

(2008) 02 MAD CK 0220

In the Madras High Court

Case No : Criminal Appeal No. 528 of 2005

State by The Inspector of Police

APPELLANT

Vs

Kutty @ Natarajan

RESPONDENT

Date of Decision : 14-02-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 162, 164, 174, 174(3), 313(1)
Criminal Rules of Practice and Circular Orders, 1990 — Rule 72
Evidence Act, 1872 — Section 114, 27
Penal Code, 1860 (IPC) — Section 201, 302, 318, 341, 380

Citation : (2008) CriLJ 3395

Hon'ble Judges : V. Periya Karupiah, J;D. Murugesan, J

Bench : Division Bench

Advocate : V.R. Balasubramanian, app, for the Appellant; A. Muthukumar, for the Respondent

Final Decision : Allowed

Judgement

V. Periya Karupiah, J.—This appeal by the State is directed against the judgment acquittal of the accused/respondent by the learned Additional Sessions Judge, Fast Track Court No. II, Kancheepuram made in S.C. No. 378/2004 dated 28.3.2005 from the charges framed against him under Sections 449, 341, 302, 380 and 201 IPC.

2. The case of the prosecution before the Lower Court was that on 24.10.2003 at 2.00 a.m, the accused with an intention to cause murder of the deceased Jagadambal and to steal the jewels belonging to her, had entered into the house of Jagadambal in Door No. 4, Thereuvar Thoppu, Pillaiyarpalayam, Kancheepuram, with an intention to commit the offence liable to be punished with death sentence, had pushed the said Jagadambal and thereby made her not to go away, but to have confined without any movement and thereafter, with the knife, had stabbed her on the abdomen three times and caused serious injuries which led to the death of the deceased, Jagadambal and thereafter the accused had stolen two golden bangles, gold ring and gold studs from the Jagadambal

and thereafter in order to conceal the evidence of the offences committed by the accused, he had put the clothes of the deceased on her and poured kerosene and set fire on the body of Jagadambal, thereby caused disappearance of evidence and therefore, the accused was liable to be punished under Sections 449, 341, 302, 380 and 201 IPC.

3. The learned Additional District Judge, Kancheepuram had examined P.Ws.1 to P.W.17, marked Exs.P.1 to P.38 and M.Os.1 to 23 and after conducting a full fledged trial, it had come to the conclusion that the prosecution had not proved the charges framed against the accused beyond all reasonable doubts and had acquitted the accused from all the charges and therefore, the present appeal has been preferred by the State against the Judgement of acquittal of the accused by the Lower Court.

4. Gist of the Prosecution case is as follows:

(a) On 24.10.2003 at 2.00 a.m., the accused trespassed into the house of the deceased Jagadambal, pushed her down and stabbed the deceased on her stomach thrice with M.O.13-knife which is used for cutting vegetables and murdered her. Thereafter, the accused committed theft of M.O.9-two gold bangles, M.O.10-gold ring. Then he came out of the house and washed the blood stains. Thereafter, the accused went inside the house and put all the clothes of the deceased over the dead body and poured kerosene and set fire on the dead body and then ran away from the scene of occurrence.

(b) On 24.10.2003 at 6.30 p.m when P.W.5 - Alamelu, Servant Maid of the deceased went to the house of the deceased. She saw the burnt dead body of the deceased. Immediately, she informed P.W.9. P.W.9 went to the house of the deceased and saw the burnt dead body. He informed his father-P.W.4. P.W.4 went to the house of the deceased and found the burnt dead body and also found the blood stained foot prints on the steps. Then he informed P.W.1, the deceased sister's son.

(c) On 24.10.2003 at 8.00 a.m., after receipt of information, P.W.1 went to the house of the deceased, found the dead body and also saw the blood stained foot prints on the steps. At 10.00 a.m, P.W.1 went to the police station and gave Ex.P.1 complaint to P.W.13, Sub Inspector of Police.

(d) On 24.10.2003 at 10.00 a.m., P.W.13- the Sub Inspector of Police registered case in Crime No. 1042/2003 u/s 174(3) Cr.P.C and sent Ex.P.20 First Information Report to P.W.17- the Inspector of Police, other higher officials and the Court. Ex.P.20 is the first information report.

