who examined the appellant for potency test, did not find any injury on him. Therefore, though grouping test was not proved, there is no explanation on the part of the appellant, as to how his clothes were stained with human blood. So, in these circumstances, we feel, that this third link also would lend sufficient assurance to the other links as discussed earlier.

14. Learned counsel for the appellant cited a decision of the Supreme Court in *Inderjit Singh v. State of Punjab*, : 1991 CriLJ2191 , and submitted that the evidence relating to the deceased last seen in the company of accused alone is not sufficient to convict the accused. But in the case on hand, we have not only the testimony with regard to the deceased last seen in the company of the appellant, but also the other acceptable and formidable evidence as referred to above.

15. In *Anant Bhujangrao Kulkarni v. State of Maharashtra*, : 1992 CriLJ4027 , the Apex Court observed thus (Para 12) :-

'The only circumstances that have been found established are that the deceased was last seen alive in the company of the appellant on October 13, 1975 at about

6 p.m., and that the dead body of the deceased was found in the Ladni near the residential portion of the appellant in Pargaonkar's wada. The said two circumstances, in the opinion, cannot be said to be inconsistent with the innocence of the appellant and on the basis of these two circumstances alone, it cannot be held that the appellant was a party to the murder of the deceased.'

As referred to earlier, this decision would not be of any use to the defence, since the evidence adduced by the prosecution witnesses would give three strong and acceptable links to form a complete chain to prove the case of prosecution.

16. Learned counsel for the appellant relied on a decision in *Pohalya Motya Valvi v. State of Maharashtra*, : 1979 CriLJ1310 , wherein it has been held that 'merely because he was found with human bloodstains, when he was arrested, he cannot be held guilty, since the bloodstains on the dothi of an agriculturist would hardly provide any incriminating evidence.' But, in this case, as discussed earlier, no injury found on the appellant, as spoken to by Doctor-P.W. 12.

17. The recovery of bloodstained shirt and dhoti of the accused, after two days of the occurrence, by P.W. 18, along with the serologist's report, which would show that the biscuit colour shirt and white colour dhoti stained with human blood, would clinchingly prove that the appellant stained bloods not due to any injury on him, but due to the fact that he used M.O. 1 big-stone by hitting the deceased. Therefore, the legal position found in the decisions of the Supreme Court, referred above is fully complied in this case, and the various pieces of circumstances through these above three links would form a complete chain, so as to make the appellant to hold liable for the offence under Section 302, I.P.C.

18. Therefore, the reasonings and the conclusions arrived at by the Court below for convicting the appellant for the offence of murder, especially when we do not find any infirmity in those conclusions, are valid in law. We are not persuade ourselves to take a different view, from that of one taken by the trial Court.

19. In the result the appeal is dismissed, confirming the conviction and sentence imposed upon the appellant by the Court below.

20. Appeal dismissed.

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