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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Judgment Reserved on: 22.11.2016

Judgment Pronounced on: 30.11.2016

CORAM:

THE HONOURABLE Mr. JUSTICE S. NAGAMUTHU
and
THE HONOURABLE Mr. JUSTICE M. V. MURALIDARAN

Cr1.A.(MD)No.368 of 2015

Veeramani, S/o. Srinivasan
Door No.14, Subbiah Pillai Layout
Karur District.

... Appellant/Sole Accused

vs.

State, rep. by
The Inspector of Police,
Karur Town Police Station,
Karur District.
(Crime No.1071 of 2012)

... Respondent/Complainant

Appeal under Section 374(2) of the Code of Criminal Procedure against the judgment of the learned Sessions Judge, Fast Track Mahila court, Karur, dated 11.09.2015, made in S.C.No.5 of 2015, convicting the appellant under Section 302 IPC and sentencing him to undergo imprisonment for life and to pay a fine of Rs.1000/-, in default to undergo simple imprisonment for 3 months.

For Appellant : Mr. R. Meenakshisundaram for
Mr. N. Shanmugaselvam
For Respondent : Mr. C. Ramesh,
Additional Public Prosecutor.

JUDGMENT

S. NAGAMUTHU, J

The appellant is the sole accused in S.C.No.5/2015 on the file of the learned Mahila Fast Track and Sessions Court, Karur. He stood charged for the offence under Section 302 IPC. After trial, by judgment, dated 11.09.2015, the trial court found the appellant/accused guilty under Section 302 IPC, convicted him



thereunder and sentenced to undergo imprisonment for life and to pay a fine of Rs.1000/-, in default to undergo simple imprisonment for three months. Challenging the said conviction and sentence, the appellant has come up with this appeal.

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

(a)P.W.1 Mr.Karthikeyan, a teacher by profession, was residing at Kondichettipatti village in Namakkal District. He has two sisters, by name Kalaiselvi and Krishnaveni. Kalaiselvi was given in marriage to her maternal uncle and they are living at Deviyakurichi, Athoor, Salem District. Krishnaveni (hereinafter referred to as the 'deceased'), for some time, was staying with her sister's house at Deviyakurichi, Athoor, Salem District. The cousin sister of P.W.1, by name Parameswari, was given in marriage to one Mr.Iyappan, a resident of Karur. The accused is the brother of Mr.Iyappan and thus he became a relative of P.W.1. The family members of the accused approached P.W.1 and his family members with a proposal to marry the deceased to the accused. Thus, the marriage between the accused and the deceased was celebrated on 01.06.2012.

(b)After the marriage, the accused, the deceased and the parents of the accused were all residing together at their ancestral house at Karur. Shortly after 1-1/2 months of the marriage, the accused started developing suspicion over the fidelity of the deceased. This resulted in frequent quarrels. Unable to bear with the torture, the deceased returned to Deviyakurichi and stayed alongwith her sister. The accused and his parents persuaded the deceased and her other family members and took her back to the matrimonial home. Again, the accused started quarrelling with the deceased and harassing her, suspecting her fidelity. Therefore, the deceased once again came out of the matrimonial home and stayed with her brother (P.W.1) at Kondichettipatti.

(c)The accused and his parents came to P.W.1 and talked to P.W.1 and gave assurance that the accused would not harass the deceased any more. P.W.1 also agreed to send the deceased to the matrimonial home, after Deepawali Festival of that year. As per the local custom, P.w.1 invited the accused to come to his house to celebrate Deepawali. Accordingly, the accused came, stayed with the deceased at the house of P.W.1 and celebrated Deepawali. After Deepawali, the accused took the deceased with him, assuring that he would set-up a separate home for them. P.W.1 also, believing the words of the accused, sent the deceased with him. Then onwards, the accused and the deceased were living together in a rented house.

