

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.867 OF 2024
IN
CRIMINAL APPEAL NO.1773 OF 2019

Pradeepkumar C. Murugan .. Applicant

Versus

The State of Maharashtra .. Respondent

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Mr.Satyavrat Joshi with Mr.Yash G. Fadtare, Ms.Shivani S. Kondekar, Mr.Samay Pawar, Mr.Ishan Paradkar, Ms.Sakshi Mane and Ms.Reena Prajapati for the Applicant.

Mr.S.V.Gavand, A.P.P. for the State/Respondent.

Mr.H.B.Chapale attached to Sangvi Police Station, Pimpri Chinchwad, present.

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**CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.**

DATED : 12th DECEMBER, 2024

P.C:-

1. As directed by our earlier order dated 27/11/2024, the Mental Health Report of the Applicant from the Yerwada Central Prison, Pune, dated 06/12/2024 under the signature of Psychiatrist (Class-I) is placed before us.

It is reported that Pradeepkumar C. Murugan (the present Applicant), a male aged 35 years, is suffering from Schizophrenia and his mental status examination has revealed as under :-

“Conscious/less cooperative/communicative, unkempt, ETEC-Initiated and not-maintained, occasional muttering to self, PMA-increased, Mood-euthymic, Affect-restricted, Speech-spontaneous/coherent/at time irrelevant, denies any perceptual abnormality, Insight-absent, Judgment-Impaired.”

He is presently on psychotropic medication, the details of which are furnished in the report.

The Remark column of the report records as under :-

“At present prisoner is behaviorally and mentally unstable. Currently admitted in psychiatry ward (on 04/12/2024) of medical wing of prison with worsening of psychotic symptoms. He needs regular psychotropic medications and follow-up for long period.”

2. From perusal of the report, it is evident that the Applicant is diagnosed to be a patient of Schizophrenia, which according to the medical jurisprudence is overpowering mental illness.

Mr.Joshi, the learned counsel representing him, do not dispute the fact that he require treatment as it is a form of mental illness.

The question before us is, whether he deserve his release on bail, during the pendency of his Appeal, which is admitted by this Court, preferred on being aggrieved by the finding of conviction recorded against him by the Additional Sessions Judge, Pune in Sessions Case No.534 of 2015, where he was charged under Section 302 of IPC.

Reaching a conclusion that he has committed an offence under Section 302 of IPC, as has done his own father, to death, he is sentenced to suffer imprisonment for life and pay a fine of

Rs.5,000/-, in default to suffer simple imprisonment for six months.

3. It is the specific contention of Mr.Joshi in support of the Application, seeking suspension of sentence and securing his release on bail, that the defence of the accused under Section 84 of IPC was not taken into account by the learned Judge and the evidence brought by him on record through two defence witnesses.

The first witness; being the Medical Expert, who had examined him in the year 2016 as an inmate in Yerwada Central Jail, and indicated his symptoms of depressed mood, voicing suicidal ideas, socially withdrawn behaviour, sleep disturbance and occasionally aggressive behaviour. Dr.Mahamuni (DW 1) had deposed that he had recovered from those complaints, but was on maintenance treatment, but categorically stated that even after his treatment, he continued to have relapses and he placed before the Court, the original case papers of the patient and referred to his peculiar symptoms.

4. Another witness examined in support of his defence under Section 84 of IPC is his own sister, who deposed about the history of his mental illness, by referring to an incident of December 2010, when he behaved in disorderly manner and was murmuring. She was told by her father that he was mentioning about hearing some noise and was saying that someone was coming to kill him. He was, therefore, required to be admitted as an indoor patient in SKS hospital. This

episode was again repeated in the year 2011, according to DW 2, his medication was changed.

Referring to the life that he was living, she also deposed about his marriage, which resulted into troublesome relationship on account of his disorderly behaviour and, ultimately his wife was forced to leave his company and file divorce petition.

5. The plea of insanity, was taken by the accused before the learned trial Judge, when he was tried for the offence punishable under Section 302, but the Judge has picked up a few admissions from the evidence of DW 1 and recorded that the accused was suffering from depression, but after the treatment, he had recovered.

