



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl. R.C. (MD) No.116 of 2010

P.Backkiammal

.. Petitioner/P.W.1

Vs.

1. State rep. by the Inspector of Police,
Velayuthampalayam Police Station,
Karur.

(Crime No.26 of 2008)

.. Respondent/Complainant

2. Chithaiyan
3. Venkatesan
4. Kalimuthu
5. Kannaiyan

.. Respondents/Accused 1 to 4

Prayer : This Criminal Revision petition is filed under Section 397 r/w 401 of Cr.P.C., to call for the records in pursuant to the Judgment of acquittal dated 23.12.2009 passed in S.C. No.36 of 2009 by the learned Sessions Judge, Karur and set aside the same and convict the accused.

For Petitioner : Mr.M.Karthikeya Venkitachalapathy

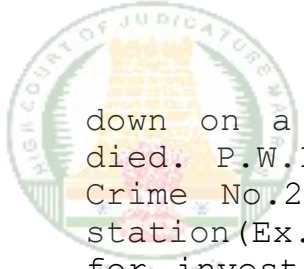
For R-1 : Mr.A.Robinson,
Government Advocate (Crl.Side).

For R-2 to R-5 : Mr.S.Gokul Raj

ORDER

P.W.1 in S.C.No.36 of 2009 on the file of the learned Sessions Judge, Karur, is the Revision petitioner herein. She is aggrieved by the Judgment dated 23.12.2009 acquitting respondents 2 to 5 herein who were accused 1 to 4 in the said case for the offence under Section 302 r/w 34 of I.P.C. The deceased Palani @ Palanisamy and also the accused herein were the residents of Vettamangalam Village. The deceased was none other than the own brother of accused 1 and 2. The case of the prosecution is that on 17.01.2008, when P.W.1 was sitting at the entrance of her house at around 5.00 p.m, the accused came there and questioned her about the whereabouts of Palanisamy, her husband.

2. According to P.W.1, the accused bad-mouthed the character of the daughter of P.W.1. Even as the wordy quarrel was going on, the deceased Palanisamy came out of the house. According to P.W.1, the accused attacked him with their bare hands and dragged him to some distance. During the altercation, the deceased Palanisamy fell

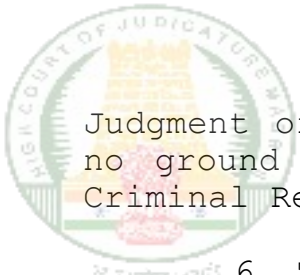


down on a stone and sustained grievous injuries on the head and died. P.W.1 lodged Ex.P.1 complaint and the same was registered as Crime No.26 of 2008 on the file of the Velayuthampalayam police station(Ex.P.13 First Information Report). The matter was taken up for investigation and final report was filed and committed to the Sessions Court and taken on file in S.C.No.36 of 2009. The prosecution examined P.W.1 to P.W.10. Ex.P.1 to Ex.P.17 were also marked. The learned trial Judge after a detailed consideration of the evidence on record acquitted all the accused of the charge under Section 302 r/w 34 of I.P.C. Questioning the same, the Criminal Revision petition has been filed.

3. The learned counsel appearing for the Revision petitioner reiterated the contentions set out in the memo of grounds.

4. A careful reading of the deposition of P.W.1 would indicate that there was a strained relationship between the family of the deceased and the family of the accused. In fact P.W.1 would state in her chief examination that even for one year prior to the occurrence, they were not on talking terms. If that be so, the version of P.W.1 that the accused came to her house to pick up quarrel does not really inspire one's confidence. The learned trial Judge in paragraph No.27 of the Judgment came to the conclusion that the prosecution has not really established the motive for the occurrence. This conclusion as regards, non-establishing of the motive for the occurrence had been arrived at after a detailed analysis of the evidence on record. Of course even if the motive could not be proved, if a direct eyewitness is available, then it is really irrelevant. In this case, the Court after a careful analysis of the evidence on record has come to the conclusion that the testimony of P.W.1 could not be believed. It is seen that there was only single injury on the back of the head of the deceased. The accused have come out with a different version that there was a petty quarrel between the deceased on the one hand and one Subramani and Murugesan on the other. The accused are said to have intervened to separate them. Since the deceased was under the influence of alcohol, he fell down and got injured and he died. Though the medical evidence does not support the defence version that the deceased was under the influence of alcohol, this Court would not rule out the said situation. It is possible that there was a quarrel involving the deceased in which he fell down and met with his death.

5. It is not the case of the prosecution that apart from this single injury found on the head, there was any other injury. If four persons had attacked the deceased by dragging him to such a long distance, certainly there would be abrasion found on the body of the deceased. In this case there was only one injury. The nature of injury indicates that no stone was thrown on the head of the deceased. Obviously, he fell down and that he suffered injury. The learned trial Judge observed that if a person falls down on a rocky surface, such a kind of injury would certainly be caused. The



Judgment of the Court below is founded on sound reasoning. I find no ground to interfere with the same. There is no merit in this Criminal Revision.

6. The Criminal Revision petition stands dismissed. No costs.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

To

- 1.The Sessions Judge,
Karur.
- 2.The Judicial Magistrate No.II,
Karur.
- 3.The Chief Judicial Magistrate,
Karur.
- 4.The Superintendent of Police,
Karur District.
- 5.The Inspector of Police,
Velayuthapalayam Police Station,
Karur District.
- 6.The District Collector,
Karur.
- 7.The Director General of Police,
Chennai.
- 8.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 9.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.S.GOKULRAJ, Advocate SR-68002.

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