

Bail Slip

The appellant/Accused namely Viz., Marappa S/O Narayanappa was directed to release on bail on 24.1.2014 made in MP 1 of 2013 in CrI A 189/13 of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2016

CORAM

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
AND
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Appeal No.849 of 2013

Marappa ... Appellant/Accused

-vs-

State by:

The Inspector of Police,
Uttanapalli Police Station,
Krishnagiri District.

... Respondent/Complainant

(Crime No.129/2010)

Appeal filed under Section 374(2) of the Code of Criminal Procedure, against the judgment dated 29.10.2013 passed in S.C.No.51 of 2011 on the file of the Principal District and Sessions Judge, Krishnagiri, convicting the appellant under Section 302 of IPC and sentencing him to undergo life imprisonment and to pay a fine of Rs.1,000/- in default, to undergo imprisonment for six months and convicting him under Section 201 of IPC and sentencing him to undergo imprisonment for seven years and to pay a fine of Rs.1,000/- in default, to undergo imprisonment for six months.

For Appellant :: Mr.R.Sankara Subbu

For Respondent :: Mr.M.Maharaja,
Additional Public Prosecutor

JUDGMENT

(Judgment of the Court was delivered by

S.NAGAMUTHU, J.)

The appellant is the sole accused in S.C.No.51 of 2011 on the file of the Principal District and Sessions Judge, Krishnagiri. He stood charged for offences under Sections 302

and 201 IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 1998, by judgment dated 29.10.2013. The Trial Court, convicted the accused under Sections 302 and 201 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 six months and also convicted the accused under Section 201 of IPC and sentenced him to undergo rigorous imprisonment for seven years and to pay a fine of Rs.1,000/- in default, to undergo simple imprisonment for six months.

2.Challenging the said conviction and sentence, the appellant is before this Court with this appeal.

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

The deceased in this case was one Venkatamma. The appellant is the husband of the deceased. The sister of the accused was given in marriage to the brother of the deceased. They were living at Pazhayoor Village. There were frequent quarrels between the sister of the accused and her husband. The accused was enraged over the same. P.W.1 is the brother of the deceased. P.W.1 intervened in the above said quarrel and he informed the accused to come over to Pazhayoor village to pacify his sister so as not to quarrel with her husband. The accused told P.W.1 that he would take on his wife in revenge. It is alleged that due to the said quarrel, at about 11.00 p.m., on 09.10.2010, at his house, the accused strangled the deceased and killed her. It is further alleged that in order to cause disappearance of the said evidence relating to the above offence, he informed his relatives that the deceased was unwell and on that score, took the deceased to the hospital. The deceased even before being admitted to the hospital, died. The occurrence was not witnessed by anyone. P.W.1 heard about the occurrence on the next day at 7.00 a.m. Then he went to the Uttanapalli Police Station and lodged a complaint at 11.00 a.m.on 10.10.2010. The Sub-Inspector of Police, P.W.10, registered the case in Crime No.129 of 2010 under Section 302 IPC. Ex.P12 is the First Information Report. He forwarded Ex.P1 and Ex.P12 which were received by the learned Magistrate at 2.00 p.m.on 10.10.2010. Investigation was taken up by P.W.11. He proceeded to the place of occurrence and prepared observation mahazar and rough sketch in the presence of P.W.4 and another witness. Then, he conducted inquest over the body of the deceased and forwarded the same for post mortem. P.W.8 conducted autopsy on the body of the deceased on 10.10.2010 at 03.30 p.m. She observed the following in the post mortem report:

Appearances found at the post mortem - Body of a female, lying on its back with eyes closed, mouth closed, tongue inside the mouth. Blood stained frothy discharge from the mouth and nostril, face swollen, both eyes reddish in colour. Complete ligature mark - 2 cm below the

chin, both side of neck and back side present. 18 cm in length, 2 cm breadth, c/s of ligature mark congested. Mobility of nasal bone +, # nasal bone.

Internal examination:

Hyoid bone-intact, preserved.

Ribs - right and left side - intact.

Heart - 180 gm c/s congested, lungs right 400 gm, left 350 gm, c/s congested, liver- 1300 gms c/s congested; stomach-200 gms - partially digested rice + Kidneys 120 gms each, c/s congested. Spleen - 140 gms c/s congested. Bladder-empty; Uterus-size and shape normal, cavity empty; skull-intact. Membranes - intact, Brain 1100 gms intact. Base of skull-intact.

She gave opinion that the death was due to asphyxia due to strangulation.

4. On the next day at 04.10 p.m., the accused was arrested in the presence of P.W.5 and another witness. On such arrest, the accused made disclosure statement out of which M.O.1 was recovered. On completing the investigation, charge sheet was laid.

5. Based on the above materials, the Trial Court framed the charges. In order to prove the case, as many as 11 witnesses were examined, 20 documents and 7 material objects were marked, on the side of the prosecution.