(d)It is the further case of the prosecution that on 18.12.2012, around 6.30 p.m., due to the above suspicion over the fidelity of the deceased, the accused cut the deceased inside her house and caused her death. Then bolting the main door from outside, the accused fled away from the scene of occurrence. The occurrence was not witnessed by anyone. P.W.2, maternal aunt of

the deceased, casually went to the house of the deceased to meet her. She found the house bolted from outside. But, when she opened the house and entered into the house, to her shock, she found the deceased with multiple cut injuries on her body and she was dead. Immediately, she informed P.W.1 over phone about the same. P.W.1 rushed to the place of occurrence and found the dead body and then he went to Karur Town Police Station at 10.00 p.m. and made a complaint. Ex.P-1 is the said complaint.

(e) On the basis of Ex.P-1 complaint, P.W.13, the then Sub-Inspector of Police, registered a case in Crime No.1071 of 2012 under Section 302 IPC against the accused and prepared Ex.P-10, FIR. Thereafter, he forwarded both the complaint, Ex.P-1 and the FIR, Ex.P-10, to the Judicial Magistrate Court, and copies thereof to higher police officials.

(f) The case was taken-up for investigation by P.W.18, the then Inspector of Police. He visited the place of occurrence at 11.00 p.m. on the same day, prepared an observation mahazar (Ex.P-2) and a rough sketch (Ex.P-14) and recovered M.O.2, bloodstained cloth, under Ex.P-2 Mahazar, in the presence of witnesses. After holding inquest on the body of the deceased and preparing an inquest report (Ex.P-9), P.W.18 forwarded the body for post-mortem, through P.W.9, Constable.

(g) P.W.10, Dr.Kannan, conducted autopsy on the body of the deceased on 20.12.2012 at 11.00 a.m. He found the following injuries:

- "1) 10 x 3 cm x bone depth incised wound below right ear.
- 2) 5 cm x 1 cm x muscle depth incised wound upper neck right side.
- 3) 7 x 3 cm x bone depth incised wound right superclavicle region.
- 4) 10 cm x 4 cm x bone depth incised wound left mandible.
- 5) 4 x 1 cm x muscle depth incised wound left upper neck caotid vessels opened.
- 6) 7 x 6 cm x muscle depth incised wound back side neck.
- 7) 3 incised wound left shoulder region 2 x 1 cm x subcut depth.
- 8) 10 cm x 2 cm x bone depth incised wound over dorsum of left hand.
- 9) 4 x 2 cm x muscle depth incised wound left wrist.
- 10) 2cm x 4cm x muscle depth incised wound left forearm.
- 11) 4 x 2cm x muscle depth incised wound right forearm.
- 12) 10 x 6 cm x subcut depth cut injury over left thigh.
- 13) cm x 6 cm x subcut depth cut injury right thigh."

(h) Ex.P-9 is the postmortem certificate, issued by P.W.10. He opined that the injuries found on the body of the

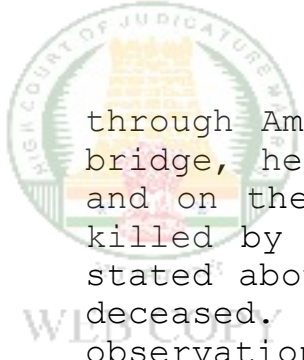
deceased could have been caused by an aruval, like M.O.3, and the death of the deceased was due to shock and haemorrhage due to multiple injuries.

(i) After post-mortem, P.W.9, constable, collected the bloodstained clothes of the deceased, M.Os.1, 5 to 7, removed from the body of the deceased and handed over the same to P.W.18, with a report and the same were recovered by P.W.18 under Ex.P-7 and sent the same to the Court.

