

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated 05.03.2026

CORAM:

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

AND

THE HONOURABLE Mr. JUSTICE P.DHANABAL

Crl. A. (MD)No.467 of 2023

Nandhini

.. Appellant

Vs.

The State rep by
The Inspector of Police,
Athanakkottai Police Station,
Pudukottai District.
Crime No.196/2021

.. Respondent/Complainant

Appeal filed under Section 374(2) of Criminal Procedure Code,
against the judgment and order dated 26.10.2022 in S.C.No.18 of 2022 on
the file of the Principal District and Sessions Judge, Pudukottai.

For Appellant	: Mr.K.C.Maniyarasu
For Respondent	: Mr.E.Antony Sahaya Prabahar Additional Public Prosecutor

JUDGMENT

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

The appellant assails the judgment passed by the Principal District and Sessions Judge, Pudukottai, in SC No.18/2022 dated 26.10.2022 wherein the appellant was convicted and sentenced as follows:

S.No.	Offences under IPC	Conviction and Sentence
1	302	To undergo imprisonment for life and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for one year
2	201 r/w 302 IPC	To undergo rigorous imprisonment for seven years

Sentences were ordered to run concurrently.

2. The case of the prosecution is that the deceased and accused, who are the husband and wife, were residing at Poram North Village, Perungalur Post, Pudukottai District. The accused is said to have had relationship with one Karuppiah before marriage and was not interested in marrying the deceased. Both of them regularly had wordy altercation. It is alleged that

the accused person was not able to take it any more and hence, the accused decided to do away with the deceased. When the deceased was sleeping, the accused is said to have caused serious bleeding injuries and the body was dragged and thrown into a nearby Well. The accused person is said to have been nonchalant about the disappearance of her husband and all of a sudden a foul smell started emanating from the Well. The same was immediately informed to PW2, who is the Village Administrative Officer and he in turn informed the Circle Inspector of Police, who were already investigating the man missing case. The body of the deceased was lifted from the Well and it is said to have been identified by the mother of the deceased (PW1). The body was identified based on the slippers and Cellphone that were also seized along with the dead body.

3. The accused person is said to have confessed to the commission of crime. Accordingly, the man missing case, which was registered in Crime No.196/2021 on 28.09.2021 was altered through an alteration report (Ex.P13) by altering the offence under Section 302 and 201 IPC.

4. The investigation was taken up by PW14. The inquest on the body of the deceased was conducted on 03.10.2021 in the presence of Panchayatdars and thereafter the body was handed over for conducting postmortem. The inquest report was marked as Ex.P14. The autopsy was conducted by PW11 and in the postmortem report (Ex.P9), the following injuries were noted:

“Fissure fracture of length 21 cm seen over middle of occipital bone radiating towards right side of occipital bone. 9 cm over right parietal region, 15 cm over left side of occipital bone 6 cm over left side of parietal bone with depressed fracture of size 6 cm X 2 cm seen over middle of occipital bone.

Brain found as mass and dried with brownish black colour mas with dried blood clots.”

5. The cause of death was mentioned in the final opinion marked as Ex.P10 as complications of head injuries and injuries over the other vital structures of brain.

6. The investigating officer recorded the statement of all the witnesses under Section 161 Cr.P.C. and had collected all the materials and on

completing the investigation, a police report was filed before the District Munsif cum Judicial Magistrate, Kandharvakottai. The accused person was served with the copies under Section 207 Cr.P.C. and the case was committed and it was taken on file by the Principal District Judge, Pudukottai in SC No.18/2022.

7. Charges were framed under Sections 302 and 201 read with 302 IPC. The accused person denied the charges.

8. The prosecution examined PW1 to PW14 and marked Ex.P1 to P16 and also relied upon M.O.1 to M.O.11. Ex.C1 and Ex.C2 were recorded as Court documents.

9. On completion of the evidence on the side of the prosecution, the accused person was questioned under Section 313 Cr.P.C. on the incriminating evidence available on record and the accused person denied the same as false.

10. The accused person did not examine any witnesses nor marked any documents.

11. The trial Court, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the prosecution has established the case beyond reasonable doubts and accordingly convicted and sentenced the accused person in the manner stated supra.

12. This Court carefully considered the submissions made on either side and perused the materials available on record.

13. The entire case of the prosecution is based on circumstantial evidence. The prosecution projected the case as if there was strained relationship between the husband and wife and therefore, the wife decided to do away with the husband and accordingly killed him and thrown him into the nearby Well.

14. The circumstances that were taken into consideration by the trial Court are the identity of the deceased, last seen theory, special knowledge of the accused, false explanation by the accused, which resulted in adverse inference and also the motive. As per the trial Court, each link in the chain of circumstances was established by the prosecution and therefore, the trial Court proceeded to convict and sentence the accused person.

15. In the case on hand, the bone of contention is regarding the identity of the deceased. The trial Court has come to the conclusion that the body that was discovered in the Well was identified as the deceased and therefore, just because the DNA analysis was not carried out, that will not seriously result in disputing the very identity of the corpse that was lifted from the Well.

