

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 20.06.2016

DELIVERED ON 29 .06.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

AND

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Appeal No.511 of 2014

Perumal

.. Appellant/Accused

Vs

State rep. By
Inspector of Police,
Taluk Police Station,
Thirupathur,
Vellore District,

..Respondent/Complainant

Prayer:- Criminal Appeal filed under Section 374 Cr.P.C., to set aside the conviction and sentence imposed on the appellant by the judgment dated 02.08.2012 passed in S.C.No.182 of 2011 on the file of Additional District and Sessions Judge, No.3, Thirupathur, Vellore District.

For Appellant : Mr. Raja Ravivarma

For Respondent : Mr.M.Maharaja,

Additional Public Prosecutor

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JUDGEMENT

(Judgment of the Court was delivered by V.Bharathidasan.J)

The sole accused in S.C.No.182 of 2011 on the file of the Additional District and Sessions Court, No.3, Thirupathur, Vellore District, is the appellant herein. He stood charged for the offences under Sections 302 and 201 IPC. The trial Court, by judgment dated 02.08.2012, convicted the appellant/accused under Section 302 IPC and sentenced him

to undergo Imprisonment for life and to pay a fine of Rs.5,000/- in default to undergo six months simple imprisonment and to undergo one year rigorous imprisonment and to pay a fine of Rs.1000/-, in default to undergo three months simple imprisonment for the offence under Section 201 IPC and directed the sentences imposed on the accused to run concurrently. Challenging the said conviction and sentence, the appellant is before this Court with this Criminal Appeal.

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

The deceased one Sangeetha, is the wife of the accused. The marriage between the accused and the deceased took place 8 months prior to the occurrence. It is a love marriage. After the marriage, they were living happily for some time. Thereafter, the accused demanded dowry and started harassing the deceased, and also suspected the fidelity of the deceased. Hence, there were frequent quarrels between them. On 25.10.2009, the deceased was found hanging in her house. P.W.1, the father of the deceased was residing at Bangalore, and on hearing the death of his daughter, immediately came to the place of occurrence and gave a complaint (Ex.P1) before the respondent police.

3. P.W.17, Sub-Inspector of Police, attached to the respondent police station, on receipt of the complaint, registered a case in Crime No.896 of 2009 for offence under section 174 Cr.P.C. Thereafter, he sent the First Information Report-Ex.P.12 to the higher officials and to the Judicial Magistrate Court.

4. P.W.18, the Sub-collector, Thirupathur, on receipt of the First Information Report, went to the Government Hospital, Thirupathur, and conducted inquest on the body of the deceased in the presence of panchayathars and prepared Inquest Report (Ex.P.13) and given a opinion that it is not a case of suicide. P.W.19, the Deputy Superintendent of Police, took up the case for investigation and went to the place of occurrence and prepared Observation Mahazar (Ex.P.2) and Rough Sketch (Ex.P.15) in the presence of P.W.4 and another witness. He also recovered Nylon Saree (M.O.1) and recorded the statement of other witnesses.

5. P.W.15, and P.W.16, Doctors, working in the Government Hospital, Thirupathur, conducted postmortem autopsy on the body of the deceased on 27.10.2009, at 12.00 p.m, and found the following injuries:

" Rigor Mortis in all four limbs. Abrasion in front of neck only. Blood ooze from left eye. O/d skull-left temporal bone fracture- meninges and brain matter congested - 200 ml of clotted blood present.

Face - two eyes- round abrasions each 5 x 5 cm size. Neck - abrasion only in front of neck 8 cm length. Chest - Lungs and heart congested ribs- intact. Abdomen - Stomach - empty of all organs congested sent for chemical analysis. Uterus - N in size bladder- empty. Extremities - NAD, Spinal cord - NAD. "

Ex.P.8 is the Postmortem Report and also gave opinion that the deceased would have died of head injury, blood loss and shock.

