



Crl.A.No.305 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.02.2024

PRONOUNCED ON : 23.02.2024

CORAM :

THE HON'BLE MR. JUSTICE M.S.RAMESH

AND

THE HON'BLE MR. JUSTICE SUNDER MOHAN

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M.Veeran @ Venkatesan ... Appellant/sole accused

v.

The State by
The Inspector of Police,
Arakandanallur Police Station,
Villuppuram District.
(Crime No.376/2009) ... Respondent/Complainant

Criminal Appeal filed under Section 374(2) of Code of Criminal Procedure, 1973, against the conviction of the appellant and sentence in S.C. No.297 of 2010 dated 08.10.2010, on the file of the learned Principal Sessions Judge, Villupuram, and set aside the conviction and sentence



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imposed in judgment dated 08.10.2010 and acquit the appellant.

For Appellant : Mr.P.Pugalenth
For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

JUDGMENT

(Order of the Court was delivered by SUNDER MOHAN,J.)

This Criminal Appeal has been filed by the sole accused, challenging the conviction and sentence imposed upon him vide judgment dated 08.10.2010 in S.C.No.297 of 2010 on the file of the learned Principal Sessions Judge, Villupuram.

2. For the sake of convenience, the accused is hereinafter referred to as 'appellant'.

3(i). It is the case of the prosecution that the appellant and the deceased one Egavalli (hereinafter referred to as 'D1') are husband and wife; that the appellant neglected D1 and therefore, D1 was living in the house of



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PW2, who is her brother; that the appellant borrowed a sum of Rs.25,000/- from one Narayanan @ Dharmalingam (PW9), which was objected to by D1 and thereafter, the appellant and D1 did not get along well; that the appellant therefore, decided to do away with D1; that on 17.07.2009 when D1 was in the house of PW2-Murugan to take care of his niece one Achutha (hereinafter referred to as 'D2'), the appellant went to the house of PW2 on 18.07.2009 at about 3.15 a.m., and while D1 and D2 were sleeping, he took the grinding stone [அம்மிக்கல்] and smashed the head of D1 and when D2 woke up on hearing the sound and apprehending that D2 would give evidence against him, he caused the death of D2 as well.

(ii) It is the case of the prosecution that PW1, the neighbour of PW2-Murugan, went to the house of the deceased at about 4.00 a.m., on seeing the door open, saw both the deceased lying in the pool of blood and had severe head injuries, and she came out of the house and shouted for help. PW2, PW3 and one Jayabal came there. Thereafter she lodged a complaint [Ex.P1], wherein she stated about the fight between the appellant and D1 on 17.07.2009 and that D1 was frustrated and expressed her desire to commit



suicide. The said complaint was registered by PW13, the Sub-Inspector of Police in Cr.No.376 of 2009 for the offence under Section 302 of the IPC [Ex.P17].

(iii) PW14, the Inspector of Police, took up the investigation, went to the scene of the occurrence at 8.30 a.m., and prepared the Observation Mahazar (Ex.P11) and Rough Sketch [Ex.P18]. He conducted an inquest on the dead bodies of D1 and D2 and prepared inquest reports [Ex.P19] and [Ex.P20] respectively. He thereafter, sent the dead bodies for postmortem, which was conducted by PW10, who issued postmortem certificates, i.e., Ex.P10 for D1 and Ex.P7 for D2.

(iv) PW14, seized the bloodstained grinding stone (M.O.1) under Seizure Mahazar (Ex.P12). He also seized the bloodstained mat (M.O.2), the bloodstained pillow with cover (M.O.3), the bloodstained earth (M.O.11) and the earth that was not bloodstained (M.O.12) under Seizure Mahazar (Ex.P13)



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(v) On 22.07.2009 at 8.30a.m., PW14 arrested the appellant and on his confession, seized the dress materials viz., the bloodstained shirt [M.O.13] and the bloodstained lungi [M.O.14] worn by him at the time of occurrence under Seizure Mahazar [Ex.P16]. On 03.01.2010, he made a request to record the 164 Cr.P.C. statement of PW1-Malliga, which was recorded on 29.01.2010 and thereafter, after examination of other witnesses, he filed the final report against the appellant for the offence under Section 302 of the IPC on 20.02.2010 before the learned Judicial Magistrate, Thirukovilur.

