(2010) 03 KL CK 0093

High Court Of Kerala

Case No: Criminal A. No. 1403 of 2006

Mohanan	APPELLANT
Vs	
State of Kerala	RESPONDENT

Date of Decision: March 24, 2010

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 313
- Penal Code, 1860 (IPC) - Section 302, 392, 452

Citation: (2010) 3 ILR (Ker) 776

Hon'ble Judges: R. Basant, J; M.C. Hari Rani, J

Bench: Division Bench

Advocate: Sangeetha Lakshmana, for the Appellant; No Appearance, for the Respondent

Final Decision: Dismissed

Judgement

R. Basant, J.

i) Have the circumstances relied on by the prosecution been established by cogent evidence?

ii) Do the circumstances established lead to a safe inference of guilt against the appellant?

iii) Is the accused/appellant entitled to the benefit of doubt?

These are the questions that are raised for consideration in this appeal by the learned Counsel for the appellant Ms.Sangeetha Lakshmana.

2. The appellant/accused has suffered a verdict of guilty, conviction and sentence under Sections 452, 392 and 302 I.P.C. He faces a substantive sentence of imprisonment of R.I for a period of three years, R.I for a period of 10 years and imprisonment for life respectively for these offences. In addition, he has been sentenced to pay a fine of Rs. 1,000/-, Rs. 10,000/- and Rs. 20,000/- respectively for

these offences. In default, he faces the prospect of a sentence of R.I for a period of one year, R.I for a period of two years and R.I for a period of three years respectively for the said offences.

3. The prosecution alleged that on 16/07/1999 at sometime between 11 a.m. and 12 noon the appellant had criminally trespassed into the residential house of deceased Annamma Daniel and had committed theft of MOs 2 to 4 gold ornaments worn by her using force and in the course of that attempt, had caused the death of deceased Annamma Daniel. The prosecution alleged that death was caused by ligature strangulation using a towel.

4. On the basis of Ext.P1 F.I. Statement lodged by PW1, one of the sons of the deceased, PW17 had registered Ext.P1(a) F.I.R at 4.15 p.m. on 16/7/1999. It was registered under the caption ''unnatural death'' and the F.I.R was sent to the Sub Divisional Magistrate. The same had reached the Sub Divisional Magistrate on 19/7/1999.

5. Investigation commenced on Ext.P1(a) F.I.R. In the course of investigation, it was revealed that offences punishable under Sections 452, 392 and 302 I.P.C were committed. Investigation was completed by PW18, the investigating officer who submitted final report raising allegations of having committed offences under Sections 452, 392 and 302 I.P.C against the appellant herein.

6. The learned Magistrate committed the case to the court of Session. The appellant denied the offences alleged against him. Thereupon, the prosecution examined PWs.1 to 18. Exts.P1 to P31 and MOs.1 to 27 were also marked.

7. The accused took up a defence of total denial. According to him, he has an estranged relationship with his wife and the relatives of his wife, in collusion with the relatives of the deceased, were falsely raising incorrect allegations against him. He advanced a suggestion, in the course of the trial, that the deceased may have suffered death at the hands of PW3, another son of the deceased, with whom she was residing at the relevant time. The accused did not examine any defence witness. Ext.D1, a case diary contradiction was marked on the side of the accused.

8. The case rests solely on circumstantial evidence. The prosecution relies on the following circumstances to drive home the charges against the appellant/accused. We enumerate the circumstances below:

i) Deceased Annamma Daniel suffered homicidal death by ligature strangulation with MO9 towel at sometime between 11 a.m. and 3 p.m. at her room in her house.

ii) At the time of her death MOs 2 to 4 ornaments, which she used to wear regularly were found missing from her person.

iii) The accused, the son-in-law of a neighbour (PW8) was available in the locality and was in dire need of money.

iv) The accused was available at/near the house of the deceased and the deceased was last seen alive with the appellant at her house at about 11 a.m. on that day.

v) PW7, a neighbour of the deceased heard the cries of a woman at about 11.30 a.m. on that day when she was in her house.

vi) The accused, after the incident on that day, went away to Chennai by train on that evening.

vii) MOs 2 to 4 were sold by the accused to PW12 at Chennai and the same was recovered under Ext.P23 from the possession of PW12 on the basis of Ext.P23(a) disclosure statement made to PW18 by the appellant.

viii) MO 17 pen, which was allegedly handed over by PW12 to the appellant as a customer when MOs 2 to 4 were handed over by the appellant to PW12, was available with the appellant when he was arrested and the same was seized under Ext.P8 seizure mahazer by PW18 in the presence of PW13.

ix) MO16 (towel) which the appellant was found to wear on the date of the offence was seized from the house of his mother-in-law PW8 after the arrest of the accused when he pointed out the same to PW18, the investigating officer and the said MO16, as per Ext.P6 Expert''s report, had human blood on it.

