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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Criminal Appeal No.209 of 2018

Anthony ..Appellant/Sole Accused

Vs.

State Rep.by
The Inspector of Police,
M3 Puzhal Police Station,
Chennai.

.. Respondent

Appeal filed under section 374[2] of Code of Criminal Procedure, may be pleased to set aside the judgment dated 10.10.2013 in S.C.No.94/2012 on the file of IV Additional District and Sessions Judge at Ponneri.

For Appellant : Mr.K.Thenrajan

For Respondent : Mr.R.PrathapKumar,
Government Advocate [Crl.Side]

JUDGMENT

M.NIRMAL KUMAR, J.

The appellant is the sole accused in S.C.No.94/2012 on the file of the learned IV Additional District and Sessions Judge at Ponneri., stood charged and tried for the commission of the offence under section 302 IPC. The Trial Court, vide impugned Judgment dated 10.10.2013, convicted him for the commission of the offence under section 302 IPC and sentenced him to undergo rigorous imprisonment for life and also imposed a fine of Rs.1,000/- and in default, to undergo one year rigorous imprisonment.

2. Aggrieved by the conviction and sentence awarded by the Trial Court, vide impugned Judgment dated 10.10.2013, the accused/appellant has preferred the present Criminal Appeal.



3. The facts leading to the filing of this Criminal Appeal briefly narrated, as follows:

3.1 The appellant is the single accused. The case of the prosecution is that the appellant with his mother Sundaravalli along with his grand mother Pechiammal were living in a portion of house bearing Door NO.4, Chelliamman Road, Anna Memorial Nagar, Puzhal, Chennai. His maternal uncle and his wife Mumthaj are living in front portion of the said house. Since maternal uncle Velu married the Muslim girl Mumthaj on his own, there was frequent quarrel between the accused and his mother on one hand and with Mumthaj on the other hand. At one stage, the appellant and his mother asked Mumthaj and Velu to vacate the portion where they were residing. Therefore, enmity developed between them. The appellant decided to kill Mumthaj, since she was seen as an obstacle in vacating the house and she was in the habit of passing abusive comments on the appellant. Three days prior to the date of occurrence on 16.04.2009, there was heated arguments between them and the articles of Velu and Mumthaj were thrown out. Thereafter at the intervention of the local Councilor, it was pacified.

3.2. On 16.04.2009, at about 10.30 p.m, again there was wordy quarrel between them. After some time when, the said Mumthaj was sitting in front of the house of neighbour viz., Jansi and watching TV, the appellant with an intention to murder Mumthaj, caught hold her hair and stabbed her indiscriminately on her left hand, chest, right hand, thigh and cut her on the neck. Because of multiple cut injuries, the said Mumthaj died instantaneously. Thus, the case came to be registered against the appellant.

3.3. P.W.1/father of the deceased Mumthaj was informed by his elder daughter about the incident and he came to the scene of occurrence and saw his daughter's body in a pool of blood in front of the house of P.W.2/neighbour viz., jansi. Thereafter on enquiry with P.W.2, he came to know that the appellant had murdered his daughter. Thereafter, he went to the Police Station and lodged a complaint to P.W.15, Sub Inspector of Police who registered an FIR / Ex.P9, P.Ws.2 and 3 are the eyewitnesses to the occurrence. P.W.2 is the neighbour in whose house, the deceased was watching TV. On 16.04.2019, at about 10.30 p.m, both P.W.2 and P.W.3/son of P.W.2 were inside the house and on hearing the cry of the deceased, both P.W.s 2 and 3 came out and witnessed the indiscriminate cut and stab made by the appellant to the deceased. P.W.2 raised alarm and by that time, the appellant had confirmed the death of the deceased and fled away from the scene of occurrence with a knife which was witnessed by P.W.4/ one of the neighbour. P.W.16, on receipt of complaint, visited the scene of occurrence, prepared Observation mahazaar / Ex.P2, Seizure Mahazaar/Ex.P3, in the presence of P.W.7. He



prepared rough sketch / Ex.P10 and M.Os.4 and 5 / blood strained mud and sample mud were taken from the scene of occurrence. Thereafter, he inquested in the presence of witnesses and Inquest Report was marked as Ex.P11.

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3.4.P.W.10, the Postmortem Doctor, conducted autopsy and issued postmortem report /Ex.P6. Further P.W.10 had opined that the deceased would have appeared to be died on account of shock and hemorrhage due to the multiple injuries sustained. Thereafter, the body was handed over to the relatives. The vital organs of the body was also sent to Forensic Science Laboratory, Chennai for getting Viscera Report and the Assistant Director of Forensic Science Laboratory / P.W.13 issued Viscera Report which is marked as Ex.P7. P.W.14 had given the biological report / Ex.P8.

3.5. The appellant was arrested in the presence of P.W.8/Dass, friend of the husband of deceased. On 17.04.2009 at about 07.00 pm, the accused/appellant gave his confession statement / Ex.P5. Based on his confesion, M.O.1/ Knife, M.O.2/blood strained T-Shirt, M.O.3/Blood strained lungi of the appellant were seized. Thereafter, the accused was produced before Magistrate for remand and on completion of investigation, charge sheet came to be filed.

3.6. The Trial Court framed charge under Section 320 IPC and examined P.Ws.1 to 17 filed Exs.P.1 to 16 and also marked M.Os.1 to 8. On the side of defence, no witnesses and exhibits were marked.

