



Crl. A(MD)No.52 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 05.01.2023

CORAM:

**THE HONOURABLE Mr.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**

Crl. A(MD)No.52 of 2021

Satheeswaran @ Satheesh

: Appellant

Vs.

State represent through the
Inspector of Police
Allinagaram Police Station,
Theni District.
(Crime No.194 of 2015)

: Respondent

PRAYER: Criminal Appeal is filed under Section 374 (2) of the Code of Criminal Procedure, against the judgment dated 16.11.2016 in S.C.No.117 of 2015, on the file of the Principal District Sessions Judge, Theni.

For Appellant

: Mr.G.Karuppasamy Pandiyan

For Respondent

: Mr.S.Ravi

Additional Public Prosecutor



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JUDGMENT

P.N.PRAKASH, J.

This criminal appeal is filed against the judgment and order dated 16.11.2016 in S.C.No.117 of 2015, on the file of the Principal District Sessions Judge, Theni. By the said Judgment, the trial Court convicted and sentenced the appellant/accused to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for six months for the offence under Section 302 IPC. Challenging the said conviction and sentence, the appellant has come up in this Criminal Appeal.

2.The prosecution story runs thus:

2.1. This is a case of matricide, the appellant being the son of the deceased Veerammal. The appellant is said to be addicted to liquor and was a parasite on his mother for money. On 10.04.2015 around 07.00 p.m., the appellant is said to have demanded money from his mother and when she



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refused, he is said to have attacked her with a handle of wooden shovel [M.O.1].

2.2. Resulting, thereafter, the appellant is said to have informed his sister Saranya [P.W.1] that their mother has slipped and fallen and hence, unconscious; on this information Saranya [P.W.1] went along with her husband to the house of the appellant, found her mother lying on the floor, called an ambulance and carried her out to the Government Hospital, Theni, where, she was treated by Dr.Arunkumar [P.W.10] vide copy of the Accident Register [Ex.P.9].

2.3. In Ex.P9, it is stated as follows:-

“alleged H/O accidental fall on 07.00 p.m., on 10.04.2015.”

The deceased was referred for better treatment to the Government Rajaji Hospital, Madurai. Therefore, Saranya [P.W.1] carried her to Madurai and admitted her in the Government Rajaji Hospital, Madurai at 01.10 a.m., on 11.04.2015. However, on the same day, around 11.00 a.m., the deceased was discharged against the medical advice and was taken to a private



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hospital by Saranya [P.W.1]. But unfortunately, *en route*, the deceased died. Therefore, [P.W.1] carried the body of the deceased to her maternal aunt Kaniammal's house. There, Saranya [P.W.1], another maternal aunt Chellammal [P.W.2] and her husband Pandian [P.W.3] came for mourning and stated that the appellant had attacked the deceased, caused her death. This arose, suspicion in the mind of Saranya [PW.1] and therefore, she gave a written complaint Ex.P1, based on which, Janarthanan [P.W.12], the Sub-Inspector of Police, Allinagaram Police Station registered a case in Cr.No. 194 of 2015 for the offence under Section 302 of IPC on 11.04.2015 at 14.00 hours against the appellant and prepared the printed FIR [Ex.P-11], which reached the jurisdictional Magistrate on the same day at 04.00 p.m., as could be seen from the endorsement thereon.

2.4. Investigation of the case was taken over by Sugumaran [P.W.13], who went to the place of occurrence, viz., house of the deceased and prepared the observation mahazar [Ex.P.5]. At the place of occurrence, the Investigating Officer noticed that the television screen in the house was broken and therefore, he seized the pieces under the cover of Mahazar



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[Ex.P6] and the same were marked as M.O.2. The Investigating Officer also prepared a rough sketch [Exs.P12 & P13). Thereafter, the investigating officer went to the mortuary and conducted inquest over the body of the deceased and the inquest report has been marked as Ex.P14. Thereafter, the body was sent for autopsy to the Government Hospital, Theni, where, Dr.K.Arunkumar [P.W.9] S/o.Kannan performed autopsy on the body of the deceased and issued the postmortem certificate [Ex.P.7], wherein, he has noted two external injuries corresponding to which he has noted two internal injuries, apart from which, he has also noted three internal injuries in the head region. After receipt of the serology report, Dr.Arunkumar [P.W.-9] has opined that the deceased would appear to have died due to effects of head injuries.

2.5. The appellant was arrested by the Investigating Officer on 12.04.2015 at 11.00 a.m., and based on the admissible portion of his confession, the shovel [M.O.1] allegedly used in the attack, was recovered under the cover of mahazar [Ex.P.3].



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2.6. After examining various witnesses and collecting reports of the experts, the Investigating Officer completed the investigation and filed a final report in PRC No.28/2015 in the Court of the Judicial Magistrate, Theni, for the offence under Section 302 IPC against the appellant.

