

**IN THE COURT OF THE I ADDITIONAL SESSIONS JUDGE,
CITY CIVIL COURT, CHENNAI-104.**

Present: **Tmt. S.Alli, M.L.,**
I Additional Sessions Judge

Wednesday, the 4th day of August, 2021

SESSIONS CASE No. 348/2015

CNR.No.TNCH01-003753-2015

(P.R.C.No. 80 / 2015 on the file of the learned XXIII Metropolitan Magistrate, Saidapet, Chennai committed to the court of Principal Sessions Judge, City Civil Court, Chennai, for the offence Under Section 120-B, 109, 341, 302 r/w 34 of IPC and transferred to this court for enquiry and trial)

Name of the complainant	The Inspector of Police, (Law & Order), E4, Abiramapuram Police Station, Chennai-600 018. Cr. No.1352 / 2013
Name of the Accused	A1 - P.Ponnusamy, Male/Age-55/2015, S/o Perumal Nadar, No.10/29, Kanimadam, Anjugramam Post, Kanyakumari District. A2 - Mary Pushpam, Female/Age-58/2015, W/o Ponnusamy, No.10/29, Kanimadam, Anjugramam Post, Kanyakumari District. A3 - Basil, Male/Age-26/2015, S/o Ponnusamy, No.10/29, Kanimadam, Anjugramam Post, Kanyakumari District.

A4 - Boris, Male/Age-24/2015,
S/o Ponnusamy,
No.10/29, Kanimadam,
Anjugramam Post,
Kanyakumari District.

A5 - William, Male/Age-31/2015,
S/o Balakrishnan,
Kanimadam, Anjugramam Post,
Agastheeswaram Taluk,
Kanyakumari District.

A6 - Yesurajan, Male/Age-26/2015,
S/o Hariraman,
Kanimadam, Anjugramam Post,
Agastheeswaram Taluk,
Kanyakumari District.

A7 - Dr.James Sathish Kumar,
Male/Age-37/2015,
S/o Jagannathan,
No.4-E, Eazhagaram Street,
Valliyur, Rathapuram Taluk,
Tirunelveli District.

A8 - Murugan, Male/Age-25/2015,
S/o Esakimuthu Devar,
No.10/21, Subash Street,
Thandaiyarkulam, Pushpavanam
Post, Panakkudi, Rathapuram
Taluk, Tirunelveli District.

A9 - Selva Prakash, Male/Age-23/2015,
S/o Santhosh Mani,
No.18-A, Post Office Street,
Rosmiyapuram, Panakkudi Post,
Rathapuram Taluk,
Tirunelveli District.

A10 - Iyyappan, Male/Age 24)
(Approver) S/o Perumal, No.80/90, Main
Road, Thalavaipuram N.T.,

	Pattayam Post, Tirunelveli District. (Pardoned under Section 307 Crpc as per the proceedings of II Additional District Judge FAC VII Additional District Court, City Civil Court, Chennai in CrI.M.P.No.17086 / 2018, dated 12.10.2018)
Offences and charges against the Accused	A1 to A3, A5 to A7 - Under Section 120-B, 302 IPC r/w 120-B of I.P.C A4 – Under Section 120-B r/w 109 of IPC, 302 of IPC r/w 120-B A8 & A9 – Under Section 120-B, 341, 302 of IPC r/w 34 r/w 120B of IPC & 302 of IPC
Plea of the Accused	Not guilty
Findings of the Judge	<ol style="list-style-type: none"> 1. Accused 1 to 3 and 5 to 9 Found guilty under section 120-B IPC. (Criminal Conspiracy) 2. Accused 1 to 7 Found guilty under section 302 r/w 120-B IPC. 3. Accused 4 Found guilty under section 120-B r/w 109 IPC. 4. Accused 8 and 9 Found guilty under section 302 r/w 34 r/w 120-B IPC 5. Accused 8 and 9 Found guilty under section 341 IPC. 6. Accused 8 and 9 Found guilty under Section 302 IPC.
Sentence or Order	In the result, 1. A1 is sentenced to death, and that he

be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 120-B IPC
A1 is also sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 302 r/w

120-B IPC

2. A2 is sentenced to imprisonment for life and also directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 120-B IPC
A2 is also sentenced to imprisonment for life and directed to pay a fine of

Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 302 r/w

120-B IPC

3. A3 is sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 120-B IPC

A3 is also sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 302 r/w

120-B IPC

4. A4 is sentenced to death, and that he be hanged by the neck, till he is dead, subject

to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 120-B r/w

109 IPC

A4 is also sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 302 r/w

120-B IPC

5. A5 is sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 120-B IPC

A5 is also sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 302 r/w

120-B IPC

6. A6 is sentenced to imprisonment for life and also directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 120-B IPC

A6 is also sentenced to imprisonment for life and directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 302 r/w

120-B IPC

7. A7 is sentenced to death, and that he be hanged by the neck, till he is dead, subject

to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 120-B IPC

A7 is also sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 302 r/w

120-B IPC

8. A8 is sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 120-B IPC

A8 is also sentenced to death, and that he

be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

**for the offence under section 302 r/w 34
r/w 120-B IPC**

A8 is also sentenced to undergo one month simple imprisonment

for the offence under section 341 IPC

A8 is also sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 302 IPC

9. A9 is sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court

of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 120-B IPC

A9 is also sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 302 r/w 34

r/w 120-B IPC

A9 is also sentenced to undergo one month simple imprisonment

for the offence under section 341 IPC

A9 is also sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 302 IPC

A8 and A9, are directed to be hanged to death subject to the confirmation of the Hon'ble High Court of Madras and this death sentence shall be executed after they undergone the other sentence imposed on them. The other sentence shall run concurrently. Total fine of Rs.10,00,000/- (Rupees Ten Lacs). Out of the total fine amount, Rs.1,00,000/- is appropriated to the State and balance to be paid to the victim PW-13 / Tmt.Shanthi Subbiah, wife of the deceased, No.23 and 26, 3rd Cross Street, Kumaran Kudil, Thoraipakkam, Chennai-600 097 as compensation under section 357 (2) of Cr.P.C.

The remand period already undergone by the 1st and 2nd accused from 29.09.2013 to 30.12.2013, 3rd accused from 25.09.2013 to 27.12.2013

& 10.10.2018 to 04.08.2021, 4th accused from 25.09.2013 to 27.12.2013, 5th accused 01.12.2014 to 05.02.2015 & 27.08.2018 to 04.08.2021, 6th accused from 13.03.2014 to 13.06.2014 & 10.10.2018 to 04.08.2021, 7th accused 29.01.2014 to 13.05.2014, 8th accused 29.01.2014 to 17.07.2014, 30.11.2015 to 25.11.2016 and 16.07.2021 to 04.08.2021 and the 9th accused 29.01.2014 to 15.07.2014 and 09.04.2018 to 08.06.2018 are ordered to be set off under Section 428 of Cr.P.C.

This court has awarded Capital punishment of death sentence as against A1, A3, A4, A5, A7 to A9, subject to the confirmation by the Hon'ble High Court of Madras. The Head Clerk, is directed to immediately submit the entire case bundles to the Hon'ble High Court of Madras for confirmation of the Capital

punishment of death sentence under section 366 Cr.P.C.

Property Order:

The M.O.1 / Blood stained Knife, M.O.2 (series) / Bike Side Mirrors, M.O.3 / Black colour bag, M.O.4 / White based blue and black colour checked half hand shirt with blood stain, M.O.32 / Blue colour bag, M.O.33/ Black colour Money Purse, M.O.37 / Cement earth piece with blood stain, M.O.38 / Cement earth piece without blood stain, M.O.39 / White colour full hand shirt, M.O.40 / White colour sleeveless Banian with blood stain, M.O.41 / Black colour inner wear (brief jatty) with blood stain and M.O.42 / Black colour Pant with blood stain are ordered to be destroyed, after the appeal time is over or after the disposal of appeal.

M.O.5(series-2) / Marriage Albums of 5th accused, M.O.6 (series-2) / C.D. of 5th accused marriage, M.O.7 / Cellphone-1

	<p>No., M.O.8 / Visiting card of Dr.Subbaiah, M.O.9 / Hard disc (Shreshta Subashree Apartments CCTV), M.O.10 / Hard disc (R.R.Donnalli Company CCTV), M.O.11 / Bill Book of Bakiyam-in-Lodge, M.O.12 / Arrival Register of Bakiyam-in-Lodge, M.O.13 / Departure Register of Bakiyam-in-Lodge, M.O.14 / Copy of CD -Demo dated 12.02.2014 from Leela Natarajan, M.O.15 / Bill Book of Aruna Lodge, M.O.16 / Advance Receipt Book of Aruna Lodge, M.O.17 / Arrival and Departure Register of Aruna Lodge, M.O.18 / Bill book of Neo Suzuki Company, M.O.19 / Long size note of Neo Suzuki Company, M.O.20 / R.C. book in Pulsar Bike bearing Reg.No.TN20 J 9995, M.O.21 / Bill Book of Udhya Travels, M.O.22 / Nokia Cellphone, M.O.23 / L.G. Cellphone (Accused No.7), M.O.24 / Electronic Card, M.O.25 / Insurance Card, M.O.26 / Voter Identity Card of A8 Murugan, M.O.27 / Voter Identity Card of A10 Approver Iyappan (PW12), M.O.28 / Tamil Nadu Mercantile Bank ATM card, M.O.29 / Law College identity card of A8 Murugan, M.O.30 / Chief Minister's Insurance Scheme Identity Card of 8th</p>
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	accused's father, M.O.31 / Hospital card of A8 Murugan, M.O.34 / Demo C.D. recorded by police, M.O.35 (series-2) / Photographs (2 numbers), M.O.36 / CD containing photos are ordered to be retained with the case bundle.
Name of the Additional Public Prosecutor appearing for the State	Mr. N. Vijayaraj, Special Public Prosecutor
Name of the Advocate appearing for the accused	M/s.S.Raghunathan and S.Vasudevan, Counsel for the Accused Nos.1 to 4 M/s.G.Murugendran and M.Ramesh, Counsel for the Accused No.6 Sr. Advocate M/s.R.Radha Pandian, S.Rahman and M.Kaviraj, Counsel for the Accused Nos.7 to 9 Mr. B. William (A5) Party-in-person

This Sessions Case came on 28.07.2021 for final hearing before me in the presence of Mr. N. Vijayaraj, Special Public Prosecutor for the State and of M/s.S.Raghunathan and S.Vasudevan, Counsel for the Accused Nos.1 to 4 and of M/s.G.Murugendran and M.Ramesh, Counsel for the Accused No.6, and of M/s.R.Radha Pandian, S.Rahman and M.Kaviraj, Counsel for the Accused Nos.7 to 9 and the Accused No.5, appeared party in person, and upon hearing both side arguments, upon perusal of the records and having been stood over till this day for consideration, this court passed the following :-

JUDGMENT

1. The case of the prosecution is that on 14.09.2013, at about 7.00 p.m., the Inspector of Police, PW57 / Mr.Srinivasan, Police Station registered a case in Cr.No.1352 / 2013 under Section 307 I.P.C. with reference to an alleged occurrence on 14.09.2013 at about 5.00 p.m., at the 1st Main Road, near Billroth Hospital, Raja Annamalaipuram, Chennai-600 028, where one Dr.Subbiah was attacked by three unknown persons with Vettukathi and he sustained multiple cut injuries on his head, neck, shoulder, right forearm etc., and he was shifted to the Billroth Hospital, Raja Annamalipuram, where he was admitted and treated. Thereafter, when the condition of Dr.Subbiah became serious, he was referred to Billroth Hospital at Aminjikarai, where he succumbed to the injuries on 23.09.2013 at about 1.00 a.m. Therefore the section was altered into 302 of I.P.C. and the body was sent to the Royapettah Hospital, where inquest was held by PW - 55 Mr.Elangovan, Inspector of Police and further investigated by PW - 56 Mr.Rajesh Kanna, Inspector of Police. After the completion of investigation by the Investigating Officers as mentioned above, final report was laid against A1 to A10 for the offences punishable under Sections 120- B, 109, 341, 302 r/w 34 of IPC 120-B, 302 r/w 120-B of I.P.C. before the XXIII Metropolitan Magistrate, Saidapet, Chennai. The XXIII Metropolitan Magistrate, Saidapet, Chennai had taken cognizance for the offences under Sections 120-B, 109, 341, 302 r/w 34 of IPC 120-B, 302 r/w 120-B of I.P.C. against the Accused 1 to 10 and ordered issuance of summons to the accused. After the accused have entered appearance, when the Learned XXIII Metropolitan Magistrate tried to commit the

case, the accused namely, A9 Selva Prakash was absconded and therefore, the case against him was split on 21.08.2015 and new PRC. No.123 / 2015 was assigned and NBW was issued against him. The copies of the documents relied on by the prosecution and statement of witnesses were furnished to the remaining accused in compliance of Section 207 Cr.P.C. Since, the offences said to have been committed by the accused are exclusively triable by the court of Sessions, the Learned XXIII Metropolitan Magistrate committed the P.R.C. No.80/2015 to the learned Principal Judge, City Civil Court, Chennai and the same was made over to the VII Additional District Court, City Civil Court, Chennai. On 08.03.2016, A9 Selva Prakash produced under PT Warrant on execution of NBW and on the same day, the case against him was committed to Principal Sessions Court, Chennai in S.C.No.111 / 2016 and made over to VII Additional Sessions Court, Chennai. Then the said S.C.No.111 / 2016 was clubbed with the mother case in S.C.No.348 / 2015. The said court having satisfied that the documents relied on by the prosecution and the statement of witnesses have been furnished to the accused in compliance of Section 207 Cr.P.C., and having satisfied that prima-facie materials are available against the accused and framed the following charges against the Accused 1 to 10.

2. Charges have been framed against the Accused 1 to 3, 5 to 7 under Sections 120-B, 302 r/w 120-B of I.P.C. and against the Accused No.4 under Sections 102B r/w 109, 302 r/w 120-B of I.P.C. and against the Accused 8 to 10 under Sections 120-B, 341, 302 r/w 34 & r/w 120-B of IPC and the charges were read over and explained to

the Accused 1 to 10, they have denied the charges as false and pleaded not guilty and claimed to be tried. After the transfer of the case to this court, on 13.07.2021 an additional charge under Section 302 of I.P.C. has been framed against the Accused 8 and 9. The said charge was read over and explained to the Accused 8 and 9 and they have denied the same as false and pleaded not guilty for the said offence.

3. In order to sustain the charges against the accused A1 to A9, on the side of prosecution, PW1 to PW57 were examined and Ex.P1 to Ex.P173, M.O.1 to M.O.42 were marked. Out of the 42 material objects, except M.Os.1, 2, 3, 4, 7, 9, 10, 22, 23, 32, 33, 37 to 42 the other material objects are the registers, bill books, visiting card, insurance card, ATM card, voter IDs, Electronic card, Identity cards, photographs, Albums, CD and therefore those documents ought to have been marked as Exhibits instead of material objects. But, inadvertently, those documents were marked as Material Objects.

4. On the side of the defence, on behalf of A6 Yesurajan, DW-1 and DW-2 were examined and Ex.D-7 was marked. Also on behalf of the accused A5 William, DW- 3 was examined and no document was marked. Ex.D - 1 to Ex.D - 6 were marked during the cross examination of PW-12 / Iyyappan, PW-54 / Selvi Neeru and PW-57 / Thiru Sreenivasan.

5. Ex.C1 to Ex.C5 were marked as court documents.

6. **The case of the prosecution as culled out from the evidence of the prosecution side witnesses are extracted below:**

PW-1 Thiru A.A.Mohan is the brother-in-law of the deceased Dr.Subbiah. He has deposed in respect of the motive between the deceased family and the accused A1 to A4. As per his evidence, he was informed by his sister PW-13 Tmt.Shanthi Subbaiah, Wife of the deceased Dr.Subbiah regarding the assault made on Dr.Subbiah on the evening of 14.09.2013. After hearing the same, PW-1 Thiru A.A.Mohan, rushed to the Billroth Hospital, R.A.Puram and saw Dr.Subbiah with injuries and then he went to the scene of crime and ascertained the facts. Thereafter, PW-1 / Thiru A.A.Mohan went to E4, Police Station and lodged a complaint and on the basis of the said complaint, FIR has been registered on 14.09.2013 at about 7.00 p.m., by the Inspector of Police Mr.Sreenivasan (PW - 57) in Cr.No.1352 / 2013 under Section 307 of I.P.C.

7. PW-2 Thiru S.Vinoth Kumar is doing business in Chennai and he used to purchase and sell old household articles. As per his evidence, on 14.09.2013 at about 5.00 p.m. he was called by one Mr.Ramalingam, residing in front of the house in Door No.30 / 59, Raja Annamalaipuram, 1st Main Road in order to sell his old Air Condition machine. So, on 14.09.2013, immediately after the said call, i.e., after 5.00 p.m. PW-2 came in a TATA ACE to the house of Mr.Ramalingam, where he was asked by the watchman to wait and therefore he parked his vehicle there and he was standing by the side of his vehicle. A red colour car was parked in front of his TATA ACE vehicle. PW-2 /Thiru.Vinoth Kumar, further deposed that while he was waiting near his vehicle as per the instructions of the watchman, a man aged about 60 years came to take the red colour car and at that time, he was assaulted by three people aged about 28 - 30 years. PW-2 has further stated that after assaulting the old man, all the three people fled away from the scene of crime and the witness has also identified A8 to A10 as the assailants in the court. He further stated that after two days of the said

occurrence, he went to the Police Station and gave his statement to the police. On 06.02.2014 PW-2 / Thiru.Vinoth Kumar, identified A8 to A10 in the Test Identification Parade conducted by PW-51 / Thiru.Jayavel, then XVI Metropolitan Magistrate, George Town, Chennai in the Central Prison, Puzhal and his statement was also recorded under Section 164 Cr.P.C. by the learned Magistrate PW-51. PW-2 Vinoth Kumar has also identified the knife said to have been used for the occurrence.

8. PW-3 Thiru Muthuvel, deposed that he was residing in Bheemanna Garden between 1996 and 2006 and now residing at Ekkaduthangal, Chennai. He has deposed before this court that he has a bank account in H.D.F.C. Bank, Raja Annamalaipuram, Chennai and on 14.09.2013 at about 4.30 p.m., when he came to the bank, his friend Gopinathan came to Billroth Hospital and therefore they were interacting together before the Ceebros Apartments and at that time, three people aged between 20 to 25 were sitting over the platform and interacting to commit an offence. From their conversation, he came to know, the names of the three people as Murugan, Selva Prakash and Iyyappan and he also identified by them in the court. He has further stated that all the three persons, suddenly stood up and ran away from there towards the front side, where an old man aged about 60 years proceeded to take his car and at that time, A8 Murugan took a knife from his bag and assaulted the aged person indiscriminately with the knife and then A9 Selva Prakash got the knife from A8 and he also assaulted the aged person nearby to the car and A10 Iyyappan, came behind the car and he was standing in between two cars. PW-2 identified the knife M.O.1, as

the weapon used for the crime and also identified A8 to A10. He has further stated that he went to Police Station and gave the statement. PW-3/ Thiru. Muthuvel has also identified the Accused A8 to A10 in the Test Identification Parade conducted by PW-51 Thiru.Jayavel, Sub Judge, Arani, Thiruvannamalai District, (then XVI Metropolitan Magistrate, George Town, Chennai) in the Central Prison, Puzhal and his statement was also recorded under Section 164 Cr.P.C. by the learned Magistrate PW-52 and identified Ex.P2 as the statement recorded by the XVI Metropolitan Magistrate, George Town, Chennai.

9. PW-4 Thiru Manickraj deposed that there was a civil dispute in respect of a land situated at Anju Gramam between the 1st accused Ponnusamy family and Dr.Subbiah. He was doing Real Estate Business and he knew A3 and A5, as they are Advocates by profession. He also knew Dr.James Sathish Kumar for many years. PW-4 / Thiru.Manickaraj has further stated that A1 Ponnusamy through his son Basil and Advocate William had requested to bring parties to purchase the disputed land and therefore in the last week of July 2013, he went to the house of William to get the documents where his friend Bensam was also there. After some time, they went to the disputed land where Dr.James Sathish Kumar, Murugan, Selva Prakash and Iyyappan were there. When he asked about the board with a writings that "That this land belongs to Dr.Subbiah" at the disputed land, A5 William told that Dr.Subbiah would be eliminated very soon. He further deposed that after some days, he came to know

TV and Newspaper, Dr.Subbiah was attacked on 14.09.2013, and died on 23.09.2013.

PW-4 Manikaraj has also identified the A1, A2, A6 and A8 to A10.

10. PW-5 Thiru Bensam, deposed that he was doing Real Estate Business and he knew A3, A5 for about 7 years and he came to know about A7 through A3 and A5. PW-5 further stated that he was asked by A3, A5 and A7 to sell the land in dispute. He has further stated that Ponnusamy told him that the land in dispute became his property and asked him to bring parties to buy the same. Therefore, in the last week of July 2013, he went to the house of William to get the documents, when PW-4 Manikaraj also came there. Subsequently, himself, William, Basil and Yesurajan went to the disputed land where Dr.James Sathish Kumar, Murugan, Selva Prakash, Iyyappan and the parents of the Basil were present. He has further stated that when he asked about the dispute in respect of the land proposed to be sold, they were informed that the Doctor will be eliminated in two days and there is no need to worry. PW – 5 identifies A1, A2, A3 and A5 to A10.

11. PW-6 Thiru Krishna Pillai, Retired Superintendent of Police, deposed that he retired from service in the month of April 2006 and he has deposed that the deceased Dr.Subbiah, preferred a complaint in the year 1990 in respect of the property at Anju Gramam Village before the Deputy Superintendent of Police, Anti Land Grabbing Special Cell. On 09.06.2013, a conciliation talk held in respect of the disputed land at Anju Gramam Village in which Ponnusamy and his son Basil, Advocate William, Dr.Subbiah, Mohan and Advocate Arumuga Sigamani participated. But, no decision

was made. During the conciliation, Advocate William got the visiting card of Dr.Subbiah and after a week, Advocates William and Basil came to his office and told in an angry mood that if the Doctor is not coming for a conclusion, they don't know what decision would come in.

12. PW-7 Thiru Muthuraj has deposed that he knows A6 Yesurajan. According to PW-7, he came to Chennai on 10.03.2014 from his native place and on 13.03.2014, at about 6.00 a.m., he went to Koyambedu to go back to home where he met Yesurajan. A6 Yesurajan was sitting at Koyambedu Bus Stand and when he enquired him A6 Yesurajan gave extra judicial confession to him, confessing that he and A5 William conspired to commit murder of the deceased and A5 had promised to pay Rs.10,00,000/- to him to committing a murder and he came to Chennai in search of A5 William and he could not find him. Chennai police team had been searching him and therefore he came to Koyambedu Bus Stand to go to his native. PW-7 also deposed that A6 was afraid of the police that he may be beaten up and PW-7 told him that the police would not beat him and accompanied him for surrender and brought him to the Police Station and produced him before the Inspector of Police the confession of A6 and he was also examined and a statement was recorded.

13. PW-8 Thiru A.Sivaji deposed that he belongs to Kanniyakumari District and he was doing Real Estate Business and therefore he knows A3 and A5 for several years and also knew A7 through A5. He has further stated that he knew about the dispute between the accused Ponnusamy family and the deceased family in respect of

the land at Anju Gramam Village. He has further deposed that the disputed land became their property and therefore he was asked by Ponnusamy, Basil and William to bring parties to purchase the same. On 14.08.2013, he went to Chennai for the business purpose, at about 2.30 p.m., he came in through the Main Road, Raja Annamalaipuram and there he met A7, A8 and A10 and A7 told him that they are waiting for Subbaiah matter. PW-8 identified A3, A5 and A7 to A10 in the court.

14. PW-9 Thiru K.Gopinath deposed that he was working as a Manager of the deceased Dr.Subbiah and he deposed in respect of the civil dispute between the deceased and the accused A1 to A4. He has also deposed about the complaint preferred by the deceased Dr.Subbiah in respect of the disputed land and the litigations in respect of the same. He has also deposed about the registration of the case against the accused 1 and 2 by the Land Grabbing Special Cell. He has further deposed that he had also preferred a complaint against the A1 family before the Police Station and then before the Judicial Magistrate No.III, Nagercoil and a case has been registered on 22.09.2013 in Cr. No.467 / 2013. Dr.Subbiah died due to the injuries of the assault on 14.09.2013 and the PW-9 had also identified the accused A1 to A3, A5 and A6.

15. PW-10 Thiru Arumuga Sigamani deposed before this court that he has been practicing as an Advocate, and he entered appearance on behalf of the deceased Dr,Subbaiah in the civil suit, filed by A2 Mary Pushpam. He has further stated that he was called by the deceased to come to the office of the PW-6 Thiru Krishna Pillai, for

a compromise talk in respect of the disputed land. Conciliation talks were held between the deceased Dr.Subbiah party and A1's family. During the compromise talk, the Ponnusamy, Basil, William with an angry mood, threatened the deceased that if he is not going to give the property in a proper way, dire consequences will happen. After three months of the compromise talks, he had heard about the assault on Dr.Subbiah and his death.

16. PW-11 Thiru.Jeevan deposed that he was working as a Manager in Billroth Hospital, Raja Annamalipuram, Chennai and on 14.09.2013, at about 4.45 p.m., Dr.Subbiah left from the hospital to go home and within 15 minutes he was informed by the security of the hospital that Dr.Subbiah was assaulted and asked him to look after the same. He further stated that he went along with the security to the 1st Main Road, R.A.Puram, 100 meters away from the hospital where the deceased was lying down with severe injuries at his head and hands in between his car and platform. He further stated that he was instructed to get a structure from the hospital and before the stretcher was brought, 108 ambulances came to that place. Then Dr.Subbiah was taken to Billroth Hospital through the 108 Ambulance and he was treated there. Subsequently, he was transferred to Billroth Hospital, Idinthakarai for further treatment where he died on 23.09.2013.

17. PW-12 Thiru Iyyappan, an approver deposed before this court, that he was studied Diploma in Polytechnic in K.N.S.K.Polytechnic, Shanbagaraman Pudur and he knew the accused Murugan as he was also studying in the same college. PW-12

identified A1 to A9. He further stated that since A8 was a friend, through him A7 and A9 are also known to him and they were doing some work for A7. He claimed that during January 2013, A7 brought A8 and A9 to Nagerkoil where they did some work for the welfare of the A7. He further stated that A1's family informed him that the deceased Dr.Subbiah's family had been giving problems and they wanted to give a lesson to the deceased Dr.Subbiah's family. He had further stated that there was conspiracy to commit murder of the deceased among A1 to A9 and as well, they had planned to execute the conspiracy and did the same. Since PW-12 was cited as an accused, he filed an application under Section 307 Cr.P.C. for pardon and he was given pardon with condition and as such, he deposed the entire facts of the case. PW-12 deposed before this court about the motive for the occurrence, conspiracy, preparation and the commission of offence, and also about the participation of all the accused in the commission of offence. He has deposed all the relevant facts in respect of the alleged occurrence.

18. PW-13 Tmt.Shanthi Subbiah, the wife of the deceased deposed before this court that when they went to their native village for some work in their land, A3, A5 and A6 created problems to her husband. PW-13 identified A3, A5 and A6 and also deposed that her husband, the deceased, instructed her not to send their daughters alone and he is going to install C.C.T.V. camera in their house. PW-13 has also deposed that on 14.09.2013, at about 5.45 p.m., A.A.Ravi informed her over phone

about the assault on her husband and she immediately informed the same to his brother Mohan, the PW1.

19. PW-14 Thiru.Ramu deposed before this court that on 14.09.2013 about 9.00 p.m. PW-57 Thiru Srinivasan, Inspector of Police, Police Station came to the place of occurrence and prepared observation mahazar / Ex.P-3 and Rough Sketch / Ex.P-163 and also recovered blood stained cement earth pieces and also cement earth pieces under the seizure mahazar / Ex.P-4 in which himself and his friend Vinayagam have signed as witnesses to the observation mahazar and seizure mahazar.

20. PW-15 Thiru Elumalai deposed before this court that on 29.09.2013, at about 1.30 p.m., himself and his relative Vinoth Kumar came through the Police Station and at that time, the Inspector of Police asked them to come to the Police Station where Ponnusamy and Mary Pushpam were examined by the Inspector of Police and their confessions had been recorded, in which both of them have signed as witnesses and they have been marked as Ex.P5 and Ex.P6. PW-15 has also identified his signatures in the confessions of A1 Ponnusamy and A2 Mary Pushpam and also identified the Accused 1 and 2.

21. PW-16 Thiru J.S.Durai Pandian deposed before this court that on 07.10.2013, when he came through the Police Station with his friend Panner Selvam in related to the work of his security company, the Inspector of Police, Police Station requested them to be witnesses for the confessions proposed to be recorded from the accused Basil and Boris. Accordingly, the confessions of Basil and Boris were recorded by the

Inspector of Police in their presence, in which they have signed as witnesses. PW-16 identified the accused Basil and Boris in the court and also his signatures in the confessions of those two persons, which were marked as Ex.P-7 and Ex.P-8.

22. PW-17 Thiru R.Balaji stated that he was working in a Mobile Showroom and on 13.03.2014, when he was walking through the Police Station with his friend Jagan, the Inspector of Police requested them to come and be a witness for the examination of a person. Afterwards, the Inspector of Police identified Yesurajan and he gave a confession and the same was recorded by the Inspector of Police, in which himself and his friend Jagan have signed as witnesses. PW-17 not only identified the A6 Yesurajan, but also identified his signature in the confession of A6, which has been marked as Ex.P-9.

23. PW-18 Thiru R.John Kennedy deposed before this court that on the evening of 10.12.2014, he came through the Abiramapuram Police Station and at that time, the Inspector of Police, Abiramapuram Police Station asked the crowd gathered there and requested any two persons to be witnesses for the proposed examination of a person in his custody, in respect of Dr.Subbiah's murder case. PW-18 had further stated that himself and his friend Nareshkumar voluntarily came forward for witnesses as requested by the Inspector of Police. Then the Inspector identified a person namely William and the same William voluntarily gave a confession and the same was recorded in their presence, in which both of them have signed as witnesses. Through

PW-18, the admissible portion of confession of A5 was marked as Ex.P-10 and the signature of PW-18 in the confession of A8 was marked as Ex.P-11.

24. PW-19 Thiru P.Jegadeesan, Sub Registrar, deposed that on 29.01.2014, Thasildar, Triplicane asked him and the Junior Assistant Thiru Sagadevan and instructed them to be the witnesses for the recording of confession of the accused in a case of E4, Police Station. Therefore, they went to the E4, Police Station where the Inspector of Police showed them Dr.James Sathish Kumar, Murugan, Selva Prakash and Iyyappan. On the night of 29.01.2014, Dr.James Sathish Kumar, Murugan and Selva Prakash gave their confessions and the same were recorded in their presence, in which they have signed as witnesses. Admitted portions of confession A7, A8, A9 and the signatures of PW-19 were marked as Ex.P-12 to Ex.P-19. PW-19 / Thiru.Jagadeesn also deposed about the recovery of black colour bag and white and black checked half sleeve shirt with blood stain and also identified the same and therefore those material objects were marked as M.O.3 and M.O.4.

25. PW-20 Thiru.Natarajan deposed about the recording of confession of A5 William and the recovery of two Marriage Albums, two Marriage C.Ds., one Nokia Cellphone and the Visiting Card of Dr.Subbiah under a Seizure Mahazar Ex.P-20. PW-20 has also identified those properties which are marked as M.O. 5 to M.O.8.

26. PW-21 Thiru K.Karthikeyan deposed that when he went along with his friend Aravindraaj enroute to Police Station, the Inspector of Police requested them to be witnesses for recording of further confessions of James Sathish Kumar, Murugan and

Selva Prakash and they have agreed for the same and also stated about the recording of further confessions. The signatures in the confessions of those persons and the admitted portions of the confessions have been marked as Ex.P-21 to Ex.P-27. He has also identified Dr.James Sathish Kumar – A7 in the court and also deposed that he could identify A8 Murugan and A9 Selva Prakash.

27. PW-22 Thiru. S.Kanagaraj deposed that on 09.10.2013, the Inspector of Police, E4 Police Station requested him and his brother-in-law Anandaraj to be the witnesses for the recovery of Hard Disc of a C.C.T.V. installed at the Shreshta Apartments where one Leela Natarajan called a person to remove the Hard Disc and the said Hard Disc was seized under the cover of Seizure Mahazar Ex.P-28. He has also stated that the Inspector of Police has also seized a Hard Disc in the C.C.T.V. installed at the R.R.Donnelley Company under a Seizure Mahazar Ex.P-29. He has also identified the Hard Discs which are marked as M.O.9 and M.O.10.

28. PW-23 Thiru. R.Vijayakumar deposed that he was working as a Manager in Bakkiyam Lodge at Chennai, during the period 2013 and on 11.08.2013, one Murugan and two others stayed in their lodge. On 13.08.2013, at about 11.00 a.m., they vacated the room and on 08.02.2014, he came to know that those persons were arrested in the case of Dr.Subbiah murder and then the Inspector of Police seized the bill book, arrival and departure registers under a Seizure Mahazar Ex.P-30 in which himself and Ajith Akthar have signed as witnesses. Through PW-23 the said registers

were marked as M.O.11 to M.O.13. He has also identified the accused Murugan, Selva Prakash and Iyyappan in the court.

29. PW-24 Thiru. G.Chandrakumar, Manager of Hotel Archana, Sungaram Chetty Street, Chennai deposed that on 11.08.2013, one Murugan with two others from Panakudi, Tirunelveli District came to their lodge and asked for a room and paid Rs.1,000/- as advance and they showed the driving license of Selva Prakash as their identity proof. Ajith Akthar and one Vijayakumar were deployed as Room Boys to those three persons and they vacated the room on 13.08.2013 at about 11.00 a.m. After some days, the Inspector of Police, Police Station brought those three persons and seized the records from the lodge under a mahazar. The said Seizure Mahazar was marked as Ex.P-21 and the registers seized under the Mahazar were marked as M.O.11 to M.O.13. He also identified the accused A8 Murugan and said that he could identify A9 Selva Prakash and A10 Iyyappan.

30. PW-25 Tmt. Leela Natarajan deposed that M.O.9 is the Hard Disc seized from her Apartment and at the request of the Inspector of Police, the demo was copied in a compact disc and the same is M.O.14.

31. PW-26 Thiru. S.Jayakumar, Two Wheeler Mechanic deposed that he was doing two wheeler mechanic work and on 14.09.2013, at about 2.00 p.m. a motorcycle bearing Reg.No.TN 20 J 9995 Pulsar Bike was brought to him by two people for repair, but he had informed them that it would take time to correct the

repair. Thereafter, the two persons left the mechanic shop PW-26 identified A8 in the court as one of the persons who came to his mechanic shop.

32. PW-27 Thiru. A.Nazarulla deposed that he was working as a Room Boy in Aruna Lodge and on 13.09.2013, Murugan and two others, said to have come for an interview and stayed in their lodge and for them, himself and his son Satham Hussain did the room service and they had vacated the room on 14.09.2013, at about 12.00 noon. On 08.02.2014, the Inspector of Police brought those three persons and recovered the Bill Book, Advance Receipt Book and the Arrival – Departure Registers under a cover of Seizure Mahazar Ex.P-34. He has also identified the accused Murugan and Selva Prakash and the seized registers.

33. PW-28 Tmt. Rosy, Manager of the Aruna Lodge, deposed before this court that on 13.09.2013, Murugan from Panakudi came with two persons and requested for a room for their stay to attend an interview with Brakes India. She had also deposed that the driving licence of Selva Prakash had been shown for identity proof and they had paid Rs.1,000/- as advance and they were allotted Room No.16. Nazarulla and Satham Hussain were deployed for room service for those three persons and they vacated the room on 14.09.2013 at about 12.00 noon. On 08.02.2014, the Inspector of Police came with three accused (A8, A9 and A10) and recovered the Bill Book, Advance Receipt Book and the Arrival Departure Registers under a cover of Seizure Mahazar Ex.P-35 to Ex.P-37. She has also identified the accused A8 Murugan, A9 Selva Prakash and A10 Iyyappan and the seized registers.

34. PW-29 Thiru. Eswaran deposed that he was working in TVS Company, Valliyur as a Sales Manager. He has also stated that one Subramani wanted an old two wheeler for his friend and therefore, he sold a two wheeler bearing Reg.No.TN 20 J 9995 to him on 13.08.2013. Afterwards, on 10.02.2014, the Inspector of Police, Police station came and recovered the Bill Book relating to the sale of two wheeler. PW-29 has also identified the Bill Book and Long Size Note Book wherein the sale of the vehicle to Mr.Subramanian recorded.

35. PW-30 Thiru. D.Subramanian deposed that he purchased a whole wheeler bearing Reg.No. TN 20 J 9995 from PW-29 Eswaran and R.C.Book is Ex.P-20 and he further deposed that he sold the vehicle to A8 and A10.

36. PW-31 Thiru. V.Ramasubramanian deposed that he used to make Knife and and the other agriculture related tools. He further stated that in the month July 2013, two persons called themselves as Advocates came there to purchase a knife and he identified M.O.1 as the knife sold by him.

37. PW-32 Thiru. K.Robert Vincent deposed that he is running a Digital Studio in the name of Rani Digital Studio and Video at Anju Gramam Village and on 10.02.2014, the Inspector of Police came there along with A8 Murugan, A9 Selva Prakash and A10 Iyyappan and enquired him about the print out of Dr.Subbiah taken by Murugan and Iyyappan and he also identified them in the court.

38. PW-33 Thiru. Selvam deposed that he is running a sweet stall at Nagercoil and he borrowed a sum of Rs.15 Lakh from A7 Dr.James Sathish Kumar in the year

2009, for which he has executed a Mortgage Deed in favour of him. Afterwards, A7 James Sathish Kumar with the help of A8, A9 and A10 threatened him to execute a sale deed in favour of A7 and the xerox copy of the sale deed is marked as Ex.P40 and the xerox copy of the receipt was marked as Ex.P-41.

39. PW-34 Tmt. Lakshmi Priya deposed that she was working as a Secretary for the Doctors with Billroth Hospital, R.A.Puram, Chennai, during the period 2012 – 2015. On 14.09.2013, at about 4.00 p.m., two persons came and requested her that they wanted to meet Dr.Subbiah and she had instructed them to get an appointment for consultation. Thereafter, they have got the phone number of Dr.Subbiah from her and left the hospital. At about 5.30 p.m., when she was leaving the hospital to go home, Dr.Subbiah was brought by an Ambulance as he was assaulted by somebody. On 01.02.2014, she was enquired by the Inspector of Police, but she didn't reveal anything to him and however, thereafter she deposed and had identified the two persons, who came to the hospital to see Dr.Subbiah on 14.09.2013.

40. PW-35 Thiru. Asaithambi, a Store Keeper of S.E.T.C. deposed that on 10.02.2014, at about 10.00 a.m. when he was standing along with his friend Prabhakaran in front of Udhaya Travels, Panakudi, the Inspector of Police, Police Station came there with three persons A8 Murugan, A9 Selva Prakash and A10 Iyyappan. He has also deposed that the Inspector of Police seized the Ticket Book and Pulsar Bike bearing Reg.No.TN 20 J 9995 from Arumugua Selvan of Udaya Travels under a Seizure Mahazar Ex.P-42 in which they have signed as witnesses. He has also

identified the Bill Book M.O.21. Thiru Asaithmbi has further stated that the Inspector of Police also recovered Booking Bill and Long Size Note Book for the sale of TN 20 J 9995 Pulsar Bike from the Manager Eswaran in which they have signed as witnesses. Thereafter, the Inspector of Police recovered the xerox copy of the sale deed in the name of Raja and the Xerox copy of the Receipt in the name of Damodharan and both the documents were recovered under a Seizure Mahazar Ex.P-44.

41. PW-36 Thiru. Aruumuga Selvan has stated that he was running a Travels at Panagudi in the name of Udhaya Travels and on 12.09.2013, at about 7.00 p.m., two persons aged at 20 to 25 came and booked a ticket and they also told that one two wheeler had to be sent. Therefore, a ticket was booked to send the two wheeler and the side mirrors of the two wheeler had been kept in the travels office, as it was unable to transport the two wheeler with the mirrors. He has also identified the Ticket booked in the name of Prakash and also the accused Selva Prakash and Iyyappan.

42. PW-37 Thiru. T.Sathiyarayanan deposed that he was working as a driver at Tiruppur from the year 1993, he knows one Veeramani Abraham, brother-in-law of A6 Yesurajan. He has further stated that during the month of September 2013, A6 and his friend came to the house of Veeramani, where Veeramai gave Rs.6,50,000/- to A6 and inturn, A6 gave Rs.1.5 Lakh to other two persons and he has also identified A6 in the court.

43. PW-38 Thiru. Debajyoti Bagchi, deposed that he was previously working in T.T. Logistics and Cargo Private Limited based in Bengaluru. He was requested by the police to furnish the attendance record of A4 Boris and therefore he gave a computer generated certificate Ex.P-46 along with a Certificate under Section 65-B of Indian Evidence Act. He has also stated that as per the records, Mr.Boris has logged off his duty on 08.09.2013 at 7.44 hours and logged in back on 12.09.2013 at 22.39 hours.

44. PW-39 Thiru. Radhakrishnan deposed that on 13.04.2015, the Inspector of Police seized two cellphones and one money purse from one Senthilkumar. M.O.22 is the Nokia Cellphone, M.O.23 is the L.G. Cellphone, M.O.24 is the Electric Card, M.O.25 is the Insurance Card, M.O.26 and M.O.27 are the Voters ID cards, M.O.28 is the Tamilnad Mercantile Bank ATM Card, M.O.29 is the ID card of A8, M.O.30 is the Insurance Card of the father of A8, M.O.31 is the Medical card of A8, M.O.32 is the Blue bag and M.O.33 is the Black colour Money Purse and those material objects were seized under a Form-91 / Ex.P-49.

45. PW-40 Thiru. S.P.Bala deposed that he was working as a Site Engineer with KGEYES Residency Private Limited and on 12.02.2014, at about 2.00 p.m., when he was at the working site in R.A.Puram, 1st Main Road, the Inspector of Police, Abiramapuram, came with three persons and told him that those three person are going to demonstrate in respect of a criminal case and requested him and the watchman Saravanan to be the witnesses for the same. Thereafter, those three persons had demonstrated and the same was video graphed.

46. PW-41 Thiru. S.Suresh deposed that he was working as Deputy General Manager, Zonal Office, Indian Bank, Trivandrum and on 23.02.2015, the Inspector of Police, Police Station came to the Tiruppur Branch Office Bank and enquired him with regard to a criminal case. He had asked for the transactions of one Veeramani and at his request, he had furnished the bank transactions details along with consumer application form and the documents enclosed to the Inspector of Police, which were marked as Ex.P-50 and Ex.P-51. He has further stated that at the written request of the Inspector of Police, Police Station dated 17.04.2015, he had submitted necessary documents along with the Certificate under Section 65-B of Indian Evidence Act which were marked as Ex.P-52 and Ex.P-53, Ex.P-54 to Ex.P-58 documents were also marked through PW-41.

47. PW-42 Thiru.Varghese Thomas deposed that he was working as a Senior Manager, Indian Overseas Bank, Alleppey Branch and when he was working in Kanyakumari District, Kottaram Branch in the year 2014 and 2015, the Inspector of Police, Police Station came and requested to furnish the bank details of Ponnusamy. On 17.04.2015, he had submitted the required documents along with a Certificate under Section 65-B of Indian Evidence Act to the Inspector of Police, Police Station which were marked as Ex.P-69 – Ex.P-74.

48. PW-43 Thiru. M.Muthukrishnan deposed that he was working as Branch Manager of State Bank of India, Vivekanandapuram Branch, Kanyakumari District. At the written request of the Inspector of Police, Police Station, he had furnished

forms and Annexures of bank account of A3, withdrawal slips, pay-in-slips, bank statements, covering letter and a Certificate under Section 65-B of Indian Evidence Act to the Inspector of Police, Police Station which were marked as Ex.P-75 to Ex.P-83.

49. PW-44 Thiru. V.P.Jayaram deposed that in the year 2014, when he was working as a General Manager in Azhagappapuram Branch of Indian Overseas Bank, Kanyakumari District, the Inspector of Police, Police Station requested to furnish the bank account details of Thiru William and therefore he had furnished the bank statement of A5, pay-in-slips, withdrawal slips, details of six cheques of A5 to the Inspector of Police along with a Certificate under Section 65-B of Indian Evidence Act, which were marked as Ex.P-84 to Ex.P-111.

50. PW - 45 Thiru. Thangamani deposed that when he was working as a Sub Inspector of Police, Cyber Crime, Triplicane, East Zone, Chennai during the period 2010 – 2014, the Inspector of Police Abiramapuram Police Station requested in writing to get the Call Data Register said to have been used by the accused. Those Call Data Register with respect to 12 Mobile Phones have been received and submitted to the Inspector of Police, Police Station along with a Certificate under Section 65-B of Indian Evidence Act. Also at the request of the Inspector of Police, Police Station dated 24.01.2014, he got the Call Data Register, Consumer Application Form with ID proof for the mobile No.8013332 and submitted with a Certificate under Section 65-B of Indian Evidence Act. He has also deposed about the Call Data

Register, Consumer Application Form and ID proofs in respect of the Mobile Nos.9442949333, 8675111668, 9488116063, 96114880122, 9994110513, 97899279298, 9842047105, 9688381805, 9043823121, 7418762838, 9585140833. Those details are marked as Ex.P-112 to Ex.P-145.

51. PW-46 Dr.Vijay Agustin Jayapaul deposed that when he was working as a Doctor with Billroth Hospital, Shenoy Nagar, Chennai, during the period 2012 2018. On 16.09.2013, at 13.56 hours, Dr.Subbiah was admitted in the hospital for treatment. He died on 23.09.2013 at about 1.00 a.m. He had prepared a Death Certificate for the deceased Dr.Subbiah which was marked as Ex.P-146.

52. PW-47 Dr.Arun deposed before this court that when he was working at the Royapettah Hospital, on 23.09.2013, at about 3.10 a.m., the body of Dr.Subbiah brought by the police for postmortem and he verified the same and declared as dead. Ex.P-147 is the Accident Register copy prepared by him.

53. PW-48 Dr. K.V.Vinoth deposed that he conducted the postmortem on the body of the deceased Dr.Subbiah on 23.09.2013 at about 11.15 a.m., at the Royapettah Government Hospital, Chennai. He noticed the following ante-mortem injuries on the body of the deceased (Ex.P-148).

1. Vertically oblique sutured wound 8cm on left parietal region of the scalp; on removal of sutures margins regular with underlying cut fracture of 4 cm of left parietal bone.
2. Vertically oblique sutured wound 5 cm on left occipital region of the scalp; on removal of sutures margins regular.

3. Horizontally oblique sutured wound 5 cm on upper part of left occipital region of the scalp; 3 cm below injury No:2 on removal of sutures margins regular.
4. Horizontally oblique sutured wound 12 cm on occipital region of the scalp; 5 cm below injury No:3 on removal of sutures margins regular.
5. Vertically oblique sutured wound 10 cm from left ear lobe to left occipital region of the scalp on removal of sutures margins regular.
6. Horizontal sutured wound 4 in numbers measuring 5, 8, 7 and 9 cms one below another over mid occipital region of the scalp. On removal of sutures margins were regular. With underlying cut fracture of 5 cm of the occipital bone; laceration 3x2x1 cm of occipital lobe of the brain.
7. Horizontal sutured wound 12 cm on lower part of occipital region to upper part of back of right side of neck.
8. Horizontal sutured wound 7 cm on back of lower part of neck; on dissection cut fracture of 6x1cm x cavity deep.
9. Vertically oblique sutured wound 3cm on back of right shoulder. On removal of sutures margins were regular.
10. Horizontal oblique sutured wound 3cm over back of right shoulder.
11. Vertically oblique scratch abrasion 13x2-1cm on back of left shoulder.
12. Vertically oblique scratch abrasion 10x1 cm on back upper part of left chest.
13. Vertically oblique scratch abrasion 12x1cm on back middle part of left chest.
14. Horizontally oblique scratch abrasion 12x0.2cm on back of lower part of left abdomen.
15. Horizontally scratch abrasion 17x1cm on middle 1/3rd back of right thigh.
16. Horizontally scratch abrasion 30x1cm on lower 1/3rd back of right thigh.

17. Horizontally scratch abrasion 10x1cm on middle 1/3rd back of left thigh.
18. Vertically oblique sutured wound 9cm on back of right wrist. On removal of sutures margins were regular; with underlying comminuted fracture of carpal and metacarpal bones.
19. Vertically oblique sutured wound 3cm on outer aspect of right eyebrow. On removal of sutures margins were regular.
20. Reddish brown abrasion 5x3cm on front of right knee.

