



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

JUDGMENT RESERVED ON : 11.04.2019

JUDGMENT PRONOUNCED ON : 30.04.2019

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CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.A.(MD)No.259 of 2017

and

CRL.MP(MD)No.2252 of 2018

A.Davidson

...Appellant / Sole accused

Vs.

The State represented by
The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.

...Respondent/complainant

Prayer: Criminal Appeal filed under Section 374 of Criminal Procedure Code, to allow this Appeal and set aside the judgment of conviction passed in SC No.15 of 2014, on the file of the Sessions Court, Kanyakumari District, Nagercoil, dated 26.04.2017.

For Appellant : Mr.C.K.M.Appaji

For Respondent : Mr.R.Anandharaj

Additional Public Prosecutor

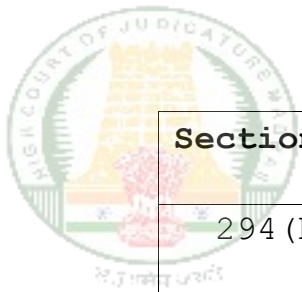
J U D G M E N T

(Judgment of the Court was made by B.PUGALENDHI, J.,)

This appeal is filed as against the conviction and sentence imposed on the appellant / sole accused by the Sessions Court, Kanyakumari District at Nagercoil, in S.C.No.151 of 2017, dated 26.04.2017.

2.The appellant faced the trial for the offences punishable under sections 294(b), 449, 302, 324 and 506(ii) IPC.

3.In conclusion of the trial, the learned Trial Judge found the appellant guilty for the below mentioned offences, convicted and sentenced him as follows:



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Section of Law	Sentence of imprisonment	Fine amount
294 (b) IPC	--	Rs.50/-, in default to undergo simple imprisonment for a period of two weeks.
449 IPC	To undergo Imprisonment for life	Rs.500/-, in default to undergo simple imprisonment for a period of six months.
302 IPC	To undergo Imprisonment for life	Rs.500/-, in default to undergo simple imprisonment for a period six months.
324 IPC	--	Rs.100/-, in default to undergo simple imprisonment for a period three months
506(ii) IPC	To undergo rigorous Imprisonment for a period of three years.	Rs.200/-, in default to undergo simple imprisonment for a period of six months

4. The facts of the case, as projected by the prosecution, in a nutshell, are as follows:

4.1.The accused was working as a Coolie and he was engaged by one Thangappan for certain works. The deceased Thangappan was also working as a Coolie. Though the deceased engaged the accused, he was not regularly providing the work to the appellant. On 25.06.2013, at about 5.30 am, the accused went to the deceased's house and sought for work. But the deceased replied him that there was no work on that day. Annoyed by this reply, the accused abusing the deceased with filthy words that though there was work available, he was lying, as if there was no work, trespassed into his house and took out a knife from his waist and attacked him indiscriminately. The wife of the deceased [PW1], who was witnessing the occurrence, raising hue and cry, attempted to prevent the attack, but the accused had assaulted her with knife on her left hand fingers and on her right hand and also intimidated that, if she raised sound, he would kill her also. On hearing the sound, the neighbours came to their house, chased the accused and caught hold of him.

4.2. The deceased was taken to the nearby private hospital at Nagercoil, where the Doctor [PW.14] provided treatment to PW.1 and declared that the deceased brought dead. PW.14 had noticed the following injuries on PW.1 and issued a wound certificate [Ex.P.10].



- "1. Incised wound 8X2X1cm left forearm radial aspect.
2. Incised wound 1X1/2X1/2cm left middle finger dorsum
3. Incised wound 1/2X1/2X1/2 cm left index finger fresh bleeding wound."

