



BAIL SLIP

The Petitioner / Accused Viz., Loganathan, S/o, Arumugam was released on bail as per Order of this Court dated 24/09/2019 in Crl.M.P.No.13631 of 2019 in Crl.A.328 of 2018 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	22.09.2021
Pronounced on	29.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MS.JUSTICE R.N.MANJULA

Criminal Appeal No.328 of 2018

Loganathan

...Appellant / Accused

Vs.

The State, Represented by
The Inspector of Police,
Attyampatty Police Station,
Crime No.263/2015.

...Respondent / Complainant

PRAYER : This Criminal Appeal filed under Section 374 (2) Cr.P.C., against the conviction and sentence imposed upon the appellant by the learned II Additional District & Sessions Judge, Salem made in S.C.No.04 of 2016 by a judgement dated 17.04.2018.

For Appellant : Mr.R.Thangavel

For Respondent : Mr.M.Babu Muthu Meeran
Additional Public Prosecutor.

JUDGMENT

(Heard through Video Conferencing)

R.N.MANJULA, J.

This Criminal Appeal has been preferred by the appellant/accused to set aside the conviction and sentence made in S.C.No. 04/2016 on the file of the learned Second Additional District & Sessions Judge, Salem, dated 17.04.2018, as tabulated hereunder:



WEB COPY

Sl. No	Provision under which convicted	Sentence
1	Section 341 IPC	to undergo one month simple imprisonment
2	Section 302 IPC	Life Imprisonment and fine of Rs.1000/- in default to undergo one year rigorous imprisonment.

The above sentences are ordered to run concurrently.

2. The facts of the case in brief are as follows:

The deceased Dharani was the daughter of the complainant Ravi. The accused is the relative of Ravi and he wanted to marry the deceased. But the said offer was rejected by the complainant's family. However the accused continued to love the deceased and it was a one-sided love. A month before the occurrence the accused met the complainant-PW.1 and told him that he would not allow his daughter to live with anyone else and attacked him. On the morning of 08.06.2015, when the deceased was going to school, the accused tried to pick up a conversation with her; since the deceased did not encourage him, the accused got frustrated and formed an idea to kill her while she returned from school in the evening. At about 4.30 p.m. when the deceased Dharani was crossing the house of Kandhasamy at J.J.Nagar, the accused unlawfully restrained her and asked her whether she could marry him. When the deceased shouted and refused, the accused told her that she should not live with anyone else and stabbed her with a knife on the various parts of her body and murdered her. Thus he has committed the offences punishable under Sec.341 and 302 IPC.

2.1. On receiving the complaint (Ex.P.1) given by PW.1-Ravi, the father of the deceased on 08.06.2015 at about 7.00 pm, an First Information Report (Ex.P.16) in Crime No.263/2015 for the offence under Sec.341 & 302 IPC was registered by PW.14-Manivannan, Sub Inspector of Police.

2.2. PW.17-Sampath, Investigation Officer has taken up the investigation and went to the place of occurrence on 09.06.2015 at about 6.00 pm and inspected the place of occurrence in the presence of the witnesses. He prepared an Observation Mahazaar (Ex.P.11) and Rough Sketch (Ex.P.17). Immediately after receiving the complaint itself he deputed the police constables to guard the place of occurrence and went to Vinayaga Mission Hospital, Salem and recovered the body of the deceased and sent it to post-mortem. At the time when he visited the place of occurrence he collected the blood stained soil and plain soil through Seizure Mahazar (Ex.P.12) in the presence of the witnesses. He went to the hospital and conducted inquest in the presence of Panchayatars and prepared the inquest report



(Ex.P.18). Thereafter he sent the body of the deceased for conducting post mortem. Upon knowing the involvement of the accused in the offence from the investigation made, he went in search of him and arrested him. He also recorded the confession given by the accused in the presence of the witnesses. On the confession given by the accused, he recovered the knife (M.O.1) used for the occurrence and blood stained clothes (M.O.4 & 5) of the accused in the presence of the witnesses under Seizure mahazaar (Ex.P.14).