(j) On 25.12.2012, at 9.00 a.m., near Sungagate bus-stop, Thirumanilaiyur, P.W.18 arrested the accused in the presence of P.W.7 and another. On such arrest, the accused came forward to give a voluntary confession and P.W.18 recorded the same in the presence of the same witnesses and the admissible portion of the said statement is marked Ex.P.4. In pursuance of the same, the accused took the police and the witnesses to the place where he had hidden the weapon of crime (M.O.3) and a shirt (M.O.4) and took and produce them. P.W.18 recovered the same under Ex.P.3. Thereafter, P.W.18 forwarded the accused to the court for judicial remand. He sent the material objects to the court. He gave a request Ex.P-11 to the Court for sending the material objects for chemical analysis. Exs.12, Chemical Examination Report and Ex.13, Serologists Report, were received in the Court. Ex.P-12, Chemical Examination Report, revealed that human bloodstains were found in all the material objects, except M.O.3 Aruval, allegedly recovered from the accused. Since P.W.18 was transferred, the investigation was continued by his successor - P.W.19. P.W.19 examined few more witnesses, completed the investigation and laid charge sheet against the accused.

3. Based on the above materials, the trial court framed charges against the accused as detailed in the first paragraph of the judgment. The accused denied the same as false. In order to prove the charges, the prosecution examined as many as 19 witnesses as P.Ws.1 to P.W.19, marked 16 documents as well as 9 material objects.

4. Out of the said witnesses examined, P.Ws.1, 2 and 3, who are the brother, maternal aunt and cousin sister, respectively, of the deceased, have spoken about the stained relationship between the accused and the deceased and also the fact that after Deepawali of that year, the accused and the deceased were living together in a rented house. P.W.2 has stated that on the date of occurrence, around 7.30 p.m., she went to the house of the deceased and since the door was bolted from outside, she opened the same and to her shock, she found the deceased dead in a pool of blood, with multiple cut injuries on her body. P.Ws.1 and 3 have stated that on being informed by P.W.2, they went to the place of occurrence. P.W.1 has spoken about the same being made by him to the police. P.W.4 is a resident of Vengamedu Puthukulathupalayam village in Karur District. He has stated that on 19.12.2012, around 7.00 p.m., when he was passing



through Amaravathi River Bridge, at the northern end of the said bridge, he found the accused standing with an aruval and a shirt and on the next day, he came to know that the deceased had been killed by some one. P.W.5, a relative of the accused, has also stated about the stained relationship between the accused and the deceased. P.W.6 has spoken about the preparation of the observation mahazar, rough sketch and recovery of M.O.2 from the place of occurrence, under a mahazar. P.w.7 has spoken about the arrest of the accused, disclosure statement made by him and recovery of M.Os.3 and 4 from the accused pursuant to the disclosure statement. P.W.8, a police constable, has stted that he handed over Ex.P-1 complaint and Ex.P-9 FIR to the Court. P.W.9, yet another constable, has stated that as instructed by P.W.18, she took the dead body to the hospital and handed over the same for conducting post-mortem. P.W.10, Doctor, has spoken about the post-mortem conducted by him and also about his opinion as to the death of the accused. P.W.11 has turned hostile and he did not support the case of the prosecution. P.W.12 has spoken about the photographs taken by him in the place of occurrence. P.W.13 has spoken about the registration of the case and sending the complaint and the FIR to the Court. P.W.14 is the landlord of the house where the deceased and the accused were residing together. He has not stated anything incriminating the accused. P.W.15 is a forensic expert and he has stated about the chemical examination conducted on the material objects. According to her, bloodstains were found on the material objects, excepting aruval said to have been recovered from the accused. P.W.16, yet another expert, has stated about the serology examination conducted. According to her, human 'B' group blood was found in all the material objects, except aruval. P.W.17 has turned hostile. P.Ws.18 and 19 have spoken about the investigation conducted by them and filing of the charge sheet against the accused.

5. When the above incriminating materials were put to the accused under Section 313 of the Code of Criminal Procedure, he denied them as false. However, he did not examine any witness nor mark any document. His defence was that on 19.12.2012, along with the deceased, he had gone to Tiruppur and on returning from Tiruppur, leaving the deceased alone at home, he went outside and later when he returned home, he found the family members of the deceased and the deceased lying dead. Thus, he pleaded that he was innocent.

6. On consideration of the above, the trial Court found the accused guilty under Section 302 IPC, convicted him thereunder and sentenced him as detailed in the first paragraph of this judgment. That is how, the appellant/accused is before this Court with this appeal.

