

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.08.2016

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

AND

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

CRL.A.No.788 of 2015 and M.P.No.2 of 2015

Venkatesh Reddy ..Appellant/ Sole Accused

Vs

State by
The Inspector of Police,
Bagalur Police Station,
Krishnagiri District. ..Respondent

Appeal filed u/s.374 Cr.P.C., against the Judgment of conviction and sentence passed by the learned Additional District and Sessions Judge, Hosur, made in S.C.No.54/2011 dated 23.09.2015.

For Appellant : Mr.B.R.Shankaralingam
For Respondent : Mr.E. Raja
Addl. Public Prosecutor

JUDGMENT

[Judgment of the court was delivered by S.NAGAMUTHU, J.]

The appellant-Venkatesh Reddy has come up with this Criminal Appeal, challenging the conviction and sentence imposed on him by the learned Additional District and Sessions Judge, Hosur, Krishnagiri District in S.C.No.54/2011, wherein the trial court has convicted him for offences under Sections 454 and 302 of IPC and sentenced him to undergo imprisonment for life and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for 2 years for the offence under Section 302 of IPC and no separate sentence was imposed for the offence under Section 454 of IPC.

2. The case of the prosecution is that on 03.03.2010 at 9.30 a.m. due to a quarrel with the deceased, the accused trespassed into the house of the deceased and caused extensive cut injuries on the body of the deceased Kanthammal and caused

her death instantaneously. In connection with the same, a case in Crime No.58 of 2010 under Section 302 of IPC was registered against the accused on 03.03.2010. Ex.P.1 is the complaint and Ex.P.16 is the First Information Report. On completing the investigation, the final report was filed alleging that the accused had committed the offences punishable under Sections 454 and 302 of IPC.

3. The trial court, accordingly, framed charges. The accused denied the same. In order to prove the case, on the side of the prosecution, as many as 11 witnesses were examined and 19 documents and 8 material objects were also marked. When the above incriminating materials were put to the accused u/s.313 Cr.P.C., he denied the same as false. His defence was a total denial. However, he did not choose to examine any witness nor to mark any document on his side. Having considered all the above, the Trial Court convicted the accused as detailed in the first paragraph of the judgment. Challenging the said conviction and sentence, the appellant is before this Court.

4. We have heard the learned Counsel for the appellant and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

5. During the pendency of this appeal, the appellant filed CrI.M.P.No.8226 of 2016 claiming that as on the date of the alleged occurrence, he was less than 17 years of age and thus, he was a juvenile in conflict of law, to be extended the benefits of the Juvenile Justice (Care and Protection of Children) Act, 2000. In support of the same, the father of the appellant produced the Transfer Certificate issued by the Headmaster of Government Boys High School, Hosur, where the appellant studied 9th and 10th standards during the academic years 2007-2008 and 2008-2009. The father of the appellant/petitioner has also produced the Birth Certificate issued by the Registrar of Births and Deaths, Municipal Office, Hosur.

6. The learned Additional Public Prosecutor took notice for the respondent. After verification of these documents, the learned Additional Public Prosecutor would submit that it is true that the appellant studied in the Government Boys High School, Hosur, which registered his date of birth as 16.08.1993 whereas according to the Birth Certificate issued by the Registrar of Births and Deaths, Hosur, his date of birth is 04.04.1993.

7. Today, the father of the appellant was examined as D.W.1 through whom the above two certificates were marked. In his oral evidence, he has stated that as on the date of the alleged occurrence, the appellant was only a Juvenile.