As per the postmortem report, the cause of death was due to shock and haemorrhage as a result of the multiple cut injuries on the head and other parts of the body and the Postmortem Certificate is marked as Ex.P-148.

54. PW-49 Dr.Sai Suchithra deposed that on 14.09.2013, at about 5.30 p.m., when she was working as a Neurologist in Billroth Hospital, Dr.Subbiah was brought with severe injuries through 108 Ambulance by the Hospital Manager Mr.Jeevan. She had noticed severe cut injuries on head, right hand and bleeding from the injuries. She has further stated that Dr.Subbiah was given First Aid and Ex.P-149 Accident Register copy had been issued by her.

55. PW-50 Thiru. D.Samson Jebadoss deposed that when he was working as a Sub Inspector in AnjuGramam Police Station, one Gopinath gave a complaint against Ponnusamy, Mary Pushpam, Basil, Yesurajan, Rangan and some others on 27.06.2013, as if, they have trespassed into the land of Dr.Subbiah for which C.S.R. No.240 / 2013 has been issued. Again the said Gopinath preferred a complaint before the Judicial Magistrate No.III, Nagerkoil under Section 156 (3) of Cr.P.C. and on forwarding the same, he has registered a case in Cr.No. 467 / 2013 under Sections

147, 447, 427 of I.P.C. He has further stated that on 20.03.2014, he submitted the copy of the FIR Ex.P-50 to the Inspector of Police, Police Station.

56. PW-51 Thiru. Jayavel, Sub Judge, Arani, Thiruvannamalai District, then XVI Metropolitan Magistrate, George Town, Chennai, deposed about the Test Identification Parade conducted by him on 06.02.2014 at 10.30 a.m., at the Central Prison, Puzhal as per the direction of the Chief Metropolitan Magistrate, Chennai. He has further stated that he sent the Test Identification Parade Report to the XXIII Metropolitan Magistrate Court, and the same was marked as Ex.P-151. Also PW-51 has deposed that as per the direction of the Chief Metropolitan Magistrate, Chennai, he has recorded the statements of the witnesses Muthuvel, Gopinathan and Vinoth Kumar under Section 164 (5) Cr.P.C. and submitted to the court concerned. The said statements of Gopinath and Vinoth Kumar recorded under Section 164 (5) Cr.P.C., were marked as Ex.P-152 and Ex.P-153.

57. PW-52 Thiru. Sugumaran deposed that in the year 2013, when he was working as Special Sub Inspector at the Land Grabbing Special Cell, Kanyakumari District, as per the direction of the Deputy Superintendent of Police, registered a case in Cr.No. 57 / 2013 under Section 420, 468, 496 and 471 I.P.C. on the basis of the complaint No.246 / SP Camp / 2013 / DSP ALGSC G1 / 87 / 2013 dated 04.04.2013. The said complaint was given by Dr.Subbiah against one Ponnusamy and his wife Mary Pushpam. Afterwards, he heard that Dr.Subbiah was attacked and died. The said FIR was marked as Ex.P-154.

58. PW-53 Thiru. Saiva Vedantha Bharathi deposed that he used to go to the house of William frequently. In the 1st week of July 2013, when he went to the house of William, he had a conversation with his junior Basil and some others. They were talking about the murder of Dr.Subbiah and through their conversation, he came to know that the persons accompanying William and Basil were Murugan, Iyyappan and Selva Prakash. Advocate William asked Dr.James Sathish Kumar to make arrangements to eliminate Dr.Subbiah and for that Dr.James Sathish Kumar said that he would hear the death news of Dr.Subbiah in the month end. PW-53 has also deposed about the conspiracy between the accused to kill Dr.Subbiah. He had also deposed that after some time, the parents of A3 Basil came there and told them that the worth of the property would be Rs.10 Crore and they would be given half of the worth of the property. On 15.02.2015, he was examined by the Police and the said witness has identified the accused A5 and A7 in the court.

59. PW-54 Selvi. Neeru deposed that she was working as Assistant Director (Digital Forensics) at Truths Labs, Bangalore from the year 2010. She had deposed before this court about the receipt of a Hard Disc in their Lab and it was examined, observed and opined about those material objects. She had issued the findings which were marked as Ex.P-157. She had also deposed that on receipt of the Hard Disc, she had taken a backup in a Pen Drive and produce the same during the trial along with the Certificate under Section 65-B of Indian Evidence Act. Also she had deposed that on 15.07.2016, the Truth Labs was required to take 10 copies of M.Os.9 and 10, but it

could not be taken from M.O.9 as it was under mechanical failure and there was no relevant portion in M.O.10. The said report was informed to the court with their letter Ex.P-158.

60. PW-55 Thiru. N.Elangovan, the then Inspector of Police, Pallavaram Police Station deposed before this court that on 18.09.2013, as per the direction of the Deputy Commissioner, Mylapore, he was holding additional charge of Police Station from 18.09.2013. He took over the investigation of the case and formed a special team to secure the accused. On 21.09.2013, he gave a request to the XX Metropolitan Magistrate, Egmore, Chennai for recording of the dying declaration, but it could not be recorded, since the injured was unconscious. He has also deposed that he was informed by the police that on 23.09.2013, at about 1.00 a.m., Dr.Subbiah was died and therefore he sent the Special Sub Inspector Mr.Mani along with a memo to Royapettah Government Hospital for postmortem. He took interest in the body of the deceased Dr.Subbiah in the presence of witnesses and prepared Inquest Report Ex.P-159. Also he made arrangements to send the viscere to Forensic for examination. He has further stated that the Section of the case was altered into 302 of I.P.C. and an alteration report has been submitted to the court concerned. He has also stated that he had examined Venkatesalu, Chakravarthy, Raja and Ramalingam and recorded their statements. PW-55 Thiru.Elangovan, Inspector of Police has also stated that he had produced the clothes worn by Dr.Subbiah before the court and sent the documents to the court. He had also examined the Special Sub Inspector Mr.Sivalingam and

Mr.Vinoth and recorded their statements. He had examined the Doctor who had conducted the Postmortem Report Ex.P-148 and took the accused under police custody and also examined the Special Sub Inspector Sivalingam and Dr.Vinoth. He would further state that on 27.09.2013, filed an application before the court concerned for taking the accused in their custody. The said witness has also deposed in respect of the confessions given by Ponnusamy, Mary Pushpam in the presence of Elumalai and Vinoth Kumar. The accused Basil and Boris have also been taken into police custody and recorded their confessions in the presence of Durai Pandian and Panner Selvam. He had seized the Hard Disc in the C.C.T.V. footage of Shreshta Subhashree Apartments on 09.10.2013 at about 2.00 p.m., under a mahazar in the presence of the witnesses Kanagaraj and Anandaraj. He has further stated that he has also seized the C.C.T.V. footage from R.R.Donnelley Company under a Mahazar in the presence of the same witnesses and those footages were marked as M.O.9 and M.O.10. On 10.10.2013, he had produced those material objects before the court concerned and requested the court to send the same for forensic analysis and then the investigation of the case was taken up by Thiru Rajesh Kanna, Inspector of Police.

61. PW-56 Thiru. Rajesh Kanna, Inspector Police, Police Station deposed that he took up the investigation of this case. On 26.10.2013, he enquired the Shreshta Subhashree Apartments and on 24.01.2015, he made investigation in respect of the suspicious mobile numbers said to have been used by the accused by giving request to the Cyber Crime and got the detailed records along with the Certificate under Section

65-B of Indian Evidence Act. He has also stated about the examination of the witnesses Mohan, Shanthi, Gopinath on 29.01.2014 and the arrest of Dr. James Sathish Kumar, Murugan, Selva Prakash and Iyyappan at about 6.00 p.m., near Thoraipakkam Jain College Bus Stop. He has further stated that about the recording of the confessions of the accused James Sathish Kumar, Murugan, Selva Prakash and Iyyappan in the presence of witnesses Jagadeesan and Sagadevan. On the basis of their confessions, he had recovered a Black Colour Bag, Blood stained white colour half sleeve shirt and a Knife under a Seizure Mahazar. Thiru Rajesh Kanna, Inspector has also stated that the recovered materials have been produced before the court and the accused were also produced before the court. The said witness has also deposed that on 29.01.2014, an Alteration Report has been prepared and sent along with confessions of the accused, statement of witnesses, mahazar and also the material objects to the court. He has further stated that on 31.01.2014, to file a request before the Chief Metropolitan Magistrate, Chennai to make arrangements to conduct Test Identification Parade to identify the accused. He had also stated about the examination of the witness Lakshmi Priya on 01.02.2014. On 06.02.2014, he had filed an application before the XXIII Metropolitan Magistrate, Chennai, to get the custody of the accused and took custody from 07.02.2014 to 13.02.2014. During the said period, further confession statements of Dr. James Sathish Kumar, Murugan, Selva Prakash and Iyyappan were recorded in the presence of the witnesses Aravindraaj and Karthikeyan. Thereafter, on 08.02.2014, he had examined the two wheeler mechanic

Thiru.Jayakumar and then examined the Manager and the Room Boy of the Aruna Lodge and seized the documents under a Mahazar. He has further stated that on the same day, at about 8.30 p.m., he had examined the Manager of the Bakkiyam Lodge and also examined the witnesses Thiru.Chandrakumar, Thiru.Ajith Akthar and Thiru.Vijayakumar and recorded their statements. On 10.02.2014, he had examined one Sathish Kumar from Panakudi and also examined the witness Arumuga Selvan of Udhaya Travels, Panakudi and seized the documents and two wheeler side mirrors under a Mahazar. On the same day, he had examined the witnesses Eswaran, Subramani and seized the R.C.Book of TN 20 J 9995 and also a long size book under a Seizure Mahazar. On the same day, at about 12.45 p.mHe examined the witness Saiva Vedantha Bharathi and thereafter, seized the sale deed in the name of Raja from one Selvam in the presence of witnesses. He has also deposed about the examination of Robert Vincent of Rani Studio, demo conducted on 12.02.2014 and its recording. Thereafter, the accused Dr.James Sathish Kumar, Murugan, Selva Kumar and Iyyappan had been produced before the court on 13.02.2014 along with further confessions statement of witnesses, seized documents and the material objects. Subsequently, the investigation of the case was taken by Thiru Srinivasan, Inspector of Police as he was transferred to Thirumullaivoyal.

62. PW-57 Thiru. Sreenivasan, Inspector deposed that he had taken charge as Inspector of Police, Police Station on 14.02.2014 and he had registered a case in Cr.No.1352 / 2013 under Section 307 of I.P.C. on the basis of the complaint given by

Thiru A.A.Mohan. Then he went to the place of occurrence and prepared Observation Mahazar and Rough Sketch in the presence of the witnesses Ramu and Vinayagam and also at about 10.00 p.m., recovered blood stained cement earth peice and normal cement earth pieces in the presence of the same witnesses under a Mahazar. He has also deposed that he got the copy of the C.C.T.V. footage in a pen drive and examined the witnesses Venkatesalu, Chakkarvarthy, Raja and Ramalingam and recorded their statements. On 14.09.2013, at about 11.00 p.mHe had recovered the clothes worn by Dr.Subbiah under Form - 91. On 15.09.2013, the FIR along with the original complaint were sent to the court through the Special Sub Inspector, Thiru.Paruthimarkalingar. Further statements of A.A.Mohan were recorded, special teams were formed to secure the accused. On 18.09.2013, as per the instruction of the higher officials he had handed over the case records to the Kotturpuram Inspector of Police Thiru.Elangovan. Again, on 27.09.2013, as per the directions of the higher officials, he took charge of Police Station and took up the case for investigation. He had examined Dr.Vijay Agastin Jayapaul on 28.09.2013 and obtained the death certificate of Dr.Subbiah and on 28.09.2013, examined Mr.Jeevan, Manager of Billroth Hospital and Dr.Sai Suchitra and recorded their statements. Again he was transferred and rejoined on 14.02.2014 at the Police Station and got the case records from the Inspector of Police Thiru Rajesh Kanna. He had examined the witnesses Saiva Vedantha Bharathi, Krishnapillai, Arumuga Sigamani on 15.02.2014. He had obtained the A.R.Copy from Royapettah Hospital on 23.09.2013 and examined

Dr.Arun. On 21.02.2014, he made a request before the court to send the nine material objects for chemical analysis and also filed a petition to conduct the Test Identification Parade to identify the accused and also made a request to record the statement of witnesses under Section 164 (5) Cr.P.C. He has further stated that on 24.02.2014, he had sent the seized material objects for the analysis of forensic through the Special Sub Inspector Thiru Suriyakumar and also prepared a time chart. He has further stated that on 10.03.2014, he had examined the Manickaraj, Pushpam and Kumaravel at Kanimadam and recorded their statements on 13.03.2014, at about 8.00 a.m., the confession of A6 Yesurajan was recorded in the presence of Jagan and Balaji and his arrest was intimated to his sister. Yesurajan was produced before the court concerned. On 19.03.2014, the statements of Vinothkumar, Muthuvel and Gopinath were recorded under Section 164 (5) of Cr.P.C. On 20.03.2014, he had examined the Sub Inspector of Land Grabbing Cell, Kanniyakumari District and got the FIR 21.03.2014, as per the order of the XXIII Metropolitan Magistrate, Chennai, the Hard Disc, Demo CDs. and the time chart prepared by him and also the photographs were sent to Truth Labs for comparison.

63. On 15.05.2014, the witnesses Thiru Rajaram, Thiru Sreenivasan and Tmt.Dharani were examined and their statements were recorded. On 05.07.2014, Selvi Neeru and the XVI Metropolitan Magistrate, George Town, Chennai were examined and their statements recorded. The accused Boris and William did not turn up for the summons issued by PW-57 and on 19.08.2014, Maybel Latha Bai, Mathew

and Moses appeared for enquiry and their statements were recorded. On 09.12.2014 the witnesses Babu, Ganesh were examined and on the same day, a request was submitted to the Sub Registrar, Vedachery for issuance of Encumbrance Certificate. The accused William was taken into the custody of the police from 09.12.2014 to 14.12.2014 and on 10.12.2014, the confession of the William was recorded in the presence of the witnesses John Kannedy and Naresh Kumar. On the basis of the admissible portion of the confession, a Cell Phone, Marriage Albums, Marriage C.Ds. and Dr. Subbaiah's visiting card have been recovered in the presence of the witnesses. The witnesses Devasagayam, Natarajan, Manickaraj were examined and their statements were recorded. The bank account of William and other details have been obtained from the bank concerned. Encumbrance Certificate has been received from the Sub Registrar, Vedachery. On 14.12.2014, the accused William was produced before the court and on 18.12.2014, witness Thangamani was examined. On 26.01.2015, the accused James Sathish Kumar was examined and on 30.01.2015, the statement of Witness Kalpana Ananthasamy was recorded. On 03.02.2015, he has examined the witness Veeramani and got the details of the vehicles bearing Reg.No.TN 72 AX 5106 Maruti Alto Car and bearing Reg.No.TN 22 BR 9010 Toyota Fortuner from the R.T.O. office web site.

64. On 27.03.2015, details were obtained by PW-57 in respect of A4 Boris from British Airways Cargo Company, T.T. Logistics and Cargo Private Limited, Bangalore and examined Thiru Debajyoti Bagchi and enquired about the suspicious mobile

numbers. He has also examined the bank account details and its transactions of the accused Ponnusamy, William, James Sathish Kumar, Yesurajan, Boris and also seized the bank statements, pay-in-slips, withdrawal slips and certificates along with the covering letter. On 17.04.2015, enquiry was made with the Branch Manager, Indian Overseas Bank, Kottaram Branch, Kanniyakumari District and the relevant records have been recovered by PW-57 Thiru.Sreenivasan. Since there was no materials or evidence against the accused Annapazham, she has not been included in the final report. The Forensic Lab Reports have been marked through the Inspector of Police Thiru Sreenivasan as Ex.P-170 to Ex.P-173. After the completion of the investigation, PW-57 Thiru.Sreenivasan, Inspector of Police had laid the final report on 06.05.2015 before the XXIII Metropolitan Magistrate against the accused A1 to A9 for the offences punishable under Sections 120-B, 109, 341, 302 r/w 34 of I.P.C.

65. Incriminating substances and materials adduced on the side of the prosecution were taken out and the accused A1 to A9 were questioned about the evidence against them under section 313 (1) (b) of criminal procedure code. The accused A1 to A3 and A5 to A8 denied the evidence against them.

66. Point for consideration:

1. Whether the prosecution has proved all the charges leveled against the accused beyond all reasonable doubts or not?
2. If they are found guilty, for what offence they have to be punished and what are the sentences to be imposed?

67. The learned Special Public Prosecutor would submit before this court that the charges against the accused have been proved beyond all reasonable doubts and he has also submitted his written arguments on the following aspects.

- Sufficient oral and documentary evidence have been produced in respect of motive for commission of crime.
- Eye witnesses have thoroughly supported the case of the prosecution.
- Oral and documentary evidence have been let in not only prove the conspiracy, but also their preparation and execution as per conspiracy.
- Nexus between the accused have been proved through sufficient oral and documentary evidence.
- Electronic Evidence has been produced in respect of the alleged occurrence and the same was supported by oral evidence of independent witnesses and also by the expert evidence.
- Cogent oral and documentary evidence has been let in to prove the conspiracy.
- Arrest, confession and recovery of material objects have been proved.
- Approver evidence is reliable and corroborated by other evidence.
- Accused persons were identified by the witnesses in the open court and also in the Test Identification Parade.
- Medical evidence completely supported the case of the prosecution and it is corroborated by the ocular evidence.

68. The learned Special Public Prosecutor has also submitted the following Judgments of Hon'ble Supreme Court of India and Hon'ble High Courts to substantiate his contentions.

1. State of U.P. Vs. Ashok Kumar Srinivasta AIR 1992 SC 840 2. Rattan Singh Vs State of HP (1997 (4) SCC 161)

3. State of H.P. VS. Manohar Thakur 1998 (37) ACC 429
4. Sunil Kharade Vs State of Maharashtra (CDJ) 2015 SC 5.
5. State of U.P. Vs Krishna Mater & Ors, 2010 (2) L.S. 42
6. Mukesh & Another Vs. State for NCT of Delhi & Others (2017 (2) SCC (Cr) 673)
7. Bijoy Singh Vs State of Bihar (AIR 2002 SC 1949)
8. Baldev Singh Vs. State of Punjab (AIR 1996 SC 372)
9. Ombir Singh Vs State of UP 2020 AIR (SC) 2609
10. Sarwan Singh Vs. State of Punjab, (1976) 4 SCC 369
11. Anil Rai Vs State of Bihar, (2001) 7 SCC 318 : 2001 SCC (Cri) 1009
12. Aqueel Ahmad Vs. State of U.P. (2008) 16 SCC 372: (2010) 4 SCC (Cr) 11)
13. Sandeep Vs State of U.P.(2012) 6 SCC 107:(2012) 3 SCC (Cri 18)
14. Pala Singh Vs State of Punjab (1972) 2 SCC 640 : 1973 SCC (Cri) 55)
15. Manjit Singh & Others Vs. State of Punjab & Others (CDJ 2013 SC 809)
16. Masalti Vs State of U.P. (AIR 1965 SC 202)
17. Namdeo Vs. State of Maharashtra (2007) 14 SCC 150)
18. Bipin Kumar Modal Vs. State of W.B. ((2010) 12 SCC 91)
19. State of H.P. Vs Gian Chand ((2001) 6 SCC 71)
20. Takhaji Hiraji Vs. Thakore Kubersing Chamansing ((2001) 6 SCC 145)
21. Dahari Vs State of U.P. ((2012) 10 SCC 256)
22. Harivadan Babubhai Patel Vs State of Gujarat ((2013) 7 SCC 45)
23. State of U.P. Vs. Iftikhar Khan and others (1973) 1 SCC 512)
24. Gulam Sarbar Vs. State of Bihar reported in (2013) 3 SCC 40)
25. Yanob Sheikh Alias Raju Vs State of West Bengal (2013) 6 SCC 428
26. Rajesh Singh and Others Vs State of Uttar Pradesh (2011) 11 SCC 27.
27. Vadivelu Thevar Vs The State of Madras, AIR (1957) SC 614
28. State of Rajasthan Vs Bhawani (AIR 2003 SC 3346)
29. Sattar Vs State of U.P. (CDJ 2019 All HC 420)
30. State of Punjab Vs. Wassan Singh AIR 1981 SC 697
31. State of Andhra Pradesh Vs Kanda Gopaludu 2005 (53) ACC 772 (SC)
32. State of U.P. Vs. Krishna Master

- ((2010) 12 SCC 324) 33. State of Punjab Vs. Hakim Singh (2005 (7) SCC 408) 34. Govindaraju Vs. State of Karnataka (2009) 14 SCC 236
35. Sukhwinder Singh Vs. State of Punjab (2014) 12 SCC 490 36. NCT Delhi Vs Sunil and another 2011 (1) Crimes page 176 SC 37. State of Himachel Pradesh Vs. Lekhraj and Another 2000 I SCC P.247 38. Atmaram and Ors. Vs. State of Madhya Pradesh (2012 (5) SCC 738)
39. Appabhai Vs. State of Gujarat (AIR 1988 SC.694)
40. Arjun and others Vs. State of Rajasthan, AIR 1994 SC 2507 41. Rana Pratap Vs. State of Haryana, 1983 Cri.L.J.127 (S.C.) 42. State of U.P. Vs. Naresh, (2011) 4 SCC 324 - 2011 Cr.L.J.2162) 43. 2013 AIR SCW 6766 Madhu @ Madhuranatha & Anr. v. State of Karnataka 44. C. Muniappan & Ors Vs. State of Tamil Nadu
45. Rameshbhai Mohanbhai koli & Ors. v. State of Gujarat [2010] 14 (Addl.) S.C.R. 1
46. Vinod Kumar Vs. State of Haryana (2015 AIR (SCW) 601) 47. State of Uttar Pradesh Vs. M.K.Antony (AIR 1985 SC48) 48. Guru Charan Singh Vs. Satpal Singh (1990) 1 SCC 445 49. Uttar Pradesh Vs. Ashok Kumar (1992 Cr.L.J 104)
50. S. Sudershan Reddy & Ors Vs. The State of Andhra Pradesh (2006 (10) SCC 163
51. Shakila Abdul Gaffar Khan (Smt.) Vs. Vasant Raghunath Dhoble and others (2003) 7 SCC 749
52. Kaugur Padma Rao Vs. State of Andhra Pradesh (AIR 2007 SC 1299) 53. Gubbala Venugopala Swamy Vs. State of Andhra Pradesh (AIR 2004 SC 2477)
54. Jakki @ Selvaraj Vs. State (2007) 9 S.C.C. 589
55. Raju @ Rajendra vs. State of Maharashtra 1998 Cri.L.J 493 56. State of UP Vs Satish 2003 II AD (SC) 675
57. 2006 IV AD (Cri) (DHC) 257 State (through CBI) Vs Santosh Kumar Singh 58. Abdul Rahaman Kunji Vs. The State of West Bengal [MANU / WB / 0828 / 2014]

59. State of Himachal Pradesh vs. Thakur Dass, 1983 CrLJ 1694 60. Kanagaraj Vs. State of Tamilnadu, (Crl.A.498/2018)
61. State of Karnataka v. Yarappa Reddy – JT 1999 (8) SC 10 62. Shyamal Ghosh Vs. State of W.B – AIR 2012 SC 3539 63. Babu vs. Chennai – AIR 2013 SC 1769
64. Dayal Singh and Ors. Vs. State of Uttaranchal – AIR 2012 SC 3046
65. Kishanbhai Vs. State of Gujarat, Manu / SC / 0004 / 2014.
66. State of Karnataka Vs. Suvarnamma (2015 (1) SCC 323)
67. Leela Ram (D) through Duli Chand Vs. State of Haryana and another (AIR 1999 SC 3717) Dhanaj Singh alias Shera and others Vs. State of Punjab (2004 CrL.L.J 1807)
68. State of A.P. Vs. P.V. Pavithran (AIR 1990 (SC) 1266)
69. Rotash Vs. State of Rajasthan, (2007) 2 S.C.C.(Crl.) 382 71. Hema Vs. State 2013 CRIL.L.J. 1011
72. Visveswaran Vs. State Rep. by S.D.M (2003 CrL.L.J.2548)
73. Hiralal Pandey Vs. State of U.P (2012) 2 SCC (Cri) 677
74. Allarakha K.Mansuri Vs. State of Gujarat, 2002 CrL.L.J. 1489
75. Dhanraj Singh & others Vs. State of Punjab 2004 CrL.L.J. 1807
76. Union of India Vs. Prakash P. Hinduja and Another 2003 CrL.L.J. 3117
77. State of West Bengal Vs Mir Mohamed Omar & Others (2000 8 SCC 234)
78. H.N. Rishbud Vs. State of Delhi AIR 1955 SC 196 (3JJ)
79. Karnail Singh Vs. State of M.P. (1995) 5 SCC 518
80. Ram Bihari Yadav Vs. State of Bihar (1998) 4 SCC 517
81. Paras Yadav Vs. State of Bihar AIR 2003 SC 1164
82. Amar Singh Vs. Balwinder Singh AIR 2003 SC 1164
83. Surendra Paswan Vs. State of Jharkhand AIR 2004 SC 742
84. Ram Bali Vs. State of U.P. (2004) 10 SCC 598
85. Zahira Habibullah. Sheikh Vs. State of Gujarat (2006) 3 SCC 374
86. Rakesh Kumar Vs. State of Haryana (2009) 3 SCC (Cr.) 1243

87. Sheo Shankar Singh Vs. State of Jharkhand 2011 Cr.L.J. 2139 (SC)
88. Kashi Nath Mandal Vs. State of W.B AIR 2012 SC 3134
89. Ganga Singh Vs. State of M.P. (2013) 7 SCC 278
90. Hema Vs. State 2013 (1) ACR 670 (SC)
91. Rajasthan Vs. Smt.Kalki & Anr., (1981) 2 SCC
92. State of U.P Vs. Kishanpal & Ors (2008 (11) SCR 1048)
93. Munish Mubar Vs. State of Haryana, AIR 2013 SC 912
94. Ramnaresh Vs. State of Chhattisgarh, AIR 2012 SC 1357
95. Harivadan Babubhai Patel Vs. State of Gujarat (2013) 7 SCC 45
96. Rafiq Ahmed @ Rafi Vs. State of U.P., AIR 2011 SC 3114
97. Vinod Kumar Vs State of Punjab (2015 SCC (3) 220)
98. Dr. Sunil Clifford Daniel Vs. State of Punjab 2012 Cr.L.J. 4657 (SC)
99. Neel Kumar Vs. State of Haryana 2012 (2) ACR 1744 (SC)
100. Munna Kumar Upadhyaya @ Munna Upadhayaa Vs. State of A.P. AIR 2012 SC 2470
101. Jagroop Singh Vs. State of Punjab AIR 2012 SC 2600
102. Anju Chaudhary Vs. State of U.P. (2013) 6 SCC 384
103. State of Gujarat Vs. Anirudh Singh (AIR 1997 SC 2780)
104. K. Ramajayam @ Appu Vs. State (2016 Cri.L.J. 1542)
105. Narayan Chetan Ram Choudhry Vs. State of Maharashtra, 2000 (8) SCC 457
106. Rameswar Vs. State of Rajasthan (AIR 1952 SC 54)
107. Devendran Vs. State of Tamil Nadu (1997) SCC 720
108. Chanakya Dhibar Vs. State of W.B., (2004) 12 SCC 398
109. Sahadevan @ Sagadevan Vs. State 2003 SCC (Cri.) 382
110. Brahm swaroop Vs. State of U.P. [2010] 15 (Addl.) S.C.R
111. State of U.P Vs. Abdul (AIR 1997 SC 2512)
112. Radha Mohan Singh Vs. State of U.P – (2006) 2 SCC 450

113. State Rep. by Inspector of Police, Tamil Nadu Vs. Rajendran & Ors. 2008 (8) Supreme 188

114. Dashwanth Vs. State (2018, CrI.L.J 4226)

115. Himachal Pradesh Administration Vs. Om Prakash, AIR 1972 SC 975

116. Inder Singh & another Vs. State (DA) AIR 1978 SC 1091

117. Gangadhar Behera Vs. State of Orissa, (2002) 8 SCC 381

118. Mannu Sao Vs. State of Bihar (CDJ 2010 SC 673)

119. Umar Mohamed & Others Vs. State of Rajasthan (CDJ 2007 SC 1351)

120. State of Rajasthan Vs. Arjun Singh & Others 9 CDJ 2011 SC 845)

69. The learned counsels, who have appeared for the accused A1 to A4 and A6 to A9 have extensively advanced their oral arguments and also submitted their written arguments under Section 314 of Cr.P.C. From the arguments submitted on behalf the accused A1 to A4 and A6 to A9 and also from the arguments advanced by the accused A5 William, the following points were culled out for consideration.

- The prosecution has miserably failed to prove the charges against the accused beyond all reasonable doubt.
- Motive for the crime has not been established.
- Delay in preferring the complaint and despatching the FIR has not been explained.
- Signature of the de facto complainant was not obtained in FIR
- The FIR the named accused Annapazham, mother of A1 Ponnusamy was left out in the final report.
- Some of the material witnesses were not examined without any acceptable reason.
- There are a lot of omissions, additions, contradictions and discrepancies between the prosecution side witnesses and is not consistent.
- Chain of custody of M.O.s 9 and 10 have not been proved.

- Approver's evidence is not reliable and uncorroborated. His evidence is not inculpatory in nature.
- A5 falsely implicated and the alleged recovery from the house of A5 has not been proved.
- Best evidence (Pen Drive with PW – 57 Thiru.Sreenivasan) has not been produced before the court.
- The evidence of Eye Witnesses PW – 2 and PW - 3 is not cogent, trustworthy and reliable.
- There is no link between A1 to A6 with A7 to A10.
- Conspiracy has not been established.
- The Electronic Evidence has not been proved before this court as prescribed in law.
- Medical Evidence is not supported in the case of prosecution and the material records in respect of the treatment given to the deceased have not been produced before this court.
- The involvement or participation of A6 Yesurajan in the alleged conspiracy and the commission of crime is not at all established by the prosecution.
- The deceased Dr.Subbiah died due to an accident and he was not murdered.
- The statements of witnesses in related documents have belatedly reached the court.
- There are a lot of defects in the investigation and those defects or faulty investigation completely shattered or falsified the case of the prosecution.

The Learned Counsel for A1 to A4 has cited the following Judgments in support of his arguments.

1. Anand Ramachandra Chougule Vs Cidarai Laxman Chougala - 2019 (9) – SCJ – 565
2. Tomaso Bruno & others Vs State of Uttar Pradesh – 2016 (1) MWN (Crl) – 350 SC
3. Vinothkumar Vs State of Kerala - 2014 (1) – TLNJ – (Crl) – 352
4. Habeeb Mohammed Vs State of Hyderabad – AIR -1954 – SC – 475

5. State of Uttar Pradesh Vs Jaggo @ Jagdish – 1971 – AIR – SC – 1586
6. Habeeb Mohammad Vs State of Hyderabad - 1954 – AIR – SC – 51
7. Surinder Singh Vs State of Punjab - 1989 – SCC -(Cal) – 649
8. Dudh Nath Pandey Vs State of Uttar Pradesh – 1981 – SCC (Crl) – 379
9. Ravishankar Prasad Vs State - 2011 (2) – LW (Crl) – 749
10. Sarwant Singh Vs State of Punjab - Air - 1957 – SC - 637
11. Dhananjay Kumar Singh Vs State of Rajasthan – 2006 – CRI LJ – 3873
12. Kailash Sah Vs State of Bihar – 2006 – CRI. L.J – 3886
13. Srichand K.Khetwant Vs The State of Maharashtra – 1967 – Crl. LJ – 414
14. Bhagwat Saran Vs State and others - 1967 – (Cri.) LJ – 417
15. Sarwan Singh Rattan Singh Vs State of Punjab – AIR -1957 – SC – 637

69. The accused William, (A5) has submitted the following Judgments of Hon'ble Supreme Court of India and various Hon'ble High Courts.

1. Narayanan Chetanram Chaudhary and Ors Vs. State of Maharastra, MANU / SC / 0547 / 2000

Eye witness / Interest Eye Witness / Injuries Eye Witness:

1. Shivasharanappa and Ors Vs State of Karnataka and Ors, Manu / SC /0470 / 2013
2. Sunil Kundu and Ors Vs. State of Jharkhand, Manu / SC / 0340 / 2013
3. Muthu Vs. State of Karnataka, Manu / SC / 0673 /2002
4. Raghunath and Ram Kishan and Ors Vs. State of Haryana and Ors Manu / SC / 0988 /2002
5. Suresh Rai and Ors Vs. State of Bihar, Manu / SC / 0228 /2000
6. Bihari nath Goswami Vs. Shiv Kumar Singh and Ors Manu / SC / 0158 / 2004
7. Govindaraju Vs. State of Ors, Manu / SC / 0211 / 2012
8. Mahendra pratap singh Vs. State of Uttar Pradesh, Manu / SC / 0279 / 2009
9. State of Rajasthan Vs. Rajendra Singh, Manu / SC / 0446 / 1998

10. Latoor and Or Vs. State of U.P on 23 December 1999
11. Hardeep Vs. State of Haryana and Ors, Manu / SC / 681 /2002
12. State of Haryana Vs. Balkar Singh and Ors, Manu / SC / 0569 / 2009
13. Idrish Bhai Daudbhai Vs. State of Gujarat, Manu / SC / 0068 / 2005
14. L.L.Kale Vs. State of Maharastra, Manu / SC / 0743 / 1999
15. Padam Singh Vs. State of U.P, Manu / SC / 0745 / 1999
16. Manug Singh and Ors Vs. Dharmandra and Ors, Manu / SC / 1459 / 2015
17. The State of Rajasthan Vs. Teja singh and Ors, Manu / SC / 0085 / 2001
18. State of U.P and Ors Vs. Jaggo and Ors, Manu / SC / 0190 / 1971
19. Shakila Abdul Gajar khan Vs. Vasant Raghunath Dhoble and Ors, Manu / SC / 0677 / 2003
20. Surendra pratap Chauhan Vs. Ram Naik and Ors, on 13 November 2000
21. Ram Narain Singh and Ors Vs. State of Punjab, Manu / SC / 0193 / 1975
22. Rathinam Vs. State of Tamil Nadu and Ors, Manu / SC / 1978 / 2009
23. Toran Singh Vs. State of Madhya Pradesh on 1 August 2002
24. Kanan and Ors Vs. State of Kerala on 07 March 1979
25. Badam Singh Vs. State of Madhya Pradesh on 4 November 2003
26. Kapil Deo Mandal and Ors Vs. State of Bihar on 29 November 2007

APPRECIATION OF EVIDENCE

1. Saju Vs. State of Kerala, Manu / SC / 0688 / 2000
2. Bharati Tamang Vs. Union of India (UOI) and Ors, Manu / SC / 1075 / 2013
3. Arjun Panditrao Khotkar Vs. Kailsh Kushanrao Gorantyal and Ors, 2020 (7SCC) 1
4. Sharad Birdhichand Sarda Vs. State of Maharastra, Manu / SC / 0111 / 1984
5. Vikramjit Singh Vs. State of Punjab, Manu / SC / 8721 / 2006
6. Shakila Abdul Gafar Khan Vs. Vasanth Ragnath Dhoble and Ors, Manu / SC / 0677 / 2003
7. Ahish Batham Vs. State of Madhya Pradesh

8. Govindaraju Vs. State and Ors, Manu / SC / 0211 / 2012
9. Rathinam Vs. State of Tamil Nadu and Ors, Manu / SC / 1978 / 2009
10. Sujit Biswas Vs. State of Assam, Manu / SC / 0564 / 2013
11. State of Bihar Vs. Radha Krishna Singh and Ors on 20 April, 1983
12. Ugar Ahir and Ors Vs. The State of Bihar on 06 March 1964
13. Balaka Singh and Ors Vs. State of Punjab on 16 April 1975
14. Gurcharan Singh Vs. The State of Punjab on 1 October 2020
15. Mousam Singha Ray and Ors Vs. State of West Bengal on 21 August 2003
16. Vikramjit Singh @ Vicky Vs. State of Punjab on 24 November 2006

SECTION 34 OF I.P.C / COMMON INTENTION

1. Saju Vs. State of Kerala, Manu / SC / 0688 / 2000
2. State (N.C.T. of Delhi) Navjot Sandhu and Ors, Manu / SC / 0465 / 2005
3. Dhanraj Vs. State of Haryana, Manu / SC / 0454 / 2014
4. Bharati Tamang Vs. Union of India (UOI) and Ors, Manu / SC / 1075 / 2013
5. Pancho Vs. State of Haryana, Manu / SC / 1275 / 2011
6. Varun Chandhary Vs. State of Rajasthan, Manu / SC / 0911 / 2010
7. Indra Dalal Vs. State of Haryana, Manu / SC / 0661 / 2015
8. Gopal Sah Vs. State of Bihar, Manu / SC / 8348 / 2008
9. Idrish Bhai Daudbhai Vs. State of Gujarat, Manu / SC / 0068 / 2005
10. Nanak Chand Vs. The State of Punjab on 25 January 1955

MOTIVE

1. Varun Chaudhary Vs. State of Rajasthan, Manu / SC / 0911 / 2010
2. Durbal Vs. State of U.P. Manu / SC / 0071 / 2011
3. State Through C.B.I Vs. Mahendra Singh Dahiya, Manu / SC / 0077 / 2011
4. Mangu Singh and Ors Vs. Dharmendra and Ors, Manu / SC / 1459 / 2015
5. Hardeep Vs. State of Haryana and Ors, Manu / SC / 681 / 2002
6. Raghunath and Ram Kishan Vs. State of Haryana and Ors., Manu / SC / 0988 / 2002

7. Suresh rai and Ors Vs. State of Bihar, Manu / SC / 0228 / 2000
8. Surendra pratap Chanhan Vs. Ram Naik and Ors, on 13 November 2000
9. Latoor and Ors Vs. State of U.P on 23 December 1999
10. Sunil Kumar Sambhudayal Gupta and Ors Vs. State of Maharastra, Manu / SC / 0947 / 2010 (Inimical)
11. Mangu Singh and Ors Vs. Dharmendra and Ors, Manu / SC / 1459 / 2015
12. Dhananjay Shanker Sheety Vs. State of Maharastra, Manu / SC / 0620 / 2002
13. Kashmira Singh Vs. State of Madhya Pradesh on 4 March 1952

FAIR TRIAL NON COMPLAINT OF 207 AND 209 AND 211 AND 212 AND 213 OF THE Cr.P.C

1. Arjun Panditrao Khotkar Vs. Kailash Kushanrao Gorantyal and Ors, 2020 (7SCC) 1
2. Mrs. Kalyani Baskar Vs. Mrs. M.S.S. Ampoornam on 11 December 2006
3. Charan Jeet Singh Alias Tinkoo Vs. State of Uttar Pradesh on 23 September 2004
4. Nanak Chand Vs. The State of Punjab on 25 January 1955
5. Shakila Abdul Gafar Khan Vs. Vasant Raghunath Dhoble and Ors, Manu / SC / 0677 / 2003

ADVERSE INFERENCE

1. Habeeb Mohammed Vs. State of Hyderabad on 5 Ocotber 1953
2. Sivagallu Vs. State of Station House officer on 27 August 2012
3. Sunil Kumar Sambhudayal Gupta and Ors Vs. State of Maharastra Manu / SC / 0947 / 2010
4. Tomaso Bruno Vs. State of U.P, Manu / SC / 0057 / 2015
5. Musauddin Ahmed Vs. State of Assam, Manu / SC / 1126 / 2009
6. Govindaraju Vs. State and Ors, Manu / SC / 0211 / 2012
7. Rathinam Vs. State of Tamil Nadu and Ors Manu / SC / 1978 / 2009

8. Suresh Kalmadi Vs. C.B.I on 22 May 2015
9. Padam Singh Vs. State of U.P, Manu / SC /0745 / 1999
10. The State of Rajasthan Vs. Teja Singh and Ors, Manu / SC / 0085 /2001
11. State of U.P and Ors Vs. Jaggo and Ors, Manu / SC / 0190 / 1971
12. Baldev singh Vs. State of Punjab, Manu / SC / 0972 / 2013
13. Ashish Bathan Vs. State of Madhya Pradesh, Manu / SC / 0757 / 2002
14. Stephen Sene Virathe Vs. The King on 29 July 1936
15. Shakila Abdul Gafar Khan Vs. Vasant Raghunath Dhoble and Ors, Manu / SC / 0677 / 2003
16. Sunil Kundu and Ors Vs. State of Jharkhand, Manu / SC / 0340 / 2013
17. Kannan and Ors Vs. State of Kerala on 7 March 1979
18. State of Rajasthan Vs. Talevar and on 17 June 2011
19. Sahib Singh Vs. State of Haryana on 28 July 1997
20. State of Bihar Vs. Radha Krishna Singh and Ors on 20 April 1983
21. Sunil Vs. State of Haryana on 4 December 2009
22. Ugar Ahil and ors Vs. The State of Bihar on 6 March 1964
23. S.Harnam Singh Vs. The State (Delhi Admn) on 23 March 1976
24. Mousam Singho Roy and Ors Vs. State of West Bengal on 21 August 2003
25. Nanak Chand Vs. The State of Punjab on 25 January 1955
26. Zwinglee Ariel Vs. State of M.P. on 03 December 1952

CONFESSION / ADMISSION

1. Indra Dalal Vs. State of Haryana, Manu / SC / 0661 / 2015
2. Gopal Sah Vs. State of Bihar, Manu / SC / 8348 / 2008
3. Mustkeem Vs. State of Rajasthan, Manu / SC / 0795 / 2011
4. State (N.C.T of Delhi) Vs. Navjot Sandhu and Ors, Manu / SC / 0465 / 2005
5. Pancho Vs. State of Haryana, Manu / SC / 1275 / 2011 (PW 7 Confession witness)

6. Dipakbhai Jagadishchandra Patel Vs. State of Gujarat and Ors Manu / SC / 0595 / 2019
7. Dhan Raj Vs. State of Haryana, Manu / SC / 0454 /2014
8. Vijay Shankar Vs. State of Haryana, Manu / SC / 0837 / 2015 (W 7 confession)
9. Sahadevan and Ors Vs. State of Tamil Nadu, Manu / SC / 0499 / 2012 (PW7)
10. Balwinder Singh Vs. State of Punjab, Manu / SC / 2012 / 1995
11. C.K. Raveendran Vs. State of Kerala Manu / SC / 0752 / 1999
12. Kashmira Singh Vs. State of Madhya Pradesh on 4 March 1952
13. Pulukuri Kottaya Vs. King Emperor on 19 December 1946
14. Jagta Vs. State of Haryana on 23 April 1974 (PW 7)
15. Rai Sandeep Vs. State of N.C.T. of Delhi, Manu / SC / 0623 / 2012

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1. Indra dalal Vs. State of Haryana, Manu / SC / 0661 / 2015
2. Saju Vs. State of Kerala (only conspirator) Manu / SC / 0688 / 2000
3. State (N.C.T of Delhi) Vs. Navjat Sandhu and Ors Manu / SC / 0465 / 2005
4. Nupur Talwar and Ors Vs. State of U.P and Ors, on 12 October, 2017
5. Bharati Tamang Vs. Union of India (UOI) and Ors Manu / SC / 1075 / 2013
6. Gopal sah Vs. State of Bihar, Manu / SC / 8348 / 2008
7. Anvar P.V. Vs. P.K.Bhasheer and Ors on 18 September 2014
8. Vijayan Vs. State of Kerala, Manu / SC / 0115 / 1919
9. State of Maharastra Etc. Etc. Vs. Somnath Thapa Etc. Etc on 12 April 1996
10. V.C. Shukla Vs. State (Delhi Administration) on 11 April 1980

INTERESTED WITNESS

1. Sunil Kumar Sambhudayal Gupta and Ors Vs. State of Maharastra, Manu / SC / 0947 / 2010
2. Upendra Pradhan Vs. State of Orissa, Manu / SC / 0501 / 2015

3. Latoor and Ors Vs. State of Jharkhand, Manu / SC / 0340 / 2013
4. Sunil Kundu and Ors Vs. State of Jharkhand, Manu / SC / 0340 / 2013
5. Sahid singh Vs. State of Haryana on 28 July 1997

GOOD CHARACTER IS A EVIDENCE U/S 53 OF IEA

1. Habbeeb Mohammed Vs. The State of Hyderabad on 05 October 1953

**UNNATURAL ACTIVITIES / IMPROVEMENT / CONTRADICTION /
OMMISSION**

1. Sunil Kumar sambhndyal Gupta and Or Vs. State of Maharastra, Manu / SC / 0947 / 2010
2. Sharad Birshichand sarda Vs. State of Maharastra, Manu / SC / 0111 / 1984
3. Baldev singh Vs. State of Punjab, Manu / SC / 0972 / 2013
4. Tomaso Bruno Vs. State of U.P, Manu / SC / 0057 / 2015
5. Shakila Abdul Gafar khan Vs. Vasant Raghunath Dhoble and Ors, Manu / SC / 0677 / 2003
6. Narander Kumar Vs. State (N.C.T of Delhi), Manu / SC / 0481 / 2012
7. A.Shankar Vs. State of Karnataka, Manu / SC / 0693 / 2011
8. Nupur Tolwar and Ors Vs. State of U.P and Ors, on 12 October, 2017
Mustkeem Vs. State of Rajasthan, Manu / SC / 0795 / 2011
9. Mustkeem Vs. State of Rajasthan, Manu / SC / 0795 / 2011
10. Ram Narain Singh and Ors Vs. State of Punjab, Manu / SC / 0193 / 1975
11. Rai Sandeep Vs. State of N.C.T of Delhi, Manu / SC / 0623 / 2012
12. Muthu Vs. State of Karnataka, Manu / SC / 0673 / 2002
13. State of Madhya Pradesh Vs. Bacchudas and Ors, Manu / SC / 7015 / 2007
14. L.L.kale Vs. State of Maharastra, Manu / SC / 0743 / 1999
15. Padam Singh Vs. State of U.P, Manu / SC / 0745 / 1999
16. Mangu Singh and Ors Vs. Dharmendra Singh and Ors, Manu / SC / 1459 / 2015
17. Govindaraju Vs. State and Ors, Manu / SC / 0211 / 2012

18. Mahendra pratap singh Vs. State of Uttar Pradesh, Manu / SC / 0279 / 2009
19. Latoor and Ors Vs. State of U.P on 23 December 1999
20. Hardeep Vs. State of Haryana and Ors, Manu / SC / 681 / 2002
21. State of Rajasthan Vs. Rajendra Singh, Manu / SC / 0446 / 1998
22. Balwinder singh Vs. State of Punjab, Manu / SC / 2012 / 1995 (PW 2)
PW 2, 3, 4
23. Rathinam Vs. State of Tamil Nadu and Ors, Manu / SC / 1978 / 2009
24. Thakur Singh and Ors Emperor on 13 June 1939
25. Babu Vs. State of Kerala on 11 August 2010
26. Jagta Vs. State of Haryana on 23 April 1974
27. Mousam Singha and Or Vs. State of West Bengal on 21 August 2003

SECTION - 10 I.E.A

1. Indra dalal Vs. State of Haryana, Manu / SC / 0661 / 2015
2. State (N.C.T of Delhi) Vs Navjot sandhu and Ors, Manu / SC / 0465 / 2005
3. Saju Vs. State of Kerala, Manu / SC / 0688 / 2000

SECTION 27 OF I.E.A

1. Indra dalal Vs. State of Haryana, Manu / SC / 0661 / 2015
2. Mustkeem Vs. State of Rajasthan, Manu / SC / 0795 / 2011
3. State (N.C.T of Delhi) Vs. Navjot Sandhu and Ors, Manu / SC / 0465 / 2005
4. Dipakbhai Jagdishchandra patel Vs. State of Gujarat and Ors, Manu / SC /
0595 / 2019
5. Dhan Raj Vs. State of Haryana, Manu / SC / 0454 / 2014
6. Vijay Shankar Vs. State of Haryana, Manu / SC / 0837 / 2015
7. Sahadevan and Ors Vs. State of Tamil Nadu, Manu / SC / 0499 / 2012
8. Balwinder Singh Vs. State of Punjab, Manu / SC / 2012 / 1995
9. State of Rajasthan Vs. Talevar and Anr on 17 June 2011
10. Mohammed Inayatullah Vs. The State of Maharastra Manu / SC / 0166 /
1975

11. Pulukuri Kottaya Vs. King Emperor on 19 December, 1946

SECTION 30 OF I.E.A

1. State (N.C.T of Delhi) Vs. Navjot Sandhu and Ors, Manu / SC / 0465 / 2005
2. Pancho Vs. State of Haryana, Manu / SC / 1275 / 2011
3. Dipakbhai Jagadishchandra patel Vs. State of Gujarat and Ors, Manu / SC / 0595 / 2019
4. Kashmira Singh Vs. State of Madhya Pradesh on 4 March , 1952

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1. Vikramjit Singh @ Vicky Vs. State of Punjab, on 24 November, 2006
2. Reena Hazarika Vs. The State of Assam on 31 October 2018
3. Asraf Ali Vs. State of Assam, Manu / SC / 7839 / 2008
4. State of (N.C.T of Delhi) Navjot Sandhu and ors, Manu / SC / 0465 / 2005
5. State Singh Bhagat Singh Vs. State of Madhya Bharat on 2 November 1951
6. Sujit Biswas Vs. State of Assam, Manu / SC / 0564 / 2013
7. Sharad Birdhichand sarda Vs. State of Maharashtra, Manu / SC / 0111 / 1984
8. Pohalya motya Valvi Vs. State of Maharastra, Manu / SC / 0204 / 1979
9. Varun Chaudhary Vs. State of Rajasthan, Manu / SC / 0911 / 2010 (weapon was not showed)
10. Shaikh maqsood Vs. State of Maharashtra on 4 May 2009
11. Thakur Singh and Or Vs. Emperor on 13 June 1939
12. S.Harnam Singh Vs. The State (Delhi Admn) on 23 March 1976
13. Zwinglee Ariel Vs. State of Madhya Pradesh on 3 December 1952
14. Ajay Singh Vs. State of Maharashtra on 6 June 2007
15. Basavaraj R. Patil and Ors Vs. State of Karnataka and Ors on 11 October, 2000
16. Ganesh Gogoi Vs. State of Assam on 7 July 2009
17. Ranvir Yadav Vs. State of Bihar on 5 May 2009
18. Sunil Kundu and Ors Vs. State of Jharkhand, Manu / SC / 0340 / 2013

STATEMENT OF DECEASED

1. State of Haryana Vs. Balkar Singh and Ors, Manu / SC / 0569 / 2009
2. Vijayan Vs. State of Kerala, Manu / SC / 0115 / 1919
3. Sharad Birdhichand Sarda Vs. State of Maharashtra, Manu / SC / 0111 / 1984
4. State of Gujarat Vs. Jayrajbhai Punjabhai Varu, Manu / SC / 0756 / 2016
5. Rai Sandeep Vs. State of N.C.T of Delhi, Manu / SC / 0623 / 2012

HEAR SAY

1. Mustkeem Vs. State of Rajasthan, Manu / SC / 0795 / 2011
2. Mangu Singh and Ors Vs. Dharmendra and Ors, Manu / SC / 1459 / 2015
3. Padam Singh Vs. State of U.P, Manu / SC / 0745 / 1999

APPROVER

1. Karambier singh and Ors Vs. State of Haryana on 18 December 2013
2. Sivakumar Vs. State By on 31 July 2015
3. State (N.C.T. Delhi) Vs. Navjot Sandhu and ors, Manu / SC / 0465 / 2005
4. Sarwan Singh Vs. The State of Punjab with on 10 April 1957
5. Rampal Pithwa Rahidas and Ors Vs. State of Maharashtra, Manu / SC / 0979/ 1994
6. Balwant Kanr Vs. Union Territorn of Chandigarh on 3 November 1987
7. Govindaraju Vs. State of Ors, Manu / SC / 0211 / 2012
8. Bharati Tamang Vs. Union of India (UOI) and Ors, Manu / SC / 1075 / 2013
9. Kashmira Singh Vs. State of Madhya Pradesh on 4 March, 1952
10. Ram Narain Vs. state of Rajasthan on 31 January 1973
11. Abdul Sattar Vs. Union Territory Chandigarh on 24 September 1985
12. Nirranjan Singh Vs. State of Punjab on 26 April 1996
13. Hari charan Kurmi and Jogis Hajam Vs. State of Bihar on February 1964
14. Bhiva Donlu patil Vs. State of Maharashtra on 29, August 1962
15. Bhuboni sahu Vs. The King on 17, February, 1949

16. Lal Chand and Ors Vs. The State of Haryana, on 25 October, 1983
17. Uravakonda Vijayaraj Paul Vs. The State and Ors, on 3, February 1986
18. Kalu Khoda and Ors Vs. The State, on 7 March, 1962. (A-6) - No name in Inquest & section alter report (A-5, A-6)

NO NAME IN INQUEST & SECTION ALTER REPORT (A5, A6)

1. Balaka Singh & Ors Vs. State of Punjab, on 16 April, 1975

TWO VIEW

1. Raghunath and Ram Kishan and Ors Vs. State of Haryana and Ors, Manu / SC / 0988 / 2002
2. State of Madya Pradesh Vs. Bacchuda and Ors, Manu / SC / 7015 / 2007
3. State of Haryana Vs. Balkar Singh and Ors, Manu / SC / 0569 / 2009
4. Sharad Birdhichand Sarda Vs. State of Maharashtra, Manu / SC / 0111 / 1984
5. State of Gujarat Vs. Jayrajbhai Punjabhai Varu, Manu / SC / 0756 / 2016
6. Upendra Pradhan Vs. State of Orissa, Manu / SC / 0501 / 2015
7. Kali Ram Vs. State of Himchal Pradesh, Manu / SC / 0121 / 1973
8. Vikramjit Singh Vs. State of Punjab, Manu / SC / 8721 / 2006
9. Govindarajan Vs. State and Ors, Manu / SC / 0211 / 2012
10. Pahalya Motya Valvi Vs. State of Maharashtra, Manu / SC / 0204 / 1979
11. Nupur Talwar and Ors Vs. State of U.P and Ors, on 12 October, 2017
12. Bihari Nath Goswami Vs. Shivkumar Singh and Ors, Manu / SC / 0158 / 2004
13. State of Rajasthan Vs. Talevar and Anr, on 17, June, 2011
14. Kashmira Singh Vs. State of Madhya Pradesh, on 4 March, 1952
15. Shivaji Chintappa Patil Vs. State of Maharashtra, LL 2021 SC 125.