4.3. Thereafter they have taken the deceased to the Government Medical College Hospital, Kanyakumari at Nagercoil at about 7.30 am and the Doctor [PW.13] had declared the deceased died. PW.1, after taking treatment, went to the Thuckalay Police Station, on 25.06.2013 and lodged a complaint before the Sub Inspector of Police, Thuckalay Police Station [PW.17], at about 8.00 am. PW.17, registered a case in Thuckalay Police Station in Crime No.488 of 2013, for the offence punishable under Sections 452, 294(b), 324, 307 and 302 IPC. The printed copy of the First Information Report is marked as Ex.P.17 and the FIR was sent to the Court and to the higher officials through PW.11.

4.4. On receipt of the information, the Inspector of Police, Thuckalay Police Station [PW.18] proceeded to the place of occurrence and prepared an observation mahazar and a rough sketch, Ex.P.2 and Ex.P.18 respectively, from the place of occurrence in the presence of one Nelson [PW.2] and one Ramakrishnan. He also recovered cement slabs with and without bloodstain, M.O.6 and M.O.7 respectively from the place of occurrence and a bloodstained maroon colour flower designed lungi (M.O.2) and a bloodstained pillow cover (M.O.5) from the place of occurrence under a cover mahazar - Ex.P.3, in the presence of PW.4. He also recovered a bicycle [M.O.8] in Ex.P.4. Thereafter, he went to the Medical College Hospital at Nagercoil and conducted the inquest in the presence of the Panchayatadars and the inquest report is marked as Ex.P.19. He sent the body for postmortem with a request through the Head Constable - P.W.12. Dr. Raja Murugan [P.W.15], Kanyakumari Government Medical College at Asaripallam, had conducted the autopsy on 25.6.2013 at 2.55 pm and had noticed the following ante mortem injuries:-

- 1.1 X 1/2cm X 3 cm deep stab injury seen in the inter scapular region 11 cm below the hair line.
- 2.3 X 1/2 X 4 cm deep oblique stab injury seen over the left side of lower aspect of chest. On dissection it has pierced the 9th intercostal space anteriorly and entered the pericordium and pierced the anterior wall of the heart. About 50gms of clot seen in the pericordial sac. About 500 ml of blood seen in the left thoracic cavity.
- 3.5 X 1/2 cm X skin deep cut injury seen in the front and top of left shoulder.
- 4.10 X 8 cm irregular abrasion seen on top left shoulder.
- 5.1 X 1/2 X 1/2 cm abrasion seen in the lower third of front of right arm.
- 6.1 X 1/2 X 1/2 cm cut injury seen over the back of



middle right thumb.

- 7. 3X1/2Xskin deep cut injury seen in front upper third of left leg.*
- 8. 7X1/2Xskin deep cut injury seen in the upper half of left arm.*
- 9. 2X1cmXbone deep cut injury seen in the web space between the left thumb and index finger.*
- 10. 11X1/2Xskin deep cut incised wound seen over the right side of lower chest.*

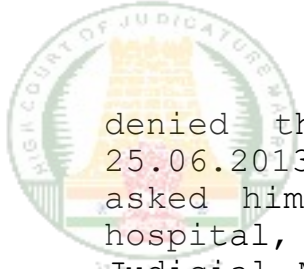
4.5.The Postmortem certificate is marked as Ex.P.12 and the final opinion of the Doctor is marked as Ex.P.13. According to the Doctor [P.W.15], the deceased appears to have died of shock and hemorrhage, due to the stab injury to the heart. The examination of viscera has not deducted any alcohol or poison.

