



CrI.A.No.34 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 15.09.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

CrI.A.No.34 of 2020

Krishnasamy

... Appellant

Vs.

State by
The Inspector of Police,
Udumelpet Police Station,
Udumalpet,
Trippur District.

... Respondent

Prayer:Criminal Appeal filed under Section 374(2) of Cr.P.C to set aside the judgment and conviction passed in S.C.No.149 of 2014 dated 14.11.2019 on the file of the Magalir Neethimandram, Fast Track Mahila Judge, Tiruppur.

For Appellant : Mr.B.Mohan
and
Mr.S.Vinoth Kumar
Legal Aid Counsel

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



Crl.A.No.34 of 2020

JUDGEMENT

WEB COPY This Criminal Appeal has been filed challenging the judgment dated 14.11.2019 passed in S.C.No.149 of 2014 on the file of the Fast Track Mahila Court, Magalir Neethimandram, Tiruppur.

2. The respondent police registered a case in Crime No.684 of 2013 against the appellant for the offence under Section 307 IPC. After completing investigation, laid a charge sheet before the Judicial Magistrate No.I, Udumalpet and the same was taken on file in P.R.C.No.15 of 2014 and after completing the proceedings under Section 207 Cr.P.C, the case was committed to the Principal Sessions Court, Tirupur under Section 209(A) Cr.P.C., The learned Sessions Judge has taken the case on file in S.C.No.149 of 2014 and made over the same to Mahalir Neethimandram [Fast Track Mahila Court], Tiruppur. The learned Special Judge, after trial, convicted the appellant for the offence under Section 307 IPC and sentenced him to undergo Rigorous Imprisonment for ten years along with fine of Rs.2,000/- in default to undergo further period of one year Rigorous Imprisonment. Challenging the said judgment of conviction and sentence, the accused has filed the present Criminal Appeal before this Court.



CrI.A.No.34 of 2020

3. Learned counsel for the appellant submitted that the prosecution failed to prove its case as projected by them. The appellant is the father of the defacto complainant and there is a civil dispute between the parties. Both the parties are agriculturists and they had agricultural lands. In order to avoid giving share to the appellant, the defacto complainant foisted a false case against him. There is no ingredient of Section 307 IPC made out in this case. Even admitted that there was an occurrence, but as per the wound certificate, it is found that the victim has not sustained any injury on her vital part. It shows that there is no intention for the appellant to take away the life of the victim. Therefore, prosecution has not proved its case beyond reasonable doubt. There is no motive for the offence except the property dispute between the parties. In order to defeat his civil right, the complainant foisted a false case. No witness has spoken about that the appellant attacked the victim with cruel intention to take away life of her. In Wound certificate, it is stated that the all injuries sustained by the victim are below the hip portion. It clearly shows that the appellant had no intension to take away life of the victim and caused injuries. Except P.W.1, all other witnesses were turned hostile. Further, evidence of the medical officer



CrI.A.No.34 of 2020

clearly shows that the injured has taken treatment in the hospital for three days which clearly shows the nature of injuries sustained by the victim.

Initially, the case was registered under Section 326 IPC and subsequently it was altered into Section 307 IPC, and even the F.I.R and AR copy, clearly shows that ingredients of 307 IPC would not stand attracted. Therefore, the Trial Court failed to appreciate the evidence and convicted the appellant for the offence under Section 307 IPC, which warrants interference of this Court.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that though appellant and the defacto complainant are close relatives, they have a civil dispute between them. Defacto complainant is the younger son of the accused and injured is the wife of the accused. The appellant is a drunkard and used to quarrel with his wife and demanded money to consume alcohol. On 15.12.2013 at about 9.30 am, when P.W.1 was watering the corn field, his father demanded money to his mother to consume alcohol and to partition the agricultural lands. His mother replied that she will partition the properties only after the marriage of P.W.1 and his



Crl.A.No.34 of 2020

brother. At that time, accused attacked P.W.2. P.W.1 is the son, who categorically stated that he has seen the occurrence. It is proved that the victim sustained multiple injuries. Therefore, prosecution proved its case through eye witness and medical evidence that the appellant is the one who caused injuries to the victim. P.W.2 is the victim, who is none other than the wife of the appellant. P.W.1 is the eye witness and P.W.2 is the injured witness. From the eye witness and the medical evidence, prosecution proved its case beyond reasonable doubt. Therefore, the Trial Court rightly appreciated the evidence and there is no merit in the Appeal and the appeal is liable to be dismissed.