(e) On 24.10.2003 at 10.20 a.m. P.W.17, the Inspector of Police received the First information report and commenced investigation. Then he went to the scene of occurrence along with the finger print expert and sniffer dog. P.W.17 then prepared Observation Mahazar Ex.P.25 and rough sketch Ex.P.26 and rough sketches (Ex.P.27) in the presence of P.W.7. Then he made arrangements to take

photographs at the scene of occurrence. At 11.45 a.m., P.W.17 collected the blood stained cement slab pieces (M.O.11), sample cement pieces(M.O.12), knife (M.O.13), half burnt things (M.O.14) with ashes in a plastic bag, half burnt aluminium vessel (M.O.15) under Ex.P.28 - aluminium vessel. Thereafter, he collected the blood stained foot prints on the cement slab pieces (M.O.16) under Ex.P.29 mahazar. Between 12.30 p.m. and 2.30 p.m., P.W.17 conducted inquest in presence of P.Ws.4, 5 and 6. Ex.P.36 is the inquest report. At 2.45 p.m., P.W.17 seized M.O.8 ear stud under Ex.P.30 mahazar. Then P.W.17 also collected the blood stained cement slab pieces (M.O.17), ordinary cement slab pieces (M.O.18) under Ex.P.31 mahazar. Thereafter, he examined P.Ws.7, 8, 13 and 9 and other witnesses and recorded their statements. He sent the dead body for post mortem.

(f) On 25.10.2003 at 11.30 a.m., P.W.17 Dr. Mrugesan, attached to Chengalpet Government Medical College Hospital conducted postmortem on the dead body of Jagadmbal and found the following injuries.`

LACERATED INJURIES:

- 1) 6cm x 2cm bone deep right occipital area of the scalp

ANTEMORTEM INJURIES

- 1) Antermortem contusiion 10cm x 8cm x 1cm on both side occipital and tempero parietal area of the scalp.
- 2) 12cm x 10cm x 1cm sub scalp Haemotoma on both side occipital and right side parietal areas of the scalp.
- 3) Extra dural Haemotoma 12cm x 10cm x 1cm on outer area occipital and parietal lobes of brain.
- 4) Sub Arachnoid Haemotoma 10cm x 9 cm x 1cm on both sides occipital and tempero parietal lobes of the brain. Intracerebral Haemorrhage on both cerebrum and Brain stem. The brains membranes and blood clots were cooked in appearance.

Ex.P.24 is the Post Morotem Certificate. The doctor opined that the deceased would have died of head injuries and postmortem burns.

(g) On 25.10.2003, P.W.17 the investigating officer examined P.W.4 and other witnesses. On 27.10.2003, P.W.17 sent the M.Os to the Court under Form-95. On 27.10.2003 at 5.00 p.m., P.W.17 - the Village Administrative Officer came to the police station along with the accused and produced the extra judicial confession - Ex.P.13 given by the accused along with his report Ex.P.14. Thereafter, P.W.17 interrogated the accused and recorded his confession statement, the admissible portion of which is marked as Ex.P.32. At 7.45 p.m., the accused took the investigating officer to his house and produced M.O.9 bangles, M.O.10-ring which was buried by the accused at the backyard of his house. M.Os.9 and 10 were seized under Ex.P.33 mahazar. P.W.17 seized M.O.19 blood stained lungi, M.O.20

blood stained full hand shirt and M.O.21 towel under Ex.P.34 mahazar from the accused. Then, he examined P.Ws.7 and 10 and other witnesses. He also took the foot print of the accused in the presence of the witnesses.

(h) On 25.10.2003 P.W.17 altered the offence u/s 302 and 318 IPC and sent the alteration report Ex.P.35 to the Court.

(i) On 28.10.2003 P.W.17 the investigating officer sent the accused for remand and examined P.Ws. 1 and 8 and showed M.Os.9 and 10 jewels which were seized from the accused to P.Ws 1 and 8 which were identified by P.Ws.1 and 8 as that of the deceased.

(j) On 30.3.2003, P.W.17 investigating officer examined the Doctor - P.W.16 who conducted the post mortem and received the skull of the deceased which was sent along with the photographs for the super imposition test. P.W.2, the scientific Assistant conducted super imposition test and issued his report Ex.P.4 an opined that "the skull item No. 2 could possibly have belong to the female individual seen in the photograph item No. 1.

(k) On 30.10.2003 P.W.17 investigating Officer examined P.W.12. On 28.1.2004 P.W.17 examined P.Ws.1 and 5 and other witnesses. On 30.1.2004, P.W.17 filed final report against the accused for the offence punishable under Sections 449, 341, 302, 380 and 201 IPC. Thereafter P.W.17 filed a petition for further investigation. On 21.6.2004 P.W.17 examined P.W.2 and sent the statements to the Court.