2.3. On 10.06.2015, he enquired the doctor who conducted the post mortem and got the post mortem certificate. The viscera of the deceased was also sent for chemical examination. He sent the material objects to the Court. He facilitated to get the 164 statement of the accused recorded by the learned Judicial Magistrate. He sent the material objects for chemical examination. In the viscera of the deceased no poison was deducted. After getting the viscera report he once again enquired the doctor and got the final opinion from him. He enquired the rest of the witnesses and concluded his investigation and filed the charge sheet against the accused for the offences under Sec.341&302 IPC.

2.4. After taking cognizance of the case, the learned Judicial Magistrate No.4, Salem has duly complied the formalities under Sec.207 & 209 Cr.P.C and committed the case to the Principal Sessions Judge Salem. After taking the case on file, by the Principal Sessions Judge, Salem assigned it to the file of the II Additional District Sessions Judge, Salem for trial. On perusal of the records and on considering the same, charges were framed against the accused for the offences under Sec. 341 & 302 IPC and the accused was questioned. The accused denied the charges and claimed to be tried.

2.5. During the course of the trial, on the side of the prosecution 17 witnesses were examined as PW.1 to 17 and 20 documents were marked as Ex.P.1 to P.20 and 10 material objects have been produced as M.O.1 to 10. The incriminating circumstances appeared in the evidence of the prosecution witnesses were put to the accused during sec. 313 Cr.P.C. proceedings and he denied the questions put to him. On the side of the defense, one witness was examined as DW.1 and no document was marked.

2.6. The trial Court upon hearing both sides and on analyzing the oral and documentary evidences convicted and sentenced the appellant as stated supra. Challenging the same, the appellant/accused has preferred this Appeal.

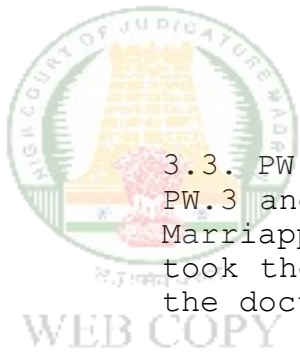


3. The evidence of the prosecution in brief:

PW.1-Ravi, the complainant and father of the deceased has stated in his evidence that the accused is known to him and he offered to marry his daughter Dharani before 3 years. PW.1 denied the proposal by telling that Dharani had to continue her education. However the accused was having an intention to marry the deceased and was following her while she was going to school. One month before the occurrence, he assaulted PW.1 and threatened him that he should give his daughter in marriage to him. Since the accused was in trouble, he asked his mother to accompany his daughter and guarded her while she was going and coming from school. On the day of occurrence, his mother went to school and brought the deceased from school. At about 4.15.p.m., while they were walking near Pillaiyar Koil, the accused appeared there and pulled the hair of the deceased and shouted at her for not marrying him and stabbed her with knife on the various parts of her body. His son Govindaraj who was following the deceased shouted. On seeing this PW.1 rushed to the spot along with Mariappan and PW.4. On seeing them, the accused ran away by taking the knife. When he asked her daughter she told what had happened. He immediately sent his daughter in a bike along with PW.9-Naveenraj and with one Unnikrishnan who came in a motor cycle through that way. PW.1, PW.4-Muralidharn and Mariyappan followed them in another motor cycle. The doctor in the hospital examined the deceased and declared her death. Thereafter he gave the complaint (Ex.P.1).

3.1. PW.2, Govindaraj is the brother of the deceased and he has stated that the accused suddenly appeared when the deceased was coming near the Pilliyar Koil and pulled her hair and asked her why she wouldn't marry him and then stabbed her. Since PW.2 shouted, his father came to the place of occurrence and lifted the deceased. Immediately she was sent to hospital in a bike with one Naveenraj and Unnikrishnan. He also followed the hospital with his father, mother, grandmother and uncle. The doctor examined the deceased and declared that she was dead. PW.2 also identified the knife (M.O.1) and stated that the knife was used by the accused during the occurrence.