5. Case of the prosecution is that the appellant and the victim are husband and wife and they have agricultural lands. On 15.12.2013 at about 9.30 am, the appellant demanded money from his wife/P.W.2, to consume alcohol. When P.W.2 refused to give the money, the appellant attacked P.W.2. P.W.1 is the eye witness, he has spoken about the occurrence. P.W.1 made a complaint before the respondent police and the respondent police registered a case against the appellant and investigated the matter and



Crl.A.No.34 of 2020

laid a charge sheet for the offence under Section 326 and 307 IPC.

Thereafter, the Trial Court, after trial, convicted the accused. Aggrieved over the same, the accused has filed the present Criminal Appeal.

6. After framing charges, in order to substantiate the charges, on the side of the prosecution, nine witnesses were examined as P.Ws.1 to 9 and eight documents have been marked as Exs.P1 to P8. Besides, four material objects were also exhibited. P.W.1 is the complainant, who sets the law into motion. Based on his complaint, the respondent police registered the case and investigated the matter and laid a charge sheet. In order to substantiate the complaint given by the defacto complainant, he was examined as P.W.1. He has categorically deposed about the incident. P.W.2 is the victim who clearly spoken about the incident and also the injuries sustained by her. P.W.7 is the Medical Officer who gave treatment to the injured and issued wound certificate Ex.P6.

7. On a perusal of the entire evidence of P.W.1 and P.W.2, the prosecution proved its case beyond reasonable doubt. P.W.1 is the eye



Crl.A.No.34 of 2020

witness and also the complainant and P.W.2 is the injured witness and both of them have clearly spoken about the incident. Medical evidence P.W.7 and wound certificate Ex.B6, clearly proved that the injured P.W.2 sustained multiple injuries. The evidence of P.Ws.1 and 2 clearly proved that the appellant is the one who caused injuries to P.W.2. P.W.1, who is the son of the appellant, no need to give any false evidence against his own father. Therefore, prosecution proved its case. There is no reason to discard the evidence of P.Ws.1 and 2 and also the evidence of P.W.7, medical officer. Evidences of P.Ws.1 and 2 corroborated with the evidence of P.W.7. Though the Appellate Court rightly appreciated the evidence and convicted the appellant under Section 307 IPC., a reading of the entire materials especially, the evidence of P.W.7, doctor and Ex.P6, it is found that all the injuries sustained by P.W.1 are below the hip and no injuries on the vital part. Therefore, this Court finds that the appellant had no intention to attack his wife to take away the life of her.

8. On a reading of the entire materials, while re-appreciating the entire evidence both oral and documentary, this Court finds that the



Crl.A.No.34 of 2020

appellant has not committed any offence under Section 307 IPC and he has not found guilty for the offence under Section 307 IPC. This Court also finds that he found guilty for the offence offence under Section 326 IPC.

9. Since the accused is found guilty for the offence under Section 326 IPC, he is convicted for the offence under Section 326 IPC and sentenced to undergo 5 years Rigorous Imprisonment and to pay fine of Rs.2,000/-, in default to undergo further period of one year Rigorous Imprisonment.

10. In the result, the Criminal Appeal is partly allowed and the conviction and sentence passed by the Trial Court is modified as above. Consequently, connected miscellaneous petition, if any, is closed.

15.09.2022

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Index:yes/No
Internet:yes/No



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CrI.A.No.34 of 2020

To

1. The Fast Track Mahila Judge,
Fast Track Mahila Court,
The Magalir Neethimandram,
Tiruppur.
2. The Public Prosecutor,
High Court,
Madras.



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CrI.A.No.34 of 2020

P.VELMURUGAN, J.

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CrI.A.No.34 of 2020

15.09.2022

10/10