

**BAIL SLIP**

The Appellant/Sole Accused namely M.Rengaraj, S/o. Mani was released on bail by this Hon'ble Court made in MP(MD)No.1 of 2014 dated 29.01.2014.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	09.08.2019
Date of Judgment	22.11.2019

CORAM

THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI****Crl.A(MD)No.36 of 2014**

M.Rengaraj : Appellant/Sole Accused

Vs.

State represented by
The Inspector of Police,
Navalpattu Police Station,
Trichy.

(Crime No.41 of 2013)

: Respondent/Complainant

Prayer: Criminal Appeal filed under section 374(2) of the Code of Criminal Procedure, against the judgment, dated 17.12.2013 passed by the Sessions Judge, Trichy, made in SC No.143 of 2013.

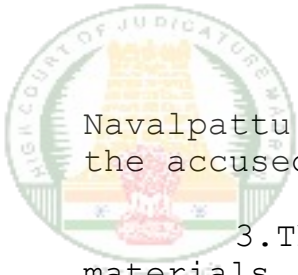
For Appellant : Mr.B.Jameel Arasu

For Respondent : Mr.R.Anandharaj
Additional Public Prosecutor

J U D G M E N T

The Criminal Revision is directed against the judgment, dated 17.12.2013 passed by the Sessions Judge, Trichy, in SC No.143 of 2013.

2.According to the prosecution, the deceased Rethinam was the 'Vettiyan' of Navalpattu village and on 19.02.2013, when the dead body of one Ranjitham was taken to the burial ground and buried, the accused closed the pit slowly, due to which the accused condemned him and hence, the deceased along with his family members went to the house of the accused on 20.03.2013 at 8.30 pm and questioned the accused and at that time, the accused abused them with filthy language and pushed down the deceased Rethinam and he fell on the cement tank and sustained head injury and further, the accused took a big stone and hit on various parts of the deceased with the stone, thereby caused his death. The Inspector of Police attached to



Navalpattu Police Station, Trichy has filed a final report against the accused examining the witnesses.

3. The trial court, on proper appreciation of the entire materials available on record, both oral and documentary convicted the appellant/sole accused for the offence under section 325 IPC and sentenced him to undergo rigorous imprisonment for a period of 5 years and to pay a fine of Rs.1,000/-, in default to undergo rigorous imprisonment for a further period of 3 months. Aggrieved by the judgment of the trial court, the appellant/accused is before this court.

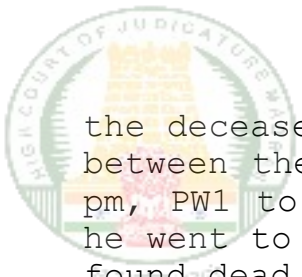
4. Heard both sides and perused the materials available on record.

5. The first contention raised on the side of the appellant/accused is that PW1 to PW3 are the aggressors and the deceased went along with PW1 to PW3 in drunken mood and PW1 to PW3 and the deceased questioned why the accused scolded in the burial ground and due to it, quarrel arose between PW1 to PW3, the deceased and the accused and in the altercation, the deceased himself fell down and sustained injuries and the Doctor, who conducted postmortem on the body of the deceased deposed that the deceased sustained injuries on his external parts and they are lacerated injuries and due to the assault by stone, the above lacerated injuries on the external part of the body of the deceased are not occurred and due to drunken mood, the deceased fell down and sustained injuries and there is no corroboration between the medical evidence of PW1 to PW3 and the medical evidence and prays that the appellant/accused is entitled to acquittal.

6. In this case, PW1 is the wife of the deceased and PW2 and PW3 are the sons of the deceased. In respect of the occurrence, PW1 gave Ex.P1 complaint. PW1 in her complaint and evidence stated that her husband served as 'Vatiyan' and when he was burying the dead body of one Ranjitham, he was condemned by the accused for closing the pit slowly and the accused used filthy language and due to it, the deceased along with his sons went to the house of the accused and questioned and then the accused pushed the deceased down and took a stone and hit the deceased with the stone on his chest and flanks and caused his death.

7. PW2 and PW3 also deposed that they went along with his father to the burial ground, at that time, the accused used filthy language and shouted to close the pit quickly and at 5.30 pm, they along with their parents went to the house of the accused and questioned him and due to it, quarrel arose between them and the accused and the accused pushed down the deceased and took a stone and assaulted the deceased and caused injury on his chest and flank, the deceased died and PW1 gave Ex.P1 complaint to the police.

8. PW1 deposed that on 20.02.2001, he went to the burial ground for burying the body of one Ramanatham, the accused scolded



the deceased for closing the pit slowly and due to it, quarrel arose between the accused and the deceased and then he heard that at 8.00 pm, PW1 to PW3 went to the house of the accused to question it and he went to the house of the accused and he saw that the deceased was found dead.