6. Based on the postmortem report and statement of the witnesses, P.W.19, altered the charge into the offence under Sections 302 and 201 IPC (Ex.P.16) and sent the case diary for further investigation to P.W.20, the Inspector of Police, Thirupathur Police Station. P.W.20, took up the case for further investigation and recorded the statement of other witnesses. In the meantime, on 20.11.2009, the accused surrendered before the Judicial Magistrate No.2, Thirupathur, and on 26.11.2009, he took the accused for police custody and the accused gave a voluntary confession and based on the disclosure statement, he recovered wooden log (M.O.2). Thereafter, he recorded the statement of the Doctor, who conducted postmortem and other witnesses. On completion of investigation, he laid charge sheet against the accused.

7. Based on the above materials, the trial Court framed the charges as detailed in the first paragraph of this judgment against the accused. The accused denied the same. In order to prove the case, on the side of the prosecution, as many as 20 witnesses were examined and 22 documents were exhibited, besides marking 3 Material Objects.

8. Out of the witnesses examined by the prosecution, P.W.1, father of the deceased, has spoken about the dowry demand and harassment faced by the deceased and after hearing the death of his daughter, he came to the scene of occurrence and gave a complaint, Ex.P.1. P.W.2 is the mother of the deceased. She has also spoken about the dowry demand and the harassment faced by the deceased. P.W.3 is the brother of P.W.2. He has corroborated the evidence of P.W.1 and P.W.2. P.W.4 is the Mahazar witness and he has spoken about the recovery of Saree(M.O.1). P.W.5 and P.W.6 have turned hostile. P.W.7 is a resident of the same village and he has spoken about the quarrel between the deceased and the accused and on the date of occurrence, he saw the accused going in a bicycle. P.W.8 has turned hostile. P.W.9, who is a close relative of the deceased has spoken about the quarrel between the deceased and the accused. P.Ws.10 and 11 have also turned hostile. P.W.12, Mahazar witness, has spoken about the recovery of M.O.2. P.W.13 photographer has taken photographs of the dead body deceased. P.W.14, Assistant Director of

Forensic Science Lab, conducted chemical examination on the internal organs of the body of the deceased and gave report Ex.P.7. P.W.15 and P.W.16, Doctors, conducted postmortem on the dead body of the deceased and gave Ex.P.8, postmortem certificate. P.W.17, Sub Inspector of Police, registered the First Information Report. P.W.18, Sub-collector, Thirupathur, conducted inquest on the dead body. P.W.19, Deputy Superintendent of Police, Thirupathur, commenced the investigation. P.W.20, the Inspector of Police, Thirupathur, conducted further investigation and after completion of investigation, he filed the charge sheet against the accused.

9. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., he denied the same as false. However, he did not choose to examine any witness or mark any documents.

10. Having considered all the above materials, the trial Court convicted the appellant/accused as stated in the first paragraph of this judgment. Challenging the same, the appellant/accused is before this Court with this Criminal Appeal.

11. We have heard Mr. Raja Ravivarma, learned counsel for the appellant and Mr. Maharaja, learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

12. The learned counsel for the appellant would submit that it is a case of circumstantial evidence and there is no eyewitness to the occurrence. The prosecution did not establish any of the circumstances to prove the guilt of the accused and that the deceased had only committed suicide and absolutely there is no evidence that the accused committed murder.

13. Per contra, the learned Additional Public Prosecutor would submit that the prosecution has proved all the circumstances. Apart from that, the occurrence took place in the house of the accused and he immediately absconded from his house and he surrendered before the Court only on 20.11.2009, nearly 25 days after the date of occurrence. From the conduct of the accused, it could only be presumed that the accused only committed the murder and sought for dismissal of the appeal.

14. We have considered the rival submissions.

15. It is a case of circumstantial evidence. The deceased is the wife of the accused. All the prosecution witnesses have consistently stated that the accused harassed the deceased by demanding dowry. P.W.7, says that there was a quarrel between the accused and the deceased on 25.10.2009, at about 6.00 p.m. and on the next day, in the morning hours, he

saw the accused going in a bicycle and when he was trying to stop him, he speeded away.