9. The learned Sessions Judge, on an anxious consideration of all the relevant inputs, came to the conclusion that the prosecution has succeeded in establishing all the circumstances and the circumstances established were sufficient to sail to a safe inference of guilt against the appellant. The circumstances excluded and ruled out any possible hypothesis of the innocence of the appellant, held the court below. Accordingly, the court below proceeded to pass the impugned verdict of guilty, conviction and sentence.

10. Before us, the learned Counsel for the appellant Ms. Sangeetha Lakshmana and the learned Public Prosecutor Sri. Noble Mathew have advanced detailed arguments. While the learned Counsel for the appellant raises the three contentions referred to in paragraph 1 to assail the impugned judgment, the learned Public Prosecutor argues that the circumstances narrated above do, convincingly and without any reasonable doubt, establish the culpability of the appellant.

11. An appellate judgment is and must be read as a continuation of the judgment of the trial court. The learned Sessions Judge has adverted to all the relevant pieces of evidence - oral and documentary as also all relevant matters in the impugned judgment. It is not necessary, in these circumstances, for us to attempt to re-narrate such pieces of evidence and matters that were placed before the court below. Suffice it to say that the learned Public Prosecutor has taken us in detail through all the evidence - oral and documentary and materials available in this case. Our attention has also been drawn to all other relevant matters including the charge framed and the statements given by the accused when he was examined u/s 313

Cr.P.C. We shall, in these circumstances, proceed to consider the challenge raised on the grounds narrated straight away. Reference shall be made to the relevant oral and documentary evidence as and when necessary in the course of our discussions.

12. It is unnecessary to refer to precedents. We need only say that it is trite and well established that, in a case resting on circumstantial evidence, the burden is heavy on the prosecution to prove all circumstances by cogent and acceptable evidence beyond doubt. Such circumstances must constitute strong links by themselves. The links together must constitute a strong chain. The resultant chain must lead to an unerring conclusion of the guilt of the accused. Such chain must also exclude any reasonable hypothesis of innocence of the appellant. The individual circumstances may be capable of different interpretations; but what is crucial to ascertain is whether the resultant chain points to any inference other than the inference of guilt against the accused. If there be any reasonable doubt on that aspect, the same will readily have to be conceded to the appellant/accused.

13. We shall initially consider the nine circumstances which we have already narrated. We note that the court below does not appear to have been cognizant of the importance or relevance of circumstance No. 8 referred above. The learned Public Prosecutor Sri. Noble Mathew wants us to take note of that circumstance also while considering whether the prosecution burden has been satisfactorily discharged in this case. We shall now proceed to consider the nine circumstances referred above. We shall initially consider whether those circumstances have been established satisfactorily as is expected of the prosecution in a criminal trial. We will then consider whether these circumstances point to the guilt of the accused unerringly.

14. The first circumstance relied on by the prosecution is that the deceased had met with homicidal death at about 11 a.m. to 3 p.m. at her house. Ext.P1 F.I. statment, Ext.P12 inquest report, Ext.P2 postmortem certificate and the oral evidence of witnesses to prove these documents show beyond the trace of any doubt that the deceased had met with homicidal death at her house at some time between 11 a.m. and 3 p.m. There is not a semblance of doubt on this aspect. We do not think it necessary to delve deeper into the oral and documentary evidence above referred. Suffice it to say that we are convinced that this first circumstance is established beyond doubt by the prosecution. The defence also does not have any dispute with regard to this first circumstance and that is why we think it unnecessary to embark on a more detailed discussion. MO9 (towel), which was found near the dead body, it is evident from the Expert''s evidence, was used to apply ligature strangulation. The fibres found on the cellophane tapes used to wrap the neck and the palms of the deceased had fibres in it which corresponds to the fibres in MO9 (towel). We do, in these circumstances, conclude beyond doubt that the deceased had met with her death at some time between 11 a.m. and 3 p.m. at her house on 16/7/1999 by ligature strangulation with MO9 (towel).