8. Having gone through the said oral evidence and these two undisputed documents filed, we are of the view that the appellant was undoubtedly a juvenile, aged less than 17 years, as on the date of the alleged occurrence. Therefore, the trial conducted against him treating him as an adult which eventually resulted in conviction is vitiated. Though the appellant did not raise that he was a juvenile, the trial court ought to have considered the same. At any rate, since at last, now a petition has been filed under Section 7A of the Act for determination of his age and since we determined that as on the date of the commission of the alleged occurrence, he was a juvenile, the conviction and sentence imposed on him are liable to be set aside and he is liable to be proceeded with as per the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000, by the Juvenile Justice Board

9. In the result, the appeal is allowed and the conviction and sentence imposed on the accused by the trial court are set aside and the case in S.C.No.54/2011 on the file of the learned Additional District and Sessions Judge, Hosur, Krishnagiri District, is transferred to the file of the Juvenile Justice Board at Krishnagiri and the said Board shall proceed according to law against the appellant, who was a Juvenile, as on the date of the commission of the crime. It is further directed that the appellant shall be set at liberty on bail on his executing a bond for a sum of Rs.20,000/- with two sureties to the satisfaction of the Juvenile Justice Board, Krishnagiri. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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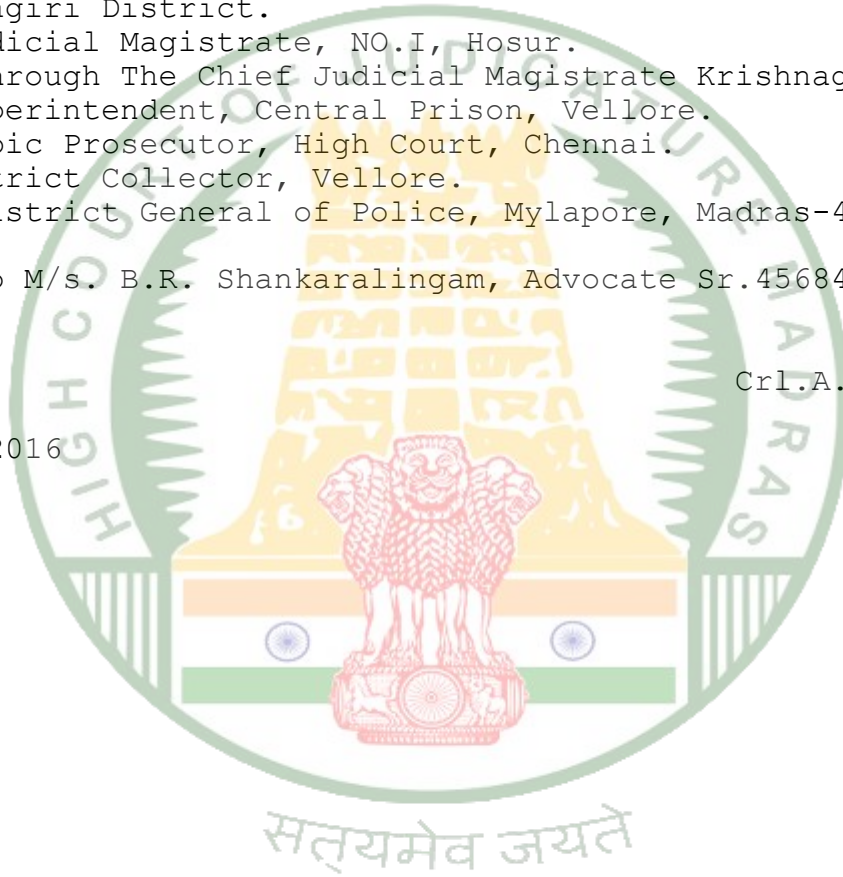
To

1. The Inspector of Police,
Bagalur Police Station,
Krishnagiri District.
2. The Additional District and Sessions Judge,
Hosur, Krishnagiri District.
3. -do- Through The Principal Sessions Judge, Krishnagiri.
4. The Juvenile Justice Board,
Krishnagiri District.
5. The Judicial Magistrate, NO.I, Hosur.
6. -do- Through The Chief Judicial Magistrate Krishnagiri.
7. The Superintendent, Central Prison, Vellore.
8. The public Prosecutor, High Court, Chennai.
9. The District Collector, Vellore.
10. The District General of Police, Mylapore, Madras-4.

+ 2 ccs to M/s. B.R. Shankaralingam, Advocate Sr.45684

Crl.A.No.788/2015

EU 12/08/2016



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