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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	Pronounced on
30.04.2019	21.06.2019

CORAM:

**THE HON'BLE MR.JUSTICE P.N.PRAKASH
AND
THE HON'BLE MR. JUSTICE B.PUGALENDHI**

CrI. A. (MD) No.172 of 2019

Kasilingam

...Appellant/A1

vs.

The State represented by
The Inspector of Police
Keeranur Police Station
Dindigul District
(Cr. No.140 of 2012)

...Respondent/Complainant

Criminal Appeal filed under Section 374(2) Cr.P.C. against the judgment dated 31.08.2016 in S.C.No.25 of 2013 on the file of the Additional District and Sessions Court, Dindigul.

For appellant

Mr.T.Leninkumar

For respondent

Mr.R.Anandharaj
Additional Public Prosecutor

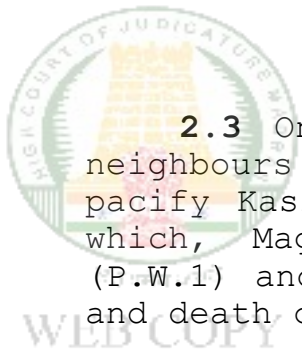
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The judgment dated 31.08.2016 passed by the Additional District and Sessions Judge, Dindigul in S.C. No.25 of 2013 is under assail in this criminal appeal instituted by the first accused.

2 The facts leading to the filing of this criminal appeal, minus the minute details, are as under:

2.1 The deceased in this case is one Rajasekaran. Kasilingam's (A1's) daughter Vasuki Devi eloped with one Sangilidurai, S/o Samikannu of the same village and the said event generated great heat in the village.

2.2 Kasilingam (A1) suspected that the Vasuki Devi-Sangilidurai couple is residing in the house of Muthulakshmi (P.W.5), the sister of Sangilidurai and so, on 01.06.2012, around 4.15 p.m., he came to her (P.W.5's) house with 9 members, some of whom were armed with weapons and created ruckus.



2.3 On hearing a commotion, Bakkiaraj (P.W.1) and Rajasekaran, neighbours of Muthulakshmi (P.W.5), came to the place and tried to pacify Kasilingam (A1) group. Seemingly, an altercation ensued, in which, Magudeeswaran (A2) and Kannan (A3) attacked Bakkiyaraj (P.W.1) and Rajasekaran, resulting in injuries to Bakkiaraj (P.W.1) and death of Rajasekaran.

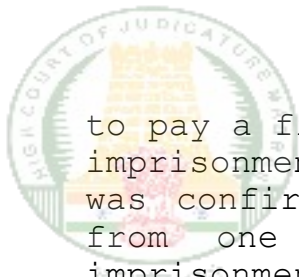
2.4 In connection with this incident, on the complaint lodged by Bakkiaraj (P.W.1), the police registered a case in Cr. No.140 of 2012 and after completing the investigation, filed final report in P.R.C. No.22 of 2012 before the Judicial Magistrate, Palani, against 10 accused for the offences under Sections 148,149,342,341,307 and 302 IPC against Kasilingam (A1) and 9 others. The case was committed to the Court of Session in S.C. No.25 of 2013 and charges for the aforesaid offences were framed against the accused. When questioned, the accused pleaded "not guilty."

2.5 To prove its case, the prosecution examined 16 witnesses and marked 19 exhibits and 8 material objects. When the accused were questioned under Section 313, Cr.P.C. about the incriminating circumstances appearing against them, they denied the same. On behalf of the accused, no witness was examined nor any document marked. However, the copy of the accident register qua Rajasekaran was marked as Ex.C.1.