3.2. PW.3, Naggammal, is the grandmother of the deceased who accompanied her on the day of the occurrence. She has stated that she was taking the deceased from school and walking towards the house; PW.2 also accompanied them; when coming near to the Pillaiyar Temple, the accused appeared and pulled the hair of the deceased and asked her why she wouldn't marry him and killed her by stabbing with a knife; she also narrated the subsequent events in the same manner as how it was stated by PW.1 and PW.2.



3.3. PW.4-Muralidharan also corroborated the evidence of PW.1 and PW.3 and stated that while they rushed to the spot with PW.1 and Marriappan, the accused ran away from there. Thereafter they took the deceased to the hospital. But she was declared dead by the doctor.

3.4. PW.5 is the Judicial Magistrate who recorded the 164 Cr.P.C statement of PW.1, 2, 3, 4 and another witness by name Mariyappan.

3.5. PW.6 is the doctor who conducted the post-mortem (Ex.P.4) on the body of the deceased and he noticed the following injuries on the body:-

“ INJURIES:

- 1) A STAB INJURY JUST BELOW THE INNER ASPECT OF LEFT CLAVICLE M- 3CMS X 1.5 CMS X CAVITY DEEP.
- 2) ANOTHER STAB INJURY OVER THE LEFT SIDE BREAST M- 2CMS X 1CM X CAVITY DEEP 2CMS FROM THE INNER ASPECT OF LEFT NIPPLE
- 3) A STAB INJURY BELOW THE LEFT BREAST M-3.5 CMS X 1CM X CAVITY DEEP
- 4) 1CM BELOW ANOTHER STAB INJURY M-1X0.8X1CM
- 5) ANOTHER STAB INJURY M-1.5X 1X5CMS ON THE OUTER ASPECT OF LEFT SIDE OF CHEST AND COMING OUT THROUGH ANOTHER OPENING M-3X1CMS
- 6) ANOTHER STAB INJURY M-3.5X1.5X7CMS SEEN ON THE OUTER ASPECT OF LEFT SIDE OF CHEST AND COMING OUT THROUGH ANOTHER OPENING M-3X1CMS
- 7) A STAB INJURY M-3.5CMSX1.5CMSXCAVITY DEEP SEEN ON THE INNER ASPECT OF RIGHT SIDE BREAST 1CM FROM THE MIDLINE
- 8) ANOTHER STAB INJURY SEEN ON THE INNER AND LOWER ASPECT OF LEFT SIDE OF CHEST M-2 CMSX1CMXCAVITY DEEP
- 9) A STAB INJURY ON THE UPPER AND OUTER ASPECT OF LEFT SIDE THIGH M-2CMSX1.5CMS X 5CMS

O/D HEAD: SCALP-NORMAL, CRANIAL VAULT-INACT DURA MEMBRANE-INTACT. BRAIN-EDEMATOUS C/S PALE, BASE OF SKULL-INTACT.

O/D NECK : NECK STRUCTURES -NORMAL. HYOID BONE-INTACT.

O/D THORAX: 1) A STAB INJURY SEEN ON THE 1ST LEFT



WEB COPY

INTERCOSTEL SPACE M-2.5CMSX1CMXCAVITY DEEP CORRESPONDING TO EXTERNAL STAB INJURIES. 2) ANOTHER STAB INJURY SEEN ON THE 4TH LEFT INTERCOSTEL SPACE M-4CMSX1CMXCAVITY DEEP CORRESPONDING TO EXTERNAL STAB INJURIES. 3) ANOTHER STAB INJURY ON THE 5TH LEFT INTERCOSTEL SPACE M-4CMSX 1.5 CMXCAVITY DEEP CORRESPONDING TO EXTERNAL STAB INJURIES. 4) ANOTHER STAB INJURY ON THE RIGHT 4TH INTERCOSTEL SPACE CLOSE TO STERNUM M-4CMSX0.5 CMXCAVITY DEEP CORRESPONDING TO EXTERNAL STAB INJURIES WITH SURROUNDING SOFT TISSUE CONTUSION AROUND ALL INJURIES. RIBS-INTACT. LUNGS - STAB INJURY ON THE LOWER ASPECT OF RIGHT LUNG M-2X0.5CMS THROUGH AND THROUGH. A STAB INJURY ON THE LEFT LOWER LOBE M-1.5X0.5CMS THROUGH AND THROUGH. HEART-NORMAL IN SIZE. CHAMBERS-EMPTY/VALVES AND CORONARIES -NORMAL.

