



BAIL SLIP

That the Appellant herein/Accused Viz., Poosari Dasappan, was directed to be released on bail as per the order of this Court dated 26.07.2012 and made in M.P.No.1 of 2012 in CrI.A.No.51 of 2012 as stated within.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.01.2016

CORAM

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
AND
THE HONOURABLE MR.JUSTICE C.T.SELVAM

Criminal Appeal No.51 of 2012

Poosari Dasappan

... Appellant

-versus-

State Rep. by
Inspector of Police,
Thenkanikottai Police Station,
Krishnagiri District.
[Crime No.277 of 2009]

... Respondent

Appeal filed under Section 374 of the Code of Criminal Procedure against the conviction and sentence passed by the learned Additional Sessions Judge, Krishnagiri, in S.C.No.136 of 2009 dated 08.06.2011.

For Appellant : Mr.M.G.Udayashankar for
Mrs.S.Shantha Kumari

For Respondent : Mr.V.M.R.Rajendran,
Additional Public Prosecutor

JUDGEMENT

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

The appellant is the sole accused in S.C.No.136 of 2009 on the file of the learned Additional Sessions Judge, Krishnagiri. He stood charged for offence under Section 302 of IPC. By judgement dated 08.06.2011, the trial court convicted him under Section 302 of IPC and sentenced to undergo imprisonment for life and to pay a fine of Rs.5,000/-



returning to the police station, he forwarded the accused to the court and handed over the material objects also for chemical examination. On completing the investigation, he laid the final report against the accused before learned Judicial Magistrate, Thenkanikottai.

8. Based on the above materials, the trial court framed a lone charge under Section 302 of IPC. The accused denied the same. In order to prove the same, on the side of the prosecution, as many as 10 witnesses were examined, 11 documents and 4 materials objects were marked.

9. Out of the said witness, P.W.1 has stated that he found the dead body of the deceased at the hut at about 07.00 p.m. Before that at 11.00 a.m., he found the deceased working in the field. He has also stated that he found the accused proceeding towards the field at 05.00 p.m. He has also spoken about the complaint made by him. P.W. 2 is yet another villager. He has stated that P.W.1 informed him that the dead body of the deceased was found in the hut. He has further stated that he visited the hut and found the dead body and thereafter he took P.W.1 to the police Station where P.W.1 made the complaint. P.W.1 is the son of the deceased born through Mr.Marappa. He has stated that the deceased was living along with the accused. He has further stated that at 06.00 p.m. on the date of occurrence he found the accused in the village wearing dhoti and shirts with blood stains. P.W.4 is a resident of the same village. He has stated that at 07.00 p.m. he found the accused in the village wearing dhoti and shirts with blood stains. P.W.5 has spoken about the preparation of the observation mahazar and the rough sketch at the place of occurrence and the recovery of a wooden reeper under a mahazar from the place of occurrence. P.W.6 has stated about the arrest of the accused, his disclosure statement and the consequential recovery of Knife (M.O.2) at his instance. P.W.7 is a Police Constable attached to Thenkanikottai Police Station. He has stated that he took the dead body of the deceased to the hospital for postmortem. P.W.8 Dr.Rajkumar has stated about the autopsy conducted on the dead body of the deceased and also his final opinion regarding the cause of death. P.W.9 has spoken about the registration of the FIR and handing over the case diary for investigation to P.W.10. P.W.10 the Investigating Officer has spoken about the entire investigation and the final report filed by him.

10. When the above incriminating materials were put to the accused under Section 313 of the Code of Criminal Procedure, he denied the same. However, he did not choose to examine any witness on his side nor did he mark any document. His defence was a total denial.



11. Having considered all the above, the trial court convicted the accused under section 302 of IPC and accordingly punished him as detailed in the first paragraph of this judgement. That is how, the accused is now before this court with this criminal appeal.

12. We have heard the learned counsel for the appellant and the learned Additional Public Prosecutor appearing for the respondent and also perused the records carefully.

13. This is a case based on circumstantial evidence. According to P.W.1, the deceased was found alive at 11.00 a.m. on 02.10.2009 when she was working in the field. After that, there is no connecting evidence to prove that at what time, she returned to her hut. It is in evidence that the accused was found somewhere in the field at 05.00 p.m. This is what has been stated by P.W.1. P.W.3 and P.W.4 have stated that they found the accused at about 06.00 or 07.00 p.m. in the village and at that time, he was found wearing dhoti and shirts with blood stains. These two witnesses cannot be believed at all inasmuch as they have not stated so when they were examined by the police during investigation. This part of their evidence is only an improvement. Thus, except the fact that there is only one piece of evidence of P.W.1 who has stated that the accused was found some where in the field on 02.10.2009 at 5.00 p.m., it is not even in evidence that the deceased was found anywhere near the accused. In our considered view this part of evidence of P.W.1 by itself cannot be the foundation for conviction. Though from the medical evidence, the prosecution has proved that the death of the deceased was homicide, absolutely, there is no evidence at all to prove that it was this accused who has caused the death of the deceased. Thus, we hold that the prosecution has failed to prove the case beyond reasonable doubt and therefore, the appellant/accused is entitled for acquittal.

14. In the result, the appeal is allowed and the conviction and sentence imposed on the appellant/accused by judgement dated 08.06.2011 in S.C.No.136 of 2009 by the learned Additional Sessions Judge, Krishnagiri, is hereby set aside. The appellant/accused is acquitted from the charge. Fine, if any, paid by the appellant/accused shall be refunded to him. Bail Bond executed by the appellant/accused shall stand cancelled.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar



To

- 1.The Additional Sessions Judge,
Krishnagiri,
Krishnagiri District.
- 2.Do Through The Principal Sessions Judge,
Krishnagiri.
- 3.The District Munsif cum Magistrate,
Thenkanikottai.
- 4.The Inspector of Police,
Thenkanikottai Police Station,
Krishnagiri District.
- 5.Do Through The Chief Judicial Magistrate,
Krishnagiri District.
- 6.The Superintendent,
Central Prison, Vellore.
- 7.The District Collector,
Krishnagiri District.
- 8.The Director General of Police,
Mylapore, Chennai 04.
- 9.The Public Prosecutor,
High Court, Madras.

+lcc to Mrs.S.Shantha Kumari, Advocate,
S.R.No.6293 (13.06.2016)

Cr1.A.No.51 of 2012

UG(CO)
CA(03/03/2016)



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