



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.04.2016

CORAM

THE HONOURABLE MR. JUSTICE A.SELVAM
and

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.A.(MD)No.209 of 2014

Kuppusamy : Appellant/Accused

Vs.

State by
The Inspector of Police,
Udaiyalipatti Police Station
Pudukkottai District,
(Crime No.45/2009)

: Respondent/Complainant

Criminal Appeal has been filed under Section 374(2) of Cr.P.C. against the conviction and sentence, dated 18.12.2013. passed in Sessions Case in S.C.No.6 of 2011 by the Mahila Court, Pudukkottai.

For Appellant : Mr.N.Rahamathullah
for Mr.K.Gokul

For Respondent : Mr.A.Ramar
Additional Public Prosecutor

JUDGEMENT RESERVED DT: 01.04.2016

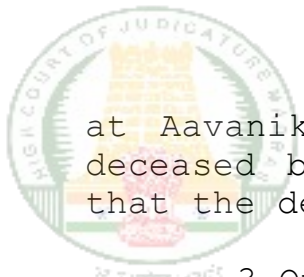
JUDGEMENT DELIVERED DT: 22.04.2016

JUDGMENT

(Judgment of the Court was made by G.CHOCKALINGAM, J.)

The present appeal is directed against the conviction and sentence passed in Sessions Case No.6 of 2011 by the Mahila Court, Pudukkottai holding that the appellant/accused guilty of the offences under Section 302 of Indian Penal Code and awarding sentence of life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo 6 months rigorous imprisonment and under Section 394 r/w 397 of the Indian Penal Code, awarding sentence of 10 years of rigorous imprisonment and also to pay a fine of Rs.1,000/-, in default to undergo 6 months of rigorous imprisonment.

2.Brief case of the prosecution is that on 17.05.2009, the de-facto complainant, the mother of the de-facto complainant went for grazing the cow, who did not return back home and on search,



at Aavanikulam-Andakulam foot steps pathway Saathini ponds, the deceased body was found place and thereafter, it came to light that the deceased was murdered by the accused.

3. On receipt of complaint Ex.P1 from Thiru.Duraisamy (PW1), who is the son of the deceased, Thiru.K.R.Ramasamy (PW20), Sub Inspector of Police, has registered a FIR in Crime No.45 of 2009 under Sections 302 and 379 of IPC, which was marked as Ex.P19 and sent the copy of the FIR to the concerned Judicial Magistrate and his higher officials.

4. PW2 Thiru.Kumar is one of the sons of the deceased Chellammal and he has stated the same version given by PW1.

5. PW3 Thiru.Rasu and PW4 Thiru.Subramanian are the witnesses, who had identified the accused during the time of identification parade in the Central Prison, Trichy.

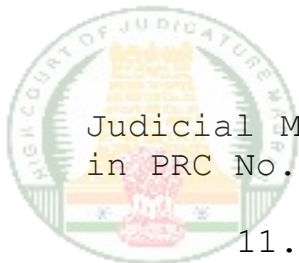
6. PW6 Thiru.Samiyappa is the residence of Mangalathupatti and he has identified the burial place of the deceased.

7. PW21 Thiru.Subakumar, Circle Inspector of Police, on the basis of the FIR registered by PW20, took up the case for investigation, proceeded to the scene of crime and prepared Observation Mahazar and Rough Sketch in the presence of PW5 Thiru.Periyappa, PW7 Thiru.Govindaraj and PW8 Thiru.Kulandaivelu, who are the Village Administrative Officers and Office Menial Palaniappan. He also examined the witnesses and recorded their statements and thereafter, had been to the burial ground and inspected the place and prepared Observation Mahazar and Rough Sketch and also recovered Material Objects under Mahazar.

8. On receipt of requisition from PW21 for exhumation of the dead body, PW12 Thiru.Muthuramalingam, Thasildar had proceeded to the burial ground. PW10 Dr.Mathiyalagan, Assistant Civil Surgeon, attached to Government Head Quarters Hospital, Pudukkottai, on receipt of requisition for conducting autopsy over the dead body, proceeded to the place, where the dead body was exhumed. On 31.07.2009 in the presence of police officials and medical officers, the skeleton alone was exhumed. He conducted inquest over the dead body in the presence of Panchayathars and prepared Exs.P7 and P8 inquest reports.

