



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 09.04.2018

CORAM :

THE HONOURABLE Mr.JUSTICE C.T.SELVAM
And
THE HONOURABLE Mr.JUSTICE A.M.BASHEER AHAMED

CRL A(MD)No.165 of 2018

Antony Mercy ... Appellant/De facto complainant
Vs.

1.The State Rep.by
The Inspector of Police,
Alangudi Police Station,
Pudukkottai District.
Crime No.183 of 2015

... 1st respondent / Complainant

2.Aruljothi Valavan
3.Soosai Ammal

... Respondents 2 & 3/Accused Nos.1 and 2

Prayer: Appeal filed under Section 372 of Cr.P.C., to enhance the sentence in the judgment of conviction of respondents 2 and 3 passed by the Learned Additional District and Sessions Judge / Sessions Court for Essential Commodities Act and NDPS Act Cases, Pudukkottai in S.C.No.100 of 2015 dated 10.11.2017 for the offence under Section 304(ii) and 323 of IPC respectively.

For Appellant : Mr.N.Kamesh
For Respondent : Mr.R.Anandaraj, APP

JUDGMENT

(The Judgment of the Court was delivered by C.T.SELVAM, J.)

This Criminal Appeal has been preferred, to enhance the sentence in the judgment of conviction of respondents 2 and 3 passed by the Learned Additional District and Sessions Judge / Sessions Court for Essential Commodities Act and NDPS Act Cases, Pudukkottai in S.C.No.100 of 2015 dated 10.11.2017.

2. The judgment of the court below reveals that in the course of a sudden fight between the accused party and the deceased, A1 came to deal a blow to the head of the deceased his elder paternal uncle, who was aged 70 years, and as a consequence thereof, the paternal uncle died. Documentary, oral and medical evidence support such finding informing the cause of death to be the injuries suffered by the deceased at the hands of A1.



3. Though learned counsel for appellant submits that there was a motive for the attack on the deceased, since there was a prior dispute between the prosecution party and the accused, we find that court below rightly has taken note of the position that in the course of a sudden fight, a blow came to be dealt with the deceased and as a consequence, the deceased died. We note such injury resulting in death is a single blow to the head. Therefore, we would support the findings of the Trial Court in arriving at a conviction of offence under Section 304(2) IPC., as it is quite evident that the accused / A1 has not acted in a cruel manner and has caused no injury, excepting the one which unfortunately led to death.

4. As regards the second accused, court below, as against the charge of offence under Section 324 IPC., found commission of offence under Section 323 IPC., inasmuch as the nature of injuries caused by such accused were only simple in nature. Finding no reason to interfere with the finding of the Trial Court, the Criminal Appeal shall stand dismissed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

- 1.The Additional District and Sessions Judge /
Sessions Court for Essential Commodities Act and NDPS Act Cases,
Pudukkottai.
2. The Judicial Magistrate, Alangudi.
- 3.Through the Chief Judicial Magistrate, Pudukkottai District.
4. The Inspector of Police, Alangudi Police Station,
Pudukkottai District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to:

The Record Clerk, Criminal Section,
Madurai Bench of Madras High Court, Madurai(2 Copies)

+1CC to Mr.N.Kamesh, Advocate, SR.No. 60581

Judgment made in
CRL A (MD) No.165 of 2018
09.04.2018