



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :20.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

and

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Crl.A.(MD).No.297 of 2021

Velu

... Appellant /Sole Accused

-vs-

State through
the Inspector of Police,
Paralatchi Police Station,
Virudhunagar District
in Crime No.117 of 2013. ... Respondent

PRAYER: Criminal Appeal is filed under Section 374(2) of Cr.P.C., against the judgment dated 09.11.2016 passed in S.C.No.87 of 2014, on the file of the learned Additional District and Sessions Judge, Virudhunagar.

For Appellant : Mr.B.N.Raja Mohamed

For Respondent : Mr.A.Thiruvadikumar
Additional Public Prosecutor

J U D G M E N T

(Judgment of the Court was delivered by V.BHARATHIDASAN,J.)

The appellant is the sole accused in Sessions Case No.87 of 2014, on the file of the learned Additional District and Sessions Judge, Virudhunagar, he stood charged and tried for the offences under Sections 302 (two counts), 324 and 307 (Part 1(2)) of I.P.C.

2. The trial Court, vide impugned judgment dated 09.11.2016, has convicted the appellant herein for the above said offences and imposed the sentence, thus:



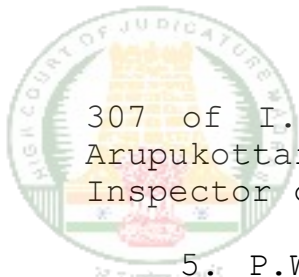
Rank of the Accused	Charge	Conviction
Sole Accused	U/s. 302 of I.P.C.	To undergo life imprisonment and to pay a fine of Rs.5,000/-, in default to undergo rigorous imprisonment for a period of six months.
	U/S. 302 of I.P.C.	To undergo life imprisonment and to pay a fine of Rs.5,000/-, in default to undergo rigorous imprisonment for a period of six months.
	U/S. 324 of I.P.C.	To undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/-, in default to undergo rigorous imprisonment for a period of three months.
	U/S.307(Part1 (2)) of I.P.C.	To undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.500/-, in default to undergo rigorous imprisonment for a period of six months.

The sentences were ordered to run concurrently. Now, challenging the conviction and sentence, the present appeal has been filed by the appellant.

3. The case of the prosecution in brief is as follows:

The first deceased Chinna Muniakkal, is the wife of the appellant (hereinafter referred to as "D1") and the second deceased Muthuselvi, aged about 12 years, is the daughter of the appellant/accused (hereinafter referred to as "D2"). The appellant/accused suspecting the fidelity of D1, quarrelled with her frequently, and on 10.08.2013, at about 2.40 a.m., while both the deceased and the injured witness P.W.2, the son of the appellant, were sleeping in their house, the appellant/accused attacked his wife D1, with a billhook and caused injuries on her neck. While, P.W.2, the minor son of the deceased, was trying to prevent him, the appellant attacked him and caused injury on his left hand and attacked his daughter Muthuselvi, D2, with the same billhook indiscriminately and caused injuries on her shoulder, neck and severed three fingers in the left hand, both D1 and D2, succumbed to the injuries. Then, the accused went to the house of P.W.13, alleging that she was the cause for his family issue, and attacked her. P.W.1 is the brother of D1, and also her neighbour, P.W.2, the minor son of the deceased informed P.W.1 about the occurrence. Thereafter, at 5.00 a.m., P.Ws.1 and 2 went to the respondent police station and filed a complaint (Ex.P1).

4. P.W.12, the Special Sub-Inspector of Police, in the respondent police station, registered a F.I.R., in Crime No.117 of 2013, at 5.00 a.m., for the offences under Sections 302, 324 and



307 of I.P.C., send the same to the Judicial Magistrate Court, Arupukottai, and copies to the higher officials including the Inspector of Police.

5. P.W.15, the Inspector of Police, on receipt of the F.I.R., commenced the investigation, proceeded to the scene of occurrence at 6.00 a.m., and prepared the Observation Mahazar and Rough Sketch - (Ex.P19). Then, he collected bloodstained cement slab - M.O.6 and sample cement slab - M.O.7, near the dead body of Chinna Muniakkal (D1). He also collected bloodstained cement slab - M.O.8 and the sample cement slab - M.O.9, near the dead body of Muthuselvi (D2). Thereafter, he conducted inquest on the dead bodies of the deceased, in the presence of the witnesses and Panchayatars and prepared the Inquest Reports - Ex.P20 for D1 and Ex.P21 for D2, then sent the bodies to the Government Hospital, Arupukottai, for conducting postmortem autopsy.

