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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2021

CORAM

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

Criminal Appeal No.563 of 2017

Ilayaraja
S/o.Purushothaman

..Appellant/Defecto
Complainant PW1

Vs.

1. State represented by
The Inspector of Police,
Sriperumbudur Police Station,
Kancheepuram District.
Crime No.299 of 2006

..Respondent

2. Jayaseelan
S/o.Poongavanam

..2nd Respondent/Accused

Criminal Appeal filed u/s.397 & 401 of the Code of Criminal Procedure against the judgment and order dated 23.12.2010 passed in S.C.No.12 of 2010 on the file of learned Additional Sessions Judge II, Kancheepuram.

For Appellant : Mr.V.Parthiban
for Mr.R.Narendran

For Respondents: Mr.M.Babu Muthu Meeran
Additional Public Prosecutor [R1]
Mr.M.P.Saravanan [R2]

JUDGMENT

[Judgment of the Court was delivered by P.N.PRAKASH, J]

This criminal appeal is directed against the judgment and order of acquittal dated 23.12.2010 passed by the learned Additional Sessions Judge II, Kancheepuram, in S.C.No.12 of 2010.

2. The prosecution story runs thus:

2.1. It is the case of prosecution that Sudha, the daughter of Jayaseelan (accused/second respondent) had eloped with



Murugesan, younger son of Purushothaman (deceased) and infuriated at that, the accused is said to have barged into the house of Purushothaman on 23.06.2006 and had attacked Purushothaman, Ilayaraja [PW-1]/elder son of Purushothaman and Subathra [PW-2]/ wife of Purushothaman, with a knife [MO-1]. It is also alleged that Ilayaraja [PW-1] and Subathra [PW-2] had sustained grievous injuries. After the attack, Purushothaman succumbed to the injuries.

2.2. On a complaint given by Ilayaraja [PW-1], the police registered a case in Crime No.299 of 2006 on 23.06.2006 for the offences u/s.448, 324 and 302 IPC against the accused.

2.3. After examining various witnesses and collecting the reports of the experts, Muthuramalingam [PW-19], Inspector of Police, completed the investigation and filed a final report in P.R.C.No.29 of 2008 before the jurisdictional Magistrate for the offences u/s.452, 326 and 302 IPC against the accused.

3. On appearance of the accused, the provisions of Section 207 Cr.P.C. were complied with and the case was committed to the Court of Session in S.C.No.12 of 2010 and was made over to the II Additional District and Sessions Court, Kancheepuram, for trial. The trial Court framed charges u/s.452, 326(2 counts) and 302 IPC against the accused and when questioned, the accused pleaded 'not guilty'.

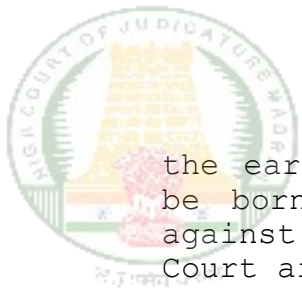
4. To prove the case, the prosecution examined 20 witnesses and marked 24 exhibits and 8 material objects. When the accused was questioned u/s.313 Cr.P.C. on the incriminating circumstances appearing against him, he denied the same. No witness was examined from the side of the accused nor any document marked.

5. After considering the evidence on record and hearing either side, the trial Court, by judgment and order dated 23.12.2010 in S.C.No.12 of 2010, acquitted the accused, aggrieved by which, Ilayaraja [PW-1] has filed the present appeal under the proviso to Section 372 Cr.P.C.

6. Heard Mr.V.Parthiban, learned counsel for the appellant/de facto complainant, Mr.M.Babu Muthu Meeran, learned Additional Public Prosecutor, appearing for the respondent State and Mr.M.P.Saravanan, learned counsel appearing for the second respondent/accused.

7. Before advertng to the evidence on record, it may be apposite to refer to the judgment of the Supreme Court in V. Sejappa vs. State¹, wherein, the Supreme Court, after considering

1 (2016) 12 SCC 150



the earlier judgments, has broadly catalogued the parameters to be borne in mind by the Court while dealing with an appeal against acquittal. The said parameters laid down by the Supreme Court are profitably extracted hereunder:

"23. . . . Suffice it to say that this Court has consistently held that in dealing with appeals against acquittal, the appellate court must bear in mind the following:

(i) There is presumption of innocence in favour of an accused person and such presumption is strengthened by the order of acquittal passed in his favour by the trial court;

(ii) The accused person is entitled to the benefit of reasonable doubt when it deals with the merit of the appeal against acquittal;

(iii) Though, the powers of the appellate court in considering the appeals against acquittal are as extensive as its powers in appeals against convictions but the appellate court is generally loath in disturbing the finding of fact recorded by the trial court. It is so because the trial court had an advantage of seeing the demeanour of the witnesses. If the trial court takes a reasonable view of the facts of the case, interference by the appellate court with the judgment of acquittal is not justified. Unless the conclusions reached by the trial court are palpably wrong or based on erroneous view of the law or if such conclusions are allowed to stand, they are likely to result in grave injustice, the reluctance on the part of the appellate court in interfering with such conclusions is fully justified; and

(iv) Merely because the appellate court on reappreciation and re-evaluation of the evidence is inclined to take a different view, interference with the judgment of acquittal is not justified if the view taken by the trial court is a possible view. The evenly balanced views of the evidence must not result in the interference by the appellate court in the judgment of the trial court."



8. At the time of hearing, learned counsel on either side submitted that Murugesan, younger son of Purushothaman got married to Sudha, the daughter of the accused and the family is now living peacefully in the village without acrimony.

9. Be that as it may, we have carefully perused the judgment of the trial Court. It is seen that there is a delay in the registration of the First Information Report [Ex.P15] in this case, on which a finding has been given by the trial Court in paragraph No.28 of the judgment. In the complaint [Ex.P1], Ilayaraja [PW-1] has stated that while he was sleeping in the adjacent portion of his house, he heard a noise and when he went there, he saw the accused attacking his parents, whereas, in his evidence, he has stated as if he was in the house and was taking lunch with his parents when the attack occurred. That apart, the nature of injury sustained by Purushothaman did not tally with the eyewitness account of Ilayaraja [PW-1] and Subathra [PW-2]. All these aspects have been gone into by the trial Court for acquitting the accused.

10. It is trite that when there are two views possible on a set of evidence, the view that supports the accused merits acceptance. On a conspectus of the facts obtaining in this case, we find that there is no perversity in the judgment and order of the trial Court warranting interference.

In the result, the Criminal Appeal is dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gm

To

1.The Additional Sessions Judge II, Kancheepuram.

2.The Inspector of Police,
Sriperumbudur Police Station,
Kancheepuram District.

3.The Public Prosecutor,
High Court, Madras.

Criminal Appeal No.563 of 2017

VSNII(CO)
RGA(26/08/2021)