



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 17.06.2021

PRONOUNCED ON : 28.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

R.T.No.2 of 2020 and CrI.A.No.40 of 2021

R.T.No.2 of 2020:

M. Dhamodaran @ Prakash
S/o.Murugesan

...Appellant/Petitioner

Vs

State by
The Inspector of Police
Shankar Nagar Police Station
St. Thomas Mount
Chennai
(Cr. No.2753 of 2017)

...Respondent/ Complainant

CrI.A.No.40 of 2021:

Dhamodaran @ Prakash

...Appellant/Accused

vs.

State by
The Inspector of Police
Shankar Nagar Police Station
St. Thomas Mount
Chennai
(Cr. No.2753 of 2017)

...Respondent/Complainant

R.T.No. 2 of 2020:

Referred Trial under Section 366 Cr.P.C. on the judgment and order dated 11.03.2020 passed in Sessions Case No.92 of 2018 on the file of the Sessions Court (Mahila Court), Chengalpattu.

CrI.A.No.40 of 2021:

Criminal Appeal filed under Section 374(2) Cr.P.C. seeking to set aside the judgment and order of conviction and sentence dated 11.03.2020 passed in Sessions Case No.92 of 2018 on the file of the Sessions Court (Mahila Court), Chengalpattu.



WEB COPY

For accused/appellant

Mr. V. Parthiban &
Mr. M. Mohamed Saifulla

For State

Mr. Hasan Mohamed Jinnah
State Public Prosecutor

C O M M O N J U D G M E N T

P.N.PRAKASH, J.

Referred trial (R.T.) No.2 of 2020 is a reference made by the Sessions Court (Mahila Court), Chengalpattu (for brevity "the trial Court") under Section 366 Cr.P.C., for confirmation of the death sentence awarded to the appellant in S.C.No.92 of 2018 vide judgment and order dated 11.03.2020. CrI.A.No.40 of 2021 is an appeal under Section 374(2) Cr.P.C. filed by the accused challenging his conviction and sentence in the aforesaid Sessions Case.

2 This is a sordid case of a parricide, in which, four persons of a family have lost their lives.

2.1 The appellant, viz., Dhamodaran @ Prakash, born to late Murugesan and Saraswathi (D.1), was residing in Door No.5, Flat No.28, A-3, Ranganathan Flats, Nandanar Street, Pammal, Chennai. He is a graduate in Economics. He married Deepa (D.2) sometime in 2010 and was blessed with two children, viz., Roshan (D.3) and Meenakshi (D.4).

2.2 The appellant's father established a business in the name and style of "Prakash Cloth Stores" in Pammal area in 2006. The appellant was initially reluctant to join his father's business, but, at the instance of his mother, Saraswathi (D.1), he continued the business, after his father's death in 2014.

2.3 On account of sudden demonetization of currency notes by the Central Government in 2016, the appellant's business slumped badly, as he was neither able to repay his debts nor realise them. The appellant had borrowed monies from banks and other merchants and was not able to repay them, because of fall in his business. The appellant wanted to leave the business and take up employment, but, his mother Saraswathi (D.1) was not agreeable to this idea and she exhorted him to continue the business. As the debts started mounting, the appellant fell into a sort of frustration and resolved to commit suicide.



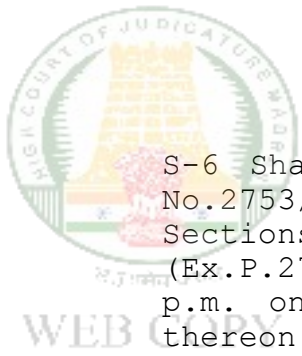
2.4 It is alleged that between 05.00 a.m. and 05.30 a.m. on 12.12.2017, the appellant took a kitchen knife (M.O.1) and bludgeoned his wife Deepa (D.2) in her neck. On hearing the sound, when the appellant's mother Saraswathi (D.1) came, he stabbed her in her neck and thereafter, stabbed his two children (D.3) and D.4).