15. The second circumstance relied on by the prosecution is that MOs 2 to 4 gold ornaments which the deceased used to wear were found missing when she was so found dead. We have satisfactory evidence coming forth from PWs. 1, 2, 3 etc. on this aspect. It is, of course, true that male children of the deceased had tendered evidence about the ornaments worn by the deceased. She had female children also. One was available, admittedly, at the house of the deceased immediately after the occurrence. She had not been examined; but notwithstanding that inadequacy, we find absolutely no trace of doubt left that MOs 2 to 4 ornaments of the deceased were found missing when she was found dead inside her house. Even in Ext.P1 F.I. statement, we find this fact asserted by PW1. We are, in these circumstances, satisfied that it can safely be assumed that MOs 2 to 4 were ornaments which the deceased was wearing and that when she was found lying dead, these ornaments were missing. Circumstances 1 and 2 very strongly indicate that death of the deceased must have been caused by the miscreant, whoever he be, for the purpose of gain - i.e. to rob her of MOs2 to 4.

16. The prosecution wants to rely on the 3rd circumstance that the accused, a neighbour, was in dire need of money. It is the case of the prosecution spoken through PW8 and others that Sobha, wife of the appellant and the daughter of PW8, had gone to Chennai along with the appellant herein. They were residing there. Their children - PW15 and a younger girl of about 8 years were residing along with PW8 in her house. It is the case of the prosecution spoken through PW8 and PW15 that the accused had come back to the native place, a couple of days earlier. They were led to believe that the accused was in Chennai where he was employed. Under this third circumstance, what is important is that the evidence of PWs. 5, 8 and 15 that the accused was available in the house of PW8 on that date that is 16/07/1999 and that he was short of cash to purchase the railway ticket to enable him to return to Chennai where he was employed. We have the evidence of PW5, an uncle of the wife of the appellant, PW8, the mother-in-law of the appellant as also PW15, the son of the appellant to show that the accused was short of cash and had sought financial assistance from persons like PWs. 5 and 8 to raise amounts to enable him to return to Chennai. Suffice it to say that, we are satisfied that the 3rd circumstance - that the deceased was hard pressed for money at the relevant time is established. He did not have money even to find his way back to Chennai, his place of work. The court below has referred to this as motive. The terminology may be inappropriate. Want of money or the dire need of money cannot be reckoned as motive for the appellant against the deceased; but that can be reckoned as motive for the conduct of robbery, for which the miscreant in this case whoever he be must necessarily have committed the indiscretion. To this extent, the 3rd circumstance is also satisfactorily established by the prosecution.

17. The 4th circumstance relied on by the prosecution is that the accused was available in the locality on 16/07/1999 and the deceased was last seen with him on that day. The accused denied this circumstance totally. According to him, he was not

available in the locality on that day. He takes the stand that he has an estranged relationship with his wife Sobha. Sobha had eloped with another person, one Krishnan Kutty, long prior to the incident in this case. Her whereabouts are not known. PWs.5, 8, 15 and other relatives of Sobha were entertaining ill will and malice against the appellant on that score. According to him, this is the reason why PWs. 5, 8 and 15, who are all related to his wife, are speaking falsehood against him. It is, in these circumstances, contended that the oral evidence of PWs. 2, 5, 8 and 15 must be discarded.

18. We have indications to suggest that the accused may now be having a strained relationship with his wife. But the evidence on record clearly suggests that at the relevant time, the appellant and his wife had gone to Chennai leaving their children PW15 and his younger sister with PW8. Even going by the version of the appellant, he had come to the native place in an attempt to take away his son PW15 and his younger sister to the place where he resides to admit those children in the school nearby. According to him, his mother-in-law and brother-in-law (as also the children) were not willing to send the children with him. This had further strained the relationship between him and his in-laws as also his children.

19. We have gone through the evidence available in the case. We have the evidence of PWs. 2, 6, 7, 8, 15 etc. to indicate that the accused was present on that day in the locality. Notwithstanding the valiant attempt made by the appellant to deny his presence, we find it easy and safe to come to a conclusion that the appellant was available in the locality on that morning and till evening. The evidence of PWs. 2, 6, 7, 8 and 15 clinch the issue on this aspect. We find no merit in his contention that he was not available in the locality on that day at all.

