



BAIL SLIP

The Petitioner / Accused viz., Ragunath Male aged 23 years S/o.Ramamurthi was released on bail as per order of this Court dated 30.10.2019 in Crl.M.P.No.12995 of 2019 in Crl.A.594 of 2019 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 24.03.2022
Pronounced on : 05.04.2022

C O R A M

THE HON'BLE MR.JUSTICE R. PONGIAPPAN

Criminal Appeal No.594 of 2019

Ragunath

...Appellant/Sole Accused

-vs-

The State Rep. By
Sub-Inspector of Police,
R-1, Mambalam Police Station (L&O)
T.Nagar, Chennai.
(Crime No.518 of 2017)

...Respondent/Complainant

Criminal Appeal filed under Section 374 (2) of the Code of Criminal Procedure, to set aside the conviction and sentence dated 30.07.2019, passed by the learned Sessions Judge, Mahila Court/Special Court for cases under POCSO Act / Children's Court, Chennai, in S.C.No.270 of 2017.

For Appellant : Mr.K.V.Ramesh

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

J U D G M E N T

The present criminal appeal has been filed by the appellant to set aside the judgment of conviction and sentence dated 30.07.2019 passed by the learned Sessions Judge, Mahila Court/Special Court for cases under POCSO Act / Children's Court, Chennai, in S.C.No.270 of 2017.

2. The appellant herein is the sole accused in the above referred sessions case. He stood charged for the offence punishable under Sections 341, 307 and 506(ii) IPC. By judgment dated 30.07.2019, the learned Sessions Judge, Mahila



Court/Special Court for cases under POCSO Act / Children's Court, Chennai, came to the conclusion that the appellant is found guilty under Sections 341, 307 and 506(i) IPC, convicted and sentenced him as follows:

Offence	Sentence
341 IPC	To pay a fine of Rs.500/-, in default to undergo simple imprisonment for a period of one month
307 IPC	To undergo simple imprisonment for ten years and to pay a fine of Rs.10,000/-, in default to undergo simple imprisonment for six months.
506(i) IPC	To undergo simple imprisonment for one year and to pay a fine of Rs.5,000/-, in default to undergo simple imprisonment for three months.
The trial Court also ordered the sentences to run concurrently.	

Challenging the said conviction and sentence, the accused is before this Court, by way of filing this Criminal Appeal.

3.The case of the prosecution is as follows:

(i) The complainant/injured Suchismita was staying at Lakshmi Ladies Hostel situated at No.22/14, Bagavantham Street, T.Nagar and was working in Ashok Leyland Technical Centre at Manali New Town, Villivayalchavadi, Chennai, as a Development Manager. The accused was also working in the same company as a Contractual Worker. The accused, the complainant and other employees regularly travel in the company bus for reaching their company. The accused had one sided love with the injured Suchismita and offered chocolates to her on his birthday. The injured refused to receive the same. The accused regularly attempted to chat with the injured, but the injured did not respond to the same.

(ii) One day, while at the time, the injured was getting into the bus, the accused proclaimed that she had insulted him in front of everyone and shouted like anything. So, the injured lodged a complaint before her superior officers. After receipt of the said complaint, the accused was sent back to Induja Company, through which he was deputed to the present company. At the end, after seeing the report sent by the Ashok Leyland Company, the Induja Company dismissed the accused from the service. Thereafter, the accused was hunting for job at several places, but, as he could not secure any job, he got more angry against the injured and decided to take revenge by murdering her.

(iii) In order to execute the same, on 22.03.2017, he came to the place of occurrence in a Hero Honda Passion Pro Bike bearing Regn.No.TN03 C 8165 and was waiting for the arrival of



the injured. When at the time, the injured was in the occurrence place, around 6.20am, the accused restrained her and told her that she spoiled his life and by stating so, repeatedly stabbed on her stomach, left hand and attempted to murder her by causing injuries. When the public came to the rescue of the injured, the accused showed the knife and threatened that he would kill them, if they try to catch him.

(iv) On seeing the said incident, PW1 managed herself and returned back to the hostel. Thereafter, she went to the hospital with her friend Saranya in a Auto and got admitted there, wherein PW12-Dr.Jeshija Roy, examined and found the following injuries.

Soft tissue injuries - multiple

- 1) Deep laceration abdomen left - 3 lacerations
 - a) 5 inches long-deep till muscle layer
 - b) 1 inch long laceration just above the (a)
 - c) ½ inch long laceration till muscle
- 2) Left hand just above elbow - ½ inch long upto fatty layer i.e. Muscular injury

Thereafter, the Doctor attached with Apollo Hospital performed four surgeries and ultimately, she was discharged on 24.03.2017 and when at the time, she was taking treatment in the hospital, she lodged a complaint before the police under Ex.P1.

