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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED : 06.11.2017

PRONOUNCED : 30.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.A[MD].No.239 of 2016

and

CRL.MP(MD) 5348 of 2016

Palanivel : Appellant

Vs.

State rep by,
The Inspector of Police,
R.S.Mangalam Police Station,
Tiruvadanai Taluk, Ramanathapuram District,
Crime No.147 of 2013. : Respondent

PRAYER: Appeal is filed under Section 374 of the Code of Criminal Procedure against the Judgment and conviction dated 07.04.2016 made in S.C.No.103 of 2014, on the file of the Fast Track Mahila Court, Ramanthapuram.

For Appellant : Mr.J.John

For Respondent : Mr.C.Ramesh
Additional Public Prosecutor

JUDGMENT

R.SUBBIAH, J.

The appellant is the sole accused in S.C.No.103 of 2014, on the file of the Fast Track Mahila Court, Ramanthapuram. He stood charged for the offences punishable under Sections 449, 302 [two counts], 307 [four counts], 326 [four counts], 324 and 294(b) of the Indian Penal Code. By Judgment dated 07.04.2016, the Trial Court has convicted the appellant and sentenced him, as detailed below:-



Section of Law	Sentence of imprisonment	Fine amount
302 IPC [two counts]	To undergo imprisonment for life [two counts]	Rs.10,000/- each in default to undergo simple imprisonment for two years.
449 IPC	To undergo imprisonment for life.	Rs.10,000/- in default to undergo simple imprisonment for two years.
294 (b) IPC	To undergo simple imprisonment for two months.	No fine.
326 IPC [Four counts]	To undergo simple imprisonment for ten years.	Rs.5,000/- each in default to undergo simple imprisonment for two years.
307 IPC [Four counts]	To undergo simple imprisonment for ten years.	Rs.5,000/- each in default to undergo simple imprisonment for two years.
324 IPC	To undergo simple imprisonment for three years.	No fine.

The sentences have been ordered to run concurrently. Challenging the said conviction and sentence, the appellant has come up with this Criminal Appeal.

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

PW-1 is a resident of AR Mangalam Village, Thiruvadanai Taluk, Ramanathapuram District. He is a Conductor by profession. The deceased - Subramanian [hereinafter referred to as "D-1"] and his deceased wife - Kaliammal, [hereinafter referred to as "D-2"] are the neighbours of PW-1. On 20.12.2013, at about 08.00 PM, on hearing the noise near the house of D-1, PW-1 came out of the house and found the accused standing and shouting at all the persons in filthy language. Enraged over the same, D-1 asked the accused as to why he was shouting at all persons in filthy language and directed him to move away from that place. On hearing the same, the accused took out a Crowbar [MO-1], which was lying nearby and attacked suddenly on the head of D-1. He fell down in a pool of blood. On hearing the alarm raised by her husband, D-1,



his wife - Kaliammal came out of the house and shouted at the accused. On seeing D-2, the accused attacked D-2 on her head with crowbar. She ran towards her house. The accused chased her and attacked further. D-2 fainted and fell down in a pool of blood and died instantaneously. Since the above act of the accused was questioned by PW-1 to PW-5, in the same transaction, the accused attacked PW-1 to PW-5 on their heads with crowbar. They sustained head injury. In the same transaction, the accused threatened the villagers by using abusive language so as to intimidate them. On seeing the above occurrence, the villagers gathered there. The accused fled away from the place of occurrence with Crowbar towards northern side. Then, D-1 and PW-1 to PW-5 were taken to the Thiruvadanai Government Hospital for treatment through 108 Ambulance.

2.2. On intimation, PW-19, the then Sub-Inspector of Police, attached to RS.Mangalam Police Station, at 8.45 PM, on 20.12.2013, went to the place of occurrence. At that time, he found the villagers taking the injured victims and the deceased to the Thiruvadanai Government Hospital in 108 Ambulance. PW-19 proceeded to the Thiruvadanai Government Hospital, where PW-1 gave a complaint to PW-19. Then, PW-19 went to the Police Station and registered a case in Crime No.147 of 2013, for the offences under Sections 302 and 307 of the Indian Penal Code. EX-P1 is the complaint and EX-P19 is the First Information Report. Then, he forwarded both the documents to the Court through PW-16 and handed over the investigation to the Inspector of Police.

