



Crl.A.No.514 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 26..10..2022

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mr. Justice **RMT.TEEKAA RAMAN**

Criminal Appeal No.514 of 2018

Madhesh
Son of Veerabatthirappa

..... Appellant

-Versus-

State Rep. by its
Inspector of Police,
Kelamangalam Police Station,
Krishnagiri District.
[Crime No.297 of 2015]

.... Respondent

Appeal filed under Section 374(2) of the Code of Criminal Procedure, praying to set aside the conviction and sentence imposed on the appellant/sole accused by the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri, by judgement and order dated 30.07.2018 in S.C.No.181 of 2016.

For Appellant : Mr.S.Gajapathi Krishnan
for Mr.H.Raveen Maria Henry

For Respondent : Mr.M.Babu Muthumeeran,
Additional Public Prosecutor



Crl.A.No.514 of 2018

JUDGEMENT

WEB COPY

[Judgement of the Court was made by P.N.PRAKASH.J.,]

The appellant was convicted and sentenced as under by the learned Sessions Court (Mahila – Fast Track), Krishnagiri, Krishnagiri District, in S.C.No.181 of 2016 on 30.07.2018:-

Provision under which convicted	Substantive Sentence and Fine imposed
Section 302 IPC	Sentenced to undergo imprisonment for life and to pay a fine of Rs.1,500/- in default of payment of fine, to undergo simple imprisonment for a further period of six months
Section 201 IPC	Sentenced to undergo rigorous imprisonment for five years and to pay a fine of Rs.1,000/- in default of payment of fine, to undergo rigorous imprisonment for a further period of three months
The aforesaid sentences were ordered to run concurrently.	

Challenging the same, he has preferred the present Criminal Appeal.

2. **The prosecution case runs thus:-** One K.Murthy (P.W.1), the Village Administrative Officer of Panchakshipuram Village in Krishnagiri



Crl.A.No.514 of 2018

District, received an information from the Village President, around 03.00 p.m. on 19.05.2015, stating that a body of a woman is floating in the well located in the land belonging to the family of one Krishna Reddy comprised in S.No.153/14. On getting such information, P.W.1 came to the said place, by which time, people had gathered there. He enquired with the villagers and learnt that the name of the woman was Rajamma. He gave a written complaint (Ex.P.1) to the local police, based on which, Anandakumar (P.W.12), Sub-Inspector of Police, registered a case in Kelamangalam Police Station Crime No.297 of 2015, under Section 174 Cr.P.C. The investigation was taken over by Jaishankar (P.W.14), Inspector of Police, who went to the place of occurrence, removed the body from the well. He prepared an observation mahazar (Ex.P5) and rough sketch (Ex.P11) and recorded the statements of some witnesses. He also conducted inquest and prepared the inquest report (Ex.P.13). Thereafter, the body was sent to the Government Hospital, Dharmapuri, for postmortem.

3. While so, at 06.00 a.m. on 20.05.2015, the appellant is said to have surrendered before K.Murthy (P.W.1), the Village Administrative Officer and



Crl.A.No.514 of 2018

given an extra-judicial confession stating that he had quarrelled with his wife-

Rajamma in the night of 17/18.05.2015, assaulted her with a reaper, dipped her head in a pool of water nearby and after she died, he threw the body into a nearby well. K.Murthy (P.W.1) recorded the statement of the appellant in the form of a special report (Ex.P2) addressed to the Inspector of Police, Kelamangalam Police Station and produced the appellant before Jaishankar (P.W.14), Inspector of Police at 08.00 a.m. on 20.05.2015 along with the report (Ex.P2). Based on the extra judicial confession, the case was altered from one under Section 174 Cr.P.C. to Section 302 IPC, *vide* alteration report (Ex.P.19). Thereafter, Jaishankar (P.W.14), the investigating officer recorded the police confession of the appellant and the admissible portion of the same was marked as Ex.P.12. Based on the disclosure of the appellant, Jaishankar (P.W.14), the investigating officer, seized a reaper (M.O.1), a blood stained full sleeve shirt grey in colour with broad pale yellow stripes and a lungi blue in colour with small checked design under the cover of a mahazar (Ex.P.4) in the presence of K.Murthy (P.W.1), Village Administrative Officer and Muniappa (not examined). Dr.R.Sathish Kumar, Tutor, Department of Forensic Medicine, Dharmapuri Government Hospital and College,



Crl.A.No.514 of 2018

conducted postmortem on the body of Rajamma and issued postmortem certificate (Ex.P7), wherein he has noted 36 lacerated injuries on the body and has given his final opinion as to the case of the death as under:-

“the deceased would appear to have died of shock and haemorrhage due to multiple contusion injuries”

4. After examining various witnesses and collecting the reports of the experts, Jaishankar (P.W.14), the investigating officer completed the investigation and filed a final report in PRC No.36 of 2015 in the court of the Judicial Magistrate, Denkanikottai, u/s 302 and 201 IPC against the appellant.

5. On appearance of the appellant/accused, the provisions of Section 207 of Cr.P.C. were complied with and the case was committed to the Court of Session, Krishnagiri, in S.C.No.181 of 2015 and thereafter, it was made over to the Sessions Judge, Fast Track Mahila Court, Krishnagiri, for trial.