20. Two witnesses gave evidence about the presence of the accused at or near the house of the deceased at about the time when the deceased could have suffered the fatal injuries. PW2, the son of the deceased and a neighbour PW6 had allegedly seen the appellant at about 12.30 p.m. According to the prosecution, the murder of the deceased had taken place by then and the deceased, after taking bath in the stream nearby, was seen by PW2, going away from the locality. PW6, a JCB driver, who was in the locality also claimed that he had seen the appellant at 11 a.m. in the house of the deceased along with the deceased. According to him, at 11 a.m., he had to go back to his house to take some article which was required to operate his J.C.B. While he proceeded to his house at 11 a.m, he allegedly found the deceased and the appellant near the veranda of the house of the deceased. It is the further case of PW6 that as he was returning from his house at about 12 noon, he had seen the appellant going away from the locality. According to the prosecution, at the time PW6 saw the appellant at about 12 noon, the death of the deceased had already taken place and the accused was going away from the area.

21. The learned Counsel for the appellant argues that PW2 must be disbelieved for the reason that he is the son of the deceased. The learned Counsel for the appellant

further argues that PW1''s evidence must be approached with doubt and suspicion because there is every possibility that PW3, another son of the deceased, who was living with the deceased, may have caused the murder of the deceased. We reckon this suggestion in the realm of pure fiction with absolutely nothing tangible to indicate, suggest, probabilise or prove the acceptability of such a weird theory. We do not accept the contention that PW2 was having any motive to speak falsehood against the appellant. So far as PW6 is concerned, the contention is repeated that he is the paternal cousin of PW1 and that the relatives of the deceased have an interest in saving PW3, the son of the deceased from the responsibility for the offence committed. We have already noted that this theory has no legs to stand on. We are, in these circumstances, in agreement with the court below that the oral evidence of PWs. 2, 6, 8 and 15 indicate the presence of the accused in the locality on that day. The evidence of PWs.2 and 6 specifically indicate his presence near the house of the deceased at the relevant time. The evidence of PW6 further shows that the deceased was last seen alive with the appellant at 11 a.m. on that morning. We have evidence from PW7 that the deceased was found alive and healthy at 7.30 a.m. and 10.30 a.m. on that day. The presence of the appellant in the locality and the fact that the deceased was last seen with the appellant at about 11 a.m. at the house of the deceased - the venue of the crime is strongly indicated and established by the prosecution evidence. We reckon this 4th one as a very relevant circumstance against the appellant.

22. We now come to circumstance No. 5. PW7 is a neighbour. The learned Public Prosecutor requests the court to peruse Ext.P9 observation mahazer as also Ext.P26 sketch. We get clear indication that the house of PW7 is the closest house of the deceased; but it lies on the other side of the canal. The evidence of PW7 shows that at about 11.30 a.m. on that day, she heard a cry of a woman when she was inside her house. She looked out; but she could not perceive anything tangible. She hence ignored the same. The prosecution relies on this evidence of PW7 in support of its theory that the death of the deceased by strangulation must have taken place at sometime between 11 a.m. and 12 noon. PW7 had tendered evidence on that aspect. We find no reason to disbelieve the evidence of PW7. This circumstance also is relied on by the prosecution heavily. We note that this circumstance is also in tandem with other circumstances relied on by the prosecution.

23. As the 6th circumstance, the prosecution relies on the conduct of the appellant leaving the locality on that very afternoon for Chennai. On this aspect, we have the evidence of PWs.8 and 15, the mother-in-law and son of the appellant. The appellant stoutly denies this circumstance and disputes the evidence of PWs.8 and 15. We find absolutely no reason not to concur with the court below in its conclusion that the oral evidence of PWs.8 and 15 on this aspect can safely be believed. The fact that the appellant had left the locality by 1.30 p.m. along with his son PW15, who had escorted him to the Chengannur railway station, by itself may not point to the culpability of the appellant. Even going by the evidence of Pws. 5, 8 and 15, the

appellant did want to return to Chennai and was attempting to raise amounts to facilitate purchase of train ticket to return to Chennai. The circumstance, by itself, may not be a conclusive; but the circumstance is well established and the attempt to deny the circumstance by the appellant is far from convincing. We have been taken through the evidence of PWs. 8 and 15 in detail. We note particularly the evidence of PW15, the son of the appellant. We find not a semblance of doubt on the acceptability of the oral evidence of PWs.8 and 15 on this aspect. We accept such evidence to conclude that the appellant, on that afternoon, was escorted by his son PW15 to the Chengannoor railway station where from he boarded the train to Chennai to return to his place of work. This circumstance is strongly established by the evidence of the prosecution.