6. Out of the said witnesses, P.W.1, the brother of the deceased, has stated that he came to the place of occurrence on the next day and made a complaint to the police. P.W.2 is the neighbour of the deceased. He has stated about the quarrel on the previous day between the deceased and the accused. He has further stated that on the next day at about 6.00 a.m., he heard that the deceased was dead. P.W.3 is the relative of the deceased. He also stated that he heard the occurrence on the next day of the occurrence. P.W.4 was examined to speak about the arrest of the accused and he stated about the same. He has further stated that on the disclosure statement made by the accused, M.O.1-Thuppatta was recovered. P.W.6 has spoken about the preparation of observation mahazar and rough sketch in the place of occurrence. P.W.7 has turned hostile and has not supported the case of the prosecution in any manner. P.W.8 has spoken about the post mortem report and the final opinion regarding the cause of death. P.W.9 has spoken about the previous misunderstanding between the accused and the deceased. P.W.10 has spoken about the registration of the case on the

complaint made and the enquiry done by him on the complaint of P.W.1. P.W.11 has spoken about the investigation done after the registration of the case.

7. When the above materials were put to the accused under Section 313 Cr.PC, he denied the same as false.

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

9. The learned counsel for the appellant would submit that this is a case of no evidence against the accused and neither there is direct evidence, nor any circumstantial evidence to prove the guilt of the accused.

10. The learned Additional Public Prosecutor is unable to controvert the said arguments of the learned counsel for the appellant.

11. We have carefully gone through the evidence on record. As we have already stated, there is no evidence pointing to the guilt of the accused. The Trial Court has convicted the accused only on mere surmise. Under Article 21 of the Constitution of India, life and liberty of an individual could be deprived of only by following the procedure established by law and such procedure requires proof of guilt beyond reasonable doubts. But here, in this case, contrary to the constitutional mandate, the Trial Court has convicted the accused only on mere surmises, which in the considered opinion of this Court, is illegal.

12. In the result, the appeal is allowed and the conviction and sentence imposed on the appellant are set aside and he is acquitted of the charges levelled against him. The bail bonds, if any executed by him, shall stand cancelled. The fine amount, if any paid, shall be refunded to the appellant.

Sd/-

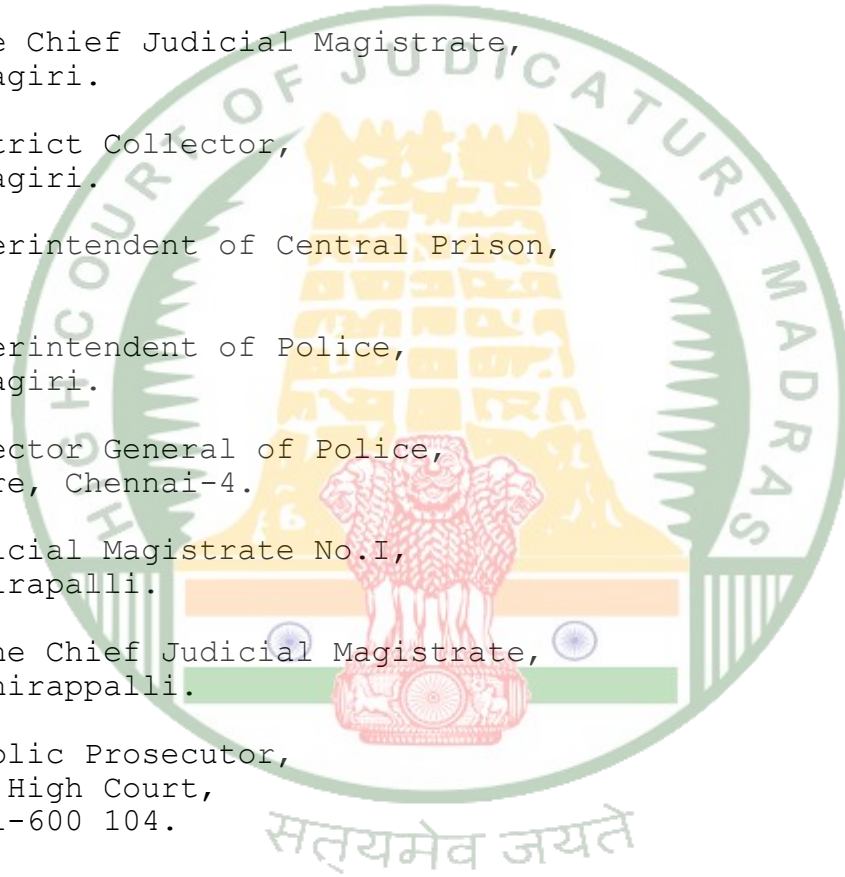
Assistant Registrar(CCC)

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Sub Assistant Registrar

To

- 1.The Inspector of Police,
Uttanapalli Police Station,
Krishnagiri District.
- 2.The Principal District Sessions Judge,
Krishnagiri.
- 3.The Judicial Magistrate No.II,
Hosur.
- 4.Thro The Chief Judicial Magistrate,
Krishnagiri.
- 5.The District Collector,
Krishnagiri.
- 6.The Superintendent of Central Prison,
Salem.
- 7.The Superintendent of Police,
Krishnagiri.
- 8.The Director General of Police,
Mylapore, Chennai-4.
- 9.The Judicial Magistrate No.I,
Tiruchirapalli.
- 10.Thro The Chief Judicial Magistrate,
Tiruchirappalli.
- 11.The Public Prosecutor,
Madras High Court,
Chennai-600 104.



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