



Crl.A.No.565 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26..10..2022

Coram

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

Criminal Appeal No.565 of 2018

Mayakannan

..... Appellant

-Versus-

The State Rep. by
The Inspector of Police,
Harur Police Station,
Dharmapuri District.
[Crime No.476 of 2014]

.... Respondent

Appeal filed under Section 374(2) of the Code of Criminal Procedure against the judgement and order of conviction and sentence dated 29.11.2016 passed by the learned Additional District and Sessions Judge, Dharmapuri, in S.C.No.35 of 2016, convicting the appellant/accused u/s 302 IPC and sentencing him thereof to undergo imprisonment for life and to pay a fine of Rs.1,000/- in default of payment of fine to undergo rigorous imprisonment for a further period of ten months with a direction that the default sentence will run consecutively.

For Appellant : Mr.M.G.Udaya Shankar

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

JUDGEMENT



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

The appellant was convicted and sentenced as under by the learned Additional Sessions Judge, Dharmapuri, in S.C.No.35 of 2016 on 29.11.2016:-

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.1,000/- in default of payment of fine to undergo rigorous imprisonment for a further period of ten months
(i) The default sentence was ordered to run consecutively.	
(ii) The trial court directed that the default sentence should begin earlier, followed by substantive sentence of imprisonment for life subject to the findings in the appeal.	
(iii) The trial court has also ordered for set off u/s 428 Cr.P.C.	

Challenging the same, the sole accused has preferred the present Criminal Appeal.

2. The prosecution case runs thus:- The deceased Sathya was the



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wife of the appellant. The appellant was addicted to liquor. On 20.07.2014 around 11.30 a.m. the appellant quarreled with this wife and assaulted her. On hearing the hue and cry of Sathya, Parimala (P.W.1), the younger sister, Anusuya (P.W.2), a niece, Vajravel (P.W.3) the elder brother, Manikandan (P.W.6), a cousin, Radhika (P.W.4), Silambarasan (P.W.5), Machammal (P.W.7) and Chitra (P.W.8), the neighbours of Sathya rushed to the rescue of Sathya. However, it is alleged that the appellant pulled Sathya across the road near to the house of Machammal (P.W.7) and stabbed her to death. On a written complaint (Ex.P1) given by Parimala (P.W.1), Ravichandran (P.W.12) Spl. Sub-Inspector of Police, registered a case in Harur Police Station Crime No.476 of 2014 u/s 302 IPC on 20.07.2014 at 12.30 hours and prepared the printed FIR (Ex.P.8). The investigation of the case was taken over by Rajan (P.W.13), Inspector of Police, who went to the place of occurrence and prepared an observation mahazar (Ex.P9) and rough sketch (Ex.P10). He conducted inquest over the body of the deceased and prepared the inquest report (Ex.P11) . Thereafter, Rajan (P.W.12), Inspector of Police, sent the body of Sathya for postmortem.

3. Dr.Saravanakumar performed autopsy on the body of Sathya and



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issued the postmortem certificate (Ex.P7) wherein he has noted stabbed injuries on the body of Sathya and given the final opinion as under:-

“shock and hemorrhage due to stab injury”

4. The appellant was arrested on 20.07.2014 itself and based on his police confession, a knife (M.O.1) was recovered under the cover of a mahazar (Ex.P6) in the presence of Rajendran (P.W.10), Village Administrative Officer, Harur and one Sakkarapani (not examined), Village Assistant.

5. After examining various witnesses and collecting the reports of the experts, Rajan (P.W.13), Inspector of Police, completed the investigation and filed a final report in PRC No.12 of 2015 in the court of the Judicial Magistrate, Harur, against the appellant/accused.

6. On appearance of the appellant, the provisions of Section 207 of Cr.P.C. were complied with and the case was committed to the Court of Session, Villupuram, in S.C.No.35 of 2016 and thereafter, it was made over



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to the Additional Sessions Judge, Dharmapuri, for trial.

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7. The trial court framed a charge under Section 302 IPC against the appellant and when questioned, the appellant pleaded not guilty. To prove the case, the prosecution examined 13 witnesses, marked 16 documents and 7 material objects. 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 nor any document marked.

8. After considering the evidence brought on record, the trial court, by judgement dated 29.11.2016, 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.M.G.Udaya Shankar, learned for the appellant/accused and Mr.M.Babu Muthumeeran, learned Additional Public Prosecutor for the respondent/State.



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10. It is seen that all the eye-witnesses, namely P.W.1 to P.W.8, including the close relatives of Sathya, had turned hostile and they did not support the case of the prosecution. However, what we found was Parimala (P.W.1) and Anusuya (P.W.2) were examined in chief on 22.08.2016. In their examination in chief, they had stated that on hearing the hue and cry raised by Sathya, they went towards her house and outside the house, the appellant stabbed his wife (Sathya). Though P.W.1 and P.W.2 turned hostile in the cross examination on 07.09.2016 and stated that they did not witness the incident at all, yet, in view of Section 154(2) of the Evidence Act, examination in chief could be relied upon for sustaining the conviction. However, we are unable to do so because, both P.W.1 and P.W.2 had shifted the scene of occurrence by stating that the incident had taken place in front of the house of Sathya but, whereas, it is the specific case of the prosecution that the incident had taken place near to the house of Machammal (P.W.7). The observation mahazar (Ex.P9) and rough sketch (Ex.P.10) showed that the incident had taken place near Machammal's (P.W.7) house from where the blood stained soil (M.O.2) and ordinary soil (M.O.3) were recovered under the cover of a mahazar



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(Ex.P12). Therefore, we are unable to place reliance on the chief examination of P.W.1 and P.W.2 for sustaining the conviction. That apart, Machammal (P.W.7) did not support the prosecution case.

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 conviction and sentence imposed on the appellant/accused by the trial court are set aside and the appellant/accused is acquitted of the charge u/s 302 IPC. The bail bond executed by the appellant/accused, shall stand cancelled. The fine amount, 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 Addl. District and Sessions Judge,Dharmapuri, Dharmapuri District.
2. The Inspector of Police, Harur Police Station, Dharmapuri District.
- 3.The Public Prosecutor, High Court, Madras.



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