(vi) 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 Session in S.C.No.297 of 2010 and was made over to the learned Principal Sessions Judge, Villupuram, for trial. The trial Court framed a charge under Section 302 of the IPC against the appellant and when questioned, the appellant pleaded 'not guilty'.

(vii) To prove the case, the prosecution examined 14 witnesses as



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P.W.1 to P.W.14 and marked 29 exhibits as Exs.P1 to P29, and marked 14 Material Objects as M.O.1 to M.O.14. When the appellant was questioned, u/s.313 Cr.P.C., on the incriminating circumstances appearing against him, he denied the same. The appellant/accused neither examined any witnesses, nor marked any documents.

(viii) On appreciation of oral and documentary evidence, the trial Court found that the prosecution had established the case beyond reasonable doubt and held the appellant guilty of the offence under Section 302 (2 counts) of the IPC and sentenced him to undergo life imprisonment. The trial Court further ordered that the appellant not be released from prison for the rest of his life. Hence, the accused/appellant has preferred the appeal challenging the said conviction and sentence.

5. Heard, Mr. P.Pugalenth, learned counsel appearing for the appellant/accused, and Mr. A. Gokulakrishnan, learned Additional Public Prosecutor appearing for the respondent/State.



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6. Mr.P.Pugalenth, the learned counsel for the appellant confined his submissions only with regard to the portion of the sentence awarded by the trial Judge which states that the appellant shall not be released from prison for the rest of his life and submitted that the trial Court has no power to issue such a direction as observed by the Hon'ble Supreme Court in Crl.A.No.444 of 2021 dated 11.08.2021, following the judgment in *Union of India Vs. V.Sriharan* reported in **(2016) 7 SCC 1**.

7. The learned Additional Public Prosecutor *per contra* submitted that the circumstances have been clearly established and the prosecution has established the guilt of the appellant beyond reasonable doubt, and therefore, there is no reason to interfere with the finding of the trial Court and prayed for dismissal of the appeal.

8. We have carefully considered the rival submissions and perused all the relevant materials placed before us.

9. Though the learned counsel for the appellant confined his



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submission to the finding with regard to sentence, we decided to examine the evidence on record on merits, as the appeal is a continuation of the trial.

10. PW1 is the neighbour who first saw both the deceased in the house and lodged, Ex.P1-complaint; PW2 is the father of D2 and the brother of D1. He saw the blood stained grinding stone and bloodstained mat in the place of occurrence. PW3 is the former employer of both D1 and the appellant and speaks about the frequent quarrels between D1 and the appellant; PW4 is another neighbour of PW2 who speaks about the arrival of D1 to the house of PW2 to take care of D2, who had just delivered a baby and that he went to the house of PW2 on hearing PW1's cry for help; PW5 speaks about the appellant walking on the street at 5.00 a.m.; PW6 is the hearsay witness, who says that the appellant absconded after the occurrence; PW7 is another neighbour who saw the appellant outside the house of one Angamuthu; PW8 saw the appellant taking a bus to Thirukovilur at 4.00a.m.; PW9 had given a loan to the appellant, which enraged D1 and was the cause for the quarrel between the appellant and D1 and the appellant's decision to do away with D1; PW10, is the Doctor, who



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conducted postmortem for both the deceased and issued postmortem certificates; PW11 is the Village Administrative Officer, who had signed as witness in the Observation Mahazar [Ex.P11] and Seizure Mahazars [Ex.P12 to Ex.P14]; PW12 is the Village Administrative Officer, who had signed as a witness in the confession and recovery of M.O.13-shirt and M.O.14-lungi of the appellant under Seizure Mahazar [Ex.P16]; PW13 is the Sub Inspector of Police, who registered the FIR; and PW14 is the investigating officer, who filed the final report.