6. The trial court framed charges under Section 302 & 201 IPC against



Crl.A.No.514 of 2018

the appellant containing the following allegations to-wit:-

“The appellant and his wife were working as farm labourers in the farm of a Mohammedan gentleman. On 17.05.2015 around 06.00 p.m. an uncle of the appellant by name Madhesh (son of Ellappan) came to his house and requested the appellant to drop him in Denkanikottai bus stop and since it was raining heavily, the appellant brought him to his house. Madhesh (son of Ellappan) wanted egg omelet and in order to purchase eggs, the appellant was dispatched. When the appellant returned home with eggs, he found Madhesh (son of Ellappan) and his wife on the bed making love. Infuriated at that, the appellant took a reaper and indiscriminately assaulted his wife and dipped her head in a pool of water nearby and caused her death and threw the body into a nearby well located in the land in S.NO.153/14 belonging to the Krishna Reddy's family.”

When questioned, the appellant pleaded not guilty. To prove the case, the prosecution examined 14 witnesses, marked 21 documents and 5 material



Crl.A.No.514 of 2018

objects.

WEB COPY

7. When the appellant was questioned under section 313 of Cr.P.C. on the incriminating circumstances appearing against him, he denied the same. No witness was examined from the side of the accused, but, two documents, namely rough sketch (Ex.D1) and observation mahazar (Ex.D2) were marked on behalf of the defence in the cross examination of Jaishankar (P.W.14), the investigating officer.

8. After considering the evidence brought on record, the trial court, by judgement dated 30.07.2018, convicted the appellant/accused as stated in the first paragraph of this judgement. Challenging the conviction and sentence imposed on him by the trial court, the present appeal has been filed.

9. Heard Mr.S.Gajapathi Krishnan, learned for the appellant/accused and Mr.M.Babu Muthumeeran, learned Additional Public Prosecutor for the respondent/State.



Crl.A.No.514 of 2018

10. Most of the witnesses turned hostile and did not support the prosecution case. Of course, the relatives of the deceased viz., Mallan (P.W.3), the father and Marappan (P.W.4), the elder brother of Rajamma supported the prosecution case, but, they were not eye-witnesses and had come to the village only after getting information about the death of Rajamma. However, in the cross examination of P.W.3, he admitted that his daughter had developed an affair with Madhesh Son of Ellappan and had even eloped with him. Strangely, Madhesh Son of Ellappan, who is said to have been with Rajamma at the time of occurrence was not examined. The prosecution mainly relies on the evidence of K.Murthy (P.W.1), Village Administrative Officer to whom the appellant is said to have given the extra judicial confession. K.Murthy (P.W.1) in his evidence stated that he had not recorded the statement of the appellant separately and had instead, incorporated what the appellant had told him in the special report (Ex.P2), which he had submitted before the investigating officer. It may be pertinent to state here that FIR (Ex.P9) was registered based on the complaint (Ex.P1) of K.Murthy (P.W.1), Village Administrative Officer and investigation had begun on 19.05.2015. In his evidence, K.Murthy (P.W.1) has stated that on



Crl.A.No.514 of 2018

20.05.2015, the appellant appeared before him at 06.00 a.m. in his office and stated the facts set out in the charge above. Strangely, the special report (Ex.P2) does not contain any of the aforesaid facts. Special Report (Ex.P2) simply states that the appellant appeared before him (P.W.1) and stated that on the night of 17/18.05.2015, he had assaulted his wife with the reaper, dipped her in a pool of water and caused her death. But, there is no whisper about the appellant's uncle Madhesh Son of Ellappan in the special report (Ex.P2). Similarly, there is no reference to the appellant throwing the body into the well located in Krishna Reddy family's in the report (Ex.P2). Thus, Special Report (Ex.P2) is merely a letter given by K.Murthy (P.W.1) Village Administrative Officer addressed to Inspector of Police, Kelamangalam Police Station and nothing more. The evidence of K.Murthy (P.W.1) with regard to the extra judicial confession does not inspire us at all.

11. For the foregoing reasons, we find that the prosecution has failed to prove its case and thus, the appellant/accused is entitled for acquittal.

In the result, this Criminal Appeal is allowed. The convictions and



Crl.A.No.514 of 2018

sentences imposed on the appellant/accused by the trial court are set aside and the appellant/accused is acquitted of the charges u/s 302 and 201 IPC.

The bail bond executed by the appellant/accused, shall stand cancelled. The fine amount(s), if any, paid by the appellant/accused, shall be refunded.

[P.N.P., J.] [TKR., J.]
26..10..2022

Index: yes/no
kmk

To

- 1.The Sessions Judge, Fast Track Mahila Court, Krishnagiri,
- 2.The Inspector of Police, Kelamangalam P.S., Krishnagiri District.
- 3.The Public Prosecutor, High Court, Madras.



WEB COPY



Crl.A.No.514 of 2018

P.N.PRAKASH.J.,
AND
RMT. TEEKAA RAMAN.J.,

kmk

Crl.A.No.514 of 2018

26..10..2022