



Crl.A.No.697 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

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Ranjith @ Ranjith Kumar

...Appellant

Vs.

State rep. by
Inspector of Police,
Uthiour Police Station,
Tiruppur District.

...Respondent

Prayer: Criminal Appeal filed under Section 374(2) of Criminal Procedure Code to set aside the judgement passed in Additional District and Sessions Court-III, Tarapuram in S.C.No.76/2010, dated 26.02.2015.

For Petitioner : Mr.T.Muruganantham

For Respondent : Mr.Babu Muthumeeran,
Additional Public Prosecutor



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JUDGMENT

*(Judgment of the Court was made by **M.S.RAMESH, J.**)*

Heard Mr.T.Muruganantham, learned counsel for the appellant and Mr.Babu Muthumeeran, learned Additional Public Prosecutor, for the respondent.

2. The case of the prosecution is as follows:-

2.1. Two persons, namely Soman @ Manian and his sister Nachammal, have been done to death by Ranjith @ Ranjith Kumar, who is the son of the deceased Soman @ Manian. The deceased Soman and his brother Ponnusamy had a long standing property dispute among themselves. Since Ponnusamy was not keeping well, Soman, along with his sister Nachammal, wife Radhamani, sister-in-law Bakiyam, had prepared to visit Ponnusamy on 28.09.2009 at 04.30 P.M. At that time, the appellant resisted and asked his father Soman not to visit his brother. This resulted in an altercation, at which point of time, the appellant took a billhook from the cow shed and attacked his father Soman in the neck and chest, resulting in his death. When Soman's sister Nachammal attempted to stop the appellant



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from attacking, she was also attacked by the appellant with the same billhook. The said Nachammal died later at the hospital on 12.10.2009 at 08.00 A.M. The complaint given on the occurrence was registered in Crime No.104/2009 against the appellant for the offence under Sections 302 and 307 of the Indian Penal Code (IPC). Later, the offences came to be altered under Section 302 (2 counts) and a charge sheet was filed against the appellant for the offence under Section 302 IPC. The appellant, when questioned under Section 313(1)(b) of the Criminal Procedure Code (Cr.P.C.), had denied the charges.

3. Before the trial Court, the prosecution had examined 24 witnesses and had marked 25 exhibits, apart from 9 material objects, which are as follows:-

3.1. The prosecution had examined P.W.1 Rajendran, who is the cousin brother of the first deceased Soman @ Manian (D1), Radhamani (P.W.2), who is the wife of P.W.1 and Bakiyam (P.W.3), who is the sister-in-law of deceased Nachammal (D2), who were all eye witnesses to the occurrence.



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3.2. P.W.4, namely Kannan, is the son of D2 and nephew of D1, before whom D2's blouse (M.O.1) and saree (M.O.2) were seized by the prosecution through a seizure mahazar (Ex.P.2).

3.3. The Investigating Officer (P.W.22) had conducted an inquest over the body of D1 and had seized the blood stained earth (M.O.3), earth without blood stain (M.O.4) and billhook (M.O.5), through a seizure mahazar (Exs.P.3 to P.5) in the presence of Kannan (P.W.5).

3.4. P.W.6, namely Senthilkumar, is the son of Ponnusamy, who speaks about D2, along with P.W.1 to P.W.3 visiting his father on 28.09.2009 at 04.15 P.M. and thereafter had left their house.

3.5. P.W.7, P.W.8 and P.W.9 are hearsay witnesses.

3.6. After the incident, the appellant had gone to the house of Rathinasamy (P.W.10) on 28.09.2009 at about 09.30 P.M. and confessed about the crime, who in turn took him to the Village Administrative Officer (P.W.11) on 29.09.2009 at 01.00 P.M., where the appellant had confessed to the crime and the same was recorded by him, through the confession statement (Ex.P.6).

3.7. P.W.12, namely Saravanan, is the photographer, who had taken



the photographs of the scene of occurrence and through him, the photographs (M.O.8) and negative CD (M.O.9) were marked.

3.8. P.W.13, namely Marimuthu, is the husband of D2, who claims to have witnessed the occurrence.

3.9. Dr.Karthikeyan (P.W.15) conducted the post mortem of D1 on 29.09.2009 at 11.30 A.M. and had submitted his final opinion (Ex.P.11) and D1's post mortem report (Ex.P.12). As per the report, the following injuries were found on the body of D1:-

- (i) deep cut injury 10 x 3 cms on the left neck;
- (ii) deep cut injury in the centre of the neck about 5 x 2 cms;
- (iii) another injury at back of the neck;
- (iv) stab injury on the left chest; and
- (v) bleeding from the left ear.