2.3. Taking up the case for investigation, at 11.15 PM, on 20.12.2013, PW-20 proceeded to the place of occurrence, prepared an Observation Mahazer [EX-P2] and a Rough Sketch, [EX-P20] showing the place of occurrence in the presence of PW-9 and another witness. He recovered bloodstained earth [MO-2] and sample earth [MO-3] from the place of occurrence. He also recovered bloodstained saree, [MO-4], bloodstained jacket [MO-5] and bloodstained inskirt [MO-6]. Then, he conducted inquest on the body of D-2. EX-P21 is the inquest report of D-2. Then, he forwarded the dead body of D-2 for postmortem. In the meanwhile, he came to know that D-1 succumbed to the injuries at Government Rajaji Hospital, Madurai, at 04.00 AM, on 21.12.2013.

2.4. PW-20, at 05.00 AM, on 21.12.2013, arrested the accused near Chanaveli Bus Stop in the presence of one Mr.Subramanian, [PW-10] Village Administrative Officer and Mr.Veeraiah, [PW-11] Village Assistant. On such arrest, he gave a voluntary confession, in which he disclosed the place, where he had hidden the Crowbar. In pursuance of the same, the accused took the police and the witnesses to the hide out and produced the Crowbar [MO-1]. On 21.12.2013, the accused was produced before the Court for the same under a mahazer. On returning to the Police Station, PW-20 forwarded the accused to the Court for



judicial remand. He also handed over the material objects to the Court.

2.5. Then, he conducted inquest on the body of D-1. EX-P24 is the inquest report of D-1. Then, he forwarded the dead body for postmortem.

2.6. PW-12 - Dr.R.Chandrasekar conducted autopsy on the body of D-1. EX-P7 is the postmortem certificate. He noticed the following injuries:-

"1.Laceration 8 cm x 1cm x bone deep noted on the left side of forehead, 2 cm above left eyebrow.

2.Lacerated injury 6 cm x 1 cm x muscle deep noted on the middle of forehead.

3.Abrasion 3 cm x 3 cm noted on the left shoulder.

On dissection of scalp, skull and dura:

Subscalpal contusion 10 cm x 6 cm noted on the fronto parietal region. Laceration 6 cm x 4 cm x 2 cm noted on the left fronto parietal region. Diffuse subdural hemorrhage & subarachnoid hemorrhage noted over both the cerebral hemispheres."

He gave opinion that D-1 would appear to have died of head injury.

2.7. PW-13 - Dr.A.Naveed Sukkoor, conducted autopsy on the dead body of D-2. EX-P8 is the postmortem certificate of D-2. He noticed the following injuries:-

"External Examination:

1.Laceration 10x3 cm upto the bone depth with exposing fractured bone over Right fronto parietal region.

2.Laceration 8x3 cm upto bone depth. Exposed fracture bone over left temporo parietal region.

Internal Examination:

1.Communitied multiple fracture of skull over Right fronto parietal region.

2.Communitied multiple fracture of skull over left temporo parietal region.

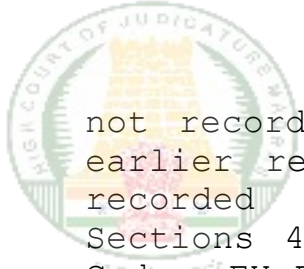
3.Intracranial haemorrhage of about 150 ml.

4.Hyoid bone intact No rib fracture Lungs, heart, Liver - pale. Spleen, Kidney - pale. Stomach contains about 400 ml of undigested food particle. Small intestine - empty, spine - normal".

He gave opinion that D-2 would appear to have died of hemorrhage, shock and injury to vital organs.

2.8. PW-13, Dr.A.Naveed Sukkoor, treated PW-1 to PW-5 and issued EX-P9 to EX-P13, Accident Registers.

2.9. Continuing the investigation, PW-21 proceeded to the place of occurrence. He examined the witnesses, however, he has



not recorded the statements of the witnesses, as the statements earlier recorded by his predecessor tallied with the statements recorded by him. Then, PW-21 altered the case into one under Sections 449, 302, 307, 326, 324 and 294(b) of the Indian Penal Code. EX-P32 is the alteration report. Then, he examined the doctor, who conducted autopsy on the body of the deceased. On completing the investigation, he laid charge sheet against the accused.

