



Crl.A.No.104 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2024

CORAM :

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

AND

THE HON'BLE MR. JUSTICE SUNDER MOHAN

Crl.A.No.104 of 2019

Naveen Prasath

...Appellant/Sole Accused

vs.

State rep by,
Inspector of Police,
B-6 Peelamadu Police Station,
Coimbatore

...Respondent/Complainant

Prayer : Criminal Appeal filed under Section 374 (2) of Code of Criminal Procedure, 1973, to set aside the Judgment passed in S.C.No.59/2016 dated 30.01.2017 on the file of Sessions Court for Trial of Bomb Blast Cases, Coimbatore.



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For Appellant : M/s. T.Muruganantham
For Respondent : Mr.M.Babu Muthumeeran
Additional Public Prosecutor

JUDGMENT

[Order of the Court was made 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 03.01.2017 in S.C.No.59 of 2016 on the file of the Sessions Court for Trial of Bomb Blast Cases, Coimbatore.

2(i). It is the case of the prosecution that the appellant and the deceased were husband and wife and were living along with the appellant's parents; that the appellant was in the habit of drinking and harassing the deceased and therefore, the deceased used to often visit her parents; that on 09.12.2014, the accused/appellant beat the deceased and therefore, the deceased went to her parent's house; that on 10.12.2014 with intention to cause the death of the deceased, the appellant went to the deceased parent's house at 2:00 a.m. and called the deceased out of the house and attacked her



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with an hammer on the head and thereby, causing her death.

(ii). It is further the case of the prosecution that P.W.1/mother of the deceased and P.W.2/a passer-by, witnessed the occurrence; that P.W.1 lodged a complaint [Ex.P1] on 10.12.2014 which was registered by P.W.12/the Sub Inspector of Police; and that P.W.12 registered the First Information Report at 5:30 a.m. on 10.12.2014 in Crime No.972 of 2014, for the offence under Section 302 of the IPC, which was marked as Ex.P18.

(iii) P.W.13/the Inspector of Police, thereafter, took up the investigation, went to the scene of the occurrence at 7.00 a.m., and prepared the Rough Sketch [Ex.P19] and Observation Mahazar [Ex.P16]. He seized the blood-stained earth and the earth that was not blood-stained, and Seizure Mahazar [Ex.P17]. He thereafter conducted an inquest at 9:00 a.m., in the presence of Panchayadars. He sent the body for a post-mortem, which was conducted by P.W.4/Doctor, Government Hospital, Coimbatore. The Doctor/P.W.4 issued a post-mortem certificate [Ex.P3].



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(iv) On 11.12.2014, the Inspector of Police arrested the accused, and on the confession, the admissible portion was marked as Ex.P13. He seized the iron hammer[M.O.3] and the blood-stained clothes[M.O.1] and [M.O.2] worn by the appellant, and the hammer [M.O.3], which was seized under Ex.P15 - Mahazar. He therefore sent the blood-stained clothes of the deceased and the accused for a forensic science examination. He thereafter examined the other relevant witnesses and filed the Final Report before the learned Judicial Magistrate No.VI, Coimbatore, for the offence under Section 302 of the IPC dated 26.02.2015.

(v) 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.59 of 2016 and was made over to the Sessions Court for Trial of Bomb Blast Cases, Coimbatore, for trial. The trial Court framed charges u/s.302 of the IPC as against the appellant, and when questioned, the appellant pleaded 'not guilty'.



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(vi) To prove the case, the prosecution examined 13 witnesses as P.W.1 to P.W.13 and marked 22 exhibits as Exs.P1 to P22, and marked 8 Material Objects as M.O.1 to M.O.8. When the appellant was questioned, u/s.313 Cr.P.C., on the incriminating circumstances appearing against him, he denied the same. The appellant examined one witness as D.W.1 and marked one exhibit as Ex.D.1.