5. After the evidence of prosecution is over, the accused was examined u/s 313(1)(b) Cr.P.C to explain the incriminating circumstances appearing in evidence against him, the accused denied the commission of the offence.

6. Now we have to see whether the judgment of acquittal rendered by the Lower Court is correct or not?

7. Mr.V.R. Balasubramanian, Additional Public Prosecutor appeared for the State/Appellant would submit that the Lower Court had failed to note that the prosecution had proved the important circumstance to bring the accused home to the charges framed against him, but, the learned Additional Sessions Judge had come to a different conclusion of acquitting the accused. He would further submit that the confession leading to recovery u/s 27 of Evidence Act regarding the material objects was ignored by the lower Court, in which, the stolen articles, viz., jewels were seized at the instance of the accused and the said recovery would strongly fasten the accused with the crime and with other support of circumstantial evidence, the lower Court ought to have convicted the accused, but it was unfortunate that it had acquitted the accused in a murder for gain. He would also submit in his argument that the footprints found in the scene of occurrence were tallied with the foot prints of the accused and such a circumstance was not taken by the lower Court to strengthen the case of the prosecution, built up on the recovery of the jewels from the accused. However,

the lower Court had explained to the effect that the identification of foot prints, as one and the same, could not be the conclusive evidence since the said science is not a fully developed science and had not believed the expert's opinion, which is ex-facie incorrect. The learned Additional Public Prosecutor would also submit in his argument that the Additional Sessions Judge has also failed to see the contradictions of the prosecution witnesses. Apart from that, the accused had given extra-judicial confession-Ex.P.13 to P.W.7 and the said extra-judicial confession may also be relied upon in the presence of overwhelming circumstantial evidence that had roped the accused with a crime by recovering the jewels from the accused and also the similarity of the foot prints of the accused found at the place of the occurrence. He would also point out a judgment of Apex Court reported in Mohd. Aman, Babu Khan and another Vs. State of Rajasthan, to the effect that even though the foot prints" science is not fully developed signs, the identification of foot prints with that of the foot prints at the scene of occurrence can be used to reinforce the conclusion as to the identity of the culprits already arrived on the basis of the other evidence.

8. The learned Additional Public Prosecutor would also submit his argument citing a judgment of Apex Court reported in Gulab Chand Vs. State of Madhya Pradesh, to the effect that the recovery of the stolen articles in murder and robbery case, the immediate seizure of those ornaments from the accused could draw the strong presumption against the said accused. The relevant passage runs as follows:

It is true that simply on the recovery of stolen articles no inference can be drawn that a person in possession of the stolen articles is guilty of the offence of murder and robbery. But culpability for the aforesaid offences will depend on the facts and circumstances of the case and the nature of evidence adduced. In the present case it has been rightly held by the High Court that the accused was not affluent enough to possess the said ornaments and from the nature of the evidence adduced in this case and from the recovery of the said articles from his possession and his dealing with the ornaments of the deceased immediately after the murder and robbery a reasonable inference of the commission of the offences of murder and robbery can be drawn against the accused. Excepting an assertion that the ornaments belonged to the family of the accused, which claim has been rightly discarded, no plausible explanation for lawful possession of the said ornaments immediately after the murder has been given by the accused. In the facts of the case, it appears that murder and robbery have been proved to have been integral parts of the same transaction and therefore the presumption arising under Illustration (a) of Section 114 Evidence Act is that not only the appellant committed the murder of the deceased but also committed robbery of her ornaments.

9. Apart from that, the learned Additional public Prosecutor would also submit that the overall consideration of the recovery, identification of foot prints coupled with the extra-judicial confession given by the accused to P.W.7 would rope in the

accused to the crime. He would also submit in his argument that the Lower Court ought to have accepted the prosecution case and should have convicted and sentenced the accused, whereas the accused was acquitted in such a heinous crime. Therefore, he would submit in his argument that the appeal may be allowed and the judgment of the acquittal may be set aside and the accused may be convicted and punished to undergo the sentence by this Court.

