



Crl. A(MD)No.469 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH Court

Dated : 18.10.2022

CORAM:

THE HONOURABLE Mrs.JUSTICE J.NISHA BANU

AND

THE HONOURABLE Mr. JUSTICE N.ANAND VENKATESH

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Kavitha

.. Appellant/Prosecution
Witness No.2

Vs.

1.The State rep by
The Inspector of Police,
Oddanchathram Police Station,
Dindigul District.
(Crime No.570 of 2010)

.. Respondent/Complainant

2.Packialakshmi

.. Respondent/Sole Accused

Appeal filed under Section 372 of Criminal Procedure Code, to allow the above appeal and consequently, set aside the order of acquittal in respect of the accused in relation to the offence U/S 302 IPC by means of a judgment dated 24.07.2019 passed by the learned Additional District



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WEB COURT Sessions Judge, Palani, Dindigul District made in S.C.No.100 of 2018 forthwith.

For Appellant	: Mr.S.Palanivelautham
For R1	: Mr.A.Thiruvadikumar
	Additional Public Prosecutor
For R2	: Mr.D.Venkatesh

JUDGMENT

J.NISHA BANU
AND
N.ANAND VENKATESH

This appeal has been filed against the judgment and order passed by the learned Additional District and Sessions Court, Palani, Dindigul, in S.C.No.100 of 2018, dated 24.07.2019, acquitting the accused person from the charge under Section 302 of IPC.

2.The case of the prosecution is that the accused was the daughter-in-law of the deceased and there was a property dispute regarding partitioning property of the deceased. On 07.09.2010 at about 10.00 p.m., there was a wordy quarrel and the accused is said to have attacked the deceased with a stick (M.O.1) on the head of the deceased and the deceased died on the spot.



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3.After the completion of the investigation, a final report came to be filed and the Court below framed charge against the accused person for an offence under Section 302 of IPC. The prosecution examined P.W.1 to P.W.13 and marked Ex.P.1 to Ex.P.14 and C.1 to C.5 and also identified and marked M.O.1 to M.O.9.

4.The Court below, on considering the facts and circumstances of the case and after appreciating the evidence available on record, came to a conclusion that the prosecution failed to prove the charge against the accused beyond reasonable doubt and accordingly, the accused was acquitted from the charge. Aggrieved by the same, the daughter of the deceased (P.W.2) has filed this appeal.

5.Heard Mr.S.Palanivelautham, learned counsel appearing for the appellant, Mr.A.Thiruvadikumar, learned Additional Public Prosecutor appearing for the first respondent and Mr.D.Venkatesh, learned counsel appearing for the second respondent.



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6.The Court below took into consideration the evidence of P.W.1, who was examined as an eye witness and the version of the eye witness was that the deceased was hit with a stick (M.O.1) in the head and he died on the spot. However, P.W.8, who was the doctor, who conducted the postmortem and through whom the postmortem certificate was marked as Ex.P.7, has stated that the head of the deceased was crushed and the brain was also crushed and it was seen outside. He opined that such an injury can never be caused by M.O.1 and such kind of injury is possible only when a big stone is thrown on someone's head. The Court below took into consideration the photographs marked as M.O.2 where it was noticed that the face and the head of the deceased was totally crushed and there were multiple fractures on the skull bone. Hence, the Court below came to a conclusion that only if there are repetitive blows inflicted on the head, such injuries are possible and the case of the prosecution is as if the death was caused by a single blow given with M.O.1, is completely unsustainable and unbelievable.

7.This Court does not find any glaring infirmity in the appraisal of the evidence and there is no perversity or arbitrariness in the judgment passed



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by the Court below. The Court below has given a possible view for acquitting the accused person and the same can never be reversed in an appeal filed against the acquittal. The law on this issue is too well-settled and the usefull reference can be made to the judgment of the Hon'ble Apex Court in the case of ***N.Vijayakumar-vs-State of Tamil Nadu***, reported in ***2021(1) MWN(CR)62***.

8.In the result, this Criminal Appeal stands dismissed.

[J.N.B., J.] & [N.A.V., J.]
18.10.2022

Index : Yes/No

Internet : Yes

Ns

To

1.The Additional District Sessions Judge,
Palani,
Dindigul District.

2.The Inspector of Police,
Oddanchathram Police Station,
Dindigul District.

3.The Record Keeper,
Vernacular Records Section,
Madurai Bench of Madras High Court,
Madurai.



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**J.NISHA BANU, J
AND
N.ANAND VENKATESH, J**

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Judgment made in
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18.10.2022