6. P.W.10, the Doctor working in the Government Hospital, Kamuthi, treated P.W.13, on 10.08.2013, at about 5.00 a.m., and he found three injuries in her left shoulder, left hand and right chest and issued an Accident Register - (Ex.P13).

7. P.W.9, the Doctor working in the Government Hospital, Arupukottai, has conducted postmortem autopsy on the dead body of D1, on 10.08.2013 at 2.45 p.m., and issued the Postmortem Report - Ex.P.10, which reads as follows:

"Injuries about 6 inches X 2 inches X 3 inches cut injury in front of the neck to right side of the neck. On exploration of the wind neck muscle carotid artery, trachea are transversely cut injuries. They are divided into two pieces. Internal appearance hyoid bone intact, opening of the thorax, heart weighed 300gms congested. Liver 1500gm congested, spleen 175gm congested. Each kidney 150gm injured. Brain 1200gm congested, stomach empty, there is no specific odour is present. Intestine contained about 500ml of digested food particle present. There is no specific odour present. There is no fracture of bone anywhere in the body opening of the skull had input. Lungs 450gm right, left 50gm both are congested postmortem completed between 2.45pm to 3.45pm. The deceased would appear to died 10 to 14 hrs. prior to autopsy. The deceased would appear to died of shock and haemorrhage due to external injury. Sample of bloodstained cloth taken from the heart chamber sent for blood matching analysis."

He was of the opinion that the deceased would appear to have died of shock and haemorrhage due to the external injuries.



8. Then, he conducted postmortem autopsy on the dead body of D2, on the same day, at about 3.45 p.m., and issued the Postmortem Report – Ex.P11, which reads as follows:

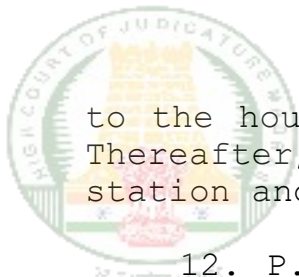
"Moderately muscle female badly bloodstained cloth kept on the . Hands are empty, eyes closed, tongue within the mouth. Teeth 7/7 Iris black hair black external injury : 1 about 3 inch X 2 inch X 2 inch cut injury back of the neck which is 3 in number, one by one traverse direction. 2. That 6 inch X 2 inches X 3 inches transverse cut injury from front of the neck to left side of the neck. On exploration of the wind left sided neck muscle and left carotid artery divided transversely into two pieces. 3. Right ring finger amputated from the right hand left 4. left 4 fingers except left thumb amputated from the left hand. 5. About 6 inches X 1 inch X 1 inch cut injury from the left ear to left ankle of the internal organ: hyoid bone intact. Heart 225gm congested, right lung 400gm. congested, left leg 350 gm. congested, stomach empty there is no specific odour present. Liver 1200gm congested. Spleen 140 gm. congested. 125gm congested, about 500ml of digested food. There is no specific odour is present."

He was of the opinion that the deceased would appear to have died of shock and haemorrhage due to the external injuries.

9. Thereafter, P.W.15, the Investigating Officer has continued the investigation and arrested the accused on 10.08.2013, at about 3.30 p.m., near Chettikulam Bus Stop, and on such arrest, he voluntarily gave a confession. Based on the admissible portion of the confession, he recovered the billhook and send him for remand to judicial custody. P.W.15 continued the investigation and recorded the statement of the Doctors, who conducted postmortem autopsy and on completion of investigation, he filed a final report.

10. Based on the above materials, the trial Court framed charges against the accused as mentioned above. However, the appellant/accused has denied the same. The prosecution, in order to sustain their case, examined 15 witnesses, marked 22 documents and also produced 11 material objects.

11. Out of the witnesses examined, P.W.1 is the brother of D1. According to him, on 09.08.2013, at about 2.45 a.m., when he came out to answer his nature call, he heard a cry, and went to the deceased house with his wife, at that time, his neighbour, one Thangaraju also came out. The son of the accused was running towards P.W.1 with bleeding injuries, and informed him that the accused attacked his mother and sister. Then, the accused came out of the house with the bloodstained billhook, and ran away. P.W.1 went in



to the house and found both D1 and D2 dead with multiple injuries. Thereafter, he along with P.W.2 went to the respondent police station and lodged a complaint.