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7. We have heard the learned counsel for the appellant and the learned Additional Public Prosecutor appearing for the State



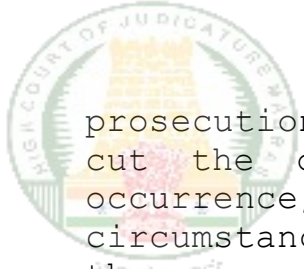
and we have also perused the records, carefully.

8. This is a case based on circumstantial evidence. At the outset, we should say that in a case of this nature, the prosecution should prove the circumstances projected by it beyond reasonable doubts and all such proved circumstances should form a complete chain so as to unerringly pointing to the guilt of the accused and there should not be any hypothesis which would be inconsistent with the guilt of the accused. Keeping this broad principle in our mind, let us now go into the circumstances projected by the prosecution.

9. The marriage between the accused and the deceased is not under dispute. It is also not under dispute that the deceased and the accused were living together in a rented house, belonged to P.W.14. The deceased was found dead on 19.12.2012 around 7.30 p.m. in that house. According to the medical evidence adduced, the death of the deceased was due to shock and haemorrhage due to multiple cut injuries found on the body of the deceased. Thus, the prosecution has established that the death of the deceased was a homicide and the same had occurred before 7.30 p.m. on 19.12.2012.

10. In the above proved circumstance, the next question that follows is who is the perpetrator of the crime? In order to prove that it was this appellant/accused who is the perpetrator of the crime, the prosecution relies on three circumstances. The first circumstance is that there was strained relationship between the accused and the deceased, as the accused had developed suspicion over the fidelity of the deceased. Within 1-1/2 months of the marriage, on two earlier occasions, because of the torture meted out to her at the hands of the accused on account of the above suspicion, the deceased had left the matrimonial home and once stayed with her sister at Deviyakurichi in Salem District and then at the house of her brother, P.W.1, at Kondichettipatti in Namakkal District. The accused promised to keep her in good manner and accordingly took the deceased with him. This has been spoken by P.Ws.1 to 3 and 5. From the evidence of these witnesses, we are of the view that the prosecution has established beyond reasonable doubt that the accused had developed suspicion over the fidelity of the deceased and on account of the said suspicion, he was causing harassment to the deceased. Though these witnesses have been cross-examined at length, nothing has been elicited by the defence to even remotely doubt these witnesses, so far as the above facts spoken by them is concerned. Thus, we believe the evidence of these witnesses and hold that the prosecution has proved that the accused had suspicion over the fidelity of the deceased and on account of the same he was

11. On the date of occurrence, it is the case of the



prosecution that the accused was present in the house and he only cut the deceased. Though there is no eye-witness to this occurrence, the prosecution has placed reliance on certain circumstances in proving the said fact. P.W.17 was residing in the ground floor of the building where the accused and the deceased were residing in the first floor. According to him, around 6.00 p.m., the accused was found in his house and he climbed down the stairs and went away and then around 9.00 p.m., he came to know that the deceased was done to death. Though this witness was expected to speak more against the accused, since he did not speak the entire facts, the prosecution has chosen to treat him as hostile and accordingly cross-examined him. But, this witness was not cross-examined by the accused. Thus, the fact spoken to him in the chief examination that the accused was very much available in the house around 6.00 p.m. on the date of occurrence has not been disputed by the defence and thus the said fact remains undisputed and accordingly it stands proved. After that, the accused was not seen at the house.

12.P.W.4 has stated that on the date of occurrence, around 7.00 p.m., when he was passing through the northern end of Amaravathi River Bridge, he found the accused standing with an aruval and a shirt. In our considered view, this witness cannot be believed for more than one reason. It is not as though the accused was not known to him, previously. Had it been true that the accused was standing in an unusual way with an aruval and a shirt in his hands, by all natural human conduct, this witness would have enquired the accused as to why he was standing there, that too with an aruval. This he did not do. Thereafter, even after coming to know that the deceased was no more, that too due to cut injuries, this witness did not choose to inform the fact of his seeing the accused with aruval near the river bridge to anyone, including his family members. As stated, he came with such a statement to the police only on 21.12.2012. Absolutely, there is no explanation from him as to why he kept mum for two days. This unexplained conduct of P.W.4, in our considered view, is unnatural and would render his evidence unreliable. Thus, we reject his evidence.