2.5 After that, the appellant telephoned his brother-in-law, Kumaravel @ Raja (P.W.2) and merely told him in Tamil "எங்களை மன்னித்துவிடு இராஜா. எங்களால் வாழ முடியவில்லை. நாங்கள் எல்லோரும் செத்துவிடுகிறோம்." (Raja, please forgive us. As we are not able to live, we are all going to die). So saying, he disconnected the telephone call and when Kumaravel (P.W.2) tried calling him, he did not attend the call. Kumaravel (P.W.2) immediately informed this to his father, Balakrishnan (P.W.1).

2.6 On hearing this, Balakrishnan (P.W.1) and his wife Banumathi (P.W.3), rushed to the appellant's residence and on entering the house, they were shocked to find a ghastly scene, in that, they found their daughter Deepa (D.2), their grandchildren viz., Roshan (D.3) and Meenakshi (D.4) and the appellant's mother Saraswathi (D.1), with bleeding injuries. They also saw the appellant sitting next to the injured, with cut injuries in his neck. They were at their wits' end. They came out of the house and hollored. Soon, a crowd gathered and Kumaravel (P.W.2) also joined them.

2.7 Ambulances were summoned and all the five were rushed to the Government Hospital, Chromepet, where the doctors examined them and declared Saraswathi (D.1), Deepa (D.2), Roshan (D.3) and Meenakshi (D.4) as dead. Dr.Naganandhini (P.W.9) examined the appellant and found a deep cut injury in the front portion of his neck measuring 12 cms. x 3 cms. x 2 cms. She referred the appellant to the Rajiv Gandhi Government General Hospital, Chennai, for intensive treatment. The dead bodies of the foursome were kept in the mortuary of the Government Hospital, Chromepet. The appellant was taken to the Rajiv Gandhi Government General Hospital, where he was admitted as an inpatient.

2.8 Balakrishnan (P.W.1) found two suicide notes (Ex.P.1 series) written in Tamil and signed by the appellant, one addressed to Kumaravel (P.W.2) and the other without reference to any addressee. On a written complaint (Ex.P.2) given by Balakrishnan (P.W.1), Adhimoolam (P.W.16), Inspector of Police,



S-6 Shankar Nagar Police Station, registered a case in Crime No.2753/2017 at 08.00 a.m. on 12.12.2017 for the offences under Sections 302 and 309 IPC and prepared the printed F.I.R. (Ex.P.27), which reached the jurisdictional Magistrate at 03.45 p.m. on the same day, as could be seen from the endorsement thereon.

2.9 Adhimoolam (P.W.16), Inspector of Police, along with Sivakumar (P.W.17), Inspector of Police, went to the Government Hospital, Chromepet and conducted inquests over the bodies of Saraswathi (D.1), Deepa (D.2), Roshan (D.3) and Meenakshi (D.4) and the inquest reports were marked as Ex.P.29, Ex.P.28, Ex.P.30 and Ex.P.31, respectively.

2.10 Investigation of the case was taken over by Devaraj (P.W.20), Assistant Commissioner of Police. On his request, Dr.Sheela (P.W.12) performed autopsies on the four bodies and issued four postmortem certificates, viz., Ex.P.16 [Saraswathi (D.1)], Ex.P.18 [Deepa (D.2)], Ex.P.20 [Roshan (D.3)] and Ex.P.22 [Meenakshi (D.4)]. In all the four postmortem certificates, she has noted multiple penetrative stab injuries on the bodies and has opined that as the cause of the deaths.

2.11 Devaraj (P.W.20), the Investigating Officer, went to the place of occurrence on 12.12.2017 around 08.35 hours and prepared an observation mahazar (Ex.P.7), in the presence of witnesses Karthikeyan (P.W.7) and Lakshmanan (P.W.8). From the place of occurrence, he seized the following items under a cover of mahazar (Ex.P.8), in the presence of the same witnesses:

1.	Bloodstained knife with a wooden handle	M.O.1
2.	Bloodstained knife with a plastic handle	M.O.2
3.	Bloodstained pillow cover	M.O.6
4.	Bloodstained pillow cover	M.O.7
5.	Bloodstained pillow cover	M.O.8
6.	Bloodstained piece of pillow cover	M.O.9
7.	Bloodstained piece of pillow cover	M.O.10
8.	Bloodstained piece of pillow cover	M.O.11



