



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2016

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CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Criminal Appeal (MD) No.302 of 2015

Suresh @ Sathiyaraj
(Now confined at Central
Prison, Trichy)

... Appellant/Sole Accused

Vs.

State represented by
The Inspector of Police,
Mayanoor Police Station,
Karur District.

.. Respondent/Complainant

PRAYER: This Criminal Appeal is filed under Section 374(2) of Cr.P.C to allow the Appeal and set aside the judgment dated 06.08.2013 made in S.C.No.42 of 2012, on the file of the Sessions Judge, Karur.

For Appellant	: Mr.N.Anandakumar
For Respondent	: Mr.C.Ramesh
	Assistant Public Prosecutor

JUDGMENT

(Judgment of the Court was delivered by M.V.MURALIDARAN, J.)

The appellant is the sole accused in S.C.No.42 of 2012 on the file of the District and Sessions Judge, Karur. The trial Court framed charges under Section 449, 302 and 394 r/w 397 of I.P.C against this Appellant/Accused.

2. The Trial Court by Judgment dated 06.08.2013 convicted and sentenced the appellant to undergo 10 years rigorous imprisonment under Section 449 of I.P.C and to pay a fine of Rs.1500/-, in default to pay fine amount, to undergo rigorous imprisonment for six months, convicted and sentenced to undergo Life Imprisonment under Section 302 of I.P.C and to pay fine of Rs.5,000/-, in default to pay fine amount, to undergo Rigorous Imprisonment for one year, convicted and sentenced to undergo seven years under Section 394 r/w 397 of I.P.C and to pay fine of Rs.1,500/-, in default to pay fine amount, to undergo Rigorous Imprisonment for six months. All the sentences shall run concurrently. The set off

was allowed under Section 428 of Cr.P.C. Challenging the said conviction and sentence passed against him, the present appeal has been filed by the appellant/accused.

3.The case of the prosecution is that PW-1 Sharmila is the Granddaughter of the deceased Sagunthala. PW-1 Sharmila is residing with her Maternal Grandmother Sagunthala, since her parents died. The said Sagunthala's husband is no more and PW-1 Sharmila and Sagunthala are residing in the latter's house. The PW-1 Sharmila is working at Siva Textiles at Karur. The accused Suresh @ Sathiyaraj is a tenant under Sagunthala, was residing in a portion of the house. On 09.10.2011 at about 8.30 A.M, PW-1 left for her work to Siva Textiles as usual. Since it was Deepawali festival time, she left the shop at 10.45 P.M and saw the house locked outside. She called her Grandmother, but did not hear any sound. So she went inside the house through backside door where she saw her grandmother died with pool of blood. She had also seen a grinding stone near the dead body and bureau got opened. Immediately PW-1 informed to PW-3 Thangaraj who is a neighbour of PW-1 and he came to the house. Thereafter PW-1 checked the Bureau and found missing of jewels, one cell phone, cash of Rs.2,000/-, Four sarees, blue colour bag, G5 Cell phone and one scent bottle those items were kept in the bureau thereafter PW-1 and PW-3 went to Mayanoor Police Station for giving complaint. The oral complaint given by PW-1 to PW-21 Inspector of Police was recorded and the respondent police has registered FIR (Ex-P1) in Crime No: 235/11 under section 302 and 380 of I.P.C.

4.After filing the charge sheet before the Learned Judicial Magistrate No.2, Kulithalai in P.R.C.No.7 of 2012, the case was made over to the Learned District & Sessions Judge, Karur and the same was numbered as S.C.No.42/2012. In this case, 21 witnesses were examined as prosecution side witnesses and 41 Exhibits were marked on the side of prosecution and there are 13 material objects produced before the Trial court. But there was no witness and exhibits on the side of the accused.