As per the final opinion of P.W.15, D1 would have died of injury to vital blood vessels, including left carotid artery, internal jugular vein and injury to trachea and injury to cervical spine bone and shock and haemorrhage.

3.10. P.W.16 is the forensic expert.

3.11. P.W.17 is the Head Constable, who had sent the material objects for forensic analysis, based on the Investigating Officer's requisition (Ex.P.14), through a requisition letter (Ex.P.15). The chemical analysis



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report (Ex.P.16) and the serological report (Ex.P.17) were marked through him.

3.12. Dr.Munirasan (P.W.18) is the Assistant Director of the forensic laboratory, who had received 11 samples for analysis and had issued the forensic analysis report (Ex.P.18).

3.13. P.W.19 is the Head Constable, who had accompanied the bodies of D1 and D2 for post mortem.

3.14. Dr.Murugavel (P.W.20) is the doctor, who had rendered first aid to D2. The Sub-Inspector of Police, who had registered the FIR, was examined as P.W.21 and the Investigating Officer was examined as P.W.22.

3.15. P.W.23 is the doctor, who had conducted the post mortem of D2 and submitted the post mortem certificate (Ex.P.25). As per the said certificate, the following ante mortem injuries were found in the body of D2:-

“Transverse cut injury 3.5x1x4 cm with healing margins noted on posterior aspect of neck, a little to left. The anterior pointed end is 6 cm below and posterior to left ear. The posterior end is blunt. The wound has passed into disc space between C3 & C4 vertebra partially. Surrounding area found contused. Cord from the level of C3 to C6 found swollen with patchy areas of softening. Diffuse sub arachnoid haemorrhages noted all over



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brain surface with evidence of mild cerebral oedema noted.”

3.16. P.W.24 is the Investigating Officer, who had conducted further investigation and had filed the charge sheet.

4. On the strength of the evidences, the learned Additional District and Sessions Judge, Tarapuram had found the appellant guilty of having committed the offence under Section 302 (2 counts) and was sentenced to undergo life imprisonment for each count, together with a fine of Rs.500/- for each count, in default to undergo 3 months simple imprisonment, through the judgement dated 26.02.2015 made in S.C.No.76/2010. Both the sentences were ordered to run concurrently.

5. The learned counsel for the appellant submitted that as per the evidence of the Investigating Officer (P.W.22) and Village Administrative Officer (P.W.11), there are serious discrepancies with regard to the seizure of the billhook (M.O.5), as well as the blood stained clothes of the appellant and hence, there is a serious doubt with regard to the occurrence itself. He further submitted that as per the chemical analysis report, there was no



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blood on M.O.5, which raises serious doubt as to the weapon that was alleged to have been used in the crime. He also submitted that there was no material evidence before the Court to substantiate the previous property dispute between D1 and his brother Ponnusamy and therefore, the prosecution has failed to establish the motive in this case.

6. Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that P.W.1 to P.W.3 have clearly spoken about the previous property dispute as a motive for the incident. Even otherwise, when there are 3 eye witnesses to the incident, a motive does not play a significant role and therefore, based on the oral testimonies of the eye witnesses, the trial Court had rightly found the appellant guilty for the charged offences. He further submitted that the appellant had confessed to P.W.11, which was produced in writing and the statement was recorded through Ex.P.6 and the extra judicial confession also supports the statements made by P.W.1 to P.W.3.

7. We have given careful consideration to the submissions made by the



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respective counsels.

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8. The fact that there was a long standing dispute between D1 and his brother Ponnusamy has been spoken to by P.W.1 to P.W.3 in a very cogent manner. These witnesses also speak about they having visited Ponnusamy, along with D2 and thereafter having come to the house of D1, wherein, the appellant had refrained D1 from visiting Ponnusamy, who was terminally ill. The repeated attack caused by the appellant on the neck of D1, as well as the intervention of D2 to stop him from attacking D1, were also clearly spoken to by these 3 eye witnesses. The following are the portions of the statements made by P.W.1 to P.W.3:-

“P.W.1 – 28.09.2009ம் தேதி எனது பெரியப்பா மகன் பொன்னுசாமிக்கு உடம்பு சரியில்லை என்று தகவல் வந்தது, திங்கள்கிழமை காலை எனது மனைவி ராதாமணி, நான், ஏனது அண்ணி பாக்கியம், அக்கா நாச்சம்மாள் ஆகியோர் பொன்னுசாமியை பார்ப்பதற்கு பகல் 12 மணிக்கு சடையபாளையம் சென்றோம். பார்த்துவிட்டு சின்ன அண்ணன் மணியை பார்க்களாம் என்று சென்றோம். போகும் போது சாமியாத்தாள், அண்ணன் மணி, ரஞ்சித்துமார்