4.6.The accused was caught immediately from the place of occurrence by the neighbours and public and out of anger, the general public had also assaulted him. He was taken to the Government Head Quarters Hospital, Padmanabhapuram, on 25.06.2013 at 8.00 am and he was treated as an outpatient and the accident register is marked as Ex.P.22, which shows that on 25.06.2013 at 6.00pm, he was assaulted by a group of people at his house. The Doctor, who treated him, had also noted down the obvious external injuries on the accused. After the treatment at Government Head Quarters Hospital, Padmanabhapuram, he was produced by the villagers, before the Inspector of Police - PW.18 on 25.06.2013, at 3.00pm and PW.18 had arrested him in the presence of one Ramesh Kumar and one Jeyachandran. The accused gave confession statement and pursuant to the same, bloodstained Knife [M.O.1] and bloodstained lungi [M.O.9] and bloodstained white shirt [M.O.10] were recovered under cover of mahazar in Ex.P.8. in the presence of P.W.7 and another. He made a request in Ex.P.14, to the Judicial Magistrate, Padmanabhapuram, for sending the recovered articles for chemical analysis and collected the blood samples of the accused and made a request for verification of his blood group in Ex.P.5.

4.7.PW.19, who took up the further investigation, from 11.08.2013, verified the statements of the witnesses and filed a final report before the Judicial Magistrate, Padmanabhapuram in PRC No.3 of 2014. The case was committed to the Court of Sessions, Kanyakumari District at Nagercoil and the trial was commenced in SC No.151 of 2014 and the charges were framed as against the accused as stated in paragraph No.2 hereinabove.

5.On behalf of the prosecution, 19 witnesses were examined, 23 Exhibits were marked and 10 Material Objects were produced. On behalf of the sole accused neither oral nor documentary evidence was let in.

6.The incriminating materials from the prosecution case were also put to the accused under Section 313 CrPC and the accused



denied the same as false. He would further state that on 25.06.2013, the Police had taken him from his house, beaten him and asked him to bring the knife. They had also taken him to the hospital, provided treatment and also produced him before the Judicial Magistrate, Padmanabhapuram, from there, he was referred to the prison. He stated that there were witnesses, in support of his case, but, he had not examined any witness. In conclusion of the trial, the learned trial Judge, by order dated 29.04.2017, found the accused guilty for the offences punishable under Sections 294(b), 449, 302, 324 and 506(ii) IPC, convicted and sentenced him as stated supra. Aggrieved over the same, the accused has preferred this criminal appeal.

7. Heard Mr.C.K.M.Appaji, learned Counsel appearing for the appellant / sole accused and Mr.R.Anandharaj, learned Additional Public Prosecutor appearing for the State.

8. The learned Counsel appearing for the appellant raised the following points:

8.1. The occurrence took place in the shadow of darkness with the involvement of some unknown persons. But the accused was wrongly implicated in the case.

8.2. The availability of electricity at the time of occurrence had not been established by the prosecution.

8.3. The knife was produced by the accused in the Police Station at 3.00 pm and therefore, the confession leading to the recovery is not admissible as per Section 27 of the Indian Evidence Act.

8.4. There is inordinate delay in the FIR reaching the Court and witnesses PW.1 to PW.3 are wife, daughter and brother-in-law of the deceased respectively and being blood relatives their evidence cannot be countenanced for conviction.

9. The learned Counsel for the appellant, by referring to the documents enclosed along with Ex.P.14 that the accused was suffering from Bipolar Affective Disorder Currently Depression, had pleaded for exception by referring to Sections 328 and 329 of CrPC. He also relied on the following judgments for the consideration of this Court:

1. Devidas Loka Rathod Vs State of Maharashtra, reported in **(2018) CCR 113 (SC)**, wherein the Hon'ble Supreme Court has held as follows:

"5 . Learned counsel for the State , Shri Katneshwarkar, opposing the appeal, submitted that the appellant had failed to prima facie establish a case for unsoundness of mind on probability. The trial judge had taken adequate precautions in calling for medical



reports from time to time and satisfying himself with regard to the ability of the appellant to defend himself quite apart from also noticing his demeanour in court. The conduct of the appellant in making repeated assaults, running away from the place of occurrence, throwing the sickle on the way, were all sufficient to establish the commission of the offence knowingly by him, incompatible with the defence of unsoundness of mind".