2.6 After considering the evidence on record and hearing either side, the Trial Court, by judgment and order dated 31.08.2016 in S.C. No.25 of 2013, acquitted Manikandan (A5), Rajiv Gandhi (A6), Suresh (A7), Meenakshi Sundaram (A8), Nagendran (A9) and Karthik (A10) of all the charges, however, convicted and sentenced Kasilingam (A1), Magudeeswaran (A2), Kannan (A3) and Anjali Devi (A4) as under:

Accused	Provision under which convicted	Sentence
Kasilingam (A1)	341 IPC	1 month rigorous imprisonment
Magudeeswaran (A2)	302 IPC	Life imprisonment and fine of Rs.10,000/-
Kannan (A3)	324 IPC	1 year rigorous imprisonment
Anjali Devi (A4)	341 IPC	1 month rigorous imprisonment

2.7 Thereagainst, Kasilingam (A1) and Anjali Devi (A4) did not file any appeal immediately, whereas, Magudeeswaran (A2) and Kannan (A3) filed CrI.A. (MD) Nos.348 and 329 of 2016 respectively, which were heard and decided by a Division Bench vide judgment dated 21.12.2017, in and by which, Magudeeswaran (A2) was acquitted of the charge under Section 302 IPC, but, was sentenced under Section 304 (I) IPC and sentenced to undergo 7 years rigorous imprisonment and



to pay a fine of Rs.10,000/-, in default to undergo 8 weeks rigorous imprisonment and the conviction of Kannan (A3) under Section 324 IPC was confirmed, but, the sentence, in respect thereof, was reduced from one year rigorous imprisonment to six months rigorous imprisonment.

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2.8 When things stood thus, BSNL, where, Kasilingam (A1) was working, initiated disciplinary action against him for the conviction and sentence suffered by him and hence, he woke up from slumber and preferred the present appeal with a delay of 848 days, which was condoned by this Court in Crl.M.P. (MD) No. 3616 of 2019 in Crl.A. (MD) SR. No.6370 of 2019 on 16.04.2019 and thus, the present appeal.

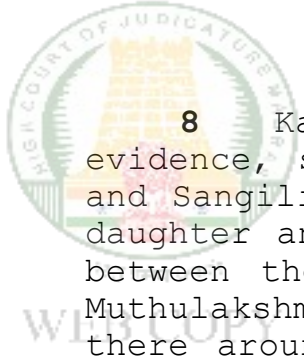
3 Heard Mr. T. Leninkumar, learned counsel for the appellant and Mr. M. Chandrasekaran, learned Additional Public Prosecutor appearing for the respondent-State.

4 Mr. Leninkumar, learned counsel for the appellant contended that the appellant had merely gone to the house of Muthulakshmi (P.W.5) in search of his daughter and that he was not carrying any weapon with him, which only shows that there was no premeditation on his part. He further contended that when the Trial Court had acquitted Manikandan (A5), Rajiv Gandhi (A6), Suresh (A7), Meenakshi Sundaram (A8), Nagendran (A9) and Karthik (A10) of all the charges, the conviction of Kasilingam (A1) on the same evidence does not have legs to stand.

5 *Per contra*, the learned Additional Public Prosecutor refuted the contentions put forward by the learned counsel for the appellant.

6 This Court gave its anxious consideration to the rival submissions.

7 Bakkiaraj (P.W.1), in his evidence, has stated that he knows Kasilingam's (A1's) family and the family of Sangilidurai; Sangilidurai was in love with Kasilingam's (A1's) daughter Vasuki Devi and got married to her, on account of which, there was animosity between the two families; on 01.06.2012, around 4.15 p.m., he heard a commotion in the street; hence, he came out of his house and saw the family of Kasilingam (A1) quarrelling with the family of Muthulakshmi (P.W.5); at that time, he saw Magudeeswaran (A2) stabbing Rajasekaran on his chest with a knife; when he went to pacify the warring members, Kannan (A3) cut him (P.W.1) on his left hand and left hip, on account of which, he fainted; when he regained consciousness, he found that he was admitted in the hospital. He has further stated that the police came to the hospital and recorded his statement, which was marked as Ex.P.1. He also identified the knife (M.O.1) used by Kannan (A3) to attack him. Thus, in his evidence, Bakkiaraj (P.W.1) has identified only Kasilingam (A1), Magudeeswaran (A2) and Kannan (A3) and has not spoken to about any other accused.



