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Crl.A.No.57 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.A.No.57 of 2020

Sridhar @ Periyakinjaan ... Appellant

Vs

State represented by
The Inspector of Police,
M-5, Vadavalli Police Station,
Coimbatore.
Crime No.230 of 2015.

... Respondent

Prayer: Criminal Appeal filed under Section 374(2) of Code of Criminal Procedure, to set aside the conviction and sentence passed against him by the learned I Additional District Sessions Judge, Special Courts for Bomb Blast Cases (FAC), Coimbatore in S.C.No.87 of 2016 vide Judgment dated 19.01.2017.

For Appellant : No appearance

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.side)

JUDGMENT

This Criminal Appeal is directed as against the Judgment dated 19.01.2017 passed in S.C.No.87 of 2016 on the file of the



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I Additional District Sessions Judge, Special Courts for Bomb Blast Cases (FAC), Coimbatore, thereby convicted the accused for the offence punishable under Section 304 (ii) of IPC.

2. The case of the prosecution is that the accused married the victim and the same was love marriage. However, it was not accepted by the parents of the victim. The accused used to quarrel with the neighbours in a drunken mood. He was also involved in a murder case, due to which, he was arrested and remanded to judicial custody. After coming out from prison, the accused consumed alcohol and went to the house of the defacto complainant i.e, the father of the victim, on 23.07.2015 and he asked for two wheeler from the defacto complainant. Immediately, the defacto complainant called his daughter i.e. the deceased and refused to give the two wheeler. Thereafter, at about 4.00 a.m., the accused went to his house and there was a quarrel with the victim. In the said quarrel, he stabbed her with an iron rod. She sustained grievous injuries and was taken to the hospital by the sister of the accused. There she died.



3. In the complaint lodged by the father of the victim, the respondent registered an FIR in Crime No.230 of 2015 for the offence punishable under Section 302 of IPC. After completion of investigation, the respondent filed a final report and the same has been taken cognizance by the Trial Court in S.C.No.87 of 2016.

4. In order to bring home the charges, the prosecution had examined P.Ws.1 to 16 and marked Exs.P1 to P23. The prosecution had also produced M.Os.1 and 2. On the side of the appellant, no one was examined and no document was marked.

5. On perusal of the oral and documentary evidence, the Trial Court found the appellant guilty for the offence under Section 304(ii) of IPC and sentenced him to undergo seven years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default to undergo three months simple imprisonment. Aggrieved by the same, the present appeal.

6. The grounds raised by the appellant in this appeal is that it is a case of substantiate evidence and there was no eye witness. No witness



had spoken about the presence of the accused in the place of occurrence.

The Investigation Officer, without even conducting proper enquiry, mechanically filed final report. The Trial Court, without considering the facts and circumstances, had also mechanically convicted the appellant for the offence under Section 304(ii) of IPC.

7. Per contra, the learned Government Advocate (Criminal Side) submitted that the father of the victim was examined as P.W.1. He categorically deposed that on 23.07.2015 at midnight about 12.45 hours, the accused came to his house and asked for two wheeler and the accused was under the influence of alcohol. Immediately, P.W.1 called the victim and enquired. The victim stated that if he was under influence of alcohol do not give any two wheeler. Immediately, the accused went out. In the morning, P.W.1 received a phone call that the victim was admitted in the hospital, since, she fell down in the bathroom. When he visited the hospital, she was found in the mortuary. The mother of the deceased was examined as P.W.2. She deposed that the victim fell down in the bath room, there was injury on her stomach and as such, she was admitted in the hospital and died. She was treated as hostile. The



neighbour of the deceased was examined as P.W.3. She categorically deposed that the accused went into the house at about 4.00 a.m. on 24.07.2015, there was a quarrel between the accused and the victim. In the said quarrel, he stabbed the victim by a big needle which is used for stitching jute bag. Therefore, she sustained grievous injuries, since it went in deeply. The sister of the accused, who was examined as P.W.4, also deposed that the victim fell down in the bath room and sustained injury. P.W.4 stated before P.W.7-the Doctor that the victim fell down in the bath room and there was injury.

8. The evidence of P.W.12- the Doctor, who conducted the post mortem, is that the victim sustained deep injury on her stomach (22 c.m x 1 c.m.) She died due to the said injury. That apart, the accused went to his house in an auto. The auto driver was examined as P.W.6, he deposed that the accused went to his house by his auto. He was asked to wait to get money from his wife. Therefore, he waited for 15 minutes and he heard noise from inside of the house, there was a quarrel between the accused and his wife. Thereafter, the accused said that he will pay the auto charge later. Therefore, the prosecution proved its case beyond any doubt.



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9. Admittedly, the accused was under the influence of alcohol, due to which, there was a quarrel between him and his wife and he stabbed her by a big needle. The victim sustained grievous injuries and died. That apart, the accused is already involved in a case of murder, and in total he involved three murder cases. Therefore, the Trial Court rightly convicted the appellant for the offence punishable under Section 304(ii) of IPC and it does not warrant any interference by this Court.

10. In view of the above, this Court finds no infirmity or illegality in the Judgement dated 19.01.2017 passed in S.C.No.87 of 2016 on the file of the I Additional District Sessions Judge, Special Courts for Bomb Blast Cases, Coimbatore. Accordingly, this Criminal Appeal stands dismissed.

24.11.2022

Index : Yes/No
Internet : Yes/No
Speaking/Non Speaking order
Lpp



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WEB COPY To

1. The I Additional District Sessions Judge,
Special Courts for Bomb Blast Cases,
Coimbatore.

2. The Inspector of Police,
M-5, Vadavalli Police Station,
Coimbatore.

3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J,

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