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Crl.A.No.631 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.07.2023

Coram :

**THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA
KURUP**

Crl. Appeal No. 631 of 2016

Seenu @ Srinivasan

.. Appellant

vs

State Rep by
The Inspector of Police,
J3 Guindy Police Station,
L & O, Chennai-32
Crime No.967/2013

.. Respondent

Criminal Appeal filed under Section 374 (2) Cr.P.C to set aside the judgment of the learned District and Sessions Judge, Mahalir Neethimandram, Chennai in S.C.No.6 of 2014 dated 18.03.2016.

For Appellant	..	Mr.N.Baskaran
For Respondent	..	Mr.V.Meganathan Govt. Advocate (Crl. side)

JUDGMENT

This Criminal appeal has been filed to set aside the judgment of the learned District and Sessions Judge, Mahalir Neethimandram, Chennai in S.C.No.6 of 2014 dated 18.03.2016.

2.Brief facts of the case which are necessary for appreciation of the decision of the case:



2.1. The Accused in this case is the husband of the victim/P.W-1.

As per the prosecution case, the Accused/Appellant was a temporary Jockey at the Madras Race Course at Guindy. Prior to the occurrence date, they became acquainted as they are working in Guindy. Victim/P.W-1 was working in an Export Company at Guindy. In the course of their meetings in and around Guindy, they became acquainted; later became friends and then lovers. In the course of that regular contact, after becoming lovers they got married. After the marriage both of them went to Ooty, where the Accused worked as a race Jockey where there were frequent quarrel between them. The Accused was in the habit of consuming alcohol. After consuming alcohol and on coming back home picked up quarrel with the victim/P.W-1 suspecting her fidelity. Later on, they shifted back to Chennai. After coming down to Chennai, the Accused did not go for work. He consumed alcohol and picked up quarrel often suspecting the fidelity of the wife. On one such occasion, she left her matrimonial home to her parent's home. After one and half months the Accused went to the parent's house consoled P.W-1 and brought her back to the matrimonial home. After one and a half months, on 27.08.2013 when the prosecutrix, P.W-1 was at home, the Accused came home drunk and picked up the quarrel. P.W-1 was in the kitchen cooking food. He closed the entrance door of the house and picked up a kitchen knife



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and attacked her on the hand. She evaded the attack using both her arms. By then, the Accused pushed her to the ground using his leg and pulled her leg so that she lost her balance and fell on the floor. At that time, the Accused sat on her and started attacking her yelling that he will finish her off. She cried for help and hearing her cries, the neighbours viz., Ramya-P.W-2, Jaya -P.W-3 and Sorna Latha-P.W-4 rushed to her house. By the time the Accused ran away, seeing the neighbours rushing towards him. P.W-1 was bleeding from both hands. The neighbours called 108 Ambulance Service and took the victim/P.W-1 along with her elder sister Anitha-P.W-7 to Royapettah Government Hospital, Chennai. From the hospital bed only P.W-1 had given complaint under Ex.P-1. The complaint under Ex.P-1 was recorded by the Police Officials from the hospital bed. The weapon/knife used for the attack was marked as M.O.1 which was damaged, broken in the course of that attack. David, P.W-5 is the younger brother of the victim. Dr.Sathish kumar, P.W-11 had admitted P.W-1 on 27.08.2013 and noted the injuries suffered by the victim and issued Ex.P6-wound certificate. P.W-12 Dr.Sridevi had treated the injured P.W-1/victim and issued discharge certificate and gave the opinion that the injury suffered by her under Ex.P-6 is a grievous injury and issued discharge summary under Ex.P-7. P.W-13 the then Sub-Inspector of Police had visited the victim at Royapettah Government Hospital and



