

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.T.SANKARAN
&
THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

CRL.A.No. 1120 of 2010 (G)

AGAINST THE JUDGMENT IN SC 254/2009 OF SESSIONS COURT,
PATHANAMTHITTA DATED 19-12-2009
C.P.NO.49/08 OF JFCM-II, PATHANAMTHITTA

APPELLANT(S):

RAVEENDRAN NAIR,C.NO.4592
CENTRAL PRISON, THIRUVANANTHAPURAM-12.

BY ADV. ADV.BINDU SREEKUMAR (STATE BRIEF)

RESPONDENT(S):

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

R1 BY ADV. SMT.PRAICY JOSEPH, PUBLIC PROSECUTOR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 15-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.T.SANKARAN & BABU MATHEW P JOSEPH, JJ.

Crl.A.No.1120 of 2010

Dated this the 15th day of January, 2015

JUDGMENT

K.T.Sankaran, J.

The appellant challenges the conviction and sentence against him in S.C.No.254 of 2009 on the file of the Sessions Court, Pathanamthitta, under Section 302 of the Indian Penal Code. The appellant was sentenced to undergo imprisonment for life and to pay a fine of ₹10,000/- and in default of payment of fine to undergo simple imprisonment for one year.

2. The prosecution case is that on 19.12.2007, at 2 P.M., the appellant/accused, with an intention and knowledge committed murder of Radhamani, his wife, by inflicting fatal injuries with MO1 chopper and the victim succumbed to the injuries on the way to the hospital and thereby committed the

offence under Section 302 of the Indian Penal Code.

3. The accused, the deceased, their two daughters and the father of the accused were residing together in the house belonging to the accused at Thannithodu Village. The accused is a rubber tapper. He used to tap rubber trees belonging to one George. George is also a neighbour of the accused.

4. According to the prosecution, the accused had suspicion about the chastity of his wife Radhamani and he believed that she had illicit connection with somebody. There were frequent quarrels between the accused and the deceased. On 19.12.2007, the accused inflicted cut injuries on the deceased. At first, she sustained injuries on her face and she sat down. At that time, the accused inflicted cut injuries on her neck and back side. The incident was witnessed by the

neighbours. The accused threatened all of them not to go near him lest they would also be murdered. The injured was removed to the hospital and on the way to the hospital, she died. PW1 Hari, who is a neighbour and social activist, informed the police and gave Exhibit P1 F.I. Statement, on the basis of which PW13 Sub Inspector of Police, registered Exhibit P1(a) FIR. The investigation was conducted by PW14, the Circle Inspector of Police. He conducted the inquest and prepared Exhibit P3 inquest report. The postmortem on the body of the deceased was conducted by PW7, the District Police Surgeon, who issued Exhibit P2 postmortem certificate. The ante-mortem injuries noted in the postmortem certificate are the following :

“Injuries (Ante-mortem)

(1) Deep incised wound (Chop wound)

11cm.x3 cm.x4.5 cm. at back of neck. The wound made cut through the muscles, vessels and nerves at back of

neck. The wound made cut over the vertebral column of neck between 6th and 7th vertebral column of neck between 6th and 7th vertebrae. The wound then made cut over the laminae of vertebrae and made cut over the spinal cord deep to the level. The injury over spinal cord measured a size 1 cm.x0.2cmx0.5cm.

- (2) Deep incised wound (chop wound) 3.5 cm.x1 cm x 2 cm. on right side of neck situated 8 cm. outer to midline and just above collar bone. The injury made cut over superficial neck veins and collar bone over the middle aspect. The collar bone was partially cut tangentially for a depth 0.8 cm.
- (3) Linear superficial incised wound on right upper arm 5 cm. in length situated 12 cm. below top of shoulder.
- (4) Superficial incised wound on the inner aspect of right elbow 6 cmx1.8cmx0.5 cm.
- (5) Incised wound upper lip on right side 2.5x0.5cmx2cm. vertically placed. The gum of upper jaw cut. Teeth intact.
- (6) Superficial incised wound 6cm.0.2cmx0.3cm. on right forearm 6 cm. above wrist.
- (7) Incised wound on right palm at the base of right middle finger 3cmx0.5cm.x0.5cm.
- (8) Incised wound 3cmx0.5cm.x0.5 cm. on right ring finger

at palmar aspect.

