

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2021

Coram

The Hon'ble Mr. Justice P.N.PRAKASH
and
The Hon'ble Mr. Justice V.SIVAGNANAM

Crl.A. No. 437 of 2017

Perumal

..Appellant/PW1
Defacto Complainant

Vs.

1.M.Jayaraman

2.State of Tamil Nadu
Rep. by Inspector of Police,
Magudanchavadi Police Station,
Salem District.

..Respondents/Accused/
Respondents

Criminal Appeal filed under Sections 397 and 401 Cr.P.C. to call for the records in S.C.No.157 of 2009 on the file of the Additional District and Sessions Judge (Fast Track Court No.2), Salem dated 15.12.2009 and set aside the same.

For Appellant : Mr.M.Devaraj

For Respondents: Mr.K.Prabhakar
Addl. Public Prosecutor for R2

JUDGMENT

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

Challenging the acquittal of the accused in S.C.No.157 of 2009 on 15.12.2009 by the learned Additional District and Sessions Judge (Fast Track Court II), Salem, of the offence under Section 302 IPC, the defacto complainant has filed the present appeal against acquittal under proviso to Section 372 Cr.P.C.

2.It is the case of the prosecution that the accused suspected the fidelity of his wife, picked up quarrel with her and kicked her stomach, resulted in her death on 12.02.2009. On these allegations, the police registered a case in Crime No.130 of 2009 under Section 302 IPC and after completing the investigation, filed a final report in P.R.C. No.6 of 2009 before the Judicial Magistrate II, Sankari.

3. On committal, the case was taken up on file in S.C.No.157 of 2009 and trial was conducted by the learned Additional District and Sessions Judge (Fast Track Court II), Salem, in which a charge under Section 302 IPC was framed against the accused. The accused pleaded not guilty. To prove the case, the prosecution examined 14 witnesses and marked 15 exhibits.

4. After considering the evidence on record, the Trial Court, by a well considered judgment, has acquitted the accused on 15.12.2009, aggrieved by which, the present appeal has been filed by the father of the deceased.

5. Learned counsel for the appellant vehemently contended that the Trial Court's judgment is perverse and requires interference. Per contra, the learned Additional Public Prosecutor refuted the said contention.

6. On a perusal of evidence, it is seen that the death of the deceased was not on account of the kick allegedly given by the accused but that the deceased had consumed poison. This went into the very root of the prosecution case. Under such circumstances, we do not find any reason to interfere with the order of acquittal passed by the Additional District and Sessions Judge (Fast Track Court II), Salem.

7. In the result, the criminal appeal stands dismissed.

Sd/-

Assistant Registrar(cs ii)

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MMI
To

Sub Assistant Registrar

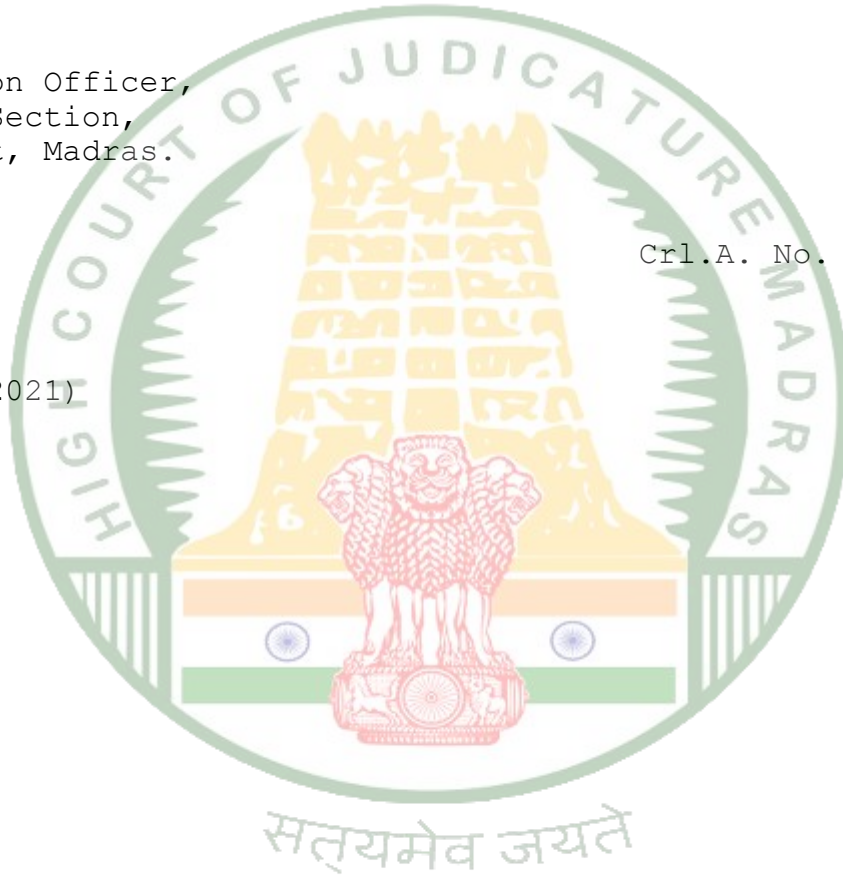
1. The Additional District and Sessions Judge
Fast Track Court II, Salem.
2. do Thro Principal Sessions Judge,
Salem.
3. The Judicial Magistrate-2,
Salem.
4. -do- The chief Judicial Magistrate,
Salem.

5. The Inspector of Police,
Magudanchavadi Police Station,
Salem District.
6. The District Collectors,
Salem.
7. The Director General of Police,
Mylapore, Chennai-4.
8. The Public Prosecutor,
High Court, Madras.

Copy to:
The Section Officer,
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High Court, Madras.

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