DELAY

1. Habeeb Mohammed Vs. The State of Hyderabad, on 5 October, 1953
2. Pannayar Vs. State of Tamil Nadu, Manu / SC / 1462 / 2009

3. Mahendra Pratap Singh Vs. State of Uttar Pradesh, Manu / SC / 0279 / 2009
4. Shivasharanappa and Ors Vs. State of Karnataka and Ors, Manu / SC / 0470 / 2013
5. Bihari Nath Goswami Vs. Shiv Kumar Singh and Ors, Manu / SC / 0158 / 2004
6. Baldev Singh Vs. State of Punjab, Manu / SC / 0972 / 2013
7. Balwinder Singh Vs. State of Punjab, Manu / SC / 2012 / 1995 (PW-3)
8. Kaliram Vs. State of Himachal Pradesh, Manu / SC / 0121 / 1973
9. Rathinam Vs. State of Tamil Nadu and Ors, Manu / SC / 1978 / 2009
10. Mangu Singh and Ors Vs. Dharmandra and Ors, Manu / SC / 1459 / 2015
(E.W)
11. The State of Rajasthan Vs. Teja Singh and Ors, Manu / SC / 0085 / 2001
(E.W)
12. Pancho Vs. State of Haryana, Manu / SC / 1275 / 2011

Oral Evidence about Electronic Evidence/Expert Opinion/65-B/Electronic Evidence/Pendrive.

1. Anvar P.V Vs. P.K. Basheer & Ors, on 18 September, 2014
2. Tomaso Bruno Vs. State of U.P, Manu / SC / 0057 / 2015
3. Arun Panditrao Khotkar Vs. Kailash Kushanrao Gorantyal and Others
4. H. Siddiqui (dead) by LRS Vs. A. Ramalingam (Ex-155) (2011) 4 SCC 240
5. Nupur Talwar and Or Vs. State of U.P and Ors, on 12 October, 2017
6. Mahendra Pratap Singh Vs. State of Uttar Pradesh, Manu / SC / 0279 / 2009
7. Ram Narain Singh and Ors Vs. State of Punjab, Manu / SC / 0193 /1975
8. Sukhwant Singh Vs. State of Punjab, on 28, March, 1995 (weapon)
9. Kapildeo Mandal & Ors Vs. State of Bihar, on 29 November 2007

DISCHARGE

State of Maharashtra Etc. Etc Vs. Som Nath Thapa, Etc, Etc on 12 April, 1996

Case Diary / Pocket Diary

1. Anand Prakash & Anr Vs. State & Anr , on 2 November, 2017
2. Habeeb Mohammed Vs. The State of Hyderabad on 5 October 1953
3. Dhananjay Shanker Shetty Vs. State of Maharashtra, Manu / SC / 0620 / 2002
4. Pulukuri Kottaya Vs. King Emperor, on 19, December, 1946
5. Mujeeb and Ors Vs. State of Kerala, Manu / SC / 0742 / 1999
6. Charan Jeet Singh Alias Tinkoo Vs. State of Uttar Pradesh, on 23, September, 2004

Suspicious is not a legal proof

1. Rathinam Vs. State of Tamil nadu and Ors, Manu / SC / 1978 / 2009
2. Sarwan Singh Vs. The State of Punjab with on 10 April, 1957
3. Ashish Batham Vs. State of Madhya Pradesh, Manu / SC / 0757 / 2002
4. Sujit Biswas Vs. State of Assam, Manu / SC / 0564 / 2013
5. State Through C.B.I Vs. Mahendra Singh Dahiya, Manu / SC / 0077 / 2011
6. Vikramjit Singh Vs. State of Punjab, Manu / SC / 8721 / 2006
7. Kali Ram Vs. State of Himachal Pradesh, Manu / SC / 0121 / 1973
8. Govindaraju Vs. State of Ors, Manu / SC / 0211 / 2012
9. Nupur Talwar and Ors Vs. State of U.P and Ors, on 12 October, 2017
10. Sunil Kundu and Ors Vs. State of Jharkhand, Manu / SC / 0340 / 2013
11. Sivakumar Vs. State By, on 31, July 2015
12. State N.C.T of Delhi Vs. Navjot Sandhu and Ors, Manu / SC / 0465 / 2005
13. Monsam Singha Roy & Ors Vs. State of West Bengal, on 21, August, 2003
14. Vikramjit Singh @ Vicky Vs. State of Punjab, on 24, November, 2006

Recovery Witness From 100km / Recovery of Material Identification of Material/ Identification in Court

1. Mujeeb and Ors Vs. State of Kerala, Manu / SC / 0742 / 1999
2. State through C.B.I Vs. Mahendra Singh Dhahiya, Manu / SC / 0077 / 2011
3. Balwinder Singh Vs. State of Punjab, Manu / SC / 2012 / 1995

4. Mustkeem Vs. State of Rajasthan, Manu / SC / 0795 / 2011 (Recovery related of commission of offence)
5. Panayar Vs. State of Tamil Nadu, Manu / SC / 1462 / 2009
6. Muthu Vs. State of Karnataka, Manu / SC / 0673 / 2002
7. Vijayan Vs. State of Kerala, Manu / SC / 0115 / 1919 (Identification in Court Magistrate)
8. Nupur Talwar and Ors Vs. State of U.P and Ors, on 12 October, 2017 (Identification id person)
9. Kanan and Ors Vs. State of Kerala, on 7 March, 1979
10. Mohanlal Gangaram Gehani Vs. State of Maharashtra, on 17 February, 1982 (DW-2 [145.I.E.A])
11. V.C. Shukla Vs. State (Delhi Administration), on 11 April, 1980
12. Ravindra @ Ravi Bansi Gohar etc Vs. State of Maharashtra & Ors, on 8 April, 1998
13. Md. Sajjad @ Raju @ Salim Vs. State of West Bengal, on 6 January, 2017

Material Burden of Proof

1. Nupur Talwar and Ors Vs. State of U.P and Ors, on 12 October, 2017
2. Sujit Biswas Vs. State of Assam, Manu / SC / 0564 / 2013
3. Narender kumar Vs. State of [N.C.T Delhi]
4. Hate Singh Bhagat Singh Vs. State of Madhya Bharat, on 2 November, 1951
5. Kashmira Singh Vs. State of Madhya Pradesh, on 4 March, 1952
6. Babu Vs. State of Kerala, on 11 August 2010

Blood Group was not Examined / Deceased Blood Group was not confirmed / Blood was disintegrated in weapon blood stain / Blood group was not proved in weapon / Blood Recovery / Blood Group was reflected in weapon / No Human blood in dress.

1. V. Vijay Kumar Vs. State of Kerala, Manu / SC / 0763 / 1999
2. Sunil Kundu and Ors Vs. State of Jharkhand, Manu / SC / 0340 / 2013
3. Raghunath and Ram Kishan and Ors Vs. State of Haryana and Ors, Manu / SC / 0988 / 2002

4. Mustkeem Vs. State of Rajasthan, Manu / SC / 0795 / 2011
5. Sattatiya Vs. State of Maharashtra, Manu / SC / 7067 / 2008
6. Pannayar Vs. State of Tamil Nadu, Manu / SC / 1462 / 2009
7. Dhanajay Shanker Shetty Vs. State of Maharashtra, Manu / SC / 0620 / 2002
8. Kashmira Singh Vs. State of Madhya Pradesh, on 4 March, 1952.

On behalf of A6 Yesurajan, the following Judgments have been cited.

1. Chinnasamy Vs Dy. Superintendent of Police, Udumalpet – 2020(2) MWN (Cr.) - 305 (DB)
2. Lal Chand & Others Vs State of Haryana - 1984 (1) – SCC – 686
3. Balwant Kaur Vs Union Territory of Chandigarh – 1988(1) – SCC – 1
4. Chandan & another Vs State of Rajasthan – 1988 (1) – SCC 696
5. Shera Singh Vs State of Punjab - 1996 (10) – SCC – 330
6. Baliya alias Balishan - 2012 (9) – SCC – 696
7. P.K. Narayanan Vs State of Kerala - 1995 (1) – SCC – 142
8. Murugesan Vs State - 2012 (10) – SCC – 383
9. Mustkeem alias Sirajudeen Vs State of Rajasthan – 2011 (11) – SCC – 724
10. Sk. Yusuf Vs State of West Bengal - 2011 (11) – SCC – 754

On behalf of A8 Murugan and A9 Selva Prakash, the following Judgments have been cited.

1. Mouna Singha Roy Vs State of West Bengal – 2003 (6) SC – 141
2. Sarwan Singh Rattan Singh Vs State of Punjab – 1957 – SCC – 40
3. Gunanidhi Sundara Vs State of Orissa – 1984 – CRL – 1251
4. Karunakaran Vs Jabamani Nadar – 1975 – CRL – 798
5. Abuthagir @ Thagir & others Vs State – 2006 – 1- LW (CrL.) - 179
6. Panchavarnam Vs State of Tamil Nadu and others – CrL.A (MD) No.276/2017
7. Tomaso Bruno Vs State of Uttar Pradesh – 2015 – 3- SCC (Cri) – 54
8. Sucha Singh Vs State of Punjab - 2009 – 3 – CCr (SC)- 301
9. Muthukrishnan and others Vs State – 2015 – MLJ(Cri) – 599

10. Dinesh alias Shiv Narain Lodh Vs State – 2019 – CRI.L.J.4064
11. Kumar Vs State – 2016 – 1 – MLJ(CRi) – 410
12. State of Madhya Pradesh Vs Chamru @ Bhagwandas etc., - AIR – 2007
SUPREME COURT - 2400
13. Fagu Dass and others Vs State – 1996 – CRL.L – 2245
14. Vikramjit singh alias Vicky Vs State of Punjab – 2007 – CrI.L.J. - 1000
15. Gunaseelan Vs State by Inspect of Police Dhali PS, Coimbatore District 2009 – 2 –
MLJ (CrI) -116
16. Baldev Singh and another Vs State of Madhya Pradesh – AIR – 2003 SC- 2098
17. Shingara Singh Vs State of Haryana and another - AIR – 2004 – SC – 124
18. Mayandi Vs State, rep. by Inspector of Police, Thirudevankudi PS 2021
(2) – MWN (CrI) – 248 (DB)
19. Raju Trambak Magare and others Vs State of Maharashtra – 2003 – SCC(Cri)
– 1021
20. Mallappa Vs State of Karnataka – 2021 (1) – TLNJ 533 (Crimi9nal)
21. Vijay Singh Vs State of Madhya Pradesh – 2005 – CRI.L.J. - 299 22. Bharat Sahu
Vs State of Orissa - 2021 CrI.L.J. - 1895
22. Balveer Singh Vs State of Madhya Pradesh - 2021 – CrI. L.J. - 1032

70. The court paid its anxious consideration and carefully went through the testimonies of the witnesses and other materials placed on record and also thoughtful consideration to the submissions made by the Learned Special Public Prosecutor and the Learned Defence Counsels and also A5 party-in-person.

71. It is the case of the prosecution that on 14.09.2013, at about 5.00 p.m., the de facto complainant's brother-in-law, Dr.Subbiah was walking towards his car after attending his work at Billroth Hospital, R.A.Puram, Chennai. When he approached his car, parked in front of the house Door No.59 / 30, 1st Main Road, R.A.Puram,

Chennai – 600 028, a three member gang of hirelings emerged and two of them attacked Dr.Subbiah with Vettukathi and caused multiple grave cut injuries on his vital parts of the body viz., head, neck, shoulder and fore hand. The injured Dr.Subbiah was admitted in Billroth Hospital, R.A.Puram. The de facto complainant Thiru A.A.Mohan, preferred a complaint with the E4 Police Station and a case was registered under 307 of IPC in Cr.No. 1352 /2013. Afterwards, on 16.09.2013, Dr.Subbiah was shifted to Shenoy Nagar Billroth Hospital for further treatment, where he succumbed to injuries on 23.09.2013. Therefore, the section was altered into 302 of IPC.

72. The accused A1 to A4 are the residents of No.10/29, Kanimadam, Anjugramam Post, Kanyakumari District. A2 Mary Pushpam is the wife of A1 Ponnusamy. A3 Basil and A4 Boris are the sons of A1 Ponnusamy and A2 Mary Pushpam. A3 Basil is an Advocate and a friend of A5 William, who is also an Advocate, a family friend of A1 Ponnusamy and childhood friend of A3 Basil. A6 Yesurajan is said to be a henchman of A3 Basil and A5 William and closely associated with A1 Ponnusamy family. A7 Dr.James Sathish Kumar is working as a Government Doctor and also said to be engaged in Real Estate and Finance business. A3 Basil and A5 William got acquainted with A7 Dr.James Sathish Kumar through the Pastor Ruban, brother of A5 William. A8 Murugan, A9 Selva Prakash and the approver, Iyyappan (A10) are said to be the henchmen of A7 Dr.James Sathish Kumar. The relationship of A1 to A4 and their relationship with A5 and A6 are not disputed by the

accused. A5 William denied the relationship with A7 Dr.James Sathish Kumar, A8 Murugan, A9 Selva Prakash and the approver, Iyyappan (A10), stating that he had no acquaintance with them. But, PW/4 Thiru.Mankiaraj and PW/5 Thiru Bensam have stated in their evidence that the accused A1 to A9 and the approver, Iyyappan have assembled together at the house of A5 William and A1 to A3, A6 to A9 have assembled at the disputed land in the month of July 2013. PW – 33 / Thiru.Selvam would depose in his chief examination that he obtained loan from A7 Dr.James Sathish Kumar and for the same, he mortgaged his property of 42 cents of land to him. Then, Dr.James Sathish Kumar with the help of Murugan, Selva Prakash and Iyyappan threatened him and made him to execute a sale deed in favour of one Raja by cancelling the mortgage deed. The xerox copy of the said sale deed in the name of Raja and the xerox copy of the Receipt for payment dated 21.06.2013 were marked as Ex.P/40 and Ex.P/41. In Ex.P/40 sale deed, A8 Murugan has signed as a witness to the document. PW-33 Thiru.Selvam would also deposed that could identify A8 Murugan, A9 Selva Prakash and the approver, Iyyappan, but they were not present in the court on the particular date. It is not denied by A8 Murugan that the signature found in Ex.P/40 is not of him. Through the evidence of PW/4,Thiru Manikaraj, PW/5 Thiru.Bensam and PW/33 Thiru.Selvam and the Ex.P/40 sale deed, it has been established by the prosecution that A5 William and A7 Dr.James Sathish Kumar had acquaintance with the co accused including the approver, Iyyappan.

73. After the examination of prosecution witnesses 1 to 11, A10 Iyyappan filed a petition under section 307 Cr.P.C. for pardon and he was pardoned as per the proceedings of the VII Additional Sessions Court, City Civil Court, Chennai in CrI.M.P.No.17086/2018 on 12.10.2018 and thereafter, he was examined as the prosecution witness No.12.

74. The deceased Dr.Subbiah was previously working as Head Neruo Surgeon in Rajiv Gandhi Government General Hospital, Chennai and also worked in Billroth Hospital, R.A.Puram, Suriya Clinic and Kamatchi National Hospital as a consultant Doctor. After his retirement, in May 2013, from Government Service, he was said to have continued his service with Billroth Hospital, R.A.Puram and other Hospitals. Those facts are not denied by the accused A1 to A9. It is the prosecution's case that Dr.Subbiah was attacked by three member gang of hirelings on 14.09.2013, at about 5.00 p.m. at the 1st Main Road, Raja Annamalaipuram, Chennai. Due to the injuries sustained by him on the occurrence, he succumbed to the injuries on 23.09.2013 and it was declared by the medical witnesses PW.46 Dr.Vijay Augstin Jayapaul who issued the death certificate (Ex.P.146), PW. 47 Dr.Arun, issued the accident register (Ex.P-147), PW-40 Dr.Sai Suchithra, issued the accident register (Ex.P.149) and PW 48 Dr.K.V.Vinoth, who had conducted postmortem on the body of Dr.Subbiah, issued the postmortem certificate Ex.P.148. PW 48 / Dr.K.V.Vinoth, then Lecturer, Medico-Legal Department, Royapettah Government Hospital, has stated that at the request of the Inspector of Police, E4 Police Station, he has conducted postmortem on the body of

Thiru.Subbaiah and opined that the deceased was died due to shock and haemorrhage caused due to the multiple cut injuries at his head and other parts of the body. The Postmortem Report was marked as Ex.P-148. It is the case of A7 to A9 that, Dr.Subbiah was not murdered, but on the other hand, he met with an accident when he came from his home after having lunch and admitted in the hospital at about 4.15 p.m., on 14.09.2013. In a criminal case, it is sufficient for the accused to create doubt on the case of the prosecution and not expected to prove his defence beyond any reasonable doubt as in the case of prosecution. In the case on hand, the details about the alleged accident, manner of accident, vehicles involved, whether there was any fatal or injury to anybody and whether the accident was caused due to the negligence of Dr.Subbiah or anybody has not been stated and no piece of oral or documentary evidence has been produced on the side of the accused A7 to A9, to probabilize their theory that Dr.Subbiah had met with an accident on 14.09.2013 and got injured. The injuries found on the body of Dr.Subbiah, are cut injuries and those injuries could not have been caused in a road accident. The medical reports establishes that Dr.Subbiah died due to the shock and haemorrhage because of the multiple head injuries. Mere suggestions and cross examination with the prosecution side witnesses is not sufficient to probabilize the theory of the accused A7 to A9.

75. Also no question or suggestion was raised before the PWs 1 to 11, during their cross examination, done on behalf of A7 to A9 that Dr.Subbiah had met with an accident and got injured and he was not assaulted or attacked and died due to the

injuries caused to him at the alleged accident. For the first time, when PW-13 /Tmt.Shanthi Subbaiah was cross examined by the Counsel for A7 to A9, a suggestion was put to her, that her husband Dr.Subbiah met with an accident on the afternoon 14.09.2013 and the said suggestion was denied by her. If really, Dr.Subbiah died due to the injuries caused to him in a road accident on 14.09.2013, it could have been brought to light during the cross examination of PW-1 to PW-12. The accused A7 to A9, neither mentioned about the alleged accident in the applications filed by them including the bail application and instead, it was claimed by them that they are not responsible for the attack on Dr.Subbiah. PW-1 Thiru A.A.Mohan, who is the de facto complainant has specifically mentioned in his complaint itself, that Dr.Subbiah was assaulted by somebody and also about the motive in relation to a civil dispute. Further, during the cross examination of PW-12 Iyyappan, on behalf of A1 to A4, it has been suggested that Dr.Subbiah was attacked and murdered by somebody and not by these accused as claimed by the prosecution.

76. The Learned Senior Counsel for the accused A7 to A9, would submit that PW-13 / Tmt.Shanthi Subbaiah, wife of the deceased Dr.Subbiah had admitted that she had claimed Rs.10 Lakh as accident insurance policy amount and it establishes the fact that her husband Dr.Subbiah died in an accident. But, PW-13 Tmt.Shanthi Subbaiah claimed the accident insurance policy which covers murder as one of the accident, but it was rejected by the insurance concerned. Afterwards, she had approached the insurance Ombudsman, Chennai, which passed an order on

17.08.2015, stating that the murder comes under the purview of accident insurance policy and the nominee Tmt.Shanthi Subbaiah is eligible to get the insurance amount. Accordingly, she had received the amount from the insurance company. From the said facts, it cannot be stated that Dr.Subbiah had met with an accident and died due to the injuries caused in the accident. It's pertinent to note that the defence of the accused A1 to A4 that Adhi Ponnaiah, Thangamuthu would have murdered Dr.Subbiah, A5 alleged that PW-13 Tmt.Shanthi Subbaiah is responsible for the murder of Dr.Subbiah and the counsel for the A6 stated that PW-1 Thiru.A.A.Mohan, PW-13, Tmt.Shanthi Subbaiah and one Adhi Ponnaiah were responsible for the death of Dr.Subbiah and contra to those contentions, A7 to A9 claimed that Dr.Subbiah died due to the injuries sustained in a car accident. Therefore, the contention that Dr.Subbiah had met with an accident and succumbed to the injuries is not at all acceptable and the said plea has been taken for the sake of defence.

77. Dr.Subbiah was said to have been done to death due to the long standing enmity between his family and the accused A1 Ponnusamy family with regard to a land comprised in Survey Nos.757/7A and 758/8 measuring about 2 Acres located at Alagappapuram Village, Anjugramam Village, Agastheeswaram Taluk, Kanniyakumari District and the market value of the property is around Rs.10 Crores.

78. The main submission raised on behalf of the accused A1 to A9, is that the motive behind the murder of Dr.Subbiah is not at all established by the prosecution. Admittedly, in a criminal case, motive is not a necessary ingredient of an offence, but

it plays a vital role and it is a double edged weapon. In the Present case, the motive for the assault made on the deceased Dr.Subbiah, is the long standing enmity between the deceased family and A1 Ponnusamy's family due to a civil dispute. The fact that both the parties have claimed title of the land measuring about 2 acres situated at Alagappapuram, Anjugramam Village, Kanyakumari District, worth about several crores and the said civil dispute has been admitted by both parties. The court is not going to deal with the worth of the disputed land or property or its title holder, since it is not the suit for declaration of title or any other relief of civil nature. Therefore, the prosecution is expected to prove the fact that there was an enmity between the A1 to A4 and the deceased family and because of the said enmity, the offence has been committed. To prove the enmity between the A1 Ponnusamy's family and the deceased family, the prosecution has examined PW-1 Thiru A.A.Mohan, PW-6 Thiru.Krishna Pillai, PW-9 Thiru.K.Gopinath, PW-10 Thiru.Arumuga Sigamani, PW-12 Thiru.Iyyappan and PW-13 Tmt.Shanthi Subbaiah and those witnesses have clearly deposed before this court about the previous enmity. PW-1 Thiru A.A.Mohan has specifically mentioned in his complaint Ex.P1 itself about the civil dispute in relation to a land at Anjugramam Village. At this point of time, it would be profitable to extract the version of the said witnesses in respect of the motive behind the crime for better appreciation.

PW-1 Thiru. A.A.Mohan has stated that

"கன்னியாகுமரி மாவட்டத்தில் உள்ள அஞ்சு கிராமத்தில் 2 1/4 ஏக்கர் மதிப்புமிக்க நிலம் உள்ளது. இந்த நிலத்தை அபகரிக்க 1997லிருந்து அன்னபழம்,

பொன்னுசாமி, பொன்னுசாமியின் மனைவி மேரி புஜ்பம் ஆகியோர்கள் கடும் முயற்சி செய்தார்கள். ஆஜரில் உள்ள 1வது எதிரி தான் பொன்னுசாமி. ஆஜரில் உள்ள 2வது எதிரி தான் மேரி புஜ்பம். 1997லேயே 1வது எதிரி பொன்னுசாமி அவரது மனைவியான 2வது எதிரியின் பேரில் ஒரு போலியான செட்டில்மேன்ட் பத்திரம் எழுதி வைத்தார். எனவே மேரி புஜ்பம் டாக்டர் சுப்பையாவுக்கு எதிராக ஒரு சிவில் கேஸ் கொடுத்தார். எனவே அதன் பேரில் அன்னபழம் மற்றும் 1,2 எதிரிகள் அவ்வப்போது அந்த நிலத்திற்கு அருகே வந்து தகராறு செய்தார்கள். டாக்டர் சுப்பையா அது சம்பந்தமாக காவல் துறையில் புகார் கொடுத்து அந்த நடவடிக்கையை தடுத்தது வைத்து இருந்தார். மேரி புஜ்பம் தாக்கல் செய்த அந்த சிவில் வழக்கு தள்ளுபடி ஆயிற்று. அதற்கு எதிராக மேல் முறையீடு செய்தார் அது இன்னும் நிலுவையில் உள்ளது. இந்த சம்பவத்திற்கு 4 மாதங்களுக்கு முன்பாக அன்னபழம் மற்றும் பொன்னுசாமி, மேரிபுஜ்பம் (பாசில் மற்றும் போரிஸ்) 1வது எதிரியின் மகன்கள். மேற்சொன்ன நபர்கள் மிகவும் ஆக்ரோசமாக வந்து தகராறு செய்தார்கள். நீதிமன்றத்தில் ஆஜரில் உள்ள 3வது எதிரி தான் பாசில். 4வது எதிரி தான் போரிஸ் ஆகும். காவல் நிலையத்தில் சரியாக நடவடிக்கை எடுக்கவில்லை. எனவே டாக்டர் சுப்பையா காவல் துறை கண்காணிப்பாளரிடம் புகார் கொடுத்தார். காவல் துறை கண்காணிப்பாளர் நில அபகரிப்பு செல்லுக்கு அனுப்பி வைத்தார். அவர்கள் விசாரணை செய்து பொன்னுசாமி மற்றும் மேரி புஜ்பத்திற்கு எதிராக முதல் தகவல் அறிக்கை பதிவு செய்தார்கள். பொன்னுசாமி மற்றும் மேரிபுஜ்பம் ஆகியோர்கள் முன் ஜாமீன் கேட்டு மனு கொடுத்தார்கள். அதை எதிர்த்து டாக்டர் சுப்பையா ஆட்சேபணை மனு கொடுத்தார். அவ்வாறு மனு கொடுத்ததால் அன்னபழம் பொன்னுசாமி, மேரி புஜ்பம், பாசில் மற்றும் போரிஸ் ஆகியோர்கள் அந்த நிலத்திற்கு வந்து அந்த நிலத்தில் உள்ள வேலிகளை உடைத்து தகராறு செய்தார்கள். அதனால் தான் அன்னபழம், பொன்னுசாமி, மேரி புஜ்பம், பாசில்

மற்றும் போரீஸ் ஆகியோர்கள் ஆட்களை அனுப்பி இந்த சம்பவத்தை செய்துள்ளார்கள் என்று சொல்லுகிறேன்."

PW – 6 Thiru Krishna Pillai in his evidence has stated that

"1990 ஆம் வருடத்தில் டாக்டர் சுப்பையா என்னிடம் அவருக்கும் காணிமடத்தை சேர்ந்த பொன்னுசாமி என்பவருக்கும் அஞ்சு கிராமத்தில் உள்ள சொத்து குறித்து பிரச்சனை இருந்ததாக அடிக்கடி என்னிடம் சொல்வார். டாக்டர் சுப்பையா கன்னியாகுமரி மாவட்டம் நிலஅபகரிப்பு டிஎஸ்பி-யிடம் பொன்னுசாமி குடும்பத்தினர் நிலஅபகரிப்பு செய்ததாக கூறி புகார் கொடுத்தார். 9.6.2013 அன்று காணிமடத்தை சேர்ந்த பொன்னுசாமி அவரது மகன் பேசில் மற்றும் வக்கீல் வில்லியம்ஸ் ஆகியோர் ஒரு தரப்பாகவும், டாக்டர் சுப்பையா, மோகன் மற்றும் வக்கீல் ஆறுமுகசிகாமணி மற்றொரு தரப்பினராகவும் என்னுடைய அலுவலகத்தில் வைத்து அஞ்சு கிராமம் சொத்து சம்மந்தமாக சுமார் 1 1/2 மணி நேரம் பேசினார். ஆனால் எந்த முடிவும் வரவில்லை. பேச்சுவார்த்தையின் போது வக்கீல் வில்லியம்ஸ் டாக்டர் சுப்பையாவிடம் விசிடீங் கார்டை வாங்கினார். பேச்சுவார்த்தையின் போது பொன்னுசாமி தரப்பினர் தங்களுக்கு 1/3 பங்கு தர முடியவில்லை என்றால் ஒத்து வரமுடியாது என்றார்கள். 3ல் 1 பங்கு கொடுக்கமுடியாது என்றும் அவர் சொல்லும் முடிவுக்கு ஒத்து வந்தால் வாங்கள் என்று சுப்பையா சொன்னார். பின்னர் 1 வாரம் கழித்து வக்கீல் வில்லியம்ஸ், வக்கீல் பேசில் ஆகியோர்கள் எங்கள் அலுவலகத்தில் வந்தார்கள். டாக்டர் சுப்பையா ஒரு முடிவுக்கு வர விட்டால் நாங்கள் என்ன முடிவுக்கு வருவோம் என்று எங்களுக்கு தெரியாது என்று இருவரும் ஆவேசமாக சொன்னார்கள்."

PW – 9 Thiru Gopinath in his evidence has stated that

"1959 முதல் டாக்டர் சுப்பையாவின் குடும்பத்திற்கும், பொன்னுசாமி குடும்பத்தாருக்கும் பல வழக்குகள் நடந்து வந்தது. சர்வே நெ.758/8 மற்றும் 759/7ஏ அடங்கிய அஞ்சு கிராமத்தில் உள்ள சொத்து டாக்டர் சுப்பையாவிற்கு சொந்தமானது என்று நீதிமன்றத்தால் தீர்ப்பு அளிக்கப்பட்டது."

"மேலும் சுப்பையாவின் நிலத்தை அபகரிக்க வேண்டும் என்ற எண்ணத்துடன் பொன்னுசாமி தனது மனைவி மேரி புஷ்பம் பெயரில் மேற்படி சொத்தில் தனக்கு எந்த உரிமையும் இல்லாத பட்சத்தில் ஒரு செட்டில்மெண்ட் பத்திரத்தை எழுதி பதிவு செய்தார். மேரி புஷ்பம் நாகர்கோயில் சார்பு நீதிமன்றத்தில் டாக்டர் சுப்பையா மற்றும் பலருக்கு எதிராக தாக்கல் செய்த ஓ.எஸ்.146/1997 என்ற வழக்கு தள்ளுபடியானது. அதை எதிர்த்து மேரி புஷ்பம் நாகர்கோயில் மாவட்ட நீதிமன்றத்தில் ஏ.எஸ்.நெ.37/2007 என்ற வழக்கை தாக்கல் செய்து அது தற்போது நிலுவையில் உள்ளது. போலி ஆவணம் செட்டில்மெண்ட் மூலம் தனது சொத்தை பதிவு செய்த பொன்னுசாமி மற்றும் மேரி புஷ்பம் மீது டாக்டர் சுப்பையா நில அபகரிப்பு தடுப்பு பிரிவில் 17.5.2013 அன்று ஒரு புகார் கொடுத்தார். அந்த புகார் சம்பந்தமாக 21.06.2013 அன்று நிலஅபகரிப்பு தடுப்பு பிரிவில் பொன்னுசாமி மற்றும் அவரது மனைவிக்கு எதிராக வழக்கு பதிவு செய்தார்கள். பொன்னுசாமி மற்றும் மேரிபுஷ்பம் அந்த வழக்கில் முன் ஜாமீன் பெற்று இருந்தார்கள். பொன்னுசாமியின் மகன் பேசில் அவரது நண்பர் வில்லியம் அழைத்து கொண்டு அஞ்சுகிராமத்திலுள்ள இடத்தில் எங்களிடம் வீண் தகராறு செய்தார்கள். டாக்டர் சுப்பையாவிடம் சொல்லி இடத்தை விட்டு கொடுக்க சொல்லு இல்லையென்றால் அவர் சீக்கிரம் மேலே போய்விடுவார். அவருடன் சேர்ந்து நீயும் போக வேண்டும் என்று எச்சரித்தார்கள்."

"மேலும் பொன்னுசாமி, மேரி புஷ்பம் நில அபகரிப்பு வழக்கில் நீதிமன்றத்தில் வாங்கிய முன்ஜாமீனை ரத்து செய்ய நடவடிக்கை எடுத்து வந்தார்."

"கடந்த 23.6.2013 அன்று காலை சுமார் 7.00 மணியளவில் எங்கள் பொறுப்பில் உள்ள சர்வே நெ.759/7எ 1 ஏக்கர் 53 சென்ட்டில் போடப்பட்டிருந்த முள்வேலிகளை சேதப்படுத்தி, கற்களை உடைத்து அங்கு வைக்கப்பட்டிருந்த இரும்பு தகடுகளால் ஆன போர்டை திருடி சென்றது சம்பந்தமாக பொன்னுசாமி தரப்பினர் மீது 27.6.2013 அன்று அஞ்சுகிராமம் காவல் நிலையத்தில் ஒரு புகார் கொடுத்தேன்.

அதற்கு சி.எஸ்.ஆர்.நெ.240/2013 என்று ரசீது கொடுத்தார்கள். நான் கொடுத்த புகாரின் பேரில் போலீசார் நடவடிக்கை எடுக்காததால் நாகர்கோவிலில் உள்ள நீதித்துறை நடுவர் எண்.3 நான் மனு கொடுத்தேன். அந்த மனு 14.9.2014 அன்று விசாரணைக்கு வந்தது. நான் கொடுத்த மனு மீது உடனடியாக வழக்கு பதிவு செய்ய அஞ்சுகிராமம் காவல் துறையினருக்கு உத்திரவு இட்டார். அன்றைய தினம் டாக்டர் சுப்பையா சென்னையில் தாக்கப்பட்டார். நீதிமன்ற உத்திரவுபடி நான் கொடுத்த புகாருக்கு 22.9.2013 அன்று குற்ற வழக்கு 467/2013 என்ற வழக்கு பதிவு செய்யப்பட்டது."

PW – 10 Thiru.Arumuga Sigamani has stated that

"நான் தற்போது எண் 486, பழைய எண் 53, பி9, ஸ்தனுநாத நகர், கோட்டார் அஞ்சல், நாகர்கோவில், கன்னியாகுமரி மாவட்டத்தில் வசித்து வருகிறேன். நான் நாகர்கோவிலில் வழக்கறிஞராக பணிபுரிகிறேன். என்னுடைய சீனியர் அட்வகேட் எஸ்.பெரியவன். நாங்கள் இருவரும் ஆபிசிலிருந்து எங்களுக்கு வரும் வழக்குகளை நடத்தி வருகிறோம். அந்த சமயம் மேரி புஷ்பம் என்பவர் வாதியாகவும் சுப்பையா 1ம்பிரதிவாதியாகவும் மற்றும் சிலரும் பிரதிவாதிகளாக சேர்ந்து ஓ எஸ் 146/1997 என்ற வழக்கு தாக்கல் செய்தார்கள். அந்த வாதி இந்த நீதிமன்றத்தில் 2வதாக நிற்கிறார். அந்த வழக்கில் நாங்கள் 1ம்பிரதிவாதிக்கு வக்காலத்து தாக்கல் செய்து வழக்கை நடத்தினோம். இரு பக்கமும் சாட்சி விசாரணை முடிந்து வழக்கு தள்ளுபடி செய்யப்பட்டது. அதற்கான காரணம் வாதிக்கு அவரது கணவர் பொன்னுசாமி என்பவர் அந்த வழக்கு பட்டியல் சொத்து சம்பந்தமாக ஒரு செட்டில்மெண்ட் ஆவணம் 1997ல் எழுதி வைத்துள்ளார். அந்த ஆவணத்தின் அடிப்படையில்தான் வழக்கு தொடரப்பட்டது. முடிவில் அந்த ஆவணம் எழுதி கொடுத்த பொன்னுசாமி என்பவருக்கு சொத்தில் உரிமை இல்லை என்றும் அந்த செட்டில்மெண்ட் ஆவணம் இல்லா நிலையது என்றும் வழக்கில் உள்ள பட்டியல் சொத்து 1ம்பிரதிவாதி சுப்பையாவுக்கு தான் உரிமையானது என்று தீர்ப்பானது. அந்த தீர்ப்புக்கு மேல்

அந்த வழக்கை தொடுத்த மேரி புஜ்பம் என்பவர் மாவட்ட நீதிமன்றத்தில் ஏ எஸ் 37/2007 என்ற மேல் முறையீடை தாக்கல் செய்தார். அந்த மேல் முறையீடும் சுமார் 3 மாதங்களுக்கு முன்பு தள்ளுபடி செய்யப்பட்டது. இந்த வழக்குகள் நிலுவையில் இருக்கும்போது வழக்கை தாக்கல் செய்த பொன்னுசாமி குடும்பத்தினர் சுப்பையா வழக்கு பற்றிய சொத்தை அனுபவிப்பதை தடை செய்ய பலமுறை முயற்சி செய்ததால் சுப்பையா அவர்களும் அவரது மேனேஜர் கோபிநாத் அவர்களும் அஞ்சுகிராமம் காவல் நிலையத்தில் ஒரு சில புகார்கள் கொடுத்தார்கள். அந்த புகார்கள் நிலுவையில் இருக்கும்போது சுப்பையா மாவட்ட கண்காணிப்பாளரிடம் கொடுத்த ஒரு புகாரின் மீது நில அபகரிப்பு டி.எஸ்.பி. அவர்கள் அந்த புகார் சம்பந்தமாக விசாரிப்பதற்கு சுப்பையா அவர்களை அழைத்ததாகவும் சுப்பையா என்னிடம் ஓ எஸ் 146/1997 வழக்கு சம்பந்தமாக தெரிவிப்பதற்காக என்னை அழைத்தார். நானும் அவருடன் சென்றேன். டி.எஸ்.பி. அலுவலகத்தில் எதிர் தரப்பினராக பொன்னுசாமியும் அவருடைய மகன் பேசிலும் அவர்களின் வக்கீல் வில்லியமும் அன்று விசாரணைக்கு ஆஜர் ஆனார்கள். அவர்கள் இந்த நீதிமன்றத்தில் 1 மற்றும் 3 மற்றும் 5ஆக நீதிமன்றத்தில் ஆஜராகி உள்ளார்கள். அப்போது விசாரணை முடிவில் மேற்சொன்ன 3 பேரும் சுப்பையாவிடம் சமாதனமாக பேசி முடித்து கொள்வதாக சொல்லி பேச்சுவார்த்தையை முடித்து கொண்டார்கள். பிறகு ஜூன் 2013 அன்று சுப்பையா என்னை ஒரு சமாதான பேச்சு வார்த்தைக்கு என்னை அழைத்து இருக்கிறார்கள் நீங்களும் அந்த வழக்கு சம்பந்தமாக சொல்ல வர வேண்டும் என்றார். நானும் சுப்பையாவும் அவரது மேனேஜர் கோபிநாத் அவரது மைத்துனர் மோகனும் நாகர்கோவிலில் கிருஷ்ணபிள்ளை என்னும் ஓய்வு பெற்ற மாவட்ட கண்காணிப்பாளருடைய வாட்ஜுக்கு சென்றோம். அங்கு பேச்சு வார்த்தைக்காக பொன்னுசாமியும், அவரது மகன் பேசிலும், வழக்கறிஞர் வில்லியமும் வந்து இருந்தார்கள். கிருஷ்ணபிள்ளையும் வந்திருந்தார். அப்போது டாக்டருடைய

மேனேஜர் சமாதான பேச்சு வார்த்தையின் போது வெளியேதான் இருந்தார். சமாதான பேச்சு வார்த்தையில் அந்த எதிர் தரப்பினர் இந்த வழக்கு பட்டியல் சொத்தில் 3ல் 1 பங்கு தந்தால் பிரச்சனையை முடித்து கொள்ளலாம் என்றார்கள். அதற்கு சுப்பையா அவர்கள் அப்படி கொடுக்க முடியாது என்று மறுத்தார். பேச்சுவார்த்தை முடிவுக்கு வரவில்லை. எனவே எல்லோரும் வெளியே கிளம்பினோம். அப்போது பொன்னுசாமி, பேசில், வில்லியம் ஆகியோர் மிகவும் கோபத்துடனும் பகை உணர்வுடனும் நாங்கள் கேட்டது போல் நல்லபடியாக எங்களுக்கு தரவில்லை என்றால் மோசமான விளைவுகள் ஏற்படும் என்று டாக்டர் சுப்பையாவை பார்த்து சொன்னார்."

PW – 12 Thiru.Iyyappan has stated that

"பிரச்சனைக்குரிய அஞ்சு கிராமம் நிலத்தை டாக்டர் ஜேம்ஸ் சதீஜ்குமார், முருகன், செல்வபிரகாஷ் மற்றும் என்னை அழைத்துச் சென்று பொன்னுசாமி குடும்பத்தினர் காட்டினர். டாக்டர் சுப்பையா என்பவர் பல விதத்தில் தொல்லை கொடுத்து வருவதாகவும், பல இன்னல்கள் கொடுத்துவரும் டாக்டர் சுப்பையாவிற்கு தகுந்த பாடம் கற்பிக்க வேண்டும் என்று பொன்னுசாமி குடும்பத்தினர் கூறிவந்தனர். டாக்டர் சுப்பையாவை ஒழித்தால்தான் பல கோடி சொத்து மதிப்புள்ள நிலம் தங்களுக்கு கிடைக்கும் என்று பொன்னுசாமி குடும்பத்தினர் கூறினார். டாக்டர் ஜேம்ஸ் சதீஜ்குமார், வில்லியம்ஸ், பேசில், போரிஸ், ஏசுராஜன் ஆகியோர் பல்வேறு தொல்லைகளை கொடுத்துவரும் டாக்டர் சுப்பையாவை களை எடுத்தால்தான் சொத்து முழுவதும் நமக்கு கிடைக்கும் என்று கூறிவந்தனர். டாக்டர் சுப்பையாவை கொன்றுவிட்டால் அவருக்கு இரண்டு மகள்கள்தான், அவரது மனைவி இந்த நிலப்பிரச்சனைக்கு வரமாட்டார். எனவே அந்த நிலம் நமக்கு கிடைத்துவிடும் என்று சொல்லிவந்தனர். டாக்டர் சுப்பையாவை யாரை வைத்து கொலை செய்யலாம் என்று

யோசித்தனர். அதற்கு பேசில் கூலிப் படையையோ, ரவுடியையோ வைத்து கொலை செய்துவிடலாம் என்று சொன்னார். அதற்கு வில்லியம்ஸ் கூலிப் படையையோ, ரவுடியையோ வைத்து கொலை செய்தால் நம்மை எந்த சமயத்திலும் போலீசார் கண்டுபிடித்துவிடுவார்கள். இதே காரணமாக வைத்து பணம் கேட்டு மிரட்டுவார்கள், ஆகையால் வேண்டாம் என்று சொன்னார். அதற்கு டாக்டர் ஜேம்ஸ்சீஜ்குமார் எனக்கு நம்பிக்கைக்குரியவர்களாக இருக்கும் முருகன், செல்வபிரகாஷ் மற்றும் என்னை வைத்து டாக்டர் சுப்பையாவின் கதையை முடித்துவிடலாம் என்று சொன்னார். அதற்கு வில்லியம்ஸ், முருகன், செல்வபிரகாஷ் மற்றும் என்னை வைத்து சுப்பையாவின் கதையை முடித்தால் எங்களுக்கு தேவையான உதவிகளை செய்து கொடுத்துவிடலாம் என்று சொன்னார். அதற்கு அனைவரும் சம்மதம் தெரிவித்தோம். அதன்பின் ஒருநாள் வில்லியம்ஸ், பேசில், போரிஸ், ஏசுராஜன் ஆகியோர் டாக்டர் ஜேம்ஸ்சீஜ்குமாரை சந்தித்து பேசினார்கள். டாக்டர் சுப்பையாவை கொன்றுவிட்டால் அஞ்சு கிராமம் நிலத்தில் பேசில் குடும்பத்தினர் பாதியை எடுத்துக்கொண்டு மீதி பாதியை வழக்கறிஞர் வில்லியம்ஸ் மற்றும் டாக்டர் ஜேம்ஸ்சீஜ்குமாருக்கும் கொடுப்பதாகவும், டாக்டர் ஜேம்ஸ்சீஜ்குமார், முருகன், செல்வபிரகாஷ் மற்றும் எனக்கும் ஆளுக்கு ரூ.50 இலட்சம் தருவதாகவும், ஏசுராஜனை தனியாக கவனித்துக் கொள்வதாகவும் முடிவெடுத்தனர். அதற்கு நாங்களும் சம்மதித்தோம். 2013ம் ஆண்டு ஜூலை மாதத்தில் முதல் வாரத்தில் டாக்டர் ஜேம்ஸ்சீஜ்குமாருடன் நாங்கள் மூன்று பேரும் காணிமடத்தில் உள்ள வில்லியம்ஸ் வீட்டிற்கு போனோம். அங்கு வில்லியம்ஸ், டாக்டர் ஜேம்ஸ்சீஜ்குமாரை பார்த்து இந்த மாதத்திற்குள் டாக்டர் சுப்பையாவை கொலை செய்துவிடவேண்டும் அதற்கான ஏற்பாடுகளை செய்யுங்கள் என்று சொன்னார். அதற்கு டாக்டர்

ஜேம்ஸ் சதீஜ்குமார் சொத்தில் பாதியை தருவதாக நீங்கள் சொன்னால் மட்டும் போதாது, பேசிலின் அப்பா, அம்மா சொல்லட்டும் என்று சொன்னார். அதற்கு பேசில் எங்கள் அப்பா, அம்மாவிடம் நான் ஏற்கனவே பேசிவிட்டேன் அவர்கள் அதற்கு சம்மதம் தெரிவித்துவிட்டனர் என்று சொன்னார். சிறிது நேரம் கழித்து பேசில் அவரது அப்பா அம்மாவான பொன்னுசாமி, மேரிபு ஜ்பத்தை வில்லியம்ஸ் வீட்டிற்கு அழைத்து வந்தார். எங்கள் பையன் எங்களிடம் ஏற்கனவே சொல்லிவிட்டான், எங்களுக்கு சம்மதம் தான், எங்களுக்கு வேண்டியது சுப்பையா சாகவேண்டும், நிலம் கிடைக்கவேண்டும், நிலத்தின் மதிப்பு ரூ.10 கோடி இருக்கும், அதில் பாதியை உங்களுக்கு கொடுக்க தயார் என்று பொன்னுசாமியும், மேரிபு ஜ்பமும் சொன்னார்கள்."

