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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.08.2021

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.A.No.464 of 2019

Selvam @ Selvendran

... Appellant/Accused

Vs.

State represented by
The Inspector of Police,
K-4, Anna Nagar Police Station,
Chennai - 600 040.

... Respondent/Complainant

PRAYER : This Criminal Appeal is filed under Section 374 of Cr.P.C. praying to set aside the judgment of conviction and sentence passed by the learned Sessions Judge, Mahila Court/Spl.Court for Cases under POCSO Act/Children's Court, Chennai, dated 28.05.2019 made in S.C.No.172 of 2016.

For Appellant : Mr.J.Asokan for
M/s.Ganeshrajan

For Respondent : Mr.S.Sugendran
Govt. Advocate (Crl.Side)

JUDGMENT

This criminal appeal has been filed against the judgment of conviction made by the learned Sessions Judge, Mahila Court/Spl.Court for Cases under POCSO Act/Children's Court, Chennai, dated 28.05.2019 made in S.C.No.172 of 2016.

2 The respondent police registered the case against the appellant in Crime No.498 of 2015 for the offence punishable under Section 307 of IPC (2 counts). After completing investigation, the respondent police laid a charge sheet before the learned V Metropolitan Magistrate, Chennai, which was taken on file in P.R.C.No.87 of 2015 and since it is the case of crime against woman and offence charged against the appellant is triable only by the Court of Session, the learned V Metropolitan Magistrate committed the case to the learned Principal District



and Sessions Judge, Chennai, which was taken on file in S.C.No.172 of 2016 and the same was made over to the learned Sessions Judge, Mahilia Court/Spl. Court for Cases under POCSO Act/ Children's Court, Chennai.

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3 Before the trial Court, in order to prove the case of the prosecution, as many as 11 witnesses were examined as P.Ws.1 to 11 and marked 14 documents as Exs.P1 to 11 besides one Material Object M.O.1. After completing prosecution witnesses, when incriminating circumstances culled out from the evidence of prosecution witnesses were put before the appellant/accused by questioning under Section 313 Cr.P.C., he denied the same as false and pleaded not guilty. On the side of the defence, no one was examined and no document was marked.

4 The learned Sessions Judge, after trial, by judgment dated 28.05.2019, convicted the appellant/accused for the offence under Section 326 of IPC (2 counts) and sentenced him to undergo rigorous imprisonment for a period of five years with fine of Rs.5,000/- for each count, in default, to undergo simple imprisonment for a further period of six months each. Aggrieved against the said judgment of conviction and sentence, the first accused had preferred the present criminal appeal before this Court.

5 The learned counsel appearing for the appellant would submit that there are material contradictions between the evidence of prosecution witnesses, which has not been considered by the learned trial Judge. The evidence of the Doctor and medical records are not tallied with the evidence of injured witnesses P.Ws.2 & 3. At last, the learned counsel mainly contended two points, firstly on sudden provocation, the appellant assaulted his wife P.W.2 and P.W.3, who is sister of P.W.2, secondly there was only wordy quarrel even as observed by the learned trial Judge and the appellant does not have any intention to cause injuries to P.W.2 and P.W.3. Therefore conviction and sentence recorded by the trial Court against the appellant/accused is liable to be set aside.

6 The learned Government Advocate (Crl.Side) would submit that in this case there are two injured witnesses, who had categorically stated about the overt act attributed against the appellant. The appellant with an intend to cause grievous injuries to his wife P.W.2 and wife's sister P.W.3, used lethal weapon and caused grievous head injuries, due to which, P.W.3 gone up to the stage of coma. Prosecution has clearly proved its case beyond all reasonable doubt with corroborated medical evidence and the trial Court has also rightly convicted the appellant, which does not call for any interference.



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12 In the result, the criminal appeal is dismissed as devoid of merit and substance. Trial Court is directed to secure the appellant to undergo remaining period of imprisonment, if any.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Sessions Judge, Mahila Court/Spl.Court for
Cases under POCSO Act/Children's Court, Chennai.
- 2.The Inspector of Police,
K-4, Anna Nagar Police Station,
Chennai - 600 040.
- 3.The Superintendent,
Central Prison, Puzhal, Chennai.
- 4.The Honourable POCSO Committee,
High Court, Madras.
- 5.The Public Prosecutor,
High Court of Madras.
- 6.The V Metropolitan Magistrate,
Chennai.
- 7.Principal District and Sessions Judge,
Chennai.
- 8.The District Collector,
Chennai
- 9.The District General of Police,
Mylapore, Chennai-4.
- 10.The Section Officer,
Criminal Section,
High Court, Madras.

CrI.A.No.464 of 2019

LN (CO)
PR (24/09/2021)