3. On the appearance of the appellant, the provisions of Section 207 Cr.P.C. were complied with and the case was committed to the Court of Principal District Sessions, Theni, in SC No.117/2015, for trial.

4. The trial Court framed charges under Section 302 IPC against the appellant and when questioned, the appellant pleaded not guilty.

5. To prove the case, the prosecution examined 13 witnesses and marked 14 exhibits and 2 Material Objects. When the appellant was questioned under Section 313 Cr.P.C., about the incriminating circumstances appearing against him, he denied the same. No witness was examined from the side of the appellant nor any document marked.



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6. However, the trial Court examined Dr.G.A.Viswanathan as Court Witness and marked Ex.C1 and Ex.C2. The trial Court has embarked on this venture in order to satisfy itself as to whether the appellant which defending himself in the trial, had taken the plea that he was not mentally sound. After satisfying itself from the evidence of C.W.1 that the appellant was capable of defending himself, the trial Court appears to have proceeded further.

7. After considering the evidence on record and on hearing either side, the trial Court, by judgment and order dated 16.11.2016, in S.C.No. 117/2015, has convicted and sentenced the appellant as stated in the opening paragraph.

8. Aggrieved by the above, the present appeal has been filed with a delay of 1405 days which was condoned by this Court in Crl.M.P(MD)No. 7333 of 2020 vide order dated 21.01.2021 and the appeal is taken up for hearing.



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9. Heard Mr.G.Karuppasamy Pandiyan, learned counsel for the appellant and Mr.S.Ravi, learned Additional Public Prosecutor for the respondent.

10. The prosecution case mainly rests on the eyewitness account of Saranya [P.W.1], Chellammal [P.W.2] and Pandiyan [P.W.3]. Admittedly, Saranya [P.W.1], is the younger sister of the appellant, Chellammal [P.W.2], is the senior maternal aunt of the appellant and Pandiyan [P.W.3], is the husband of Chellammal [P.W.2]. Chellammal [P.W.2] and Pandiyan [P.W.3] in their examination in chief, have stated that on 10.04.2015 around 07.00 p.m., the appellant was quarreling with his mother and in that quarrel, he damaged the television screen in the house and thereafter, attacked his mother with the wooden handle of the shovel [M.O.1]. However, in the cross-examination of these witnesses, which was done on the very same day, they have stated that they were not in the place of occurrence and came to the place of occurrence only later.



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11. As regards Saranya [P.W.1] she has stated that while she was in their house, the appellant called her and told her that their mother has slipped and fallen and therefore, she rushed to her natal home along with her husband, took her mother to various hospitals and ultimately, brought the dead body to Kanniammal's house on the next day. She also stated that she came to know that the appellant has assaulted her mother, but she is not an eye witness to the occurrence.

12. However, all these witnesses have stated that the appellant was suffering from some mental illness and he was also present in the house when they came there.

13. Strangely, except the statement of these witnesses that the appellant was suffering from some mental illness, there is no material placed before the trial Court to show the nature of mental illness that the appellant was suffering, so as to bring this case within the exception under Section 84 of IPC.



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14. As regards the exercise undertaken by the trial Court, it was only to ensure that the appellant was capable of defending himself. Therefore, we are unable to extend the benefit of Section 84 of IPC. As such, an exception has to be pleaded and proved as required under Section 105 of the Indian Evidence Act. However, we find that, Dr. G.M.Niban [P.W.11], in his evidence, has stated that had the treatment been continued at the Government Rajaji Hospital, Madurai, the patient would have survived and that he died only because of the relatives, who were in a hurry to discharge her against the medical advice.

15. That apart, we find from the postmortem certificate that the injuries on the deceased appear to have been caused with the blunt portion of the handle of shovel. We do not find any cut injury or laceration. Chellammal [P.W.2] and Pandiyan [P.W.3] further stated that they heard the appellant quarreling with his mother in and around that time.

16. Thus, from the overall facts and circumstances of the case, we are able to see that the appellant was quarreling with his mother and he had



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broken television in a fit of quarrel and appears to have assaulted the deceased, after which he became panic and called his sister for help. He did not run away from the scene of occurrence and instead, remained there.

17. In such view of the matter, the criminal appeal is partly allowed and the conviction of the appellant under Section 302 IPC is set aside and instead, he is convicted under Section 304 (II) IPC and sentenced to undergo seven years rigorous imprisonment and pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for six months. The period of sentence already undergone by the accused/appellant is ordered to be set off under Section 428 Cr.P.C.

[P.N.P., J.] & [G.J., J.]
05.01.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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To

- 1.The Principal District Sessions Judge,
Theni.
- 2.The Inspector of Police
Allinagaram Police Station,
Theni District.
- 3.The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai.
- 4.The Record Keeper,
Vernacular Records Section,
Madurai Bench of Madras High Court, Madurai.



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**P.N.PRAKASH, J
AND
DR.G.JAYACHANDRAN, J

AM**

Judgment made in
Crl.A.(MD)No.52 of 2021

05.01.2023