



Crl.A(MD)No.81 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 31.01.2023

CORAM

**THE HON'BLE DR JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE SUNDER MOHAN**

Crl.A(MD)No.81 of 2020

Karthigasamy

.. Appellant/Sole Accused

Vs.

**State rep by
The Inspector of Police,
Kennikarai Police Station,
Ramanathapuram.
Cr.No.10 of 2018**

.. Respondent/Complainant

**Appeal filed under Section 374(2) of the Code of Criminal Procedure,
to set aside the judgment and conviction dated 09.12.2019 by the learned
Fast Track Mahila Court (Additional District Judge), Ramanathapuram, in
S.C.No.124 of 2018 and acquit the appellant.**

For Appellant	:Mr.R.Senthil Kumar
For Respondent	:Mr.A.Thiruvadikumar Additional Public Prosecutor



Crl.A(MD)No.81 of 2020

JUDGMENT

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DR G.JAYACHANDRAN,J.
and
SUNDER MOHAN,J.

The appeal against conviction preferred by the sole accused, being aggrieved by the reasoning given by the trial Court for holding him guilty for the offences under Sections 302, 329 and 309 IPC.

2.The brief facts of the prosecution is that the accused Karthigasamy, who is a coolie worker under P.W.4-Nagasundaram, suspecting his wife Meenakshi her illicit affair with P.W.4. On 19.01.2018, at night, he questioned his wife about the affair and she denied the allegation and also threatened the accused that she will do away with the help of Nagasundaram. He decided to kill his wife and Nagasundaram and as a consequence, on the next day ie., on 21.01.2018 early morning at 05.00 a.m., the accused attacked his wife and cut her right hand. Thereafter, gentle search of Nagasundaram, who usually used come to the tea shop by 06.30 a.m. When Nagasundaram along with his employee Joseph-P.W.9 was in



the tea shop, the accused Karthigasamy attacked Nagasundaram and caused cut injury. Thereafter, he went into the house and brutally attacked his wife inculpate causing death and not stopping with that the said Karthigasamy caused self inflicted injury on him by stabbing in his stomach and head. According to the prosecution, one Sathiyendran-P.W.7, driver of Nagasundaram, informed Murugan-P.W.1, the brother of the deceased, about the incident. Thereafter, Murugan came to the house of his sister and found his sister in a pool of blood and the brother-in-law lying fainted with his injuries. Before visiting the sister's house, Murugan-P.W.1 has called another brother Moorthy-P.W.6 to accompany him and P.W.6 was also present.

3.Both Meenakshi and Karthigasamy were taken to the hospital, wherein Meenakshi was declared dead and Karthigasamy was treated as an inpatient. Based on the complaint given by Murugan-P.W.1, marked as Ex.P. 1, FIR was registered in Crime No.10 of 2018 and the said Karthigasamy was arrested. Based on his confession statement, it is alleged that the material objects particularly, the weapon used and blood stained clothes were recovered from the place identified by the accused. The admissible portion of the confession statement is marked as Ex.P.16. Based on the



Crl.A(MD)No.81 of 2020

confession statement and the investigation, the Investigating Officer had thought it fit that it is a case of murder, attempt to murder as well as an attempt to suicide. Accordingly, a final report was filed. Based on the final report, the Fast Track Mahila Court, (Additional District Judge), Ramanathapuram, framed the charges under Sections 302, 324, 309 and 506(ii) IPC.

4.To prove the charges, the prosecution has examined 20 witnesses, 22 exhibits and 11 material objects were marked. On behalf of the accused, no evidence either oral or documentary was filed.

5.After appreciating the evidence, the Trial Court has found that the accused is guilty of the offence punishable under Section 302 IPC and sentenced him to undergo life imprisonment and to pay a fine of Rs.1,000/- and in default to undergo 3 months simple imprisonment and for the offence under Section 324 IPC, sentenced to undergo 3 years rigorous imprisonment and for the offence under Section 309 IPC and sentenced to undergo 1 year rigorous imprisonment and the period of substantial sentences were ordered to run concurrently.



Crl.A(MD)No.81 of 2020

6.The learned counsel appearing for the appellant submitted that the alleged recovery of material objects based on the confession statement is an unbelievable story invented by the prosecution to save the real assailant. According to the learned counsel, the prosecution witnesses have clearly stated that the accused was found unconscious in a pool of blood besides his slain wife Meenakshi inside his house. The accused was not conscious when P.W.1 and P.W.6 went to the house. Whileso after nearly 8 days of the occurrence, the prosecution has come out with the theory that the accused gave a confession statement voluntarily and identified the weapon and the blood stained clothes concealed behind the house near Juliflora (Seemai karuvelam) bush, which is a highly improbable, even according to the prosecution version found in FIR.

7.That apart, the learned counsel would submit that the complaint given by P.W.1 based on the information given by one Sathiyendran, who is none other than the employee under P.W.4 is highly doubtful. It is alleged that P.W.1 has seen the occurrence along with P.W.9, who is also other employee under P.W.4. They are interested witnesses to save their master and therefore, they have distorted the true fact.