10. The learned Counsel for the accused/respondent Mr. A. Muthukumar would submit in his argument that there are lot of discrepancies in the evidence of the prosecution and there is no eyewitness to prove the case of the prosecution and in the circumstantial evidence also, the contradictions of the witnesses had made the Lower Court to acquit the accused and apart from that the extra-judicial confession alleged to have been given by the accused to P.W.7 was not sustainable, since it had been given after the investigation had been commenced and P.W.7 had also participated in the investigation by signing the Mahazar, prepared when articles were seized. He also submits that the extra-judicial confession cannot, at any stretch of imagination, be used for the purpose of finding guilty of the accused nor to have corroboration to make the accused liable to be punished under Sections 449, 341, 302, 380 and 201 IPC framed against him.

11. Apart from that he would also submit in his argument that the comparison and identification of foot prints found in the scene of occurrence with the sample foot prints of the accused is a new science and it has not been developed in India. The confirmation of foot prints of the accused with that of foot prints available in the scene of occurrence would not go to prove the case of prosecution, but it could support the other circumstantial evidence only. So far as this case is concerned, he would submit that the identification of foot prints cannot be the sole criteria to decide the issue.

12. He would further submit in his argument that the recovery of jewels was done at the instance of the accused at the house belonging to the accused from the bathroom kept in a plastic cover and the properties had not been seized from the place where the accused had shown and after digging the said place of secrecy from the earth. Therefore, he would submit in his overall submission that the prosecution did not prove its case and the acquittal, as ordered by the Lower Court, may not be set aside.

13. We have given anxious thoughts to the arguments advanced on either side. The case of the prosecution was that the deceased Jagadambal was living separately and the accused was the only person, who could have access with the deceased Jagadambal and as he was working as Watchman in the nearby house belonging to P.W.4. The alleged offence was said to have committed on the deceased Jagadambal on 24.10.2003 at 2.00 a.m. inside the house belonging to Jagadambal. Admittedly, there is no ocular evidence and the case is purely resting upon the circumstantial evidence. The prosecution had examined P.Ws 1 to 17 and had marked Exs.P.1 to P.38 and M.Os.1 to 23 in order to prove its

case. The complaint was given by P.W.1, who is the sister's son of the deceased Jagadambal, who had come to the house of Jagadambal on the information of murder given by neighbours. Since P.W.1 was not having knowledge of the occurrence directly, he had given the complaint-Ex.P.1 in order to set the criminal law in motion. According to the learned Counsel for the accused, the complaint did not mention about the missing of jewels belonging to the deceased and the absence of such mentioning of jewels in the complaint would not in any way validate the seizure of the jewels at the instance of the accused. Therefore, the recovery of jewels, which is said to have been taken away from the house of the deceased Jagadambal, will not in any way help the prosecution.

14. We find that the jewels belonging to the deceased Jagadambal was seized on the confession given by the accused and after taking the accused to the place, where he had shown, the jewels were recovered at the instance of the accused at the house belonging to him from the bathroom.

15. The evidence of P.W.10 would prove the confession of the accused, the seizure of the bangles and the ring, marked as M.Os.9 and 10 under Ex.P.16 mahazar. Similarly, the dress worn by the accused at the time of committing the offence was also discovered at the instance of the accused, viz., the Lungi, shirt and the towel were marked as M.Os.19, 20 and 21. Such a seizure mahazar is produced as Ex.P.17.

16. At this juncture, we have to see the difference in seizure mahazar, which has been recorded that the jewels were recovered from the earth, as shown by the accused, whereas, the actual seizure was from the bathroom of the house of the accused. The said discrepancy is highlighted by the learned Counsel for the accused and he would submit in his argument that the difference and the contradiction would invalidate the recovery of jewels. Therefore it cannot be said that they were recovered at the instance of the accused. According to P.W.10, the accused had told about the place of concealment. Thereafter, he took the accused to such place and the concealed jewels were taken by the investigating officer on the instructions given by the accused. It is the accused who had given particulars of the hiding of jewels under the earth at the house of Jagadambal and at the same time taking jewels from the bathroom of his house. The mahazar as well as the evidence of P.W.10 would go along to show that the accused had told wrongly about the place of hiding at the time of confession and thereafter said place of recovery was found in a different place. Therefore, such discrepancy caused by the accused will not in any way affect the genuineness of the case of the prosecution. Therefore, the recovery of jewels could be found to have been obtained only at the instance of the accused since the accused had nexus with the stolen jewels.

17. In such circumstances, let us advert to the point regarding identification of foot prints and the judgment of the Hon'ble Supreme Court reported in Mohd. Aman, Babu Khan and another Vs. State of Rajasthan, , on this point. The relevant passage reads as follows:

This apart the science of identification of foot prints is not a fully developed science and therefore, if in a given case evidence relating to the same is found satisfactory it may be used only to reinforce the conclusions as to the identity of a culprit already arrived at on the basis of other evidence.