Dealing with the argument that the accused was murmuring, when he murdered his father and this had appeared through the examination of PW 1 to PW 3, the learned Judge record that it was for the Investigating Officer to rule out the possibility that accused was insane. He recorded that he was arrested on the same day of incident i.e. on 17/04/2015 and was produced before the Magistrate and, thereafter, he was remanded to judicial custody.

The trial Judge expressed that had the accused really been insane, the Magistrate before whom he was produced, could have noticed the same. Apart from this, the learned Judge has also recorded that all the three material witnesses have nowhere stated that before 17/04/2015 or on that day or at the time when accused was seen murmuring, he had shown

any indication of he being insane or of unsound mind and not capable of understanding the consequences of his act.

In the wake of the aforesaid observations, the trial Judge has turned down the plea of insanity, which would have entitled him to avail the benefit under Section 84 of IPC and recorded a finding of guilt, as the prosecution has conclusively established its case that he was responsible for the death of his father.

6. In the backdrop of the evidence of DW 1 and DW 2 before us, we deemed it appropriate to have a Mental Health Report of the Applicant before us on the last date of hearing and the Psychiatrist from the Yerwada Central Prison has placed the same before us.

The Applicant is a diagnosed case of Schizophrenia and as per the report, he is on psychotropic medication. The mental status examination clearly reflect that he continue to mutter to himself and suffers from mood swings and there is specific reference to his speech, sometimes being coherent and some times irrelevant and his judgment being impaired.

7. In the light of the said symptoms, he has been rightly diagnosed to be suffering from Schizophrenia.

On earlier date of hearing, we had referred to the decision of the Apex Court in ***Prakash Nayi alias Sen Vs. State of Goa***¹, where Their Lordships of the Apex Court had highlighted laudable object of Section 84 of IPC and have stipulated that when such a plea is raised, the prosecution and

¹ (2023) 5 SCC 673

the court have their distinct roles to play. The agency has to take up the investigation from the material produced on behalf of the persons claiming unsoundness and it has to satisfy itself that the case would not come within the purview of Section 84 of IPC.

When we have appreciated the evidence, which was lead before the trial Judge in support of the charge faced by the Applicant, it is evident from the testimony of PW 1 (informant) that when after having stroll at 10.45 p.m. he returned home, he saw the accused sitting near the gate. PW 1 described him to be uneasy and heard him murmuring "Maine Pitajiko Mar Diya".

In the extensive cross-examination, he admitted that accused was murmuring irrelevantly, though he deny the suggestion that it was indicative that he was insane person, but admit that behaviour of the accused was not normal, but within half an hour, the accused started behaving normally.

In the cross-examination, he admit that the accused did not try to escape from the spot and the police did not handcuff him, but on arriving at the spot, took him into custody.

PW 2 & PW 3 corroborate the version of PW 1 about the behaviour of the accused, immediately after he alleged to have assaulted his father, as he was seen murmuring that he has done his father to death.

8. It is not an uncommon scenario when it is difficult to have real assessment of mental health of a person and, particularly, of a person suffering from Schizophrenia, where

such a person is normal at times, but abnormal on the next moment.

Mental health is a state of mental well being that enables people to cope with the stresses of life, realise their abilities, to learn well and work well. It affects how we think, feel, react and act as we cope with life and encompasses, psychological and social well being. In a country like India, when people still shy away from openly discussing the mental illness and are not open about disclosing it, as it carries a significant social stigma, leading to an apprehension of social exclusion or discrimination, it can be too much to assume that a person, who has killed his father and categorically admitted that he is responsible for the act, to be identified suffering from any sort of mental illness.

In any case, PW 1, PW 2 and PW 3, who were present on the spot and saw the accused, who had admitted that he had done his father to death, are not the experts, who were competent to analyse his mental status at the relevant time. The indication given that he did not run away from the spot and he was constantly murmuring and his talk was not coherent, are considered to be some of the symptoms, which definitely could not have been assessed by these witnesses, as they saw him, after he having done his own father to death and he was immediately clamped as criminal, as he was responsible for his death.