5.In this case, PW-1 Sharmila who is the Maternal Granddaughter of the deceased Sagunthala and PW-2 Kaliyaperumal is the brother of the deceased. The Sagunthala's husband is no more and Sharmila's parents are no more. Therefore Sharmila is residing with her Maternal Grandmother Sagunthala's house. PW-1 is working in Siva's Textile at Karur. As usual she had gone to work at 8.30 A.M on 09.10.2011 and she left from the shop at about 10.45 P.M, due to Deepawali Season. When PW-1 reached the house, it was locked outside. Thereafter she went to the house backside where she saw her grandmother died with a pool of blood. She had also seen a grinding stone near her grandmother and bureau got opened. The PW-1 also found missing of Jewels, Cellphone, Blue colour bag, cash of Rs.2,000/-, Four Sarees and one Scent Bottle. Thereafter she called PW-3 who is a neighbour and both of them went to Mayanur Police Station for giving complaint Ex-P1.



6.The P.W-3, Thangaraj who is the Neighbour deposed that the accused is a tenant in the house of the deceased Sagunthala. He and PW-1 Sharmila had gone to police station where PW-1 given complaint Ex-P1. Thereafter at the time of bringing the accused he was called to police station where the accused was enquired and obtained confession statement. Further the police has recovered one bag and four sarees and one scent bottle and the signature contained in the confession statement of the accused is that of P.W-3. The P.W-4 Village Assistant deposed that he put 3 signatures in Ex-P4 Mahazar prepared for recovery of Grinding stone. The P.W-5 also Village Assistant of Manavasi deposed that he put three signatures in Ex-P7 Mahazar which was obtained for the recovery of Grinding Stone.

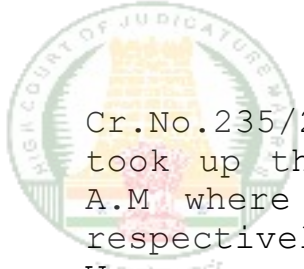
7.The next witness is P.W-8, K.Kannan who deposed that on 9.10.2011 while he was standing in Mayanur bus stop, at about 3 P.M the accused came to the bus stop along with his wife. He enquired the accused where they are going in a hurried manner and for that the accused replied to him that they are going for cooking work. The P.W-8 during the cross has stated that the accused was carrying Blue colour bag on his hand while he came to bus stop. The P.W-9 is a Village Administrative Officer who deposed that on 13.10.2011, he went to Police station as per the request of the Inspector of Police, where the accused was arrested and he gave confession statement in his presence. Thereafter the accused was taken to Raji Jewellers at Nagapattinam along with P.W-9 by the Inspector of Police. Where the police recovered M.O-8 & 9 and in the Recovery Mahazar Ex-P13 P.W-9 put his signature.

8.The P.W-10 who is the owner of Raji Jewelry deposed that the accused came to his shop on 10.10.2011 and sold M.O-8 & 9 for Rs.4,500/-. After 3 days the Pattukottai Police came to his shop along with accused and he handed over M.O-8 & 9 which was sold by the accused.

9.The P.W-11 Jeya who is the sister of the accused deposed that her brother came to her house on 13.11.2011. Since she turned hostile, she was cross examined by the prosecution. During her cross she admitted that the accused came to her house with one bag. Further she admitted that four sarees, body spray and blue colour bag were recovered from her house.

10.The P.W-17 who is the Inspector of Police has deposed that the accused had given confession statement without any apprehension and he voluntarily gave the same on 13.10.2011 in the presence of P.W-9. He further deposed that as per the confession statement of the accused, P.W-17 recovered M.O-8 & 9 from the shop of P.W-10.

11.The P.W-21 who is the Inspector of Police, Mayanur Police Station, who is the investigation officer deposed that while he was in Police Station on 10.10.2011, P.W-1 Sharmila came to the police station and gave complaint and the same was registered in



Cr.No.235/2011 under Sections 302 and 380 of I.P.C. Thereafter he took up the investigation and went to the occurrence place at 1 A.M where he prepared Mahazar and rough sketch Exs-P31 & P32 respectively. He also examined the witnesses Murugesan and Veerasamy as Mahazar witness. He sent the dead body for post mortem to Government Hospital, Karur. He received M.O-8 & 9 from P.W-17 Inspector of Police and he also recorded the statement of P.W-10 Ramu, the owner of Raji Jewellers.

12.On the evidence taken by the trial court namely The District & Sessions Judge, Karur came to the conclusion that the charges laid against the accused were proved by the circumstantial evidence led by the prosecution.