Crl.A(MD)No.81 of 2020

8.The Investigation Officer has not conducted the investigation properly. P.W.4 in his cross-examination admits that he was one of the suspect in this case, since the occurrence has happened near the tea shop and both P.W.4 as well as the accused sustained injuries as per the Accident Registrar, which is marked as Exs.P.21. While so, the bounden duty of the investigation is to explain as to how the accused had sustained grievous injuries and found unconscious inside his house. In a casual manner the Investigating Officer attribute the grievous multiple injuries found on the accused as self inflicted injuries and has exonerated P.W.4, who appears to have sustained simple injury in his little finger.

9.The learned Additional public Prosecutor appearing on behalf of the State, in response to this submission, submitted that the occurrence has taken place in a public place, which has been witnessed by P.W.9 and the injury caused by the accused, spoken by P.W.4, who was an injured witness. The sequence of event being spoken by P.W.4. The accused after causing injuries to the his wife, came out from his house and attacked Nagasundaram(P.W.4) and caused self inflicted injury to himself. Thereafter, he went into his house to attack his wife and caused further



Crl.A(MD)No.81 of 2020

injuries to her, leading to her death. His attack is being spoken by P.W.4 and P.W.9, which is also reflected in Ex.P.1-complaint. As far as the injuries found on the accused, no explanation is given by the accused either by letting in witness or when he was questioned under 313 Cr.P.C.

10..This Court has given its anxious consideration to the rival submissions.

11.The specific case of the prosecution is that the accused killed his wife Meenakshi @ Chinna Ponnu suspecting illicit intimacy with P.W.4 Nagasundaram. The medical evidence Ex.P.4-Accident Registrar for the deceased issued by P.W.8 indicates that Meenakshi @ Chinna Ponnu was brought dead to the headquarters hospital, Ramanathapuram on 20.01.2018 at about 09.30 a.m. Ex.P.21-Accident Registrar, issued to the accused Karthigasamy, indicates that he was brought to the hospital in a semiconscious stage by one Babu. The said Babu was not examined by the prosecution. As per the wound certificate, Karthigasamy, the accused has sustained injuries caused by known person near Karikuttam Bus Stand. The accused has sustained three stab injuries in abdomen and two head



Crl.A(MD)No.81 of 2020

injuries(skull opened) and had also sustained multiple abrasions over body.

He was discharged from the hospital only on 07.02.2018.

12.Reverting to the ocular evidence of P.W.1-the complainant, on hearing the news through Sathiyendran and P.W.6, gone to the house of his sister and found that the said Karthigasamy holding an aruval in his hand and lying on his back, in a pool of blood and he was unconscious.

13.The prosecution has miserably failed to explain how the said aruval, which was found in the hands of the deceased, who was lying unconscious, was recovered after 7 days from the Karuvelam bush behind the house of the accused. As far as the injuries found on the accused is concerned, the accused has not explained, though he had opportunity to explain. But failure to explain such grievous injuries found on the accused will not take away the responsibility of the prosecution/investigation. The Doctor, who has given wound certificate-Ex.P.22, examined as P.W.8 to suggest that the injury might have been self inflicted injury.



Crl.A(MD)No.81 of 2020

14.However, this Court, on perusing Ex.P.22, find that 5 grievous injuries found on the body of Karthigasamy, 3 stab injuries on his stomach and 2 cut injuries on his head. The skull found opened. This indicates that a person, if he had stabbed himself in the stomach, thereafter cutting forcibly causing injuries to his skull pr even vice-versa is not possible. In this regard, the Trial Court has taken note of the facts that the Serological Report indicating the presence of the human blood group 'AB', which belongs to the accused and the confession statement of the accused disclosing the reason for causing death of his wife and an attempt to commit suicide. This Court finds that such believe, without proper evidence, is incorrect. Much reliance has been given to the inadmissible portion of the confession by the accused.

15.Since the conclusion of the Trial Court is perverse and contrary to the evidence, more particularly, reliance on the confession statement is alleged to have been given 17 days after the occurrence, that too after the accused got discharged from the hospital for the injuries sustained. This is unbelievable in view of the illogical recovery of material objects, this requires reconsideration of the Trial Court verdict.



Crl.A(MD)No.81 of 2020

16.Hence, extending the benefit of doubt to the accused, the appeal is allowed.

17.In the result, the judgment of the Court below in S.C.No.124 of 2018 dated 09.12.2019 is hereby set aside. The bail bond executed if any by the accused person shall stand cancelled and the fine amount, if any, paid by him shall be refunded to him. This Criminal Appeal is accordingly allowed.

(G.J.,J.) (S.M.,J.)
31.01.2023

NCC:Yes/No

Index:Yes/No

Internet:Yes/No

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To

1.The Fast Track Mahila Court
(Additional District Judge),
Ramanathapuram.

2.The Inspector of Police,
Kennikarai Police Station,
Ramanathapuram.



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