Similar is the situation of the Magistrate before whom the accused was produced and it is very unlikely that even he possess an expertise to identify his mental illness, as he was suffering from Schizophrenia and at the time of his production,

he was not able to gauge the mental illness from which he was suffering and for which, he is not to be blamed.

The observations of the learned Judge that had the accused been really insane, it would have been noted by the Magistrate is too much to be expected, since the accused would have been produced before him for a brief moment and it is not uncommon that Magistrate did not give any thought to his mental condition, which at times is not apparently visible.

9. However, at this stage what is relevant is the evidence of DW 1, who was the Doctor on duty in jail, where the Applicant was admitted as an inmate and according to him, he was suffering from Schizophrenia, a mental state of mind where he was normal at one moment and abnormal on the other and who has deposed about his illness.

DW 2, the sister of the accused categorically deposed that from the year 2010 till the time of commission of the offence, he had several psychological bouts, when he behaved in incoherent and unreasonable manner.

The Applicant, who is an highly educated person, must have been mixing in the society, but it is not unusual that no one, except his family members i.e. his sister, noted his incoherent behaviour and, therefore, in the year 2010 itself, she had got him admitted in the hospital. It appears that his treatment was either discontinued or it was again resumed only when he suffered from the attacks and this ultimately resulted into the incident, when he killed his own father and the plea of insanity is pressed into service.

10. From the medical report before us, when the patient was examined on 06/12/2024, his condition remain to be the same, as now he is analysed as a patient of Schizophrenia and is administered psychotropic medication.

Since the date of his arrest in the crime for which he has been found guilty, he is confined to prison except for his release intermittently on furlough by an order passed by this Court on 08/07/2022, when while considering his Petition the Court recorded that since nothing was found adverse against the Petitioner, he deserve his release.

11. The Appeal filed by the Applicant is already admitted and will deserve consideration when we shall finally determine as to whether he is entitled for benefit of Section 84 of IPC and his plea of insanity deserve consideration as against the charge under Section 302 of IPC.

However, since *prima facie*, we are convinced that trial Judge has failed to consider the evidence of defence witnesses and on the present report, reflecting his mental health status before us, diagnosing him to be a patient of Schizophrenia, we are inclined to secure his release on bail, by suspending the sentence imposed upon him.

However, one thing must be kept in mind, which we have spelt out in our earlier order that upon his release on bail, it should not happen, his release may pose danger to the members of the society and while dispelling this concern of ours, Mr.Joshi specifically makes a statement that his sister, who was examined as DW 2 and who is today present before us through video conferencing, has assured that she will take

care of his mental health and will continue his treatment and if necessary, he will be admitted as an indoor patient in a good Mental Care Hospital/Clinic, so that the concerns about his mental health can be addressed, as 'Mental Health Matters' and it embrace healing.

Before the release of the Applicant on bail, we expect her to file an affidavit before the trial Court, clearly setting out the measures to be taken by her to ensure the safety of the Applicant as well as the safety of the persons residing in neighbourhood as well as of her own family. It is only upon such affidavit being filed by her and subject to the following conditions, his release shall be secured.

: ORDER :

(a) Interim Application No.867 of 2024 is allowed.

The sentence imposed on the Applicant vide impugned judgment dated 10/12/2019 in Sessions Case No.534 of 2015 by the Additional Sessions Judge, Pune is suspended during the pendency of the Appeal.

(b) Applicant -Pradeepkumar C. Murugan shall be released on bail on furnishing P.R. Bond to the extent of Rs.25,000/- with one or more sureties in the like amount, during the pendency of Criminal Appeal No.1773 of 2019.

(c) The Sister of the Applicant, Gnanamani w/o Selva Kumar, resident of Tamil Nadu shall furnish her contact number and the address of the place where she will be residing with the Applicant to the trial Court and shall keep it updated, in case there is any change.

The release of the Applicant shall be subject to furnishing of an undertaking, as recorded above, before the learned trial Judge.

(MANJUSHA DESHPANDE,J.)

(BHARATI DANGRE, J.)