13.In the above said circumstances, though there is no direct eye witness, the learned Trial Judge convicted the accused for the offences under section 449, 302 and 394 r/w 397 of I.P.C. Against the said conviction the present appeal has been filed.

14.We have heard the learned Counsel for the appellant and the learned Additional Public Prosecutor and we have also perused the records carefully.

15.In this case, on going through the entire evidences, documents and material objects, we have to see whether prosecution has proved the circumstantial evidence beyond reasonable doubt. It is the case of murder for gain. The evidence of PW-1, Sharmila who is the maternal granddaughter narrated the facts of the case. According to her, she as usual went to the shop at 8.30 A.M on 09.10.2011. When she returned to the house at 10.45 P.M, she saw the house locked outside and therefore she went inside the house through back door which was not locked, where she saw her grandmother died with a pool of blood and nearby the dead body she had also seen a grinding stone and found bureau got opened. The PW-1 checked the bureau and found missing of articles viz. Jewels, Cellphone, Cash of Rs.2,000/-, Four Sarees, Blue Colour bag and one Scent Bottle.

16.The Inspector of Police, PW-17 took up investigation and arrested the accused on 13.10.2011 while he was in patrolling. The accused gave confession statement Ex-P41 to the PW-17 which was recorded in the presence of PW-9 Vedarathinam, VAO of Nachammalpuram and Gajendran who is the assistant of V.A.O. As per the confession, PW-17 recovered M.O-8 one pair of ear stud and M.O-9 one T.V. Model ring from PW-10 Jewelry Shop in the presence of PW-9. In this case, the confession statement of accused was given to PW-17 was corroborated by the evidence of PW-9 and PW-10. The M.O-8 & M.O-9 recovered from the Jewelry shop of PW-10 has been rightly stated by PW-1 in her complaint Ex-P1.

17.Further the prosecution has proved the fact that the commission of offence committed only by the accused by examining PW-7 & PW-8. The PW-8 has clearly stated that on 9.10.2011 at about 3 P.M, the accused and his wife came to Mayanur bus stop



where he was standing and he also found that the accused carried a blue colour bag on his hand. He denied the suggestion that he has not seen anything in the bus stop. Further on the side of the accused during cross, no suggestion was put to PW-8 that the accused was not residing in the house of the deceased as tenant and he had not seen the accused on that day.

18. We can't accept the arguments advanced by the Learned Counsel for the appellant that since the prosecution has not recovered gold chain, G-Five cell phone and cash Rs.2,000/- from the accused, the accused has not committed the offence and the accused must be acquitted by giving the benefit of doubt. Merely because the respondent police has not recovered certain articles, it does not mean that the accused has not committed the offence. The evidences of P.W-1, P.W-8, P.W-10, & P.W-17 are corroborated each other. In this case, the prosecution has established each circumstance by independent evidence without giving room to any other hypothesis and it is consistent with the guilt of accused. Now a day's murder for gain is increasing and we can't shut our eyes in such kind of cases. Now a day's no one is prepared to do any work, but wants to lead a happy life by committing such a nature of crime which can't be allowed. The murder for gain is a danger to the society and the person involved in such kind of crime should be punished severely.

19. The learned Judge has convicted the accused after carefully considering the oral evidences, documents and material objects by holding the accused guilty that there are possibilities to murder the deceased Saguntala by using Grinding Stone, since the accused is residing in a portion of the house of the deceased as Tenant and the same was proved by the evidence of PW-3.

20. In the present case, as discussed earlier, the prosecution has clearly proved the case beyond all reasonable doubts and therefore we hold that the charges against the accused are proved and the conviction and sentence imposed by the Learned Judge not warranted interference and in the result the appeal has to be dismissed.

21. Accordingly, the criminal appeal is dismissed and conviction and sentence imposed on the appellant in S.C.No.42 of 2012 dated 06.08.2013, on the file of the Sessions Judge, Karur, is hereby confirmed.

Sd/
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar.



To

1. The Session Judge, Karur.
2. The Chief Judicial Magistrate, Karur
3. The Judicial Magistrate No.II, Kulithalai.
4. The Inspector of Police,
Mayanoor Police Station,
Karur District.
5. The Superintendent, Central Prison,
Tiruchirappalli.
6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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