2.10. Based on the above materials, the Trial Court framed appropriate charges, as detailed in the first paragraph of this Judgment. When the accused was questioned in respect of the charges, he pleaded innocence. In order to prove the charges, on the side of the prosecution, 21 witnesses were examined, 32 documents and six material objects were marked.

2.11. When the Trial Court examined the accused under Section 313 of the Code of Criminal Procedure in respect of the incriminating evidences available against him, he denied the same as false. On his side, six witnesses were examined, eight documents were marked. His defence was that he was suffering from epileptic psychosis and he was not knowing of the act, which he had committed. Having considered all the above materials, the Trial Court convicted the appellant by rejecting the defence, as detailed in the first paragraph of this Judgment and punished him accordingly. That is how, the appellant is now before this Court with this Criminal Appeal.

3. The learned counsel appearing for the appellant would submit that the accused was suffering from Epileptic Psychosis and as such, he was of unsound mind and he was not aware as to what he did. In support of his contention, the learned counsel for the appellant relies on the evidences of DW-1 to DW-6. DW-1, the wife of the accused, in her evidence, has stated that the marriage between her and the accused was solemnized in the year 2007 and they were blessed with two children, aged about seven years and five years respectively. After the marriage, the accused was working in R.S.Mangalam Hotel. In the year 2009, her husband met with an accident, in which a Tempo Van had dashed against the accused. He was taken to the Government Hospital at Ramanathapuram through 108 Ambulance, where the accused took treatment as an inpatient. However, the accused had not recovered in full. On account of the above accident, the accused developed Epileptic Psychosis, which resulted the change of mind and habit of the accused in abusing the others in filthy language.

4. DW-2, the father of the accused, has also spoken about the facts, as spoken to by PW-1. DW-3, Dr.R.Rajkumar, an Assistant Professor of Government Rajaji Hospital, Madurai, has stated that at about 10.00 PM, on 21.10.2009, the accused was admitted in Emergency Ward at the Government Hospital, Ramanathapuram. Since



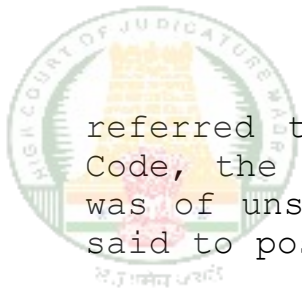
there was blood clot on the head of the accused, he was referred to the Government Rajaji Hospital, Madurai. DW-4, Dr.Aucknelav Theresa Jospin, who was running S.P.Scan Centre, at Ramanathapuram, has stated that she took CT Scan and based on the Scan Report, she found that there was blood clot on the front side of the brain. DW-5 - B.Kumaravadivel, an Assistant Doctor, working in a private hospital, known as "Senthil Hospital", Devakottai, has deposed that at about 04.55 PM, on 29.10.2009, the accused was admitted in the said hospital and it was found that the accused had fracture and swelling on his head. DW-6 Dr.M.Ganeshkumar, Neuro Surgeon, who treated the accused, had spoken about the treatment given by him and his opinion regarding the behaviour of the accused.

5. From the above evidences and the medical records, which pertained to the accused, the learned counsel appearing for the appellant would try to make out a case that since the accused had met with an accident, he was suffering from Epileptic Psychosis and by the reason of unsoundness of mind, he was incapable of knowing the nature of the act, which he had committed and thus, his act of causing death of two deceased is not an offence, as his act would squarely fall within the ambit of Section 84 of the Indian Penal Code. The learned counsel for the appellant would also take us through the evidences of the witnesses and the medical records with a view to substantiate the claim of the accused that he was of unsound mind falling within the sweep of Section 84 of the Indian Penal Code.