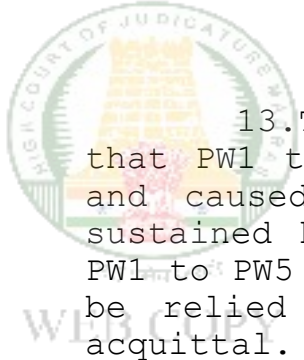
9. PW5 deposed that on 20.02.2013, he went to the house of the appellant/accused and when PW1 to PW3 questioned it, quarrel arose between the deceased, PW1 to PW3 and the accused and then he pushed down the deceased and the deceased fell down and the accused took a stone and assaulted with the stone and caused injury on the chest of the deceased. PW5 during his cross examination stated that only the accused pushed down the deceased and assaulted the deceased.

10. The Doctor, who conducted postmortem on the body of the deceased was examined as PW9. PW9 found the following injuries:-

1. Multiple dark brown color abrasions on the front of both side of chest;
2. Dark brown color abrasion on the front of left knee;
3. Bruising of anterior chest wall on both side;
4. Fracture of manubrium stemi transversely between 2nd and 3rd rib attachment;
5. Fracture of right color bone and 2nd to 5th right side ribs and 4th to 7th left side ribs with surrounding thoracic wall bruising;
6. Pericardial cavity contains clotted blood;
7. An oblique tear wound with irregular margin on the front side of heart;
8. Bruising of right temporal region of scalp.

11. PW9 found two external injuries on the body of the deceased. Further, PW9 during his cross examination stated that there is no possibility for sustaining abrasion, when the deceased was assaulted with stone (M01). PW1 to PW3 stated that the accused pushed down the deceased and assaulted with stone and caused injury on his chest and flank. But PW9 has not found any external injury on the chest of the deceased.

12. Further, PW9 during the cross examination stated that there is possibility of injury No.8, while falling down in drunken mood. PW1 deposed that when the police inspected the occurrence place, they handed over the stone to the Investigating Officer and and arrest and recovery witness PW13. PW13 deposed that only in their presence, the stone was recovered. Hence, there are contradictions in respect of recovery of stone. But PW1 to PW3 categorically stated that the accused pushed down the deceased, as a result of which the deceased fell down and the deceased was aged about 65 years. Since the deceased was in a drunken mood and when the accused pushed him, the deceased fell down, as a result of which he died. The accused would have the knowledge that the act of pushing down a old man in a drunken mood would cause grievous hurt to him.



13. The learned counsel for the appellant/accused submitted that PW1 to PW3 only came with aruval and they are the aggressors and caused injury on the hand of the accused, but the injury sustained by the accused was suppressed in this case and further, PW1 to PW5 are interested witnesses and hence, their evidence cannot be relied upon and hence, the appellant/accused is entitled to acquittal.

14. In this case, PW5 categorically stated that when the accused pushed down the deceased and assaulted him with stone and the sons of the deceased assaulted the accused. The accused gave complaint as against PW2 and PW3 and a case was registered as against PW2 and PW3. But the accused has not taken any steps to try the case jointly before the trial court. At this stage, he cannot raise the plea. Hence, the case and counter were not tried jointly and hence it will not affect the case of the prosecution. When the evidence of interested witness is cogent, trustworthy, the evidence of interested witness can be relied upon as held in Criminal Appeal Nos.206-207 of 2017 **[Arjun and Anr.Etc., Vs State of Chattisgarh]**, dated 14.02.2017 by the Hon'ble Supreme Court of India.

15. On coming the instant case on hand, on perusal of evidence of PW1 to PW5, their evidence is cogent and trust-worthy and hence, it is held that the evidence of PW1 to PW5 can be relied upon.

16. For all the reasons above, this court is of the considered view that the trial court, after considering the entire materials available on record, has given a correct findings, which does not call for any interference by this court. However, considering the fact that the appellant/accused is the sole breadwinner of the family, the punishment imposed on the appellant/accused requires modification.

17. In the result, the Criminal Appeal is **partly allowed**. The punishment imposed on the appellant/accused for the offence under **325 IPC is reduced to two years RI**. In other aspects, the findings of the trial court is confirmed. The period of sentence, if any already undergone by the appellant/accused shall be given set off under Section 428 of Cr.P.C. The appellant/accused, after adjusting the period of imprisonment already undergone shall undergo imprisonment for the remaining period.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)



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To,

1.The Sessions Judge, Trichy.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

3.The Principal Sessions Judge, Trichy.

4.The Superintendent,
Central Prison, Trichy.

5. The Inspector of Police,
Navalpattu Police Station,
Trichy.

Judgment made in
Crl.A.(MD)No.36 of 2014
22.11.2019

VB(20.01.2020) 5P 6C