

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.09.2015

CORAM

THE HONOURABLE DR.JUSTICE S.TAMILVANAN
AND
THE HONOURABLE MR.JUSTICE C.T.SELVAM

CrI.A. No.751 of 2013

Loganathan

... Appellant/Accused

-v-

State rep. by Inspector of Police,
Rasipuram Police Station,
Rasipuram, Namakkal District. ... Respondent/Complainant
(Crime No.801/04)

Appeal preferred under Section 374 of Cr.P.C. against the conviction and sentence imposed in judgment dated 05.01.2006 made in S.C. No.135 of 2005 on the file of the learned Additional District and Sessions Judge, (Fast Track Court) Namakkal.

For appellant : Mr.P.Kumaresan

For Respondent : Mr.V.M.R.Rajentren, APP

JUDGMENT

(Order of the Court made by S.TAMILVANAN,J.)

The appeal is directed against the conviction and sentence imposed in Sessions Case in S.C. No.135 of 2005 on the file of the learned Additional District and Sessions Judge, (Fast Track Court) Namakkal.

2.The appellant stands convicted for the offence under Section 302 IPC (2 counts) and sentenced to undergo life imprisonment and to pay a fine of each Rs.5,000/- and in default to undergo each two months simple imprisonment; convicted u/s.506(ii) IPC (4 counts) and sentenced to undergo each six months rigorous imprisonment and to pay a fine of Rs.1,000/- each and in default to undergo each 15 days imprisonment; convicted u/s.449 IPC and sentenced to undergo five years rigorous imprisonment and to pay a fine of Rs.5,000/- and in default to undergo two months simple imprisonment; convicted u/s. 307 IPC and sentenced to undergo seven years rigorous

imprisonment and to pay a fine of Rs.25,000/- and in default to undergo six months simple imprisonment and the appellant was directed to pay the fine amount to PW1, who has sustained grievous injuries, towards compensation. Aggrieved by the said conviction and sentence, the appellant has preferred this criminal appeal.

3.The case of the prosecution, in brief, is as follows:

One Loganathan had illegal intimacy with one Poongodi and she became pregnant. Loganathan asked her to abort the child, however, the same was rejected by her. Her parents had approached for medical advice and it was informed that the life of Poongodi would be in danger, if the child is aborted, since she was in advanced pregnancy. Then she gave birth to a male child, aged 10 months and Poongodi lived with her parents. Accused Loganathan wanted her to live with him, but, the parents of Poongodi insisted the relatives of Loganathan should be brought to take her as he was already a married man. Since he could not take Poongodi with him, in spite of the request made by him, he decided to commit murder of the mother of Poongodi and others.

3.1.On 06.07.2014 morning, he took a koduval concealed inside his shirt and at about 9.30 a.m., he found that Saraswathi, the mother of Poongodi sitting inside a nearby the compound wall of a Kalyanamandapam and was feeding the child Siva with idli. Loganathan approached her and asked her to send Poongodi with him. She raised her usual refusal, hence, Loganathan took the koduval saying that if she die he could take Poongodi with him and attacked Saraswathi. Saraswathi evaded from the attack of the accused, but, the koduval caused injury on the cheek of the child Siva. Then he again attacked Saraswathi. However, she prevented the attack and on account of the same, she sustained cut injury on her hand. Then she dropped the child and tried to run. Her husband Sengodagoundan came there and prevented the attack, but, Loganathan with the same koduval attacked him and caused cut injuries. Again he caused cut injury on the child and chased Saraswathi. She climbed over the gate, but, her saree stuck up and Loganathan pulled her saree. Hence, she fell down and raised alarm. On seeing the occurrence, people were rushing, hence, Loganathan with the weapon ran away. Saraswathi was taken to Government Hospital, Rasipuram, On her statement, the case was registered.

3.2.During investigation, the bloodstained earth, sample earth of the place where the two deceased were lying and the bloodstained saree of Saraswathi, were seized under mahazar. Clothes etc. worn by the two deceased were seized under cover of Mahazars. The Investigating Officer conducted inquest and

prepared inquest report. The dead bodies were then sent for postmortem. The accused Loganathan was arrested and the Investigating Officer seized bloodstained clothes from his person under mahazar. As per his confession statement, the koduval used to make cut injuries on the two deceased, was seized under mahazar. All the case properties were sent to the Court of Judicial Magistrate, Rasipuram.

4. In order to establish the case, the prosecution examined P.Ws. 1 to 16; marked Exs. P1 to 36 and produced material objects M.Os. 1 to 22. DW1 was examined and no documentary evidence was marked on the side of the defence.

5. The Trial Court, after analysing the oral and documentary evidence, convicted and sentenced the accused as already stated above.

6. Mr. P. Kumaresan, learned counsel appearing for the appellant submitted that the prosecution has not established the guilt against the appellant beyond reasonable doubt and that the judgment of conviction suffers from serious infirmities and inconsistencies. Learned counsel for the petitioner would contend that the case is foisted against the appellant. He further contended that the oral evidence of P.Ws 1 to 3 are not only un-corroborative, but, also conflicting to each other throwing suspicion on the case of the prosecution. He would further submit that the evidence of P.Ws 1 to 3 said to be eye witnesses, are all close relatives to the deceased, hence, they are to be construed as interested witnesses. He would further contend that the motive suggested by the prosecution against the accused person does not probablise the case of the prosecution and the same does not stand corroborated and proved. There is no independent eye witness to prove the case of prosecution and to corroborate the evidence of P.Ws 1 to 3, who are all only close relatives of the deceased. The evidence available on record relating to the arrest of the accused person and recovery of the weapon used in the commission of offence according to the counsel are not corroborated by any legal evidence on record. There is no direct motive for the appellant/accused. Hence, he argued for allowing the appeal.