6. The learned counsel appearing for the appellant, in support of his contention, makes reliance on the following decisions:-

- **Ratan Lal Vs. State of Madhya Pradesh, [AIR 1971 SC 778;**
- **Machi Parvaiah Vs. State of Andhra Pradesh, [1985 Cr1.LJ 1824;**
- **State of Rajasthan Vs. Shera Ram Alias Vishnu Dutta, [AIR 2012 SC 1] and**
- **State of Jharkhand Vs. Lakhan Rai, [2007 Cr1.L.J.2410].**

7. Relying on the said Judgments, the learned counsel for the appellant would try to convince this Court that the Epilepsy usually occurs from early infancy, though it may occur at any period of life. Individuals, who have had epileptic fits for years, do not necessarily show any mental aberration, but, quite a few of them suffer from mental deterioration. Such patients are peevish, impulsive and suspicious and are easily provoked to anger on the slightest cause. The learned counsel would further submit that to commit a criminal offence, *mens rea* is generally taken to be an essential element of crime. It is said *furiosi nulla voluntas est*. In other words, a person, who is suffering from a mental disorder cannot be stated to have committed a crime, as he does not know as to what he is doing. Thus, according to the learned counsel for the appellant, by virtue of the Judgments,



referred to supra, coupled with Section 84 of the Indian Penal Code, the appellant is entitled for acquittal, as the accused, who was of unsound mind and suffering from mental disorder, cannot be said to possess basic norm of human behaviour.

8. The learned Additional Public Prosecutor would, however, refute the said argument. According to him, though the accused was stated to be suffering from Epileptic Psychosis, there is no evidence to establish that at the time when he had committed the offence, he was of unsound mind. Thus, according to him, the Trial Court was right in rejecting the plea of legal insanity and the Lower Court was right in convicting the accused.

9. We have given our anxious consideration to the submissions made by the learned counsel appearing for the appellant as well as the learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record.

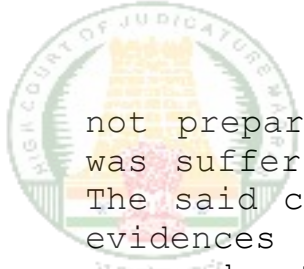
10. In this case, it is no doubt true that PW-1 to PW-5 are the injured eye-witnesses. They have spoken about the entire occurrence in a vivid manner that it was this accused, who alone committed the murder of the deceased and attacked PW-1 to PW-5 on their heads. We do not find any reason to reject the evidences given by PW-1 to PW-5. Though they have been subjected lengthy cross-examination, nothing has been brought on record so as to disbelieve their evidences. Their evidences are duly corroborated by the medical evidence also. Apart from the injured eye-witnesses account of PW-1 to PW-5, the accused also attacked one Ms. Anushuya and Ms. Ramani on their shoulders and hands with Crowbar.

11. Having come to the said conclusion that it was this accused, who alone committed the crime, now, we have to examine as to whether the accused was of unsoundness of mind at the time of occurrence.

12. In this connection, before going into the facts of the case, let us have a cursory and close scrutiny of Section 84 of the Indian Penal Code and also few Judgments of the Hon'ble Supreme Court, to highlight the legal position. Section 84 of the Indian Penal Code reads as follows:-

"84. Act of a person of unsound mind.-
Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law."

13. The plea of insanity, however, was rejected by the Trial Court. While considering the medical records and the medical evidences in respect of Epileptic Psychosis, the Trial Court was



not prepared to accept that the accused was of unsound mind and was suffering from Epileptic Psychosis at the time of occurrence. The said conclusion arrived at by the Trial Court is based on the evidences given by DW-3 to DW-6, the doctors, who treated the accused at the relevant point of time for the head injury sustained by the accused in the accident, which took place in the year 2009. According to the Trial Court, the accused had full knowledge of the act, which he had committed. The Trial Court has, thus, come to the conclusion that the accused would not have been suffering from mental disorder. The Trial Court went on to the extent of saying that the accused was not, in fact, suffering from Epileptic Psychosis.

14. From the evidences of PW-1 to PW-5, the medical evidences and the conduct of the accused, we find that had it been true that the accused was suffering from unsoundness of mind at the time of occurrence and he was unaware of the act, which he had committed, he would not have fled away from the scene of occurrence, after he had killed the deceased and attacked PW-1 to PW-5 and he would have remained at the place of occurrence. But, it is the defence of the accused that in the year 2009, he met with an accident, in which he had sustained head injury and thereafter, he developed Epileptic Psychosis. However, on a perusal of the records, we find that no medical record was exhibited to show that the accused was taking treatment for the unsoundness of mind. The nature of head injury alleged to have been sustained by the accused, at the time of accident, in the year 2009, has not been clearly explained by the defence.