18. On a careful perusal of the said judgment, we can understand that the foot print science is not fully developed and therefore, identification of the foot prints of the accused with that of the foot prints of the accused at the scene of occurrence can be reinforced when other evidence are available implicating the accused to the said offence. We have also seen that the recovery of jewels at the instance of the accused would go to show that the accused was having nexus in the crime happened at the house of the deceased Jagadambal. According to the opinion of the foot print expert, examined as P.W.3, in her report Ex.P.7, the sample foot prints of the accused taken in the presence of the witnesses during the course of investigation had tallied with the foot prints lifted from the blood stained foot prints at the scene of occurrence. However, the evidence of P.W.3 would go to show that she did not compare the ridges in the fingers of the foot, since there was blood stains in the fingers of the foot prints. She had also spoken to the fact that the similarity of the foot may also be found with other persons.

19. Therefore, we have to see in the light of the Apex Court's guidelines and the evidence of P.W.3, whether the identification of foot prints of the accused with the foot prints available at the scene of occurrence could be applied in this case.

20. we have already seen the recovery of jewels was at the instance of the accused and therefore, this identification of the foot print is an additional circumstantial evidence to reinforce the earlier finding of the accused guilty of the commission of the offence, since the stolen articles were seized from him.

21. Now, we have to see whether the injuries sustained by the deceased Jagadambal was caused by the accused himself. As we have discussed already, there is no ocular evidence and the case is purely resting upon the circumstantial evidence including the extra judicial confession given by the accused to P.W.7. Extra-judicial confession was said to have been on 29.10.2003 after the investigation has been commenced. Originally the case was registered u/s 174 Cr.P.C and the said section was altered to Section 302 IPC on finding the foot prints in the scene of occurrence and the only person, who had access to the house of the deceased Jagadambal was the accused and he could have access to the said house at any time since the deceased reposed much confidence on him. His name was shown in the first information report on suspicion from 25.10.2003 onwards. Whereas the extra-judicial confession was recorded on 27.10.2003 on the intention of the accused to give extra-judicial confession and accordingly, he gave the confession to P.W.7 and he recorded the same and produced the extra-judicial confession-Ex.P.13 and handed over the accused to the Police Station. There is no dispute that the said P.W.7 had also signed the observation mahazar and other documents and participated in the investigation on 24.10.2003 with the police.

22. The learned Counsel for the accused would submit in his argument that it is not obligatory on the part of P.W.7 to record the extra-judicial confession when he had already participated in the investigation.

23. The learned Additional Public Prosecutor would submit in his argument that the law is well settled that the Village Administrative Officers are not barred from recording extra-judicial confession. Recording Extra-judicial confession has become redundant since the village headman cannot be treated as Village Magistrate. He has drawn the support from the Judgement of the Hon''ble Supreme Court reported in 2006 1 SCC (CrI) 470 (Shivakumar v. State by Inspector of Police), wherein, it has been held as follows:

37. The Village Administrative Officer, it has not been shown, has been conferred with any power of a Magistrate by reason of the provisions of the Code of Criminal Procedure or otherwise. It has also not been shown that he exercises any judicial or quasi-judicial function. Indisputably, he has no role to play in the matter of an investigation in a criminal case.

38. The Village Magistrates evidently, under the new Code of Criminal Procedure, are not empowered to record any confession or statement either in terms of Section 162 or Section 164 of the Code of Criminal Procedure.

39. For all intent and purport, therefore, Rule 72 of the Criminal Rules of Practice has become redundant and nugatory, logical corollary whereof would be that there does not exist any embargo for an accused person to make an extra-judicial confession before a Village Administrative Officer.

24. The learned Counsel for the accused would submit in his argument citing the decision of the Supreme Court reported in AIR 1994 SC 470 (Kailash v. State of Uttar Pradesh) wherein it has been held as follows:

Be that as it may, we do not find any reason as to why the accused after 20 days should go to P.W.10 who himself is an accused in another case and make a confession. The suggestion made by the defence that P.W.10 was deposing at the instance of police is not without force. This circumstance is doubtful nature and if this circumstance is not to be taken into consideration. Then on the basis of other circumstances even if they are accepted, the case against the accused does not stand established. In the case of circumstantial evidence all the circumstances should be established by independent evidence and they should form a complete chain bringing home the guilt to the accused without giving room to any other hypothesis.