WEB COPY

1.	Bloodstained knife with a wooden handle	M.O.1
9.	Bloodstained piece of pillow cover	M.O.12
10	Bloodstained piece of bed spread	M.O.13
11	Bloodstained bed spread	M.O.14
12	Bloodstained tiles piece	M.O.15
13	Ordinary tiles piece	M.O.16

2.12 To continue the narration, as stated above, the appellant was rushed from the Government Hospital, Chromepet to the Rajiv Gandhi Government General Hospital, Chennai, where he was admitted as an inpatient. At the request of Devaraj (P.W.20), Investigating Officer, Vadivel (P.W.13), VIII Metropolitan Magistrate, went to the hospital and recorded the statement of the ailing appellant, on the premise that he may not survive.

2.13 In the said statement which was marked as Ex.P.23, the appellant stated that, on account of his inability to repay his debts, he resolved to end his life and also to end the life of his family members, so that, they do not suffer any indebtedness, after his death; on 12.12.2017, around 5.30 a.m., he took a kitchen knife with wooden handle and stabbed his wife first, then his mother, thirdly his son and lastly, his daughter; thereafter, he cut his throat and the time then must have been 6.30 a.m.; he called his brother-in-law, Kumaravel (P.W.2) and told him of this; soon, his relatives came to his house. Unfortunately, for the appellant, fate had the last laugh, in that, Dr.Chandramouli (P.W.11) saved his life from the jaws of death and therefore, the said statement became irrelevant under Section 32(1) of the Evidence Act, but, became relevant under Section 14, ibid., and also as an extra-judicial confession, about which we will discuss a little later.

2.14 Devaraj (P.W.20), the Investigating Officer, arrested the appellant on 21.12.2017 at 03.00 p.m. in the Rajiv Gandhi Government General Hospital and recorded his statement, in the presence of Subapriya (P.W.6) and Venkatesan (P.W.10). Based on the disclosure made by the appellant, the Investigating Officer recovered the following items under a cover of mahazar (Ex.P.3)



WEB COPY

from the appellant's house.

1	Bloodstained white shirt with brown stripes	M.O.3
2	Bloodstained saffron colour lungi with white stripes	M.O.4
3	Bloodstained black colour lava cell phone	M.O.5

2.15 The appellant was sent in judicial custody. While he was in judicial custody, he expressed his willingness to give a judicial confession and accordingly, he was produced before Christian (P.W.14), Judicial Magistrate No.I, Chengalpet on 17.01.2018, on which date, the learned Magistrate explained to the appellant that, he was not required to give any confession and that, if any confession is given by him, the same would be used against him, vide proceedings- Ex.P.24. The appellant was given time to reflect and was sent back to the prison.

2.16 The appellant was once again produced before Christian (P.W.14), Judicial Magistrate No.I, Chengalpet on 18.01.2018, on which date, after administration of due warning, his confession statement under Section 164 Cr.P.C. was recorded by the Magistrate and the same has been marked as Ex.P.25. The free English translation of the judicial confession (Ex.P.25) runs thus:

"I have been engaged in textile business since 2006. I was running a textile shop in the name and style of Prakash Cloth stores at Dhuruvan Street, Pammal Krishna Nagar. The business was doing well. During 2016, when the Government had announced demonetization, there was a lean period for my business, due to which, I suffered financial crisis. I sold clothes from my shop on monthly instalment basis. Those who purchased so, used to pay the amount therefor, every month. Those who purchased clothes during the year 2016 had not settled the amount therefor properly to me. Because of that, my business even suffered more loss in the year 2017. As I did not get back the monthly instalments properly, I was unable to repay the amount to the cloth traders from whom I had purchased. Some of the cheques that I had issued had bounced for the reason of insufficient funds in my bank account. Due to that, the merchants put pressure on me. As a result of it, I suffered depression. In the course of time, the depression got developed chronic due to it. I was not able to manage both, my family and business properly. So, on 12.12.2017, when our family was together, we decided to commit suicide around 5.30 - 6.30 hours in the