2. Harsh Prabhakar Vs. State of NCT of Delhi, reported in **2017 SCC Online Del 11871**, wherein the Hon'ble Supreme Court has held as follows:

"26. The Court would like to preface this discussion with an observation that Section 84 IPC underscores that mens rea is an essential element in a crime. It contemplates a situation where the person committing the crime may not at the time of such commission of crime, be aware of what he is doing. The rationale behind the defence under Section 84 IPC was explained by the Supreme Court in *State of Rajasthan v. Shera Ram @ Vishnu Datta* (2012) 1 SCC 602 in the following words:

"To commit a criminal offence, mens rea is generally taken to be an essential element of crime. It is said furiosi nulla voluntus est. In other words, a person who is suffering from a mental disorder cannot be said to have committed a crime as he does not know what he is doing. For committing a crime, the intention and act both are taken to be the constituents of the crime, actus non facit reum nisi mens sit rea. Every normal and sane human being is expected to possess some degree of reason to be responsible for his/her conduct and acts unless contrary is proved. But a person of unsound mind or a person suffering from mental disorder cannot be said to possess this basic norm of human behavior."

3. Sidhapal Kamala Yadav Vs State of Maharashtra, reported in **(2009) 1 SCC 124**, wherein the Hon'ble Supreme Court has held as follows:

"The onus of proving unsoundness of mind is on the accused. But where during the investigation previous history of insanity is revealed, it is the duty of an honest investigator to subject the accused to a medical examination and place that evidence before the Court and if this is not done, it creates a serious infirmity in the prosecution case and the benefit of doubt has to be given to the accused."



10. Per contra, the learned Additional Public Prosecutor appearing for the State would submit that the prosecution has established the case beyond reasonable doubt and the evidence of P.W.1 to P.W.3, coupled with the fact that the accused was caught red handed, would establish the guilt on the accused and therefore, the trial Court has rightly convicted the accused.

11. We have heard the learned Counsel on either side and carefully perused the evidence adduced on behalf of the prosecution and the records placed before us.

12. The learned Counsel for the appellant has taken two stands. One is that of totally denying the prosecution evidence and the other is pleading for exception under Section 84 IPC. The occurrence had taken place on 25.06.2013, at about 5.30 am and the occurrence was witnessed by the wife of the deceased Rajini [P.W.1] and her daughter Saranya [P.W.2]. P.W.1 is an injured witness. P.W.1 and P.W.2 have clearly stated that the accused came to their house, on 25.06.2013 at about 5.30 a.m, demanded for work and the deceased had denied that there was no work available to him. Annoyed by the reply, and on frustration, the accused had taken out a knife from his waist, attacked the deceased indiscriminately. The wife - PW.1 attempted to prevent the attack and she was also assaulted and criminally intimidated by the accused. PW.2 the daughter of PW.1 and the deceased, was reading in her room. On hearing the noise, she also witnessed the occurrence. PW.3, brother-in-law of the deceased and also a neighbour has also witnessed the occurrence. PW.9, a neighbour, who is having a petty shop, near the deceased house witnessed the accused coming out of the house of the deceased with a knife, chased him along with other villagers, caught and handed him over to the Police. The knife - M.O.1 was also recovered from the accused. The Doctor, who conducted postmortem noted down as many as 10 injuries as stated supra and gave his final opinion that the deceased appears to have died of shock and hemorrhage, due to the stab injury to the heart. The medical report corroborates with the evidence adduced by the prosecution.

13. In view of the foregoing discussion, this Court is of the considered view that the prosecution has proved its case beyond reasonable doubt and therefore, we do not find any ground to interfere with the order passed by the trial Court.

14. The learned Counsel for the appellant by referring to the documents appended to Ex.P.14, submitted that the accused was suffering from mental disorder and therefore, he is entitled for the benefit of exception under Section 84 of IPC.