O/D ABDOMEN: PERITONEALCAVITY CONTAINED 500 ML OF FLUID BLOOD. STOMACH CONTAINED 50GMS OF PARTLY DIGESTED RICE PARTICLES WITH NO SPECIFIC ODOUR MUCOSA C/S PALE. LIVER-A STAB INJURY SEEN ON THE UPPER ASPECT OF RIGHT LOBE OF LIVER M-3X0.5X2CMS. 2CMS INNER ANOTHER STAB INJURY M-3X0.5X3CMS. ANOTHER STAB INJURY OVER UPPER ASPECT OF LEFT LOBE OF LIVER M-1.5X0.5X2CMS CORRESPONDING TO EXTERNAL STAB INJURIES. SPLEEN AND BOTH KIDNEYS-NORMAL IN SIZE, C/S PALE. BLADDER-EMPTY. UTERUS-NORMAL IN SIZE, C/S CAVITY - EMPTY. EXTERNAL GENITALIA-NORMAL. HYMEN-INTAC. PELVIS AND SPINAL COLUMN-INTACT."

3.6. P.W.7 -Scientific officer who conducted the chemical examination on the viscera of the deceased had given his report by stating that he did not detect any poison in the viscera and his report is marked as (Ex.P.4). PW.6 gave his final opinion by stating that the deceased would appear to have died of shock and haemorrhage due to multiple stab injuries.

3.7. PW.8-Jaganathan, Deputy Director, Forensic Department, has stated on seeing M.O.1 knife that the injuries on the body of the deceased could have caused by attacking her with the said weapon. PW.8 who examined the material objects (M.O.1 to 10) (the dresses of the deceased and the accused and the soil collected from the place of occurrence and the weapon used for the occurrence) had given his report by stating that there was blood found on M.O.3 to 10 (sample soil, blood stained jeans pant (brown colour), blood stained sandal color tops, blood stained dupatta (brown colour) blood stained panties (blue



colour) and blood stained sandal colour shimmies). The Serological report given by him is marked as Ex.P.9 and Ex.P.10.

3.8. PW.9, Naveenraj had taken the deceased in his motor cycle along with Vinukrishnan to Vinayagamission Hospital, Salem at the request of P.W.1.

3.9. PW.10-Selvam, Village Administrative Officer, who stood as a witness, when the Investigation Officer visited the place of occurrence and prepared the Observation Mahazar and collected the blood stained soil and plain soil from the scene of occurrence through Seizure Mahazar (Ex.P.12). On intimation and at the request of the Investigation Officer, he accompanied the police when the accused was arrested. He stood as a witness for the confession given by the accused and for the subsequent recovery of the weapon. After examining the witnesses and completing the investigation, the Investigation Officer filed charge sheet against the accused for the offence under Sec.341 & 302 IPC.

3.10. DW.1-Vinu Krishnan has deposed that the accused and the deceased Dharani were known to him. He has stated in his evidence that on the date of occurrence at about 4.30 pm, he went with his friend P.W.9 Naveenraj in a two wheeler near Pillaiyar Koil, J.J.Nagar; at that time he saw the deceased - Dharani in a pool of blood and that no one was around her; immediately PW.9- Naveenrraj, took her in the two wheeler to Vinayagamission Hospital and had given first aid. At 5 o'clock the doctor declared that she was dead. After sometime, the grandmother and brother of the deceased had arrived. DW.1 asked the brother of the deceased to inform about the death of the deceased Dharani to his parents. Since he did not have cell phone, DW.1 himself informed the parents of Dharani and asked them to come to the Hospital. Since the father of the deceased was in a little faraway place, he could arrive only at about 8.00 - 8.30 P.M. At about 9.00 pm, the near and dears of the deceased came and thereafter DW.1 and P.W.9 left the place.