15. Our view is also fortified by a Judgment of the Hon'ble Supreme Court in the case of **State of Madhya Pradesh Vs. Ahmadulla**, reported in **1961 STPL [LE] 1982 SC : AIR 1961 SC 998**, wherein it has been held as follows:-

"8. In this connection, we might refer to the decision of the Court of Criminal Appeal in England in Henry Perry 14 Cri App Rep 48 where also the defence was that the accused had been prone to have fits of epileptic insanity. During the course of the argument Reading. C., J., observed.:

"The crux of the whole question is whether this man was' suffering from epilepsy at the time he committed the crime. Otherwise it would be a most dangerous doctrine if a man could say.' "I once had an epileptic fit, and everything that happens hereafter must be put down to that."

In dismissing the appeal the learned Chief Justice said:

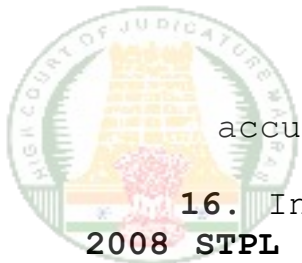
"Every man is presumed to be sane and to possess a sufficient degree of reason to be responsible for his acts unless the contrary is proved. To establish



insanity it must be clearly proved that at the time of committing the act the party is labouring under such defect of reason as not to know the nature and quality of the act which he is committing - that is, the physical nature and quality as distinguished from the moral - or, if he does know the nature and quality of the act he is committing, that he does not know that he is doing wrong. There is, however, evidence of a medical character before the jury, and there are statements made by the prisoner himself, that he has suffered from epileptic fits. The Court has had further evidence, especially in the prison records, of his having had attacks of epilepsy. But to establish that is only one step; it must be shown that the man was suffering from an epileptic seizure at the time when he committed the murders; and that has not been proved."

We consider that the situation in the present case is very similar and the observations extracted apply with appositeness. We consider that there was no basis in the evidence before the Court for the finding by the Sessions Judge that at the crucial moment when the accused cut the throat of his mother-in-law and severed her head, he was suffering from unsoundness of mind incapable of knowing that what he was doing was wrong. Even the evidence of the father does not support such a finding. In this connection the Courts below have failed to take into account the circumstances in which the killing was compassed. The accused bore ill will to Bismilla and the act was committed at dead of night when he would not be seen, the accused taking a torch with him, access to the house of the deceased being obtained by stealth by scaling over a wall. Then again, there was the mood of exaltation which the accused exhibited after he had put her out of her life. It was a crime committed not in a sudden mood of insanity but one that was receded by careful planning and exhibiting cool calculation in execution and directed against a person who was considered to be the enemy.

9. The appeal is therefore allowed, the order of acquittal passed against the respondent set aside and in its place will be substituted a finding that the respondent is guilty of murder under S. 302, Penal Code. In the normal course, the proper punishment for the heinous and premeditated crime committed with inhuman brutality would have been a sentence of death. But, taking into account the fact that the accused has been acquitted by the Sessions Judge - an order which had been affirmed by the High Court - we consider that the ends of justice would be met, if we sentence the



accused to rigorous imprisonment for life".

16. In **Hari Singh Gond Vs. State of Madhya Pradesh**, reported in **2008 STPL (LE), 40574 SC : 2006 (16) SCC 109**, the Hon'ble Supreme Court has held as follows:-