24. We shall deal with the 7th and 8th circumstance relied on by the prosecution together. According to the prosecution, the appellant had left for Chennai on that afternoon. He had so returned after the deceased had breathed her last. Suspicions were aroused and the police immediately wanted to get the appellant to facilitate his questioning and ascertainment of details. The investigating officer, therefore, immediately sent PW16 to Chennai. PW16 had allegedly gone to Chennai along with Anilkumar, the brother-in-law of the appellant as also the child daughter of the appellant. It is the case of PW16 that he went along with the brother-in-law and the daughter of the appellant and was able to trace the appellant at Chennai. According to PW16, his intention and his brief was only to bring back the appellant to the investigating officer to facilitate ascertainment of details. According to PW16, he did not interrogate the appellant; but ensured that the appellant returned along with him, his brother-in-law and his daughter to the investigating officer. It is the case of PW16 that the wife of the appellant was available at Chennai at that point of time. Be that as it may, PW16''s evidence and Ext.P11 report submitted by him show that PW16 had gone to Chennai, had traced the appellant and had brought him back to the locality to facilitate ascertainment of details from the appellant by PW18. PW16 went on 17/7/1999, reached Chennai on 18/07/1999, returned along with the appellant on the same night and the appellant was taken to PW18 on 19/7/1999. The brother-in-law of the appellant was not available to be examined as he had gone abroad to take up employment. The child daughter of the appellant was not examined. This non-examination is not crucial or vital. The evidence of PW16 cannot be doubted or suspected for that reason.

25. We have the evidence of PW18 that he interrogated the appellant. The appellant, in the course of interrogation, allegedly made a confession statement. In such statement, he allegedly disclosed to PW18 that he had disposed of MOs 2 to 4 to a person at Chennai. Ext.P23(a) is the disclosure statement. PW18 had produced the appellant after his arrest before the learned Magistrate on 20/7/1999 along with the remand report Ext.P21. It is of crucial relevance that the confession statement Ext.P23(a) is extracted in Ext.P21 remand report. PW18 had submitted Ext.P22(a) affidavit and Ext.P22 report before the learned Magistrate to hand over the

appellant to the custody of PW18 to facilitate recovery of MOs.2 to 4 in accordance with the disclosure statement given by the appellant. The learned Magistrate handed over the custody of the appellant to PW18 on 20/07/1999. He was to be returned on 27/7/1999. PW18 proceeded to Chennai along with the appellant and there, PW12 was allegedly traced by PW18 on the basis of the information furnished by the appellant and with the assistance of the local police. PW12 allegedly identified the appellant as the person who had handed over MOs.2 to 4 to him. MOs 2 to 4 were seized under Ext.P23 recovery mahazer by PW18 on 21/7/1999 at 5.30 p.m. from the possession of PW12. Two witnesses, including a local Malayalee, had signed as attesters to Ext.P23. PW18 returned from Chennai along with the appellant and MOs.2 to 4. The appellant was produced back before the learned Magistrate. PW18, as pointed out by the appellant, had recovered MO15 (lungi) and MO16 (towel) from the residence of PW8, the mother-in-law of the appellant on 20/7/1999. The evidence of PW12 shows that a person had sold MOs.2 to 4 to him. He has not been able to produce any document to prove that transaction. But, according to him, the person, who sold MOs.2 to 4, took the consideration not entirely in cash. Some amount was handed over in cash. For the balance, other ornaments were given in exchange. PW12 was not able to identify the person who sold the ornaments in court. According to him, on account of passage of time, he was unable to identify such person. But he tendered evidence that the person who sold the ornaments was taken by PW18 to him when PW18 came to recover MOs 2 to 4 and seized the same under Ext.P23. Thus, though PW12 does not, in court, identify the appellant, his evidence, read along with the evidence of PW18 and the contemporaneous document Ext.P23, clearly reveal that it was the appellant, who sold MOs.2 to 4 to PW12 and he was the one who was present along with PW18 when MOs.2 to 4 were recovered under Ext.P23.

