



Crl.A.No.35



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 24.08.2023

Delivered on: 12.12.2023

CORAM:

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
and
THE HON'BLE MR.JUSTICE K.KUMARESH BABU**

**Crl.A.No.350 of 2019
and Crl.MP.No.7909 of 2019**

Saravanan

...Appellant

VS.

State represented by
Inspector of Police,
F-5, Choolaimedu Police Station, Chennai
(Crime No.1516 of 2014)

...Respondent

Prayer: Criminal Appeal filed under Section 374 (2) Cr.P.C., against the Conviction and Sentence passed by the Court of XVIII Additional Session Judge, Chennai by Judgment dated 27.08.2015, made in S.C.No.82 of 2015, convicting the appellant/sole accused herein, to undergo rigorous imprisonment for life and to pay a fine of Rs.10,000/- under Sections 302 of I.P.C in default to undergo simple imprisonment for a term of one year.

For Appellant : Mr.K.Shanker

For Respondent : Mr.R.Muniyapparaj
Additional Public Prosecutor
Assisted by Mr.M.Sylvester John



J U D G M E N T

WEB COPY (Judgment of the Court was delivered by K.KUMARESH BABU)

This Criminal Appeal had been preferred challenging the conviction & sentence imposed on the appellant, who is the sole accused.

2.The brief facts of the case are that the accused had indiscriminately attacked his father with a sharp kitchen equipment fastened with a wooden piece and caused the death of his father. The case of the prosecution is that the accused being the youngest son had remained unmarried and had been often picking up quarrel with the father to get him married and he is also a drunkard. On the fateful day at about 11.00 P.M., the appellant/accused had indiscriminately attacked the deceased with M.O.1 and caused severe injuries which included slitting the throat and severing the genitals of the deceased. The prosecution had examined about 17 witnesses and marked 19 documents and 5 material objects. The Court below after considering the evidences placed before it had found the appellant/accused guilty for the offence punishable under Section 302 I.P.C. and had imposed a punishment of an imprisonment of life and a fine of Rs.10,000/- and on failure to pay the fine to undergo a simple imprisonment for a term of one year.



WEB COPY

3.Heard Mr.K.Shanker, learned counsel for the appellant and Mr.R.Muniyapparaj, learned Additional Public Prosecutor for the respondent assisted by M.Sylvester John.

4.Mr.K.Shanker, learned counsel appearing for the appellant would submit that the witnesses paraded by the prosecution were all inimical to the appellant/accused. He would submit that P.W.1 is the elder brother, P.W.3 is the sister and P.W.2 is the uncle of the appellant. P.W.4 & P.W.5 were the tenants under the father and P.W.6 is a neighbour. The other witnesses had only deposed on their hearsay and are witnesses who had evidence of the arrest and a Mahazar witness. He would further contend that the witnesses even though claimed to have witnessed the incident, had not taken any effective steps either to prevent the appellant from committing the offence or they have not taken any steps to take the victim to the hospital for treatment. He would submit that P.W.1 & P.W.3 are the son and the daughter of the victim and their inaction of trying to take the victim to the hospital for treatment would itself suggest that they could not be present at the scene of occurrence and their evidences should not be believed and the benefit of doubt ought to have been given to the appellant/accused.



WEB COPY

5.He would further submit that the appellant being the son of the victim would have no motive/mens rea to treat the father as alleged by the prosecution. He would further submit that even assuming that the circumstantial evidence leads to the appellant being doubted to have committed the said offence in view of the relationship between the appellant and the deceased, no motive could have been attributed as claimed by the witnesses and it could only be a knee jerk reaction which had resulted in the incident and therefore utmost the appellant could be punished for an offence punishable under Section 304 part ii. He would submit that these aspects were not considered by the Court below & the Court below has mechanically found the appellant guilty of an offence punishable under Section 302 and had imposed a punishment and therefore, he would seek interference of this Court of the conviction & sentence imposed upon the appellant/accused.

6.Countering his arguments, Mr.Muniyapparaj, learned Additional Public Prosecutor would submit that the witnesses particularly, P.W.1, P.W.2, P.W.3 & P.W.6 had in clear & categorical terms had spoken about the overt act of the appellant which has not been dislodged by the defence during the cross-examination of the said witnesses. He would further submit that P.W.4 & P.W.5 who are the tenants in the property had clearly spoken that when they come out



WEB COPY

on hearing the scream the appellant had rushed out of the house & their evidence have also not been dislodged by the defence. He would also strongly rely upon the confession statement of the appellant/accused which had been marked as Ex.P16 and had been spoken to by P.W.8 who had witnessed such a confession statement. He would submit that the confession statement spoken corroborated with the evidence of the various witnesses who had witnessed the incident. Therefore, he would submit that the prosecution had proved the guilt beyond any reasonable doubt and therefore no interference is required to be made on the conviction & sentence passed by the Court below.

7.We have considered the rival submissions made by the respective counsel appearing on either side and we have perused the materials available on record.

8.It is an unfortunate case where the son had caused the death of his father. It is an admitted case that the father and the son viz., the deceased and the accused had been living together, as the wife of the deceased had died and the accused remained unmarried. The witnesses, particularly, P.W.1 to P.W.3 had specifically spoken about the ill temperament of the appellant/accused against the deceased for the reason that he remained unmarried as no steps was taken by the deceased. This statement made by them during their chief as rightly pointed out by the learned Additional Public Prosecutor had not been dislodged by the



defence.

WEB COPY

9. Further the injuries that had been noted during the post mortem would suggest that the incident could not have occurred on a sudden provocation. The appellant/accused seems to have indiscriminately attacked the deceased and had slit his throat and thereafter had severed the genital of the deceased. This cannot be a knee jerk reaction as claimed by the learned counsel for the appellant which would only draw us to the conclusion that the appellant had committed an offence with an intention to cause death and which is supported with motive as spoken to by P.W.1 to P.W.3.

10. In view of the aforesaid findings & reasonings, we do not find any infirmity in the conclusion that had been arrived at by the Court below in finding that the appellant is guilty of an offence punishable under Section 302 and also the sentence that had been imposed on the appellant/accused.

11. In fine, the Criminal Appeal is dismissed. Consequently, the connected miscellaneous petition is closed.

(R.S.K.,J.) (K.B.,J.)
12.12.2023

Index: yes/no
Speaking order: yes/no
pam



CrI.A.No.35



To
WEB COPY

- 1.The XVIII Additional Session Judge,
Chennai.
- 2.The Public Prosecutor,
High Court of Madras, Chennai – 104.
- 3.The Inspector of Police,
F-5, Choolaimedu Police Station, Chennai.
(Crime No.1516 of 2014)



WEB COPY

Crl.A.No.35



R.SURESH KUMAR, J.
and
K.KUMARESH BABU, J.

Pam

**Pre-delivery judgment in
Crl.A.No.350 of 2019**

12.12.2023