WEB COPY

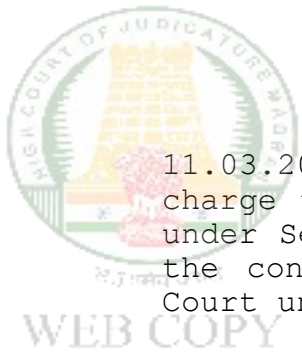
early morning. My family consisted of my wife, son, daughter, my mother and myself. Further, we arrived at this decision due to the mental stress we underwent. Due to the assistance of the Police Department, I survived, but all the others had died in that effort. We attempted suicide after we reduced the reasons into writing. On our decision to commit suicide, I stabbed my wife in her neck initially with a knife used to cut vegetables. On hearing the noise, when my mother came for rescue to our room, she also got stabbed in her neck and she too died. After that, I was the one who stabbed both my children with a knife in their neck. Before my suicide attempt, I informed my brother-in-law Kumaravel through a phone call and drafted a letter of four pages enumerating the reasons therefor and attempted suicide. In the meantime, my brother-in-law would have made a phone call to my mother-in-law. So, my mother-in-law came home immediately. Finally, they rescued me alone. The financial loss and constraints are the causes for my suicide attempt. So, I suffered mental pressure. Because of that, I made this decision. I am ready to undergo the punishment due for my action."

2.17 Devaraj (P.W.20), the Investigating Officer, recorded the statements of various witnesses, collected the various reports from the experts and after completing the investigation, filed a final report on 01.03.2018 in the Court of the Judicial Magistrate, Tambaram, against the appellant for the offence under Section 302 IPC (4 counts).

2.18 On appearance of the appellant, the provisions of Section 207 Cr.P.C. were complied with and the case was committed to the Court of Session, Chengalpet. The case was taken on file by the District and Sessions Court, Chengalpet in S.C.No.92 of 2018 and was made over to the Mahila Court, Chengalpet, for trial. The trial Court framed charges under Section 302 IPC (4 counts) and Section 309 IPC against the appellant and when questioned, he pleaded "not guilty".

2.19 To prove the case, the prosecution examined 22 witnesses, marked 39 exhibits and 25 material objects. When the appellant was questioned under Section 313 Cr.P.C., he gave a general denial of the incriminating circumstances appearing against him. No witness was examined from the side of the appellant.

2.20 The trial Court, after considering the evidence on record and hearing either side, by judgment and order dated



11.03.2020 in S.C.No.92 of 2018, acquitted the appellant of the charge under Section 309 IPC, but, convicted him of the offence under Section 302 IPC (4 counts) and sentenced him to death, for the confirmation of which, the records have been sent to this Court under Section 366 Cr.P.C.

3 Heard Mr.V.Parthiban, learned counsel for the appellant and Mr.Hasan Mohamed Jinnah, learned State Public Prosecutor appearing for the respondent State.

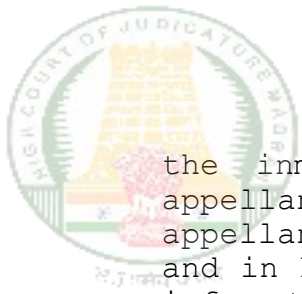
4 Facts admitted by both sides :

- i. The appellant is the son of late Murugesan and Saraswathi (D.1); he married Deepa (D.2) and had two children viz., Roshan (D.3) and Meenakshi (D.4).
- ii. The appellant was living with his family in Door No.5, Flat No.28, A-3, Ranganathan Flats, Nandanar Street, Pammal, Chennai.
- iii. Saraswathi (D.1), Deepa (D.2), Roshan (D.3) and Meenakshi (D.4) died of homicidal violence on 12.12.2017.