26. The prosecution wants to further support the evidence of recovery by the production of MO17. When the appellant was arrested on 19/7/1999, he had, in addition to other personal belongings, a pen which was seized by PW18 under Ext.P8 in the presence of PW13, one of the attesters. According to PW12, MO17, which have markings in Tamil on it, were given by PW12 to customers, who have transactions with him, as a compliment. According to PW12, the person who sold MOs.2 to 4 was also given that article i.e. MO17 pen as a compliment of his establishment. Ext.P8 prisoner''s search register, in which PW13 has also signed as an attester, confirms the evidence of PW18 on this aspect.

27. The learned Public Prosecutor contends that these pieces of evidence must convincingly establish that it was the appellant who sold MOs.2 to 4 to PW12 and that the appellant had received MO17 from PW12 when that transaction took place. The seizure of MO17 at the time of arrest on 19/7/1999 under Ext.P8 and the later recovery of MOs.2 to 4 from PW12 under Ext.P23 on the basis of Ext.P23(a) information furnished by the appellant must clinch the issue, argues the learned Public Prosecutor. The learned Counsel for the appellant, on the contrary, argues

that recovery of MOs.2 to 4 cannot be accepted at all. The version of PW18 on this aspect cannot be accepted, argues the learned Counsel for the appellant. No attesters to Ext.P23 has been examined. The evidence of PW12 cannot be accepted. The evidence that MO17 was recovered from the appellant at the time of his arrest, cannot be accepted. In these circumstances, the learned Counsel for the appellant prays that the evidence of PWs.12 and 18 on the aspect of recovery of MOs.2 to 4 under Ext.P23 and recovery of MO17 under Ext.P8 must be discarded. We do not find any force in this contention. PW18 is a public official and we find not a semblance of reason to approach his testimony with any amount of doubt, distrust or suspicion. PW12 is a person at Chennai. We find absolutely no reason for PW12 to oblige the police to make out a false case against the appellant. The fact that the attesters to Ext.P23 have not been examined is, not according to us, such a clinching circumstance as to persuade the court to throw overboard the evidence of recovery of MOs.2 to 4 and MO.17 spoken to by PW18 and PW12. It must be seen that when MO17 was seized under Ext.P8, PW12 had not even been identified and the availability of MO17 with the appellant at the time of his arrest on 19/7/1999 goes miles to assure this Court of the acceptability of the version of PW12 and the evidence of PW18 about the recovery of MOs.2 to 4 from PW12. The learned Counsel for the appellant argues that the original of Ext.P8 has not been produced before court. We find this submission to be factually incorrect in the light of the evidence of PW18 recorded by the court below. Of course, the register had been returned by the court to the police retaining with the court Ext.P8 photocopy after convincing itself that it is the copy of the original. It may have been ideal to keep the register itself in court and substitute the same with the certified photostat copy. But that inadequacy does not, in any way, persuade us to ignore or overlook the significance and importance of circumstances 7 and 8 relied on by the prosecution. We reckon circumstances 7 and 8 as having been established convincingly and beyond doubt. Those circumstances, according to us, constitute formidable circumstances against the accused. They are vital links in the chain that is established pointing to the guilt of the accused.

28. The 9th circumstance relied on by the prosecution is the recovery of MO16. According to the prosecution, as per Ext.P10 seizure mahazer in the presence of PW14, a (towel) was recovered by PW18 from the house of PW8, the mother-in-law of the accused. This (towel) was found by PWs. 2 and 6 in the possession of the appellant when they saw him on the date of the occurrence at about 12 to 12.30 p.m. MO16 (towel) was sent to the expert and the expert reported that there was blood stain on MO16. It was human blood; but the quantity was insufficient for grouping. Inasmuch as there is no identification that the blood found on MO16 was that of the deceased, crucial importance or significance cannot be attached to this circumstance. That circumstance has been established; but by itself, we are unable to reckon that as a crucial circumstance.