16. PW1 is the mother of the deceased. When the Village Administrative Officer had lifted the dead body, he had asked PW1 to identify if it is her son and she had said that it is her son. Such identity was made based on the slippers and mobile phone, which were also taken from

the Well. This is the only evidence available insofar as the identity of the deceased is concerned.

17. This Court, in order to satisfy itself regarding the identity, went through the original records and more particularly, the photographs, which were marked as Ex.P16. The Photographs clearly established the fact that the entire body was completely decomposed and what was available was a lump of flesh without any features. There was not a single identity available to establish that the corpse that was taken from the Well is that of the deceased. Even PW1 states that the corpse is that of her son based on some slippers and cell phone. The Doctor, namely, PW11 specifically states that the entire body was in highly decomposed state and the death would have taken place 2 to 4 weeks before the postmortem. The Doctor further states that the face of the corpse was identifiable. This statement of the Doctor is on the face of it unsustainable, since the photographs clearly established that face was not identifiable and it had decomposed very badly. Therefore, the only manner in which the identity of the deceased could have been established is by sending it for DNA analysis. This process could have been

easily done since the father and mother were available and what is required was to compare the DNA of the father and mother to that of the deceased. Even though the samples were taken, which is evident from the evidence of PW11, the police for some reason did not send it for DNA analysis. This has proved fatal to the present case.

18. In a case of homicidal death, the primary fact that has to be established by the prosecution is as to the identity of the deceased. Only if the identity is fixed, the Court can go into the other factors touching upon the materials relied upon by the prosecution to prove the case beyond reasonable doubts.

19. The trial Court on a mere assumption concluded that the identity of the deceased has been established. The trial Court held that the defence is not disputing the identity of the corpse. It is not for the defence to accept or deny the identity and it is for the Court to satisfy itself as to whether the corpse that was identified is that of the corpse of the appellant's husband. The Doctor could not have confirmed this fact unless DNA analysis was

made. The only other person, who can confirm is the mother and looking at the highly decomposed body that was lifted from the Well, it is next to impossible to identify that the corpse is that of the deceased. Just because the slippers and a cellphone (MO1 and MO2) were found out, that will not automatically result in the identity of the deceased.

20. The investigating officer has to be entirely blamed for this fiasco. To an extent the trial Court must also be blamed in this regard. The trial Judge ought to have physically verified the photographs to satisfy himself as to whether PW1 could have identified the corpse as her son. The trial Judge has merely gone on assumptions. If only the investigating officer or at least the trial Judge had ordered for DNA analysis, in no time it could have been established whether the corpse was actually that of the deceased or it was the corpse of someone else. It must be borne in mind that corpus *delicti* that is the discovery of a dead body is a rule of caution and there can be a conviction even in the absence of dead body, if there are strong direct or circumstantial evidence. However, that ratio will not apply in a case where a corpse is identified and the problem was such identity did not clinch the

fact that it was the corpse of the deceased. Useful reference can be made to the judgment of the Apex Court in *Jarnail Singh and others v. State of Punjab* reported in **2009 (9) SCC 719**, wherein, the Apex Court held that DNA test to identify the deceased would be required where the body is fully decomposed. This judgment will directly apply to the facts of the present case.

21. In the light of the above discussions, this Court holds that the prosecution failed to establish that the corpse that was found in the Well was the corpse of the deceased. In view of the same, it will be highly risky to go on an assumption that the corpse identified is the corpse of the deceased and decide the case. There have been instances in this Court, where such assumption ultimately proved to be wrong when the so called deceased person sprang a surprise by appearing before the Court at the time of hearing.

22. In the light of the above findings, it becomes an academic exercise to go into the other issue as to whether the prosecution proved the

case through circumstantial evidence by proving every link in the chain of circumstances beyond reasonable doubts. This is one of those peculiar cases where the investigating officer failed in his duty to establish the identity of the deceased in spite of the samples collected by the Doctor was handed over to the police to send for DNA analysis and it was not done. This Court must also equally blame the trial Court for proceeding further on assumptions rather than insisting for DNA analysis and a report to clinch the identity of the deceased.

23. In the result, the criminal appeal is allowed and the conviction and sentence imposed on the appellant are set aside and the appellant is acquitted from all the charges and she is set at liberty. Fine amount, if any paid, is ordered to be refunded.

[N.A.V, J.] & [P.D.B, J.]
05.03.2026

NCC : Yes
Index : Yes
RR

To
1.The Principal District and Sessions Judge,
Pudukottai.

2.The Inspector of Police,
Athanakottai Police Station,
Pudukottai District.

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

4.The Record Keeper,
Vernacular Records Section,
Madurai Bench of Madras High Court,
Madurai.

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**N.ANAND VENKATESH, J
AND
P.DHANABAL, J.**

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Crl. A. (MD)No.467 of 2023**

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