

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2017

CORAM:

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

Criminal Appeal No.101 of 2017

Sakthi Ramakrishnan ..Appellant/Accused

Vs

State represented by
The Inspector of Police,
K4 Anna Nagar Police Station,
Chennai - 600 040.
Cr.No.904 of 2011 ..Respondent/Complainant

Prayer:- Criminal Appeal filed under Section 374(2) Cr.P.C.,
to set aside the conviction and sentence passed by the XVI
Additional Sessions Judge, Chennai-1, in S.c.No.256 of 2013
dated 06.07.2016.

For Appellant : Mr.K.Shanmugam

For Respondent : Mr.P.Govindarajan,
Additional Public Prosecutor,

JUDGEMENT

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

The sole accused in S.C.No.256 of 2013 on the file
of the XVI Additional Sessions Court, Chennai, is the
appellant herein. He stood charged for an offence under
Section 302 IPC. The trial Court, by judgment dated
06.07.2016, convicted the appellant/accused for the offence
under Section 302 IPC and sentenced him to undergo
imprisonment for life and to pay a fine of Rs.10,000/-, in
default, to undergo rigorous imprisonment for 3 months.
Challenging the said conviction and sentence, the appellant
is before this Court with this Criminal Appeal.

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

The deceased, in this case one Malar, was the wife
of the accused, 8 months prior to the occurrence, their
marriage took place and it was a love marriage. After the

marriage, both the appellant and the deceased were living together in the accused sister's house. Thereafter, the deceased was working as a servant maid in the house of P.W.3 and she was staying alone in the out-house of P.W.3 and the accused used to visit her often. On 29.06.2011, a day prior to the occurrence, the deceased went to her brother, P.W.2's house. At that time, the accused also went there, and quarreled with the deceased, and took her with him at about 9.30 p.m. On the next day morning, i.e. on 30.06.2011, P.W.3 found the deceased dead in his out-house. Immediately, he informed P.W.2, brother of the deceased. Then, P.Ws.1 and 2, brother and sister-in-law of the deceased rushed to the scene of occurrence, and found the dead body, thereafter, they lodged a complaint before the respondent police.

3. On receipt of the complaint, P.W.6 Inspector of Police, attached to the respondent police, registered a case in Crime No.904 of 2011 under Section 174(3) Cr.P.C., and prepared First Information Report (Ex.P.6) and sent the same to the higher officials.

4. P.W.9, Assistant Commissioner of Police, Anna Nagar, on receipt of the First Information Report, commenced investigation, since the death occurred within a period of 7 years of the marriage, he sent a communication(Ex.P.9), to the revenue officials for conducting inquest and enquiry. Then, P.W.9 proceeded to the scene of occurrence, prepared an Observation Mahazar(Ex.P.10) and drew a Rough Sketch (Ex.P.11) in the presence of the witnesses and seized rat poison (M.O.1), which was available in the scene of occurrence under the cover of Mahazar(Ex.P.14). Thereafter, he recorded the statements of the witnesses, and based on the investigation, since the death was not due to dowry demand, he handed over the investigation to P.W.10, a Inspector of Police in the respondent police station.

5. In the mean time, P.W.7, a Welfare Officer, working in the Minority and Backward Class Department, conducted inquest on the dead body of the deceased on 30.06.2011, at about 6.00 p.m., in the Government Medical College Hospital, in the presence of the panchayathars and also conducted enquiry, and based on the same, he has given a report(Ex.P.7) stating that the death was not due to dowry demand.

6. P.W.8, Doctor, working in the Government Medical College Hospital, Chennai, conducted postmortem on the dead body of the deceased on 01.07.2011, at about 10.40 a.m., and found the following injuries:-

" A harizontal well defined reddish brown ligature abrasion mark measuring 32x 0.5-1 cm seen encircling the neck just above the level of thyroid cartilage. On the front of the neck the

upper border of the ligature abrasion mark was 7 cm below the chin, and lower border of the ligature abrasion was 9 cm above the suprasedgmental. on the right side of the neck the ligature abrasion mark was 9 cm below the right mastoid and on the left side, the ligature abrasion mark was 9 cm below the left mastoid process. "

Ex.P.8 is the Postmortem certificate. He was of the opinion that the death was due to asphyxia due to ligature strangulation.

7. P.W.10, then Inspector of Police, attached to the respondent police, based on the investigation, altered the case into Section 498-A and 306 IPC and the alteration report is Ex.P.12. Then he arrested the accused and on such arrest, the accused had voluntarily given a confession. Based on the disclosure statement of the accused, he recovered a blue colour towel (M.O.2). Then, he recorded the statement of the doctor, who conducted postmortem/autopsy on the dead body of the deceased and other witnesses. After completion of investigation, he laid charge sheet against the accused.