(vii) On appreciation of oral and documentary evidence, the trial Court found that the prosecution had established the case beyond reasonable doubt, held the accused guilty of the offence under Section 302 of the IPC and sentenced him to undergo imprisonment for life and to pay a fine of Rs.5000/- in default to undergo simple imprisonment for three months. Hence, the accused/appellant has preferred the appeal challenging the said conviction and sentence.



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3. Heard, Mr.T.Muruganantham, learned counsel appearing for the appellant/accused, and Mr.M.Babu Muthumeeran, learned Additional Public Prosecutor appearing for the respondent/State. This Court also perused all the materials available on record.

4(i). The learned counsel for the appellant submitted that admittedly the occurrence did not take place in the house of P.W.1, the occurrence took place 150 feet away from the house at midnight; and that therefore, the presence of P.W.1 and P.W.2 is doubtful.

(ii) The learned counsel further pointed out some improvements made by P.W.1 in the deposition before the Court; that these witnesses, P.W.1 and P.W.2 cannot be believed as they had a grudge against the appellant for marrying P.W.1's daughter against the wishes of the family.

(iii) The learned counsel further submitted that the prosecution case that the deceased was taken by an ambulance cannot be believed since D.W.1 who was working as an ambulance operator had stated that



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108-ambulance was not called.

5. Mr.M.Babu Muthumeeran, the learned Additional Public Prosecutor, *per contra*, submitted that P.W.1 and P.W.2 had both deposed about the harassment caused by the appellant to the deceased and about witnessing the occurrence; and that there is no reason to disbelieve their version, and prayed for dismissal of the appeal.

6. We have carefully considered the rival submissions and perused the evidence on record.

7. P.W.4 is the Doctor who conducted the post-mortem on the deceased. He issued a post-mortem certificate [Ex.P3]. The Doctor found the following external ante mortem injuries:

(1) Laceration 2 x 1 cm x bone deep noted over upper and mid forehead with surrounding tissue contusion reddish in colour.

(2) Laceration 1.75 x 0.5 cm x muscle deep noted over left temple area with surrounding tissue contusion reddish in



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colour.

(3) Laceration 1 x 0.25 x 0.25 cm noted over right forehead just above right eyebrow with surrounding tissue contusion reddish in colour.

(4) Laceration 8 x 2 cm x bone deep noted over right lower parietal region and upper temporal region.

(5) Laceration 6 x 4 cm x bone deep noted over right mastoid region and occipital region

On dissection of Scalp, Skull and Dura: Sub scalpal contusion reddish in colour 5 x 4 cm noted over left posterior parietal region, 6 x 5 cm noted over front of left temporal region, 3 x 2 cm noted over right frontal region, 6 x 5 cm noted over right parietal region and 12 x 6 cm noted over right temporo parietal and mastoid region. Both temporolies muscle found contused reddish in colour. Crack fracture 32 cm in length noted over right temporal and both parietal up to left temporal bone. Crack fracture 9 cm in length noted over right mastoid and right occipital bone. Diffuse sub dural and sub arachnoid hemorrhage noted over entire brain. Skull base fracture noted over right middle cranial fossa.

The Doctor further opined that the deceased would appear to have died of shock and hemorrhage due to head injury. The Doctor further stated that



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those injuries could be caused by a hammer. Nothing has been elicited in the cross-examination which would discredit the Doctor's version. Therefore, from the above, it is clear that the prosecution established that the deceased died due to the homicidal violence.

8. The prosecution examined P.W.1/the mother of the deceased and P.W.2/a passer-by, as eyewitnesses. P.W.3/the sister of the deceased speaks about the motive. P.W.4 is the post-mortem Doctor. P.W.5/ the Doctor who treated the accused stated that the appellant consumed cow-dung powder and was found in an unconscious state at 6:30 a.m. near Racecourse Road. P.W.6/the Assistant Engineer working in the Tamil Nadu Electricity Board, has deposed, that there was no disruption of power supply in the place of occurrence from 6.00 p.m. on 09.12.2014 to 6.00 a.m on 10.12.2014. P.W.7/the Scientific Officer in the Forensic Science Laboratory, Coimbatore and had issued Biological Report [Ex.P11] and Serology Report[Ex.P12]. As per Ex.P12 report, the result of the grouping test was found to be inconclusive. P.W.8 and P.W.9 are Mahazar witnesses. P.W.10 is the Photographer. P.W.11 is the Corpse Constable. P.W.12 is the Sub Inspector



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of Police, who registered the FIR. P.W.13 is the Investigating Officer.