29. The crucial question is whether these nine circumstances are sufficient to point to the guilt of the appellant. The learned Counsel for the appellant relies on various other circumstances to contend that this Court must certainly entertain a reasonable doubt on the acceptability of the very case of the prosecution. The learned Counsel for the appellant repeats that, in this case, we have two sets of witnesses primarily to speak against the appellant. They are the relatives of the deceased on the one hand and relatives of the estranged wife of the appellant on the other. The learned Counsel for the appellant argues that both these sets of witnesses are unreliable and safe reliance cannot be made on their testimony to fasten culpable liability on the appellant. The learned Counsel for the appellant points out that right from the examination of PW1, the appellant has been harping on the theme that his wife had eloped with another and the relatives of the wife were antagonistic to him on that score. Similarly, the learned Counsel for the appellant advances a contention that the relatives of the deceased have an interest in protecting PW3. The learned Counsel for the appellant argues this on the basis of the statement of his brother PW2 that there used to be quarrels and disputes between the deceased and PW3.

30. Not an iota of doubt is raised in our mind on the basis of this theory laboriously built by the defence. PW3, it is evident from the materials available, had left the house long earlier on that day and the deceased was alone in her house. The theory that PW3 must have caused the murder of the deceased, even before he left his house, is totally unacceptable. The bottom is knocked out of this theory when we consider the evidence of Pws.1, 2, 3 and also PW7 which indicate that the deceased was alive and active long after PW3 left his house for his place of work - i.e. the shop of his brother PW1. The theory that the relatives of the deceased have any axe to grind against the appellant, therefore, has no legs to stand on. The same deserves to be rejected. The theory of animosity of the relatives of the estranged wife of the accused has also been canvassed very seriously. It is true that the investigating officer has not been able to trace the wife of the accused. That is relevant in another context also. It is the case of the prosecution that the gold ornaments, which were got in exchange as part of the consideration for MOs.2 to 4, were assumed to be handed over by the appellant to his wife Sobha at Chennai. In an attempt to trace such ornaments, which could have supported the evidence of PW12, the investigation appears to have considered the possibility of tracing the wife of the appellant. The said wife Sobha, it appears, was not traced by the investigating officer though we have some statements from PW1 that the said Sobha was found in the house of PW8 later. Be that as it may, we find absolutely no probability in the argument that the relatives of the appellant, including his mother-in-law and his son PW15, would, in any way, be interested in falsely implicating the appellant in such a serious indictment like the instant one. Those suggestions remain in the realm of unsubstantiated fanciful theory without anything tangible to link such theories with terra firma. The theory cannot be accepted at all and the same does not succeed in

generating any reasonable doubt in the mind of the court in favour of the appellant.

31. The circumstances which we have discussed above and which we have chosen to accept clearly and unmistakably point to the guilt of the accused. It is not the number of circumstances that matter in a case built on circumstantial evidence. It is the crucial and significant nature of the circumstances that do really matter. That the deceased died on account of homicidal injuries - ligature strangulation, is established. That the appellant was badly in need of money is proved. That the appellant was available in the locality and was seen along with the deceased at/near the house of the deceased is also established satisfactorily. That PW7 heard the cries of a woman at about the time when the deceased may have suffered the injuries is also proved convincingly by the evidence of PW7. That the appellant went away from the locality to Chennai by boarding a train from Chengannur railway station, is established by the evidence of PW15. In this background of other circumstances, we have to consider the evidence of recovery of MOs.2 to 4 under Ext.P23 on 20/7/1999 and the recovery of MO17 from the appellant on the date of his arrest that is 19/07/1999 under Ext.P8. These circumstances clearly and convincingly establish the guilt of the appellant.

32. We concur with the conclusion of the court below. We hold that the circumstances have been established satisfactorily as discussed above and the circumstances must lead a prudent mind to an unmistakable conclusion that the appellant is guilty of the offences alleged against him. No reasonable doubt is aroused in the mind of the court.

33. Coming to the sentence imposed, we take note of the nature of the allegations proved. We take note of the depravity of the mind of the offender. We are not satisfied that, in any view of the matter, the sentences imposed on the appellant deserve to be modified or reduced.

34. In the result,

a) This Crl.Appeal is dismissed.

b) The impugned verdict of guilty, conviction and sentences imposed on the appellant for the offences punishable under Sections 452, 392 and 302 I.P.C. are upheld.