15. We have carefully analysed the documents appended along with Ex.P.14.



16.The letter in No. Psy/No.305/2013, dated 10.09.2013 written by one Dr.S.Jeeva Creedom Victory, Tutor in Psychiatry, Department of Psychiatry, Tirunelveli Medical College Hospital, Tirunelveli, to the Superintendent of Central Prison, Palayamkottai that the accused Davidson was admitted as inpatient in Department of Psychiatry, IP No.51926 dated 31.08.2013 and discharged on 10.09.2013. They have subjected him to various serial mental status examination and during the period of observation, they found that the accused was suffering from Bipolar Affective Disorder Currently Depression and he needed regular treatment and follow up. Based on this letter, the Superintendent, Central Prison, Palayamkottai has made a request to the Judicial Magistrate, Padmanabhapuram, on 10.09.2013, for further action, based on the medical report. Along with this medical report, the accused Davidson was produced before the learned Judicial Magistrate, Padmanabhapuram, on 11.09.2013 and the learned Judicial Magistrate, Padmanabhapuram, while remanding, passed the following order:

"Accused produced today along with requisition and Evaluation and Certification report given by the Department of Psychiatry TVMC. Report perused. Doctor stated that the accused needs regular drug treatment and follow up. Hence, remand of the accused is extended till 18.09.2013. The Superintendent of Central Prison is directed to give necessary regular drug treatment to the accused with regular follow up and produce before this Court on 18.09.2013."

17.These documents have not been marked either by the prosecution or by the defence. However, it found part of the records and by relying upon the same, the learned Counsel for the appellant had pleaded for exception under Section 84 of IPC.

18.Relying upon the decision of the Hon'ble Supreme Court in **Sidhapal Kamala Yadav Vs State of Maharashtra**, reported in **(2009) 1 SCC 124**, the learned Counsel for the appellant contended that the onus of proving unsoundness of mind is on the accused. But, where during the investigation previous history of insanity is revealed, it is the duty of an honest Investigator to subject the accused to a medical examination and place that evidence before the Court and if this is not done, it creates a serious infirmity in the prosecution case and the benefit of doubt has to be given to the accused.

19.The learned Counsel for the appellant submitted that the accused was insane, at the time of committing the offence. The documents, placed before this Court, would substantiate that he was suffering from unsoundness of mind and therefore, on the ground of benefit of doubt for the mens rea, the accused ought to have been acquitted.



20. It will be appropriate to refer to Section 84 IPC and the same reads as follows:

"84. Act of a person of unsound mind –

Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law."

21. The essential elements of Section 84 are

(i) the accused must, at the time of commission of the act, be of unsound mind; and (ii) the unsoundness must be such as to make the accused at the time, when he is doing the act, charged as offence, incapable of knowing the nature of the act that he is doing what is wrong or contrary to law.

22. The Section falls under Chapter IV IPC, which deals with General Exceptions and the burden of proving that the case of the accused comes within the exceptions, is dealt with under Section 105 of the Indian Evidence Act. The burden of proving the existence of circumstances, bringing the case within any of the general exceptions in IPC, is upon the person, claiming the same and therefore, the burden of proving the exception lies on the accused.

23. It will be useful to refer to the decision of the Hon'ble Supreme Court, in the case of **Sudhakaran Vs. State of Kerala**, reported in **(2010) 10 SCC 582**, wherein, the Hon'ble Supreme Court, in similar such circumstances, has dealt in detail, on the applicability of Section 84 of IPC as follows:

"33. This Court has on several occasions examined the standard of proof that is required to be discharged by the appellant to get the benefit of Section 84 IPC. We may make a reference here to the observation made in Dahyabhai Chhaganbhai Thakkar Vs. State of [Archbold 2010 Ed. Pg. No. 1880-1881] Gujarat. The relevant aspects of the law and the material provisions relating to the plea of insanity were noticed and considered as follows:-

" 5. ... Indian Penal Code

299. Culpable homicide – Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.



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84. Act of a person of unsound mind - Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law. Indian Evidence Act.

