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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2019

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.106 of 2015

K.Muthusamy

... Appellant/Accused

Vs.

State through the Inspector of Police,
B9, Saravanampatti Police Station,
Coimbatore District.

... Respondent/Complainant

PRAYER: Criminal Appeal is filed under Section 374(2) of the Criminal Procedure Code, to set aside the Judgment made in S.C.No.171 of 2012 on the file of the I Additional District Judge, Coimbatore convicting the appellant under Section 304 (Part-I) to undergo Rigorous Imprisonment for a period of six years and to pay a fine of Rs.5,000/- I/D to undergo simple imprisonment for a period of three months.

For Appellant : Mr.K.S.Karthik Raja

For Respondent : Ms.T.P.Savitha,
Government Advocate (Crl. Side)

* * * * *

J U D G M E N T

Criminal Appeal is filed to set aside the Judgment made in S.C.No.171 of 2012 on the file of the I Additional District Judge, Coimbatore convicting the appellant for an offence under Section 304 (i) and sentenced to undergo Rigorous Imprisonment for a period of six years and to pay a fine of Rs.5,000/- in default in payment to undergo simple imprisonment for a period of three months.

2.The case of the prosecution is as follows:

The appellant/accused and the deceased Saraswathi are husband and wife. On 04.06.2011 at about 07.30 a.m. the appellant on suspicion over the deceased attacked her on the back of the head with an iron rod with an intention to murder the deceased. Thereafter the appellant self inflicted injury



with the iron rod. On account of the attack, the deceased died at 09.55 a.m. in the Coimbatore Government Hospital. On the complaint of PW-1, a case in Crime No.558 of 2011 for offence under Sections 302 and 309 IPC was registered.

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3.Before trial Court, prosecution examined 16 witnesses and marked 21 exhibits and 23 material objects. None were examined on the side of defence nor were any exhibits marked.

4.PW-15, Investigation Officer, visited the scene of crime, examined witnesses, prepared Mahazars, conducted inquest in the presence of panchayatdars and arrested the accused and recorded confession, forwarded the body of deceased for postmortem, material objects seized, forwarded the accused to judicial custody, and obtained reports, due to his transfer he handed over the case to PW16 who on completion of investigation, filed charge sheet for offence under Sections 302 and 309 IPC.

5.On questioning u/s.313 Cr.P.C., the appellant/accused denied the charges. On appreciation of materials before it, trial Court, convicted the appellant for an offence under Section 304 (i) and sentenced to undergo Rigorous Imprisonment for a period of six years and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for a period of three months.

6.Heard learned counsel for appellant and learned Government Advocate [Crl. Side} for the State. Perused the materials on record.

7.The learned counsel appearing for the appellant submitted that the appellant had already undergone the period of incarceration.

8.The learned Government Advocate [Crl. Side] submits the copy of the report obtained from the Superintendent of Police, Central Prison, Coimbatore and she also submits that the petitioner had already undergone the sentence imposed on him.

9.It is seen from the report obtained from the Superintendent of Police, Central Prison, Coimbatore that the appellant had already undergone the sentence and he had been released on 23.05.2018. In view of the same nothing survives for adjudication in this matter.



10. Accordingly, this Criminal Appeal stands dismissed.
However, there shall be no order as to costs.

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Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The I Additional District Judge,
Coimbatore.
2. The Inspector of Police,
B9, Saravanampatti Police Station,
Coimbatore District.
3. The Superintendent,
Central Prison, Coimbatore.
4. The Public Prosecutor,
High Court, Madras.

+1 cc to M/s.K.S.Karthik Raja, Advocate, S.R.No.65681

Cr1.A.106 of 2015

PVS (CO)
SSM(09/09/2019)