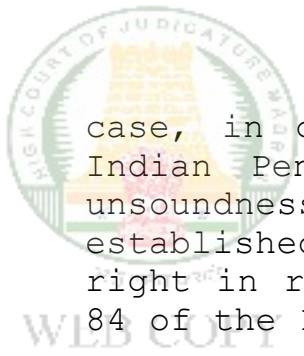
"11. The Section itself provides that the benefit is available only after it is proved that at the time of committing the act, the accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing, or that even if he did not know it, it was either wrong or contrary to law then this section must be applied. The crucial point of time for deciding whether the benefit of this section should be given or not, is the material time when the offence takes place. In coming to that conclusion, the relevant circumstances are to be taken into consideration, it would be dangerous to admit the defence of insanity upon arguments derived merely from the character of the crime. It is only unsoundness of mind which naturally impairs the cognitive faculties of the mind that can form a ground of: exemption from criminal responsibility. Stephen in 'History of the Criminal Law of England, Vo. II page 166 has observed that if a person cuts off the head of a sleeping man because it would be great fun to see him looking for it when he woke up, would obviously be a case where the perpetrator of the act would be incapable of knowing the physical effects of his act. The law recognizes nothing but incapacity to realise the nature of the act and presumes that where a man's mind or his faculties of ratiocination are sufficiently dim to apprehend what he is doing, he must always be presumed to intend the consequence of the action he takes. Mere absence of motive for a crime, howsoever atrocious it may be, cannot in the absence of plea and proof of legal insanity, bring the case within this Section This Court in **Sherall Walli Mohammed v. State of Maharashtra: (1972 Cr.LJ 1523 (SC))**, held that the mere fact that no motive has been proved why the accused murdered his wife and child or the fact that he made no attempt to run away when the door was broken open would not indicate that he was insane or that he did not have necessary *mens rea* for the offence.



behaviour of a psychopath affords no protection under Section 84 as the law contained in that Section is still squarely based on the outdated Naughton rules of 19th Century England. The provisions of Section 84 are in substance the same as that laid down in the answers of the Judges to the questions put to them by the House of Lords, in **M Naughton's case (1843) 4 St. Tr. (NS) 847**. Behaviour, antecedent, attendant and subsequent to the event, may be relevant in finding the mental condition of the accused at the time of the event, but not that remote in time. It is difficult to prove the precise state of the offender's mind at the time of the commission of the offence, but some indication thereof is often furnished by the conduct of the offender while committing it or immediately after the commission of the offence. A lucid interval of an insane person is not merely a cessation of the violent symptoms of the disorder, but a restoration of the faculties of the mind sufficiently to enable the person soundly to judge the act; but the expression does not necessarily mean complete or perfect restoration of the mental faculties to their original condition. So, if there is such a restoration, the person concerned can do the act with such reason, memory and judgment as to make it a legal act; but merely a cessation of the violent symptoms of the disorder is not sufficient.

13. The standard to be applied is whether according to the ordinary standard, adopted by reasonable men, the act was right or wrong. The mere fact that an accused is conceited, odd irascible and his brain is not quite all right, or that the physical and mental ailments from which he suffered had rendered his intellect weak and had affected his emotions and will, or that he had committed certain unusual acts, in the Past or that he was liable to recurring fits of insanity at short intervals, or that he was subject to getting fits but there was nothing abnormal in his behaviour, or that his behaviour was queer, cannot be sufficient to attract the application of this section.

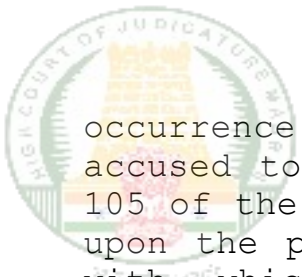
The trial Court and the High Court have, on the facts of the case, rightly held that Section 84 IPC has no application".



case, in our considered view, the benefit of Section 84 of the Indian Penal Code cannot be extended to the accused, as the unsoundness of mind of the accused has not been clearly established. Thus, in our considered view, the Trial Court was right in rejecting the defence taken by the accused under Section 84 of the Indian Penal Code.