5 The short question that falls for consideration before this Court is, who killed them.

6 Balakrishnan (P.W.1) and Banumathi (P.W.3) are the parents-in-law and Kumaravel (P.W.2) is the brother-in-law of the appellant. We have the evidence of Balakrishnan (P.W.1), Kumaravel (P.W.2) and Banumathi (P.W.3), who have stated that, the appellant was married to Deepa (D.2) and the couple was blessed with two children viz., Roshan (D.3) and Meenakshi (D.4); the appellant was looking after his father's business and he was in debts; on 12.12.2017, the appellant called Kumaravel (P.W.2) and told him, "எங்களை மன்னித்துவிடு இராஜா. எங்களால் வாழ முடியவில்லை. நாங்கள் எல்லோரும் செத்துவிடுகிறோம்." (Raja, please forgive me as we are not able to live, we all going to die); when Kumaravel (P.W.2) informed this to his parents viz., Balakrishnan (P.W.1) and Banumathi (P.W.3), they rushed to the appellant's house, where they found Saraswathi (D.1), Deepa (D.2), Roshan (D.3), Meenakshi (D.4) and the appellant with cut injuries; at that time, the appellant was conscious.

7 In the cross-examination of Balakrishnan (P.W.1), Kumaravel (P.W.2) and Banumathi (P.W.3), the appellant has not denied his presence with cut injuries in the place of occurrence and also the presence of the other four deceased with injuries. It was not suggested to any of the witnesses that, some persons like dacoits or robbers had entered the house and had attacked



the inmates, resulting in four deaths and injuries to the appellant. Therefore, in the absence of any explanation by the appellant, as to how the four deaths had occurred in his house and in his presence and how he had sustained injuries, we cannot infer that the attack was by some unknown assailants. Under Section 106 of the Evidence Act, the burden is on the appellant to explain how four of his relatives died and who caused the injuries to him, as they are facts which are to his exclusive knowledge.

8 The clinching evidence in this case is the statement of the appellant (Ex.P.23) that was recorded on 18.12.2017 by the learned VIII Metropolitan Magistrate and the judicial confession (Ex.P.25) that was recorded on 18.01.2018 by Christian (P.W.14), Judicial Magistrate No.I, Chengalpet. The statement (Ex.P.23) would have metamorphosed into a dying declaration, had the appellant not survived. However, since the appellant had unequivocally admitted to the commission of four murders in the said statement, it graduated itself into an extra-judicial confession, albeit the fact that it was recorded by a Magistrate.

9 In the cross-examination of Vadivel (P.W.13), VIII Metropolitan Magistrate, the appellant has not denied the factum of having given the statement. It was only suggested to the Magistrate that the appellant was not in the jaws of death and that, he was in police custody and therefore, the statement was vitiated. The Magistrate denied the suggestion and stated in his evidence that he ensured that there was none present except the doctor, when he recorded the statement. The veracity of the facts stated in the complaint, was not disputed.

10 In our opinion, it is not necessary that a person should be in the jaws of death while giving a dying declaration. In fact, Vadivel (P.W.13), VIII Metropolitan Magistrate has stated that he went to the Rajiv Gandhi Government General Hospital only with the idea of recording the dying declaration of the appellant and that, he accordingly recorded whatever the appellant had stated in the presence of Dr. Chemmanaselvan (P.W.15).

11 Now, advertng to the judicial confession (Ex.P.25), it is seen that Christian (P.W.14), Judicial Magistrate No.I, Chengalpet, has stated the entire sequence of events that took place on 17.01.2018 and 18.01.2018 for recording the judicial confession of the appellant. Except suggesting that the confession was recorded at the instance of the police, the defence had not made any serious dent in the evidence of this witness. The free English translation of the judicial confession is given in paragraph 2.16, supra. It is seen that the appellant was forwarded to the Institute of Mental Health, Kilpauk,



Chennai, for ascertaining his mental capacity, prior to the commencement of trial and the report that was received from the hospital reads as under :

"Mr.Dhamodaran is alert, oriented. He is able to comprehend all questions and provide relevant answers. He has not thought or perceptual disturbance. He has euthymic (normal range) mood. He is able to perform well on tests involving memory, attention, concentration, abstraction, judgment. He has no major symptoms of any mental illness at present as per clinical assessment. His psychological evaluation did not reveal evidence of any major mental illness. He has been placed in visitor's committee for purpose of admission and for purpose of discharge. His admission and discharge had been approved."