105. Burden of proving that case of accused comes within exceptions - When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any of the General Exceptions in the Indian Penal Code (45 of 1860) or defining the offence, is upon him, and the Court shall presume the absence of such circumstances.

4. "Shall presume" --Whenever it is directed by this Act that the Court shall presume a fact, it shall regard such facts as proved unless and until it is disproved.

3. "Proved"--A fact is said to be proved' when after considering the matters before it, the Court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists.

"Disproved"--A fact is said to be disproved when, after considering the matters before it, the Court either believes that it does not exist, or considers its non-existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist.

101. Burden of proof - Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of fact which he asserts, must prove that those facts exist.

When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person. It is a fundamental principle of criminal jurisprudence that an accused is presumed to be innocent and, therefore, the burden lies on the prosecution to prove the guilt of the



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accused beyond reasonable doubt. The prosecution, therefore, in a case of homicide shall prove beyond reasonable doubt that the accused caused death with the requisite intention described in Section 299 of the Indian Penal Code. This general burden never shifts and it always rests on the prosecution. But, as Section 84 of the Indian Penal Code provides that nothing is an offence if the accused at the time of doing that act, by reason of unsoundness of mind was incapable of knowing the nature of his act or what he was doing was either wrong or contrary to law. This being an exception, under Section 105 of the Evidence Act the burden of proving the existence of circumstances bringing the case within the said exception lies on the accused; and the court shall presume the absence of such circumstances. Under Section 105 of the Evidence Act, read with the definition of "shall presume" in Section 4 thereof, the court shall regard the absence of such circumstances as proved unless, after considering the matters before it, it believes that said circumstances existed or their existence was so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that they did exist. To put it in other words, the accused will have to rebut the presumption that such circumstances did not exist, by placing material before the court sufficient to make it consider the existence of the said circumstances so probable that a prudent man would act upon them. The accused has to satisfy the standard of a "prudent man". If the material placed before the court such, as, oral and documentary evidence, presumptions, admissions or even the prosecution evidence, satisfies the test of "prudent man", the accused will have discharged his burden. The evidence so placed may not be sufficient to discharge the burden under Section 105 of the Evidence Act, but it may raise a reasonable doubt in the mind of a judge as regards one or other of the necessary ingredients of the offence itself. It may, for instance, raise a reasonable doubt in the mind of the judge



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whether the accused had the requisite intention laid down in Section 299 of the Indian Penal Code. If the judge has such reasonable doubt, he has to acquit the accused, for in that event the prosecution will have failed to prove conclusively the guilt of the accused. There is no conflict between the general burden, which is always on the prosecution and which never shifts, and the special burden that rests on the accused to make out his defence of insanity."

34. Thereafter, upon further consideration, this Court defined the doctrine of burden of proof in the context of the plea of insanity in the following propositions:-

"(1) The prosecution must prove beyond reasonable doubt that the appellant had committed the offence with the requisite mens rea; and the burden of proving that always rests on the prosecution from the beginning to the end of the trial.

(2) There is a rebuttable presumption that the appellant was not insane, when he committed the crime, in the sense laid down by Section 84 of the Indian Penal Code:

the appellant may rebut it by placing before the court all the relevant evidence - oral, documentary or circumstantial, but the burden of proof upon him is no higher than that rests upon a party to civil proceedings.

(3) Even if the appellant was not able to establish conclusively that he was insane at the time he committed the offence, the evidence placed before the court by the appellant or by the prosecution may raise a reasonable doubt in the mind of the court as regards one or more of the ingredients of the offence, including mens rea of the appellant and in that case the court would be entitled to acquit the appellant on the ground that the general burden of proof resting on the prosecution was not discharged."

