



BAIL SLIP

C.R.L.A.No.96 of 2018

This Appellant herein/Accused viz namely Prakash was directed to be released on bail as per Order of this Court dated 22.06.2018 made in Crl.A.No.96 of 2018 & Crl.MP.No.6532 of 2018.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	05.08.2021
Pronounced on	19.08.2021

CORAM:

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

Criminal Appeal No.96 of 2018

Prakash

.. Appellant/Accused
Vs.

The State Represented by
its The Inspector of Police,
Ammappettai Police Station,
Crime No.220/2009

.. Respondent/Complainant

PRAYER: This Criminal Appeal filed under Section 374(2) Cr.P.C., against the judgement dated 19.12.2012 in S.C.No.150 of 2010 on the file of the Principal District and Sessions Judge, Erode.

For Appellant : Mr.S.Manoharan

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.150 of 2010 on the file of the Principal District and Sessions Judge, Erode dated 19.12.2012, as tabulated hereunder:

Rank of the accused	Provision under which convicted	Sentence
A1	Section 302 IPC	Life imprisonment and fine of Rs.5,000/- in default to undergo three years simple imprisonment.
A1	Section 449 IPC	Seven years rigorous imprisonment and fine of Rs.2,000/- in default to undergo one year simple imprisonment

2. The short facts of the prosecution case are as follows:
The appellant/Accused is a resident of the Indira Colony, Konamookanur, Poonachi, Bhavani. The wife of the accused had suspicion on the conduct of the deceased Kanaka that she had an illegal intimacy with her husband. Because of this, on 31.07.2009 at about 17.30 hours a quarrel occurred between the deceased Kanaka and the wife of the accused. In the said quarrel the accused also joined his wife. On seeing this, the deceased Kanaka abused the accused. Agitated over this, the accused attacked the deceased on various parts of her body with a sickle; as a result the deceased died. On a complaint (Ex.P.1) given by the husband of the deceased, a case has been registered in Crime No.220 of 2009 under Section 302 IPC. After completion of the investigation, charge sheet has been filed against the accused. The committal Court took cognizance of the charge sheet in P.R.C. No.21/2010 and after observing the due legal formalities charges have been framed against the accused under Sections 449 and 302 IPC and issued the committal proceedings. After the case was committed to the Sessions Court and taken on file, the trial commenced, after complying the legal mandates.

3. On the side of the prosecution, 13 witnesses have been examined as P.Ws.1 to 13 and Exs.P-1 to P-16 and M.Os. 1 to 16 have been marked. On the side of the accused no witnesses were examined and no documents have been marked.

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

5. The complainant Arumugam is the husband of the deceased Kanaka. He was examined as P.W.1 and he has stated in



his evidence that he is working in Kallakurichi; and the house of the accused is opposite to his house at Attavanai Pudur; a week before the occurrence, the deceased called her husband over phone and told that the wife of the accused was always quarrelling; on 31.07.2009, P.W.1 came to the village from his work place and at that time his brother P.W.2 and his brother's son Parthiban were standing in the bus stand; P.W.3 Sembannan who came from the opposite direction and informed P.W.1 and P.W.2 that the accused and his wife were quarrelling with the deceased in the afternoon and during that course the deceased also had abused the accused. By conversing about this P.Ws.1 to 3 were walking to the house of P.W.1. While they were nearing the house, they heard the noise of P.W.1's wife and hence they rushed to the house. There, they saw the accused cutting the deceased with aruval (M.O.1) and inflicting injuries on the various parts of her body. On seeing P.Ws.1 to 3, the accused ran away. P.W.1 to P.W.3, saw the deceased dying due to her injuries. P.W.2 and P.W.3 have also corroborated the evidence of P.W.1 and stated the same facts about the occurrence. After receiving the viscera report, the doctor who conducted the post-mortem had opined that the deceased had died due to haemorrhage, cut injuries on her neck and shock caused by the several injuries sustained by her.