4. Heard the submissions of Mr.R.Thangavel, learned Counsel for the Appellant and Mr.M.Babu Muthu Meeran, learned Additional Public Prosecutor, appearing for the respondent State.

5. The learned counsel for the appellant submitted that there are lot of contradictions in the evidence of the prosecution and the learned Session Judge omitted to appreciate the same and



give the benefit of doubt to the accused. He further submitted that the accused has been falsely implicated just in order to close the case.

6. The learned Additional Public Prosecutor submitted that the evidence of the prosecution witnesses is cogent, clear and trustworthy and the report of the doctor who conducted the post-mortem and the material object seized from the accused would also connect the accused to the occurrence. He further submitted that the learned Session Judge has appreciated the evidence correctly and convicted the accused.

7. The point for consideration is

Whether the conviction and sentence of the accused for the offences under Sections 341 & 302IPC by the learned Sessions Judge basing on the materials available on record is fair and proper?

8. Point:- It is a case based on the evidence of eyewitnesses. P.W1.-Ravi is the father of the deceased and he has stated about the motive for the murder. His evidence would reveal that the accused had offered to marry his deceased daughter Dharani before 3 years but PW.1 refused to give her daughter in marriage to the accused. Despite that the accused developed an one side love with the deceased and bothered her while she was going to school. In view of that PW.1 asked his mother to guard her while she was going and coming from school. Even before one month of the occurrence, the accused had assaulted PW1 by picking up quarrel with him for not giving his daughter in marriage to him. Having failed to get a positive signal from PW.1, the accused brooded in his mind to kill the deceased. On 08.06.2015, at about 4.15 pm. when the deceased was walking along with her grandmother and her brother near Vinayagar Koil the accused appeared and pulled her hair and stabbed her by stating that if she was not marrying him, she could marry no one.

9. PW.2 -the grandmother of the deceased and P.W.3the brother of the deceased, who had accompanied the deceased are the eyewitness for the occurrence and they have given a clear account of occurrence. Their evidences are cogent and consistent. They had no motive to falsely implicate the accused in this case. On hearing the noise of PW.2 and 3, P.W.1 rushed to the spot with Mariappan and PW.4. PW.1 lifted his badly injured daughter and sent her to the hospital.



10. PW.4-Muralidharan has corroborated the evidence PW.1 and stated that he accompanied PW.1 to the place of occurrence and at that time the accused was running away with the weapon in his hands. He also stated that when they found the deceased in a pool of blood.

11. PW.9- Naveenraj had taken the deceased in his motorcycle. He has stated in his chief examination that there was crowd in the place of occurrence and he saw the deceased was lying on the lap of her father PW.1. On seeing him(P.W.9), PW.1 cried that the accused had stabbed his daughter and that they should help to take her to the hospital in the motorcycle. Immediately, PW.9 and Vinukrishnan obliged to take the deceased in their bike to Vinayaga Mission Hospital. Naveenraj (PW.9) was examined in chief on 04.10.2016 and on the same day he was also cross examined. His cross examination done on 04.10.2016 did not bring out any facts that would demolish his evidence in chief. However after 6 months that is, on 21.03.2017, he was again recalled and cross examined. On that day he stated that whatever he had given in chief was how he was tutored by the police and that PW.1 to 4 were not seen in the place of the occurrence itself.

12. When the original and spontaneous evidence of PW.9 during his first examination is available, his contrary evidence given during second cross examination could be only due to out of Court influence. Having failed to get any favourable evidence from the eyewitness of PW.1 to 4, the defence appears to have won over PW.9 in order to reverse his own evidence during the second recalling, at the instance of the defence. It is to be noted that even without the evidence of PW.9, the clear and reliable evidence of the eyewitness would prove the motive the accused had harboured within his mind to murder the deceased. His overt act has also been clearly spoken by PW.2 and 3 who accompanied the deceased at the time of the occurrence.

