

BAIL SLIP

The Appellant/Sole Accused namely M.Ravi, S/o.Duraipandi Achari was directed to be released on Bail as per order of this Court dated 25/4/2013 made in CrI.MP.No.1/2013 in CrI.A.No.281/2013 on the file of this Hon'ble Court.

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Appeal No.281 of 2013

Ravi .. Appellant/Accuses

- Vs -

State rep by Inspector of Police,
Sevoor Police Station,
Tiruppur District.
(Cr.No.323 of 2010) .. Respondent/Complainant

Prayer:- Appeal filed under Section 374 of the Code of Criminal Procedure against the judgment passed by the learned I Additional District and Sessions Judge, Tiruppur in S.C.No.114 of 2011 dated 18.10.2012.

For Appellant : Mr.A.E.Lakshmi Narayanan

For Respondent : Mr.E.Raja
Additional Public Prosecutor

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J U D G M E N T

(Judgment of the Court was delivered by S.Nagamuthu, J.)

The appellant is the sole accused in S.C.No.114 of 2011 on the file of the learned I Additional District and Sessions Judge, Tiruppur. He stood charged for offence under Section 302 I.P.C. By judgment dated 18.10.2012, the trial Court convicted him under Section 302 I.P.C. and sentenced him to undergo imprisonment for life and to pay a fine of Rs.2,000/- in default to undergo rigorous imprisonment for three months. Challenging the said conviction and sentence, the appellant is before this Court with this appeal.

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

2.1. The deceased in this case was one Mrs.Saraswathi. She was the wife of the accused. They belonged to Dindigul district. They have got a son out of the said wedlock. The accused was running a tea stall. Since there was no

sufficient income from out of the same, he shifted his business to various places and finally on the advice of his brother one Mr.Balamurugan, he came down to Velayuthampalayam village and set up a tea stall.

2.2. In due course, he learnt that his wife Mrs.Saraswathi developed illicit intimacy with Mr.Balamurugan. Therefore, he shifted his family to Goundanpadi village and resided in the house belonging to one Mr.Selvaraj on rental basis. This was done obviously to avoid the deceased from continuing her illicit relationship with Mr.Balamurugan. But, even after the said shifting of the family, the deceased continued to speak to Mr.Balamurugan over phone, thereby continuing her relationship with him.

2.3. On 14.05.2010, at around 10.30 a.m. it is alleged that on account of the above misunderstanding, the accused stabbed the deceased with a knife and killed her. P.W.1 is a neighbour of the accused. According to the case, P.W.1 witnessed the occurrence and he caught hold of the accused red handed after the occurrence. It is further alleged that he produced the accused at Sevoor Police Station on 14.05.2010 at 11.30 a.m. along with a complaint (vide Ex.P7).

2.4. Based on the said complaint, P.W.5 the then Sub Inspector of Police registered a case in Crime No.323 of 2010 under Section 302 I.P.C. against the accused. Ex.P8 is the F.I.R. He forward Exs.P7 and P8 to the Court and the same was received by the learned Magistrate at 04.45 p.m. on 14.05.2010.

2.5. The case was taken up for investigation by P.W.9. He went to the place of occurrence, prepared an observation mahazar and a rough sketch in the presence of witnesses. He recovered bloodstained earth and sample earth from the place of occurrence. He conducted inquest on the body of the deceased and forwarded the dead body for postmortem.

2.6. P.W.4 Dr.Kirubanantham conducted autopsy on the body of the deceased on 15.05.2010 at 08.00 a.m. He found the following injuries:

"External Injuries: Stab injury over the left upper back measuring about 5x3x10 cm with maximum breadth (3cm) in the inner side and minimum breadth (0.5cm) in the outer side.