<https://hcservices.ecourts.gov.in/hcservices/> 35. It is also a settled proposition of law that the crucial point of time for ascertaining the existence of circumstances bringing the case within



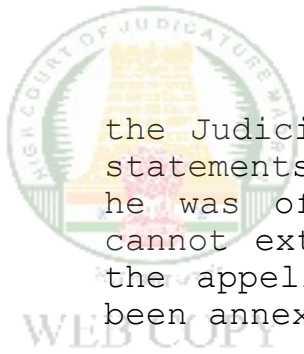
the purview of Section 84 is the time when the offence is committed. We may notice here the observations made by this Court in the case of *Ratan Lal Vs. State of Madhya Pradesh*⁵. In Paragraph 2 of the aforesaid judgment, it is held as follows:-

"It is now well-settled that the crucial point of time at which unsoundness of mind should be established is the time when the crime is actually committed and the burden of proving this lies on the appellant."

36. The High Court on examination of the evidence before it, came to the conclusion that the appellant had failed to prove that he was suffering from such mental illness that would enable him to take benefit of Section 84 IPC. The High Court took into consideration the totality of the circumstances and came to the conclusion that there was no evidence indicating that appellant was suffering from mental illness at the crucial time."

24. Similarly, in this case also, the accused had not taken any such plea that he was suffering from any mental disorder at the time of the occurrence. Therefore, the benefit of exception, under Section 84 of IPC, cannot be extended to the appellant / accused. Moreover, the occurrence took place on 25.06.2013 and the documents, which have been relied upon by the learned Counsel for the appellant dated 10.09.2013 would show that the accused was in incarceration and subsequent to the offence he was suffering from mental disorder, for which he was subjected to medical examination from 31.08.2013 to 10.09.2013 at Tirunelveli Medical College Hospital, Tirunelveli and the Doctor, who treated the accused had noticed that the accused is suffering from Bipolar Affective Disorder and based on that report, the Superintendent of Prison made a request to the Judicial Magistrate, Padmanabhapuram, for further action on 10.09.2013 and the learned Judicial Magistrate also passed the relevant order on 11.09.2013, while extending the remand, to the Superintendent of Central Prison to give necessary drug treatment to the accused with regular follow up.

25. The procedures to be followed, in case the accused being lunatic or of unsound mind, are described in Chapter XXV of the Code of Criminal Procedure. The incident took place on 25.06.2013 and the appellant was released on bail in 2013 itself. The trial began with the examination of PW.1 on 06.02.2017. The appellant was ably defended by his Advocate. The plea of insanity under Section 84 IPC nor the plea that he is mentally unfit to defend himself was raised during the trial. In fact, when the accused was questioned under Section 313 of CrPC about the incriminating materials, the accused denied that he was taken from his house by the Police on 25.06.2013, beaten and asked to produce the knife, taken to hospital, provided treatment and thereafter, he was produced before



the Judicial Magistrate and then he was taken to the prison. These statements of the accused under Section 313 CrPC would reveal that he was of sound mind at the time of occurrence. Therefore, we cannot extend the benefit of exception under Section 84 of IPC to the appellant/accused, by relying upon the documents, which have been annexed to Ex.P.14.

26. In the result, this criminal appeal is dismissed. The order dated 26.04.2017, passed by the learned Sessions Judge, Kanyakumari in SC No.15 of 2014, is hereby confirmed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar (CS)

dsk

To

1. The Sessions Judge,
Kanyakumari at Nagercoil.
2. The Judicial Magistrate, Padmanabhapuram.
3. The Chief Judicial Magistrate, Kanyakumari at Nagercoil.
4. The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.
5. The Superintendent, Central Prison, Palayankottai.
6. The District Collector, Kanyakumari at Nagercoil.
7. The Director General of Police, Mylapore, Chennai 9.
8. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
9. The Record Keeper (2 Copies),
Criminal Section,
Madurai Bench of Madras, Madurai.

Judgment made in

Crl.A. (MD) No.259 of 2017

30.04.2019