

BAIL SLIP

The Accused namely Viz Thoppi Nadar @ Rajendran S/o.Palpani Nadar was directed to be released on bail made in Crl MP.No.1393/16 in Crl.A.88/16 dated 03.03.2016 of this court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2016

CORAM

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Appeal No.88 of 2016

Thoppi Nadar @ Rajendiran Appellant/Accused

-vs-

State Rep.by
Inspector of Police,
Madathukulam Police Station,
Tiruppur District.
(Crime No.95/2013) ... Respondent/Respondent

This Criminal Appeal has been preferred to set aside the conviction and sentence imposed vide judgment dated 04.12.2015 made in Spl.S.C.No.12 of 2013 on the file of the Principal Sessions Judge, Tiruppur, by allowing this appeal.

For Appellant : Mr.S.N.Arunkumar for
Mr.M.N.Balakrishnan

For Respondent : Mr.V.M.R.Rajentren
Additional Public Prosecutor

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 Spl.S.C.No.12 of 2013 on the file of the learned Principal Sessions Judge, Tiruppur. He stood charged for offence under Section 302 IPC r/w 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. By judgment dated 04.12.2015, the Trial Court convicted him under the said charges and sentenced him to undergo imprisonment for life and to pay a fine of Rs.12,000/-, in default to undergo simple imprisonment for two years. Challenging the said conviction and sentence, the appellant has come up with this appeal.

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

The accused in this case is running a grocery shop at Narasingapuram, Tiruppur District. The deceased in this case was one Mr.Chinnakannan. He was a customer of the said shop. Earlier, the deceased had purchased some material from the shop and he did not pay the cost. On 24.03.2013, around 11.30 a.m., it is alleged that the deceased had gone to the shop and wanted a water pocket. The accused told him to pay the arrears of Rs.6/- and then only he could sell water pocket to him. P.W.1, the wife of the deceased tried to persuade the accused to sell a water pocket to the deceased. This resulted in a quarrel. In that, it is stated that the accused suddenly pulled the tongue of the deceased and pushed him down. The deceased fainted and died instantaneously.

3. P.W.1 immediately went to the Madathukulam Police Station and made a complaint at 12.00 noon on 24.03.2013. P.W.11, the then Sub-Inspector of Police on receipt of the said complaint registered a case in Crime No.95 of 2013 under Section 302 IPC r/w 3(2)(v) of the SC/ST Act. Ex.P1 is the complaint and Ex.P8 is the First Information Report. He forwarded both the documents viz., Complaint [Ex.P1] and FIR [Ex.P8] to the Court, which were received by the learned Magistrate on 24.03.2013 at 4.00 p.m.

4. P.W.14 - the Inspector of Police took up the case for investigation. He proceeded to the place of occurrence and prepared an Observation Mahazar and a Rough Sketch in the presence of witnesses. Then on going over to the hospital, he conducted inquest on the body of the deceased on 24.03.2013 between 02.30 and 04.15 p.m. Ex.P.13 is the inquest report. Thereafter, he forwarded the body for post-mortem.

5. P.W.4 - Dr.Elanchezhian, conducted autopsy on the body of the deceased on 25.03.2013 at 11.00 a.m. He found the following injuries:

"Abrasion seen over right forearm near elbow 4 x 2 cms on opening of thorax. No rib. Hyoid bone intact. Heart congested contains 10 ml of fluid blood weighing 350 gms. Lungs congested."

Ex.P2 is the post-mortem certificate. Ex.P3 is the final opinion regarding the cause of death. P.W.4 opined that the deceased would have died due to vasovagal shock and cardiac arrest as a result of emotional stress.

6. On 24.03.2013 at 4.00 p.m., P.W.14 arrested the accused in the presence of P.W.6 and another witness and forwarded the accused to the Court for judicial remand. On completing the investigation, he laid charge sheet against the accused.

7. Based on the above materials, the trial Court framed charges as detailed in the first paragraph of this judgment. The accused denied the same. In order to prove the case of the prosecution, on the side of the prosecution, as many as 14 witnesses were examined; 14 documents were exhibited. However, no Material Objects were marked.

8. Out of the said witnesses, P.Ws.1 and 2 - wife and son of the deceased respectively have spoken about the occurrence. P.W.3 has stated that he went to the place of occurrence after the occurrence was over. P.W.4 - Dr.Elanchezhian, who conducted autopsy on the body of the deceased has spoken about the cause of death. P.W.5 has spoken about the chemical examination conducted on the visceral organs of the deceased and found that there was neither poison nor alcohol. P.W.6 has spoken about the arrest of the accused. P.W.7 has stated that he took the dead body and handed over the same to the doctor for post-mortem. P.W.8 - the Head Clerk of the Magistrate Court has stated that he forwarded the visceral organs of the deceased for chemical examination as directed by the Magistrate. P.W.9 has stated that he issued community certificate to the effect that the deceased belonged to Schedule Caste. P.W.10 has spoken about the community of the deceased. P.W.11 has spoken about the registration of the case. P.W.12 has spoken about the preparation of Observation Mahazar. P.W.13 has spoken about the examination of hyoid bone. P.W.14 has spoken about the investigation done and final report filed.