8 Karpagam (P.W.6), wife of Rajasekaran, has, in her evidence, stated that she knows the family of both Kasilingam (A1) and Sangilidurai; Sangilidurai was in love with Kasilingam's (A1's) daughter and got married to her, due to which, there was animosity between the two families; thinking that the couple was hiding in Muthulakshmi's (P.W.5's) house, Kasilingam (A1) and his group came there around 4.00 p.m. on 01.06.2012 and quarrelled with them; at that time, she (P.W.6) and her husband were watching the quarrel; she saw Magudeeswaran (A2) taking out a knife; at that time, Kasilingam (A1) and his wife Anjali Devi (A4) held her (P.W.6's) husband (Rajasekaran) and Magudeeswaran (A2) stabbed him (Rajasekaran) on his left chest and left hand; Kannan (A3) attacked Bakkiaraj (P.W.1) with a knife; she carried her husband (Rajasekaran) in a Minidor van to the Government Hospital, Palani, where, he was declared brought dead; Bakkiaraj (P.W.1) was admitted to the hospital for treatment.

9 In the cross-examination, Karpagam (P.W.6) has admitted that there was no animosity between Kasilingam (A1) and her husband (Rajasekaran). She has also stated that when everyone started running, she also ran for about 10 feet and when she found that her husband was not with her, she stopped and looked and found that he was standing at the place of occurrence. This answer obtained by the defence in the cross-examination fortifies her statement in the chief-examination that she saw the occurrence. She was cross-examined on the day she was examined in chief, i.e., on 05.08.2013 and again on 19.12.2013, she was recalled and cross-examined further. The defence was not able to make any dent in her testimony.

10 The fact remains that the root cause for the incident is the elopement of Kasilingam's (A1's) daughter Vasuki Devi with Sangilidurai, who is Muthulakshmi's (P.W.5's) brother. It was Kasilingam (A1), who led the group to the house of Muthulakshmi (P.W.5) since he suspected that the Sangilidurai - Vasuki Devi couple was hiding there. Magudeeswaran (A2) and Kannan (A3) were armed with weapons. There were more than five persons and they shared a common object, viz., to secure the lovers from the house of Muthulakshmi (P.W.5), even by use of force. From the evidence of Bakkiyaraj (P.W.1) and Karpagam (P.W.6), it is clear that Kasilingam (A1) was present at the place of occurrence. From the evidence of Karpagam (P.W.6), the fact that Kasilingam (A1) wrongfully restrained Rajasekaran stands established. Hence, the conviction and sentence slapped on Kasilingam (A1) for the charge under Section 341 IPC cannot be faulted.

11 In the ultimate analysis, we find no merit in this criminal appeal. However, the learned counsel for the appellant submitted that the appellant has no bad antecedents and was emotionally disturbed at the relevant point of time, since his daughter had eloped with Sangilidurai and hence, this Court could show some leniency by releasing him under the Probation of Offenders Act. He also submitted that the appellant is ready and willing to pay a



compensation of Rs.2 lakhs to Karpagam (P.W.6), widow of Rajasekaran.

12 On our directions, Kasilingam (A1) and Karpagam (P.W.6) appeared before us on 24.04.2019. We explained to Karpagam (P.W.6) about Kasilingam's (A1's) offer to pay to her a compensation of Rs.2 lakhs, which found her acceptance and at the request of Kasilingam (A1), two weeks' time was given to mobilise funds. Subsequently, it was reported to us that Kasilingam (A1) has handed over a demand draft dated 02.05.2019 bearing No.123699, drawn on State Bank of India, Namakkal Branch, for a sum of Rs.2,00,000/- (Rupees Two lakhs only) to Karpagam (P.W.6).

13 Bearing in mind, the overall circumstances of the case, the fact that there is no previous conviction for Kasinathan (A1) and in the absence of any material to show that he is a person of bad character, to meet the ends of justice, his conviction under Section 341 IPC is confirmed, however, the sentence of imprisonment is set aside and in lieu of that, he is admonished under Section 3 of the Probation of Offenders Act, 1958.

With the above modification in sentence, this criminal appeal stands partly allowed.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1 The Inspector of Police
Keeranur Police Station
Dindigul District
- 2 The Additional District and Sessions Judge
Dindigul
- 3 The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai

+1 CC TO Mr.T.Lenin Kumar, ADVOCATE IN SR No.70536

Pre-delivery judgment in
Crl.A. (MD) No.172 of 2019
21.06.2019

RR

PK/10.07.2019 : 5P/5C

<https://hcservices.ecourts.gov.in/hcservices/>