8. Based on the above materials, the trial Court framed the charges as stated 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 10 witnesses were examined and 18 documents were exhibited, besides 2 Material Objects.

9. Out of the witnesses examined, P.W.1 is the sister in law of the deceased and she has spoken about the marriage between the accused and the deceased and also spoken about the quarrel between the accused and the deceased in their house on 29.06.2011 and after quarrel the deceased went along with the accused at about 9.30 p.m. Thereafter, on the next day morning, she was informed by P.W.3, house owner about the death of the deceased, then, she along with her husband/P.W.2 had given a complaint (Ex.P.1).

10. P.W.2 is the brother of the deceased. He has also spoken about the earlier quarrel between the accused and the deceased a day prior to the occurrence. P.W.3 is the owner of the house, where the deceased was working as a servant maid and staying in his out-house, but she turned hostile. P.W.4 is a witness to the Observation Mahazar and Rough Sketch and also recovery of M.O.1, rat poison. P.W.5 is a witness to the confession of the accused. P.W.6, Sub-Inspector of Police, has spoken about the registration of the case.

11. P.W.7, Welfare Officer in the District Minority and backward class Department, conducted inquest and also subsequent enquiry and has given a report (Ex.P.7). P.W.8,

Doctor, conducted postmortem/autopsy on the dead body of the deceased and given a postmortem report (Ex.P.8).

12. P.W.9, Assistant Commissioner of Police, has spoken about the commencement of investigation. P.W.10, Inspector of Police, continued the investigation and recorded the statements of the witnesses and after completion of investigation, he laid charge sheet against the accused.

13. 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 of the witness. One document was exhibited on his side.

14. Having considered all the above, the trial Court found the accused/Appellant herein guilty under the said charges and accordingly, sentenced him as detailed in the first paragraph of this judgment. Challenging the same, the present appeal has been filed.

15. We have heard Mr. K.Shanmugam, learned counsel appearing for the appellant and Mr.P.Govindarajan, learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

16. This is a case based on circumstantial evidence. It is a settled principle of law that in a case based on circumstantial evidence, the circumstances projected by the prosecution are to be proved beyond reasonable doubts and such proved circumstances should form a complete chain without any break, pointing unerringly to the guilt of the accused and there should not be any other hypothesis, which is inconsistent with the guilt of the accused. Keeping the above principle in mind, we have to consider the instant case.

17. P.Ws.1 and 2 are sister-in-law and brother of the deceased. They have only spoken about the quarrel between the accused and the deceased, a day prior to the occurrence and thereafter at about 9.30 p.m., the accused took the deceased to her house. Hence, they are the only witness to prove that the accused and the deceased were together on the previous night before the occurrence took place. P.W.3 is the owner of the house, where the deceased was working as a servant maid and staying in the out-house, but she turned hostile. But, from her chief examination, it could be seen that she heard some wordy quarrel in the house, where the deceased was staying. Except that, absolutely there is no evidence available on record to connect the accused with the murder. Even though there is evidence to show that there was quarrel between both the accused and the deceased at about 9.30 p.m., in the house of P.W.1 & P.W.2 and thereafter the accused and the deceased went together, this alone not sufficient to hold that the accused has committed murder.

18. In the above circumstances, the prosecution has failed to prove to complete the chain of circumstances unerringly pointing the guilt of the accused. Hence, we are of the considered view that the prosecution has failed to prove the charge against the accused beyond any reasonable doubt and the appellant/accused is entitled for acquittal.

19. In the result, the appeal is allowed the conviction and sentence imposed on the appellant/accused by the learned XVI Additional Sessions Judge, Chennai in S.c.No.256 of 2013 by the judgment dated 06.07.2016 are hereby set aside. The appellant/accused is acquitted from the charge and he is directed to set at liberty, forthwith, unless his presence is required in connection with any other case. Fine amount, if any, paid by the appellant, shall be refunded to him.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The XVI Additional Sessions Judge,
City Civil Court, Chennai.
2. The Principal Sessions Judge, City Civil Court,
Chennai.
3. The V Metropolitan Magistrate, Egmore.
4. -do- Through The Chief Judicial Magistrate, Egmore.
5. The Superintendent, Central Prison, Puzhal, Chennai.
6. The District Collector/District Magistrate, Chennai.
7. The Director General of Police, Mylapore, Chennai-4.
8. The Inspector of Police, K-4, Anna Nagar Police Station,
Chennai 600 040.
9. The Public Prosecutor, High Court, Madras.

+ 1 cc to Mr.K. Shanmugam, Advocate SR.16102.

Cr1.A.No.101 of 2017

EV(CO)

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