He would submit in his argument that the extra-judicial confession given by the accused after commencement of the investigation may be influenced by police itself and therefore, no reliance could be placed on the same.

25. Considering the arguments advanced on either side, we are very much careful in applying these judgments to the facts of the present case. Village Headman is not prohibited from taking extra judicial confession after the

commencement of investigation by holding that he is not a Village Magistrate to conduct investigation and therefore, he cannot be influenced by the investigating agency. Therefore, there is no possibility of exercising influence by the police against P.W.7 in this case is concerned. More over, the extra-judicial confession given by the accused can not be used as a sole piece of evidence to land a conviction. So far as the facts of this case are concerned, the case was established by the prosecution by the recovery of stolen articles at the instance of the accused which is reinforced by the identification of foot prints of the accused with the foot prints found in the scene of occurrence. In such circumstances whether the case of the prosecution could be corroborated by the extra judicial confession or not, is the question to be decided at this juncture. On a careful perusal of extra-judicial confession, given by the accused to P.W.7, the accused had stated that the said victim Jagadambal, who was residing a nearby house would not open the door if any other person had knocked the doors, but she would open the door if the accused had given voice and therefore, on the fateful day, he went to the house of the deceased by 2.00 a.m and had knocked the doors by saying that it was already dawn and on her opening the doors, he had pushed her immediately and she fell down and she was moaning due to the pain and at that time he had taken vegetable knife and had stabbed at her abdomen three times and immediately she died and without wasting anytime, he had taken two bangles and one gold ring from her and while plucking the studs one of the screws had broken and fallen somewhere and therefore, he had taken the jewels and had gone to the water tap at Saravana Mudaliar's house and cleaned his limbs and subsequently he had decided to erase the evidence by pouring kerosene and set fire on her body. Therefore, he went to her house again and put all her clothes on her and poured kerosene and set fire and thereafter he came to his house and secreted the jewels and went to Saravana Mudaliar's house and laid himself quietly there. He had also told that while taking the jewels from the house of the deceased to his house, the ear stud had slipped away somewhere and he had got bangles and rings at his house. He had also given a reason that he had come to P.W.7 and is giving extra-judicial confession apprehending that the police would beat him if he surrenders before the police. The Extra-judicial confession given in Ex.P.13 would show that the pushing of Jagadambal and she was moaning after she had fallen down, would show that her head would have been hit at the floor and she had sustained head injuries. Apart from that he had stabbed thrice with the vegetable knife on the abdomen of Jagadambal and those injuries were promptly corroborated by the medical evidence P.W.16.

26. On a overall consideration of his evidence we could see that the only person who could be permitted inside by the deceased Jagadambal was the accused. Unless the main gate is opened, there could not be any access to the house of Jagadambal. Therefore, the access into the house of Jagadambal could be made only by the accused as told by him in the extra judicial confession. In the facts and circumstances of the case even though the extra judicial concession Ex.P.13

was given by the accused to P.W.7 after the commencement of investigation, it has got relevance to support the case of the prosecution established already through the recovery of stolen articles and identification of foot prints against the accused. Therefore, the extra-judicial confession can also be taken as an additional link to the circumstantial evidence that had already been established with the recovery of stolen articles and the investigation of foot prints which reinforced recovery of jewels and thereby proved the accused guilty. Therefore, the circumstantial evidence established through extra judicial confession is an extra link for the circumstantial evidence.

27. We are therefore of the considered view that the prosecution had established the case with the circumstantial evidence without any breakage of links in respect of the offence punishable under Sections 449, 341, 302, 380 and 201 IPC and the reasoning given by the learned Additional Sessions Judge, Fast Track Court No. II, Kancheepuram in acquitting the accused that the guilt of the accused was not proved through circumstantial evidence are not sustainable and accordingly set aside. We are satisfied that the prosecution has proved the charges framed against him under Sections 449, 341, 302, 380 and 201 IPC beyond all reasonable doubts and convict the accused under those sections.

28. Accordingly, the judgment rendered by the learned Additional Sessions Judge, Fast Track Court No. II, Kancheepuram in S.C. No. 378/2004 dated 28.3.2005 is set aside and the appeal is allowed. The accused is convicted for the offence punishable under Sections 449, 341, 302, 380 and 201 IPC. For awarding sentence, the accused shall be heard and therefore, for questioning the accused as to the sentence, post the case on 28.2.2008.