18. Now, let us consider the evidences given by DW-1 to DW-6. In the instant case, on the side of the accused, six witnesses were examined to prove that the accused was suffering from Epileptic Psychosis. DW-1 and DW-2 have stated about the involvement of the accused in the accident and his admission in the hospital and the treatment given to him and the manner in which the occurrence took place on the fateful day. DW-3, Dr.R.Rajkumar, has spoken about the injury sustained by the accused and the treatment given by him. DW-4 Dr.Aucknelav Theresa Jospin, was running S.P.Scan Centre, at Ramanathapuram, took CT Scan and based on the Scan Report, she found that there was blood clot on the front side of the brain. DW-5 - B.Kumaravadivel, an Assistant Doctor, working in a private hospital, namely, Senthil Hospital, Devakottai, has deposed that at about 04.55 PM, on 29.10.2009, the accused was admitted in the said hospital and found that the accused had fracture and swelling on his head. Their evidences, in our considered view, will not be of any help to come to the conclusion that the accused was of unsound mind at the time of occurrence. Though DW-6, Dr.M.Ganeshkumar, Neuro Surgeon, who treated the accused, after the accident in the year 2009, has stated that there is a possibility of change in mind and behaviour, he has stated that there is no chance for the accused to behave in a rude and barbaric manner. He has further stated that at the most, the accused could behave like a child and not beyond that. Thus, the evidence of DW-6, in our considered view, clearly established the fact that the accused was not suffering from unsoundness of mind at the time of occurrence.

19. Though on the side of the accused six witnesses were examined as DW-1 to DW-6 to establish that he was suffering from unsoundness of mind, on going through the evidences let in by the defence, in our considered view, the accused has failed to establish his actual mental illness. Furthermore, though it has been deposed by DW-3 to DW-6 that the accused was suffering from some kind of mental illness, there is no clear evidence as to what was his mental condition at the time of occurrence. Thus, it has been clearly established by the prosecution that the accused was not at all suffering from unsoundness of mind and he was capable of understanding the nature of the act, which he did. As we have already concluded, there are overwhelming evidences to come to the conclusion that the accused was not suffering from unsoundness of mind. Thus, in our considered view, the Trial Court was right in holding that the accused was not of unsound mind at the time of



occurrence. It is true that the burden of proof rests on an accused to prove his insanity, which arises by virtue of Section 105 of the Indian Evidence Act, 1872 and is not so onerous as that upon the prosecution to prove that the accused committed the act with, which he is charged. Furthermore, no application was moved on behalf of the accused before the Trial Court so as to prove his unsoundness of mind.

20. Apart from the above, we are impelled to state that epilepsy is not a mental illness. In fact, the vast majority of people living with epilepsy have no cognitive or psychological problem and epilepsy itself does not cause severe intellectual problems. Assuming for a moment that the accused was suffering from unsoundness of mind on account of epilepsy psychosis, even then, in our considered view, it cannot be stated that such kind of disease would induce him to the extent of committing brutal murder. The Trial Court has dealt with the evidences of all the witnesses elaborately, rightly came to the conclusion, accordingly recorded conviction on the accused under the charges framed against him and imposed sentence, as stated hereinabove. Thus, absolutely, there is no evidence to come to the conclusion that the accused was of unsound mind at the time of occurrence and the prosecution, in our considered view, has clearly proved the case beyond all reasonable doubts.

21. Now, turning to the quantum of punishment, we do not find any reason to interfere with the same, as the Trial Court has imposed an appropriate punishment, which is proportionate to the gravity of the offences as well as the mitigating circumstances, as two precious lives have been snatched away by the accused and PW-1 to PW-5 and two others had sustained head injuries in the same transaction. Thus, there is no reason to interfere with the quantum of punishment at all.

22. In the result, this Criminal Appeal is dismissed and the conviction and sentence imposed on the appellant/accused, by Judgment, dated 07.04.2016, made in S.C.No.103 of 2014, on the file of the Fast Track Court Mahila Court, Ramanthapuram, is confirmed, Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

1.The Principal Sessions Judge,
Fast Track Court Mahila Court,
Ramanthapuram.

<https://hcservices.courts.gov.in/hcservices/>
2.The Judicial Magistrate, Thiruvadanai.



3.The Chief Judicial Magistrate, Ramanathapuram.

4.The Inspector of Police,
R.S.Mangalam Police Station,
Tiruvadanai Taluk, Ramanathapuram District.

5.The District Collector, Ramanathapuram.

6.The Director General of Police, Mylapore, Chennai-4.

7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

8.The Record Keeper,
Criminal Section, Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.ALAGU BALAKRISHANAN,Advocate,SR. 90619

CRL.A[MD] .No.239 of 2016
30.11.2017

NB
KK/KP/SAR 1/14.12.2017/ 14P- 10C/