7. Per contra, Mr. V. M. R. Rajentren, learned Additional Public Prosecutor contended that the prosecution has established its case beyond all reasonable doubts and the minor discrepancies found in the evidence of the prosecution witnesses will not affect the prosecution case in its entirety. Learned Additional Public Prosecutor would submit that merely because of the fact that the defence has pointed out certain discrepancies, the

whole version of P.W.1 to P.W.3 cannot be rejected. According to the learned Additional Public Prosecutor, the case is of double murder committed in a brutal manner, which has been established by the prosecution, by way of examining the eye witnesses and other supporting evidence beyond reasonable doubt. Hence, he prays for dismissal of the appeal confirming the conviction and sentence of the Trial Court.

8.We have carefully considered the contentions put forward by either side and perused the impugned judgment of conviction, the entire evidence and other materials available on record.

9.It is seen that the appellant is the sole accused in this case. As per the prosecution case, the accused has got married to one Chitra/ DW1 and he has a child through P.W.2. P.W.2 is a married lady. She was deserted by her husband for the reason that she had illegal intimacy with the accused. We are of the view that there is cogent evidence of P.Ws 1 to 3, who were present in the scene of occurrence and the injured witness in the occurrence has also clearly deposed about the manner in which the occurrence took place.

9.1.Though there are minor discrepancies in the evidence, we find that the evidence of the prosecution witnesses corroborated by medical evidence. As per the Doctors report, the injuries sustained by P.W.1 could have been caused by the koduval, the M.O. marked by prosecution. It is a double murder and medical evidence is also corroborating the evidence of the eye witnesses so as to connect and establish the guilt against the accused, hence, we find no reason for reducing the sentence imposed on the accused by the trial Court though that was pleaded. Therefore, we are of the view that the quantum of sentence imposed by the trial Court has to be confirmed since the judgment of conviction and sentence imposed by the trial Court does not warrant any interference.

9.2.In the result, the Criminal Appeal is dismissed, confirming the judgment of conviction and sentence dated 05.01.2006 made in S.C. No.135 of 2005 on the file of the learned Additional District and Sessions Judge, (Fast Track Court) Namakkal.

-s/d-

Assistant Registrar

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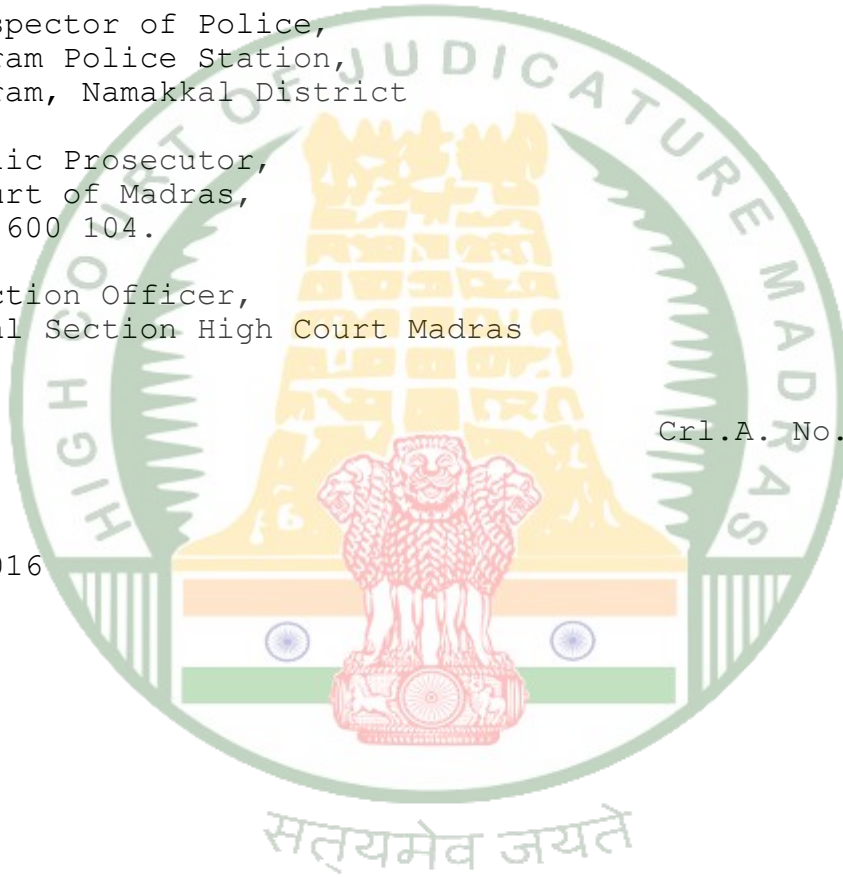
Sub-Assistant Registrar

To

1. The Additional District and Sessions Court, Fast Track Court Namakkal
2. The Thro'The Principal Sessions Judge, Namakkal
3. The Superintendent of Police Central Prison, Coimbatore
4. The Inspector of Police, Rasipuram Police Station, Rasipuram, Namakkal District
- 5.The Public Prosecutor, High Court of Madras, Chennai 600 104.
6. The Section Officer, Criminal Section High Court Madras

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