

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
AND

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Criminal Appeal No.447 of 2017

S.Sampath
S/o.Sambanthan

... Appellant/Accused

Vs

State represented by
Inspector of Police,
Thiruverkadu Police Station.
Crime No.29/2003

... Respondent/Complainant

Criminal Appeal filed u/s.374(2) of the Code of Criminal Procedure against the judgment of learned III Additional District cum Sessions Judge, Thiruvallur, Poonamallee, passed in S.C.No.190/2012 on 24.06.2013.

For Appellant : Ms.S.Sridevi

For Respondent : Mr.R.Pratap Kumar,
Additional Public Prosecutor

J U D G M E N T

[Judgment of the Court was made by C.T.SELVAM, J]

Appellant is the sole accused in S.C.No.190 of 2012 on the file of learned III Additional District cum Sessions Judge, Thiruvallur, Poonamallee. He stood charged of offence punishable u/s.302 IPC. Court below, under judgment dated 24.06.2013, found the accused guilty and sentenced him to life imprisonment and fine of Rs.500/- i/d 2 months S.I. Challenging the said conviction and sentence, appellant is before this Court.

2. Case of the prosecution is that appellant/accused and deceased were husband and wife. Appellant suspected the fidelity of deceased and frequently quarrelled with her. On 04.01.2003, appellant threatened the deceased that he would do away with her and hence, deceased went to her sister's house along with her son. Deceased decided to prefer a complaint against appellant

and had prepared the same but on the advice of PW-1, brother of deceased and her sister, she refrained from doing so. Thereafter, appellant had gone over to the house of deceased's sister, given Ex.P20, a letter of undertaking not to harass deceased and took deceased and his son along with him. However, appellant suspecting the fidelity of his wife caused her death on 13.02.2003 at about 08.30 p.m. using a knife. As was usual, PW-1, on his way to the temple at Thiruverkadu, visited the house of deceased and on reaching the staircase, heard the screams of deceased and immediately rushed into the house where he saw appellant/accused assaulting the deceased with a knife who was lying in a pool of blood. On seeing PW-1, appellant/accused pushed him aside and ran away. PW-1 preferred Ex.P1, complaint, to PW-14, Inspector of Police, who registered a case in Crime No.29 of 2003 on the file of respondent for offence u/s.302 IPC. Ex.P10 is the First Information Report. PW-14 took up investigation, visited the scene of crime, prepared mahazars, examined witnesses, arrested accused and obtained various reports. On completion of investigation, he filed a charge sheet informing commission of offence u/s.302 IPC before learned Judicial Magistrate II, Poonamallee. On committal, the case was tried in S.C.No.190 of 2012 on the file of learned III Additional District cum Sessions Judge, Thiruvallur, Poonamallee.

3. Before trial Court, prosecution examined 14 witnesses and marked 20 exhibits and 13 material objects. None were examined on the side of defence nor were any exhibits marked.

4. On questioning u/s.313 Cr.P.C., appellant/accused denied charges. On appreciation of evidence, oral and documentary, trial Court, under judgment dated 24.06.2013, convicted accused and sentenced him to life imprisonment and fine of Rs.500/- i/d 2 months S.I. Hence, this appeal.

5. Heard learned counsel for appellant and learned Additional Public Prosecutor for State. Perused the materials on record.

6. In arriving at a finding of conviction, Court below has found as follows:

(i) The contention of defence that PW-1 was a cooked up witness has been rejected on the reasoning that it was the evidence of PW-1 that he used to visit the temple at Thiruverkadu every week and on his way, he usually visited his sister, the deceased. Likewise, on the occurrence day, he visited his sister's house and on seeing the occurrence, he preferred the complaint. PW-3, wife of PW-1, also supports such deposition. If the stand of defence that PW-1 was a cooked up witness is true, he would not have preferred the complaint immediately

whereon the case had been registered and complaint and FIR forwarded to Court on the same day.

- (ii) Though it was the defence contention that PW-5, a neighbour, while in chief-examination spoke to seeing the accused running from his house, in cross, she spoke to knowledge of the death of deceased on arrival of police, such contention has been rejected on the reasoning that there was nearly 3½ months interval between chief and cross-examination. From the chief and cross-examination, it could be seen that PW-5 definitely would not have witnessed the occurrence but would have seen the accused running from his house.
- (iii) On a perusal of Ex.P19, complaint written by deceased against accused, it was found that there was no room for any doubt whatsoever regards credibility of the same. Moreover, accused has not denied the signature in Ex.P20, a letter of undertaking given by accused to the sister of deceased.
- (iv) The contention of defence that MO-8, series of photographs, do not reflect any knife on the body of the deceased was found unacceptable since the Head Constable has handed over the same to the Inspector of Police stating that it was taken from the body of deceased.
- (v) PW-8, Doctor, who conducted postmortem, has stated that the deceased died of shock and haemorrhage due to multiple stab wounds.
- (vi) From the evidence of PWs.1, 2, 3 and 5 and through Exs.P19 and P20, prosecution has established that accused suspecting the fidelity of deceased, harassed her and caused her death. Court below has found that prosecution has proved its case beyond reasonable doubt through oral and documentary evidence and accordingly, arrived at a finding of conviction and sentenced the accused as stated above. We find no reason to interfere with the judgment under challenge.

The Criminal Appeal, accordingly, is dismissed.

Sd/-

Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

gm

To

1. The III Additional District cum Sessions Judge,
Thiruvallur, Poonamallee.

2 - do -Through'Principal Sessions Judge, Thiruvallur

3 The District Collector, Thiruvallur District

4. The Director General of Police, Chennai

5.The Inspector of Police,
Thiruverkadu Police Station,

6.The Public Prosecutor,
High Court, Madras.

+1cc to M/s..Sridevi, Advocate SR.No.68231

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RJI (CO)
GMY (07/01/2019)



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