recorded the statement. The statement given by the victim from the hospital bed was reduced in writing by her younger brother David, P.W-5. On coming back to the Police Station, P.W-13 had registered FIR under Ex.P-8 in Crime No.967 of 2013 for the offences under Sections 341, 324 and 307 I.P.C. P.W-13 had sent the original FIR to the learned IX Metropolitan Magistrate, Saidapet, Chennai and copies of the same to higher Officials. He had visited the house of the victim and prepared Observation Mahazar under Ex.P-2 and Rough Sketch under Ex.P-9 in the presence of witnesses. Also P.W-13 arrested the Accused and obtained the confession statement in the presence of the witness. Based on the confession, the weapon M.O-1 was recovered in the presence of witness Murugan P.W-9. The admitted portion of the confession statement leading to the recovery of the weapon under Seizure Mahazar, Ex.P-4, also prepared by P.W-13. He had recorded the statement of the witnesses/neighbours viz., Ramya-P.W-2, Jaya-P.W-3, Swarna Latha-P.W-4, David-P.W-5, Karpagam- P.W-6, Anitha- P.W-7 who came to rescue of the injured victim P.W-1. Observation Mahazar-Ex.P-2 witness P.W-8, on confession statement the witness P.W-9, Confession statement under Ex.P-3, seizure Mahazar under Ex.P-4, Rough Sketch under Ex.P-9. On completion of the investigation, he laid the final report in the Court of the learned IX Metropolitan Magistrate, Saidapet, Chennai.



3. On taking cognizance of the final report, the learned IX Metropolitan Magistrate issued summons to the Accused. On the appearance of the Accused, copies were furnished under Section 207 Cr.P.C. As the case was triable by the Court of Sessions, the case was taken on file as P.R.C.No.119 of 2013 and the Accused was committed to Court of Sessions.

4. On appearance of the Accused before the Court of Sessions, the learned Principal Sessions Judge, Chennai, had taken cognizance of the offence under Sections 498 A, 341 & 307 IPC and taken the case on file as S.C.No.6 of 2014 and made over the case to the Court of the learned Sessions Judge, Fast Track Mahila Court, Chennai.

5. The learned Sessions Judge, Fast Track Mahila Court, Chennai had, on appearance of the Accused, after hearing the arguments of the learned Public Prosecutor and the learned Counsel for the defence, had framed charges under Sections 498 A, 341 & 307 IPC. The Accused denied the charges and claimed to be on trial. Thereafter, during the trial, the prosecution examined the witnesses as P.W-1 to P.W-13 and marked Exhibits as P-1 to P-9 and Material Objects M.O-1 to 3.



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6. On appreciation of evidence, the learned Sessions Judge, Fast Track Mahila Court, Chennai had convicted the Accused for the offence under Sections 341 and 307 IPC and sentenced the Accused to undergo Simple Imprisonment for one month under Section 341 IPC and seven years Rigorous Imprisonment under Section 307 IPC and to pay a fine of Rs.10,000/- in default to undergo six months Simple Imprisonment. The Accused was acquitted of the offence under Section 498 A IPC.

7. Aggrieved by the judgment of conviction and sentence of imprisonment imposed on the Accused, the Accused had preferred this appeal contending among other grounds that the judgment of conviction recorded by the learned Sessions Judge, Fast Track Mahila Court, Chennai is perverse and is to be set aside. The learned Judge failed to consider the defence of the Accused and the evidence of the prosecution witnesses in Cross examination. The Accused was not granted the advantage of the benefit of doubt. Therefore, the confession recorded by the learned Sessions Judge, Fast Track Mahila Court, Chennai, is to be set aside.

8. This Court had, through the learned Government Advocate (Crl. Side), sought status report from the Station House Officer of the Guindy



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Police Station. Also, a direction was issued to the Station House Officer of the Guindy Police Station to record the statement of P.W-1 and the status report was produced by the Station House Officer, Guindy Police Station through the learned Government Advocate (Crl. Side). As per the status report filed by the Station House Officer, Guindy Police Station, the victim/P.W-1 had suffered disfigurement on her right hand. She is unable to use her right hand as an ordinary person. As per the evidence before the trial Court when the Appellant/Accused attacked her using a kitchen knife with an intention to cause death, she cried for help. The neighbours rushed to her rescue. Also, the victim/P.W-1 waded off the attack by using both her hands. The attack of the Accused resulted in damage to the knife which was marked before the trial Court as M.O-1. The maximum attack was on the right hand causing disfiguration of the right hand. The trial Court had not framed alternate charge. Had there been alternate charge, the Accused could have been sentenced for the offence under Section 326 of IPC. Considering the injury/disfigurement on the right hand the P.W-1 as victim of crime is entitled to compensation.