12 Neither before the trial Court nor before this Court, the appellant attempted to claim any benefit under Section 84 IPC nor was any plea taken that he was mentally ill, prior to the occurrence. Thus, via the evidence of Balakrishnan (P.W.1), Kumaravel (P.W.2) and Banumathi (P.W.3) and through the extra-judicial confession (Ex.P.23) and judicial confession (Ex.P.25), the prosecution has proved beyond a peradventure that it was the appellant who had caused the four deaths and thereafter, he inflicted injuries on himself. Therefore, we have no hesitation in holding him guilty of the charge under Section 302 IPC (4 counts).

13 The trial Court has acquitted the appellant of the offence under Section 309 IPC for the following reasons :

"In view of the above discussions and the reasons given therein, the considered view of this Court is that the accused has not attempted to commit suicide but in order to escape from the clutches of law, he was saying that he was depressed due to the financial crisis causing out of his business loss and demonetization and it is unacceptable and therefore, it is clear that the charge u/s 309 IPC has not been proved by the prosecution beyond all reasonable doubt and thus, this point is answered accordingly."

14 We are unable to agree with the aforesaid finding of the trial Court for the following reasons:

14.1 There is no scintilla of material to show that the appellant had any animosity against his mother, wife and children. Even from the evidences of Balakrishnan (P.W.1), Kumaravel (P.W.2) and Banumathi (P.W.3), the parents and brother of Deepa (D.2), we are unable to infer that the appellant had any grievance against the four deceased. The only motive that



has been projected by the prosecution is that the appellant was mentally disturbed due to financial stress. It is nobody's case that the appellant suspected his wife's fidelity and doubted the paternity of his children and therefore, he got rid of them. In the absence of any evidence to such effect, the Court cannot supplant its own imaginations as proof of a fact. The appellant has been consistently projecting his financial incapability as the reason that triggered the dastardly act. As alluded to above, Balakrishnan (P.W.1) found the letter (Ex.P.1) that was left by the appellant in the place of occurrence. Though the said letter (Ex.P.1) was not sent to a handwriting expert for finding out its authorship, yet, on this short score alone, it cannot be rejected. Balakrishnan (P.W.1), in the cross-examination, has stated that he is acquainted with the appellant's handwriting, as he has had occasions to see it in the appellant's shop. Trite it is that the opinion of a person who is familiar with the handwriting of another is relevant under Section 47 of the Evidence Act and can be proved under Section 67, *ibid.* In *Gulzar Ali vs. State of Himachal Pradesh* [(1998) 2 SCC 192], the Supreme Court has propounded the internal evidence theory, which means that the contents of a document may, by themselves, throw light on the subject matter of the transaction. The free English translation of the letter (Ex.P.1) is as under:

"This is written to Kumaravel @ Raja. I have borrowed money from you for my business on many an occasion. You also helped me. However, since my business was more and more slumping, I was unable to recover the dues and repay. Please forgive me. I thought I should alone end myself. However, my family suffered during my lifetime. But, my mind is not agreeable for their continued sufferance even after my death. Therefore, I am taking my family members along with me. With tears in my eyes, I am asking you to forgive me for taking this decision.

Thanking you,

Sd/-"

14.2 It is axiomatic that the internal evidence provided by the letter (Ex.P.1) unmistakably shows that the appellant had taken the extreme decision because of financial crisis. The letter (Ex.P.1) would have also been treated as the dying declaration of the appellant, had he died. Now that he survived, the letter (Ex.P.1) cannot be made relevant under Section 32(1) of the Evidence Act, but, would be relevant under Section 14, *ibid.*, for the purpose of showing the appellant's state of mind, including the intention behind the crime. Section 14, *ibid.*, minus the illustrations (a) to (p) reads as under:

"14. Facts showing existence of state of mind, or of body, or bodily feeling.--Facts showing the



WEB COPY

existence of any state of mind such as intention, knowledge, good faith, negligence, rashness, ill-will or good-will towards any particular person, or showing the existence of any state of body or bodily feeling are relevant, when the existence of any such state of mind or body or bodily feeling, is in issue or relevant.

Explanation 1.-- A fact relevant as showing the existence of a relevant state of mind must show that the state of mind exists, not generally, but in reference to the particular matter in question.