16. The occurrence took place on 25.10.2009 inside the house of the accused. The accused absconded and thereafter, he surrendered before the Judicial Magistrate Court only on 20.11.2009, nearly after 25 days. When, the occurrence took place inside the house, where both the accused and the deceased were living, the accused has to explain the reason for the death of the deceased. The postmortem report and the evidence of P.Ws.15 and 16, who conducted postmortem, reveal that the death of the deceased was due to head injury, blood loss and shock. Thus, it could be concluded that the death of the deceased was homicide and not suicide. Moreover, the dead body was found hanging inside the house. In the said circumstances, the accused must come forward with proper explanation as to how the death had happened, and it is the burden of the accused to explain the cause of death. But he has failed to discharge the burden cast upon him under Section 106 of the Evidence Act. In the above circumstances we are of the considered view that the accused alone had committed the murder and so, he is liable to be convicted under Sections 302 and 201 IPC and we find no reason to interfere with the judgment of the trial court.

17. In the result, the Criminal Appeal fails and accordingly, the same is dismissed. The conviction and sentence imposed on the appellant by the trial Court in S.C.No.182 of 2011 Dated 24.08.2012 is hereby confirmed. It is reported that appellant/accused is in jail. The appellant/accused is directed to undergo the remaining period of sentence as imposed by the trial Court.

Sd/-
Asst.Registrar (J)

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To

1. The Additional District and Sessions Court No-3,
Thirupattur, Vellore District.
2. The Inspector of Police,
Taluk Police Station,
Tirupattur,
Vellore District.
3. The Public Prosecutor,
High Court, Madras.
4. The Superintendent central prison vellore
5. The Judicial magistrate No.II
Thirupathur, vellore dt.

6.The Public Prosecutor
High court Madras.

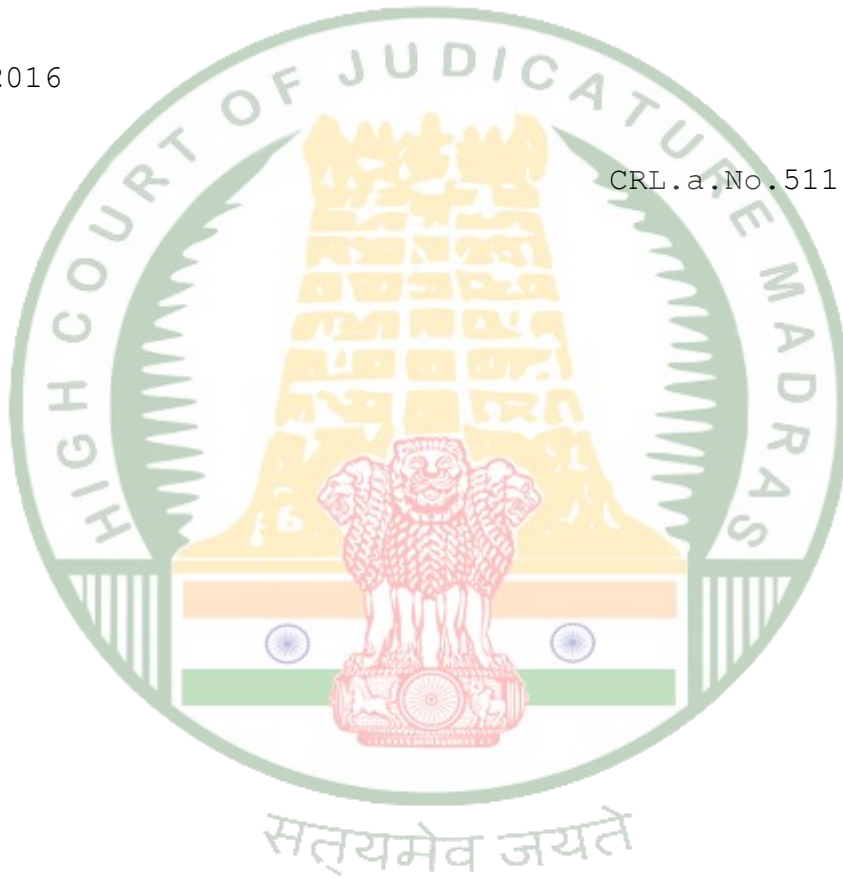
7. The Chief Judicial Magistrate,
Vellore.

copy to

The section officer criminal section
High court Madras.

RV(CO)
CP 23/07/2016

CRL.a.No.511 OF 2014



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