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ஆகியோர் வீட்டில் இருந்தார்கள். டீ
சாப்பிட்டுவிட்டு அண்ணனை உயிரோடு இருக்கும்
போதே பார்த்துவிட்டு வருகிறேன் என்று மணி
சொன்னார். பையன் ரஞ்சித்குமார் நமக்கும்
அவர்களுக்கும் ஆகாது போய் பார்க்கவேண்டாம்
என்று சொன்னார். இரண்டு பேருக்கும்
வாக்குவாதம் ஏற்பட்டது. நீங்கள் என்னமோ
செய்யுங்கள் என்று சொல்லிவிட்டு நாங்கள்
வீட்டில் கிழபுறமாக சுப்பிரமணி வீட்டு வழியாக
பெரிய அண்ணன் பொன்னுசாமியை பார்ப்பதற்கு
போனோம். ரஞ்சித்குமார் மாட்டு கட்டுதரையில்
கிடந்த அருவானை எடுத்து வந்து நான்
சொல்ல சொல்ல கேட்காமல் போகிறாயா என்று
முன்பகுதி கழுத்தில் அப்பா மணியை ஓங்கி
வெட்டிவிட்டார். இடது பக்க நெஞ்சில் ஒரு
குத்து குத்தினார். அப்போது மணி அய்யோ
என்று சொல்லிவிட்டு உயிர் போய்விட்டது. இதை
பார்த்த அக்கா நாச்சமாள் இப்படி
வெட்டிவிட்டான் என்று சொல்லி குறக்காட்ட
ஓடியாந்த போது எனது அக்கா நாச்சம்மாளையும்
இடது பக்க கழுத்தில் வெட்டிவிட்டார்.

P.W.2 – 28.9.09ம் தேதி திங்கட்கிழமை எனது
பெரியமாமனார் பையன் பொன்னுசாமிக்கு உடம்பு
சரியில்லை என்று பார்ப்பதற்கு சென்றோம். நான்,
எனது வீட்டுக்காரர், அக்கா பாக்கியம், எனது



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வீட்டுக்காரரின் அக்காள் நாச்சம்மாள் ஆகியோர் சடையபாளையம் சென்றோம். சுமார் 12 மணி இருக்கும். பொன்னுசாமியை பார்த்து விட்டு மதியம் 4 1/4 மணிக்கு மணி வீட்டிற்குச் சென்றோம். அங்கு சாமியாத்தாள், மணி, ரஞ்சித் 3 பேரும் இருந்தார்கள். நாங்கள் போய் பேசி விட்டு டைவத்து கொடுத்தார்கள். குடித்து விட்டு கிழம்பளாம் என்றும் வந்தோம். நானும் ஒரு முறை எங்க அண்ணனை போய் பார்க்கவேண்டும் என்று சொன்னார். ரஞ்சித் போய் பார்க்க கூடாது என்று சொன்னார். நீ போய் பார்த்தால் வெட்டிவிடுவேன் என்று தனது அப்பாவை சொன்னார். நாங்கள் கிளம்பி முன்னாடி வந்துவிட்டோம். அவர் பின்னாடியே வந்தார். ரஞ்சித் மேபுறத்தல்லையில் இருந்த மாட்டு கட்டுத்தரையில் இருந்த அருவாளை எடுத்து வந்து நான் போகவேண்டாம் என்று சொல்லுகிறேன் நீ போகிறாயா என்று முன்பகுத்தில் வெட்டிவிட்டார். அவர் அய்யோ என்று சத்தம் போட நெஞ்சில் மறுபடியும் ஒரு குத்து குத்தினார். அண்ணி நாச்சம்மாள் ஓடிவந்து இப்படி குத்திவிட்டாயே என்று சொல்ல அவர்களையும் இடது பக்க கழுத்தில் வெட்டிவிட்டார்.