12. P.W.2, is the injured witness and minor son of the accused and D1. He spoke about the incident that, on 10.08.2013, at about 2.30 a.m., when the deceased and P.W.2 were sleeping inside the house, the accused attacked D1 and D2, when P.W.2 tried to prevent him, the accused attacked him and he sustained injury on his right shoulder, then the accused ran out of the house. P.W.2 along with P.W.1 went to the police station and lodged a complaint.

13. P.W.3 is the another brother of D1 and he turned hostile. P.W.4 is the elder daughter of the accused, according to her, on 10.08.2013, P.W.1 contacted her over phone and informed that her mother and her sister were murdered by her father, she is the hearsay witness.

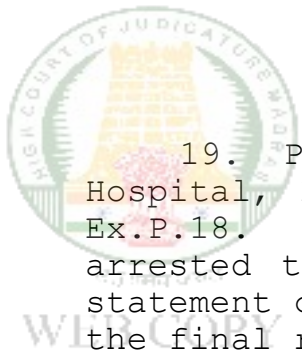
14. P.W.5 is the Village Administrative Officer and he is the witness to the confession of the accused and also recovery of M.O.1.

15. P.W.6 is the Head Constable working in the respondent police station, handed over the F.I.R. to the Judicial Magistrate Court at about 2.30 p.m. P.W.7 is the another Head Constable, he handed over the material objects to Forensic Laboratory, Ramanathapuram. P.W.8 is the Head Clerk, in the Judicial Magistrate Court, he sent the blood stained material objects for forensic examination through P.W.7. P.W.9 is the Doctor working in the Government Hospital, Arupukottai and he conducted postmortem autopsy on D1 and D2 and he was opined that both the deceased would appear to have died of shock and haemorrhage, due to external injuries.

16. P.W.10 is the Doctor working in the Government Hospital, Kamuthi, and he examined P.W.13 and given an Accident Register Ex.P.13. He found three injuries on the left shoulder, right chest and three fingers on the left hand.

17. P.W.11, Scientific Officer, working in Regional Forensic Science Laboratory, Ramanathapuram, examined the bloodstained material objects and issued Biological Report - Ex.P14 and Serology Report - Ex.P15 and Chemical Analysis Report - Ex.P15.

18. P.W.12, Special Sub Inspector of Police, registered the F.I.R. and sent the same to the Judicial Magistrate Court. P.W.13, another injured witness and a neighbour of the accused. According to her, the accused came to her house, abused her, attacked and caused injury.



19. P.W.14, the Doctor, working in the Government Rajaji Hospital, Madurai, admitted P.W.13 and given an Accident Register Ex.P.18. P.W.15, Inspector of Police, conducted investigation, arrested the accused, recovered material objects and recorded the statement of the witnesses and on completion of investigation, filed the final report.

20. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., the accused denied the same as false and he has not examined any witnesses and not marked any documents.

21. Considering all those materials, the trial Court convicted the accused and sentenced him as stated Supra. Now, challenging the conviction and sentence, the appellant/accused is before this Court with this criminal appeal.

22. We have heard Mr.B.N.Raja Mohamed, learned counsel appearing for the appellant, Mr.A.Thiruvadikumar, learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record carefully.