PW – 13 Tmt.Shanthi Subbaiah in her evidence has stated that

"எங்களுக்கு கன்னியாகுமரி மாவட்டம் அஞ்சுகிராமத்தில் சுமார் இரண்டு ஏக்கர் நிலம் உள்ளது. அந்த நிலத்தைப் பொறுத்து எங்கள் குடும்பத்திற்கும், பொன்னுசாமி குடும்பத்தாருக்கும் பல வழக்குகள் உள்ளது. நானும் என் கணவரும் மேற்படி அஞ்சுகிராமம் நிலத்தை மண் அடித்து சமன் செய்ய சென்ற போது வக்கீல் வில்லியம்ஸ், பசில், ஏசராஜ் ஆகியோர் என் கணவரோடு தகராறு செய்தார்கள். (சாட்சி ஆஜர் எதிரிகள் 3, 5 மற்றும் 6 ஆகியோரை பசில், வில்லியம்ஸ், ஏசராஜ் என்று அடையாளம் காட்டுகிறார்.) பின்னர் நாங்கள் சென்னைக்கு திரும்பி வந்துவிட்டோம். நிலப்பிரச்சினை வேறு விதமாக செல்வதாக என் கணவர் சொன்னார். இது குறித்து வக்கீல் வில்லியம்ஸ் தன்னிடம் அடிக்கடி பேசுவதாக என் கணவர் என்னிடம் சொன்னார். எங்கள் வீட்டில் சி.சி.டி.வி. கேமரா பொருத்த வேண்டும் என்றும், எங்கள் மகர்களை தனியாக எங்கும் அனுப்ப வேண்டாம் என்றும், என்னையும் வெளியில் செல்லும் பொழுது சற்று ஜாக்கிரதையாக சென்று வருமாறும் எச்சரித்தார்."

79. To support the ocular evidence of PWs.1, 4, 5, 6, 9, 10, 12 and 13, Ex.P-168 Certificate issued by Tahsildar, Agastheeswaram and Ex.D-1, FIR in Cr.No.10/2018 of Thirukurungudi Police Station on the basis of a compliant given by Annathai were produced and marked. As already stated that the previous enmity between A1 Ponnusamy family and the deceased family is an admitted fact. It is the contention of the counsel for the accused A1 to A4, that it is a long standing enmity for about 50 years and they have not involved in any violence activities so far and there is no necessity for the accused A1 to A4, at the time of occurrence to engage in violent activities and that itself shows that the accused A1 to A4 have been falsely implicated in the case, due to the prior enmity for the acts done by somebody. In this context, the court is inclined to refer the Judgment in

AIR – 1975 – SC – 1252

Podda Narayana and Others Vs State of Andhra Pradesh

in which it has been held by the Hon'ble Supreme Court of India that

"That various persons react to circumstances in different ways and it is difficult to weigh the reaction of the persons in golden scales with absolute computerized accuracy. There is no doubt that the deceased had drawn the accused in a long litigation involving thousands of rupees as a result of which he had to attend the court at Anantpur on various dates. The sequence of circumstances under which the deceased was murdered clearly shows that there could not have been any other motive, but the institution of the suit."

80. In the case on hand also, several litigations have been instituted and complaints have been lodged by the deceased Dr.Subbiah and his Manager PW-9 Thiru.Gopinath, before various Courts and Police Stations even from the year 1959.

Conciliation talks were also held in respect of the civil dispute between the two parties and it is also admitted by the accused A1 to A4. The accused A2 Mary Pushpam instituted a suit in O.S.No.146 / 1997 against the Dr.Subbiah and others before the Sub Court, Nagerkoil and the same was dismissed. An appeal preferred against the said Decree and Judgment is pending with the District Court, Nagerkoil in A.S.No.37 / 2007. On 17.05.2013, Dr.Subbiah preferred a complaint before the Land Grabbing Special Cell against A1 Ponnusamy and his wife, A2 Mary Pushpam and they have obtained anticipatory bail in the said complaint. Afterwards, the deceased Dr.Subbiah took steps to cancel the anticipatory bail granted A1 and A2. On 23.06.2013, at about 7.00 a.m., a complaint has been preferred by the PW-9 Thiru.Gopinath against the Ponnusamy and others for the damage of fencing and stones in the disputed land before the Anjugramam Police Station, but no steps have been taken on the complaint, though they have issued C.S.R. Therefore, PW-9 Thiru.Gopinath has filed a private complaint under Section 156 (3) Cr.P.C. before the Judicial Magistrate No.III, Nagerkoil and it has been forwarded to the Anjugramam Police Station on 14.09.2013 for registration and investigation and on the same day, Dr.Subbiah was assaulted at Chennai. Lodging of complaints by the deceased Dr.Subbiah and his Manager PW/9 Thiru.Gopinath and the cases instituted by the deceased Dr.Subbiah and also the accused A2 Mary Pushpam are not denied, but admitted by both.

81. The de facto complainant in his written argument has pointed out the following judgments in support of his contentions on the point of motive for the consideration of the court.

2008 – 16 – SCC – 73

State of U.P. Vs. Kishan Paul and Others

in which, it has been held by Hon'ble Supreme Court of India that

"The motive may be considered as a circumstance, which is relevant for assessing the evidence, but if the evidence is clear and unambiguous and the circumstances prove the guilt of the accused, the same is not weakened even if the motive is not a very strong one."

AIR – 1999 – SC – 1293

State of Himachal Pradesh Vs Jeet Singh

in which, it has been held by Hon'ble Supreme Court of India that

"No doubt it is a sound principle to remember that every criminal act was done with a motive, but its corollary is not that no criminal offence would have been committed if the prosecution has failed to prove the precise motive of the accused to commit it."

"It is almost impossible for the prosecution to unravel the full dimension of the mental disposition of an offender towards the person whom he offended."

AIR - 1994 – SC – 2420

Suresh Chandra Bahri Vs. State of Bihar

in which, it has been held by the Hon'ble Supreme Court of India

"Some times motive plays an important role and becomes a compelling force to commit a crime and therefore motive behind the crime is a relevant factor for which evidence may be adduced. A motive is something which prompts a person to form an opinion or intention to do certain illegal act or even a legal act by with illegal means with a view achieves that intention. In a case where there is clear proof of motive for

the commission of the crime, it affords support to the finding of the court that the accused was guilty for the offence charged with."

82. Also it has been held by the Hon'ble Supreme Court of India that

"The motive loses its importance in a case where direct evidence of eye witnesses is available, because even if there may be a very strong motive for the accused persons to commit a particular crime, they cannot be convicted if the evidence of eye witnesses is not convincing. In the same way, even if there may not be an apparent motive, if the evidence of the eye witnesses is clear and reliable, the absence or inadequacy of motive cannot stand in the way of conviction."

83. In the light of those decisions, when the court carefully analysis the evidence of the PW-1 Thiru. A.A.Mohan, PW-6 Thiru. Krishna Pillai, PW -9 Thiru. Gopinath, PW-10 Thiru.Arumuga Sigamani, PW-12 Thiru.Iyyappan (Approver) and PW-13 Tmt.Shanthi Subbaiah, it came to know that those witnesses have categorically deposed before this court about the enmity between A1 Ponnusamy family and the deceased family and in fact, it is an admitted fact that Dr.Subbiah had filed many cases both Civil and Criminal, against the accused Ponnusamy and family. It is also not disputed by the accused A1 to A4, that a civil case has been decreed in favour of Dr.Subbiah, conciliation talks were held in continuation of the litigations between them and when its failed the accused made open threat to Dr.Subbiah. To prove the efforts taken by Dr.Subbiah and his Manager Thiru.Gopinath (PW-9) / Ex.P-150 / FIR in Cr.No. 467 / 2013 registered by Anjugramam Police Station based on the complaint lodged by Gopinath and Ex.P-154 / FIR in Cr.No.57 / 2013 registered by ALGSC

Nagercoil Police Station based on the complaint lodged by Dr.Subbiah, have been produced before this court.

84. Further, it has been claimed by the Learned Defence Counsels that it is the case of the prosecution that a suit has been decreed in favour of the deceased Dr.Subbiah and therefore, the property would automatically devolve upon his wife and two daughters and the worth of the property is only a meagre amount and therefore there is no necessity for the accused A1 to A4 to eliminate Dr.Subbiah in order to grab the property and it's unbelievable. As already discussed, the civil dispute between A1 Ponnusamy family and the deceased family has been pending for about 50 years. At this juncture, it would be relevant to refer the Judgment in

1998 – 9 – SCC – 238,

Nathuni Yadav and Others Vs State of Bihar and another

and

2004 – 12 – SCC – 521

Ranganayaki's case

It has been observed by the Hon'ble Supreme Court of India that

"Motive for doing a criminal act is generally a difficult area for prosecution. One cannot normally see into the mind of another. Motive is the emotion which impels a person to do a particular act and such an impelling power may not be proportionate to the gravity of the crime. Many a murder has been committed without any known or prominent motive and it's quite possible that an impelling factor may remain undiscoverable."

From the observations of the Apex Court and in comparison with the facts and circumstances of this case, the court is of the considered view that the worth of the property and the property would devolve upon the legal heirs are not the criteria to

disbelieve the case of the prosecution, since the motive is an emotion. From the above discussions, it is concluded that the prosecution was able to prove that there is a very strong and indisputable motive behind the murder of Dr.Subbiah and the chain of circumstances through direct oral and documentary evidence.

85. It is the case of prosecution that due to the motive between A1 Ponnusamy family and the deceased family, the accused A1 to A9 and the Approver, PW-12 Iyyappan, conspired together and in continuation of the criminal conspiracy, they have murdered Dr.Subbiah which was directly proved by the evidence of PW-4/ Thiru.Manickaraj, PW-5/Thiru.Bensam and PW-53/Thiru.Saiva Vedanta Bharathi and also from the deposition of the approver namely, Iyyappan (PW-12). It is a well settled principle that from its very nature, a criminal conspiracy must be conceived and hatched in complete secrecy and it is impossible and very rare to get direct evidence. It is also equally well settled that it is not necessary that each member of a criminal conspiracy must know all the details of the criminal conspiracy. On the other hand, it has been submitted by the Learned Defence Counsels and A5 party-in-person that the charge against the accused under Section 120-B of IPC has not been proved by the prosecution by letting in sufficient oral and documentary evidence. Therefore the court has to look into the evidence of PW-4/ Thiru.Manickaraj, PW-5/Thiru.Bensam and PW-53/Thiru.Saiva Vedanta Bharathi. At this juncture, it would be useful to extract relevant portion of the deposition of those witnesses.

PW-4 Thiru.Manikaraj has deposed that

"காணிமடத்தை சேர்ந்த பொன்னுசாமி குடும்பத்தினருக்கும் சென்னையில் உள்ள டாக்டர் சுப்பையா குடும்பத்தாருக்கும் அஞ்சு கிராமத்தில் உள்ள இடம் சம்பந்தமாக பல வருடங்களாக அவர்களுக்குள் பிரச்சனை இருந்து வருகிறது. அந்த இடம் தனக்கு சொந்தமாகிவிட்டதாகவும் அதை விற்பதற்கு நல்ல பார்ட்டி இருந்தால் அழைத்து வரும்படி எதிரிகள் பொன்னுசாமி மற்றும் அவரது மகன் பேசிலும் வக்கீல் வில்லியம்ஸ் மூலமாக என்னிடம் சொன்னார்கள். 2013 மே மாதம் கடைசி வாரத்தில் சாட்சி திரும்பவும் கூறுகிறார் 2013 ஜூலை மாதம் கடைசி வாரத்தில் அந்த இடத்தை நேரில் பார்த்து அந்த இடத்திற்கான டாக்குமெண்ட் வாங்குவதற்கு மாலை சுமார் 4 மணியளவில் வில்லியம்ஸ் வீட்டிற்கு சென்றேன். கன்னியாகுமரி மாவட்டம் தென்னச்சிவிளை, மேற்க்கா மண்டபம் ஊரை சேர்ந்த என் நண்பரும் தரகருமான பென்சம், வில்லியம்ஸ் வீட்டில் இருந்தார். என்னை மட்டும் அந்த இடத்திற்கு முன்பாக செல்ல சொல்லி விட்டார்கள். சிறிது நேரம் கழித்து அந்த இடத்திற்கு சென்றேன். எனக்காக வில்லியம் அந்த இடத்தில் காத்திருந்தார். அவருடன் காணிமடத்தை சேர்ந்த பொன்னுசாமி அவரது மனைவி மேரிபுஷ்பம் அவர்களது மகன் பேசில் மற்றும் காணிமடத்தை சேர்ந்த ஏசராஜன் வள்ளியூரை சேர்ந்த டாக்டர் ஜேம்ஸ் அந்த டாக்டரிம் வேலை செய்யும் முருகன், செல்வபிரகாஷ், ஐயப்பன் ஆகியோரும் இருந்தனர்."

"அந்த இடத்தில் இந்த இடம் டாக்டர் சுப்பையாவுக்கு சொந்தமானது என்று பெயர் பலகை இருந்தது. நான் அதை பற்றி வக்கீல் வில்லியம்சிடம் கேட்டேன். அதற்கு அவர் கோவமாக அவரை பற்றி பேசாதீங்க இன்னும் கொஞ்ச நாளில் 8 முதல் 10 எதிரிகளை கை காட்டி அவர்கள் இன்னும் கொஞ்ச நாளில் களை எடுத்து விடுவாங்க என்று சொன்னார். அப்போது அனைவரும் அதை ஆமோதிப்பது போல் பேசினார்கள். நான் அவர்கள் ஏதோ தமாசா சொல்றாங்க என்று அதை நான் சீரியசாக எடுத்து கொள்ளவில்லை."

PW – 5 Thiru.Bensam has deposed that

"சென்னையில் வசிக்கும் டாக்டர் சுப்பையாவின் குடும்பதாருக்கும் மற்றும் பொன்னுசாமி குடும்பதாருக்கும் இடையே அஞ்சுகிராமம் பகுதியில் உள்ள இடத்திற்காக பல ஆண்டுகளாக பிரச்சனை இருந்து வருகிறது. அந்த சொத்தை தனக்கு சொந்தமாகிவிட்டது என்றும் பொன்னுசாமி, பேசில் மற்றும் வில்லியம் மூலமாக அதை வாங்குவதற்கு ஆள் பார்க்க சொன்னார்கள். நானும் நல்ல பார்ட்டி கிடைத்தால் சொல்லுகிறேன் என்று சொன்னேன். பின்னர் நான் அந்த இடத்தை நேரில் பார்வையிடவும் டாக்டருமேண்ட் நகல் வாங்குவதற்கு 2013 ஜூலை மாதம் கடைசி வாரத்தில் காணிமடத்தில் வில்லியம் வீட்டிற்கு சென்றேன். அப்போது மன்னர் ராஜா கோயில் தெரு, திசையின்விளை, ராதாபுரம் தாலுக்கா, திருநெல்வேலி மாவட்டத்தை சேர்ந்த நிலதரகரும் என்னுடைய நண்பருமான மாணிக்கராஜ் அங்கு வந்தார்கள். வில்லியம் அவர்கள் பேசிலையும், என்னையும், ஏசுராஜன் அவர்களையும் கூட்டி கொண்டு சம்பந்தப்பட்ட இடத்திற்கு அழைத்து சென்றார்கள். போகிற வழியில் போன் செய்து டாக்டர் ஜேம்ஸ் சதீஜ் குமாரை சம்பவ இடத்திற்கு வர சொன்னார்கள். நாங்கள் அங்கு போகும் போது டாக்டர் ஜேம்ஸ் சதீஜ் குமாரும், முருகன், செல்வபிரகாஷ், ஐயப்பன் மற்றும் பேசிலின் பெற்றோர்களும் இருந்தார்கள்."

"நான் வில்லியம் அவர்களிடம் இந்த இடம் சுப்பையாவுக்கு உள்ள இடம் என்று கூறுகிறார்களே பல ஆண்டுகளாக பிரச்சனை இருக்கிறதே கோடிகணக்கில் பணம் போட்டு வாங்குபவருக்கு பிரச்சனை ஆகாதா என்று கேட்டேன். அதற்கு வில்லியம், டாக்டர் சுப்பையா இருக்கிற இடம் தெரியாமல் போய் விடுவார் உங்களுக்கு ஒரு பிரச்சனையும் வராது என்று கூறினார். அப்போது பேசில் அவர்களுக்கு ஒரு போன் வந்தது. அவர் பேசும் போது போரீஸ் நீ ஒன்றும் பயப்படவேண்டாம் நம்ப திட்டப்படி டாக்டரும் சில நாட்களில் போயிட போறான் இடமும் விற்பதற்கு ஏற்பாடு ஆகி விட்டது என்று கூறினார். அப்போது

அங்கிருந்த அனைவரும் சிரித்தார்கள் நான் அதை தாமசாக நினைத்து சீரியசாக எடுத்து கொள்ளவில்லை."

PW – 12 Thiru.Iyyappan (Approver) has deposed that

"பிரச்சினைக்குரிய அஞ்சு கிராமம் நிலத்தை டாக்டர் ஜேம்ஸ் சதீஜ்குமார், முருகன், செல்வபிரகாஷ் மற்றும் என்னை அழைத்துச் சென்று பொன்னுசாமி குடும்பத்தினர் காட்டினர். டாக்டர் சுப்பைய்யா என்பவர் பல விதத்தில் தொல்லை கொடுத்து வருவதாகவும், பல இன்னல்கள் கொடுத்துவரும் டாக்டர் சுப்பைய்யாவிற்கு தகுந்த பாடம் கற்பிக்க வேண்டும் என்று பொன்னுசாமி குடும்பத்தினர் கூறிவந்தனர். டாக்டர் சுப்பைய்யாவை ஒழித்தால்தான் பல கோடி சொத்து மதிப்புள்ள நிலம் தங்களுக்கு கிடைக்கும் என்று பொன்னுசாமி குடும்பத்தினர் கூறினார். டாக்டர் ஜேம்ஸ் சதீஜ்குமார், வில்லியம்ஸ், பேசில், போரிஸ், ஏசராஜன் ஆகியோர் பல்வேறு தொல்லைகளை கொடுத்துவரும் டாக்டர் சுப்பைய்யாவை களை எடுத்தால்தான் சொத்து முழுவதும் நமக்கு கிடைக்கும் என்று கூறிவந்தனர். டாக்டர் சுப்பைய்யாவை கொன்றுவிட்டால் அவருக்கு இரண்டு மகன்கள்தான், அவரது மனைவி இந்த நிலப்பிரச்சிகைக்கு வரமாட்டார். எனவே அந்த நிலம் நமக்கு கிடைத்துவிடும் என்று சொல்லிவந்தனர். டாக்டர் சுப்பைய்யாவை யாரை வைத்து கொலை செய்யலாம் என்று யோசித்தனர். அதற்கு பேசில் கூலிப் படையையோ, ரஷியையோ வைத்து கொலை செய்துவிடலாம் என்று சொன்னார். அதற்கு வில்லியம்ஸ் கூலிப் படையையோ, ரஷியையோ வைத்து கொலை செய்தால் நம்மை எந்த சமயத்திலும் போலீசார் கண்டுபிடித்துவிடுவார்கள். இதே காரணமாக வைத்து பணம் கேட்டு மிரட்டுவார்கள், ஆகையால் வேண்டாம் என்று சொன்னார். அதற்கு டாக்டர் ஜேம்ஸ் சதீஜ்குமார் எனக்கு நம்பிக்கைக்குரியவர்களாக இருக்கும் முருகன், செல்வபிரகாஷ் மற்றும் என்னை வைத்து டாக்டர் சுப்பைய்யாவின் கதையை முடித்துவிடலாம் என்று சொன்னார். அதற்கு

வில்லியம்ஸ், முருகன், செல்வபிரகாஷ் மற்றும் என்னை வைத்து சப்பைய்யாவின் கதையை முடித்தால் எங்களுக்கு தேவையான உதவிகளை செய்து கொடுத்துவிடலாம் என்று சொன்னார். அதற்கு அனைவரும் சம்மதம் தெரிவித்தோம். அதன்பின் ஒருநாள் வில்லியம்ஸ், பேசில், போரிஸ், ஏசராஜன் ஆகியோர் டாக்டர் ஜேம்ஸ் சதீஷ்குமாரை சந்தித்து பேசினார்கள். டாக்டர் சப்பைய்யாவை கொன்றுவிட்டால் அஞ்சு கிராமம் நிலத்தில் பேசில் குடும்பத்தினர் பாதியை எடுத்துக்கொண்டு மீதி பாதியை வழக்கறிஞர் வில்லியம்ஸ் மற்றும் டாக்டர் ஜேம்ஸ் சதீஷ்குமாருக்கும் கொடுப்பதாகவும், டாக்டர் ஜேம்ஸ் சதீஷ்குமார், முருகன், செல்வபிரகாஷ் மற்றும் எனக்கும் ஆளுக்கு ரூ.50 இலட்சம் தருவதாகவும், ஏசராஜனை தனியாக கவனித்துக் கொள்வதாகவும் முடிவெடுத்தனர். அதற்கு நாங்களுக்கும் சம்மதித்தோம். 2013ம் ஆண்டு ஜூலை மாதத்தில் முதல் வாரத்தில் டாக்டர் ஜேம்ஸ் சதீஷ்குமாருடன் நாங்கள் மூன்று பேரும் காணிமடத்தில் உள்ள வில்லியம்ஸ் வீட்டிற்கு போனோம். அங்கு வில்லியம்ஸ், டாக்டர் ஜேம்ஸ் சதீஷ்குமாரை பார்த்து இந்த மாதத்திற்குள் டாக்டர் சப்பைய்யாவை கொலை செய்துவிடவேண்டும் அதற்கான ஏற்பாடுகளை செய்யுங்கள் என்று சொன்னார். அதற்கு டாக்டர் ஜேம்ஸ் சதீஷ்குமார் சொத்தில் பாதியை தருவதாக நீங்கள் சொன்னால் மட்டும் போதாது, பேசிலின் அப்பா, அம்மா சொல்லட்டும் என்று சொன்னார். அதற்கு பேசில் எங்கள் அப்பா, அம்மாவிடம் நான் ஏற்கனவே பேசிவிட்டேன் அவர்கள் அதற்கு சம்மதம் தெரிவித்துவிட்டனர் என்று சொன்னார். சிறிது நேரம் கழித்து பேசில் அவரது அப்பா அம்மாவான பொன்னுசாமி, மேரிபு ஜப்பத்தை வில்லியம்ஸ் வீட்டிற்கு அழைத்து வந்தார். எங்கள் பையன் எங்களிடம் ஏற்கனவே சொல்லிவிட்டான், எங்களுக்கு சம்மதம் தான், எங்களுக்கு வேண்டியது சப்பைய்யா சாகவேண்டும், நிலம் கிடைக்கவேண்டும், நிலத்தின் மதிப்பு ரூ.10 கோடி இருக்கும், அதில் பாதியை உங்களுக்கு கொடுக்க தயார்

என்று பொன்னுசாமியும், மேரிபுஜம்பும் சொன்னார்கள். அந்த சமயத்தில் வில்லியம்ஸ் வீட்டில் client ஒருவர் இருந்தார். அந்த client போனபிறகு வில்லியம்ஸ் ஒரு பேப்பரில் டாக்டர் சுப்பையாவின் கார் எண்ணை எழுதி முருகனிடம் கொடுத்தார். பேசில் தனது செல்போனில் இருந்த டாக்டர் சுப்பையாவின் புகைப்படத்தைக் எங்களிடம் காண்பித்து இவர்தான் டாக்டர் சுப்பையா என்று சொன்னார். தனது செல்போனில் இருந்த மெமரி கார்டை கழற்றி முருகன் கையில் கொடுத்தார். போட்டோ எடுத்துக்கொண்டு மெமரி கார்டை திருப்பிக் கொடுத்துவிட வேண்டும் என்று சொன்னார். அதற்கு வில்லியம்ஸ் டாக்டர் சுப்பையா சென்னை ராஜீவ் காந்தி மருத்துவமனையில் நியூரோ டாக்டராக வேலை செய்வதாகவும் மற்றும் ஆர்.ஏ.புரம் பில்ரோத் மருத்துவமனையில் வேலை செய்வதாகவும் சொல்லி டாக்டர் சுப்பையாவின் விசிட்டிங் கார்டை காண்பித்தார். பிறகு அஞ்சுகிராமம் சென்று ராணி ஸ்ட்ரூடியோவில் மெமரி கார்டை கொடுத்து டாக்டர் சுப்பையாவின் படத்தை பிரிண்ட் எடுத்தோம். பிறகு மெமரி கார்டை பேசிலிடம் கொடுத்தோம். 2013ம் ஆண்டு ஜூலை மாதம் கடைசி வாரம் பிரச்சினைக்குரிய அஞ்சுகிராமம் இடத்திற்கு டாக்டர் ஜேம்ஸ் சதீஷ்குமாருடன் நான், முருகன் மற்றும் செல்வபிரகாஷ் சென்றோம். அங்கு வழக்கறிஞர் வில்லியம்ஸ், பேசில், பொன்னுசாமி, மேரிபுஜம்பும், ஏசராஜன் மற்றும் இரண்டு நில புரோக்கர்கள் இருந்தார்கள். அந்த இடத்தில் டாக்டர் சுப்பையாவிற்கு சொந்தமான இடம் என்று ஒரு போர்டு இருந்தது. இதைப்பற்றி நில புரோக்கர்கள் வில்லியம்சிடம் கேட்டார்கள். அதற்கு வில்லியம்ஸ் கோபப்பட்டு டாக்டர் சுப்பையா சீக்கிரம் மேலே போய்விடுவார் விரைவில் அவரைக் கொன்றுவிடுவோம் என்று எங்களைப் பார்த்துசொன்னார். நாங்கள் அதை ஆமோதித்து சிரித்தோம். அந்த நில புரோக்கர் போன பிறகு டாக்டர் சுப்பையாவை எங்கு வைத்துகொலை செய்யலாம் என்று திட்டம் தீட்டினோம். டாக்டர் சுப்பையாவை சென்னையில்

வைத்துதான் கொலை செய்வது நல்லது என்று அனைவரும் திட்டம் தீட்டினோம்."

PW-53 Thiru.Saiva Vedantha Bharathi has deposed that

"கடந்த 2013ஆம் ஆண்டு ஜூலை மாதம் முதல் வாரத்தில் வக்கீல் வில்லியம் வீட்டிற்கு சென்றேன். வக்கீல் வில்லியம் அவருடைய ஜூனியர் பேசில் மற்றும் சிலர் பேசிக் கொண்டிருந்தார்கள். நான் வெளித் திண்ணையில் உட்கார்ந்து இருந்தேன். அப்போது அவர்கள் டாக்டர் சுப்பையா என்பவரை தீர்த்துக்கட்டுவது சம்மந்தமாக பேசிக் கொண்டிருந்தார்கள். அவ்வாறு பேசிக் கொண்டிருந்தவர்கள் வக்கீல் வில்லியம், பேசில், முருகன், ஐயப்பன் மற்றும் சிலர் ஆவர். அவர்கள் பேசிக் கொண்டிருந்ததில் இருந்து முருகன், ஐயப்பன் மற்றும் டாக்டர்.ஜேம்ஸ் என்று பெயர்களை தெரிந்து கொண்டேன். வக்கீல் வில்லியம் என்பவர் டாக்டர். ஜேம்ஸை பார்த்து டாக்டர் சுப்பையாவை களையெடுக்க வேண்டும், அதற்கு ஏற்பாடு செய்யுங்கள் என்று சொன்னார். அதற்கு டாக்டர் ஜேம்ஸ் என்பவர் சொன்னால் சொன்னபடி செய்வதற்கு ஆட்கள் இருக்கு என்று சொன்னார். செல்வத்தை மிரட்டி பத்திரத்தில் கையெழுத்து வாங்கித் தரவில்லையா, அப்பவும் என் மீது நம்பிக்கை இல்லையா என்று டாக்டர் ஜேம்ஸ் சொன்னார். அதற்கு முருகனும் ஐயப்பனும் வக்கீல் சார் இந்த மாதம் டாக்டர் சுப்பையா செத்தார் என்கிற தகவல் வரும், விவரங்களை என்னிடம் கொடுங்கள் என்று சொன்னார்கள். பேசிலைப் பார்த்து போட்டோ எடுத்து கொடுப்பா என்று வக்கீல் வில்லியம் சார் சொன்னார். டாக்டர் ஜேம்ஸ் என்பவர் நாமளே பேசிக் கொண்டிருக்கிறோம், இடத்தின் சொந்தக்காரர்கள் பேசிலின் அப்பா, அம்மா சொல்ல வேண்டாமா என்று சொன்னார். அதற்கு வக்கீல் வில்லியம் பேசிலைப் பார்த்து அதற்கென்ன பேசில் உங்க அப்பா அம்மாவை கூட்டிட்டு வா என்று சொன்னார். வெளித்திண்ணையில் உட்கார்ந்திருந்த என்னைப் பார்த்து பேசில் எப்போது வந்தேன் என்று கேட்டார். நான் வக்கீல் வில்லியமை பார்க்க வந்ததாக சொன்னேன். அதற்கு பேசில்

முக்கியமான விசயம் பேசிக் கொண்டிருப்பதாகவும், கொஞ்ச நேரம் காத்திருக்குமாறு சொன்னார். பேசில் வெளியில் சென்று சிறிது நேரத்தில் பேசிலின் அப்பா அம்மாவை அழைத்து வந்தார். வக்கீல் வில்லியம் பேசிலின் அப்பா அம்மாவை பார்த்து பேசில் எல்லா விசயத்தையும் சொல்லிவிட்டானா என்று கேட்டார். அதற்கு பேசிலின் அம்மா அப்பா பேசில் எல்லா விசயத்தையும் சொல்லி விட்டார், எங்களுக்கு டாக்டர் சுப்பையா சாக வேண்டும் சொத்து கிடைக்க வேண்டும், சொத்தின் மதிப்பு ரூ.10 கோடி இருக்கும் என்று சொன்னார்கள். டாக்டர் சுப்பையாவின் மேட்டரை முடித்து விட்டால், ரூ.10 கோடியில் பாதி கொடுப்பதாக பேசிலின் அப்பா அம்மா சொன்னார்கள். பின்னர் நான் வக்கீல் வில்லியமை பார்த்து விட்டு நான் என் வீட்டிற்கு சென்று விட்டேன்."

86. Through the ocular evidence of PW-4 / Thiru.Manickaraj, PW-5/Thiru.Bensam and PW-53/Thiru.Saiva Vedanta Bharathi, it has been established that at the first instance, in the last week of July 2013, the accused A1 to A3, A5 William, A6 Yesurajan, A7 Dr.James Sathish Kumar, A8 Murugan, A9 Selva Prakash and the Approver Iyyappan have assembled together and conspired at the house of A5 William. They had a discussion to weed out Dr.Subbiah and he will be done to death by the accused Murugan, Selva Prakash and Iyyappan, the Approver. PW-5 Thiru.Bensam has also deposed about the conspiracy between the accused A1 to A3, A5 to A9 and the Approver at the house of A5 William and thereafter at the land in dispute at the second instance. PW-5/Thiru.Bensam has also deposed that when the accused A1 to A3 and A5 to A9 assembled in front of the disputed property, A4 Boris, contacted his brother A3 Basil over phone and conveyed him that "நீ ஒன்றும் பயப்பட வேண்டாம். நம்ம திட்டப்படி டாக்டரும் சில நாட்களில் போயிட போறான். இடமும் விற்பதற்கு

ஏற்பாடாகி விட்டது." All the accused were said to have agreed to eliminate Dr.Subbiah and the accused A1 Ponnusamy and A2 Mary Pushpam also promised to spare, half of the sale amount of the disputed property, if Dr.Subbiah is done to death as per their agreement. It is true that there are some discrepancies in between the evidence and the earlier statements of PW-4 and PW-5 and those discrepancies have been elicited through the elaborate cross examination, done on behalf of all the accused. Any how, no material contradiction or discrepancy has been elicited through the cross examination, to shake the very foundation of the prosecution case.

87. Further, PW-12 Iyyappan (the Approver) would depose before this court about the conspiracy hatched between the accused A1 to A3 and A5 to A9 including himself during the last week July 2013, at the house of A5 William and also at the disputed property at the second instance. He has specifically stated in his evidence about the relationship between the A1 to A4 with A5 to A7 and also about the engagement of A8, A9 and himself by A7 Dr.James Sathish Kumar to execute their conspiracy. PW-12 Iyyappan has further stated that A1 Ponnusamy family have made arrangements to sell the property in dispute by stating that a lesson has to be taught to Dr.Subbiah and then only they will get the property, worth about several Crores. He would further depose that they have also planned to murder Dr.Subbiah and discussed between themselves through whom it has to be executed and for that Dr.James Sathish Kumar undertakes to finish off Dr.Subbiah with the help of his associates Murugan, Selva Prakash and himself. He has also deposed that all of them have agreed for the

same, and if Dr.Subbiah is done to death, the property will be sold and the half of the sale amount would be given to the Advocate William and Dr.James Sathish Kumar and they undertook to give Rs.50,00,000/- each to A8, A9 and himself. He would further state that in the 1st week of July 2013, when he went along with A8, A9 and Dr.James Sathish Kumar to the house of A5 William, where A5 told Dr.James Sathish Kumar to do away with the life of Dr.Subbiah within that month. From the evidence of PW-12 also, it is made clear by the prosecution that these accused have conspired together to do away with the life of Dr.Subbiah as claimed by the prosecution and his evidence is duly corroborated by the evidence of PW-4 /Thiru.Manikaraj and PW-5/ Thiru.Bensam.

88. One another witness examined on the side of the prosecution to prove the fact of conspiracy is PW-53 / Thiru.Saiva Vedantha Bharathi. He has deposed about the conspiracy between the accused and the conversation of each and every one. As rightly pointed out by the Special Public Prosecutor that it is very difficult to produce direct evidence for criminal conspiracy, since it is always done in secrecy and nobody would conspire in the presence of others, the prosecution was able to produce direct evidence to prove the same. PW- 4 / Thiru.Manikaraj and PW-5/ Thiru.Bensam, and PW-53/ Thiru.Saiva Vedantha Bharathi, who have witnessed the meeting of the accused A1 to A3 and A5 to A9 and their conversation and also their agreement to execute the conspiracy and come forward to depose before this court. Their evidence has been corroborated by the evidence of the approver, PW-12 Iyyappan, who was

also one of the conspirators. Through the evidence of the witnesses for conspiracy, it has been established by the prosecution that the accused A1 to A9, have conspired together to kill Dr.Subbiah and accomplished the same in pursuance of the criminal conspiracy. On this aspect, it would be relevant to refer the Judgments in

1988 - 3 – SCC – 609

Kehar Singh and Others Vs The State

1993 (3) – SCC – 203

Ajay Agarwal Vs Union of India and Others

AIR – 1938 – PC – 130

Babulal Choukhani Vs King Emperor

referred by the Special Public Prosecutor. In those Judgments, it has been held by the Hon'ble Supreme Court of India and privy Council that the conspiracy can be undoubtedly proved by such evidence direct or circumstantial and the conspiracy should have three elements, i.e., 1. Agreement 2. Between two or more persons by whom the agreement is effected 3. A criminal object which may be either the ultimate aim of the agreement or may constitute the means or one of the means by which that aim is to be accomplished. In the present case, the above said three elements are present and proved through the evidence of PW-4, PW-5, PW-12 and PW-53. Since, the accused A1 to A9 have agreed to kill Dr.Subbiah and they have assembled and conspired together with the common object to do away with the life of Dr.Subbiah. In the light of above decisions of the Hon'ble Supreme Court of India squarely applicable to this case and hence, the court is of the considered view that criminal

conspiracy between the accused A1 to A9 has been proved by the prosecution beyond any reasonable doubt.

89. It is the case of the prosecution that as a consequence to the conspiracy between A1 to A9 to murder Dr.Subbiah, A8 Murugan, A9 Selva Prakash and the approver, Iyyappan, executed the common object on the evening of 14.09.2013 by attacking Dr.Subbiah with a Knife and he succumbed to the injuries on 23.09.2013. To prove the commission of offence, the prosecution mainly rests upon the evidence of the eye witnesses PW-2 / Thiru.Vinoth Kumar and PW-3/ Thiru.Muthuvel. Out of the six eye witnesses mentioned in the final report, the prosecution has preferred to examine only two witnesses, i.e., PW-2/ Thiru.Vinoth Kumar and PW – 3 Thiru.Muthuvel. The rest of the witnesses were dispensed by the prosecution. Therefore, the court has to see whether the testimonies of the eye witnesses is cogent, reliable and trustworthy and if so, it can be the sole basis of the conviction. For that the court has to analyse the testimonies of PW-2 and PW-3 and also the other evidence and materials placed before it. To appreciate the evidence of eye witnesses, PWs – 2 and 3, it would be useful to extract the relevant portions of the said witnesses.

PW – 2 Thiru.Vinoth Kumar would depose before this court that

"14.09.2013 அன்று மாலை சுமார் 5.00 மணியளவில் கதவு எண்.30/59, ஆர்.ஏ.புரம், 1வது மெயின் ரோட்டில் குடியிருக்கும் ஒரு ராமலிங்கம் என்பவர் பழைய ஏ.சி. மிஜினை விற்க வேண்டும் என்பதற்காக தொலைபேசியில் என்னை கூப்பிட்டு இருந்ததன் பேரில் நான் மாலை 5.00 மணிக்கு சென்றேன். எனது குட்டியானை டாடா ஏ.சி. வாகனத்தை அவரது வீட்டின் முன்பாக நிறுத்திவிட்டு கேட்

அருகில் சென்றேன். அங்கு ஒரு சக்ரவர்த்தி என்ற ஒரு வாட்ச்மென் இருந்தார். நான் ஏ.சி. எடுப்பதற்காக வந்தேன் என்று சொன்னேன். அவர் என்னை காத்திருக்க சொன்னதன் பேரில் நான் வண்டி அருகில் காத்திருந்தேன். என் வண்டி முன்பாக ஒரு சிவப்பு கவர் கார் நின்று இருந்தது. அந்த காரை எடுப்பதற்காக சுமார் 50 வயது முதல் 60 வயது மதிக்கத்தக்க ஒரு நபர் வந்தார். அப்போது 30 வயது மதிக்க தக்க மூன்று நபர்கள் அங்கு வந்தார்கள். அதில் ஒரு நபர் அந்த கார் எடுக்க வந்த நபரை கத்தியால் வெட்டினார். அப்போது வலது பக்கம் இருந்து மற்றொரு நபர் ஓடி வந்து அந்த கத்தியை வாங்கி கழுத்து, தலை, தோள்பட்டை, வலது முன்னங்கை ஆகிய இடங்களில் சரமாரியாக வெட்டினார். அப்போது எதிரில் இருந்த மற்றொருவர் ஓடி வந்து சிவப்பு காருக்கு பின்னால் நின்று கொண்டிருந்த மற்றொரு காருக்கு இடையில் நின்று கொண்டிருந்தார். வெட்டி முடித்து விட்டு ஓடிப் போனார்கள். முதலில் வெட்டிய நபர் இன்று நீதிமன்றத்தில் 8வது எதிரியாக ஆஜரில் இருப்பவர். இரண்டாவது வெட்டியவர் இன்று நீதிமன்றத்தில் 9வது எதிரியாக ஆஜரில் இருப்பவர். முன்றாவதாக வந்த நபர் இன்று ஆஜரில் உள்ள 10வது எதிரி. இன்று நீதிமன்றத்தில் காண்பிக்கப்படும் கத்தி தான் சம்பவ நாளன்று 8, 9 எதிரிகள் பயன்படுத்திய கத்தி. (சா.பொ.1)."

90. Also the relevant portion from the evidence of PW-3 Thiru.Muthuvel is extracted below for better appreciation.

"14.09.2013 அன்று மாலை சுமார் 4.30 மணிக்கு வங்கிக் கு செல்லும் போது பொன்னேரி பஞ்சட்டி ஊரை சார்ந்த எனது நண்பர் கோபிநாதன் பில்ரோத் மருத்துவமனைக்கு வந்திருந்தார். அவரும் நானும் சிபிரோஸ் அப்பார்ட்மெண்ட் அலுவலகம் அருகில் நின்று பேசி கொண்டு இருந்தோம். அப்போது எங்களது அருகில் சுமார் 20விருந்து 25 வயது மதிக்கத்தக்க 3 நபர்கள் பிளாட்பாரத்தில் அமர்ந்து பேசி கொண்டு இருந்தார்கள். அவர்கள் பேசி கொண்டிருந்ததை பார்த்த போது அவர்கள் திருநெல்வேலி பகுதியை சார்ந்தவர் என்று தெரிய வந்தது. நானும்

திருநெல்வேலி பகுதியை சார்ந்தவன். அவர் பேச்சு சத்தமாக இருந்ததால் அவர்கள் பேசியதை நான் கவனித்தேன். அதிலிருந்து அவர்கள் பெயர்கள் முருகன், செல்வபிரகாஷ் மற்றும் ஐயப்பன் என்று தெரிந்து கொண்டேன். தற்போது நீதிமன்றத்தில் 9வது எதிரியாக ஆஜரில் உள்ள நபர் தான் செல்வபிரகாஷ். தற்போது நீதிமன்றத்தில் ஆஜரில் உள்ள 10வது எதிரி தான் முருகன். தற்போது நீதிமன்றத்தில் ஆஜரில் உள்ள 10வது எதிரி தான் ஐயப்பன். சாட்சி 8 முதல் 10 எதிரிகளை தொட்டு அடையாளம் காட்டினார். அப்போது 10வது எதிரி முருகன் எதிரி ஐயப்பனை பார்த்தேன். ஏலே ஐயப்பா இன்று நாம் டாக்டரை களை எடுக்கனும் போன தடவை மாறி சொதப்பிடகூடாது. அப்படி முடித்து விட்டால் வக்கீல் வல்லியம்சம், நம்ம டாக்டர் ஜேம்ஸ்சம், போரிஸ், பாசில் ஆகியோரிடமிருந்து ரூ.50 லட்சம் வங்கி கொடுப்பார்கள். நான் சிங்கப்பூர் போய் செட்டில் ஆகி விடலாம் என்று பேசி கொண்டிருந்தார்கள். அவர்கள் மூவரும் ஸ்கூல் பேக் போன்று ஒரு பேக்கை மாட்டி இருந்தார்கள். அந்த சமயத்தில் திடீரென எழுந்து முன் பக்கமாக ஓடினார்கள். அப்போது அந்த இடத்தில் சுமார் 60 வயது மதிக்கதக்க ஒரு பெரியவர் கார் அருகில் வந்து காரை எடுத்தார். அப்போது எதிரி முருகன் அவர் வைத்திருந்த கருப்பு கவர் பேக்கிலிருந்து ஒரு கத்தியை எடுத்து அந்த பெரியவரை வெட்டினார். அப்போது அந்த பெரியவர் கையால் தடுத்தார். அவ்வாறு தடுக்கும் போது கையில் வெட்டு பட்டது. அப்போது அவர் அப்படியே தடுத்து கொண்டு பின்னாடி சென்றார். அப்போது எதிரி தொடர்ந்து வெட்டி கொண்டு இருந்தார். அப்போது அவர் பிளாட்பாரத்தில் சரிந்து விட்டார். எதிரி செல்வபிரகாஷ் முருகனிடமிருந்து கத்தியை வாங்கி அந்த பெரியவரை கழுத்து மற்றும் தலையின் பகுதி ஆகியவற்றில் நிறைய தடவை வெட்டினார். அந்த காருக்கு அந்த பக்கமாக பெரியவர் சென்று விடாதபடி தடுக்கும்படி எதிரி ஐயப்பன் வழியை மறித்து நின்று கொண்டு இருந்தார். அவர் மறித்து கொண்டு இருக்க அவர்கள் வெட்டி கொண்டு இருந்தார்கள். அப்போது எனக்கு பயமாகி விட்டது. அப்போது ஐயப்பன் முன்னே போக அவருக்கு பின்னால் செல்வபிரகாசும் அதற்கு பின்னால் முருகனும் கத்தியை செல்வபிரகாஷ் வைத்து கொள்ள ஒரு பைக்கில் ஏறி மேற்கு புறம் நோக்கி சென்று விட்டார்கள். இன்று நீதிமன்றத்தில் காட்டப்படும் கத்திதான் எதிரிகள் 8, 9 சம்பவத்திற்கு பயன்படுத்திய கத்தி (சா.பொ.1) ஆகும்."

91. The eye witnesses PW-2/Thiru.Vinoth Kumar and PW-3 Thiru.Muthuvel, being independent and natural witnesses, deserve a higher degree of credibility unless there are strong reasons to disbelieve or discard the said testimonies. Those two witnesses are completely strangers to the assailants / A8, A9 and the approver. Also the said witnesses have no reasons to depose in favour of the prosecution or against the assailants / A8 and A9. A careful scrutiny of the testimonies of PW -2/Thiru.Vinoth Kumar and PW-3/Thiru.Muthuvel, would disclose and reveal that they have supported the case of the prosecution on all material particulars. It is to be remembered that the occurrence took place in a broad daylight at about 5.00 p.m. on 14.09.2013 in a busy locality i.e., R.A.Puram, Chennai. PWs-2/Thiru.Vinoth Kumar and PW-3/Thiru.Muthuvel had given the details of the assault inflicted by A8 and A9 upon Dr.Subbiah indiscriminately, as well as the escaping of A8, A9 and the Approver from the scene of crime.

92. PW-2 /Thiru.Vinoth Kumar and PW-3 Thiru.Muthuvel would depose in their chief examination itself, how they happened to be at the place of occurrence and how they witnessed the occurrence, etc., PW-2 Thiru.Vinoth Kumar said to have come to the place of occurrence to attend a customer to get the old A.C. Machine and was waiting there after informing the watchman of the house. Also PW -3 Thiru.Muthuvel was said to have come to the place of occurrence to attend his bank work and at the time of occurrence, he was waiting and interacting with his friend at the platform and he has also mentioned his bank account number with H.D.F.C. Bank, R.A.Puram,

Chennai. The said eye witnesses have identified the accused A8 and A9 as well as the weapon Knife in the court marked as M.O.1, used by the assailants for the commission of offence and therefore the presence of PW – 2 and PW – 3 cannot be doubted though they were chance witnesses. Both of the witnesses have further deposed in their chief examination that they have identified the assailants in the Test Identification Parade conducted by PW-51/Thiru.Jayavel, XVI Metropolitan Magistrate, George Town, Chennai in the Central Prison, Puzhal on 06.02.2014. Also they have stated those facts in their statements before the XVI Metropolitan Magistrate, Chennai, recorded under 164 (5) of Cr.P.C.

