Points from the Appeal Judgment in the High Court

In the appeal judgment from the High Court, the judges admit several elements of evidence that were shown to be inadmissible during the trial. Even the District Court judge does not accept them, with one exception: the spare part allegedly belonging to my car.

In the appeal judgment, it is accepted an element that even the police does not admit: the tyre marks seen near the crime scene do not match with the tyres of my car, but these judges state that they do.

Follows a list of some important points:

Para. 2: PW 1 said that “there was a small spare part of a motor car”. This is correct: she said it was a small box. But the spare part shown by the prosecution is large and flat, not a small box.

Para. 14: PW 39 said that Antoine Vantelon said that the deceased planned “to come back to Kerala along with her daughter to spend time during the Summer vacation”. But Antoine Vantelon was not examined. Moreover, the emails between the deceased and me show that she planned to come back to take our daughter on 20.4.2012; and the letter from VPMM Matriculation School shows that our daughter had exams till 18.4.2012. Both the emails and the letter from the school are marked as evidence in the case.

Para. 16: PW 3 “saw the burnt body” at 11:00 pm, but he did not inform anyone till 5:00 am. This makes no sense. Moreover, the depositions of PW 3 and PW 4 contradict this statement.

Para. 25: there is an errata. It reads “head split noted in the front of left lower thigh”, but it must read “heat split noted in the front of left lower thigh”, as stated in the postmortem report.

Para. 46 (ix): it is stated that the prosecution “relied on the evidence of PW 27” to affirm that the tyre marks found near the crime scene match with the tyres of my car, but PW 27 stated that the result was inconclusive.

Para. 49: it is stated that “It was also noticed that there was a travel bag near the place”. But no travel bag is marked as evidence for the case.

Para. 52: same errata is repeated. It reads “head split noted in the front of left lower thigh”, but it must read “heat split noted in the front of left lower thigh”, as stated in the postmortem report.

Para. 54: the chief examination of both PW 3 and PW 4 contradicts all this, but the judges accept it.

Para. 57: the facts stated as “discernible” do not correspond with the evidence of the case, and contradict the chief examination of PW 3 and PW 4.

Para. 58: PW 1 “saw very specifically (...) a travel bag”. No travel bag is marked as evidence in the case.

Para. 59: it is mentioned “a travel bag (...) found in that place”, and that “the travel bag (was) later seized by PW 40”. No travel bag is marked as evidence for the case. M.O. 17, mentioned here, is a metal wire which allegedly belonged to a travel bag.

Para. 69: it is stated that my car had belonged to PW 8. This is false, and is not even affirmed by the prosecution. Neither PW 8 nor PW 20 said that.

Para. 75: it is stated that PW 16, 17, 18, and 19 were examined by PW 40 on 29.4.2012. This is false. They were examined on 28.6.2012, and their statements reached the court much later (I believe it was in August 2012).

Para. 76: it is stated that “The report was received that the both tyre marks matched”. The forensic report clearly affirms that it is inconclusive.

Para. 79: the call details from my phone number are considered as evidence. The police presented the printout of an Excel file, without seal or signature from the telephone company. The evidence is inadmissible (and false).

Para. 82: it is stated that “But the car was seeing going out only on 10.4.12 at 3:00 pm”, giving the idea that it did not go out on other days. The car went out every day at least twice, to take my daughter to school and pick her up. We also left the university often to take lunch or dinner in Krishnankovil or Srivilliputtur, and to buy groceries in those settlements. I believe that the depositions of PW 16, 17, 18, and 19 support this.

Para. 82: it is stated that “Incidentally that particular spare part was found missing in the car of the accused”. Only the police affirms this; without independent witnesses, this cannot be admitted as evidence.

Para. 82: it is stated that PW 20 said that he sold the car to PW 8. This is false. I bought the car directly from a second hand car vendor, and both PW 8 and PW 20 confirm the fact.

Para. 82: it is stated that “That the car had also been at the scene of crime (...) was further established by comparison of tyre marks namely M.O 20 with M.O. 8 - M.O. 13”. The comparison of the tyre marks with the tyres of my car does not yield conclusive results.

Para. 82: it is stated that “Thus, a direct and strong chain with perfect unbroken links has been established that (...) the dead body had been taken by the accused in his car from Staff

Quarters Kalasalingam University to Thoppur Kanmai and burnt there". This is a chain built upon inadmissible evidence, part of which is not even accepted by the prosecution.

Para. 85: it is stated that "the prosecution had recovered the knife from the residence of the accused". But no knife injury is mentioned in the postmortem report. A "heat split" is mentioned, which could have been confused with a knife cut by the police at the time of writing my "confession". Additionally, it is easy to see that it is not a real confession, as I allegedly mention the precise address (street and number) of several petrol bunks, in a city I barely knew.

Para. 93: it is stated that "That her dead body was transported in the car of the accused is a fact proved". Such a fact is definitely not proved based on the evidence presented by the prosecution.

Para. 101: it is stated that "The prosecution had proved by distinct and unbroken chain that the deceased entered into the house of the accused, when she was alive and came out as a dead body and ended up as a burnt body". This cannot be concluded based on the evidence presented by the prosecution.

Para. 102: it is stated that "There must have been sustained quarrel over the custody of the child". There was no quarrel, as shown in our mutual agreement regarding custody (marked as evidence in the case), and in our email correspondence where we agree on how to manage the holidays' time of our daughter (also marked as evidence in the case).