3.7. The Trial Court, taking into consideration the oral and documentary evidences and also the materials, found that the appellant / accused is guilty u/s.302 IPC and convicted and sentenced him as stated above and hence, this appeal.

4.The contention of the appellant is that since there was some dispute with regard to the sharing of the portion of the appellant's grandmothers property by the deceased, the appellant had been falsely implicated in this case. The alleged eyewitnesses viz., P.Ws.2 and 3 were not present in the scene of occurrence and no witnesses to the scene of occurrence. P.W.1 is the father, P.W.5 is the husband of the deceased and P.W.6 is the mother of the deceased, who were all had motive to implicate the appellant in this case. Further, it is contended that there is no explanation for the delay in rendering the complaint. According to the appellant, the complaint itself is a fabricated one. After due deliberation, the appellant had been falsely implicated in this case. The evidence of P.Ws.1 to 4 are contrary to each other. The witnesses to the recovery was stock witnesses.



5. The learned counsel appearing for the appellant further submitted that the appellant's younger brother has died and his mother was no more and his younger sister is orphaned and she is now in a Hostel and pleaded clemency without prejudice to his other contentions and hence prays to set aside the judgment of the Trial Court.

6. The learned Additional Public Prosecutor appearing for the State would submit that there are eyewitnesses to the scene of occurrence. P.Ws.2 and 3 are the neighbours, who are eyewitnesses to the occurrence, who had seen the appellant caught hold of the deceased hair and indiscriminately inflicted injuries all over the body of the deceased. P.W.10/Postmortem Doctor on examination found that there are 18 injuries and out of which injury no.5 is the vital one and other injuries are cumulatively added up to the cause of death. The deceased is a lady of tender age who was caught hold and stabbed indiscriminately by the appellant/accused. By seeing the nature of injuries, it is seen that it is a brutal murder and no clemency to be shown. Further P.W.4 is another neighbour who had seen the appellant running away from the scene of occurrence with a knife/M.O.1. P.Ws.1, 5, 6 and 9 are the witnesses who categorically stated about the motive of the appellant.

7. He would further state that P.W.8 had spoken about the arrest and confession and based on the confession, knife/M.O.1, blood strained clothes / M.O.2 of the appellant were seized. P.W.14/Assistant Director of Forensic Science Laboratory, Chennai has given Biological Report / Ex.P8, through which, he confirmed the presence of blood in the dress of the appellant/accused. Thus, the prosecution has proved the case with cogent evidence beyond any reasonable doubt and the Trial Court, on a thorough consideration and appreciation of the oral and documentary evidences has rightly reached the conclusion to convict and sentence the appellant/accused and would plead that the conviction and sentence recorded by the Trial Court vide impugned Judgment may not warrant interference and prays for dismissal of this criminal appeal.

8. This Court paid its best attention to the rival submissions and also perused the materials placed before it.

9. It is seen from the arguments and materials that P.W.s 2 and 3, the neighbours of the appellant and deceased, who had seen the appellant inflicting stab and cut injuries over the body of the deceased. P.W.4 / neighbour has also seen the appellant running from the scene of occurrence with a knife. P.W.1, father of the deceased, had reached the scene of occurrence, on hearing about the incident from his elder daughter. Thereafter on enquiry with P.W.2, he came to know that



the appellant, has murdered his daughter and he gave a complaint to P.W.15, Sub Inspector of Police. P.W.5/Husband of the deceased. P.W.6 / mother of the deceased. P.W.9 / the Local councilor, has pacified / mediated for the fight which had taken place three days prior to the occurrence. All these witnesses categorically stated about the motive, since P.W.5 married the Muslim girl on his own. Further P.W.5 and his wife/deceased were living in the front portion of the house and the appellant and his mother in someway or other wanted to vacate them from the house. Hence the motive have been proved through these witnesses. The act of appellant in murdering the deceased have been spoken by the evidence of P.Ws. 2 and 3. The deceased has died due to the injuries sustained and the same is proved by P.W.10 Postmortem Doctor through the postmortem report / Ex.P6. The postmortem report clearly reveals that there are 18 injuries and the injuries are gruesome in nature, which caused instantaneous death of the deceased. M.O.1/knife was also recovered based on the confession of the appellant which has been confirmed by P.W.8/Dass. P.W.16/the Investigation Officer, who on receipt of the information had immediately reached the scene of occurrence and prepared Observation Mahazaar, Rough sketch and seized the materials available from the scene of occurrence and examined the witnesses present in the scene of occurrence. The witnesses have also in their evidence had confirmed the act of appellant in murdering the deceased. Thus, there is nothing to be doubted about.

10. Thus, we are of the view that the prosecution, through the cogent evidence, both oral and documentary, had proved the guilt of the accused beyond all reasonable doubt. Hence, we are of the considered view that the Trial Court has rightly reached the conclusion of convicting the accused and the impugned judgment of the Trial Court does not require any interference at the hands of this Court.

11. In the result, the criminal appeal is dismissed and the judgment and sentence dated 10.10.2013 passed by the learned IV Additional District Sessions Judge, Ponneri in SC.No.94 of 2012 is hereby confirmed.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

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To

1. The learned IV Additional District Sessions Judge,
Ponneri,
2. The Inspector of Police,
M3 Puzhal Police Station,
Chennai.
3. The Public Prosecutor
High Court, Madras.

+1cc to Mr.K.Thenrajan, Advocate, S.R.No.62073

Criminal Appeal No.209 of 2018

GP(CO)
CS/30/09/2019