13. DW.1 was examined on 03.10.2017 and he has stated in his evidence that he was travelling along with his friend PW.9 in a two wheeler and came across the place of occurrence and noticed that the was deceased lying in a pool of blood. He has stated that there was no one around them and hence, he along with PW.9 took her to the hospital. PW.9 was examined on 04.10.2016. He has stated that when they were riding the motor cycle near the place of occurrence, they saw people gathered in the place of occurrence and PW1 was holding the injured Dharani on his lap. On seeing them, Ravi told that the accused had stabbed her and asked them to help. When he was cross examined at a very later point of time on 21.03.2017, he has stated that the father of



the deceased had come to the hospital only late in the evening. DW.1 was examined only on 30.10.2017. The immediate and spontaneous evidence of PW.9 given on 04.10.2016 is more reliable though in his belated cross examination he had stated that he did not see PW.1 at the place of occurrence. In cross examination DW.1, he has stated that despite the house of the deceased was nearby he did not think of passing on the information to the father of the deceased immediately after seeing her in a pool of blood. This kind of attitude in the given circumstance of case is unnatural and unbelievable. So the evidence of DW.1 along with the evidence of PW9 during his belated cross examination would only confirm that they had tried to help the accused at his instance.

14. The events that had followed the occurrence is also very natural in the given circumstance. It is quite natural that PW.1 who is the father of the deceased to rush to the place of occurrence with known people and took his daughter who was in a pool of blood and request PW.9 to help him to take her to hospital. So these facts revealed from the evidence of the prosecution would only prove that the occurrence is true and there is no reason to implicate the accused falsely in this case. Village Administrative Officer was present as a witness while the accused was arrested and the weapon was recovered from him on his confession.

15. The doctor who had conducted the post-mortem is given his opinion:

"The deceased would appear to have died of SHOCK and HAEMORRHAGE due to MULTIPLE STAB INJURIES"

when MO.1 knife was shown the doctor, he told that the above injuries found on the body of the deceased could have been inflicted by attacking her with M.O.1 Knife.

16. PW.3- Nagammal, the grandmother and the eyewitness has also identified the weapon M.O.1 and stated that it was the weapon used by the accused during the occurrence. Since the evidence of eyewitness are cogent, natural and consistent and the cross examination also did not demolish their chief examination, we find no reason to reject them. Despite PW.1 to 3 are the close relatives of the deceased they had no motive to incriminate the accused falsely in this case.

17. Though the learned counsel for the defense pointed out certain contradictions and probabilities, they are very trivial



in nature and do not have the strength to earn benefit of doubt in favour of the accused. Since the guilt of the accused is proved beyond reasonable doubt, the learned Sessions Judge has correctly convicted the accused.

WEB COPY

In view of the above discussion, we do not find any reason to interfere with the judgement of conviction and sentence dated 17.04.2018 passed in Special Case No.04 of 2016 on the file of the learned Second Additional District & Sessions Judge, Salem, which convicted and sentenced the appellant as stated in paragraph No.1.

In the result the Criminal Appeal stands dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jrs

Copy to

- 1.The learned Second Additional District
& Sessions Judge, Salem
- 2.The Public Prosecutor,
High Court, Madras.
- 3.The Inspector of Police,
Attyampatty Police Station.
- 4.The Record Keeper,
Criminal Section,
High Court, Madras.
- 5.The Superintendent of Police,
Central Prison,
Coimbatore.
- 6.The Judicial Magistrate - IV,
Salem.
- 7.The Chief Judicial Magistrate,
Salem.



8.The Officer Incharge,
Erode Town Police Station,
Erode.

9.The Deputy Commissioner of Police,
Mylapore, Chennai.

+1cc to Mr.C.Anbu, Advocate SR.No.56285

Crl.A.No.328 of 2018

NRL (CO)
RVM(22/11/2021)