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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.09.2021

DELIVERED ON : 06.10.2021

CORAM :

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE Mrs.JUSTICE R.HEMALATHA

Crl.A.No.437 of 2018
and
Crl.M.P.No.10029 of 2018

K.Sathyamurthy ... Appellant/Accused
Vs.

State represented by
The Inspector of Police,
Gudiyatham Taluk Police Station,
Gudiyatham, Vellore District. ... Respondent/Complainant
PRAYER: Criminal Appeal filed under Section 374 (2) of
Criminal Procedure Code, 1973 to set aside the conviction and
the sentence imposed upon the appellant by the learned
Additional District and Sessions Judge (FTC), Vellore by a
judgment dated 11.07.2018 in S.C.No.17/2015.

For Appellant : Mr.A.M.Rahamath Ali

For Respondent : Mr.M.Babu Muthumeeran
Additional Public Prosecutor

J U D G M E N T

Judgment of the Court was made by R.HEMALATHA, J.

This appeal is against the conviction and sentence dated 11.07.2018 passed by the Additional District and Sessions Judge, Vellore in SC.No.17/2015. The appellant was convicted for the offences punishable under Section 302 and 506 (ii) of IPC and sentenced as under:

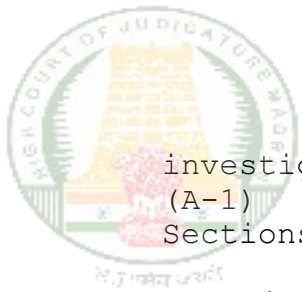
- i. Section 302 IPC - Life imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo rigorous imprisonment for one year.
- ii. Section 506 (ii) - Rigorous imprisonment for two years and to pay a fine of Rs.1,000/-, in default, to undergo rigorous imprisonment for another six months. The trial Court ordered to run the sentences concurrently.

2. The victim Venkatesan was living in Kollaimesu, Meenur Village of Gudiyatham Taluk, Vellore District. On 21-02-2014



evening at about 4.00 P.M. the victim along with his friends Sathyaraj (PW-8), Saravanan (PW-7), Sathyamurthy (A-1) and Ramesh (PW-6) were chatting together near the river side. Ramesh picked up a quarrel with Sathyamurthy on the issue of the former's brother, Suresh having eloped with a married lady one Sangeetha wife of Mohan, a couple of months ago. The wordy duel turned into fisticuffs when the victim Venkatesan intervened only to be rebuked by the accused Sathyamurthy which ended in a physical fight between the accused and the victim. The fight continued later in the evening when the accused and his father Krishnan (A-2) confronted Ramesh and the victim at Ramesh's residence at about 5.00 P.M. The wordy duel ended in blood bath when the appellant stabbed the victim with a knife while A-2 was holding him. The accused fled the scene leaving the bleeding victim to fend for himself. The victim had narrated the ghastly crime to his mother, Kuppammal, (PW-1) who rushed to the spot on hearing his cries. Thereafter, the victim was rushed to the Government Hospital in an auto and was declared 'brought dead' on arrival at the Hospital. A Police complaint was given by the mother (PW-1) of the victim in the Gudiyatham Taluk Police Station.

3. Thiru. Santhalingam, (PW-15), Inspector of Police, Gudiyatham Taluk Police Station, who received the complaint, registered FIR (Ex.P8) in Crime No.45/2014 for the offences punishable under Sections 294(b), 341, 302 and 506 (ii) of IPC against the accused 1 & 2. He visited the scene of crime on the same day at 08.00 P.M. and prepared a Mahazar (Ex P-3) in the presence of witnesses, Velayutham (PW-3) and Sivanantham and a rough sketch (Ex P-9). Subsequently at 08.30 P.M., blood stained cement mortar (MO-1), ordinary cement mortar (MO-2), a pair of blue colour hawai chappals (MO-3) were recovered from the scene of crime and submitted to the Court under Form 95. Prosecution witnesses, Kuppammal (PW-1), Murugan (PW-2), Ramesh (PW-6), Velayutham (PW-3) and Sivanantham were individually examined and their statements were recorded. The next day on 22-02-2014, the other witnesses, Dhanam (PW-4), Gomathy (PW-5), Saravanan (PW-7), Sathyaraj (PW-8), Sekar, Kavary and Sankar were also questioned and their statements were recorded. On the same day at about 02.00 P.M., the appellant was apprehended and based on his confession statement, (admissible portion of which was marked as Ex P-4), obtained in the presence of witnesses Elango (PW-9), the Village Administrative Officer and Sumathi, his assistant, the blood stained shirt (MO- 5), blood stained banian / vest (MO-6), blood stained lungi (MO-7) and blood stained 9" long knife with black plastic handle (MO-4) hidden behind a thorny bush by the accused were recovered. PW-15 conducted inquest (Ex P-10) on the body of the deceased in the presence of five panchyatdhars. On the same day Dr.Babu (PW-14) performed autopsy and his report Ex.P7 listed out the injuries sustained by the victim. In the opinion of Dr.Babu, (PW-14), the death was caused due to shock and blood loss caused by the cut injuries inflicted on the victim. After completing the



investigation PW-15 filed a final report against Sathyamurthy (A-1) and Krishnan (A-2) for the offences punishable under Sections 294 (b), 341, 506 (ii) and 302 r/w 34 IPC.