23. This is a case of double murder, the deceased are his wife and daughter. Apart from that, in the same occurrence, appellant attacked two other persons, namely, the minor son of the appellant, and his neighbour. The occurrence took place inside the house of the accused, where both the deceased and P.W.2, injured eyewitness, were sleeping, at about 2.45 a.m. The motive is the appellant/accused suspected the fidelity of her wife D1, and there were frequent quarrel between them, due to the same, he said to have attacked her. P.W.2 is the minor son of the deceased and he was also sleeping in the house along with the deceased. According to him, at midnight, suddenly, the accused attacked D1 and while he trying to prevent him, he attacked him with billhook in the left palm, shoulder. Thereafter, the accused attacked D2, indiscriminately and ran out the house. Then went to the house of P.W.13, alleging that she was the cause for all problem in his family and attacked her with billhook on her shoulder, chest and also severed three fingers in her left hand. He, along with his uncle P.W.1, went to the police station at about 5.00 p.m. and gave a complaint. P.W.2 is a minor, aged about 12 years, the trial Court, after following the procedure, having satisfied that he was capable for answering the questions, recorded his evidence. P.W.2 clearly narrated the occurrence and nothing was elicited in the cross - examination to disbelieve his evidence. After registering the F.I.R., P.W.2 was taken to hospital. P.W.9, the Doctor, examined P.W.2 and found two injuries and also issued the Accident Register - Ex.P12, wherein also P.W.2 has clearly stated that at about 2.45 a.m., the appellant attacked him with aruval. P.W.1 is the brother of D1, and her neighbour, according to him, at about 2.45 a.m., he



came out of his house, heard the cue and cry from the appellant's house, P.W.2 came out and informed him about the occurrence, and then they went to the house of the accused. At that time, the accused came out of his house with M.O.1 - billhook.

24. P.W.13, is the neighbour of the accused. After committing murder, the accused went to the house of P.W.13, abused her, attacked her indiscriminately and she suffered injuries in the right shoulder and left chest and three fingers in the left hand has been severed. P.W.13 was referred to Madurai Government Rajaji Hospital, P.W.10, admitted her in the hospital and issued the Accident Register / Ex.P13, wherein she has stated that she was attacked by a known person.

25. The testimony of P.W.1, P.W.2 and P.W.13 are consistent, there is no material discrepancy in it, especially the evidence of the injured witnesses, which clearly show that, it is only this accused has attacked both the deceased and caused their death, and also caused injuries to P.Ws.2 and 13.

26. Mr.B.N.Raja Mohamed, learned counsel appearing for the appellant/accused would contend that P.Ws.1 and 2 are interested witnesses and no independent witness was examined to support their testimony. Further, during the cross - examination, P.W.2, has stated that the door was locked from inside, the accused was not in the house, but, there is no evidence to show that the accused has broke open the house, and attacked the deceased. The learned counsel for the appellant further submitted that the motive projected by the prosecution is very trivial, and there is no strong motive for committing murder of both the wife and daughter and causing injury to his son and P.W.13. He further stated that the arrest and recovery of M.O.1 - Aruval are also not clearly proved by the prosecution and the V.A.O. evidence cannot be relied on to prove the recovery.

27. Admittedly, the occurrence took place inside the house of the accused. Both the deceased, P.W.2 and the accused/appellant are inside the house. The occurrence took place in the early morning and it is not the case of the appellant that somebody else has committed the crime, and there is no explanation from the accused as to how the occurrence has taken place. The minor discrepancies in the evidence of P.W.2, as to whether the door was locked from inside, is not material in nature to disbelieve his evidence. The evidence of P.W.2 is corroborated by P.W.1. He saw the accused came out of the house with bloodstained billhook.

28. So far as the contention of the learned counsel, regarding the recovery is concerned, after arrest, the appellant has voluntarily given a confession, which was recorded by the investigating officer in the presence of P.W.5, the Village
Admission records, 2021, 11/11/2021



weapon used in the occurrence has been recovered. Nothing was elicited from P.W.5 to disbelieve his evidence.

29. Considering all these circumstances, we are of the considered view that, it is only this accused caused the death of D1, D2, and attacked P.W.2, and P.W.13, and caused injuries on them, and the trial Court has rightly convicted the accused and we find no reason to interfere with the same, we find no merit in the appeal.

30. In the result, this Criminal Appeal is dismissed, the conviction and sentence passed in S.C.No.87 of 2014, dated 09.11.2016, by the learned Additional District and Sessions Judge, Virudhunagar is confirmed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

akv

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1. The Additional District and Sessions Judge,
Virudhunagar.
2. The Inspector of Police,
Paralatchi Police Station,
Virudhunagar District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to

The Section Officer, Criminal Records,
Madurai Bench of Madras High Court, Madurai (2 copies)

JUDGMENT MADE IN

Cr1.A. (MD) .No.297 of 2021

20.09.2021

sj (CO)

TR/PM(18.11.2021) 8P 6C

<https://hcservices.ecourts.gov.in/hcservices/>