93. It has been contended by the defence that there are several contradictions and discrepancies found in the evidence of eye witnesses PWs 2 and 3, and it makes their evidence unreliable and untrustworthy. This aspect has been dealt with in a recent Judgment in

2021 – AIAR (Cr.) - 426

Dhirendra Singh Alias Pappu Vs State of Jharkhand

in which, it has been observed that

"There is no reason to doubt the presence of PW27, at the time of incident."

"Deposition was recorded after a period of approximately 15 years, there are bound to be some minor contradiction / contradictions."

In the light of the said decision, when the court considered the oral evidence of PW-2/Thiru.Vinoth Kumar and PW-3/Thiru.Muthuvel found some discrepancies and contradictions. Anyhow, the court is of the view that there might be some contradictions or discrepancies in the evidence of the eye witnesses, due to the

passage of time between the date of occurrence and the examination of the witnesses in the court. Some inconsistencies bound to take place and unless it had gone into the very foundation of the case of the prosecution, the testimonies of the eye witnesses viz., PW – 2 and PW – 3 cannot be discarded in toto, as discussed in the earlier paragraph, the eye witnesses are not related to the deceased or the assailants in any way and they have no reason to lie against the assailants. No suggestion or question has been raised during the cross examination that they have animosity with the assailants.

94. Further more, in a recent Judgment in

2020 – (2) – Madras Weekly Notes (Criminal) – 305 (DB)

Chinnasamy Vs Deputy Superintendent of Police, Udumalpet Sub Division,
Udumalpet

It was observed by the Hon'ble High Court of Madras that "If a witness gives a parrot-like version with minute details, a doubt is bound to arise as to the tutoring of the said witness by the prosecution."

"It is also a well settled position of law that quality of the witness alone matters and not the quantity and if the testimony of the eye witness is cogent, reliable and trustworthy, it can be the sole basis of conviction also. There are bound to be some inconsistencies or embellishments or exaggerations in the testimonies of the eye witnesses and it is obligatory on the part of the court, while appreciating their evidence, to separate grain from chaff and find out whether the witnesses are speaking the truth."

and this decision is squarely applicable to the case on hand.

95. When all the eyewitnesses to the occurrence are not examined by the prosecution and some of the witnesses are withheld by them, then it is the duty of the

court to find out whether the examined witnesses have spoken the truth or not and whether the testimonies of those witnesses is sufficient to prove the charges against the accused or not. In this background, the court is of the considered opinion that the testimonies of PW-2 and PW-3, supported the case of the prosecution and all materials, especially, the role played by the accused A8, A9 and the approver during the commission of crime. Also the evidence of those eye witnesses have been corroborated by the evidence of PW-12 Iyyappan (Approver), medical evidence and also supported by Ex.P-155 CCTV footage. In order to accept the evidence of a particular witness, his evidence is to be cogent and there should not be any major contradictions or improvements from the earlier statement. The eye witnesses were exhaustively cross examined by the defence, but nothing material came out to discredit the testimony of these witnesses. The contradictions and the discrepancies pointed out by the accused A1 to A9 are not major or vital and it is only superficial in their evidence can be accepted in the light of the following decisions:

2020 (1) – SCC – (Cr) – 47

Rohtas and another Vs The State of Haryana

in which, the Hon'ble Supreme court of India has referred the case in

State of Uttar Pradesh Vs Ramkumar and others.

"It is held that minor discrepancies in the statement of witnesses of trivial nature cannot be a ground to reject the evidence as whole. The court relied upon the exposition of Brahm Swaroop and another Vs. State of Uttar Pradesh in paragraph 32 of the said decision, the court observed thus, it is a settled legal proposition that while appreciating the evidence of a witness, minor discrepancies on trivial matters which

do not affect the core of the prosecution's case, may not prompt the court to reject the evidence in its entirety.”

Also in

AIR - 2010 – SC – 1007

Vikram Singh Vs. State of Punjab

It has been held by the Hon'ble Supreme Court of India that

"Where the presence of the witnesses were natural at the place where they professed to be, the court said that they could not be dubbed as chance witnesses."

AIR – 2009 – SC – 3185

Ramvir Vs State of Uttar Pradesh

It has been held by the Hon'ble Supreme Court of India that

"Where the incident happened during broad daylight and the witnesses being residents of the locality their presence at the place of occurrence would not be considered unnatural. They had not cost to give false evidence. Their testimony could not be disbelieved by treating them as chance witnesses."

96. Also in the recent case, our Hon'ble Supreme Court of India in
2020 (1) – SCC -(Cr) 398

S.K.Khabir Vs The State of West Bengal

held that

"Ocular evidence of two eyewitnesses fully corroborated by medical evidence – conviction confirmed."

In the present case also the evidence of the two eyewitnesses PW – 2 and PW – 3 were fully corroborated by the medical evidence. Those Judgments rendered by the Hon'ble Supreme Court of India are squarely applicable to the facts and circumstances of this case. Therefore, the arguments of the defence that the evidence of PW - 2 and PW – 3 have to be disbelieved for the reason of contradictions and discrepancies in their evidence is misplaced and untenable.

97. The Learned Counsels for the accused and the 5th accused, party-party-in-person have vehemently contended that there are lot of contradictions, additions, omissions and discrepancies between the testimonies of PW-2 and PW-3, with their 161 Cr.P.C. and 164 Cr.P.C. statements, etc. The court fairly concede that there are several contradictions and discrepancies in the evidence of PW-2 and PW-3 and also with their statements before the Investigation Officers under Section 161 (3) of Cr.P.C. and the XVI Metropolitan Magistrate, George Town, Chennai recorded under 164 of Cr.P.C. It is one of the contention of the defence that the eye witnesses PW-2 and PW-3 were belatedly examined by the Investigation Officers and there is no plausible explanation for the same. PW-2 in his chief examination deposed that after two days of the occurrence he went to the police station and informed the police about the occurrence. Likewise, PW-3 Thiru.Muthuvel would depose in chief examination that he had seen in the daily news paper about the death of Dr.Subbiah on the evening of 23.09.2013 and initially he kept quiet as he didn't want get into any trouble. Thereafter, in the month of January only he went to the police station and informed them that he had witnessed the occurrence. The Investigation Officer could not have examined PW-2 and PW-3 immediately after the occurrence and there is nothing wrong in examining them after they voluntarily came and gave the information in respect of the witnessing of occurrence. Therefore, the argument of the defence that PW-2 and PW-3 were examined belatedly by the Investigation Officers and it is not reliable for the reason thereof is not an acceptable one. Simply because the witnesses were examined by the

Investigation Officers belatedly, the court cannot reject their evidence in toto or disbelieve them as not reliable.

98. In respect of the plea about the contradictions and discrepancies in the evidence of PW-2 and PW-3 with their earlier statements, the court is inclined to refer the Judgment in

1981 – 2 – SCC – 752

State of Rajasthan Vs Kalki

referred by the de facto complainant. In which, it has been held that

"normal discrepancies in evidence are those which are due to normal errors of observations, normal errors of memory due to lapse of time, due to mental disposition such as shock and horror at the time of occurrence and those are always there, however honest and truthful a witness may be."

In the case on hand, the occurrence took place on 14.09.2013 at about 5.00p.m. and the PW-2, PW-3 were examined on 09.10.2017 and 27.10.2017 respectively after a lapse of four years. Naturally due to the passage of time, discrepancies and contradictions are bound to occur and also if the said witnesses have narrated the incident without any contradictions even after a lapse of some years, then only their evidence would be doubtful. It is not the case of any of the accused, more specifically A8 and A9, there is enmity between themselves and the witnesses PW-2 and PW-3. There is no need for PW-2 and PW-3 to falsely implicate the accused A8 and A9 with the occurrence and they have given acceptable reason for their presence at the scene of crime at the relevant date and time.

99. An overall consideration and appreciation of the evidence of PW-2/Thiru.Vinoth Kumar and PW-3/ Thiru.Muthuvel, CCTV footage, Scientific Report, it would disclose that the assailants / A8, A9 and the Approver Iyyappan were present in the scene of occurrence at about 5.00 p.m., on 14.09.2013, and carried out an attack on Dr.Subbiah and as a result, the deceased sustained grievous injuries at his head, neck, right shoulder, etc. and later on, succumbed to the injuries on 23.09.2013. The Postmortem Certificate of the deceased Dr.Subbiah was marked as Ex.P-148, issued by PW-48 Dr.K.V.Vinoth and his evidence would also reveal that Dr.Subbiah had sustained as many as 20 injuries on the vital parts of the body and the opinion given that he died of shock and haemorrhage due to multiple cut injuries at his head and he has also opined that those injuries could have been caused with the Knife M.O.1. The evidence of medical witnesses has also corroborated the evidence of eye witnesses PW-2 / Thiru.Vinoth Kumar and PW-3 / Thiru.Muthuvel and it is considered as cogent, reliable and trustworthy.

100. Yet another important witness, whose evidence requires consideration is PW-12 Iyyappan, the approver. The Learned Special Public Prosecutor, would submit during his argument that PW-12 Iyyappan is one of the key witnesses for proving the case of the prosecution. Originally, the approver, PW-12 Iyyappan was shown as A10 and charges have been framed by this court against the approver and then, after the examination of PW-1 to PW-11, he has filed a petition under Section 307 Cr.P.C. and he was pardoned by the court on 12.10.2018. Thereafter, A10/Iyyappan was termed as

approver and therefore his evidence achieved special status under Section 133 of Indian Evidence Act. He would further submit that PW-12 Iyyappan, the approver deposed before this court about the entire sequence of the incident and his involvement and also the role of other accused. His evidence has been corroborated by the other independent witnesses, witnesses for recovery, medical evidence, Electronic and scientific evidence and also through documents. Therefore, the evidence PW-12 Iyyappan, the approver has to be accepted by the court, as it is reliable and corroborated with other oral and documentary evidence. The Learned Special Public Prosecutor has placed reliance of the following Judgments in support of his submissions.

2005 (1) – SCC – 237

K.Hasheem Vs State of Tamil Nadu

AIR – 1969 – SCC – 832

Haroon Haji Vs State of Maharashtra

2003 (7) – SCC – 56

Krishna and others Vs State

1974 – 4 – SCC – 611

Bhagwan Dass Vs State of Rajasthan

101. The Learned Counsels for the accused A1 to A4, A7 to A9 and also A5 party-in-person have submitted during their arguments that the evidence of PW-12, Iyyappan is not at all acceptable as he is not a reliable witness and his evidence has not been corroborated by other witnesses. The evidence of PW-12, Iyyappan has been attacked by the defence on the following aspects:

1. At the time of arrest and also at the time seeking bail, PW-12 denied the allegations against him.
2. Even at the time of framing of charges, he denied and pleaded not guilty.
3. After the examination of PW-1 to PW-11, he has filed the application under 307 Cr.P.C. belatedly to fill up the lacuna in the case of the prosecution.
4. Petition under Section 307 CrPC filed by the approver, PW-12, Iyyappan after the cross examination of PW-1 to PW-11, denying the charges against him.
5. The order of pardon has been passed within 15 minutes after the completion of the pardoning procedure.
6. Affidavit filed along with the 307 Cr.P.C. The petition has not been marked and the officer who gave the pardon has not been examined.
7. PW-12 Iyyappan in his chief examination has stated about the meeting of A6 Yesurajan with A3 to A5 and A7, though he has not stated the same in his confession.
8. PW-12 Iyyappan has deposed that the accused A6 Yesurajan and two land brokers were at the disputed land, but it has not been stated in his confession and further confession.
9. His evidence is not sufficient to base conviction.
10. During cross examination, PW-12 Iyyappan has stated that they were wearing caps at the time of occurrence, but it has not been stated in the chief examination.
11. The evidence of PW-12 Iyyappan is not supported by other independent witnesses, medical evidence and the Electronic evidence. Therefore, it is not safe to rely on the evidence of PW -12 Iyyappan, the approver and a conviction cannot be based on the basis of his evidence.

102. In support of their submissions, the Learned Counsels for the accused and A5 have submitted the following Judgments:

Sarwant Singh Vs State of Pujab

1984 (1) – SCC – 686

Lal Chand and others Vs State of Haryana

1988 (1) – SCC – 1

Balwant Kaur Vs Union Territory Chandigarh

1988 (1) – SCC – 696

Chandan and another Vs State of Rajasthan

103. As per Section 133 of Indian Evidence Act, an accomplice shall be a competent witness against the accused and conviction based on his uncorroborated evidence is not bad in law. As per Section 114(b) of Indian Evidence Act, accomplice evidence is unworthy of credit unless corroborated by material particulars. Any how, it has been held in

2005 (1) – SCC – 237

K.Hasheem Vs State of Tamil Nadu

that "Section 133 of I.E.Act prevails over Section 114(b) of Indian Evidence Act." In the light of the Judgment, it is made clear that the evidence of the approver can be accepted or relied upon by the court only if it has passed the double test i.e., reliability and corroboration. In

AIR - 1957 – SC – 637,

it has been held by the Hon'ble Supreme Court of India that

"An approver is undoubtedly a competent witness under the Evidence Act. But the appreciation of his evidence has to satisfy a double test. His evidence must show that he is a reliable witness and that is a test which is common to all witnesses. If the test is satisfied, the second test which still remains to be applied is that the approver's evidence must receive sufficient corroboration. This test is special to the cases of weak or tainted evidence like that of the approver."

104. When the court analyze the reliability of the evidence of the approver, PW12/ Iyyappan, it is useful to extract some portion of the deposition which as follows:

"டாக்டர் சுப்பைய்யா என்பவர் பல விதத்தில் தொல்லை கொடுத்து வருவதாகவும், பல இன்னல்கள் கொடுத்து வரும் டாக்டர் சுப்பைய்யாவிற்கு தகுந்த பாடம் கற்பிக்க வேண்டும் என்று பொன்னுசாமி குடும்பத்தினர் கூறிவந்தனர். டாக்டர் சுப்பைய்யாவை ஒழித்தால்தான் பல கோடி சொத்து மதிப்புள்ள நிலம் தங்களுக்கு கிடைக்கும் என்று பொன்னுசாமி குடும்பத்தினர் கூறினார். டாக்டர் ஜேம்ஸ் சதீஜ்குமார், வில்லியம்ஸ், பேசில், போரிஸ், ஏசராஜன் ஆகியோர் பல்வேறு தொல்லைகளை கொடுத்துவரும் டாக்டர் சுப்பைய்யாவை களை எடுத்தால்தான் சொத்து முழுவதும் நமக்கு கிடைக்கும் என்று கூறிவந்தனர். டாக்டர் சுப்பைய்யாவை கொன்றுவிட்டால் அவருக்கு இரண்டு மகள்கள்தான், அவரது மனைவி இந்த நிலப்பிரச்சிகைக்கு வரமாட்டார். எனவே அந்த நிலம் நமக்கு கிடைத்துவிடும் என்று சொல்லிவந்தனர். டாக்டர் சுப்பைய்யாவை யாரை வைத்து கொலை செய்யலாம் என்று யோசித்தனர். அதற்கு பேசில் கூலிப் படையையோ, ரஷியையோ வைத்து கொலை செய்துவிடலாம் என்று சொன்னார். அதற்கு வில்லியம்ஸ் கூலிப் படையையோ, ரஷியையோ வைத்து கொலை செய்தால் நம்மை எந்த சமயத்திலும் போலீசார் கண்டுபிடித்துவிடுவார்கள். இதே காரணமாக வைத்து பணம் கேட்டு மிரட்டுவார்கள், ஆகையால் வேண்டாம் என்று சொன்னார். அதற்கு டாக்டர் ஜேம்ஸ்சதீஜ்குமார் எனக்கு நம்பிக்கைக்குரியவர்களாக இருக்கும் முருகன், செல்வபிரகாஷ் மற்றும் என்னை வைத்து டாக்டர் சுப்பைய்யாவின் கதையை முடித்துவிடலாம் என்று சொன்னார். அதற்கு வில்லியம்ஸ், முருகன், செல்வபிரகாஷ் மற்றும் என்னை வைத்து சுப்பைய்யாவின் கதையை முடித்தால் எங்களுக்கு தேவையான உதவிகளை செய்து கொடுத்துவிடலாம் என்று சொன்னார். அதற்கு அனைவரும் சம்மதம் தெரிவித்தோம். அதன்பின் ஒருநாள் வில்லியம்ஸ், பேசில், போரிஸ், ஏசராஜன் ஆகியோர் டாக்டர் ஜேம்ஸ்சதீஜ்குமாரை சந்தித்து

பேசினார்கள். டாக்டர் சுப்பைய்யாவை கொன்றுவிட்டால் அஞ்சு கிராமம் நிலத்தில் பேசில் குடும்பத்தினர் பாதியை எடுத்துக்கொண்டு மீதி பாதியை வழக்கறிஞர் வில்லியம்ஸ் மற்றும் டாக்டர் ஜேம்ஸ் சதீஜ்குமாருக்கும் கொடுப்பதாகவும், டாக்டர் ஜேம்ஸ் சதீஜ்குமார், முருகன், செல்வபிரகாஷ் மற்றும் எனக்கும் ஆளுக்கு ரூ.50 இலட்சம் தருவதாகவும், ஏசராஜனை தனியாக கவனித்துக் கொள்வதாகவும் முடிவெடுத்தனர். அதற்கு நாங்களுக்கும் சம்மதித்தோம்."

"பேசில் தனது செல்போனில் இருந்த டாக்டர் சுப்பைய்யாவின் புகைப்படத்தைக் காண்பித்த இவர்தான் டாக்டர் சுப்பைய்யா என்று சொன்னார். தனது செல்போனில் இருந்த மெமரி கார்டை கழற்றி முருகன் கையில் கொடுத்தார். போட்டோ எடுத்துக்கொண்டு மெமரி கார்டை திருப்பிக் கொடுத்துவிட வேண்டும் என்று சொன்னார். அதற்கு வில்லியம்ஸ் டாக்டர் சுப்பைய்யா சென்னை ராஜீவ் காந்தி மருத்துவமனையில் நியூரோ டாக்டராக வேலை செய்வதாகவும் மற்றும் ஆர்.ஏ.புரம் பில்ரோத் மருத்துவமனையில் வேலை செய்வதாகவும் சொல்லி டாக்டர் சுப்பைய்யாவின் விசிட்டிங் கார்டை காண்பித்தார். பிறகு அஞ்சுகிராமம் சென்று ராணி ஸ்டூடியோவில் மெமரி கார்டை கொடுத்து டாக்டர் சுப்பைய்யாவின் படத்தை பிரிண்ட் எடுத்தோம். பிறகு மெமரி கார்டை பேசிலிடம் கொடுத்தோம். 2013ம் ஆண்டு ஜூலை மாதம் கடைசி வாரம் பிரச்சினைக்குரிய அஞ்சுகிராமம் இடத்திற்கு டாக்டர் ஜேம்ஸ் சதீஜ்குமாருடன் நான், முருகன் மற்றும் செல்வபிரகாஷ் சென்றோம். அங்கு வழக்கறிஞர் வில்லியம்ஸ், பேசில், பொன்னுசாமி, மேரிபுஷ்பம், ஏசராஜன் மற்றும் இரண்டு நில புரோக்கர்கள் இருந்தார்கள். அந்த இடத்தில் டாக்டர் சுப்பைய்யாவிற்கு சொந்தமான இடம் என்று ஒரு போர்டு இருந்தது. இதைப்பற்றி நில புரோக்கர்கள் வில்லியம்சிடம் கேட்டார்கள். அதற்கு வில்லியம்ஸ் கோபப்பட்டு டாக்டர் சுப்பைய்யா சீக்கிரம் மேலே போய்விடுவார் விரைவில் அவரைக் கொன்றுவிடுவோம் என்று எங்களைப் பார்த்துசொன்னார். நாங்கள் அதை ஆமோதித்து சிரித்தோம். அந்த நில புரோக்கர் போன பிறகு டாக்டர் சுப்பைய்யாவை அங்கு வைத்துக்கொலை செய்யலாம் என்று திட்டம் தீட்டினோம். டாக்டர் சுப்பைய்யாவை

சென்னையில் வைத்துதான் கொலை செய்வது நல்லது என்று அனைவரும் திட்டம் தீட்டினோம். டாக்டர் சுப்பையாவை கொலை செய்ய அரிவாள் வாங்க 2013 ஜூலை மாதத்தில் ஒருநாள் நானும் முருகனும் மேலஅரியகுளம் சென்று ராமசுப்பிரமணியம் என்பவரிடம் சென்று அவரிடம் அரிவாள் வாங்கினோம். அந்த அரிவாளை பார்த்தால் என்னால் அடையாளம் காட்டமுடியும். அந்த அரிவாள்தான் என்னிடம் காட்டப்படுவதாகும்."

"நாங்கள் ஏற்கனவே போட்ட திட்டத்தின்படி டாக்டர் சுப்பையாவை கொலை செய்ய டாக்டர் ஜேம்ஸ் சதீஜ்குமார் 10.08.2013 தேதியன்று எங்களுக்கு ரூ.20 ஆயிரம் பணம் கொடுத்தார். நாங்கள் டாக்டர் சுப்பையாவை கொலை செய்ய அன்று இரவே வள்ளியூரில் இருந்து சென்னைக்கு நான், முருகன், செல்வபிரகாஷ் வந்தோம். சென்னைக்கு வந்து உயர்நீதிமன்றத்திற்கு எதிரில் உள்ள பாக்கியம் லாட்ஜில் 11.08.2013 தேதியன்று ரும் எடுத்து தங்கினோம். சென்னையில் சுமார் 4 நாட்கள் தங்கியிருந்தோம். சில இடங்களுக்கும் சென்றிருந்தோம். அந்த 4 நாட்களும் எங்கள் செல்போன்களை சுவிட்ச் ஆப் செய்திருந்தோம். ஆர்.ஏ.புரத்திற்கும் சென்றிருந்தோம். பில்ரோத் மருத்துவமனையில் டாக்டர் சுப்பையாவையும் அவரின் காரையும் அடையாளம் கண்டோம். 14.08.2013 தேதியன்று டாக்டர் ஜேம்ஸ் சதீஜ்குமார் சென்னை வந்தார். சென்னை வந்து ஆர்.ஏ.புரம் பில்ரோத் மருத்துவமனைக்கு வந்து டாக்டர் சுப்பையாவின் கார் நிற்கும் இடத்திற்கு வந்து டாக்டர் சுப்பையாவை எப்படி கொலை செய்யவேண்டும் என்று திட்டம் வகுத்துக் கொடுத்தார். அப்போது அந்த வழியாக வந்த டாக்டர் ஜேம்ஸ் சதீஜ்குமாருக்கு தெரிந்த சிவாஜி என்ற நபர் வந்தார். அவர் டாக்டர் ஜேம்ஸ் சதீஜ்குமாரிடம் சிறிது நேரம் பேசிவிட்டு சென்றுவிட்டார். அன்றைய தினம் எங்களால் டாக்டர் சுப்பையாவை கொலை செய்ய முடியவில்லை. அதனால் ஊருக்கு திரும்பிவிட்டோம்."

"12.09.2013 தேதியன்று டாக்டர் ஜேம்ஸ் சதீஜ்குமார் எங்களுக்கு ரூ.10 ஆயிரத்தை முருகனிடம் கொடுத்தார். அதை வாங்கிக் கொண்டு வள்ளியூர் Neo Suzuki

கடைக்கு பக்கத்தில் இருக்கும் பூம்புகார் ஓட்டலில் வேலை பார்க்கும் எனக்குத் தெரிந்த சுப்பிரமணி என்பவரிடம் ரூ.6000/- பணம் கொடுத்து ஒரு சிவப்பு கவர் பல்சர் வாகனத்தை வாங்கினோம். அந்த வண்டியின் எண்.TN20 J 9995 ஆகும். அந்த பைக்கை வாங்கிக் கொண்டு பனக்குடிக்கு சென்றோம். அங்கு உதயா டிராவல்சில் முருகன், செல்வபிரகாசுக்கு ஒரு டிக்கெட் புக் செய்தார். செல்வபிரகாசையும், மேற்படி பல்சர் பைக்கையும் ரூபன் பஸ்சில்

ஏற்றிவிட்டார்."

" நானும் முருகனும் அன்றைய இரவே 12.09.2013 தேதியன்று வள்ளியூரில் இருந்து சென்னைக்கு அரசு பேருந்தில் வந்தோம். சென்னைக்கு வந்து முருகனும் நானும் கோயம்பேடில் செல்வபிரகாசை சந்தித்து பேசினோம். மேற்படி பல்சர் வாகனத்தில் நாங்கள் மூவரும் ஏறி கிண்டி அருணா லாட்ஜிற்கு வந்தோம். 13.09.2013 தேதியன்று அருணா லாட்ஜில் நாம் எடுத்து தங்கினோம். அன்றைய தினம் சில இடங்களுக்கு சென்றோம். 14.09.2013 தேதியன்று அந்த லாட்ஜை நாங்கள் கேன்சல் செய்துவிட்டு அன்று மதியமே நாங்கள் வைத்திருந்த 3 பேக்குகளை எடுத்துக்கொண்டோம். ஏற்கனவே வாங்கி வைத்த அரிவாளை முருகன் அவரது பேக்கில் வைத்துக்கொண்டார். நாங்கள் மேற்படி பைக்கிள் ஏறி ஆர்.ஏ.புரம் பில்ரோத் மருத்துவமனைக்கு வந்தோம். எங்கள் வண்டியில் Gear பிரச்சினை இருந்தது. செல்வபிரகாசை பில்ரோத் மருத்துவமனைக்கு பக்கத்தில் நிற்கச் சொன்னோம். நானும் முருகனும் அந்த பைக்கை சரிசெய்ய பக்கத்தில் மெக்கானிக் கடைக்குச் சென்றோம். எங்கள் வண்டியைப் பார்த்த மெக்கானிக் இதை சரி செய்ய ஒரு நாள் ஆகும் என்று சொன்னார். நாங்கள் அப்புறம் பார்த்துக் கொள்கிறோம் என்று சொல்லிவிட்டு அதே பைக்கில் பில்ரோத் மருத்துவமனைக்கு வந்தோம். அங்கு நாங்கள் அங்குமிங்கும் நடமாடிக் கொண்டிருந்தோம். மதியம் சுமார் 3.00 மணிக்கு டாக்டர் சுப்பைய்யாவின் கார் பில்ரோத் மருத்துவமனை எதிரே உள்ள முதல் மெயின்ரோடு நடைபாதை அருகில் நிறுத்தி வைக்கப்பட்டிருந்தது. அதை நாங்கள் பார்த்தோம். சுமார் 4.00 மணியளவில் நானும்

செல்வபிரகாசம் பில்ரோத் மருத்துவனைக்கு உள்ளே சென்றோம். அங்கு வேலை பார்க்கும் பெண்ணிடம் டாக்டர் சுப்பையாவைப் பற்றி விசாரித்து நாங்கள் இருவரும் நேரில் பார்த்து டாக்டர் சுப்பையா உள்ளே இருக்கிறார் என்று உறுதி செய்தோம். பின்னர் மருத்துவமனையை விட்டு வெளியே வந்து நடைபாதை அருகே உட்கார்ந்து கொண்டோம். டாக்டர் சுப்பையா எப்போது வெளியே வருவார் என்று காத்துக்கொண்டிருந்தோம். அப்போது முருகன் என்னிடம் ஐயப்பா போன தடவை மாதிரி இந்த தடவை சொதப்பிடக்கூடாது டாக்டர் சுப்பையாவின் கதையை முடித்துவிட்டோமானால் வில்லியம்ஸ், டாக்டர் ஜேம்ஸ் சதீஜ்குமார் ஆகியோர் பேசில், போரிஸ் கிட்ட சொல்லி நமக்கு ரூ50 இலட்சம் வாங்கித்தருவார்கள், நமக்கு வெளிநாட்டிலும் வேலை வாங்கித்தருவார்கள் நாம் வெளிநாட்டில் செட்டில் ஆகிவிடலாம், நமக்கு எந்த பிரச்சினையும் வராது என்று சொன்னார். டாக்டர் சுப்பையா எந்த பக்கம் திரும்பினாலும் மடக்கி பிடித்து வெட்டி கொலை செய்ய வேண்டும் என்ற முடிவுடன் இருந்தோம். மாலை சுமார் 5.00 மணியளவில் டாக்டர் சுப்பையா பில்ரோத் மருத்துவமனையை விட்டு வெளியே வந்தார். நாங்கள் அதை பார்த்தோம். நான் டாக்டர் சுப்பையாவின் காருக்கு பின்னால் நின்றுகொண்டிருந்தேன் முருகன் டாக்டர் சுப்பையாவிற்கு பின்னால் நடந்துவந்தார். செல்வபிரகாஜ் டாக்டர் சுப்பையாவிற்கு சைடில் வந்தார். டாக்டர் சுப்பையா கார் பக்கத்தில் வந்து அவரது காரின் இடது சைடு கண்ணாடியை சரி செய்துவிட்டு காருக்கு முன்பாக காரை எடுப்பதற்காக வந்தார். அப்படி வரும்போது டாக்டர் சுப்பையாவை முருகன் தடுத்துநிறுத்தி நீங்கள்தானே டாக்டர் சுப்பையா என்று கேட்டார், அதற்கு அவர் ஆம் என்றார். உடனே முருகன் தன் முதுகு பேகில் வைத்திருந்த அரிவாளை எடுத்து டாக்டர் சுப்பையாவை தலையில் வெட்டினார். டாக்டர் சுப்பையா பின்னோக்கி சென்றார். முருகன் ஏதோ பேசிக்கொண்டு மாறி மாறி வெட்டினார். டாக்டர் சுப்பையா காருக்கு முன்பாக Tata Ace வாகனம் இருந்தது. அதன் அருகில் இருந்த ஒரு நபர் அண்ணா வெட்டாதீங்க என்று சொன்னார். டாக்டர் சுப்பையா வெட்டுப்பட்டவுடன் தடுமாறி கீழே

விழுந்தார். செல்வபிரகாஷ், முருகனிடமிருந்து அரிவாளை வாங்கி டாக்டர் சுப்பையாவை தலை, கை, முதுகு போன்ற இடங்களில் மாறி மாறி வெட்டினார். இந்த சம்பவத்தை சிலர் நேரில் பார்த்தனர். வெட்டியவுடன் நான் ஏற்கனவே வாங்கி வைத்திருந்த பைக்கை ஸ்டார்ட் செய்து ரெடியாக வைத்திருந்தேன். முருகன், செல்வபிரகாஷ் டாக்டர் சுப்பையாவை வெட்டிவிட்டு அரிவாளையும் எடுத்துக்கொண்டு நான் ஸ்டார்ட் செய்து ரெடியாக வைத்திருந்த பைக்கில் ஏறிக்கொண்டார்கள். நாங்கள் அங்கிருந்து சற்று நகர்ந்து சென்றுவிட்டோம்."

"நான் எத்தனை குற்றங்களில் ஈடுபட்டுள்ளேன் என்றால் இந்த ஒரு குற்றத்தைத் தவிர வேறு குற்றத்தில் ஈடுபட்டதில்லை."

"நாங்கள் அஞ்சு கிராமம் சென்ற போது, அந்த இடத்தில் அந்த சொத்து டாக்டர் சுப்பையாவுக்கு சொந்தமானது என்று போர்டு இருந்ததை பார்த்து நிலதரகர் கேட்டதற்கு, யார் என்ன வார்த்தைகளை பயன்படுத்தி பேசினார் என்றால், வில்லியம்ஸ், டாக்டர் சுப்பையா சீக்கிரம் மேலே போய்விடுவார், அவரை களையெடுக்க ஏற்பாடு செய்து விட்டோம் என்று எங்களை பார்த்து சொன்னார், சொத்து முழுவதும் நமக்கு கிடைத்து விடுமென்று சொன்னார். இந்த வார்த்தைகளை அந்த நிலத்தரகர் முன்னிலையில் சொன்னாரா என்றால், ஆமாம்."

"சட்டத்திற்கு புறம்பான காரியங்களை செய்யக்கூடாது என்றால் சரிதான். நான் சட்டத்திற்கு புறம்பான காரியங்கள் எதையும் செய்யமாட்டேன் என்றால் நான் சட்டத்திற்கு புறம்பான காரியங்களை செய்துள்ளேன். அவ்வாறு செய்வதற்கு முன்பு அந்த செயலானது சட்டத்திற்கு புறம்பானதா என்று யோசித்திருக்கிறேனா என்றால் யோசித்திருக்கிறேன். சட்டத்திற்கு புறம்பானது என்று தெரிந்து அந்த காரியத்தை செய்திருக்கிறேனா என்றால் அந்த சமயத்தில் நான் அவ்வாறு தான் இருந்தேன். நான் சிறுபிள்ளையாக இருந்தபோதிலிருந்தே அதுதான் என் வழக்கமா என்றால் இல்லை. சட்டத்தை மீறலாம் என்று எனக்கு எந்த ஆண்டு தோன்றியது என்றால் 2013ம் ஆண்டு தோன்றியது. எனவே 2013ம் ஆண்டு முன்புவரை சட்டத்திற்கு புறம்பான செயல்களை

நான் செய்தது இல்லை என்றால் சரிதான். 2013ம் ஆண்டிற்கு பின்னிட்டு நான் சட்டத்திற்கு புறம்பான காரியம் செய்ததாக சொல்வது இந்த வழக்கு சம்பந்தமான காரியம் மட்டுமே என்றும் அதைத் தவிர வேறு செயல் இல்லையா என்றால் ஆமாம். இந்த வழக்கு சம்பந்தமான காரியம் மட்டும் தான். சட்டத்திற்கு புறம்பான செயல்களை சிவர் பணத்திற்காகவும், சிவர் கொடூர எண்ணத்தினாலும் செய்வது உண்டு என்றால் சரிதான். இந்த வழக்கில் நான் செய்த செயல் கொடூரமான எண்ணத்தினால் செய்ததா என்றால் இல்லை பணத்திற்காக செய்தது. இந்த வழக்கு சம்பவத்தில் என் சுயலாபம் முக்கிய பங்கு வகிக்கிறது என்றால் சரியல்ல. அது என்னுடைய சுயலாபத்திற்கு மற்றவர்களின் சுயலாபத்திற்கும் செய்யப்பட்டது. மற்றவர்களுக்கு மட்டும் லாபம் கிடைக்கும் என்றால் நான் அவ்வாறு சட்டத்திற்கு புறம்பான செயலை செய்வேனா என்றால் செய்யமாட்டேன். மற்றவர்களுக்காக சட்டத்திற்கு புறம்பான செயல் செய்வது தவறு என்பது எனக்குத் தெரியுமா என்றால் தெரியும். எனவே மற்றவர்களுக்கு மட்டும் லாபம் இருந்தால் அத்தகைய சட்டத்திற்கு புறம்பான செயல் செய்யமாட்டேன் என்றும் எனக்கும் அது லாபமாக இருந்தால்தான் செய்வேன் என்றால் சரிதான்."

105. PW-12/Iyyappan, the approver has elaborately deposed during his chief examination in respect of all material particulars from the stage of conspiracy, planning, preparation, receipt of amount, contact with the co-accused over mobile phone and also the execution as a consequence of the conspiracy. It is true that the approver has filed a petition under Section 307 Cr.P.C. on 03.10.2018 before this court, after framing of charges against him and after his cross examination of the witnesses PW-1 to PW-11. Though the approver has filed the petition under Section 307 Cr.P.C. at a later stage or belatedly, that does not mean that his evidence is unreliable. At this juncture, it would be useful to reproduce the Section 307 Cr.P.C.

"At any time after commitment of the case, but before Judgment is passed, the court to which the commitment is made, with a view to obtaining at the trial, the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender a pardon on the same condition to such person."

But, there is nothing wrong in filing the petition under Section 307 Cr.P.C. by an accused after the examination of witnesses, since the said petition can be filed at any time, before passing of Judgment. Therefore, the contention of the defence that the evidence of PW-12 Iyyappan, the approver, is to be disbelieved for the reason of belated submission of petition under Section 307 Cr.P.C. is unsustainable. Further, the court has followed all the mandatory procedures in the petition filed under Section 307 Cr.P.C. and an order has been passed by this court on 12.10.2018, after the completion of the proceedings. The Learned Counsels for the accused and A5, party-in-person have submitted that the court has passed it's order on the petition filed under Section 307 of CrPC within 15 minutes, on the day on which the proceedings was over. There is no bar or legal impediment in passing an order on the same day of the completion of proceedings in a petition under Section 307 of Cr.P.C. None of the accused have agitated the 307 Cr.P.C. proceedings and its order before the Higher Forum on any ground. There is no material to show that the order was passed within 15 minutes. Therefore, the said contention is considered as not material one.

106. One another contention of the defence in respect of Section 307 Cr.P.C. proceedings is that the affidavit filed along with the petition has not been marked and the officer who gave pardon has not been examined as witness and it is considered as

untenable, since it is part and parcel of the proceedings of the court, and it need not be marked and the officer concerned is also not necessary to be examined as a witness.

107. The Learned Sr. Counsel, appearing for A6 Yesurajan, would submit before this court that there are contradictions, omissions and developments between the confession and further confession of the approver, PW-12 / Iyyappan, and his evidence before the court. It is true that there are some discrepancies, contradictions, omissions and improvements between these two, but it does not affect the reliability of his evidence as it's minor. In respect of confession from accused, information given by an accused person to a police officer leading to the discovery of a fact, which may or may not through incriminatory has been made admissible under Section 27 of the Indian Evidence Act, 1872. Therefore, the court does not find any merit in the arguments of the Counsel for A6.

108. Also the Learned Counsel for A6, would submit that the earlier statements of the approver, PW-12 Iyyppan before the police has not been furnished to the accused, in order to cross examine the witness or confront him with his earlier version in a better way. In this context, the Learned Counsel has referred the Judgment in

1984 (1) – SCC – 686

Lal Chand and others Vs State of Haryana,

in which has been held that

"The copies of the statements were not made available to the defence. Thus the evidence of the approver will have to be assessed in the light of the aforesaid infirmity, which gives rights to an adverse inference, that if the statements had been

made available in response to the demand made by the defence, the same would have inspired the value of his testimony."

In the case on hand, the confession and further confession of PW – 12 Iyyappan, the approver, were filed along with the final report and those documents have been furnished to all the accused under Section 207 of Cr.P.C. Further, no demand has been made by the defence for the supply of statements of PW – 12 before the police and for the first time, the said plea has been raised at the time of argument. Therefore, the said contention of the defence is rejected as untenable.

109. The approver, PW-12 Iyyappan, has deposed before this court in respect of all aspects of the occurrence including the motive. His evidence has been corroborated by the independent witnesses, mahazar witnesses, evidence of medical witnesses, Electronic evidence and also through documents. The witnesses who have been examined by the prosecution to prove the motive of the occurrence, preparation, previous attempt by the accused, stay at Chennai and previous and subsequent conduct have corroborated the evidence of PW-12 Iyyappan, the approver.

110. The PW-12 Iyyappan's evidence is inculpatory in nature and not exculpatory as claimed by the defence. Because, he has deposed in clear terms about the conspiracy between themselves and the preparation and the execution in consequence to the conspiracy. He has specifically stated in his evidence that

"டாக்டர் சுப்பையாவை சென்னையில் வைத்து தான் கொலை செய்வது நல்லது என்று அனைவரும் திட்டம் தீட்டினோம். டாக்டர் சுப்பையாவை கொலை செய்ய அரிவாள் வாங்க 2013 ஜூலை மாதத்தில் ஒரு நாள் நானும், முருகனும்

மேலஅரியகுளம் சென்று ராமசுப்ரமணியம் என்பவரிடம் சென்று அவரிடம் அரிவாள் வாங்கினோம்."

"ஏற்கனவே செல்வத்திடமிருந்து மிரட்டி ராஜாவின் பெயரில் வாங்கிய நிலத்தை வழக்கறிஞர் வில்லியம் மற்றும் பேசில் ஆகியோர் தாமோதரன் மற்றும் கிருஷ்ணன் என்பவருக்கு விற்று அந்தப்பணத்தை டாக்டர் ஜேம்ஸ் சதீஜ் குமாரிடம் கொடுத்தார்கள். அப்போது நானும், முருகன் மற்றும் செல்வ பிரகாஜ் உதவியாக இருந்தோம்."

"நாங்கள் ஏற்கனவே போட்ட திட்டத்தின் படி டாக்டர் சுப்பையாவை கொலை செய்ய டாக்டர் ஜேம்ஸ் சதீஜ் குமார் 10.08.2013 தேதியன்று எங்களுக்கு ரூ.20,000/- பணம் கொடுத்தார். நாங்கள் டாக்டர் சுப்பையாவை கொலை செய்ய அன்று இரவே வள்ளியூரிலிருந்து சென்னைக்கு நான், முருகன், செல்வ பிரகாஜ் வந்தோம். சென்னைக்கு வந்து உயர்நீதிமன்றத்திற்கு எதிரில் உள்ள பாக்கியம் லாட்ஜில் 11.08.2013 அன்று ரூம் எடுத்து தங்கினோம். சென்னையில் சுமார் 4 நாட்கள் தங்கியிருந்தோம். சில இடங்களுக்கும் சென்றிருந்தோம். அந்த 4 நாட்களும் எங்கள் செல்போன்களை சவிட்ச் ஆப் செய்திருந்தோம். ஆர்.ஏ.புரத்திற்கும் சென்றிருந்தோம். பில்ராத் மருத்துவமனையில் டாக்டர் சுப்பையாவையும் அவரின் காரையும் அடையாளம் கண்டோம். 14.08.2013 தேதியன்று டாக்டர் ஜேம்ஸ் சதீஜ்குமார் சென்னை வந்தார். அவர் ஆர்.ஏ.புரம் பில்ராத் மருத்துவமனைக்கு வந்து டாக்டர் சுப்பையா கார் நிற்கும் இடத்திற்கு வந்து டாக்டர் சுப்பையாவை எப்படி கொலை செய்ய வேண்டும் என்று திட்டம் வகுத்து கொடுத்தார். அன்றைய தினம் எங்களால் டாக்டர் சுப்பையாவை கொலை செய்ய முடியவில்லை. அதனால் ஊருக்கு திரும்பி விட்டோம். "

111. Considering the evidence of PW-12 Iyyappan, it's clear that he had elaborated the role of all the accused including himself. He had specifically mentioned in his chief examination about the showing of the visiting card and the car number of the deceased, written in a paper by A5 William to A8 Murugan and the handing over

of memory card which contains the photograph of Dr.Subbiah by A3 Basil to A8 Murugan, print out of photograph of Dr.Subbiah taken from Rani Studio, purchase of bike, Knife (M.O.1), first attempt to murder Dr.Subbiah and it's failure, stay at Bakkiam-inn Lodge and Aruna Lodge in Chennai, bank transactions, especially the receipt of Rs.1,50,000/- from A6 Yesurajan at Tiruppur, Call Data Records, identification of Billroth Hospital and Dr.Subbiah, and also fixing of place of occurrence by Dr.James Sathish Kumar, etc., which are all inculpatory in nature, since he has specifically mentioned about his involvement or participation or role in the crime along with the co-accused. The presence of the approver in the scene of crime was confirmed by the eye witnesses PW-2 and PW-3 and also by Ex.P 155 / pen drive which contains the CCTV footage of the occurrence. As already stated the evidence of PW-12 has been corroborated by PW-29 Thiru.Eswaran, PW-30 Thiru Subramanian, PW - 31 Thiru.Ramasubramanian and PW-36 Thiru.Arumuga Selvan, who have deposed in respect of the sale of Pulsar Bike bearing Reg.No.TN 20 J 9995 and the Knife / M.O.1 to the accused Iyyappan, the approver and also the transporting of bike, etc. Apart from these PW-23 Thiru.Vijayakumar, PW-24 Thiru.Chandra Kumar, Attender and Manager of Bakkiam-in-Lodge and also PW-27 Thiru.Nazarulla, PW-28 Tmt.Rosy, Attender and Manager of Aruna Lodge have also corroborated the evidence of PW-12 Iyyappan, the approver.

112. Further PW-12 Iyyappan, has stated in his chief examination that he went to the mechanic shop at R.A.Puram, Chennai along with A8 Murugan to repair the bike

and the said fact has been corroborated by PW-26 /Thiru.Jayakumar, the Mechanic. The evidence of medical witnesses PW.46 - PW.47 have corroborated the evidence of PW-12 in respect of the injuries caused by A8, A9 and the approver and death due to the injuries. Also through the evidence of PW.41 – PW.44 the transaction of money through bank accounts have been proved and those evidence is also corroborated by evidence PW-12. The evidence of PW-54 /Selvi.Neeru also corroborated the evidence of PW-12 in respect of the recovery of M.Os.34 to 36 and the CCTV footage Ex.P-155. Apart from this, the evidence of PW-12, in respect of CDRs to the mobile numbers said to have been used by the accused A5 to A9 and the approver. The evidence of Investigation Officers also corroborated the evidence of PW-12. The documents produced on the side of the prosecution and also the material objects corroborated the version of PW-12. Though it has been contended by the defence that PW-12 Iyyappan has turned as an approver to fill up the lacuna in the case of the prosecution after the examination of the material witnesses, no evidence or document has been produced to probabilize the said theory. From the overall consideration of the evidence of PW-12 along with the other oral, documentary, scientific, Electronic and medical evidence, the court is of the considered view that the approver's evidence has been corroborated in all material facts and therefore, it is considered as reliable and corroborated by the other evidence and it passed the twin test. There is no rhyme or reason to disbelieve the evidence of PW-12 Iyyappan, the approver.

113. Further, another prime witness examined on the side of the prosecution to prove the alleged occurrence took place on 14.09.2013, at about 5.00 p.m. is the Expert Witness. The Learned Special Public Prosecutor would submit that the expert who examined and gave opinion of the CCTV footage of the occurrence and her evidence is totally substantiated the case of the prosecution and there is no reason to disbelieve the same. PW-54 / Selvi.Neeru was examined and M.O.9 / Hard Disc, Ex.P-155 / Pen Drive, contains the CCTV footage to the occurrence were marked in addition to the evidence of PWs 2, 3 and 12 to establish the commission of offence. To decide the evidentiary value of M.O.9 / Hard Disc, the expert evidence of PW-54 / Selvi Neeru, has to be taken into consideration. PW-54 / Selvi Neeru, Deputy Director (Digital Forensics), Truth Labs, Bengaluru, would depose that she is working at the Truth Labs, Bengaluru from the year 2010, and she had received the requisition as to the examination and analysis of two Hard Discs from the XXIII Metropolitan Magistrate, Saidapet, Chennai with two CDs and two photographs which were marked as Items 1 to 5, in which the photographs were marked as P-1 and P-2 in Item-5. She has further stated that there were two papers inside the sealed cover in which the relevant portions have been mentioned and those papers have been marked as T-1 and T-2 and it has been affirmed by the evidence of PW-57, Thiru.Sreenivasan, Inspector of Police, who had deposed in chief examination that he has prepared a time chart / Ex.C-1 with the video available in the Demo CD and as per the order of the XXIII Metropolitan

Magistrate, Saidapet, Chennai on 21.03.2014, he has sent the time chart along with CCTV Hard Disc, Demo CDs and photographs to the Truth Labs on 28.03.2014.

114. PW-54 / Selvi Neeru would further depose that on her examination, found that there was a relevant portion in the Hard Disc which was marked as M.O.9, but there was no relevant portion in the Hard Disc/ M.O.10 and no opinion has been given in respect of the same. Therefore, M.O.10/ Hard Disc is not taken into consideration. PW-54/Selvi.Neeru has stated that she had taken a backup copy in a USB pen drive from the Hard Disc/M.O.9 and the same was marked as Ex.P-155 with objection. The Certificate under Section 65-B of Indian Evidence Act, issued by PW-54, has been marked as Ex.P-156. The expert witness also gave her opinion that

1. The gait pattern of the persons PQ1, PQ2, PQ5 and PQ6 were found to be similar with that of the person PS1. The gait pattern of the persons PQ3, PQ4 and PQ7 were found to be similar with that of the person PS2. The gait pattern of the person's PQ8 was found to be similar with that of the person's PS3.