P.W.3 – 2009ம் வருடம் 9வது மாதம் 28ம் தேதி



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சடையபாளையத்தில் இன்னொரு மச்சான் பொன்னுசாமி படுத்த படுக்கையாய இருக்கிறார் என்று பார்ப்பகற்காக சென்றோம். பகல் 12 மணிக்கு ராஜேந்திரன், ராதாமணி, நாச்சம்மாள், பாக்கியம் ஆகியோர் போனோம். போய் பார்த்துவிட்டு 4½ மணிக்கு பொன்னுசாமி வீட்டில் டீ சாப்பிட்டுவிட்டு நாங்கள் போகிறோம் என்று சொன்னோம். அதற்கு அண்ணன் பொன்னுசாமி நானும் போய் பார்க்கிறேன் என்று மணி சொன்னார். அப்போ நீ போக்கூடாது என்று மகன் ரஞ்சித்குமார் சொன்னார். நாங்கள் கிளம்பி வந்துவிட்டோம். மேபுறத்து அல்லையில் வந்தார்கள். நாங்கள் கிழபுறத்து அல்லையில் வந்துவிட்டோம். மேபுறத்தில் கட்டுத்தரையில் இருந்த அருவாளை மகன் ரஞ்சித்குமார் எடுத்து வந்து அவர் அப்பவை கழுத்தின் முன்பகுதியில் வெட்டிவிட்டார். முன்புறத்து அல்லையில் ஒரு குத்து குத்திவிட்டார். நான் போகாதே என்று சொல்கிறேன் நீ போகிறாயா என்று சொல்லி வெட்டினார். வெட்டியவுடன் அவர் கீழே விழுந்துவிட்டார். நாச்சம்மாள் அய்யோ அப்பா என்று சத்தம் போட்டார். நீயும் இத்தோடு செத்து தொலை என்று சொல்லி இடது புற கழுத்தில் ரஞ்சித் வெட்டிவிட்டார். மணி சம்பவ இடத்திலேயே இறந்துவிட்டார்.”



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9. The aforesaid extracted statements of P.W.1 to P.W.3 were narrated in a cogent manner and we are unable to see any discrepancy in their versions. The appellant, though had cross examined all these 3 witnesses, was unable to discredit any of these aforesaid versions. The credibility of the testimony of ocular witnesses has been time and again dealt with in various judgements of the Hon'ble Supreme Court. Among such decisions, in the case of *State of Rajasthan Vs. Bhawani and Another* reported in (2003) 7 **SCC 291**, it has been held that, in cases that are based upon direct eye witness account, the testimony of the eye witnesses is of paramount importance.

10. Thus, when the appellant has failed to discredit these 3 eye witnesses, we are of the view that the prosecution has clearly established the occurrence that had taken place on 28.09.2009, whereby the appellant had attacked both D1 and D2, resulting in their deaths.

11. The learned counsel for the appellant had referred to the oral testimonies of the Village Administrative Officer (P.W.11), before whom the



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appellant was taken to and his confession statement was recorded, as well as the evidence of the Investigating Officer (P.W.22) and pointed out that there were discrepancies with regard to the recovery of M.O.5, as well as the blood stained clothes. As per the oral testimonies of P.W.22, he had visited the scene of occurrence on 29.09.2009 at 02.30 A.M. and seized the billhook (M.O.5). He further states that the accused was brought by the Village Administrative Officer (P.W.11) to the Police Station on 29.09.2009 at 03.00 P.M. only. As per the oral testimony of P.W.11, after recording the confession statement (Ex.P.6), he, along with the Investigating Officer, Village Assistant and the appellant, had gone to the scene of occurrence, wherein the appellant had taken out M.O.5 and handed it over to the Investigating Officer, along with the blood stained shirt (M.O.6) and lungi (M.O.7). When P.W.1 to P.W.3, who had directly witnessed the incident and had also confirmed it cogently in their oral testimonies, these minor defects in the investigation, with regard to the recovery of weapon, will not be of much significance.

12. In the case of ***Munna Lal Vs. State of Uttar Pradesh*** reported in ***2023 SCC OnLine SC 80***, the Hon'ble Supreme Court had held that a



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defective investigation is not always fatal to the prosecution, where ocular testimony is to be credible and cogent and that a faulty investigation cannot, in all cases, be a determinative factor to throw out a credible prosecution version.

13. P.W.15 and P.W.23, who are the doctors who had conducted the post mortem of both D1 and D2 respectively, had also spoken about the cut injuries and by taking note of the manner in which the appellant had caused injuries on both the deceased and also by taking note of the measurement of the deep cut injuries on the neck, which according to the doctors, could have been caused by M.O.5.

14. The learned counsel for the appellant submitted that in the absence of blood stains in the billhook (M.O.5), as evidenced in Ex.P.18, the case of the prosecution that this weapon was used for the crime itself is doubtful. As observed by us earlier, certain minor lacuna in the investigation, when the occurrence had been established through eye witnesses, will not gain much significance, as laid down in the aforesaid decision of the Hon'ble



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Supreme Court in *Munna Lal's case (supra)*. As such, much credence could not be given to this ground raised by the learned counsel for the appellant.

15. The trial Court, on the strength of the 3 eye witnesses, as well as the oral and material evidences before it, had rightly appreciated them and had held the appellant guilty of having committed the offences. We do not find any reason to interfere with the findings of the trial Court.

16. Accordingly, there are no merits in the present appeal and hence, the same stands dismissed.

[M.S.R., J] [S.M., J]
24.04.2024

Index:Yes
Neutral Citation:Yes
Speaking order
hvk

To

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