Internal appearance: Thorax: intact ribs. Thorax cavity contains about 200 ml of clotted blood and stab injury over left

7th and 8th rib space corresponding to external injury - stab injury. Great vessels contused in the mid line length of 10 cm with 3x 0.5 cm laceration corresponding to the left 7th and 8th rib space. Chambers empty. Lungs: right lung punctured in the lower lobe 3x0.5 cm. Left lung collapsed. Right lung pale. Right - 450 gms and Left 400 gms. Hyoid intact. Stomach contains 200 ml of semi digested food. Liver pale, weight 1600 gms. Spleen pale, weight 180 gms. Kidney each pale, weight 160 gms. Intestines distended with gas. Bladder empty. Uterus normal in size, cavity empty. Skull no fracture. Membranes intact. Brain pale weight 1280 gms."

Ex.P5 is the postmortem certificate. He opined that the death of the deceased was due to the multiple injuries found on the body of the deceased.

2.7. P.W.9 recovered the bloodstained clothes from the body of the deceased and forwarded the same to Court. The investigation was thereafter continued by P.W.10 his successor. On completing the investigation, he laid the chargesheet against the accused.

2.8. Based on the above materials, the trial Court framed a lone charge under Section 302 I.P.C. The accused denied the same. In order to prove the case, on the side of the prosecution as many as 10 witnesses were examined, 21 documents and 7 material objects were marked.

2.9. Out of the said witnesses, P.W.1 has turned hostile and he has not supported the case of the prosecution in any manner. He has even disowned the complaint made by him and he has further disowned that he produced the accused at the police station along with the weapon. P.W.2 has also turned hostile and he has not supported the case of the prosecution in any manner. P.W.3 has spoken about the preparation of the observation mahazar and a rough sketch at the place of occurrence and about the recovery of bloodstained earth, sample earth and material objects from the place of occurrence. P.W.4 has spoken about the postmortem conducted and his final opinion regarding the cause of death.

2.10. P.W.5 has spoken about the registration of the case. P.W.6 the police constable has stated that he handed over the dead body of the deceased to the Doctor for postmortem as directed by P.W.9. P.W.7 has stated that he handed over the material objects to the Forensic Lab from the Court as

directed. P.W.8 has spoken about the chemical analysis conducted on the material objects and her opinion that human blood was found on all the material objects. P.Ws.9 and 10 have spoken about the investigation done and the final report filed.

3. 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 nor to mark any document. His defence was a total denial. He claimed that he was not even at the house at the time of occurrence. Having considered all the above, the trial Court convicted the accused as detailed in the first paragraph of this judgment and that is how, he is before this Court with this appeal.

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

5. As we have pointed out, in this case, P.Ws.1 and 2, who have been examined to speak about the occurrence, have not supported the case of the prosecution in any manner. There is no other evidence let in by the prosecution to prove the guilt of the accused either by means of direct evidence or by means of circumstantial evidence. But the trial Court has convicted the accused holding that the accused should have committed the murder of the deceased because he alone was in the house with the deceased. This conclusion, in the instant case, is totally baseless because there is no evidence that lastly, as on the date of occurrence the accused was available at his house. Simply because the accused happens to be the husband of the deceased, it cannot be conclusively held that he should have been available at his house and that he was the one who killed the deceased. A perusal of the judgment of the trial Court would go to show that the trial Court has convicted the accused on mere surmise. Thus, for want of evidence, we are forced to acquit the accused. We hold that the prosecution has failed to prove the case beyond reasonable doubts and therefore the accused is entitled for acquittal.

6. In the result,

(i) The appeal is allowed, the conviction and sentence imposed on the appellant by the learned I Additional District and Sessions Judge, Tiruppur in S.C.No.114 of 2011 dated 18.10.2012 is set aside and he is acquitted.

(ii) The fine amount, if any paid, shall be refunded to him.

(iii) The bail bond, if any executed, by him, shall stand discharged.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1. The I Additional District and Sessions Judge,
Tiruppur.
2. The Inspector of Police,
Sevoor Police Station,
Tiruppur District.
3. The Public Prosecutor,
Madras High Court.
4. The Judicial Magistrate, Avinzhil.
5. The Chief Judicial Magistrate, Tiruppur (For Information)
6. The Superintendent, Central Prison, Coimbatore.
7. The District Collector, Tiruppur.
8. The DIG of Police, Tiruppur.
9. The Section Officer, Criminal Section, High Court, Chennai

SDR 12.11.2016

Crl.A.No.281 of 2013

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