(v) PW13-Ravi, the then Inspector of Police, R1 Mambalam Police Station, on 22.03.2017 received the information in respect to the occurrence from the Apollo Hospital, went there, recorded the statement from PW1. After returning to the police station, he registered a case as against the petitioner in Crime No.518 of 2017 for the offence under Sections 341, 307 and 506 (ii) IPC. The FIR was marked as Ex.P12. He visited the place of occurrence and prepared the rough sketch under Ex.P13. He also prepared the observation mahazar [Ex.P2] in the presence of the witnesses. He enquired the witnesses and recorded their statements.

(vi) On 23.03.2017, PW13 arrested the accused near to T.Nagar and recorded his confession statement in the presence of the witnesses. Based on his confession statement, he recovered the Hero Honda Passion Pro Bike bearing Regn.No.TN03 C 8165. He also seized the M.O.1 to M.O.3, Knife, Baniyan and T-shirt respectively and he made arrangements for sending the accused for remand. He enquired the doctor and obtained the wound certificate [Ex.P11]. Since he was transferred from the said post, he handed over the case records to Tr.Prabhu for further investigation.

(vii) PW14-Tr.Prabhu, the successor of PW13 perused the records and came to the conclusion that the accused is liable to



be convicted under Sections 341, 307 and 506(ii) IPC and he filed a final report, accordingly.

4. Based on the above materials, the trial Court framed charges under Sections 341, 307 and 506(ii) IPC and the accused denied the same as false. Hence, the accused was put on trial. In order to prove their case, on the side of prosecution, PW1 to PW14 were examined and 13 documents were marked as Ex.P1 to Ex.P13, besides six material objects [MO1 to MO6].

(i) Out of the said witnesses, PW1-Suchismita, who is the defacto complainant, spoke about the occurrence as on 22.03.2017 around 6.20am due to previous enmity the accused stabbed on her left forearm just above the elbow once and on the left side of her stomach thrice. She would further state that after managing them with the help of her friend, she was brought to the Apollo Hospital, wherein the doctors performed four surgeries. Further, she lodged a complaint before the police.

(ii) PW2-Saranya, who is the friend of PW1 gave evidence before the trial Court as on 22.03.2017, around 6.20am, PW1 called her and informed that she was assaulted with knife and sought help for going to hospital. Immediately, she and her husband rushed to the hostel, wherein PW1 stayed and after making arrangements for Auto, brought PW1 to the Apollo Hospital and admitted her as an inpatient.

(iii) PW3-Raman, is the eyewitness to the occurrence. He has spoken about the occurrence as on 22.03.2017, around 6.00am, the accused came in a bike and parked the same near to PW1 and later, he heard the hue and cry of PW1 and when at the time, he rushed to the occurrence place, blood was oozing from the stomach of PW1 and at the same time, the accused attempted to runaway from the said place, but, he was secured and produced before the Police.

(iv) PW4-Marimuthu, is also an eyewitness, gave evidence as in the year of 2017, around 6.00am, the present accused after showing the knife, threatened PW1 and at the same time, blood was oozing from the abdomen of PW1.

(v) PW5-Janani, is the co-worker of PW1 in Ashok Leyland, gave evidence as during the time, when both PW1 and accused travelled in the same bus, PW1 complained to her that the accused is pushing her seat from behind, further, the accused regularly misbehaved with her. She also gave evidence that while at the time, the accused tried to give chocolate for his birthday, PW1 refused to accept the same.

(vi) PW6-Sekar, who is the person signed as a witness in the observation mahazar speaks about the preparation of the observation mahazar by the investigation officer.



(vii) PW7-Suresh, working as a HR Manager in Ashok Leyland Technical Centre, speaks about the misbehaviour committed by the accused towards PW1. He has further stated that after the completion of contract period, the accused was directed to return to the company, which sponsored him to his company.

(viii) PW8-Saravanan, spoke about the confession statement given by the accused and about the recovery of knife, blood stained money and T-Shirt M.O.1 to M.O.3 under the cover of Mahazar.

(ix) PW9-Syed Prathos Alam, spoke about the renting of Passion Plus Bike, to the accused.

(x) PW10-Dr.V.Sivapriya and PW11-Dr.K.Nalina, are the Scientific Assistants, spoke about the examination of the following material objects and issuance of reports under Exs.P7 and P8.

1. White colour Thupatta
2. Cream colour Legging
3. Violet colour Tops
4. Black colour folding Knife
5. Light green colour sleeveless Banian
6. Dark green colour T-Shirt

According to them, the blood found in Item Nos.3,5 and 6 are human blood and the blood found in other material objects are integrated.

(xi) PW12-Dr.Jeshija Roy, spoke about the issuance of Accident Register copy, wound certificate and the discharge summary.

(xii) PW13-Ravi and PW14-Prabu are the police officers, gave evidence about the receipt of complaint from PW1, registration of the case, investigation and about the filing of final report.

5. When the above incriminating materials were put to the accused under Section 313 of Cr.P.C., he denied the same as false. However, none were examined on his side as a defence witness and no documents were marked.