2. Hence it is concluded that the video recordings Q1 and Q2 are authentic representations of an incident and the persons seen in the relevant portions of these recordings are the same persons whose specimen gait patterns are present in the recording S1 and S2. She had also stated in her evidence that no signs of physical damages like crack or scratch were found on the items marked in Item-1 to Item-4 and they were found to be in working condition at the time of examination and also stated that the photographs marked as P1 and P2, did not contain any physical damages like

tear, cut-paste or wrinkle and were fit for further examinations. She would further state that on 15.07.2016, they have received the Hard Discs M.O.9 and M.O.10, two CDs and one CD, through an Advocate Commissioner and the single CD is marked as M.O. 36. They were requested by the court to take 10 cloned copies of the contents of Hard Discs and therefore they have submitted 10 copies of the contents of the three CDs and also reported the court that the contents of M.O.9 / Hard Disc could not be copied as there was mechanical failure and the said letter of the Truth Labs has been marked as Ex.P-158.

115. The Learned Senior Counsels appearing for the accused A1 to A4 and A6 to A9 and also the 5th accused party-in-person, have vehemently argued before this court that the chain of custody of M.O.9 / Hard Disc has not been established by the prosecution by examining proper witnesses and also by producing necessary documents. It is the case of prosecution that CCTV camera was installed in Shreshta Subashree Apartments situated at No.46 / 56, I Main Road, R.A.Puram, Chennai, captured the incident on 14.09.2013 and it was recovered and produced before this court and the chain of custody has been proved beyond any reasonable doubt. On 09.10.2013, PW-55 / Thiru Elangovan, Inspector of Police, seized the Hard Disc (M.O.9) which contains the footage of the alleged incident in the presence of Tmt.Leela Natarajan and the witnesses, Thiru Kanagaraj and Thiru.Anandaraj under a Seizure Mahazar Ex.P-28. On the same day, another Hard Disc (M.O.10) was recovered by PW-55, Thiru.Elangovan, the Inspector of Police, from one

Thiru.Dayalan, Manager of R.R.Donnelley Company, in the presence of the above said witnesses under a Seizure Mahazar Ex.P-29. Out of the two witnesses to the Seizure Mahazars. Thiru.Kanagaraj was examined as PW-22 and he deposed that the Inspector of Police had seized the Hard Discs M.O.9 and M.O.10 from Shrestha Subashree Apartments and R.R.Donnelley Company in the presence of Tmt.Leela Natarajan and Thiru.Dayalan. He has also identified the M.O.9 and M.O.10 / Hard Discs in the court. Since the recovery proceedings was said to have been completed by 5.30 p.m. on 09.10.2013, those material objects were said to have been produced before the court on 10.10.2013. Afterwards, at the request of the Investigation Officer, those M.O.9 and M.O.10 / Hard Discs were sent to the Director, Tamil Nadu Forensic Lab, Chennai for analysis and report, but it has been returned for want of DVR. Since the Investigation Officer was unable to recover the DVR, as it was said to be scrapped, the Hard Discs have been sent to Truth Labs, Bengaluru at the request of the Investigation Officer. After examination and analysis, it has been returned by the Truth Labs directly to the committal court in a sealed cover. Those facts have been proved through the evidence of the PW-22, PW-25, PW-54 to PW-57 and also through Ex.P-28, Ex.P-29, Ex.P157 and 158.

116. It is one of the contentions of the defence that though the Investigation Officer, had seized two Hard Discs, but only one Hard Disc has been produced before the court and it creates a strong suspicion on the case of the prosecution. Originally, two Hard Discs were produced before this court through Form-95, but a single

B number in 2184, dated 10.10.2013 has been assigned by the court for both the Hard Discs. After the receipt of two Hard Discs, it's in the custody of the court till it was sent to the Forensics Sciences Department, Kamarajar Salai, Chennai and then to the Truth Labs, Bengaluru. After the examination of the Hard Discs by the expert, it has been directly sent to the court by the Truth Labs, Bengaluru. Therefore, the chain of custody of M.O.9 and M.O.10 / Hard Discs have been established by the prosecution and there is no reason to doubt the same.

117. The Learned Counsels for the accused and the 5th accused would submit that the original Hard Disc has not been marked and only the backup copy of the contents of the Hard Disc / M.O.9 was marked as Ex.P / 155 which is not admissible in evidence. Originally, the Hard Disc / M.O.9 was recovered by PW-55 /Thiru Elangovan, Inspector of Police, on 09.10.2013, and the same was produced before the court on the next day i.e., on 10.10.2013. From that day, to the date on which it was sent to the Forensic Lab, it was in the custody of the court. After the examination, the Hard Discs / M.O.9 & M.O.10, have been returned to the court along with the report of the expert. Subsequently, when the accused demanded for furnishing of the cloned copies of the M.O.9 / Hard Disc, it was again sent to the Truth Lab, Bengaluru through an Advocate Commissioner with a direction to take 10 cloned copies and to be sent to the court. At that time, it was found in the Truth Labs that the Hard Disc / M.O.9 suffered mechanical failure and the copies could not be taken from it. Anyhow, the expert witness PW-54 / Selvi.Neeru, took 10 copies of the contents of M.O.9 /

Hard Disc from their backup copy stored in a USB pen drive, which was copied at the time of receipt of Hard Disc at the first instance. Now, it is contended by the Counsel for the accused A7 to A9 that the expert PW-54 / Selvi.Neeru, has taken a backup copy of the Hard Disc / M.O.9, without the order of the court and the custody of the pen drive Ex.P-155 is also doubtful. It is true that the court has not requested or instructed the Truth Labs to keep a backup copy of the Hard Disc / M.O.9., but as a routine procedure of the Truth Labs, the backup copy was taken from M.O.9 / Hard Disc even before the examination and analysis and it was in the custody of the said Lab, till it was produced before the court at request.

118. The cloned copies of CCTV footage were furnished to the accused, but it wasn't displayed during the examination of the eye witnesses PW2 and PW3 and therefore, they have not identified the assailants in the CCTV footage found in M.O.9 Hard Disc or Ex.P-155 Pen Drive. Anyhow, it was displayed in the open court by my Predecessor, at the time of the questioning under Section 313 (1) (b) Cr.P.C. in the presence of the Special Public Prosecutor, Accused, Counsels for the accused and court staffs on 24.02.2020. Again, after my assumption of office in the court, the CCTV footage of the occurrence, found in Ex.P-155 was displayed in the open court on 05.07.2021 in the presence of the Special Public Prosecutor, accused, counsels for the accused and court staff and the same has been recorded in the notes paper. At this juncture, the court refers the Judgment of Hon'ble High Court of Madras in

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State represented by Inspector of Police,

CBI / SCB, Chennai Vs. V.P.Pandi Alias Attack Pandy & Others

in which, it has been held by Hon'ble High Court of Madras that

"A perusal of the material objects and the appreciation of the evidence to relate these material objects either with the accused or witness, would fall within the sweep of the expression 'after considering the matters before it'. Instead of making a witness to look at the photograph and identify the person in the dock, nothing prevented the trial Judge to use his own eyes to see the person standing in the dock and the person seen in the photograph / videos and arrive at a just conclusion."

119 . In the light of the said decision of the Hon'ble High Court of Madras, the court has every power under Section 3 of Indian Evidence Act, to look into the matters before it and as such, the court viewed the CCTV footage in Ex.P155 / Pen Drive carefully and found that the entire occurrence has been captured and recorded by the CCTV camera installed at the Shreshta Subashree Apartments and an account of which, this court was able to view the same. Also from the CCTV footage, the court was able to clearly identify that a TATA ACE four wheeler was seen coming from the direction East to West towards the scene of occurrence by 5.01.58 p.m. and halted there. The driver of the said vehicle (PW-2) got down and was standing there at the time of occurrence and the scene of crime is only a few yards away to the place, where the vehicle of the PW-2 was parked. The approver, Iyyappan, was walking on the left side of the road from East to West by 5.06.55 p.m. At 5.07.21 p.m., the deceased Dr.Subbiah proceeding towards his car and the A9 Selva Prakash also came into the frame by the same time. By 5.07.28 p.m., when Dr.Subbiah came and set right the left side mirror of his car and went in front of the same to go to the driver seat and at that

time, A8 Murugan came and took a knife from his bag and started attacking the Dr.Subbiah by 5.07.28 p.m. When A8 Murugan started attacking the deceased, A9 Selva Prakash who was slowly walking towards West, ran towards A8 and the deceased and picked the knife from A8 Murugan and he had also attacked the deceased repeatedly. The approver, Iyyappan, came to the scene of crime from the West direction by 5.07.27 p.m. and left the scene of crime by 5.07.37 p.m. The occurrence took place from 5.07.28 p.m. to 5.08.03 p.m. A8 Murugan and A9 Selva Prakash left the scene of crime by 5.08.05 p.m. When A8 Murugan and A9 Selva Prakash attacked the deceased, the approver, Iyyappan came from West and he was standing in between the car of the deceased and another car parked next to it and thereby, restrain the deceased from escaping. Therefore, the said CCTV footage found in Ex.P-155 Pen Drive, copied from the original source of M.O.9/ Hard Disc, entirely corroborated the case of the prosecution and it is considered as a clinching evidence in favour of the prosecution.

120. It was also submitted by the Counsel for A1 to A4 that there is a doubt whether the contents Ex.P-155 is the genuine backup copy of the M.O.9 / Hard Disc or not? But, the backup copy from the M.O.9 / Hard Disc was taken up by the witness PW-54 / Selvi Neeru, on the date of examination of the said Hard Disc as a routine procedure and it has been revealed in her Report / Ex.P-157 itself. The said report has been received by the court on 02.06.2014 itself and therefore it cannot be said that Ex.P-155 has been manipulated after it was found that M.O.9 / Hard Disc suffered

mechanical failure. Hence, it can be safely relied by the court that the contents of Ex.P-155 is the genuine backup copy, taken from M.O.9 / Hard Disc and the same was marked as a secondary evidence along with the Certificate issued under 65-B of Indian Evidence Act, by PW-54 / Selvi Neeru. M.O.9 / Hard Disc is the primary evidence and therefore it is not necessary to produce the certificate under 65-B of Indian Evidence Act, 1872. Also the CCTV footage in Hard Disc / M.O.9 has been compared by the expert with the two CDs and two photographs sent along with Hard Discs / M.O.9 and M.O.10. Those two CDs are the demonstration video of the accused A8 Murugan, A9 Selva Prakash and the approver, Iyyappan, to the occurrence, video graphed on 12.12.2014 at about 2.30 p.m., by PW-56 Thiru.Rajesh Kanna, Inspector in the presence of and also in the presence of the witnesses PW-40 Thiru.Bala and Thiru.Saravanan. The Investigation Officer has obtained a CD of the video of demonstration from Tmt.Leela Natarajan from the footage recorded in the CCTV installed at the Shreshta Subashree Apartments and also another CD recorded in a digital camera. Also PW-56 Thiru.Rajesh Kanna, Inspector took photographs of the place of occurrence, out of which two photographs M.O.35 - series have been sent for examination by the experts of Truth Labs, Bengaluru. During the cross examination, no question was raised with the witness PW-40 Thiru.Bala and the Investigation Officer PW-56 Thiru.Rajesh Kanna in respect of the demonstration video by the accused A8, A9 and the approver and therefore M.O.34 / CDs and the photographs / M.O.35 are considered as undisputed by them. At this juncture, it's

relevant to record here that the act of court prejudices none, it's not the case of the defence that those documents are not sealed or the seal was not intact when it was opened. The defence can be inferred from the very cross examination, but no such defence was raised. It was argued that it's not admissible in evidence without any valid point. As per Section 114 (e) of Indian Evidence Act, this court can presume that the common course of business has been followed in the particular case and the relevant judgment on the point is reported in

AIR – 2002 -SCC -1661

Devendra Pal Singh Vs State of NCT Delhi

"In this regard, it may be apropos to refer to the following passage from the judgment of the Supreme Court in Aher Raja Khima Vs State of Saurashtra (AIR 1956 – SC – 217) alluded to by the Supreme Court in Jameel Ahmed and Another Vs State of Rajasthan (2003 – 9 – SCC – 673)"

"The presumption that a person acts honestly applies as much in favour of a police officer as of other persons, and it is not a judicial approach to distrust and suspect him without good grounds therefore. Such an attitude could do neither credit to the Magistracy nor good to the public. It can only run down the prestige of the police administration."

121. It is pertinent to point out here that when PW54 / Selvi.Neeru, worked on M.O.9, M.O.10, M.O.34, M.O.35 and M.O.14, she got backup in the Pen Drive and it's routine duty in the course of business of the PW54 / Selvi.Neeru. Hence, the evidence of PW54 / Selvi.Neeru, and her report Ex.P157, corroborated the evidence of the eye witnesses PWs2 and 3 and the evidence of the approver PW-12, Iyyappan, and thereby substantiated the case of the prosecution.

122. Also PW-54 / Selvi Neeru has stated in her report about the examination, method, procedure and the applications through which she analysed the Hard Disc, etc. The Hard Discs were sent to Truth Labs, Bengaluru by the court, since the Forensics Sciences Department, Kamarajar Salai, Chennai expressed their inability to examine the Hard Discs in the absence of DVR. Therefore, no motive could be attributed to the witness PW-54 / Selvi Neeru and the genuineness of the Truth Labs, Bengaluru, for the reason, it's a Private Lab. PW – 12 Iyyappan, the approver has also stated in his cross examination that the CCTV footage of the occurrence was shown to him at the Police Station. Further, when he was asked by the defence counsels, whether he has seen the occurrence in the TV, he replied that he had seen the scene of attack on Dr.Subbiah in the TV, it's blurred, but he knew that his presence should have been found in the said video footage. From the evidence of PW-54 / Selvi Neeru, her report Ex.P-157 and the contents of the Pen Drive Ex.P-155 and also on my viewing the video, it comes to the light that the accused A8, A9 and the approver were found in the video of CCTV footage and they were the persons attacked Dr.Subbiah on 14.09.2013 at about 5.00 p.m., at the scene of crime, i.e., in front of the Door No.30/59, 1st Main Road, Raja Annamalipuram, Chennai. Subsequently, Dr.Subbiah succumbed due to the injuries on 23.09.2014.

123. The next contention raised on behalf of all the accused that the Investigation Officer PW-55/ Thiru Sreenivasan has conceded in his cross examination that he had a copy in a Pen Drive from the CCTV footage found in the Shreshta Subashree

Apartments which was taken on 14.09.2013 by PW55 / Thiru Sreenivasan and it has not been produced before this court and it should be considered by the court as suppression of material fact or object. PW-55 Thiru.Sreenivasan, in his cross examination would depose that he had a pen drive, contains the CCTV footage of the alleged occurrence and it has not been produced by him before the court. The prosecution is expected to produce the best available evidence before the court. As such, the Pen Drive Ex.P-155, the CCTV footage in respect of the alleged occurrence, has been produced through the expert witness and it's custody has also been proved. In these circumstances, the non production of the Pen Drive, which contains the CCTV footage with the custody of the Investigation Officer cannot be considered as suppression of material facts, as it is not the best evidence in comparison with the Ex.P155 / Pen Drive. In this context, the Learned Senior Counsel for A1 to A4, cited the Judgment in

2016 – 1- Madras Weekly Note (Cr.) - 350 (SC)

Tomaso Bruno and others Vs State of Uttar Pradesh

in which, it was observed that

"In our considered view, it is a fit case to draw an adverse inference against the prosecution under Section 114 (g) of the Indian Evidence Act, that the prosecution withheld the same as it would be unfavourable to them had it been produced."

But, in the case on hand, the prosecution has produced M.O.9 / Hard Disc and it's backup copy in a Pen Drive (Ex.P-155) and it has been proved through the expert witness further PW-57 has stated that due to the instructions of his superior officers, to nab the accused persons, it was kept in secrecy to facilitate further investigation, is quite plausible and it is not fatal to prosecution, when viewed on over all perspective.

In these circumstances, the non production of the Pen Drive in the custody of the Inspector of Police, which contains the CCTV footage of the occurrence is not considered as a best evidence and therefore adverse inference cannot be drawn against the prosecution.

124. One another submission of accused A8 and A9 is that the CCTV camera, installed at the Shreshta Subashree Apartments has not been shown in the Ex.P3 / Observation Mahazar and it shows that there was no CCTV camera and the available CCTV footage in Ex.P155 is a manipulated one. Though Shreshta Subashree Apartments was shown in the observation mahazar, CCTV camera placement has not been shown in it. The camera might have been installed in an area, which cannot be seen from the place of occurrence and the said plea is not a material one. Apart from this, the Learned Senior Counsel for accused A8 and A9 would submit that PW-12 Iyyappan, the approver, would depose that they were wearing cap at the time of occurrence, but in the video footage nobody was wearing a cap as stated by PW-12 Iyyappan and create a doubt in the case of the prosecution and in the genuinity of the Ex.P-155. PW-12 Iyyappan was extensively cross examined by the defence and therefore he might have said something contradictory and if it's found as a major discrepancy, then it can be taken into consideration, otherwise not necessary. As already pointed out, no question or suggestion was raised before the witness Thiru Bala/PW-40 and the Investigation Officer PW 57 / Thiru Sreenivasan that the persons found in the CCTV footage are not the accused A8 and A9. Also the accused A8, A9 and the approver have no previous enmity with the witnesses PW-25 / Tmt. Leela

Natarajan, PW-40 / Thiru Bala and the Investigation Officer PW 55 / Thiru.Elangovan, to falsely implicate them in the case and it has been confirmed by the expert that the M.O.9 Hard Disc was not manipulated. Therefore, the court is of the considered opinion that these kinds of contradictions of trivial nature would not affect the case of the prosecution in any way. From the above discussion, it's concluded that the Electronic evidence produced on the side of the prosecution is reliable and establishing the case of the prosecution.

125. In this case, to identify the assailants in connection with the occurrence took place on 14.09.2013, at the request of the Investigation Officer / PW-51 Thiru Jayavel, then XVI Metropolitan Magistrate, George Town, Chennai, conducted the Identification Parade on 06.02.2014, at 10.30 a.m., at the Central Prison, Puzhal. In the test identification parade the eye witnesses PW 2 / Thiru Vinoth kumar, PW3 / Thiru Muthuvel, and also one Gopinath participated. PW-51/Thiru Jayavel, has stated in his chief examination that during the Identification Parade, the witnesses Thiru.Vinoth Kumar and Thiru.Muthuvel have identified the three accused and the witness Thiru.Gopinath identified the accused Murugan and did not identify the accused Selva Prakash. The Identification Parade Report has been marked as Ex.P-151. PW-51 Thiru.Jayavel, XVI Metropolitan Magistrate, George Town, Chennai has followed all mandatory procedures to conduct the Test Identification Parade. No material objection has been raised by the defence about the procedures followed by the Judicial Officer during the proceedings of Test Identification Parade.

The accused 8 and 9 were identified by the prosecution witnesses in the court. Also in the Judgment reported in

1998 – SCJ – 354

Ronald James Alwaris Vs State of Maharashtra

it was held that

"Identification Parade is only corroborative and substantive evidence is the statement of the witness made in the court. The purpose of the identification parade is to test the observation, grasp, memory, capacity to recapitulate what he has seen earlier."

In the present case, the witnesses not only identified the assailants during the Test Identification Parade, but also identified the assailants in the open court and also stated in their statements recorded under Section 164 (5) Cr.P.C. that they are able to identify the assailants. Apart from these witnesses, PW-12 Iyyappan, the approver, has also deposed in his evidence about the conduct of Test Identification Parade by PW-51 / Thiru.Jayavel and they were identified by the eye witnesses. Therefore, it is concluded that the oral evidence of PW-51/ Thiru.Jayavel, coupled with his report Ex.P-151 and the CCTV footage in Ex.P155 /Pen Drive, corroborated the evidence of eye witnesses and the case of the prosecution from which, it could be inferred that the accused A8 Murugan, A9 Selva Prakash and the approver, Iyyappan, have attacked the deceased Dr.Subbiah on the said date of occurrence.

126. Considering the evidence of eye witnesses PW2, PW3, approver PW-12, Iyyappan, the expert PW-54/Selvi.Neeru, PW-51/Thiru Jayavel and his report Ex.P-151, it has been well established by the prosecution beyond any reasonable doubt that

it's the A8 Murugan, A9 Selva Prakash along with approver, Iyyappan, committed murder of Dr.Subbiah.

127. A1 Ponnusamy and A2 Mary Pushpam were arrested on 29.09.2013 and they were said to have voluntarily come forward to give confessions and the same were recorded by the Investigation Officer / PW-56 Thiru Rajesh Kanna, in the presence of the witnesses Elumalai and Thiru Vinothkumar. Thiru.Elumalai was examined as PW-15. He would depose before this court that the Inspector of Police enquired and recorded the confessions of A1 Ponnusamy and A2 Mary Pushpam, in which, himself and Thiru.Vinothkumar have signed as witnesses. The signatures of the witnesses in the confessions of A1 Ponnusamy and A2 Mary Pushpam were marked as Ex.P-5 and Ex.P-6. Any how, no recovery has been made on the basis of the confessions of A1 Ponnusamy and A2 Mary Pushpam and therefore the said confessions A1 Ponnusamy and A2 Mary Pushpam are inadmissible in evidence.

128. The accused A3 Basil and A4 Boris surrendered before the XXIII Metropolitan Magistrate, Saidapet, Chennai on 25.09.2013 and their confessions have been recorded on 07.10.2013 by the Investigation Officer / PW-56 Thiru.Rajesh Kanna, in the presence of the witnesses, Thiru.Duraipandian and Thiru.Panneerselvam. Thiru.Duraipandian was examined as PW-16. He would depose before this court that the Inspector of Police enquired and recorded the confessions of A3 Basil and A4 Boris, in which, himself and Thiru Pannerselvam signed as witnesses. The signatures of PW-16 in the confessions of A3 Basil and A4 Boris were

marked as Ex.P-7 and Ex.P-8. Any how, no recovery has been made on the basis of the confessions of A3 Basil and A4 Boris and therefore the said confessions of A3 Basil and A4 Boris are inadmissible in evidence.

129. On 01.12.2014, A5 William surrendered before the XXIII Metropolitan Magistrate Court, Saidapet, Chennai and he was taken into police custody from 09.12.2014 to 14.12.2014. While he was in police custody, his confession was said to have been recorded in the presence of the witnesses Thiru.John Kennedy and Thiru.Naresh Kumar and the signature of Thiru.John Kennedy in the confession was marked as Ex.P11. PW-18 / Thiru John Kennady would depose before this court about the confession given by A5 William. On the basis of the admissible portion in the confession of A5 William / Ex.P-10, On 12.12.2014 at about 5.00 p.m., Marriage Albums (Two) of A5 and Marriage CDs (Two) of A5, Nokia Cellphone and the Visiting card of Dr.Subbiah have been recovered under a Seizure Mahazar Ex.P-20 and the said Marriage Albums, Marriage CDs, Nokia Cellphone and the Visiting Card of Dr.Subbiah were marked as M.O.5(series) and M.O.6 (series), M.O.7 and M.O.8 respectively. Though the accused 5 William took a plea that he had no acquaintance with the accused A7 to A9, those material objects have been produced and marked by the prosecution to establish the relationship between A5 William and A7 Dr.James Sathish Kumar. The witnesses PW2 / Thiru.Vinothkumar, PW-3 / Thiru.Muthuvel, PW4 / Thiru. Manikaraj and PW-53 / Thiru.Saiva Vedantha Bharathi have been examined by the Investigating Officer on 16.09.2013, 25.01.2014, 10.03.2014,

10.02.2014 respectively, i.e., before the date of the recording of confession of A5 William and they have stated in their 161 (3) Cr.P.C. Statements about the relationship between A5 and A7 and the calling of the deceased Dr.Subbiah, and his residence, etc. Therefore, in the considered view of the court that the admissible portion of the confession of A5 William (Ex.P10) is inadmissible in evidence, since the personal details of Dr.Subbiah and the relationship between A5 and A7 are not in the exclusive knowledge of A5, William and he has not disclosed the said fact to the Investigating Officer for the first time and it is not first hand information to the Investigating Officer. Also it hasn't been elicited by the prosecution, the purpose for which, M.O.7 Cellphone is produced.

130. The 6th accused Yesurajan was arrested on 13.03.2014 by the Inspector of Police, PW-56 Thiru Rajesh Kanna and his confession was recorded in the presence of the witnesses Thiru Balaji and Thiru Jagan. One of the witness Thiru Balaji was examined as PW-17 and the signature of the the witness in the confession was marked as Ex.P-9. No recovery has been made on the basis of the confession of A6 Yesurajan and it is inadmissible in law. PW-17 has also identified the A6 Yesurajan in the open court.

131. The accused A7 Dr.James Sathish Kumar, A8 Murugan, A9 Selva Prakash and the approver, Iyyappan, were arrested on 29.01.2014 near Jain College Bus Stop, Thoraipakkam by the Inspector of Police, PW-56 / Thiru.Rajesh Kanna. It was said that those accused A7 to A9 and the approver Iyyappan have voluntarily come

forward to give confessions and their confessions were recorded in the presence of Thiru.Jagadeesan, Sub Registrar - incharge and Thiru Sagadevan, Junior Assistant, Sub Registrar Office, Ottapidaram, Thoothukudi District in which, Thiru Jagadessan was examined as PW-19. He has stated in his chief examination that on 29.01.2014, the Tashildar had directed him and Thiru.Sagadevan, Junior Assistant to be witnesses for the recording of confessions of the prime accused in a case and therefore, they went to E4, Police Station. At the police station, the Inspector of Police has shown them the accused A7 Dr.James Sathish Kumar, A8 Murugan, A9 Selva Prakash and the approver, Iyyappan and they have come forward to give confessions. Their confessions were recorded at the police station from 8.00 p.m. to 11.00 p.m. in their presence in which they have signed as witnesses. The admissible portions of the confessions of A7 to A9 and the approver and the signatures of the witness have been marked as Ex.P-12 to Ex.P-18. He has further stated that on the basis of the admissible portion of the confession of A8 Murugan, they went to a building in a dilapidated condition near the Taluk Office, where the accused A8 Murugan has identified a black colour bag and blood stained white colour black checked half sleeve shirt and a knife and those properties were seized under a Mahazar Ex.P-19 at about 12.00 hours. The said black colour bag and blood stained white colour black checked half sleeve shirt were marked as M.O.3 and M.O.4. PW-19 Thiru.Jagadeesan has also identified the accused A7 to A9 as well as M.Os. 1 to 3 in the open court.

132. Further the accused A7 to A9 and the approver, Iyyappan have been taken into the custody of the police. While they were in police custody, further confessions of accused A7 to A9 and the approver, Iyyappan, were recorded in the presence of the witnesses Thiru.Karthikeyan and Thiru Aravindaraj. Thiru Karthikeyan was examined as PW-21. He has stated in his cross examination, that on 08.02.2015 at about 9.45 p.m., the Inspector of Police requested him and his friend Aravindaraj, to be the witnesses for the confessions to be recorded from the accused. The Inspector has shown them Dr.James Sathish Kumar, Murugan, Selva Prakash and the approver, Iyyappan and the further confessions were recorded from 10.00 a.m. to 1.00 p.m. The admissible portions of the further confessions of A-7 Dr.James Sathish Kumar, A-8 Murugan and A-9 Selva Prakash were marked as Ex.Ps -21, 23 and 25.

133. On the basis of the admissible portions of the further confessions of the accused A7 to A9 and the approver, Iyyappan, on 08.02.2014, the Inspector of Police, PW-56 / Thiru.Rajesh Kanna enquired one Jayakumar, Mechanic, identified by the accused A8 Murugan and A10 Iyyappan, the approver. The said mechanic was examined as PW-26 and he deposed that on 14.09.2013 at about 2.00 p.m., two people aged between 20 - 25, came in a Pulsar Bike TN 20 J 9995 to repair the said vehicle and he told them that it would take a day's time to correct the same. Then, the said two people returned. On 08.02.2014, the Inspector of Police came with three people and he identified the two people and came to know their names as Murugan and Iyyappan.

134. On the basis of the admissible portions of the further confessions of the accused A7 to A9 and the approver Iyyappan / Ex.P-21, 23 and 25, on the 08.02.2014, at about 6.30 p.m., the Investigation Officer, PW-56 / Thiru Rajesh Kanna has made enquiry with Tmt.Rosy, Manager of Aruna Lodge, Guindy, Chennai and seized the Bill book, advance Receipt and also the arrival register in the presence of the witnesses Satham Hussain and Nazarulla under a Mahazar Ex.P-34. PW-27 Thiru.Nazarulla deposed in his chief examination that the Inspector of Police came and enquired in the Aruna Lodge and seized the Bill book, advance Receipt and also the arrival register which were marked as M.O.15 to M.O.17. The witness has also identified the accused A8 and A9 in the court. PW-28 / Tmt.Rosy, would also depose about the enquiry and the seizure of M.O.15 to M.O.17 under a mahazar. She had also stated that on 13.09.2013, A8 Murugan came with two other persons, and said to have come down to Chennai to attend an interview with Brakes India and showed his Voter's Identity Card, A9 Selva Prakash showed his driving licence for identity proof and A8 deposited Rs.1,000/- as advance and she had collected an additional amount of Rs.100/- for an extra person and they have vacated the room on 14.09.2013 at about 12.00 noon. She had also deposed that Thiru.Nazarulla and Thiru Satham Hussain was deputed to look after them. The said witness has identified the accused A8 and A9 in the open court. The Bill, signed by A8 Murugan, Receipt for advance and the page in which A8 has signed for check-in and check-out and Those documents were marked as Ex.P-35 to Ex.P-37.

135. On the basis of the admissible portions of the further confessions of the accused A7 to A9 and the approver, Iyyappan / Ex.P-21, 23 and 25, on 08.02.2014, at about 8.30 p.m., PW-56 / Thiru.Rajesh Kanna, the Inspector of Police has seized the Bill Book, Arrival Register and Departure Register (M.Os.11, 12 and 13) from the Manager, Bakkiam-in-Lodge, Sungaram Chetty Street, Chennai, in the presence of Thiru Ajith Akthar and Thiru.Vijayakumar under a Seizure Mahazar Ex.P-30. PW-23 / Thiru.Vijayakumar, Room Boy has also deposed in respect of the service done by him to the accused A8 to A9 and the approver, Iyyappan, seizure of documents under mahazar and also identified the A8 in the open court and able to identify the other two who were not present in the court. PW-24 Thiru. Chandrakumar also corroborated the evidence of PW-23 Thiru.Vijayakumar and also stated about the payment and the stay of those three people and he had also mentioned that Selva Prakash has shown his driving license for identity proof. Through PW-24, Page No.3176 in M.O.11 Bill Book, entry on 11.08.2013 in M.O.12 and Page No.1540 dated 13.8.2013 in M.O.13 were marked as Ex.P-31 to Ex.P-33.

136. The accused A8 to A9 and the approver, Iyyappan, during their stay at Bakkiam-inn on 11.08.2013 and at Aruna Lodge on 13.09.2013, A8 Murugan has signed in the registers and A9 Selva Prakash has produced his driving licence for identify proof. Through the oral evidence of PW-23, PW-24, PW-27 and PW-28 and also through the documents Ex.P.30 – P.37 and also M.Os.11 to 13 and M.Os.15 to 17, it has been established by the prosecution that the accused A8 to A9 and the approver,

Iyyappan, have come down to Chennai, stayed at Chennai, but there was no explanation on the side of the accused A8, A9, and the approver, Iyyappan. Admittedly, the accused in a criminal case is not expected to disprove the case of the prosecution, but once the prosecution has established that the accused A8, A9 and the approver, Iyyappan, came to Chennai and stayed there, it is for them to explain the same. Also they have stated with the Bakkiam-inn and Hotel Aruna Lodge that they have come to Chennai for the purpose of visit to hospital / Ex.P-32 and to attend an interview with Brakes India and the said facts were not been probabilized by the accused A8 and A9. In Ex.P-32 in M.O.12, Ex.P-33 in M.O.13, A8 Murugan has signed in the registers for booking and vacating the room in Bakkiam-inn. Also in Page-13 of M.O.17 / check-in and check-out register of Aruna Lodge, A8 Murugan has signed both at the time of booking and vacating the room. As per Section, 73 of Indian Evidence Act, 1872, when the court compared the signatures found in Ex.P-32, Ex.P-33, Ex.P-37 with the signatures of A8 Murugan found in the 313 (1) (b) Cr.P.C. statement of A8, it is crystal clear that both the signatures are identical and the accused A8 Murugan only has signed those documents. Anyhow, no acceptable explanation has been given by the accused A8 Murugan and A9 Selva Prakash and it's not confronted during cross examination with the witnesses concerned.

137. On 10.02.2014, at about 10.00 a.m., the Investigation Officer, on the basis of the admissible portions of the further confessions of the accused A7 to A9 and the approver Iyyappan / Ex.P-21, 23 and 25 has seized the Ticket Bill Book / M.O.21,

side mirrors of Pulsar Bike and the carbon copy of the ticket in the name of Selva Prakash in M.O.21 from Thiru.Arumuga Selvan, Proprietor of Udhaya Travels under a seizure mahazar Ex.P-42, in the presence of the witnesses Thiru. Asaithambi (PW-35) and Thiru Prabakaran. Also on 14.09.2013 at about 2.00 p.m., the accused A8 Murugan and the approver, Iyyappan went to the mechanic shop to repair the Pulsar Bike and it was proved by the evidence of mechanic PW-26 Thiru.Jayakumar. Further, on the basis of the admissible portions of the further confessions of the accused A7 to A9 and the approver, Iyyappan / Ex.P-21, 23 and 25, on 10.02.2014, the Inspector of Police has recovered the Bill Book / M.O.18 and Long size note / M.O.19 under a seizure mahazar Ex.P-43 from one Thiru.Eswaran / PW 29. Ex.P-38 is the bill issued to one Ranganathan who sold the two wheeler TN 20 J 9995 to PW-29 on exchange. Subsequently, the said vehicle was said to have sold to one Subramani, Parotta Master for Rs.5,000/- and it has been mentioned in the long size note book M.O.19 and the particular page was marked as Ex.P-39 in Sl.No.21. PW-30 Thiru Subramanian has also stated in his chief examination that he sold the said two wheeler to Iyyappan and A8 Murugan and he kept the R.C. book with him, since there was some balance amount to be paid by them and the said R.C.Book is the M.O.20. The said R.C.Book was seized under a Seizure Mahazar Ex.P-43 in the presence of the witnesses PW-35 Thiru.Asaithambi and Thiru.Prabakaran. It has been suggested with the witness during the cross examination that there is no such vehicle in the Reg.No.TN 20 J 9995, but it has been negated by M.O.20 original R.C.Book, in the name of Ranganathan.

138. On the same day, i.e., on 10.02.2014 at about by 11.45 a.m., the Investigating Office PW-56 Thiru.Rajesh Kanna went to Mela Ariyakulam Village, along with A8 Murugan, A9 Selva Prakash and the approver, Iyyappan, and on identification by the accused enquired the Iron Smith Thiru.Ramasubramanian (PW-31) about the selling of M.O.1/ Knife to the accused. PW-31 also deposed about that in the month of July 2013, two persons said to be the Advocates from Panakudi came and asked for an Knife to cut tender Coconut and he sold an Knife to them for Rs.450/- and it is M.O.1. He also identified the accused A8 Murugan and A10 Iyyappan, the approver, in the court.

139. Also, on the same day, the Investigating Officer, in front of the Sub Jail, Nagerkoil enquired one Selvam and he handed over a xerox copy of the Sale Deed in the name of Raja and a xerox copy of a Receipt for money to the Inspector of Police and those documents have been seized under a Seizure Mahazer Ex.P – 44 in which he has signed as a witness. Therefore, the witness to the seizure mahazar Ex.P-44 / Thiru.Asaithambi/ PW-35, corroborated the case of the prosecution in respect of the recovery made in his presence. PW – 36 Thiru.Arumuga Selvan also corroborated the evidence of PW – 35 Thiru Asaithambi.

140. Further, the Investigation Officer has examined PW-32 Thiru.Robert Vincent, Rani Digital Studio and Video, Anjugramam, in respect of the photo printout taken by the accused A8 and the approver Iyyappan. The said witness has stated that the accused Murugan and the approver Iyyappan came to his studio in the month of

July 2013 and took the print out of the photograph of Dr.Subbiah from the memory card and he was examined by the police in respect of the same, he has also identified the accused A8 Murugan, since the other accused Iyyappan, has been transformed as approver. PW-12 Iyyappan, the approver has also corroborated the evidence of PW-32 by stating that he had gone to the Rani Studio along with the accused A8 Murugan and took the print out of the photograph of Dr.Subbiah. Through the evidence of PW-32 Thiru.Robert Vincent, Rani Digital Studio and Video, Anjugramam coupled with the evidence of PW – 12 Iyyappan, it has been established by the prosecution that the accused A8 Murugan and the approver Iyyappan have approached the Rani Digital Studio and took the photograph of Dr.Subbiah from the memory card.

141. On 12.12.2014, the Investigating Officer, prepared the demonstration video of the accused A8, A9 and the approver, Iyyappan, in the presence of Tmt.Leela Natarajan, President, Shreshta Subashree Apartments Association and also in the presence of the witnesses PW-40 Thiru.Bala and Thiru.Saravanan and obtained a CD of the video of demonstration from Tmt.Leela Natarajan from the footage recorded in the CCTV installed at the Shreshta Subashree Apartments and also another CD recorded in a digital camera.

142. From these evidence of PW-8 and PW-12, it has come out that Dr.James Sathish Kumar came to Chennai, visited the Billroth Hospital and the place where the car of the deceased Dr.Subbiah was parked, explained the assailants and instructed A8, A9 and the Approver, Iyyappan to commit the murder of Dr.Subbiah and this fact has

not been stoutly denied by the accused. Apart from this, the accused A4 Boris was said to have monitored the activities of Dr.Subbiah. It was stated on the side of the prosecution that he made surveillance and instructed the assailants on 12.09.2013. Through the evidence of PW-38 Debajyothi Bagchi, it has been established that A4 Boris was on leave from 08.09.2013 to 12.09.2013. He has also produced Ex.P-46, documents issued by Logistics and Cargo Private limited about 4th accused along with a Certificate issued by him under Section 65-B of Indian Evidence Act and the requisition of the Inspector of Police which were marked as Ex.Ps.46 to 48. Further, A4 Boris has withdrawn amount from his account with ICICI Bank in the location of Chennai and to prove the same, Ex.P-169, letter given by ICICI Bank regarding amount drawn by the A4 Boris from A/c.No.602301514262 through ATM has been marked and it shows that the accused during his absence in his office, he was at Chennai. PW- 12, Iyyappan, the approver has also stated in his chief examination that before they came to Chennai, A4 Boris went to Chennai and made surveillance of the house of Dr.Subbiah, Hospitals and informed them that there is a dog at the house of Dr.Subbiah and therefore, he has to be killed outside, when he came alone. The evidence of PW-12 , PW-13 and PW- 38 is sufficient to hold that A4 Boris was at Chennai, when he was on leave and absence from his office and visited the places, where Dr.Subbiah used to go. The non production of Muster Roll, said to have been maintained manually, is of no consequence, since the official witness has submitted the relevant documents as mentioned earlier.

143. Further, it is the case of the prosecution that the A7 Dr.James Sathish Kumar, A8 Murugan, A9 Selva Prakash and the approver, Iyyappan came to Chennai on 14.08.2013, and A7 Dr.James Sathish Kumar instructed the assailants how to murder Dr.Subbiah. This aspect has been spoken by the witnesses PW-8 Thiru Shivaji and PW-12, Iyyappan, the approver. The particular portion of the deposition of PW -8/ Thiru Shivaji is extracted below:

"14.08.2013 அன்று நான் வியாபார விஜயமாக சென்னை வந்தேன், அதில் முருகன், செல்வ பிகரகாஜ், ஐயப்பன் என்று தெரிந்து கொண்டேன்."

PW – 12 Iyyappan, the approver in his chief examination has stated as follows:

"14.08.2013 தேதியன்று டாக்டர் ஜேம்ஸ் சதீஜ் குமார் சென்னை வந்தார். சென்னை வந்து ஆர்.ஏ.புரம் பில்ராத் மருத்துவமனைக்கு வந்து, டாக்டர் சுப்பையாவின் கார் நிற்கும் இடத்திற்கு வந்து, டாக்டர் சுப்பையாவை எப்படி கொலை செய்ய வேண்டுமென்று திட்டம் வகுத்து கொடுத்தார். அப்போது அந்த வழியாக வந்த டாக்டர் ஜேம்ஸ் சதீஜ் குமாருக்கு தெரிந்த சிவாஜி என்ற நபர் வந்தார். அவர் டாக்டர் ஜேம்ஸ் சதீஜ் குமாரிடம் சிறிது நேரம் பேசிவிட்டு சென்று விட்டார்."

144. Further, it has been established by the prosecution through the evidence of PW-3 Thiru Muthuvel and PW-12 Iyyappan, the approver, that the assailants after confirming the presence of Dr.Subbiah at Billroth Hospital, waited at the roadside platform and said to have discussed about the failure of their earlier attempt of murder of Dr.Subbiah and their future plan to settle abroad by using the amount that they will get from A3, A4, A5 and A7.

145. Considering all the oral and documentary evidence in respect of the arrest, confessions of the accused, seizure of document under Mahazars and also the recovery

of material objects under seizure mahazars, it has been established beyond doubt that the accused A8, A9 and the approver, Iyyappan have made preparations to commit the offence, and thereafter committed the same, as per their agreement with the co-accused. Those oral and documentary evidence was corroborated by the evidence of PW-12 Iyyappan in letter and spirit. Some contradictions, discrepancies and improvements are found in the evidence of the witnesses to the arrest, confessions and recovery, which were elicited through their cross examination, but it would not affect the prosecution case at large to disbelieve their evidence.

146. It is the case of the prosecution that due to the previous enmity between A1 Ponnusamy family and the deceased family in respect of a land about 2 Acres at Anjugramam, conspired with the co-accused and also engaged the accused A8, A9 and the approver, Iyyappan as henchmen and thereby committed murder of Dr.Subbiah. The accused A1 to A4 were said to have promised to give half of the sale amount of the disputed land to the accused A5 to A9 and the approver, Iyyappan. It is the case of the defence that the alleged money transactions to the assailants through bank transactions and that too by an Advocate is unbelievable and those amount have been transferred for business of the C and G Textiles run by Maheswaran and also for the service of reforming the alcoholic persons and it has been established through DW – 2 / Thiru.Veeramani. On the side of the prosecution, to prove the financial transactions, PWs 41 to 44 and PW-37 were examined. Those bank officials has spoken about the bank transactions of their customers DW-2 / Thiru.Veeramani, Ponnusamy (A1), Basil

(A3) and William (A5) and also about Ex.P50 – Ex.P111 / customer application forms, annexures with the forms, letter of the Inspector of Police, withdrawal slips, pay-in-slips, pan card of Maheswaran, pan card of Ramamurthy, transfer through NEFT, covering letters of the bank officials, bank account statements, cheques and certificates issued under Section 65-B of Indian Evidence Act were produced. The alleged amount was not sent to the assailants directly and inturn, it has been sent to the account of one Veeramani from Tiruppur, who is the uncle of A6 Yesurajan. DW-2 / Thiru.Veeramani also conceded during his cross examination that William (A5) sent money to him and he withdrew the same through withdrawal slips. The account of Thiru.Veeramani / DW - 2, opened in the year 2006 and upto 2012, there was no transaction for the huge amount. Only in the year 2012, December, 2013 and September 2014, huge amount were withdrawn by DW -2 / Thiru.Veeramani and the huge amounts were deposited by cash by Maheswaran and Ramamurthy in the year 2013. From 15.06.2013 to 02.09.2013 a sum of Rs.6,90,000/- was transferred to the account of DW-2 / Thiru.Veeramani from the Bank Account of A5 William. Maheswaran and Ramamurthy have deposited Rs.5,30,000/- into the account of William (A5). As per the evidence of PW-42 / Thiru.Varghese Thomas, a sum of Rs.1,50,000/- has been transferred to the account of William (A5) on 22.07.2013 by A1 Ponnusamy. It was stated that the said amount was given to William (A5) for his marriage expenses, but nothing has been produced to affirm the same. The amount credited into the account of A3 Basil belongs to Mabel Latha and A3 Basil only deposited the said amount and the total amount of

Rs.5,20,000/- credited to the account of Thiru.Veeramani for investing C and G Company owned by Babu. Though, it has been defended by A1 that amount of Rs.1,50,000/- have been sent to A5 William for his marriage as a debt, neither A1 Ponnusamy nor A5 William get into the witness box to explain the same. It is true, that the accused need not disprove the case of the prosecution and it is sufficient to create a suspicion in the case of the prosecution. Any how, A1 Ponnusamy and A5 William have simply denied the bank transactions as given for marriage, but not substantiated the same by letting in oral or documentary evidence. During the questioning under section 313 (1) (b) Cr.P.C. proceedings, A1 Ponnusamy and A5 William have stated that the said amount as given as debt for his marriage to A5 William in which, a sum of Rs.60,000/- has been returned by cheque through the account of A3 Basil and the balance amount was returned by cash. It is not explained, either by A1 Ponnusamy or by A5 William about the date on which the balance amount of Rs.90,000/- has been repaid to A1 Ponnusamy. Therefore, the court is of the view that the said contention of A1 Ponnusamy or by A5 William has been raised for the sake of defence.

147. The Bank Officials, PW-41 / Thiru S.Suresh, Deputy General Manager, Indian Bank, Tiruppur, PW-42 / Thiru.Varghese Thomas, Senior Manager, Indian Overseas Bank, Kottaram, Kanyakumari District, PW-43 / Thiru M.Muthukrishnan, Branch Manager, State Bank of India, Vivekanandapuram, Kanniakumari District and PW-44 / ThiruV.P.Jayaram, Chief Manager, Indian Bank, Azhagappapuram, Kanniyakumari District have been elaborately cross examined on the side of the defence. The Bank

Officials have furnished the account details of DW-2 / Thiru.Veeramani, A1 / Ponnusamy, A3 / Basil and A5 / William with the Certificates under Section 65-B of Indian Evidence Act. On this aspect, the evidence of PW – 37 / Thiru.Sathianarayanan has come in aid of the case of the prosecution. Since he has stated in his evidence that in the 1st week of September 2013, when he went to the house of Veeramani Abraham at about 8.30 p.m., his brother-in-law A6 / Yesurajan also came there with three people. Thiru.Veeramani gave Rs.6,50,000/- to A6 / Yesurajan and he disbursed Rs.1,50,000/- each to the three persons who came along with him and he kept the balance amount in his pocket. The evidence of PW – 37 / Thiru.Sathianarayanan is affirmed corroborated by the evidence of PW-12 Iyyappan, the approver, as he had stated that A6 / Yesurajan brought him, Murugan and Selva Prakash to Tiruppur, received Rs.6,50,000/- from Thiru.Veeramani and gave Rs.1,50,000/- to himself, Murugan and Selva Prakash and also kept the balance amount of Rs.2,00,000/- with him. The oral evidence of PW-41 to PW-44 and the documentary evidence of Ex.P.50 – Ex.P.111 shows that before the commission of the offence and during the month of August, September 2019, transactions for the huge amounts were made in the accounts of DW-2 /Veeramani, A1 Ponnusamy, A3 Basil and A5 William and for which, the court could presume that the said transactions have been made in relation to the conspiracy and the commission of offence, since it was neither properly accounted for nor explained by the said accused. The deposition of DW-2/ Veeramani, PW-37 / Thiru.Sathianarayanan and the Bank

Officials PW-41 to PW-44 and Ex.P.52 to Ex.P111 are corroborative, giving credence to the version of the prosecution.

148. Also in order to establish the contacts of the accused with one another during the period of conspiracy and afterwards, PW-45/ Thiru.Thangamani has been examined by the prosecution and through him, Ex.P -112 to Ex.P - 145 / CDRs for 12 mobile numbers, said to have been used by the accused A1, A3 to A9 and the approver, Iyyappan, application forms, annexures, requests of the Inspector of Police and Certificates issued by him under Section 65-B of Indian Evidence Act were marked. PW-45 / Thiru.Thangamani, then Sub Inspector of Police, Cyber Crime, Triplicane, East Zone, Chennai stated in his chief examination that, at the request of the Inspector of Police, E4, Abiramapuram Police Station to furnish the CDRs of the suspected persons in relation to a criminal case, got the CDRs from the service providers through mail, downloaded the same and submitted to the Inspector concerned. The CDRs details of A1, A3, A4, A5, A6, A7, A8 and A9 were marked as Ex.P-112, Ex.P -115, Ex.P - 118, Ex.P - 121, Ex.P - 123, Ex.P - 126, Ex.P - 128, Ex.P -131, Ex.P - 133, Ex.P - 136, Ex.P - 138, Ex.P - 140 and Ex.P - 143 and from these CDRs, it's made clear, that the said accused A1, A3 to A9 were in contact with each other and they have frequently contacted with themselves over cellphones during the period of conspiracy and afterwards.