- (9) Incised wound left palm 2.5cmx0.5cmx0.5cm. at the base of index finger.
- (10) Incised wound 4 cm. in length vertical on palmar aspect of left middle finger.”

5. The opinion expressed in Exhibit P2 about the cause of death is that the deceased died due to injury over neck, namely, injury No.1. The accused was arrested on 20.12.2007.

6. On behalf of the prosecution, PWs 1 to 14 were examined. Exhibits P1 to P8 were marked and Mos 1 to 8 were identified. PWs 2 and 3 are the eye witnesses. According to the prosecution, the evidence of PWs 4, 5, 6 and 8 corroborates the other evidence.

7. PW2 Jayakumari is an eye witness to the incident. She is the neighbour of the accused and her house is situated

about 50 feet away from the house of the accused. She stated that on the date of the incident, at about 2 P.M., while she was in the kitchen, she heard the deceased crying aloud that she was being killed. PW2 came out of her house and she saw the accused attacking the deceased with a chopper. The witness stated that the accused inflicted several cut injuries. The witness cried aloud asking the accused not to do so. According to PW2, when Radhamani, the deceased, sustained cut injury on her face, she sat on the floor and at that time, the accused inflicted blows with a chopper on the back side of her neck. The victim fell down. The witness identified MO1 chopper. PW3 Saraswathi and others came to the scene of occurrence. The accused threatened them not to go near him and if they did so, they would also be killed. The witness and others did not approach the accused or the victim fearing the threat made by the accused. PW2 stated that the accused had suspicion about

the chastity of Radhamani and there used to be frequent quarrels between them. In the cross examination of PW2, a suggestion was made by the accused that the neighbour George committed murder of Radhamani to avoid her disclosing about his advances towards her. The suggestion would also disclose that Radhamani did not yield to the pressure made by George for his illicit demands.

8. PW3 Saraswathi is the sister-in-law of the accused (the wife of the elder brother of the accused). PW3 is staying in the neighbourhood and her house is situated only just 60 feet away from the house of the accused. She stated that she saw the incident and the accused inflicted cut injuries on the deceased Radhamani by using MO1 chopper. PW3 was in her kitchen and she came out hearing the hue and cry. She also narrated the incident almost in the same manner as narrated by

PW2. PW3 also mentioned about the suspicion entertained by the accused about the chastity of the deceased. The suggestion made to PW3 in the cross examination is that Radhamani yielded to the sexual demands of George and thinking that this would be made known to the accused, George committed the murder of Radhamani.

9. PW4 Santhosh, a taxi jeep driver, deposed that he took the injured to the hospital in his jeep. He stated that the accused did not go to the hospital in the jeep. The witness stated that Sulochana, Sivan, Sivan's wife and others were in the jeep.

10. PW5 Sasidharan Nair, the brother of the deceased, stated that frequent quarrels used to arise between the accused and the deceased on account of the suspicion entertained by the

accused about the chastity of the deceased. The accused had manhandled the deceased on several occasions. About one week before the incident, Radhamani went to her house and narrated about the incident which took place in her husband's house. Radhamani also stated to PW5 that the accused had threatened to kill her and therefore, she could not stay with the accused.

11. PW6, another brother of the deceased Radhamani, also deposed in the same lines as made by PW5. The witness stated that the accused had a suspicion that Radhamani had illicit relationship with another man. Radhamani went to her house and the witness stated that he compelled her to go to her husband's house. The witness took her to the house of the accused and tried to pacify the situation. Even at that time, the accused threatened that Radhamani would be done away with.

PW6 stated that though the accused stated so, he did not believe that the accused would actually do the same. Even on the next day, PW6 contacted the deceased over phone and she stated that there was no problem at her husband's house. The witness stated that the alleged incident took place thereafter.

12. PW8 is the daughter of the accused. She stated that the accused, the deceased and two daughters and the father of the accused were residing in the house. At the time of giving evidence, she was staying at the Ashram of Matha Amrithanandamayi. She stated that her younger sister is also staying in that Ashram. PW8 stated in evidence thus :

“അച്ഛനും അമ്മയുമായി വഴക്ക് ഉണ്ടാകാറുണ്ട്. അച്ഛൻ അമ്മയെ സംശയം ആയിരുന്നു. അമ്മ പുറത്തിറങ്ങിയാൽ അതു പുരുഷന്മാരെ കാണാനാണ് എന്നു അച്ഛൻ പറയും. സംഭവത്തിനു 2-3 ആഴ്ച മുൻപ് വീട്ടുകാർ സംസാരിച്ചു. പ്രശ്നം ഉണ്ടാക്കില്ല