Explanation 2.-- But where, upon the trial of a person accused of an offence, the previous commission by the accused of an offence is relevant within the meaning of this section, the previous conviction of such person shall also be a relevant fact."

14.3 This is the only section in the Evidence Act which has the maximum number of illustrations, viz., 16 in number. This shows that Section 14, *ibid.*, has a wide application in proving facts governing the mental and physical aspects of a person. The internal evidence provided by the letter (Ex.P.1) reveals that it was written prior to the murder of the foursome. The ostensible reason given in the letter (Ex.P.1) has been reiterated by the appellant in his extra-judicial confession (Ex.P.23) as well in the judicial confession (Ex.P.25). Thus, in the absence of evidence of any other motive and in the presence of cogent evidence revealing the financial trouble as the motive, we cannot simply ignore the letter (Ex.P.1) and engage in fantacising.

14.4 The reasoning of the trial Judge that the appellant did not actually attempt to commit suicide, but, only created a make-believe drama by cutting his throat superficially, does not cut ice with us. It is easier for a person to take another's life than his own, because, survival instinct and self preservation which are evolutionary traits, will intervene and pose obstacles when suicide is attempted. That is why, perhaps, the appellant did not show the same ferocity while attempting to cut his neck himself. Though the evidence on record leads us to the inference that the appellant attempted to commit suicide after doing away with his near and dear ones and therefore, he would be punishable under Section 309 IPC, we lay this matter to rest as the State has not preferred any appeal assailing the appellant's acquittal of this charge.



15 Coming to the death penalty that has been awarded by the trial Court for the offence under Section 302 IPC (4 counts), we are convinced that this case does not come within the category of "rarest of rare cases" for awarding capital punishment, by applying the principles laid down by the Supreme Court in Bachan Singh vs. State of Punjab [(1980) 2 SCC 684]. The trial Court appears to have been carried away by the number of injuries that were found on the bodies of the helpless victims. Further, it has not been demonstrated to us that the appellant was addicted to crime and that he is a menace to society, thereby ruling out any possibility of reformation. If the appellant is sent to the gallows, his life will get extinguished in a jiffy. Contrarily, if he is permitted to live, the thoughts of his fiendish act of liquidating his mother, wife and two minor children will haunt him till his last breath, which, in our opinion, is a far more severe punishment, than the death sentence. Hence, we modify the sentence of death penalty into one of life imprisonment with a rider that the appellant will not be entitled to any statutory remission or commutation until he completes 25 years of actual imprisonment. This rider is added because he has to suffer this long at least for the mindless violence he had let loose on the hapless victims, all because, he being a coward, lacked the courage to face the financial crunch he was into. In Union of India vs. V. Sriharan @ Murugan and others [(2016) 7 SCC 1], a Constitution Bench of the Supreme Court has held that the Court can fix such terms of imprisonment in a given case for ensuring that statutory remissions and commutations do not enure to the advantage of a convict prisoner.

16 In the result, the conviction of the appellant under Section 302 IPC (4 counts) is confirmed. However, the sentence of death therefor imposed on the appellant is modified to one of imprisonment for life for each count (4 counts) and fine of Rs.5,000/- for each count (4 counts), in default to undergo one year simple imprisonment for each count (4 counts). It is reiterated that the appellant will not be entitled to any statutory remission or commutation until he completes 25 years of actual imprisonment.

To sum up, the criminal appeal by the accused and the reference under Section 366 Cr.P.C. are disposed of on the terms set out in paragraph 16, supra.

Sd/-

Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

gya/cad



To

1. The Sessions Judge
Mahila Court
Chengalpattu
- 2 The Inspector of Police
Shankar Nagar Police Station
St. Thomas Mount
Chennai
- 3 The Public Prosecutor
High Court
Madras - 600 104
4. The Superintendent of Prison,
Central Prison,
Puzhal, Chennai.
5. The District Collector,
Chengalpattu.
6. The Director General of Police,
Mylapore, Chennai.

Copy To

The Section Officer,
Criminal Side,
High Court, Madras.

+lcc to Public Prosecutor, High Court, Chennai SR.No.29892

R.T.No.2 of 2020 & CrI.A.No.40 of 2021

AK-II(CO)
GMY(23/07/2021)