149. Further, it has been brought out beyond doubt, by the prosecution through the CDRs that A1 Ponnusamy, used the SIM card, registered in the name of Vinoth,

A3 Basil, used two SIM cards, registered in his name, A4 Boris, A6 Yesurajan and A9 Selva Prakash have used one SIM card each, registered in their names and A5 William used a SIM card, registered in the name one Durairaj, A8 Murugan used two SIM cards, registered in his name and one Loganathan and A7 Dr.James Sathish Kumar used two SIM cards, registered in his name. Though, the mobile No.8675111668, is in the name of one Loganathan, it was used by A8 Murugan, since he himself has mentioned the said mobile number in the Bill Book of Bakkiam-inn / Ex.P - 32, on 11.08.2013 and has mentioned his Mobile No.9789279298 and address as 10/21, Subhash Street, Panakudi, Pincode- 627 109, in the Arrival Register of Hotel Aruna Lodge on 13.09.2013 / Ex.P-37. A5 William denied the case of the prosecution that he had used the mobile number 9043823121 in the name of Durairaj, but in Ex.P-89 / pay-in-slip, Ex.P-95 / pay-in-slip, Ex.P-97 / pay-in-slip, Ex.P-98 / pay-in-slip and Ex.P-110 / withdrawal slip, he had mentioned the mobile number in his own handwriting and therefore the plea of the accused A5 William that he has not used the particular mobile number is untenable.

150. PW-12 Iyyappan, the approver also supported the evidence of PW-45 Thiru.Thangamani and the case of the prosecution by stating that accused A1, A3 to A9 have used the SIM cards as stated by the prosecution during the period of conspiracy and the commission of offence. He has also stated that A8 Murugan, A9 Selva Prakash and they were directed by A7 Dr.James Sathish Kumar, A5 William, A3 Basil, A4 Boris and A6 Yesurajan that they should not use their mobile phones on the

date of murder of Dr.Subbiah. The said evidence of PW-12, has not been challenged by the defence through cross examination and therefore, it has to be presumed that the particular fact in the question is not disputed by them. On this aspect, it is relevant to refer the Judgment in

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in which, it was decided that "If there is no cross examination of a prosecution witness in respect of certain facts it will only show the admission of that fact."

In the case on hand, during the cross examination of PW-45 / Thiru.Thangamani, PW-12 Iyyppan and PW-56 Thiru.Rajesh Kanna, no question was raised that the said 12 SIM cards were not used by any one of the accused. In the light of the above said decisions, the court is of the considered view that the use of particular mobile numbers by the accused A1, A3 to A9 is not seriously disputed by the defence. As already mentioned A3 Basil and A5 William, themselves mentioned their mobile numbers in their own handwriting in some of the documents, which are relied on by the prosecution. Therefore, it is safely concluded that the accused have used the SIM cards, as mentioned by the prosecution and it is also admitted by them and those oral and documentary evidence would prove the fact that the accused have contacted each other during the period of conspiracy and afterwards and it's considered as adverse to them.

151. One another important plea raised on the side of all the accused is that there is a delay in preferring the complaint and delay in dispatching the FIR to the

court. It is the case of prosecution that the alleged occurrence took place on 14.09.2013, at about 5.00 p.m., at 59 / 30, 1st Main Road, Raja Annamalaipuram, Chennai. Thiru A.A.Mohan / PW-1, who is the brother-in-law of the deceased Dr.Subbiah, lodged the complaint on the same day at about 7.00 p.m., with E4 Police Station, Chennai. The said complaint was marked as Ex.P-1. On the basis of the complaint given by the de facto complainant A.A.Mohan, a case was registered in Cr.No. 1352 / 2013 under Section 307 of I.P.C. by the E4 Police Station. There was a gap of two hours between the occurrence and lodging of the complaint. The de facto complainant is not an eye Witness to the occurrence and on hearing about the alleged occurrence through his sister Tmt.Shanthi Subbaiah / PW -13, the wife of the deceased, immediately rushed to the Billroth Hospital, Raja Annamalipuram, Chennai, where the injured was admitted. After seeing the injured Dr.Subbiah, PW-1 Thiru.A.A.Mohan said to have gone to the scene of crime near the Billroth Hospital and thereafter went to the police station to lodge the complaint. It is a natural behaviour of a human being to rush to the hospital first, to get to know the status of the injured before going to the police station to lodge a complaint. The negligible delay has been explained by the de facto complainant and the same is plausible and acceptable, since it cannot be considered as a delay. Therefore, the court feels that there was no delay in preferring the complaint by the de facto complainant. PW-57 Thiru.Sreenivasan, Inspector of Police registered a case on the basis of the complaint given by the de facto complainant in Cr.No. 1352 / 2013 under Section 307 of I.P.C. and the said FIR has

been marked as Ex.P-162 and the same was dispatched to the court on the very next day i.e., on 15.09.2013 and it has been received on the same day by 11.00 a.m., by the court concerned. Nothing has been raised before the de facto complainant or with the Investigation Officer PW-57 Thiru Sreenivasan, that the complaint has been lodged or the FIR has been despatched after embellishments or deliberations. The alleged negligible delay in this case caused by the PW-1 / Thiru.A.A.Mohan is not an unusual one and it has been sufficiently explained by the prosecution. In this context, it would be useful to refer the Judgment in

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in which, it has been observed by the Hon'ble High Court of Madras in paragraph-36 that

"Exactly there was a delay of 11 hours 20 minutes in sending the FIR to the court. Yes, there is some amount of delay in sending the FIR in court, which situate in the same compound. The perusal of complaint and the FIR shows that there is nothing addition or omission or correction to suggest exaggeration or embellishment in the version of the prosecution case. It is expected and required that the FIR should be sent to court at the earliest point of time. However, delay cannot be avoided some times for various reasons as submitted by the Public Prosecutor. The delay might have been caused by some administrative reasons as submitted by the Public Prosecutor. Though there is a delay in sending the FIR to the court, it cannot be considered as enormous delay is suggested by the Learned Counsel appearing for the accused. There is nothing brought out on record by the accused as to the prejudiced caused to the accused on account of this delay."

In the light of the observation of the Hon'ble High Court of Madras and in the background of the facts and circumstances of the case in hand, the court is of the considered view that the delay in dispatching the FIR is not considered as enormous delay and no prejudice was said to have caused due to the delay. FIR came to be registered within reasonable time and the originals of the complaint Ex.P-1 and FIR Ex.P-162 had also reached the Jurisdictional Magistrate without much loss of time.

152. One another plea raised by the Defence Counsels in respect of the complaint Ex.P-1 is that it has not been preferred either by the wife of the deceased or by the daughters of the deceased, but it has been preferred by PW-1 Thiru.A.A.Mohan who is the brother-in-law of the deceased. In criminal law, anybody can set the law motion by lodging a complaint with regard to an offence. There is no impediment in preferring the complaint by anybody, other than the legal heirs or dependents of the deceased or injured or victim. In the case on hand, PW-1 / Thiru.A.A.Mohan, having heard about the alleged occurrence through his sister PW-13 Tmt.Shanthi Subbaiah, lodged a complaint and the court finds nothing infirm about the same. It has also been raised by the 5th accused and the counsel for the accused A6 that the names of A5 and A6 were not mentioned in the complaint and it shows that they have been falsely implicated in the case at a later stage. PW-1 Thiru.A.A.Mohan has mentioned in his complaint Ex.P-1 about the names of A1 to A4 and also one Annapazham, the mother of A1 Ponnusamy for the reason that they have previous enmity with the deceased Dr.Subbiah in relation to a land. Since there was no direct enmity in respect of the

disputed land between the deceased Dr.Subbiah and the accused A5 and A6, their names have not been mentioned in the complaint. The de facto complainant had knowledge about the involvement of A5 and A6 and on the next day itself, he had mentioned the names of A5 and A6 in his additional statement. The civil dispute, which is said to be the basis for the occurrence, is between the A1 Ponnusamy family and the deceased family. Therefore, the non mentioning of names of the accused A5 and A6 on 14.09.2013 does not affect the complaint in any way, as FIR is not an encyclopedia to contain each and every aspect .

153. One another contention raised in respect of the complaint Ex.P-1 is that it did not contain the necessary particulars in respect of the land in dispute and the occurrence. It has been held in many cases by the Hon'ble Supreme Court of India and by various Hon'ble High Courts that the FIR is not an encyclopedia and there is no necessity to mention the minutest details of the occurrence. With regard to this aspect, the learned Special Public Prosecutor has pointed out the Judgment in

AIR - 2002 - SC – 1949

Bijoy Singh Vs. State of Bihar

AIR - 1996 – SC – 372

Baladev Singh Vs. State of Punjab

1997 (4) - SCC – 161

Rattan Singh Vs. State of Himachal Pradesh

1998 (37) - ACC – Page 429 (SC)

Manohar Thakur Vs. State of Himachal Pradesh

2010 (2) – L.S. 42 (SC)

Krishna Matter & Others Vs. Uttar Pradesh

2017 (2) – SCC – (Cri) – 673

Mukesh and Another Vs. State for N.C.T. of Delhi and Others

154. It has been held in those Judgments by the Hon'ble Supreme Court of India and also by the various Hon'ble High Courts that the person who furnishes first information to authority might be fresh with the facts, but he need not necessarily have the skill or ability to reproduce details of the entire story without anything missing therefrom and if some details are missing, it cannot be a ground to reject the testimony of the witness. It has also been held that the FIR should contain some information about the crime and the manner in which the offence has been committed, FIR is not an encyclopedia and the involvement of the accused persons cannot be determined solely on the basis of what has been mentioned in the FIR.

155. Also it has been stated by the defence that the copy of the FIR has not been furnished to the de facto complainant and the signature has not been obtained in the FIR in the column No.14 and it creates a doubt in the registration of FIR. The de facto complainant PW-1/Thiru.A.A.Mohan in his cross examination has stated as follows:

"His signature has been obtained in the FIR, but in Ex.P-162/ printed FIR, his signature is not found. He was furnished with a copy of the FIR. He might have signed the copy of the FIR."

From the evidence of PW-1, the de facto complainant it is quite clear that he has been furnished with the copy of the FIR and his signature was obtained for the same. PW-57 Thiru.Sreenivasan, Inspector, has also stated in his cross examination that since the original FIR has already been sent to the court, signature of the de facto complainant could not be obtained in it. Afterwards, a copy of the FIR has been

furnished to the de facto complainant and his signature has been obtained in a copy of the FIR.

156. The said evidence of PW-57 Thiru.Sreenivasan, Inspector who has registered the case, has affirmed the version of the PW-1 Thiru.A.A.Mohan that he has been furnished with the copy of the FIR. The court do concede that it's mandatory to furnish a copy of the FIR to the de facto complainant and to obtain the signature of the de facto complainant in column No.14 of FIR. In the case on hand, it has been established through the evidence of PW-1 and PW-57, that a copy of the FIR has been furnished to the de facto complainant, but his signature has not been obtained in the original FIR as it was sent to the court concerned. From those facts and circumstances, the court is of the opinion that the FIR cannot be rejected for the only reason that the signature of the de facto complainant was not obtained in the original FIR. Therefore, the pleas raised by the defence in respect of the Ex.P-1 complaint, its contentions, non mentioning of the names of some of the accused, not obtaining the signature of the de facto complainant in the FIR and also the delay in dispatching the FIR are not considered as material one.

157. It was contended by the Defence Counsels and the 5th accused party-in-person that the prosecution has not examined the material witnesses without any valid reason and the said fact shattered the entire case of the prosecution. In the case on hand, though the prosecution has mentioned as many as six eye witnesses to the occurrence, but have come forward to examine, only two witnesses i.e., PW -2

Thiru.Vinoth Kumar and PW-3 Thiru.Muthuvel. One of eye witness Thiru.Gopinath, has participated in the Test Identification Parade and identified the assailants on 06.02.2014 at the Central Prison, Puzhal before the XVI Metropolitan Magistrate, George Town, Chennai and also gave his statement under Section 164 (5) Cr.P.C. before the XVI Metropolitan Magistrate, George Town, Chennai on 24.02.2014, has not turned up to give evidence before the court in spite of best efforts taken by the prosecution. It was contended by the prosecution that the said eye witness Thiru.Gopinath, was threatened by the accused persons and he has sent a letter to the police and the said fact has been revealed in the bail cancellation order of the Hon'ble High Court. It has been mentioned in the affidavit, filed by Dr.Subbiah in support of his petition, filed to cancel the anticipatory bail granted to A1 Ponnusamy and A2 Mary Pushpam that "The respondents 1 and 2 (Ponnusamy and Mary Pushpam) are indulging in illegal activities by threatening me and my agents who are all maintain my properties during my absence." "The respondents 1 and 2 are bargaining with land brokers to sell the properties." From those facts, it is made clear that the accused have not only threatened the deceased Dr.Subbiah, but also threatened his agents who are maintaining his properties. It is one of the reasons for filing a petition to cancel the anticipatory bail granted to the accused A1 and A2 in the Land grabbing case. The Learned Special Public Prosecutor has also submitted before the court during the argument that they were not able to serve the summons to the witness Gopinath as he

absconded. The Special Public Prosecutor given sufficient reasons for dispensing prosecution witness through a memo.

158. PWs -2 and 3, have come to the place of occurrence to attend their work and personal work respectively and at that time, they had a chance to witness the occurrence. It is not mandatory to examine the witnesses from the locality who might have or might not have witnessed the occurrence and it does not affect the case in any way. Likewise, non examination of witnesses from the nearby Ceebros Apartments, the persons residing at the Apartment and the inmates of Shreshta Subhashree Apartments are also considered as immaterial, since there is no evidence that they have also witnessed the occurrence. It has been held in

2015 (1) – SCC – 323

State of Karnataka Vs Suvarnamma

that "Though the investigating agency is expected to be fair and efficient, any lapse on its part cannot per se be a ground to throw out the prosecution case when there is overwhelming evidence to prove the offence." and the said Judgment is squarely applicable to the case on hand, since there is overwhelming evidence to prove the offence. Also in the Judgment of the Hon'ble Supreme Court of India in

AIR - 1999 – SC – 3717

Leelaram through Duli Chand Vs State of Haryana and another,

it has been held that

"It is now a well settled principle that any irregularity or even an illegality during investigation ought not to be treated as a ground to reject the prosecution case. Corroboration of evidence with mathematical niceties cannot be expected in criminal case."

Also in the Judgment of the Hon'ble Supreme Court of India in

2004 – CRI LJ – 1807

Dhanaj Singh at Shera and others Vs The State of Punjab, held that "However, the accused cannot be acquitted solely on the defective investigation."

159. Also while discussing the non examination of material witnesses, adverse inference could be drawn against the prosecution, only if the evidence of a particular witness is really essential to the unfolding of the prosecution case. Here in the case on hand, the prosecution has examined PW-2 Thiru.Vinoth Kumar and PW-3 Thiru.Muthuvel, who have said to have witnessed the occurrence and their evidence is said to have been supported by other independent witnesses, the approver, medical evidence and also the Electronic evidence. In these circumstances, it is for the Special Public Prosecutor to decide whether to examine the other witnesses or withhold the rest of the witnesses to prove the charges against the accused and it is the prerogative right of the public prosecutor to examine or withhold of witnesses to establish the case of the prosecution. In the memo filed by the Special Public Prosecutor to dispense the witnesses, reasons has been attributed for each witness. The court has to see whether the charges have been proved with the available evidence or not and if the available evidence is not sufficient, unreliable or untrustworthy then the court may draw adverse inference against the prosecution. If the prosecution has already produced overwhelming evidence and the examination of other witnesses would be a repetition to the evidence already adduced and in these circumstances, the non examination of other witnesses may not be material.

160. Originally, the prosecution has cited 89 witnesses in total in the final report, but they have examined only 57 witnesses including the approver, PW-12 / Iyyappan and the rest of the witnesses were dispensed with by the Special Public Prosecutor. It is true that the prosecution has not examined the alleged eye witnesses Raja, Chakkaravarthy, Gopinath, Venkatesavalu, Ramalingam, etc. The Learned Special Public Prosecutor stoutly objected the said contention of the defence and also stated that there is no necessity to examine a particular number of witness to prove a fact or disprove and the court has to be see only the quality and not quantity of the witnesses, examined by the prosecution. In support of his contention, the Learned Special Public Prosecutor has cited the following Judgments rendered by the Hon'ble Supreme Court of India and by various Hon'ble High Courts.

CDJ – 2013 – SC – 809

Manjith Singh and Others Vs. State of Punjab and Others

AIR – 1965 – SC – 202

Masalti Vs. State of Uttar Pradesh

2007 (14) – SCC – 150

Namdeo Vs . State of Maharashtra

2010 (12) – SCC - 91

Bipin Kumar Mondal Vs State West Bengal

2001 (6) – SCC – 71

Gian Chand Vs. State of Himachal Pradesh

2001 (6) – SCC – 145

Takhaji Hiraji Vs. Thakore Kuber Singh Chamansing

2012 (10) – SCC – 256

Dahari Vs. State of Uttar Pradesh

2014 (3) – SCC – 401

Gulam Sarbar Vs State of Bihar

2011 (11) – SCC – 173

Rajesh Singh & Others Vs State of Uttar Pradesh

AIR – 1957 – SC – 614

Vadivelu Thevar Vs The State of Madras

In those Judgments, our Hon'ble Supreme Court of India and Hon'ble High Courts, had repeatedly held that in order to prove the case beyond reasonable doubt, the evidence produced by the prosecution has to be qualitative and not quantitative. It has also been held in those Judgments that to appreciate the evidence, the court has to look into the quality and the evidence is to be weighed and not counted by considering whether the evidence is cogent, credible, trustworthy and reliable. There is no requirement under the law of evidence that any particular number of a witness should be examined to prove or disprove a fact. At this juncture, it will be useful to reproduce the Section 134 of Indian Evidence Act.

"No particular number of witnesses shall in any case be required for the proof of any fact."

Therefore, it is a time honoured principle that evidence must be weighed and not counted. It has also been held by the Hon'ble Supreme Court of India that "Conviction can even be based on the testimony of a sole eye witness, if the same, inspires confidence and it has been reiterated in a recent Judgment in

2021 – AIAR (Cr) – 51

Amar Singh Vs State of (NCT of Delhi)

in paragraph -16, by observing that "as a general rule, the court can and may act on the testimony of single eye witness provided he is wholly reliable. There is no legal impediment in convicting a person on the sole testimony of a single witness. That is the logic of Section 134 of the Indian Evidence Act, 1872. But, if there are doubts about the testimony, courts will insist on corroboration. It is not the number, the quantity, but quality that is material. The time honoured principle is that the evidence has to be weighed and not counted. The test is whether the evidence has a ring of truth, is cogent, credible and trustworthy or other wise."

161. Further more, on the side of the prosecution, out of the two witnesses to the Observation Mahazar, Confessions of the accused, Seizure Mahazar, they have examined one of the witnesses to prove those facts. If the evidence of the said witnesses is sufficient to prove the fact, then it is not necessary to examine the other witness. Therefore, withholding of one of the witnesses to the observation mahazar, seizure mahazar and the confessions of the accused cannot be considered as withholding of material witnesses and on the basis of the same, adverse inference cannot be drawn against the prosecution. It has been established by the prosecution that some of the witnesses could not be secured due to the threat to their life, said to have been won over by the accused and in these circumstances, the non examination of those witnesses is not considered as adverse to the case of the prosecution.

162. The Learned Counsel for accused A7 to A9 had specifically contended that the Investigation Officer ought to have examined Administrative

Officer Thiru Ravi, the Security of Billroth Hospital who had informed Thiru.Jeevan (PW - 11) and Security at the Ceebros Apartments to arrive at a conclusion, but they were not examined and it has to be considered that the prosecution was with holding the examination of material witnesses and suppression of material facts. But, neither Thiru Ravi, Administrative Officer nor the Security of the Billroth Hospital have witnessed the occurrence and therefore the non examination of those persons does not create any doubt in the case of the prosecution. The prosecution, having examined the two eye witnesses PW-2 and PW-3, and their evidence having been corroborated by the other independent witnesses, medical and Electronic evidence, the non-examination of other witnesses by the prosecution cannot be considered as fatal to the case of the prosecution.

163. Also the Learned Senior Counsel appeared for the accused A7 to A9 who submit that the prosecution has failed to examine the Ambulance Driver, who brought the injured Dr.Subbiah to the hospital and also cited the Judgments in

2016 – 1 – MLJ (Cr) – 410

Kumar Vs The State

On perusal of the said Judgment, it came to know that in that case, the prosecution has taken two versions that the deceased was taken to the hospital as an injured person, but as per the another version, it was informed that the deceased was brought and reported dead by the Doctors. In such circumstances, the non examination of the Ambulance Driver was considered as suppressing material facts by the prosecution. But in the case on hand, Dr.Subbiah was assaulted, seriously injured and was brought

to the hospital for treatment and died on 23.09.2013. It is the defence of the accused A7 to A9 that Dr.Subbiah was not murdered, but he met with an accident. Even then, it was not pleaded on behalf of the accused A7 to A9 that Dr.Subbiah had met with an accident and died on the spot. In these circumstances, the non examination of the Ambulance Driver is not considered as a lacuna or fatal to the case of the prosecution. In the light of those Judgments of the Hon'ble Supreme Court of India and Hon'ble High Court of Madras, the court is of the view that in the facts and circumstances of the case, the entire prosecution case cannot be disbelieved or discarded for the only reason of defective investigation.

164. The Learned Counsels for the accused and 5th accused have further submitted in their arguments that the vital documents have been sent to the court belatedly, witnesses from the locality were not examined and the final report has been filed against the accused on the defective investigation. It's also the vehement submission of the Learned Senior Counsels, who are appearing for the accused A1 to A4, A6 to A9 and A5 party-in-person that Dr.Subbiah, preferred a complaint against Adhi Ponnaiah and a Land Grabbing case was also registered and therefore he would have murder Dr.Subbiah as there was motive between the two, but the Investigative Officer didn't conduct any investigation on this direction and it shows that the Investigation done by the Investigating Officers is defective in nature. Anyhow, no such complaint has been produced before this court to substantiate the said contention and the details about the complaint and the case said to have been registered against

Adhi Ponnaiah have not been stated or established by the defence. In fact, Dr.Subbiah sold 3 cents of land from Anjugramam to the said Adhi Ponnaiah and he helped Dr.Subbiah to protect the disputed property from which, it could be easily inferred that there was no enmity between Dr.Subbiah and Adhi Ponnaiah.

165. Also it was argued by the Defence that the Investigating Officers didn't visit the disputed land at Anjugramam. It is admitted fact that there was a civil dispute between the accused A1 Ponnusamy family and the deceased Dr.Subbiah family and there were several litigations before the court and complaints before the Police and Court. But, the occurrence took place at Chennai and not at the disputed land at Anjugramam Village. Therefore, not visiting the disputed land by the Investigative Officers would not affect the case of the prosecution and it cannot be considered as a defect in investigation.

166. Further, it was pointed on the side of all the accused that the name of Annapazham, mother of A1 Ponnusamy has been left out in the final report, though her name finds place in the complaint and FIR. Also it has been claimed by the defence that the accused A1 to A4, in their confessions have mentioned Advocate Vairam Santhosh and he has not been enquired and added as accused in the case. The confessions of the accused A1 to A4, didn't lead to any recovery of any incriminating articles or discovery of fact and the entire reading of the confession statements of the accused A1 to A4 leads to the only inference that it is self incriminatory and therefore, it cannot be used against any one including the said Advocate Vairam Santhosh. As

per Section 27 of Indian Evidence Act, except a fact, leading to recovery, nothing is admissible in the confession. PW-57 Thiru.Sreenivasan, Inspector of Police, during his cross examination by the 5th accused, has specifically stated that during his investigation, he came to know that Advocate Vairam Santhosh was not involved in the crime and hence he has not been added as an accused. The Investigation Officers, after investigation, found that Annapazham, mother of A1 Ponnusamy and Advocate Vairam Santhosh were not involved in the crime and therefore, they have not been added as accused in the final report. Hence, the said contention of the defence has no merit at all.

167. Further more, it has been contended by the defence that the bike, said to have been used by the accused A8 Murugan, A9 Selva Prakash and the approver, Iyyappan has not been recovered and produced before this court. But, it is the case of the prosecution that the said vehicle could not be found out as it was said to have been parked in a place where there was no traffic and the said explanation is reasonable and acceptable. The non recovery of the bike is not fatal to the case of the prosecution.

168. Also, it is one of the contentions of the defence, more specifically by the Counsels for the accused A7 to A9, that the original report or complaint under section 154 Cr.P.C., FIR, Inquest Report, Statements of witnesses, Memo sent by the Station House Officers to the Doctors, Memo sent by the Doctors to the Police or Death Memo, Observation Mahazar and Mahazars for recovery of material objects, search

list and the statements given by the accused admissible under Section 27 of Indian Evidence Act, Statements of witnesses recorded under Section 161(3) Cr.P.C. and Form-91 accompanied by material objects were sent to the court belatedly though it has to be dispatched immediately and it creates a strong suspicion in the case of the prosecution and in support of the said contention, the Judgment in

1974 – Supreme Court (Madras) - 294

in which it was observed by the Hon'ble Supreme Court that the inquest report and the statements of the witnesses have been dispatched belatedly and therefore it was held that the inquest statements of PWs.1 - 5 were prepared far later and probably smuggled into the court. But in the present case, no question or suggestion has been raised before the witnesses that those documents were fabricated or prepared at a later stage after deliberations to implicate the accused in the case. On perusal of records and the exhibits, it came to know that most of the statements of the witnesses, confessions of the accused, material objects with Form-95 have been submitted before the court without any delay. But it was fairly conceded by the prosecution that some of the documents were sent to the court belatedly. Anyhow, the court has to find out whether such an act committed by the Investigation Officer is fatal to the prosecution or not. In this context, it would be relevant to refer the Judgment in

2010 (3) – SCC (Cr) – 1402

in which it has been held by the Hon'ble Supreme Court of India, that "Defect in the investigation by itself cannot be a ground for acquittal. Investigation is not the solitary area of Judicial scrutiny in a criminal trial. Where there has been negligence on the part of the investigating agency or omissions, etc., which resulted in

the defective investigation, there is a legal obligation on the part of the court to examine the prosecution evidence de hors such lapses carefully to find out whether the said evidence is reliable or not and to what extent, it is reliable and as to whether such lapses affected the objects of finding out the truth. The conclusion of the trial in the case cannot be allowed to depend solely on the probity of investigation. There may be highly defective investigations in a case. However it is to be examined as to whether there is any lapse by the investigating officer and whether due to such lapse any benefit should be given to the accused."

169. Therefore, in the facts and circumstances of this case, the belated submission of some of the documents to the court by the Investigating Officer is not considered as a defect in investigation. Moreover 164(5) Cr.P.C statements of PW-2 / Vinoth Kumar, PW-3 / Muthuvel had been recorded on 24.04.2014 itself by XVI Metropolitan Magistrate, George Town, Chennai.

170. The Learned Senior Counsels appearing for the accused A1 to A4 and A6 to A9 and also 5th accused by himself would submit that the prosecution has to prove the charges against the accused beyond reasonable doubt, there are many gaps and lacuna in the case of the prosecution and the benefit should go in favour of the accused and also placed reliance of the following Judgments.

2019 (9) – SCJ – 565

Anand Ramachandra Chaukyul Vs Chithrai Laxman Choukala

in which, it has been observed by the Hon'ble Supreme Court of India that "The burden lies on the prosecution to prove the allegations beyond all reasonable doubts. In contradistinction to the same, the accused has only to create a doubt about the prosecution case and the probability of its defence. An accused is not required to establish or prove his defence beyond all reasonable doubt, unlike the prosecution."

Also the Judgment relied on by the Counsel for the accused A7 to A9 in

1957 – 0 – Supreme (SC) – 40

Sarwan Singh Rattan Singh Vs State of Punjab

in which, it has been held by the Apex Court that

"In a criminal case, mere suspicion, however strong, cannot take the place of proof ... It is no doubt, a matter of regret that a foul cold-blooded and a cruel murder should go unpunished. "

"Considering as a whole, the prosecution story may be true, but between may be true and must be true, there is inevitably a long distance to travel and the whole of this distance must be covered by the prosecution by legal, reliable and unimpeachable evidence before an accused can be convicted."

Also in

1984 - Criminal LJ – 1215

Gunanithi Sundaras Vs State of Orissa

in which, it has been held that

"A court of law is to get at the truth from the legal evidence placed before it, by either side not be guided by a moral conviction or influenced by the gravity of the crime."

Further, 5th accused William has also contended that the evidence produced on the side of the prosecution are neither wholly reliable nor wholly unreliable and in these circumstances, it is not sufficient to convict the accused and relied on a Judgment in support of his contention. But, it's also held by the Hon'ble Supreme Court of India in

AIR – 1972 – SC – 975

Om prakash Vs Himachal Pradesh Administration

as follows:

"The benefit of doubt to which the accused is entitled is reasonable doubt and does not mean that the evidence must be so strong as to exclude even a remote possibility that

the accused could not have committed the offence." Apart from this, in the light of the decision in

AIR – 1978 – SC – 1091

Inder Singh and another Vs State (Delhi Administration)

It is not necessary for the prosecution to prove the case too perfectly and the proof beyond reasonable doubt is a guideline and the guilty man cannot get away with it, because truth suffers some infirmity.

171. Considering the totality of the evidence produced on the side of the prosecution, it's found to be reliable and trustworthy, supported by documentary evidence, Medical Evidence, Electronic evidence and also by other circumstances. Contradictions, Omissions, Improvements and discrepancies in trivial issues would not affect the case of the prosecution at large and on the basis of these trivial issues, the entire case of the prosecution cannot be thrown out. The entire chain of facts and circumstances has been incontrovertibly brought on record by the prosecution, without and iota of doubt.

172. Over all consideration of the evidence of the Eye witnesses / PWs.2, 3 and the approver, PW-12, Iyyappan, Evidence of the medical witnesses / PWs.46 to 49, Report of Test Identification Parade, Evidence of expert / PW-54 along with her report, Electronic Evidence / M.O.9, M.O.10, Ex.P155, Evidence of bank officials and bank accounts and transactions of the accused, the call data records and also the Evidence of Investigating Officers, would amply prove that in view of the previous enmity and motive between A1 Ponnusamy family and the deceased family, the

accused A1 to A9 and the approver, Iyyappan, conspired together to do away with the life of Dr.Subbiah and in consequence of the conspiracy and to accomplish the same, A8, A9 and the approver, Iyyappan, were engaged by A1 to A7 and in turn, A8, A9 and the approver, Iyyappan, have committed the murder of Dr.Subbiah, on the fateful day at about 5.00 p.m., in front of the house No.59/30, 1st Main Road, Raja Annamalaipuram, Chennai. From the oral, documentary evidence and also from the material objects produced on the side of the prosecution, the court can safely come to the one and only conclusion that the prosecution was able to prove all the charges leveled against the accused, beyond all reasonable doubts.

173. Since, the prosecution has proved all the charges leveled against the accused beyond any reasonable doubt, now the court has to decide, whether the act of the accused will fall under the definition of culpable Homicide amounting to murder or culpable Homicide not amounting to murder. As per the evidence produced by the prosecution, the deceased was done to death by the assault made by A8 Murugan, A9 Selva Prakash and the approver, Iyyappan, as an outcome of the motive between the deceased family with the accused A1 to A4 and arising out of the same, there was a conspiracy and planned diplomatically and deliberately in a cunning manner to eliminate the deceased and the same was also brutally done by A8 Murugan and A9 Selva Prakash. The injuries were found in Ex.P148 / postmortem certificate and the oral evidence of PW48 / Dr.K.V.Vinoth, who conducted the autopsy will clearly prove that the injuries sustained by the deceased are sufficient to cause death in the

ordinary course of nature. A8 and A9, knowing fully well, that the assault on the vital parts of the body, namely, head and neck will cause death of the deceased. The intention of the accused can also be inferred from the weapon used and injuries found in Ex.P148 postmortem report. Thus, the act of the accused A8 and A9 would definitely fall under the definition of culpable Homicide amounting to murder. Hence, the act of A8 and A9 is punishable under Section 302 of IPC. It is also to be noted due to the long standing civil dispute between the deceased family and the accused A1 to A4, they have planned and conspired together to eliminate the deceased and for that the accused A1 to A4 have also spent huge money.

174. The accused A1 Ponnusamy, has participated in the conspiracy along with his wife A2 Mary Pushpam, which was hatched in the house of A5 William in the month of 1st week of July 2013, where the accused A3 Basil, A5 William, A7 Dr.James Sathish Kumar, A8 Murugan, A9 Selva Prakash and the approver, Iyyappan were also present. A1 Ponnusamy and A2 Mary Pushpam promised to give away half of the sale amount of the disputed property, if Dr.Subbiah was done to death. The said fact has been proved through the evidence of PW4, PW5, PW12 and PW-53.

175. A1 Ponnusamy had also participated the next conspiracy meeting, held at the disputed land to do away with the life of Dr.Subbiah along with other accused and it has been proved through the evidence of PW4/ Thiru.Manikaraj, PW5 / Thiru. Bensam and PW-12 Iyyappan (Approver).

176. He also deposited a sum of Rs.1,50,000/- into the bank account of A5 William on 22.07.2013 and it has been admitted by him also. It has been proved through the evidence of PW42 / Thiru.Varghese Thomas, Senior Manager, Indian Overseas Bank, Kottaram. A5 William transferred the said amount to the account of one Veeramani (DW-2), who had withdrawn the amount and given it to A6 Yesurajan. A6 Yesurajan distributed the amount to the Hooligans A8, A9 and the approver, Iyyappan.

177. The motive and the previous enmity between A1 Ponnusamy family and the deceased Dr.Subbiah family and also the motive behind the murder has been proved by the prosecution through the evidence of PW1, PW6, PW9, PW10, PW12 and PW-13 and also through documentary evidence. The criminal conspiracy has been proved through the evidence of the approver, Iyyappan, apart from the evidence of PW-4, PW-5, PW-53 and also through money transactions through banks and CDR details.

178. The conduct of A1 Ponnusamy before and after the incident and relevant facts have been proved through the oral evidence of PW-1/ Mohan, PW-4 / Manikaraj, PW-5 / Bensam, PW-6 / Krishnapillai, PW-9 / Gopinath and PW-10 / Arumuga Sigamani. The arrest and confession of A1 Ponnusamy have been proved through PW15 and PW55. Therefore, the charges against A1 Ponnusamy under Section 120-B, 302 IPC r/w 120- B of IPC are proved by the prosecution beyond any reasonable doubt.

179. The conduct of A2 Mary Pushpam before and after the incident and relevant facts have been proved through the oral evidence of PW-1/ Mohan, PW4 / Manikaraj, PW-5 / Bensam, PW-6 / Krishnapillai, PW-9 / Gopinath and PW-10 / Arumuga Sigamani. Therefore, the charges against A2 May Pushpam under Section 120-B, 302 IPC r/w 120-B of IPC are proved by the prosecution beyond any reasonable doubt.

180. A3 Basil had acquaintance with A7 Dr.James Sathish Kumar through his friend Stanley, who was working in the dispensary of A7. Dr.James Sathis Kumar purchased the property of Selvam / PW-33, in the name of his friend Raja for the money owed to A7 and later it was sold to Damodharan and Krishnan with the help of A3 Basil and A5 William. It has been proved through the evidence of PW-12 and PW-33 and also through the Ex.P40 and Ex.P41.

181. A3 Basil had also participated in the conspiracy hatched in the house of A5 William along with his parents A1 Ponnusamy and A2 Mary Pushpam, A3, Basil, A5 William, A7 Dr.James Sathish Kumar, A8 Murugan and A3 Basil gave a memory card to A8 Murugan which contained a photograph of Dr.Subbiah and those facts have been proved through the evidence of PW-12 , the approve, Iyyappan and PW53/ Saiva Vedantha Bharathi.

182. He had also participated in the next conspiracy meeting at the disputed land to eliminate Dr.Subbiah along with other accused. At that time, A4 Boris called him over the phone and agreed to their plan and it was proved through PW4, PW5 and PW12. He deposited a sum of Rs.1,000/-, Rs.50,000/- and Rs.4,90,000/- into the

account of A5 William on 09.04.2013, 24.08.2013 and 29.08.2013 respectively. It has been proved through the evidence of PW42 and the documents Ex.P76 to Ex.P83. Thereafter A5 William transferred those amounts to Veeramani /DW-2, who had withdrawn the amount and gave it to A6 Yesurajan who distributed the same to the hooligans.

183. The enmity between A1 family and Dr.Subbiah family and the motive behind the murder has been clearly proved by the PWs1, 6, 9, 10, 12 and 13. The criminal conspiracy has been established through the evidence of PW-4, PW-5, PW-12, the approver and PW-53 and also through bank transactions and the call detail record and the conduct of A3 Basil before and after the occurrence have been proved through the evidence of PWs1, 6, 9, 10, 12 and 13. Therefore, the charges against A3 Basil under Section 120-B, 302 IPC r/w 120-B of IPC are proved by the prosecution beyond reasonable doubt.

184. The accused A4 Boris was on leave from 08.09.2013 to 12.09.2013 and went to Chennai and made surveillance of the house of Dr.Subbiah and his activities and appraised those facts to the assailants in order to facilitate their criminal act. The enmity between his family and Dr.Subbiah family and the motive behind the murder has been clearly proved by the PWs.1, 6, 9, 10, 12 and 13. When the other accused assembled at the disputed land and conspired between themselves to eliminate Dr.Subbiah, this accused A4 Boris contacted his brother A3 Basil and got the

information through him about the conspiracy and he agreed for the same over phone and it is proved through the evidence of Pw4 / Manikaraj, PW-5 / Bensam.

185. A4 Boris, by providing vital information and instigating the assailants to murder Dr.Subbiah is considered as brutal behaviour which equally dangerous in committing the crime as he facilitated the crime. After closely watching the movements of Dr.Subbiah, narrated the same to the assailants at his native place and it has been proved by the evidence of PW-12 and PW-13. His part in the criminal conspiracy has been proved through the evidence of PW-4,PW-5, PW-12 and PW-13 and also through CDR, withdrawal money through ATM at Chennai (near Dr.Subbiah's house) and also through his leave records. Therefore, the charges against A4 Boris under Section 120-B r/w 109 of IPC, 302 IPC r/w 120-B of IPC are proved by the prosecution beyond reasonable doubt.

186. The accused A5 William along with A3 Basil, assisted A7 Dr.James Sathish Kumar, who sold out the property of one Raja to Damodharan and Krishnan. Also it has been proved through the oral evidence of PW-12 and Ex.P166 that A5 William, received Rs.5,00,000/- as gift during the time of his marriage and also a Marti Alto Car which is in the name of the wife of A7 Dr.James Sathish Kumar for a lower price. He had also participated in the conciliation talks held on 09.06.2013 at the office of PW-6 / Thiru.Krishna Pillai and threatened Dr.Subbiah along with A1 Ponnusamy and A3 Basil, and thereafter A5 William expressed his anger with PW-6 / Thiru.Krishna

Pillai with dire consequences and those facts have been proved through the evidence of PWs.1, 6, 10 and 13 and audio recording of conciliation meeting (Ex.D4).

187. The accused A5 William has participated in the conspiracy, hatched in his house when the co-accused A1, A2, A3, A7, A8, A9, Iyyappan the approver were also present. He only gave a paper with the car number of Dr.Subbiah to the accused A8/Murugan and also showed the visiting card of Dr.Subbiah and narrated the particulars of the deceased and those facts have been well brought out by the approver, PW-12 and also PW-53 / Thiru Saiva Vedantha Bharathi. He had also participated in the conspiracy meeting held in the disputed land to eliminate Dr.Subbiah along with other persons and it has been proved through the ocular evidence of PWs.4, 5 and 12.

188. During the period of conspiracy, A5 William received amounts from A1 Ponnusamy and A3 Basil and transferred the amount into the account of DW-2/ Veeramani of Tiruppur and at his instruction, A6 Yesurajan distributed the said amount to the Henchmen A8, A9 and the approver, Iyyappan and also kept Rs.2,00,000/- for himself. Those facts are sufficiently proved by the prosecution through the oral and documentary evidence of PWs.12, 37, 44 and Ex.P.84 - 111. As stated in the earlier paragraph, A5 used the mobile No.9043823121, registered in the name of one Durairaj and it has been proved through the Exhibits P.89, 95, 97, 98 and 110 and also the call data record / Ex.P.136 shows the nexus between himself and the other co-accused. Conduct of A5 William, before and after the occurrence are proved by the evidence of PWs.1, 4, 5, 6, 7, 8, 9, 10, 12, 13 and 53. The charges against A5

William under Section 120-B, 302 of IPC r/w 120-B of IPC have been proved by the prosecution beyond any reasonable doubt.

189. A6 Yesurajan is a close friend and Henchman of A3 Basil and A5 William. He participated in the conspiracy meeting held at the disputed land to eliminate Dr.Subbiah with other accused and it is proved through PW4, PW5 and PW12. His participation in the crime has also been proved through PW7, PW9, PW12 and PW37. He only informed A8 Murugan and the approver, Iyyappan about the Iron Smith to purchase a knife. A6 Yesurajan received Rs.6,50,000/- from one Veeramani of Tiruppur in which, he took a sum of Rs.2,00,000/- for himself and distributed Rs.1,50,000/- each to the Hooligans A8 Murugan, A9 Selvaprakash and the approver, Iyyappan and it has been proved through PW12 and PW37. The CDR of the mobile number used by A6 Yesurajan / Ex.P140, proved the nexus between himself and other accused. The charges against the A6 Yesurajan under Section 120-B, 302 of IPC r/w 120-B of IPC are proved by the prosecution beyond reasonable doubt.

190. A7 Dr.James Sathish Kumar, conspired with the other accused to kill Dr.Subbiah, when A1, A2 and A5 William promised to pay half of the value of the disputed property, which is worth about several Crores and it has been clearly established through the evidence PW4 / Manikaraj, PW5 / Thiru.Bensan and PW12, the approver, Iyyappan. Also through the evidence of PW12 and PW33, it has been proved that the Henchmen A8, A9 and the approver, Iyyappan helped A7 Dr.James Sathish Kumar in his finance business. It is also proved by the prosecution about the

relationship between A3 Basil and A7 Dr.James Sathish Kumar through one Stanley and the brother of A5 William. Through Ex.P.166 and the oral evidence of PW-12, the approver, Iyyappan, the details of Maruti Alto Car, belongs to the wife of A7 Dr.James Sathish Kumar was given to A5 William at the time of his marriage. A7 Dr.James Sathish Kumar, participated in the conspiracy meetings, hatched in the house of A5 William and at the disputed land, to do away with the life of Dr.Subbiah and it's proved through the evidence of PWs,4, 5, 12 and 53.

191. Further more, A7 Dr.James Sathish Kumar gave Rs.20,000/- to the assailants on 10.08.2013, during the first attempt to murder Dr.Subbiah and on 12.09.2013, he gave Rs.10,000/- to A8 Murugan for the purchase of two wheeler and those facts have been proved through PW-12, the approver, Iyyappan. He came to Chennai and made surveillance for the suitable place for the commission of murder of Dr.Subbiah and also informed the same to the Henchman on 14.08.2013 and it has been substantiated by the evidence of PW-8 /Thiru.Shivaji and PW-12, the approver, Iyyappan. He used two mobile numbers and it's CDR shows the nexus with other co-accused. Therefore, it's found that the charges under Section 120-B, 302 of IPC r/w 120-B of IPC are proved by the prosecution beyond reasonable doubts.

192. The accused A8 Murugan had been working with A7 Dr.James Sathish Kumar and assisted him in the finance business and it's had been proved through PW-12 and PW-33. Through A8 Murugan, A9 Selva Prakash and the approver, Iyyappan came into contact with A7 Dr.James Sathish Kumar. A8 Murugan

participated in the conspiracy hatched in the house of A5 William, where A1 Ponnusamy, A2 Mary Pushpam, A3 Basil, A5 William, A7 Dr.James Sathish Kumar and the approver, Iyyappan were present. He also participated in the another meeting of conspiracy held at the disputed land. He had received the details of Dr.Subbiah from A5 William and it's has been proved by the evidence of PW-12 and PW-53. Apart from this, A8 Murugan, received a memory card from A3 Basil and took a print out of photograph of Dr.Subbiah and it has been established through PW-12 and PW-32. In the month of July 2013, A8 Murgan went to Mela Ariyakulam Village, accompanied by the approver, Iyyappan and purchased M.O.1 Knife and it's has been confirmed by the evidence of PW-12 and PW-31. On 10.08.2013, A8 Murugan received Rs.20,000/- from A7 James Sathish Kumar and went to Chennai along with A9 Selva Prakash and the approver, Iyyappan on 11.08.2013, stayed at in Bakkiam-inn Lodge, when the first attempt to kill Dr.Subbiah was said to have failed and it has been proved through the evidence of PWs.12, 23, 24 and the Ex.Ps.31, 32, 33 and also through M.Os.11, 12 and 13.

193. In the first week of September 2013, A8 Murugan went to Tiruppur along with A6 Yesurajan, A9 Selva Prakash and the approver, Iyyappan, where he met DW-2/Thiru Veeramani and received Rs.1,50,000/- from A6 Yesurajan which is proved by the evidence of PW-12 and PW-37. Also he had received Rs.10,000/- from A7 Dr. James Sathis Kumar on 12.09.2013 and purchased a Pulsar Bike from one Subramanian and it has been proved through the evidence of PW-12, the approver,

Iyyappan and PW-30 / Thiru.Subramanian. Afterwards, A8 Murugan went to Panagudi along with A9 Selva Prakash and the approver, Iyyappan and booked a ticket in Udhaya Travels in the name of Prakash (A9 Selva Prakash) and the bike through a bus namely, Ruban, and it's has been proved through the approver, PW-12 / Iyyappan and PW-36 / Thiru Arumuga Selvan.

194. Further, to execute the murder of Dr.Subbiah, A8 Murugan proceeded to Chennai along with A9 Selva Prakash, the approver, Iyyappan on 13.09.2013 and stayed in Aruna Lodge, Guindy, Chennai and it has been proved through the evidence of PW.12, 27, 28 and Ex.P.34 – 37 and also through M.Os.15 – 17. On the date of occurrence, i.e., 14.09.2013, he went to mechanic shop with the approver, Iyyappan to repair the bike and it's has been proved through PW-12 and PW-26. On the same day, at 5.07 p.m., A8 Murugan attacked Dr.Subbiah with a knife, M.O.1, over his head repeatedly and escaped from the scene of crime and it has been narrated by PW-2 / Thiru.Vinoth Kumar and PW-3 /Thiru.Muthvel and also confirmed by the approver, PW-12 Iyyappan. M.O.9 Hard Disc and Ex.P155 Pen Drive, taken from M.O.9 confirmed the presence of A8 Murugan at the scene of crime and his attack on the deceased Dr.Subbiah. After the occurrence, A8 Murugan went to Mumbai by train and returned on 19.09.2013 and it's spoken by PW-12, the approver, Iyyappan.

195. On the basis of the admitted portion of the confession of A8 Murugan, M.Os.1, 3, 4 were recovered and it has been proved through PW-19 and PW-56 and also through Ex.Ps.14, 20 and 23. The two mobile phones used by A8 Murugan and

his voter identity card along with his Electronic card, Insurance card were produced by PW-39 /Thiru.Radhakrishnan and it has been proved through oral and documentary evidence of PWs.39, 57 and Ex.P49 (Signature in Form-91) and also through M.Os.24 to 26. The CDRs of the mobile number used by A8 shows the nexus between the accused. Through the oral evidence of PWs.2, 3, 12 and Electronic evidence Ex.P155 /Pen Drive, it has been proved that A8 Murugan waylaid and assaulted the deceased and it continued by A9 Selva Prakash during which, the approver, Iyyappan stood in between two cards and thereby restrained Dr.Subbiah in furtherance of the common intention to murder Dr.Subbiah. On the side of the prosecution, it has well established the charges under Sections 120-B, 341, 302 r/w 34 of IPC r/w 120-B of IPC and 302 of IPC beyond reasonable doubts.

196. The accused A9 Selva Prakash had been working with A7 Dr.James Sathish Kumar and assisted him in the finance business and it's had been proved through PW-12 and PW-33. A9 Selva Prakash participated in the meeting of conspiracy held at the disputed land to eliminate Dr.Subbiah along with other persons and it's proved through PWs.4, 5 and 12. On 11.08.2013, he came to Chennai along with A8 Murugan and the approver, Iyyappan and stayed in Bakkiam-inn Lodge, when the first attempt to kill Dr.Subbiah was said to have failed and it has been proved through the evidence of PWs.12, 23, 24 and the Ex.Ps.31, 32, 33 and also through M.Os.11, 12 and 13. In the first week of September 2013, A9 Selva Prakash went to Tiruppur along with A6 Yesurajan, A8 Murugan and the approver, Iyyappan, where he met

DW-2/Thiru Veeramani and received Rs.1,50,000/- from A6 Yesurajan which is proved by the evidence of PW-12 and PW-37. Afterwards, A9 Selva Prakash went to Panagudi along with A8 Murugan and the approver, Iyyappan and to book a ticket in Udhaya Travels in his name as Prakash and took the bike through a bus namely, Ruban, and it's has been proved through the approver, PW-12 / Iyyappan and PW-36 / Thiru Arumuga Selvan.