4. The prosecution examined fifteen witnesses and marked Ex.P-1 to Ex.P-14. MO-1 to MO-8 were also adduced. PW-1, the mother of the victim had deposed that on 21.02.2014 in the evening when she heard the wail of her son, rushed to the spot where her son was found lying on the floor with bleeding injuries. He had told her how he was stabbed by the appellant in the presence of accused 2. PW-2, Murugan who was a neighbour also rushed to the spot after hearing the scream of the victim and overheard the victim narrating the incident to his mother. He also accompanied the PW-1 to the Police Station. The eyewitnesses to the murder were PW-5, PW-6 and PW-7. PW-5, Gomathy, deposed that she saw Krishnan (A-2) outside the house of PW-6 calling out PW-6 and the victim. Sathyamurthy (appellant) arrived there and later within minutes Sathyamurthy had stabbed the victim with a knife and she rushed to the house and found the victim lying in a pool of blood. When she confronted the appellant, he threatened her with dire consequences. Ramesh, PW-6, was also a crucial eyewitness who was there with the victim in the altercation which took place in the afternoon on the same day on the river side. PW-6 was the one with whom the appellant initially fought and then when the victim intervened, the victim was attacked by the appellant. Later, at 05.30 P.M., PW-6 was the one who was with the victim when the fatal attack took place. He also identified MO-4, the knife used by the appellant to murder the victim. Saravanan, PW-7, was also present during both the incidents. First he was there in the group sitting on the river side and later also witnessed the lethal attack by both the appellant and A-2 (father of the appellant) on the victim. MO-8 was the series of photos taken by R.K.Balaji (PW-10), the photographer who was summoned to the spot of crime. The seizure of the blood stained knife hidden by the accused behind a thorny bush in his land and identified by PW.6 played a crucial role in the case of the prosecution. This knife was used by the appellant, to stab the victim causing his death.

5. Mr.A.M.Rahamath Ali, learned counsel for the appellant/accused has pointed out certain infirmities in the prosecution case and found fault with the conclusion of the trial court.

According to him,

- a) the place of occurrence of the crime itself is doubtful with contradictory depositions made by PW-1 and PW-6.
- b) the Investigating Officer's theory of the murder taking place inside the house fails as the cement mortars MO-1 and MO- 2 could not have been possible inside the house which had tiled floor.



d) PW-5 and PW-6 were interested witnesses and their depositions were contradictory.

6. That there was an element of mistrust between the accused on one side and the victim and Ramesh (PW-6) on the other side is evident. The version of the wordy duel ending up in a physical scuffle first between the accused and the PW-6 and then between the accused and the victim, in the afternoon, the same day, has been established by the prosecution by way of adducing acceptable evidence. Thereafter, appellant along with A-2, his father, confronted PW-6 and the victim at about 5.30 P.M. in front of the house of PW-6. As already discussed, PW-6 and other eyewitnesses were categorical about the brutal attack by the appellant. The Investigating Officer has acted very swiftly in knowing the first hand inputs from the witnesses and in recovering the weapon after arresting the accused. The hostile witnesses have not been able to change the line of the prosecution version. The non-examination of the auto driver becomes insignificant in the light of the versions of other witnesses. The learned counsel for the appellants tried to highlight the issue of the scene of the crime by stating that if the crime had taken place inside the house how the cement mortar pieces were recovered on a tiled surface. This aspect also is insignificant as there were eyewitnesses for the crime, perpetrated by the appellant. That appellant, with blood stains and a blood stained knife, threatened PW-5 and PW-1, was also established by prosecution. It is not the case that only circumstantial evidence was there. The earlier incident on the banks of the river in which the tempers flew high cannot be brushed aside when all the witnesses have vouched for the incident. Thus there was no grave and sudden provocation and rather it was preplanned murder with a motive to eliminate the enemy. The depositions of witnesses who have withstood the testimony of cross examination weigh heavily in favour of the prosecution. The prosecution has established that the appellant murdered the victim beyond any reasonable doubt. Incidentally, the trial Court found that A-2 is not guilty of any offences of which he was charged. This is also based on evidence. This Court does not find any reason to interfere with the findings of the trial Court and hence the appeal deserves to be dismissed.

i. The Criminal Appeal is dismissed and consequently, connected miscellaneous petition is closed.



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ii. The conviction and sentence passed by the learned Additional District and Sessions Judge (FTC), Vellore, dated 11.07.2018 in S.C.No.17/2015, is confirmed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1. The Additional District and Sessions Judge (FTC), Vellore.
2. The Judicial Magistrate, Gudiyatham.
3. Do- Through The Chief Judicial Magistrate, Vellore.
4. The Superintendent, Central Prison, Vellore.
5. The State of Tamilnadu
Represented by
Gudiyatham Taluk Police Station,
Gudiyatham, Vellore District.
Crime No.45/2014
6. The Public Prosecutor,
High Court, Madras.
7. The Section Officer,
Criminal Section,
High Court, Madras.

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and
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EV(CO)
GMY(22/10/2021)