13. Thereafter, the accused was arrested by P.w.18 only on 25.02.2015 at 9.00 a.m. Until then, the accused was absconding. This conduct of the accused to hide himself elsewhere for about six days, after the occurrence, is a very strong circumstance against him. This conduct of the accused is inconsistent with his plea of innocence and it is fully consistent with the guilt of the accused. The accused has got no explanation for this unnatural conduct. Had it been true that he was innocent, his natural conduct would have been to rush to the house and take steps to inform the court and the police. But, the fact that he was hiding for six days reflects the unnatural conduct of a guilty man. Though he has taken a plea that he was not at home at the time of occurrence



and though he has stated that when he went to the police station to give a complaint, he was kept in police custody till 25.12.2012, we are unable to give any importance for the said plea taken by the accused for want of any evidence, direct or circumstantial. He has not examined anybody to prove these facts, even by probabilities. Thus, the plea of the accused that he was very much present at the place of occurrence and he went to the police cannot be believed at all. We hold that the accused had absconded and from out of the said conduct, it is crystal clear that he is the perpetrator of the crime and he only murdered the deceased.

14.The learned Additional Public Prosecutor would next rely on recovery of M.O.3 - Aruval, on the disclosure statement made by the accused. In our considered view, the recovery of M.O.3-Aruval on the disclosure statement of the accused would not make the said statement admissible in evidence. Under Section 27 of the Indian Evidence Act, it is not every fact that is discovered, pursuant to the disclosure statement, that makes the disclosure statement admissible. It is only discovery of relevant fact that makes the statement admissible. In other words, the nexus or link between the statement and the fact discovered in the crime should be established by the prosecution to make the disclosure statement admissible. In this case, no one has identified M.O.3-Aruval, as the weapon of the crime and even the Chemical Analysis Report has not revealed bloodstains on the same. Thus, in our considered view, the said disclosure statement made by the accused and the conduct of the accused in producing the aruval are not relevant and therefore they are rejected.

15.From the foregoing discussion, we are of the view that from the proved circumstances, the prosecution has clinchingly proved beyond all reasonable doubts that it was this appellant/accused who cut the deceased and caused the death of the deceased, on account of the above motive which also stands proved. Going by the nature of the injuries and the seat of the injuries, we hold that this accused had caused the death of the deceased, with an intention to cause the death and thus the act clearly falls within the 1st limb of Section 300 IPC. Therefore, he is liable to be punished under Section 302 IPC.

16.Now, turning to the quantum of punishment, the trial court has imposed only minimum punishment, which also does not call for any interference at the hands of this Court. Thus, we do not find any infirmity in the judgment of the trial court, which needs only confirmation.

17.In the result, the criminal appeal fails and the same is dismissed. The judgment of the trial court, dated 11.09.2015, made in S.C.No.5 of 2015, is confirmed. If the accused is on bail, the bail bonds executed by him shall stand cancelled and the



trial court shall take steps to secure the presence of the accused and commit him to jail to undergo the remaining period of sentence.

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Sd/-
Deputy Registrar

/True Copy/

Sub Assistant Registrar

To:

1. The Presiding Officer,
Fast Track Mahila Court,
Karur.
2. The Judicial Magistrate No.1,
Karur.
3. The Inspector of Police,
Karur Town Police Station,
Karur.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.N.SHANMUGA SELVAM, ADVOCATE IN SR No. 74968

GB

TE/SKN/SAR-I : 27/12/2016 : 9P/6C

Judgment in
Crl.A.(MD)No.368 of 2015
Dated:-
30.11.2016