197. Further, to execute the murder of Dr.Subbiah, A9 Selva Prakash went to Chennai along with A8 Murugan, the approver, Iyyappan on 13.09.2013 and stayed in Aruna Lodge, Guindy, Chennai and it has been proved through the evidence of PW.12, 27, 28 and Ex.P.34 – 37 and also through M.Os.15 – 17. On the date of occurrence, i.e., 14.09.2013, he went to mechanic shop with the approver, Iyyappan to repair the bike and it's has been proved through PW-12 and PW-26. On the same day, at 5.07 p.m., A9 Selva Prakash attacked Dr.Subbiah with a knife, M.O.1, over his head repeatedly and escaped from the scene of crime and it has been narrated by PW.2 / Thiru.Vinoth Kumar and PW-3 /Thiru.Muthvel and also confirmed by the approver, PW-12 Iyyappan. M.O.9 Hard Disc and Ex.P155 Pen Drive, taken from M.O.9 confirmed the presence of A9 Selva Prakash at the scene of crime and his attack on the deceased Dr.Subbiah. Through the oral evidence of PWs.2, 3, 12 and Electronic evidence Ex.P155 /Pen Drive, it has been proved that A9 Selva Prakash wrongfully restrained Dr.Subbiah and made assault and it has been done along with A8 Murugan and the approver, PW-12 Iyyappan in furtherance of the common intention to murder

Dr.Subbiah. After the occurrence, A9 Selva Prakash went to Mumbai by train and returned on 19.09.2013 and it's spoken by PW-12, the approver, Iyyappan. The CDR (Ex.P121) of the mobile number used by A9 Selva Prakash shows the nexus between the accused. The prosecution has established the charges against A9 Selva Prakash under Sections 120-B, 341, 302 r/w 34 IPC r/w 120-B of IPC and 302 of IPC, beyond reasonable doubts.

198. On the basis of the above analysis and the appreciation of the evidence, this court has come to the following inescapable conclusions.

199. A1 to A9 are found guilty of all the charges framed against them. The prosecution has proved all the charges leveled against the accused persons beyond all reasonable doubts.

A1 Ponnusamy is found guilty under Sections 120-B, 302 IPC r/w 120-B of IPC.

A2 Mary Pushpam is found guilty under Sections 120-B, 302 IPC r/w 120-B of IPC.

A3 Basil is found guilty under Sections 120-B, 302 IPC r/w 120-B of IPC.

A4 Boris is found guilty under Sections 120-B r/w 109 of IPC, 302 of IPC r/w 120-B of IPC.

A5 William is found guilty under Sections 120-B, 302 IPC r/w 120-B of IPC.

A6 Yesurajan is found guilty under Sections 120-B, 302 IPC r/w 120-B of IPC.

A7 Dr.James Sathish Kumar is found guilty under Sections 120-B, 302 IPC r/w 120- B of IPC.

A8 Murugan is found guilty under Sections 120-B, 341, 302 IPC r/w 34 r/w 120- B of IPC and 302 of IPC.

A9 Selva Prakash is found guilty under Sections 120-B, 341, 302 IPC r/w 34 r/w 120-B of IPC and 302 of IPC.

200. A1 to A9, have been found guilty are questioned in relation to the sentence of punishment, to be imposed on them under Section 235 (2) of Cr.P.C.

A1 answered as follows: நான் தப்பு செய்யவில்லை, விடுதலை செய்ய வேண்டும்.

A2 answered as follows: எந்த தப்பும் செய்யவில்லை.

A3 answered as follows: உண்மையான குற்றவாளி மறைக்கப்பட்டு, பொய்யாக வழக்கு

ஜோடிக்கப்பட்டுள்ளது.

A4 answered as follows: குற்றவாளி இல்லை, விடுதலை செய்ய வேண்டும்.

A5 answered as follows: எனக்கும் இந்த வழக்கிற்கும் எந்த தொடர்பும் இல்லை. எதிரி

3 பேசில் என்பவருக்கு சட்டப்படியான உதவி செய்ததை தவிர

வேறு எந்த தவறும் செய்யவில்லை.

A6 answered as follows: ஏழையாக இருக்கிற ஒரே காரணத்திற்காக குற்றவாளியாக

காட்டப்பட்டுள்ளேன்.

A7 answered as follows: நான் நிரபராதி.

A8 answered as follows: இந்த வழக்கில் நான் குற்றவாளி இல்லை. பொய்யான வழக்கு.

A9 answered as follows: என் மீது தொடரப்பட்ட பொய்யான வழக்கு. இந்த

வழக்கிற்கும், எனக்கும் சம்பந்தம் இல்லை.

200. This court has considered the submissions made by the Learned Special Public Prosecutor, Counsel for A7 to A9 and A5 party-in-person. No arguments was advanced on behalf of accused A1 to A4 and A6.

201. The Learned Special Public Prosecutor has argued for the extreme penalty of death sentence for the accused stating that the murder was committed with extreme brutality and in a grotesque manner, extreme misery was inflicted on the deceased Dr.Subbiah. It is a broad day light murder executed with hired hooligans. He would further submit that it's a pre-planned, meticulously executed, cold blooded murder and in this case, there is only aggravating circumstances and there is no mitigating circumstance. The Learned Special Public Prosecutor would also refer that the de facto complainant has already mentioned the Judgments in his written argument and it may be considered by the court.

202. The Learned Counsel for the accused A7 to A9 would submit that the offences against the accused were not made out by the prosecution and at the most offence under Section 326 of IPC may be attracted against A7 to A9. None of the accused have argued for lesser punishment.

203. In catena of cases, the Hon'ble Apex Court held that the trial courts are expected to consider all relevant factors into consideration bearing on the question of sentence and proceed to impose a sentence commensurate with the gravity of the offence. Hon'ble Apex Court also opined that sentencing court must hear the loud cry

for justice by the society in cases of heinous crime of murder on innocent, helpless old people that too with motive for gain, and respond for imposition of proper sentence. In

AIR – 2007 – SC - 3225

In State of Karnataka Vs Raju

The Hon'ble Supreme Court has held that

"Public abhorrence of the crime needs reflection through imposition of appropriate sentence by the court. There are no extenuating or mitigating circumstances available on the record which may justify imposition of any sentence less than the prescribed minimum on the respondent. To show mercy in the case of such a heinous crime would be travesty of justice and the plea for leniency is wholly misplaced."

AIR – 2017 – SC - 2161

In Mukesh and another Vs State for NCT of Delhi and others

The Hon'ble Supreme Court has held that

"Society's reasonable expectation is that deterrent punishment commensurate with the gravity of the offence be awarded. When the crime is brutal, shocking the collective conscience of the community, sympathy in any form would be misplaced and it would shake the confidence of public in the administration of criminal justice system. As held in Omprakash Vs State of Harayana (1993-3- SCC -19) The court must respond to the cry of the society and to settle what would be a deterrent punishment for what was an apparently abominable crime."

205. The above proposition, on the quantum of sentence is reiterated in the following Judgments of the Hon'ble Apex Court.

2012 – 8 – SCC – 263

Dayal Singh and Others Vs State of Uttaranchal

2004 – SCC - 75

State of Karnataka Vs Krishnappa

2015 – SCW – 306

Purushottam Dashrath Borate Vs State of Maharashtra

The de facto complainant has extracted relevant paras in the written submission, which has received anxious consideration of this court. For the sake of brevity the relevant portions of above Judgments are not extracted herein. The de facto complainant extracted relevant paragraphs in his written submission which has received anxious consideration of this court.

206. From the evidence on record in the form of oral, documentary, Medical and Scientific evidence, this court arrived at the irresistible and decisive conclusion that the accused person have committed this ghastly crime. Anything less than a penalty of greatest severity for any serious crime is thought to be a measure of tolerance that is unwarranted and unwise. Unless all the accused are punished appropriately and suitably anybody can take the law in their hands and could do dreadful and heinous crime like the instant case.

207. The measure of punishment cannot depend upon the social status of the accused. It must depend upon the conduct of the accused, the status and the age of the person murdered and the gravity after criminal act. Here, the crime of lethal attack upon a renowned Doctor in broad light, in a public road for monitory gain is quite serious in nature. The social economic status, religion, race, caste or creeds of the accused persons are irrelevant consideration in sentencing policy. The protection of society is the object of law and that is required to be achieved by imposing an

appropriate sentence. The theory of deterrence plays a vital role in imposing sentence in criminal jurisprudence.

208. Therefore, undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law and society would not long endure under such serious threats. It is therefore, the duty of every court is to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed as stated by the Hon'ble Apex Courts in *Sevaka Perumal Vs. State of Tamil Nadu* (1991 – 3 - SCC – 471).

209. The Special Public Prosecutor submitted that, this case comes under the category rarest of rare case and all the accused persons deserves Capital punishment. The de facto complainant in his written submission, meticulously analyzed various aspects in this regard and this court takes note of the same.

210. Whether this case comes under the category of rarest of rare case is to be determined for imposing appropriate sentence. There is no dispute that to award death penalty, the court has to weigh the aggravating circumstances against the mitigating circumstances and if there are no mitigating circumstances, then the court is duty bound to apply the Rarest of Rare Test.

211. The law on this aspect has been laid by the Hon'ble Supreme Court of India in the following Judgments.

In *Bachan Singh Vs State of Punjab* (1980 – 2 – SCC – 684),

The Hon'ble Supreme Court has held that "In many cases, the extremely cruel or beastly manner of the commission of murder is itself a demonstrated index of the

depraved character of the perpetrator. That is why it is not desirable to consider the circumstances of the crime and the circumstances of the criminal in two separate watertight compartments."

It was also held that "If the murder had been committed after previous planning and involves extreme brutality or if a murder involves exceptional depravity, it shall be an aggravating circumstance for imposition of penalty of death."

Further in

Machi Singh Vs State of Punjab (1983-3- SCC -470)

The Hon'ble Supreme Court has held that

"In the first place, very humanistic edifice is constructed on the foundation of 'reverence for life' principle. When a member of the community violates this very principle by killing another member, the society may not feel itself bound by the shackles of this doctrine. Secondly, it has to be realized that every member of the community is able to live with safety without his or her own life being endangered because of the protective arm of the community and on account of the rule of law enforced by it.

It was further observed that

"When the community feels that for the sake of self-preservation the killer has to be kill, the community may well withdraw the protection by sanctioning the death penalty. But the community will not do so in every case. It may do so in Rarest of Rare case, when it's collective conscience is so shocked that it will expect the holders of the Judicial Power Centre to inflict death penalty, irrespective of their personal opinion as regards desirability or otherwise of retaining death penalty. The community may entertain such a sentiment, when the crime is viewed from the platform of the motive or, the manner of commission of the crime, or the anti-social or abhorrent nature of the crime, such as for instance:

1. Manner of commission of murder, i.e., when the murder is committed in an extremely brutal, grotesque, diabolical, revolting or dastardly manner so as to arouse, intense and extreme indignation of the community.
2. Whether the victim is subjected to inhuman acts of torture cruelty in order to bring about his or her death.

In Ram Singh Vs Sonia and Others (2007 – 3 – SCC -1)

The Hon'ble Supreme Court once again held that "It would be a failure of justice not to award the death sentence in a case where the crime was executed in the most grotesque and revolting manner."

In Purushottam Dashrath Borate Vs State of Maharashtra (2015 – SCW – 306) The Hon'ble Supreme Court had held that "The accused were found guilty of heinous crime of gang rape, cold blooded murder of victim and attempt to cover up of crime which shocks the collective conscience of the community and the accused have been proved to be a menace to the society. Therein it was held that the accused was happily married and lack of criminal antecedents cannot be considered as mitigating circumstances. That rarest of rare case exists when an accused would be a menace or thread to and incompatible with harmony in society. The measure of punishment in a given case must depend upon the atrocity of the crime, the conduct of the criminal and the defenseless and unprotected state of the victim. The courts must not only keep in view the rights of the criminal, but also the rights of the victim of the crime and the society at large while considering imposition of appropriate punishment."

In 2010 – 9 – SCC – 567

C.Muniappan Vs State of Tamil Nadu

The Hon'ble Supreme Court has held that "Stressing upon the manner of commission of offence, if extremely brutal, the diabolical, ghastly or horrendous. While life sentence should be given in the former, the later belongs to the category of the rarest of rare cases and hence death sentence should be given."

212. It's to be pointed out that though the age is a factor, but it's not a determinative factor, for the purpose of deciding the punishment. The Hon'ble Supreme Court had in many cases held that the young age of the accused is not a determinative factor by itself against the award of the death sentence, rather all the circumstances need to be taken together and proper weightage to be given to each circumstance.

213. The Hon'ble Supreme Court has upheld that the death sentence in the following cases despite the young age of the convict.

- a. Mohammed Ajmal, Mohammed Amir Kasab @ Abu Mujahid Vs. The State of Maharashtra (2012 – 9 – SCC – 1)
- b. Atbir Vs State (NCT of Delhi) (2010 – 9 – SCC – 1)
- c. Vikram Singh Vs State of Punjab (2010 – 3 – SCC – 56)
- d. Shivu Vs High Court of Karnataka (2007 – 4 – SCC – 713)
- e. Jai Kumar Vs State of M.P. (1999 – 5 – SCC – 1)
- f. Dhananjay Chatterjee Vs State of West Bengal (1994 – 2 – SCC – 220)

Similarly, the socio-economic status of the convict are the convict being under any intoxication cannot be the determinative factors in sentencing as has been held in

- a. Shimbu Vs State of Harayana (2013 – 10 – SCALE – 595)
- b. State of Karnataka Vs Krishnappa (2000 – 4 – SCC – 75)

No submission was made by the Learned Special Public Prosecutor that the accused persons had bad antecedents. Anyhow, in the following Judgments, Where the accused were first time offenders, but have been awarded death for the acts, they had committed viz.,

a. Mohammad Ajmal, Mohammad Amir Kasab @ Abu Mujahid Vs The State of Maharashtra (2012 – 9 – SCC – 1)

b. Dhananjay Chatterjee Vs State of West Bengal (1994 – 2 – SCC – 220)

In fine, with the aid of the law laid down by the Hon'ble Supreme Court of India, this court summarize the following aggravating and mitigating circumstances in this case.

The aggravating circumstances are

a. Extreme Brutality and Diabolic nature of the crime and the manner of committing the crime. Offence in the present case has been committed in an extremely brutal, grotesque, diabolical, revolting and thus dastardly manner so as to arouse intense and extreme indignation of society. The brutality caused to head area of the deceased is extreme and the multiple injuries on vital parts as is evidence from the medical evidence on record and hence, the act of the accused persons calls for extreme penalty.

b. Repeated assault with Exceptional Depravity.

The postmortem report reveals the multiple injuries caused to the deceased Dr.Subbiah on his vital body parts was very gory, deep and grievous in nature and it demonstrate the exceptional depravity and extreme brutality. The deceased Dr.Subbiah was a senior citizen and in a helpless situation, the accused persons A8 Murugan and A9 Selva Prakash did not stop even after Dr.Subbiah fell down, but had attacked indiscriminately, caused grievous injuries on his vital parts.

c. Extreme misery was inflicted.

Dr.Subbiah's head and brain were severely injury and the suffering inflicted on the deceased was unparalleled. Dr.Subbiah struggled and gasped for life for 9 days and finally expired on 23.09.2013, inspite of immediate and adequate medical care and thus the Extreme Misery was inflicted upon the deceased Dr.Subbiah before his death.

d. Broad day light murder:

The offence took place at around 5.00 p.m., in a busy road. This broad light murder shook the conscience of the entire society, after pre-meditation and careful planning after the first failed attempt on 14.08.2013 by hired hooligans.

e. Without any fear, the murder was carried out in public place:

The extreme brutal attack was carried out at first Main Road, Raja Annamalaipuram, Chennai-600 028, which is a public road and busy area. The assailants didn't show any humanitarian concern for the deceased, but was brutally attack. They showed their rage and fury for no wrong done by a hapless and unarmed doctor, who is a senior citizen.

f. Grave impact of the crime on social order:

The murder carried out in an extremely brutal, grotesque, diabolical, revolting or dastardly manner so as to arouse intense and extreme indignation of the community. The brutal attack on Dr.Subbiah was captured in a CCTV camera. The CCTV clippings of the dastardly act, sent shocking waves and shivers which deeply touched the piece living public at large. The crime committed by them was inhuman, beastly and merciless. The accused are menace to the society. The pre-planned crime shocks

the conscience of the society and affected the morale and would trigger this crime of a rarest of rare case.

g. It is a Murder for Gain:

In order to grab the disputed land which is worth about Rs.10 crores, Dr.Subbiah was mercilessly killed by the accused persons. The accused persons criminally conspired, meticulously planned and killed Dr.Subbiah in order to grab the property.

h. Paid / hired hooligans were engaged to murder Dr.Subbiah.

It was a well planned, methodically executed offence for monetary gain on motive. Hired killers are used for monetary benefits. A8 Murugan, A9 Selva Prakash and the erstwhile A10 Iyyappan were engaged / hired by the other accused persons to kill Dr.Subbiah. They were paid initial sum of Rs.1,50,000/- apart from miscellaneous amount. This is a pre-planned meticulously executed cold-blooded murder without provocation.

214. Not a trace of concern or comparison was shown for an aged, defenseless human being. No mitigating circumstances to show leniency. The accused A8 Murugan and A9 Selva Prakash, in a most barbaric manner had attacked Dr.Subbiah and caused deadly injuries, thus exhibiting extreme mental perversion not worth of human condonation. In *Purushottam Dashrath Borate and Another Vs State of Maharashtra* (2015 – 6 – SCC – 652), the Hon'ble Supreme Court has held that age of the accused or family back ground of the accused and lack of criminal antecedents cannot be said to be the mitigating circumstance.

215. As the accused persons in pursuance of their criminal conspiracy, brutally attacked Dr.Subbiah, inflicted grave injuries, on the defenseless victim in the broad day light and their unprovoked crime demonstrates the exceptional depravity of mind of the accused. The aggravating circumstances, thus far outweigh the mitigating circumstances.

216. The above said cases of the Hon'ble Apex Court, guides that the Rarest of rare Test largely defense on the perception of the society as to, if it approve the awarding of death sentence to certain types of crimes. The court has to look into the factors like, society's abhorrence, extreme indignation and antipathy to certain types of cases viz., like the case in hand, of brutal murder of a helpless aged Dr.Subbiah.

Our Hon'ble Madras High Court Division Bench in the case of **Daswanth Vs The State**, observed that

"Aggravating factors cannot be ignored and similarly mitigating circumstances have also to be taken into consideration., the measure of punishment in a given case must depend upon the atrocity of the crime, the conduct of the criminal and the defenseless and unprotected state of the victim. Imposition of appropriate punishment is the manner in which, the courts respond to the society's cry for justice against the criminals. Justice demand that courts should impose punishment fitting to the crime, so that the courts reflect public abhorrence are of the crime. The courts must not only keeping view the rights of the criminal, but also the rights of victim of crime and the society at large while considering imposition of appropriate punishment. "

217. The offences with which the accused persons have been held guilty are grave offences against the individual and the society at large. Conspiring and murdering the person who fought legally relating to land dispute is a threat on peaceful

living of a civil litigate in the world. Such brutal murder is committed in the broad day light in the presence of people is highly condemnable act. The gravity of the incident raises goose bumbs of the beastly and unparalleled behaviour. This ghastly act of the accused person definitely would bring this case within the bracket of rarest of rare cases.

218. For the reasonings and findings recorded above, this court is convincingly satisfied that any sentence other than the death would not be commensurate with the gravity of the offence committed and therefore the case of the accused persons squarely falls under the category of rarest of rare case and definitely demands the sentence of death and accordingly on the reasoning recorded above, this court finds that the accused persons are menace to the society and this is a fit case for imposing Capital punishment under Section 302 of IPC. However, this court feels that there are mitigating circumstances available for A2 and A6. Considering their passive role, overtacts, part played in the crime, this court is not inclined to impose Capital punishment for A2 Mary Pushpam and A6 Yesurajan.

In the result,

1. A1 is sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 120-B IPC

A1 is also sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 302 r/w 120-B IPC

2. A2 is sentenced to imprisonment for life and also directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 120-B IPC

A2 is also sentenced to imprisonment for life and directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 302 r/w 120-B IPC

3. A3 is sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 120-B IPC

A3 is also sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 302 r/w 120-B IPC

4. A4 is sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 120-B r/w 109 IPC

A4 is also sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 302 r/w 120-B IPC

5. A5 is sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 120-B IPC

A5 is also sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 302 r/w 120-B IPC

6. A6 is sentenced to imprisonment for life and also directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 120-B IPC

A6 is also sentenced to imprisonment for life and directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 302 r/w 120-B IPC

7. A7 is sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 120-B IPC

A7 is also sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 302 r/w 120-B IPC

8. A8 is sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 120-B IPC

A8 is also sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 302 r/w 34 r/w 120-B IPC

A8 is also sentenced to undergo one month simple imprisonment

for the offence under section 341 IPC

A8 is also sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 302 IPC

9. A9 is sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 120-B IPC

A9 is also sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 302 r/w 34 r/w 120-B IPC

A9 is also sentenced to undergo one month simple imprisonment

for the offence under section 341 IPC

A9 is also sentenced to death, and that he be hanged by the neck, till he is dead, subject to confirmation by the Hon'ble High Court of Madras and he is directed to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) i/d 1 year SI.

for the offence under section 302 IPC

A8 and A9, are directed to be hanged to death subject to the confirmation of the Hon'ble High Court of Madras and this death sentence shall be executed after they undergone the other sentence imposed on them. The other sentence shall run

concurrently. Total fine of Rs.10,00,000/- (Rupees Ten Lacs). Out of the total fine amount, Rs.1,00,000/- is appropriated to the State and balance to be paid to the victim PW-13 / Tmt.Shanthi Subbiah, wife of the deceased, No.23 and 26, 3rd Cross Street, Kumaran Kudil, Thoraipakkam, Chennai-600 097 as compensation under section 357 (2) of Cr.P.C.

The remand period already undergone by the 1st and 2nd accused from 29.09.2013 to 30.12.2013, 3rd accused from 25.09.2013 to 27.12.2013 & 10.10.2018 to 04.08.2021, 4th accused from 25.09.2013 to 27.12.2013, 5th accused 01.12.2014 to 05.02.2015 & 27.08.2018 to 04.08.2021, 6th accused from 13.03.2014 to 13.06.2014 & 10.10.2018 to 04.08.2021, 7th accused 29.01.2014 to 13.05.2014, 8th accused 29.01.2014 to 17.07.2014, 30.11.2015 to 25.11.2016 and 16.07.2021 to 04.08.2021 and the 9th accused 29.01.2014 to 15.07.2014 and 09.04.2018 to 08.06.2018 are ordered to be set off under Section 428 of Cr.P.C.

This court has awarded Capital punishment of death sentence as against A1, A3, A4, A5, A7 to A9, subject to the confirmation by the Hon'ble High Court of Madras. The Head Clerk, is directed to immediately submit the entire case bundles to the Hon'ble High Court of Madras for confirmation of the Capital punishment of death sentence under section 366 Cr.P.C.

Property Order:

The M.O.1 / Blood stained Knife, M.O.2 (series) / Bike Side Mirrors, M.O.3 / Black colour bag, M.O.4 / White based blue and black colour checked half hand shirt

with blood stain, M.O.32 / Blue colour bag, M.O.33/ Black colour Money Purse, M.O.37 / Cement earth piece with blood stain, M.O.38 / Cement earth piece without blood stain, M.O.39 / White colour full hand shirt, M.O.40 / White colour sleeveless Banian with blood stain, M.O.41 / Black colour inner wear (brief jatty) with blood stain and M.O.42 / Black colour Pant with blood stain are ordered to be destroyed, after the appeal time is over or after the disposal of appeal.

M.O.5(series-2) / Marriage Albums of 5th accused, M.O.6 (series-2) / C.D. of 5th accused marriage, M.O.7 / Cellphone-1 No., M.O.8 / Visiting card of Dr.Subbaiah, M.O.9 / Hard disc (Shreshta Subashree Apartments CCTV), M.O.10 / Hard disc (R.R.Donnalli Company CCTV), M.O.11 / Bill Book of Bakiyam-in-Lodge, M.O.12 / Arrival Register of Bakiyam-in-Lodge, M.O.13 / Departure Register of Bakiyam-in-Lodge, M.O.14 / Copy of CD -Demo dated 12.02.2014 from Leela Natarajan, M.O.15 / Bill Book of Aruna Lodge, M.O.16 / Advance Receipt Book of Aruna Lodge, M.O.17 / Arrival and Departure Register of Aruna Lodge, M.O.18 / Bill book of Neo Suzuki Company, M.O.19 / Long size note of Neo Suzuki Company, M.O.20 / R.C. book in Pulsar Bike bearing Reg.No.TN20 J 9995, M.O.21 / Bill Book of Udhya Travels, M.O.22 / Nokia Cellphone, M.O.23 / L.G. Cellphone (Accused No.7), M.O.24 / Electronic Card, M.O.25 / Insurance Card, M.O.26 / Voter Identity Card of A8 Murugan, M.O.27 / Voter Identity Card of A10 Approver Iyappan (PW12), M.O.28 / Tamil Nadu Mercantile Bank ATM card, M.O.29 / Law College identity card of A8 Murugan, M.O.30 / Chief Minister's Insurance Scheme Identity Card of 8th accused's

father, M.O.31 / Hospital card of A8 Murugan, M.O.34 / Demo C.D. recorded by police, M.O.35 (series-2) / Photographs (2 numbers), M.O.36 / CD containing photos are ordered to be retained with the case bundle.

Dictated to the steno-typist, directly computerized by her, corrected and pronounced by me in the open court, this 4th day of August, 2021.

Sd/- S.Alli
I Additional Sessions Judge

Prosecution side Witnesses:

PW - 1	Thiru.A.A.Mohan
PW - 2	Thiru.S.Vinoth Kumar
PW - 3	Thiru.Muthuvel
PW - 4	Thiru. Manikaraj
PW - 5	Thiru.Bensam
PW - 6	Thiru.Krishna Pillai
PW - 7	Thiru B.Muthuraj
PW - 8	Thiru.A.Sivaji
PW - 9	Thiru. K.Gopinath
PW - 10	Thiru.Arumuga Sigamani
PW - 11	Thiru.Jeevan
PW - 12	Thiru.Iyyappan
PW - 13	Tmt.Shanthi Subbaiah
PW - 14	Thiru.Ramu
PW - 15	Thiru.Elumalai
PW - 16	Thiru.J.S.Duraipandian
PW - 17	Thiru.R.Balaji
PW - 18	Thiru.R.John Kennedy
PW - 19	Thiru.Jagadeesan
PW - 20	Thiru.Natarajan
PW - 21	Thiru.K.Karthikeyan

PW - 22	Thiru.S.Kanagaraj
PW - 23	Thiru.R. Vijayakumar
PW - 24	Thiru.G.Chandra Kumar
PW - 25	Tmt.Leela Natarajan
PW - 26	Thiru.S.Jayakumar
PW - 27	Thiru.A.Nazarulla
PW - 28	Tmt.Rosy
PW - 29	Thiru.Eswaran
PW - 30	Thiru.D.Subramanian
PW - 31	Thiru.V.Ramasubramanian
PW - 32	Thiru.K.Robert Vincent
PW - 33	Thiru Selvam
PW - 34	Tmt.Lakshmi Priya
PW - 35	Thiru.Asaithambi
PW - 36	Thiru.Aruumuga Selvan
PW - 37	Thiru.T.Sathiyarayanan
PW - 38	Thiru.Debajyoti Bagchi
PW - 39	Thiru.Radhakrishnan
PW - 40	Thiru.S.P.Bala
PW - 41	Thiru.S.Suresh
PW - 42	Thiru.Varghese Thomas
PW - 43	Thiru.M.Muthukrishnan
PW - 44	Thiru.V.P.Jayaram
PW - 45	Thiru. Thangamani
PW - 46	Dr.Vijay Agustin Jayapaul
PW - 47	Dr.Arun
PW - 48	Dr.K. V.Vinoth
PW - 49	Dr.Sai Sucithra
PW - 50	Thiru.D.Samson Jebadoss
PW - 51	Thiru. Jayavel, Sub Judge
PW - 52	Thiru.Sugumaran

PW - 53	Thiru.Saiva Vedantha Bharathi
PW - 54	Selvi.Neeru
PW - 55	Thiru.N.Elangovan, Inspector
PW - 56	Thiru.Rajesh Kanna, Inspector
PW - 57	Thiru.V.Sreenivasan, Inspector

Prosecution side Exhibits:

Ex.P1	14.09.2013	Complaint lodged by PW1 before E4 Abiramapuram Police Station
Ex.P2	24.02.2014	Statement given by PW3 before XVI Metropolitan Magistrate, George Town, Chennai
Ex.P3	14.09.2013	Observation Mahazar
Ex.P4	14.09.2013	Seizure mahazar of M.O.37 & 38
Ex.P5	29.09.2013	Signature of PW15 only in confession statement given by 1 st accused
Ex.P6	29.09.2013	Signature of PW15 only in confession statement given by 2 nd accused
Ex.P7	07.10.2013	Signature of PW16 only in confession statement given by 3 rd accused
Ex.P8	07.10.2013	Signature of PW16 only in confession statement given by 4 th accused
Ex.P9	13.03.2014	Signature of PW17 only in confession statement given by 6 th accused
Ex.P10	10.02.2014	Admissible portion of confession statement given by 5 th accused
Ex.P11	10.12.2014	Signature of PW18 only in confession statement of 5 th accused
Ex.P12	29.01.2014	Admissible portion of confession statement given by 7 th accused
Ex.P13	29.01.2014	Signature of PW19 only in confession statement of 7 th accused
Ex.P14	29.01.2014	Admissible portion of confession statement given by 8 th accused
Ex.P15	29.01.2014	Signature of PW19 only in confession statement of

		8 th accused
Ex.P16	29.01.2014	Admissible portion of confession statement given by 9 th accused
Ex.P17	29.01.2014	Signature of PW19 only in confession statement of 9 th accused
Ex.P18	29.01.2014	Signature of PW19 only in confession statement of 10 th accused- approver Iyyappan (PW12)
Ex.P19	29/ 30.01.2014	Seizure Mahazar of M.O.1, 3 & 4
Ex.P20	12.12.2014	Seizure Mahazar of M.O.5 to M.O.8
Ex.P21	08.02.2014	Admissible portion of further confession statement of 7 th accused
Ex.P22	08.02.2014	Signature of PW21 only in further confession statement of 7 th accused
Ex.P23	08.02.2014	Admissible portion of further confession statement of 8 th accused
Ex.P24	08.02.2014	Signature of PW21 found in further confession statement of 8 th accused
Ex.P25	08.02.2014	Admissible portion of further confession statement of 9 th accused
Ex.P26	08.02.2014	Signature of PW21 only in further confession statement of 9 th accused
Ex.P27	08.02.2014	Signature of PW21 only in further confession statement of 10 th accused-approver (PW12)
Ex.P28	09.10.2013	Seizure Mahazar of M.O.9
Ex.P29	09.10.2013	Seizure Mahazar of M.O.10
Ex.P30	08.02.2014	Seizure Mahazar of M.O.11 to M.O.13
Ex.P31	13.08.2013	Sl.No.3176 bill in M.O.11 Bill Book
Ex.P32	11.08.2013	Entry dated 11.08.2013 made in M.O.12 Arrival Register
Ex.P33	13.08.2013	Page No.1540, dated 13.08.2013 in M.O.13
Ex.P34	08.02.2014	Seizure Mahazar of M.O.15 to M.O.17
Ex.P35	14.09.2013	Bill No.6032 in the name of 8 th accused in M.O.15 Bill Book
Ex.P36	–	Sl.No.537 in M.O.16 the advance receipt book of Aruna Lodge

Ex.P37	–	Signature of 8 th accused only in page No.13 of M.O.17 Aruna Lodge arrival register
Ex.P38	–	Sl.No.44 in M.O.18 Bill book of Nio Suzuki Company
Ex.P39	–	Note in Sl.No.21 of 3 rd page of M.O.19
Ex.P40	02.01.2013	Xerox copy of Sale deed executed in favour of PW33 Mr.Raja
Ex.P41	21.06.2013	Xerox copy of cash receipt given by Raja in the name of Damodharan and Krishnan
Ex.P42	10.02.2014	Seizure Mahazar of M.O.2 and M.O.21
Ex.P43	10.02.2014	Seizure Mahazar of M.O.18 to 20
Ex.P44	10.02.2014	Seizure Mahazar of M.O.40 & 41
Ex.P45	12.09.2013	Carbon copy of ticket in the name of Prakash in M.O.21
Ex.P46	27.03.2015	Documents issued by Logistics and Cargo Private Limited about 4 th accused
Ex.P47	06.05.2019	Certificate u/s 65-B Indian Evidence Act issued by PW38
Ex.P48	27.03.2015	Requisition letter given by Inspector of Police of E4 Abiramapuram Police Station for the issuance of 65-B Certificate
Ex.P49	13.04.2015	Form - 91 of M.O.22 to M.O.33
Ex.P50	23.02.2015	Bank statement of Veeramani A/c No.706760073 (22 pages)
Ex.P51	13.06.2006	Application with annexures (8 pages) submitted by PW50 for opening of bank account No.706760073
Ex.P52	29.04.2015	Letter sent by PW41 to Abiramapuram Police Station
Ex.P53	29.04.2015	Certificate under Section 65-B Indian Evidence Act issued by PW41
Ex.P54	01.12.2012	Withdrawal slip for Rs.1 Lakh
Ex.P55	28.06.2013	Withdrawal slip for Rs.2 Lakh
Ex.P56	23.07.2013	Withdrawal slip for Rs.50,000/-
Ex.P57	24.08.2013	Withdrawal slip for Rs.1 Lakh
Ex.P58	30.08.2013	Withdrawal slip for Rs.2 Lakh
Ex.P59	02.09.2013	Withdrawal slip for Rs.1 Lakh
Ex.P60	13.09.2014	Withdrawal slip for Rs.1 Lakh
Ex.P61	16.03.2013	Pay in slip for Rs.1 Lakh

Ex.P62	–	Xerox copy Pan Card of R.Maheswaran
Ex.P63	12.04.2013	Pay in slip for Rs.40,000/- paid by R.Maheswaran to B.William's A/c No.860029780
Ex.P64	30.07.2013	Pay in slip for Rs.1,50,000/- paid by R.Maheswaran to B.William's A/c No.860029780
Ex.P65	–	Xerox copy of Pan Card of R.Maheswaran
Ex.P66	02.08.2013	Pay in slip for Rs.40,000/- paid by R.Maheswaran to B.William's A/c No.860029780
Ex.P67	07.08.2013	Pay in slip for Rs.2 Lakh paid by N.Ramamurthy to B.William's A/c No.860029780
Ex.P68	–	Xerox copy of N.Ramamurthy's pan card
Ex.P69	11.04.2015	Requisition letter given by police requesting details of bank account of Ponnusamy
Ex.P70	11.08.2004	Application submitted by Ponnusamy for opening of bank account along with KYC documents (7 pages)
Ex.P71	22.07.2013	True copy of withdrawal slip for Rs.1,50,000/-
Ex.P72	22.07.2013	Application for payment of Ex.P71 amount through NEFT
Ex.P73	–	Bank statement from 01.01.2012 to 06.04.2015 of Ponnusamy's A/c No.025301000010410
Ex.P74	16.04.2015	Certificate under Section 65-B of Indian Evidence Act issued by PW42
Ex.P75	05.06.2006	Application along with annexures submitted by 3 rd accused for opening of bank account
Ex.P76	29.08.2013	Withdrawal slip for Rs.4,90,000/-
Ex.P77	02.09.2013	Withdrawal slip for Rs.8 Lakh
Ex.P78	20.05.2014	Withdrawal slip for Rs.2,98,000/-
Ex.P79	02.05.2014	Pay in slip for Rs.5,000/-
Ex.P80	20.05.2014	Pay in slip for Rs.2,99,100/-
Ex.P81	13.04.2015	Bank Statement issued by PW43 (32 pages)
Ex.P82	16.04.2015	Covering letter by PW43
Ex.P83	16.04.2015	Certificate issued by PW43
Ex.P84	12.12.2014	Covering letter given by PW44 to Inspector of Police
Ex.P85	12.12.2014	Bank Statement of B.William's A/c No.860029780 from

		01.01.2007 to 12.12.2014
Ex.P86	11.04.2015	Requisition letter given by Inspector to Azhagappapuram Indian Bank
Ex.P87	13.04.2015	Covering letter given by PW44 to Inspector
Ex.P88	09.04.2013	Pay in slip for Rs.1,000/-
Ex.P89	27.06.2013	Pay in slip for Rs.2,50,000/-
Ex.P90	22.07.2013	Pay in slip for Rs.2,00,000/-
Ex.P91	24.08.2013	Pay in slip for Rs.50,000/-
Ex.P92	29.08.2013	Pay in slip for Rs.4,90,000/-
Ex.P93	16.09.2013	Pay in slip for Rs.25,000/-
Ex.P94	22.07.2013	Withdrawal slip for Rs.2 Lakh
Ex.P95	07.01.2014	Pay in slip for Rs.1 Lakh
Ex.P96	07.03.2013	Pay in slip for Rs.55,000/-
Ex.P97	15.07.2014	Pay in slip for Rs.5,50,000/-
Ex.P98	27.09.2014	Pay in slip for Rs.70,000/-
Ex.P99	30.07.2014	Pay in slip for Rs.25,000/-
Ex.P100	02.04.2013	Pay in slip for Rs.10,000/-
Ex.P101	27.09.2014	Pay in slip for Rs.70,000/-
Ex.P102	10.09.2014	Cheque bearing No.711030 for Rs.50,000/-
Ex.P103	09.09.2014	Cheque bearing No.711029 for Rs.50,000/-
Ex.P104	08.08.2014	Cheque bearing No.711027 for Rs.50,000/-
Ex.P105	29.07.2014	Cheque bearing No.711024 for Rs.25,000/-
Ex.P106	11.09.2013	Cheque bearing No.711021 for Rs.26,000/-
Ex.P107	05.08.2013	Cheque bearing No.711022 for Rs.60,000/-
Ex.P108	01.08.2013	Withdrawal slip for Rs.50,000/-
Ex.P109	27.07.2013	Withdrawal slip for Rs.1,50,000/-
Ex.P110	02.04.2013	Withdrawal slip for Rs.10,000/-
Ex.P.111	--	65-B Certificate issued by PW44
Ex.P112	—	CDR details in respect of Mobile No.8012113332
Ex.P113	13.07.2011	Application form, ID proof with annexures in respect of Mobile No.8012113332
Ex.P114	—	65-B Certificate issued by PW45

Ex.P115	–	CDR details of Mobile No.9442949333
Ex.P116	–	Application form, ID proof with annexures of Mobile No.9442949333
Ex.P117	–	65B Certificate for Mobile Nos.8012113332 & 9442949333
Ex.P118	–	CDR details of Mobile No.8675111668
Ex.P119	--	Customer Application form, ID proof with annexures of Mobile No.8675111668
Ex.P120	–	65B Certificate for Mobile No.8675111668
Ex.P121	–	CDR details of Mobile No.9488116063
Ex.P122	–	65B Certificate for Mobile No.9488116063
Ex.P123	–	CDR details of Mobile No.9611480122
Ex.P124	–	Customer Application form, ID proof with annexures of Mobile No.9611480122
Ex.P125	–	65B Certificate for Mobile No.9611480122
Ex.P126	–	CDR details of Mobile No.9994110513
Ex.P127	–	Customer Application form, ID proof with annexures of Mobile No.9994110513
Ex.P128	–	CDR details of Mobile No.9789279298
Ex.P129	–	Customer Application form, ID proof with annexures of Mobile No.9789279298
Ex.P130	–	65B Certificate for Mobile Nos.9994110513 & 9789279298
Ex.P131	–	CDR details of Mobile No.9842047105
Ex.P132	–	Customer Application form, ID proof with annexures of Mobile No.9842047105
Ex.P133	–	CDR details of Mobile No.9688381805
Ex.P134	19.06.2009	Customer Application form, ID proof with annexures of Mobile No.9688381805
Ex.P135	–	65B Certificate for Mobile Nos.9842047105 & 9688381805
Ex.P136	–	CDR details of Mobile No.9043823121
Ex.P137	–	Customer Application form, ID proof with annexures of Mobile No.9043823121

Ex.P138	–	CDR details of Mobile No.9688381805
Ex.P139	–	Customer Application form, ID proof with annexures of Mobile No.9688381805
Ex.P140	–	CDR details of Mobile No.7418762838
Ex.P141	–	Customer Application form, ID proof with annexures of Mobile No.7418762838
Ex.P142	–	65B Certificate for Mobile Nos.9043823121, 9688381805 & 7418762838
Ex.P143	–	CDR details of Mobile No.9585140933
Ex.P144	–	Customer Application form, ID proof with annexures of Mobile No.9585140933
Ex.P145	–	65-B Certificate for Mobile No.9585140933
Ex.P146	23.09.2013	Death Certificate of Dr.Subbiah issued by PW46
Ex.P147	23.09.2013	Carbon copy of accident register issued by Royapettah Govt. Hospital, Chennai
Ex.P148	23.09.2013	Postmortem Certificate
Ex.P149	14.09.2013	Accident Register issued by Billroth Hospital
Ex.P150	22.09.2013	First Information Report (Cr.No.467/2013) registered by Anju Gramam Police Station based on the complaint lodged by Gopinath
Ex.P151 (23 pages)	07.02.2014	Identification parade report by PW51
Ex.P152	24.02.2014	Statement u/s 164 (5) Cr.P.C. given by the witness Gopinathan
Ex.P153	24.02.2014	Statement u/s 164 (5) Cr.P.C. given by the witness S.Vinothkumar
Ex.P154	21.06.2013	First Information Report (Cr.No.57/2013) registered by ALGSC Nagercoil Police Station based on the complaint lodged by Dr.Subbiah
Ex.P155	–	Pen Drive containing relevant portion of T1, T2 backup taken by PW-54 from M.O.9 Hard Disc
Ex.P156	19.08.2019	65-B Certificate for Ex.P155 Pen Drive
Ex.P157 (15 pages)	28.05.2014	Lab report with letter sent to XXIII Metropolitan Magistrate by PW54
Ex.P158	27.07.2016	Reply letter with annexure related to M.O.10

Ex.P159	23.09.2013	Inquest Report
Ex.P160	23.09.2013	Section alteration report
Ex.P161	29.01.2014	Report of law section alteration
Ex.P162	14.09.2013	First Information Report (Cr.No.1352/2013) registered by E4 Abiramapuram Police Station based on complaint lodged by PW1
Ex.P163	14.09.2013	Rough sketch
Ex.P164	15.09.2013	Form-91 of M.O.39 to 42
Ex.P165 (3 pages)	–	Encumbrance Certificate for Irachakulam Village S.No.445/5
Ex.P166	–	Print out - Details of Maruthi Alto Car bearing Reg.No.TN 72 AX 5106
Ex.P167	–	Print out – Details of Toyota Fortuner Car bearing Reg.No.TN 22 BR 9010
Ex.P168	15.04.2015	Property Certificate of Agastheeswaran Taluk, Anju Grama Survey No.758/8 and 759A
Ex.P169	28.04.2015	Letter given by ICICI Bank regarding amount drawn by Accused Boris from A/c.No.602301514262 through ATM
Ex.P170	06.03.2014	Forensic Science Report in T.N.1711/2014 BIOL-78/2014
Ex.P171	14.03.2014	Forensic Science Report in CHEM/116/2014
Ex.P172	23.01.2015	Forensic Science Report in T.N.4505/2014 SER/CHE-75/2014
Ex.P173	24.03.2015	Forensic Science Report in T.N.2726/15 CF.22/15

Prosecution side Material Objects:-

M.O.1	Blood stained Knife
M.O.2 (series-2)	Bike side mirrors
M.O.3	Black colour bag
M.O.4	White based blue and black colour checked half hand shirt with blood stain
M.O.5(series-2)	Marriage Albums of 5 th accused

M.O.6(series-2)	C.D. of 5 th accused marriage
M.O.7	Cellphone-1 No.
M.O.8	Visiting card of Dr.Subbiah
M.O.9	Hard disc (Shreshta Subashree Apartments CCTV)
M.O.10	Hard disc (R.R.Donnalli Company CCTV)
M.O.11	Bill Book of Bakiyam-in-Lodge
M.O.12	Arrival Register of Bakiyam-in-Lodge
M.O.13	Departure Register of Bakiyam-in-Lodge
M.O.14	Copy of CD – Demo dated 12.02.2014 from Leela Natarajan
M.O.15	Bill Book of Aruna Lodge
M.O.16	Advance Receipt Book of Aruna Lodge
M.O.17	Arrival and Departure Register of Aruna Lodge
M.O.18	Bill book of Neo Suzuki Company
M.O.19	Long size note of Neo Suzuki Company
M.O.20	R.C. book for Pulsar Bike bearing Reg.No.TN 20 J 9995
M.O.21	Bill Book of Udhya Travels
M.O.22	Nokia Cellphone
M.O.23	L.G. Cellphone (Accused No.7)
M.O.24	Electronic Card
M.O.25	Insurance Card
M.O.26	Voter Identity Card of A8 Murugan
M.O.27	Voter Identity Card of A10 Approver Iyappan (PW12)
M.O.28	Tamil Nadu Mercantile Bank ATM card
M.O.29	Law College identity card of A8 Murugan
M.O.30	Chief Minister's Insurance Scheme Identity Card of 8 th

	accused's father
M.O.31	Hospital card of A8 Murugan
M.O.32	Blue colour bag
M.O.33	Black colour money purse
M.O.34	Demo C.D. recorded by police
M.O.35 (series-2)	Photographs (2 numbers)
M.O.36	C.D. containing photos
M.O.37	Cement earth piece with blood stain
M.O.38	Cement earth piece without blood stain
M.O.39	White colour full hand shirt
M.O.40	White colour sleeveless Banian with blood stain
M.O.41	Black colour inner wear (brief jatty) with blood stain
M.O.42	Black colour pant with blood stain

Defence Witnesses:

DW1	Thiru R.Vijayakumar (6 th accused side)
DW2	Thiru Veeramani (6 th accused side)
DW3	Tmt. Namrata Singh (5 accused side)

Defence side Exhibits:

Ex.D1	23.01.2018	F.I.R. in Cr.No.10/2018 registered under complaint lodged by Sundaram in Thirugurungkudi Police Station
Ex.D2	--	Petition filed by PW12 before XXIII Metropolitan Magistrate Saidapet, Chennai
Ex.D3 (series 8)	12.07.2017	Report of PW54
Ex.D4	–	C.D. with sealed cover from Truth Lab

Ex.D5	–	65B Certificate issued by Truth Labs
Ex.D6	12.12.2014	Form-91
Ex.D7	30.04.2014	Order in H.C.P.(MD) No.260/2014 by the Hon'ble High Court

Court Exhibits:

Ex.C1 (series 8)	17.03.2014	Letter by PW54 with annexures and court letters
Ex.C2	28.03.2014	Acknowledgment for receipt of physical evidence by Truth Labs
Ex.C3	28.03.2014	Invoice of Truth Labs
Ex.C4	06.02.2014	Affidavit by PW56 regarding police custody of 7 to 9 accused
Ex.C5	23.10.2013	Letter of Forensic Science Lab to XXIII Metropolitan Magistrate Court, Saidapet, Chennai

Sd/- S.Alli
I Additional Sessions Judge

Note:

1. A3, A5, A6 and A8 produced. A1, A2, A4, A7 and A9 present.
2. No witness has been withheld for more than 3 times without examination.
3. Death sentence was imposed to A1, A3, A4, A5 and A7 to A9, and life imprisonment and fine was imposed to A2 and A6.
4. No accused has paid any fine.
5. The result has been communicated to the Police Department.
6. The property order has been passed and directed to be entered in the property register.
7. Free copies were furnished to the accused.

8. A1 to A9 have been sent to prison. Orders were issued to submit the copy of the Judgment, in respect of the hanging sentence awarded accused to the Hon'ble High Court, Madras.

Copy To:

1. The Registrar General, High Court of Madras, Chennai.
2. The District Collector, Chennai.
3. The Chief Metropolitan Magistrate, Chennai.
4. The Commissioner of Police, Chennai.
5. The Special Public Prosecutor, I Additional Sessions Court, Chennai.
6. The calender file.

I Additional Sessions
Court, City Civil Court,
Chennai

Draft/Fair/ Copy of

Judgment

in

S.C.No.348/2015

Date: 04.08.2021