6. On receiving the complaint (Ex.P.1) from the complainant P.W.1, the P.W.11-Muniammal, Sub Inspector of Police, Ammapettai Police Station registered the FIR (Ex.P.14) in Crime No.220 of 2009 under section 302 IPC. In column No.7 of the F.I.R, the name of the accused and the deceased have been shown as Prakash and Kanaka respectively. The F.I.R has been received by the learned Magistrate at about 11.30 pm. P.W.12-A.Rajendran, Inspector of Police, Ammapettai Police Station took up the case for Investigation, visited the place of occurrence and prepared an observation mahazar (Ex.P.4) and Rough Sketch (Ex.P.15). On the same day he also took the photographs (M.O.6 Series) of the place of occurrence with the help of P.W.8-Photographer. At about 10 pm, he conducted inquest and prepared the Inquest report (Ex.P.16) in the presence of the witnesses. After examining the eye witnesses and other witnesses, the body of the deceased was sent to post-mortem. He again went to the place of occurrence and collected the blood stained soil (M.O.2) and plain soil (M.O.3) in the presence of P.W.5-Manivannan and one Duraisamy under a Seizure Mahazar (Ex.P.5). On 01.08.2009 at about 3 pm, he arrested the accused and recorded his confession statement in the presence of Village Administrative Officer Balakrishnan and Village Assistant Rajenthiran (P.W.6).

7. On the confession given by the accused, he seized the weapon used for the occurrence (Aruval (M.O.1), and the dresses of the accused (Shirt (M.O.4), (Lungi (M.O.5) under the Seizure



the deceased and the wife of the accused. When P.Ws. 1 to 3 came to the house of P.W.1, by walking together and approaching the house, they heard the noise of the deceased; so they rushed to the house and saw the accused was attacking the deceased with aruval; on seeing them he ran away. P.W.1 has also stated about the details of fresh injuries sustained by the deceased.

14. P.W.2 has also stated about witnessing the occurrence when he came near PW1's house along with P.W.1 and P.W.3. P.W.2 was also aware of the alleged quarrel that had already occurred between the deceased and the wife of the accused. P.W.3 has stated in his evidence about the quarrel that had occurred in the noon and told the same to P.W.1 and P.W.2. P.W.3 has also stated that during the course of the quarrel, the accused supported his wife and hence the deceased abused him.

15. The date and time of the occurrence, place of occurrence and the manner of the occurrence as revealed by P.Ws.1 to 3 in their evidence is identical and consistent. P.W.3 has stated about the facts that preceded the occurrence and about what he told P.W.1 after he alighted from the bus. The Forensic examination done (vide report Ex.P.10) on the shirt and lungi (M.Os.4 & 5) of the accused showed the presence of human blood on them. P.W.1 to P.W.3 did not have any motive against the accused. So there is no reason to suspect their incriminating evidence against the accused. The evidence of the eyewitnesses tallies with the scientific evidence also.

16. The doctor who had conducted the post-mortem (Ex.P3) on the body of the deceased has recorded the following external injuries present on the body of the deceased:

1. A deep elliptical clean cut wound of 10 x 4 cm over the left side of neck with vessels exposed.
2. A deep lacerated wound over right side of neck and there also with vessels exposed
3. Fractured forearm with laceration of right side
4. Amputated wound of right index and thumb
5. Lacerated wound over back of the left arm
6. Cut injury of left little finger
7. Deep cut injury over the left shoulder and joint exposed
8. A "V" shaped laceration over the left shoulder and joint exposed

Internal examination:-

All organs are of normal weight and size
Stomach contained partially digested food
Uterus normal size and empty



serve justice.

In the result, this Criminal Appeal is partly allowed and it is modified to the extent that the appellant is convicted for the offence under Section 304(I) IPC and sentenced to undergo ten years rigorous imprisonment and a fine of Rs.5,000/-, in default to undergo three months simple imprisonment. If the fine amount has already been paid pursuant to the Judgement and order of the trial Court, it is not necessary for the appellant to pay once again. The conviction and sentence for the offence under Section 449 IPC stands confirmed. The sentences shall run concurrently. Periods of incarceration so far undergone by the appellant shall be set off as per Section 428 Cr.P.C.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

jrs

To

1. The Judicial Magistrate, No-I,
Coimbatore.
2. The Chief Judicial Magistrate,
Erode (For Information)
3. The Principal Sessions Judge,
Erode district, Erode.
4. The Inspector of Police,
Ammapettai Police Station,
Erode District.
5. The Superintendent,
Central Prison, Coimbatore.
6. The District Collector,
Coimbatore.
7. The District Collector,
Erode.



8. The Director General of Police,
Mylapore, Chennai-4

9. The Commissioner of Police,
Coimbatore.

10. The Public Prosecutor,
High Court, Madras.

11. The Record Keeper,
Criminal Section,
High Court, Madras.

Judgement made in
Crl.A.No.96 of 2018

VG-II (CO)
SU(16/09/2021)