6. Having considered all the above, the trial Court convicted and sentenced the accused as stated in paragraph No.2 of this judgment. Aggrieved over the said conviction and sentence, the appellant is before this Court, with this Appeal.

7. I have heard Mr.K.V.Ramesh, learned counsel appearing for the appellant and Mr.Leonard Arul Joseph Selvam, learned Government Advocate (Crl.Side), appearing for the State and also perused the records carefully.



8. The learned counsel for the appellant would contend that the evidence given by the injured / victim girl is having a lot of contradictions. The said evidence given by her is not in accordance with the evidence given by the Doctor, who medically examined her. In respect to the alleged attack except her sole testimony, the eyewitnesses who are all listed in the final report, had not given any valid evidence in support of the case of the prosecution as they saw the occurrence. The evidence given by the Doctor in respect to the nature of injury, is against the opinion given by her in the wound certificate and therefore, the evidence given by the doctor is not having any substantial weight to accept the case of the prosecution. Further in respect to the arrest, the investigation officer in this case had given a contradictory evidence. Furthermore, the injury sustained by PW1 is not likely to cause death and therefore, convicting the accused under Section 307 of IPC is nothing but erroneous one. Accordingly, he prayed to allow the appeal and to set aside the conviction and sentence.

9. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent police would submit that since the sole testimony given by PW1, is in support of the evidence given by the Doctors and others, it would be sufficient to accept the case of the prosecution, as only the accused attempted to kill PW1. According to him, the minor contradictions found in the evidence given by the prosecution witnesses, are not sufficient to disbelieve the case of the prosecution. Accordingly, he prayed to dismiss the appeal.

10. The submissions made by the learned counsel appearing on either side are considered.

11. Before the trial Court, the FIR, which is the earliest document for this case was marked as Ex.P12. Now, on going through the particulars available in the said document, it seems, the alleged occurrence had happened on 22.03.2017 around 6.20 hours and in respect to the same a complaint has been received by the police on the same day around 9.00 hours. Later, the F.I.R has been received by the XVII Metropolitan Magistrate, on 28.03.2017 at 1.00pm. Further, in the said F.I.R, after mentioning the date of receiving F.I.R., as 28.03.2017, the same has been corrected as 22.03.2017, which itself shows that there was some suppression of fact in respect to the receipt of FIR by the learned Magistrate. In fact, after receipt of the said FIR, the seal of the said Court is not affixed and the same also creates a doubt whether the said FIR has been received by the learned Magistrate as stated by PW13, who registered the FIR.

12. Secondly, since the accused herein is convicted for the offence under Section 307 IPC, it would be necessary to see whether the accused had attacked PW1, with intention or knowledge to cause a bodily injury as the accused knew to be



properties, which were marked as material objects were recovered in the presence of the witnesses.

17. Now, on comparing the evidence given by PW3, with the evidence of PW13, the major contradictions in it, would create a doubt at what time, the accused was secured. If the Court believes the evidence given by PW3, the evidence given by the investigation officer goes away. In turn, the recovery of material objects stated by the investigation officer also goes away. In respect to the said contradictions, there is no explanation on the side of the prosecution and the said contradictions also creates a doubt over the case of the prosecution.

18. Accordingly, from the above said discussions, the evidence given by the prosecution witnesses gives rise to following questions:

- i) At what time, the learned Metropolitan Magistrate has received the FIR?
- ii) Whether the injured sustained grievous injury or simple injury?
- iii) Whether the accused was secured, as stated by PW13?

Thus, the above said aspects would create a doubt over the case of the prosecution and the same necessarily goes in favour of the accused.

19. In the result, this Court is of the considered opinion that the prosecution has not proved the guilt of accused beyond reasonable doubt. Accordingly, the appeal is allowed. The conviction and sentence imposed upon the appellant/accused, by the learned Sessions Judge, Mahila Court/Special Court for cases under POCSO Act / Children's Court, Chennai, in S.C.No.270 of 2017 dated 30.07.2019, is set aside. The accused is acquitted of the charges. Bail bond executed, if any, shall stand terminated. Fine amount paid, if any, is directed to be refunded to the appellant.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Sessions Judge,
Mahila Court/Special Court for
cases under POCSO Act / Children's Court,
Chennai.



2.The Metropolitan Magistrate No.XVII,
Saidapet, Chennai.

3.The Chief Metropolitan Magistrate, (for information)
Egmore, Chennai.

4.The Sub-Inspector of Police,
R-1, Mambalam Police Station (L&O)
T.Nagar, Chennai.

5.The Superintendent Central Prison,
Puzhal, Chennai.

6.The Public Prosecutor,
High Court, Madras.

+5ccs to Mr.K.V.Ramesh, Advocate SR. No.23181

Criminal Appeal No.594 of 2019

NRL (CO)
PR (05/04/2022)