9. On perusal of the judgment of the learned trial Judge, it is found that the Accused was convicted for the offence under Section 307 IPC and



sentenced to undergo the Simple Imprisonment for seven years and a fine of Rs.10,000/-. Now, in appeal, this Court under the provisions of the Victim Compensation Act, directs the Legal Services Authority to consider payment of compensation to the victim herein who was attacked by the Appellant herein. During the course of the trial, the Court recorded the disfigurement suffered on the right hand by the victim/P.W-1, when the Accused attacked her with kitchen knife. Therefore, the right hand is ineffective and cannot be used as that of a normal healthy ordinary human being by P.W-1 due to the attack by the Accused.

10. In the light of the above discussion, the Inspector of Police, Guindy Police Station, produced the victim before the Legal Services Authority also the Inspector of Police shall furnish the CD file for perusal of the learned Judge of the Legal Services Authority for deciding the compensation amount under the Compensation Scheme for women victims/Survivors of Sexual Assault/other Crimes-2018 and creation of Victim Compensation Fund as per G.O.(Ms).No.1591 dated 24.09.2018. The Legal Services Authority, Chennai, attached to City Civil Court is directed to consider payment of not less than Rs.2,00,000/- to the victim who had suffered the physical disability due to the attack of the Accused.



11. The officials of the Legal Services Authority attached to the City Civil Court, shall consider the higher side of the Compensation and dispose of the case within a period of three months from the date of receipt of the copy of this order. The Inspector of Police, Guindy Police Station, shall serve summons to the victim (Parimala) and direct her to appear before the Legal Services Authority attached to the learned Principal Judge, City Civil Court to attend the enquiry. The Legal Services Authority shall issue summons to the victim in S.C.No. 6 of 2014 through the Inspector of Police and material particulars may be summoned either from the Public Prosecutor's Office attached to this Court or from the Inspector of Police, Guindy, in S.C.No.6 of 2014. The case may be disposed of within a reasonable period of three months. The learned Sessions Judge, Fast Track Mahila Court, Chennai, is directed to release the Accused on probation through the Regional Probation Officer. Considering the special circumstances, the charges framed under conviction of the Accused under Section 307 IPC is altered to one under Section 326 IPC, even though the trial Court had not framed charges under Section 326 IPC as an alternate charge. The period already undergone by the Accused is sufficient to meet the ends of justice. Further, the appellant/Accused is directed to be released on Probation of Offenders Act to execute a bond for a sum of Rs.10,000/- to the satisfaction of the learned



Sessions Judge, Fast Track Mahila Court, Chennai, he shall be on probation for further period of three years. If there is any violation of condition, he has to undergo the remaining period of the sentence as per the judgment of conviction recorded by the learned Sessions Judge, Fast Track Mahila Court, Chennai in S.C.No.6 of 2014. The Regional Probation Officer shall supervise the Accused for a period of three years as per the Probation of Offenders Act, after getting appropriate bond executed before the learned Sessions Judge, Fast Track Mahila Court, Chennai, in Crime No.967 of 2013 in S.C.No.6 of 2014. The Inspector of Police, Guindy also shall interact with the Regional Probation Officer regarding this Appellant/Accused.

12. If the Appellant/Accused fails to maintain good conduct, good behaviour during the period of probation, he is warned that he has to undergo the remaining period of sentence as per the judgment of the learned Sessions Judge, Fast Track Mahila Court, Chennai.

13. With the above direction, this Criminal Appeal is partly allowed.

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vsn

Index : Yes/No



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Internet : Yes/No
Speaking Order/Non-speaking Order

To

- 1.The IX Metropolitan Magistrate,
Saidapet, Chennai.
- 2.The Inspector of Police,
J3 Guindy Police Station,
L & O, Chennai-32



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SATHI KUMAR SUKUMARA KURUP, J.

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