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9. P.W.1 and P.W.2 are the eye witnesses. From their deposition, it is clear that on 09.02.2014, the deceased had gone from the house of the appellant to P.W.1's house (her mother). P.W.1 would further state that on 10.12.2014, the appellant wanted to speak to the deceased privately and took her out of the house. She was standing 150 feet away from the house, and when P.W.1 heard the cry for help by the deceased, she saw the accused attacking the deceased with a hammer continuously on the head. On hearing the sound, one Ranjith (not examined) a lorry cleaner, and P.W.2 came to the occurrence, and they also witnessed the occurrence. P.W.1 has mentioned about the presence of P.W.2 in the complaint. Nothing substantial has been elicited in the cross-examination of P.W.1 to discredit her. The defence had elicited that P.W.1 had not stated before the Police that on 09.02.2014, the appellant threatened the deceased that he would kill her by inflicting a single blow if she did not come to terms with him. This is only a minor discrepancy which would not affect the version of P.W.1 in any manner.



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10. The other aspect elicited in the cross examination is that the deceased was taken in an 108-ambulance. However, D.W.1, who was working as a programme manager in an 108-ambulance operation had stated that they did not get any call for taking any patients on the early morning of 10.02.2014. We are of the view that also is a minor discrepancy. We are also mindful of the fact that P.W.1 could have even mistakenly referred to a private ambulance as 108-ambulance. In any case, this discrepancy in our view does not discredit her version in any manner. The deceased was staying in P.W.1's house, and the fact that the appellant took her out in the middle of the night for a private conversion is known to her. Therefore, her going out of the house out of curiosity to see what was happening cannot be said to be a improbable conduct. Therefore, her presence is natural and cannot be doubted.

11. P.W.2 who was a passer-by witnessed the occurrence when he heard a cry for help. Though in the cross examination, he had stated that



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when he saw the accused, he was running from the occurrence, his evidence corroborates the evidence of P.W.1. In the facts, we are inclined to believe his version. P.W.2 had stated that he left his photo studio late in the night on 09.02.2014 and witnessed the occurrence. Nothing has been elicited in the cross-examination to disbelieve his evidence.

12. P.W.3/the sister of the deceased has spoken about the dispute between the deceased and the appellant. The injuries on the head namely ante mortem injury no. (4) *Laceration 8 x 2 cm x bone deep noted over right lower parietal region and upper temporal region* and the other injuries coupled with the weapon used would show that the appellant had intention to cause the death of the deceased.

13. We may also note the other suspicious conduct of the accused. He was found semi-conscious on Race Course Road the next morning at 6.30 p.m. P.W.5 who made entries in the accident register[Ex.P22]. Ex.P22 states that the appellant consumed cow-dung powder.



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14.From the above facts, we are of the view that the prosecution has established its case beyond reasonable doubt. Thus, there is no infirmity in the finding of the Trial Court and hence, this appeal is liable to be dismissed, and, accordingly, dismissed. The Judgment dated 03.01.2017 made in S.C.No.59 of 2016 on the file of the Sessions Court for Trial of Bomb Blast Cases, Coimbatore, is hereby confirmed.

(M.S.R.,J)

(S.M.,J)

05.02.2024

Index : yes/no

Neutral citation : yes/no

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To

1.The Sessions Court for Trial of Bomb Blast Cases,
Coimbatore.

2.The Inspector of Police,
B-6 Peelamadu Police Station,
Coimbatore.

3.The Public Prosecutor,
High Court, Madras.



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