9. PW14 Thiru.Prabakaran, PW15 Dr.Alamelumangai and PW17 Tmt.Jeya are the officials of Forensic Science Department, who conducted Superimposition test and issued Certificate giving opinion that the skull could possibility have belonged to the female individual seen in the photograph.

10. PW22 Thiru.Manokaran, Inspector of Police, had completed the investigation and after following all the legal formalities, has laid a final report on the file of the District Munsif-cum-



Judicial Magistrate, Keeranur and the same has been taken on file in PRC No.9 of 2010 under Sections 302 and 394 r/w 397 IPC.

11.The learned District Munsif-cum-Judicial Magistrate, Keeranur, after considering the fact that the offences alleged to have been committed by the accused are triable by the Sessions Court, has committed the case to the Mahila Court, Pudukkottai and the same has been taken on file, in Sessions Case No.6 of 2011.

12.The trial court, after hearing both sides and upon perusing relevant records, has framed charges against the accused for the offences under Sections 302 and 394 r/w 397 of the Indian Penal Code and the same had been read over and explained to him. The accused denied the charges and claimed to be tried.

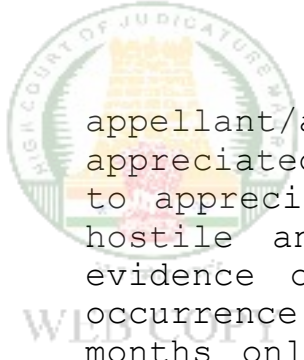
13.To prove the charges against the accused, on the side of the prosecution, PWs.1 to 22 have been examined and Exs.P1 to P28 and M.Os.1 to 9 have been marked. After examining the prosecution witnesses, the accused had been questioned under Section 313 of the Code of Criminal Procedure, 1973 in respect of the incriminating materials available in evidence against him, he denied his complicity in the crime. No oral and documentary evidence have been let in on the side of the accused.

14.The trial Court after perpending the available evidence on record has found that the accused found guilty and awarded sentence of life imprisonment and to pay a fine of Rs.1,000/-, in default to undergo six months rigorous imprisonment under Section 302 of IPC and to undergo 10 years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to undergo six months rigorous imprisonment under Section 394 r/w 397 of IPC.

15.The specific case put forth on the side of the prosecution is that on 17.05.2009, the deceased Chellammal, the mother of the de-facto complainant went grassing for the cow, who did not return back home and on search, at Aavanikulam-Andakulam foot steps pathway Saathini ponds, the deceased body was found place and latter, it came to know that the deceased was murdered by the accused.

16.Heard learned counsel appearing for the appellant and the learned Additional Public Prosecutor appearing for the State/respondent and also perused the materials available on record.

17.The learned counsel appearing for the appellant/accused has contended that the trial court has failed to see that the appellant/accused not only convicted in this case, but he has also been convicted in four other cases, which looks the history of the case that all the cases of similar and hence, it is a put up case on the appellant/accused and that the past history of the



appellant/accused has been taken into consideration, which is not appreciated in the eye of law and that the trial court has failed to appreciate the evidence of PW9, PW11 and PW13, who had turned hostile and that the trial court has failed to consider the evidence of PW3 and PW4, who had seen the accused before the occurrence and after conducting funeral of the deceased, after 2 months only, the body has been taken from the burial ground and that the postmortem has been conducted and only at that time, PW3 and PW4 came to be as eye witnesses.

18. The learned counsel for the appellant/accused has further contended that the trial court has failed to appreciate the fact that the prosecution has not brought out any legally admissible evidence as against the appellant/accused and come to a wrong conclusion in convicting the appellant/accused. Hence, he prayed that the conviction and sentence passed by the trial court has to be set aside and the appeal has to be allowed.

19. Per contra, the learned Additional Public Prosecutor has contended that the prosecuting agency has brought home the guilt of the appellant/accused beyond all reasonable doubts with unassailable evidence and that the trial court had also, after analysing the evidences, both oral and documentary, found the appellant/accused guilty and the appellant/accused was also rightly and fairly convicted and sentenced in proportionate to intense of the offences committed by him, which do not require any disturbance and therefore, he has prayed to confirm the judgment of the trial court.