എന്നു അച്ഛൻ പറഞ്ഞു. രണ്ടു ദിവസം കഴിഞ്ഞു അറിഞ്ഞു. അച്ഛൻ പഴയതു പോലെയായി. അച്ഛൻ ആണ് അനുജത്തിയെ ബന്ധു വീട്ടിൽ പറഞ്ഞുവിട്ടത്. സംഭവത്തിനു തലേന്ന്. തലേന്ന് വൈകിട്ട് സ്കൂളിൽ നിന്നു വന്ന സമയം അമ്മ കരയുന്നുണ്ട്. അമ്മയുടെ സൗകര്യത്തിനു വേണ്ടി അനുജത്തിയെ പറഞ്ഞു വിട്ടതാണ് അമ്മ എന്നു പറഞ്ഞു അച്ഛൻ വഴക്കുണ്ടാക്കി.....“നീ എന്നെ വഞ്ചിച്ചു. നിന്നെ ഞാൻ വെട്ടി കൊല്ലും. നമ്മളിൽ ഒരാൾ തീർന്നാൽ ഇതിനു അന്ത്യം ഉണ്ടാവൂ” എന്നും അച്ഛൻ പറയുമായിരുന്നു.”

13. On a careful scrutiny of the evidence of PWs 2 and 3, the eye witnesses, as well as PWs 4 to 6 and 8, it is clear that there is direct evidence in the case to show that the accused inflicted fatal injuries on the deceased with MO1 chopper at the courtyard of his house at 2 P.M. on 19.12.2007. There is no

reason to disbelieve the evidence of eye witnesses in the case. The evidence of PWs 5, 6 and 8 would show that the accused had threatened to do away with his wife Radhamani. There were frequent quarrels between the accused and the deceased. The evidence would disclose that the life of the deceased at her husband's house was not very happy. The deceased even went to her own house. But, her brothers pacified her and brought her back to her husband's house. Situation did not improve much and the evidence of the witnesses would disclose that the accused started to harass the deceased again.

14. The suggestion made by the accused to PWs 2 and 3 is quite different. The suggestion made to PW2 would disclose that there was no illicit relationship between the deceased and George whereas the suggestion made to PW3 would show that the deceased had yielded to the pressure of George. The

statement of the accused under Section 313 of the Code of Criminal Procedure is that on the date of the incident, at about 2 P.M., he came back to his house and when he was about to enter into the house, George ran out of the house. When he entered into the house, he saw his wife in a pool of blood. He cried aloud and neighbours came to the place. The injured (Radhamani) was taken to the hospital by him. He was arrested by the police while he was in the hospital. The case of the accused in his statement under Section 313 CrI.P.C. and in the suggestions made to PWs 2 and 3 is that George committed the murder of Radhamani. As against this case, the prosecution relies on the evidence of two eye witnesses both of whom are neighbours of the accused. PW3 is the sister-in-law of the accused. There is no suggestion that PWs 2 and 3 deposed against the accused due to any enmity towards him or with any other specific intention. PWs 2 and 3 are natural witnesses.

The evidence of PWs 5 and 6 would disclose the incidents which took place at the matrimonial home of the deceased. PW6 even stated that the accused made a threat to do away with Radhamani. There is no reason to disbelieve the evidence of PWs 5 and 6. PW8 is none other than the daughter of the accused. She also stated about the quarrel between the accused and the deceased and the suspicion entertained by the accused about the chastity of the deceased. The evidence of PW8 would also disclose about the reconciliation of the disputes and the return of the deceased from her house to the house of the accused. PW8 specifically stated that her father (accused) threatened to kill his wife Radhamani. There is no reason why the daughter of the accused should make untrue allegations against the accused. PW8 is not staying with PWs 2 or 3 or with any of the relatives of the deceased. PW8 is staying at the Ashram of Amrithanandamayi. It cannot be believed that her

evidence is tutored evidence.

15. The court below rightly believed the case of the prosecution and held the accused guilty. We are of the view that the court below was right in arriving at the said conclusion. No grounds are made out for interference.

Accordingly, the Criminal Appeal is dismissed.

**K.T.SANKARAN
JUDGE**

**BABU MATHEW P.JOSEPH
JUDGE**

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