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 on his side. His defence was a total denial.

10. Having considered all the above, the trial Court convicted the accused as detailed in the first paragraph of this judgment and that is how the appellant is before this Court with this appeal.

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

12. The learned counsel for the appellant would submit that in this case, the death of the deceased was natural due to mental stress. According to the learned counsel, the prosecution has failed to prove that it was a homicidal. We find force in the said argument. The evidence of P.W.4 - Dr.Elanchezhian, who conducted autopsy would clearly go to show that the death of the deceased was only due to emotional stress. Thus, when the death was only natural and it was not homicidal, the Trial Court was not right in convicting the accused. For all these reasons, we hold that the prosecution has failed to prove the case beyond reasonable doubts.

13. In the result, the Criminal Appeal is allowed and the conviction and sentence imposed on the appellant by the learned Principal Sessions Judge, Tiruppur, in Spl.S.C.No.12 of 2013, dated 04.12.2015, are set aside and the appellant is acquitted. The fine amount, if any paid, shall be refunded to them. The bail bond, if any, executed by the appellant shall stand discharged.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

svki

To

1.The Judicial Magistrate No.II
udumalpet

2.-do- Thro The Chief Judicial Magistrate
Tiruppur

3.The Principal Sessions Judge, Tiruppur,

4.The District Collector
Tiruppur

5.The District Collector
Coimbatore

6. Inspector of Police,
Madathukulam Police Station,
Tiruppur District.

7. The Director General of Police
Mylapore Chennai

8. The Superintendent of Police
Tiruppur

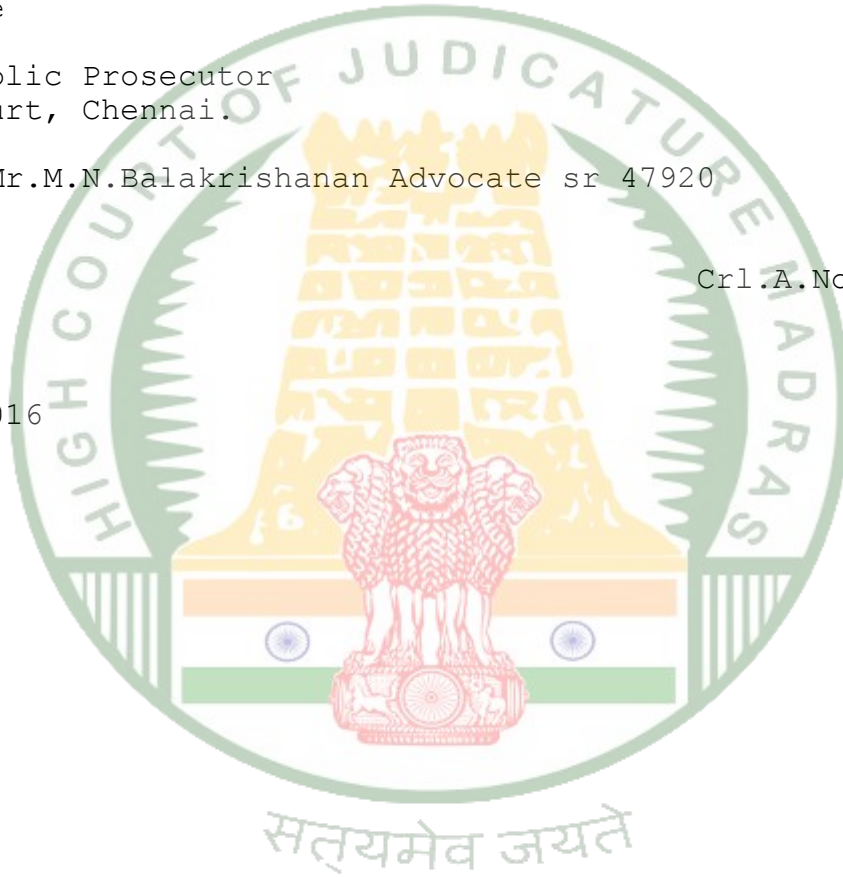
9. The Superintendent Central Prison
Coimbatore

10. The Public Prosecutor
High Court, Chennai.

+1 cc to Mr.M.N.Balakrishanan Advocate sr 47920

Cr1.A.No.88 of 2016

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