11. We find from the above narrative that the dispute between the appellant and D1 has been spoken to by PW1 and PW3. PW9 speaks about the loan given by him to the appellant. PW1 and PW3 speak about the frequent quarrels between the appellant and D1. None of the witnesses had been discredited by the defence except for making a few suggestions. PW1 specifically speaks about the incident that took place on 17.07.2009 and also about D1 telling her about the harassment meted out to her and that she wanted to commit suicide. PW5 on hearing the commotion came out of his house and saw the appellant walking through the street at about 3.00am,



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which is near the place of occurrence and stated about the conversation that he had with the appellant. PW8 saw the appellant standing near the Ambedkar Statue at Mugaiyur Village at 4.00 a.m., and taking a bus going to Thirukoilur. PW7 speaks about the conduct of the appellant in absconding and not attending the funeral of D1.

12. We may note that except for making few suggestions to the witnesses, which have been denied by the witnesses, nothing has been elicited to disbelieve their version. Therefore, in our view, the prosecution has established the motive; the conduct of the appellant in absconding; and the fact that the appellant was found near the scene of the occurrence and had gone in a bus to a far-off place. All these circumstances in our view conclusively establish the involvement of the appellant in the crime. That apart, the arrest and recovery of material objects viz., bloodstained shirt [M.O.13] and bloodstained lungi [M.O.14] further strengthens the prosecution case with regard to the involvement of the appellant.

13. The reports of the scientific officers of the Forensic Science



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Laboratory viz., Ex.P24 to Ex.P29 confirm the presence of blood in the dress materials of the appellant and the dress materials of both the deceased.

Therefore, we are of the view that the prosecution has established its case beyond reasonable doubt and there is no reason to interfere with the finding of guilt of the appellant.

14. As regards the finding on sentence, we find that the trial Court has observed that the appellant shall be sentenced to life imprisonment and that he shall not be released from prison till the rest of his life. The trial Court has no power to issue such a direction. This question is no longer *res integra*. The Hon'ble Supreme Court in ***Union of India Vs. V.Sriharan***, reported in **(2016) 7 SCC 1**, has held as follows:

“105. We, therefore, reiterate that the power derived from the Penal Code for any modified punishment within the punishment provided for in the Penal Code for such specified offences can only be exercised by the High Court and in the event of further appeal only by the Supreme Court and not by any other court in this country. To put it differently, the power to impose a modified punishment providing for any specific term of incarceration or till the end of the convict's life as an alternate to death penalty, can be exercised only by the High Court and the Supreme Court and not by any other inferior Court.”



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15. The trial Court therefore, has no power to sentence the appellant to life imprisonment with a condition that he shall not be released till his last breath. Hence, we set aside that portion of the finding of the learned Trial Judge which directs that the appellant shall not be released till his last breath. While doing so, we are also conscious of the fact that this is a case based on circumstantial evidence and the nature of the evidence would also be a factor in deciding the question of sentence. Considering the nature of the evidence we are of the view that the interest of justice would be served if the appellant is sentenced to life imprisonment.

16. Except the above modification, the judgment of conviction and sentence made in S.C. No.297 of 2010 dated 08.10.2010, on the file of the learned Principal Sessions Judge, Villupuram, is confirmed. The Criminal Appeal stands partly allowed.

(M.S.R.,J.) (S.M.,J.)
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M.S.RAMESH,J.

AND

SUNDER MOHAN,J.

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To

1. The Principal Sessions Judge,
Villupuram.

2. The Inspector of Police,
Arakandanallur Police Station,
Villuppuram District.

3. The Superintendent,
Central Prison, Cuddalore.

4. The Public Prosecutor,
High Court, Madras

Pre-delivery Judgment in
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