20. It is an admitted fact that the accused is tried in this case and also in other similar kind of offences with regard to the child, aged women and the trial was conducted and after trial in all the cases, the accused was convicted and sentenced to undergo life imprisonment under Section 302 of IPC and the appellant/accused had preferred appeals before this court respectively and the appeals were heard by this court simultaneously.

21. It is alleged on the side of the prosecution that the accused was in the habit of committing robbery of jewels and also committing murder of the ladies, after committing rape.

22. The learned counsel appearing for the appellant has mainly contended that except this case, four other similar cases were registered against the accused and hence, the court has to presume that they are all put up cases against the appellant.

23. On the side of the appellant, it is contended that all the cases are put up against the accused. But in all the cases, Material Objects were recovered and identification parade has been conducted and the witnesses were identified the accused and the

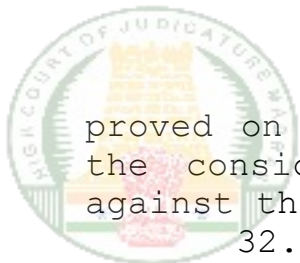
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25. In this case, PW9 is the attesting witness to the confession statement and PW11 is the recovery witness and PW13, who is the owner of the jewellery shop from whom, the jewels were recovered.

27.Hence, this court is of the considered view that the contention of the appellant that since, PW13 is the receiver of the jewels from the accused, had turned hostile in the trial stage, has no merits and the contention in this regard raised by the counsel for the appellant is rejected.

29. In this case, PW21 is the Investigating Officer has deposed that he recorded the confession statement of the accused and got the signature in the presence of witnesses and as per the identification given by the accused, he recovered the jewels from the Meenakshi Jewellery shop and the jewels were recovered in the presence of witnesses and produce before the concerned court. The evidence of PW21 has also corroborated by the recovery of MOs' from PW13.

31. In this case, admittedly the case was reopened and the body of the deceased has been taken out from the burial ground and subsequently, the property was identified by the witness and subsequently, a postmortem was conducted and PW1 also identified MO1 and MO2, which are belonged to the deceased and the recovery of jewels from PW13, which was pledged by the accused is also clearly



proved on the side of the prosecution. Hence, this court is of the considered view that the prosecution has proved the case against the accused by cogent evidence.

32. In view of the above circumstances, the trial court has clearly proved the circumstantial guilt against the accused and the prosecution has clearly proved that the guilt against the accused beyond all reasonable doubts.

33. Further, the learned counsel appearing for the appellant has not disputed in the grounds of appeal regarding the recovery of jewels before the witnesses and the confession statement given by the accused. Except the grounds discussed above, no other grounds were raised in the grounds of appeal.

34. Keeping in view of the above facts, this court is of the considered view that there is proper identification by the witnesses in the identification parade and admitted portion of the confession given by the accused, led to recovery of MOs.1 and 2, which are belonged to the deceased. Hence, this court finds that the finding recorded by the trial court, based upon the proper appreciation of evidence, is clearly proved the guilt of the accused.

35. Keeping in view of the above facts, this court is of the considered view that the charges levelled against the accused were proved beyond all reasonable doubts and this court finds no reason to interfere with the conviction and sentence passed by the trial court.

36. In the result, the criminal appeal is dismissed and the conviction and sentence passed by the trial court are confirmed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub-Assistant Registrar

To

1. The District Sessions Judge, Mahila Court, Pudukkottai
2. The District Munsif -cum-Judicial Magistrate, Keeranur
3. The District Munsif-cum-Judicial Magistrate, Thirumayam
4. The Superintendent, Central Prison, Trichy
5. The Inspector of Police, Udaiyalipatti Police Station
Pudukkottai District,
6. The Chief Judicial Magistrate, Pudukkottai
7. The District Collector, Pudukkottai
8. The Director General of Police, Mylapore, Chennai
9. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai

Copy to:-

The Section Officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai

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