

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.A.No.200 of 2014
and
M.P.No.1 of 2014

Senthilkumar
S/o.Raghavan

.. Appellant

Vs.

State represented by
Inspector of Police,
B-13, Pothanur Police Station,
Coimbatore.
Crime No.666 of 2011

.. Respondent

Criminal Appeal filed u/s.374(2) of the Code of Criminal Procedure against the judgment of learned I Additional District and Sessions Judge, Coimbatore, passed in S.C.No.304 of 2011 on 28.08.2012.

For Appellant : Mr.I.Abrar Md. Abdullah

For Respondent : Mr.M.Mohammed Riyaz
Government Advocate [Crl.side]

JUDGMENT

This appeal arises against the judgment of learned I Additional District and Sessions Judge, Coimbatore, passed in S.C.No.304 of 2011 on 28.08.2012.

2. The case of the prosecution is that on 24.04.2011 at about 10.30 p.m., appellant/husband of the deceased quarreled with the deceased, poured kerosene and set her on fire, owing to which the deceased, despite treatment, died on 03.05.2011 at about 01.40 p.m. A case was registered in Crime No.666 of 2011 on the file of respondent. Upon completion of investigation and filing of final report informing commission of offence u/s.302 IPC, the case was taken on file in S.C.No.304 of 2011 on the file of learned I Additional District and Sessions Judge, Coimbatore. On appreciation of materials before it, trial Court,

under judgment dated 28.08.2012, convicted the appellant/accused for offence u/s.304 Part I IPC and sentenced to 10 years R.I. and fine of Rs.20,000/- i/d 6 months R.I. There against, the present appeal has been filed.

3. Heard learned counsel for appellant and learned Government Advocate [Crl.side].

4. In convicting the appellant/accused, trial Court has found as follows:

- (i) The contention of appellant/accused that the delay in intimating the Magistrate towards recording of dying declaration was unexplained has been negated by trial Court on the reasoning that the mistake of the respondent police in not intimating the Magistrate immediately cannot be put against the victim.
- (ii) The dying declaration of the deceased was recorded on the day after the occurrence by PW-10 and till such time, nobody had seen the deceased at hospital and hence, the contention that the deceased was tortured was unacceptable. Further, in her dying declaration, the deceased has stated that there was a quarrel between her and the accused the previous night and the same was corroborated by PW-1, her son and PW-2, her neighbour. Ex.P8, Accident Register, informs 'burns by known person'. Though it did not inform the name of the accused, it clearly states that the deceased did not attempt suicide.
- (iii) It was the evidence of PW-1 that before the occurrence, accused made some disparaging remarks about the conduct of the deceased and poured kerosene on her. Though PW-1 had not actually seen the accused setting the deceased on fire, it could be presumed that accused was the person, who set her on fire.
- (iv) Though the accused, in Section 313 questioning, has gone to the extent of stating that there was no kerosene in his house on the occurrence day, PW-13, Doctor, who conducted postmortem, has reported that the deceased's hair smelt of kerosene even after 10 days of occurrence.
- (v) Taking into account the evidence of PW-13, Doctor, that the deceased had suffered septicimia, the trial Court held that the accused was guilty of offence u/s.304 Part I IPC and accordingly, sentenced him to 10 years R.I. and fine of Rs.20,000/- i/d 6 months R.I.

This Court finds that a well-reasoned approach has been adopted by trial Court in convicting the accused for offence u/s.304 Part I IPC and in sentencing him to 10 years R.I. and fine of Rs.20,000/- i/d 6 months R.I.

The Criminal Appeal shall stand dismissed. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

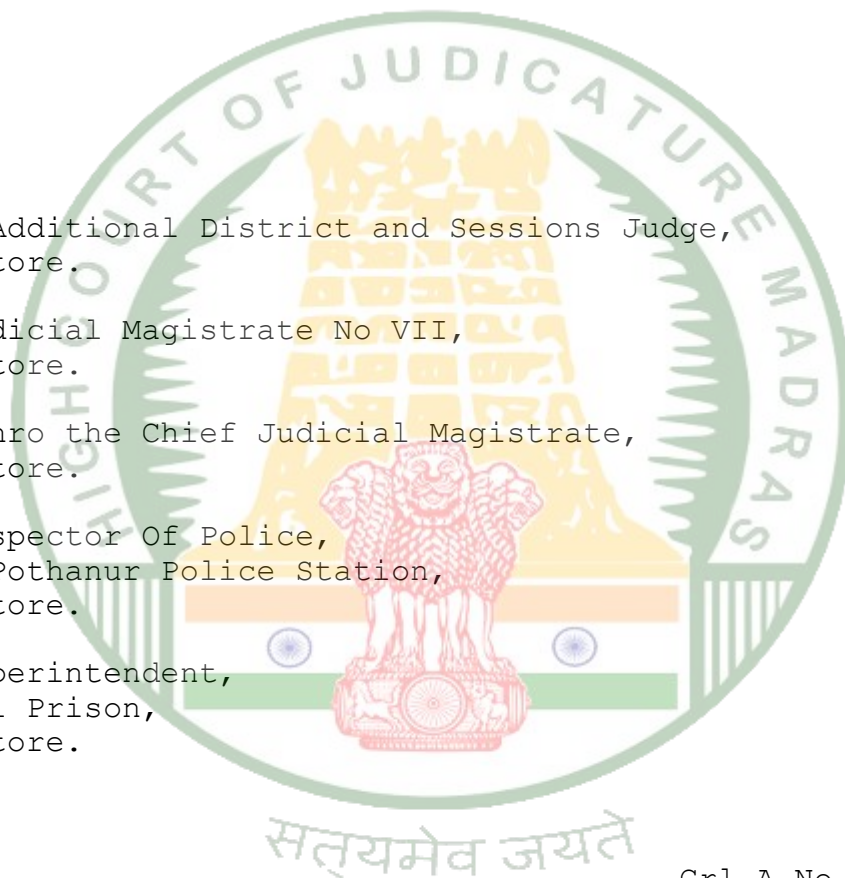
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Sub Assistant Registrar

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To

1. The I Additional District and Sessions Judge,
Coimbatore.
2. The Judicial Magistrate No VII,
Coimbatore.
- do- Thro the Chief Judicial Magistrate,
Coimbatore.
3. The Inspector Of Police,
B-13, Pothanur Police Station,
Coimbatore.
4. The Superintendent,
Central Prison,
Coimbatore.



Crl.A.No.200 of 2014

PPA (CO)
CS/30/06/17

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