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Crl.A.No.274 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2024

CORAM :

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

Crl.A.No.274 of 2017

Pranav

...Appellant

vs.

The State represented by
The Inspector of Police,
R4 Soundarapandiyanar Angadi Police Station,
Chennai - 600 017.
(Crime No.698/2015)

...Respondent

PRAYER: Criminal Appeal filed under Section 374 (2) of Criminal Procedure Code, 1973, against the judgment and orders dated 18.05.2017 passed by the learned Sessions Judge, Mahalir Neethimandram, Chennai in S.C.No.337 of 2015.

For Appellant : Mr.V.T. Narendiran
for Mr. R.P. Prathap Singh

For Respondent : Mr.S. Rajakumar
Additional Public Prosecutor.



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JUDGMENT

This criminal appeal is filed against the judgment and orders dated 18.05.2017 passed by the learned Sessions Judge, Mahalir Neethimandram, Chennai in S.C.No.337 of 2015.

2. The appellant is the accused in S.C.No.337 of 2015 and is convicted and sentenced as detailed hereunder:

<i>Conviction</i>	<i>Sentence</i>
Section 307 IPC	Rigorous Imprisonment for five years and a fine of Rs.5,000/-, in default, to undergo Rigorous Imprisonment for three months.
The period of sentence already undergone shall be set off under Section 428 Cr.P.C.	

3. The case of the prosecution in a condensed form is as follows :

- i. The victim (P.W.1), a resident of Rajapalayam was previously residing in an apartment at Door No.7/5, Ramanakripa Apartment, Gopalakrishnan Street, T.Nagar, Chennai, from 2012 to 2015. She was studying in Stella Mary's College and was residing with her grandmother in the Apartment.



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ii. The appellant was a college student and P.W.1 and the appellant were friends. According to P.W.1 she met the appellant in a voluntary organisation where they were working together. It is also contended by her that the appellant was troubling her by asking her to marry him failing which he would end his life. She had evaded his request by stating that she would be going abroad for higher studies and this was going on for some time.

iii. On 13.02.2015, at about 07.45 a.m. when she was going to the college, her car was intercepted on the road and the appellant came inside the car and asked her for a decision. Since she refused, she was assaulted by the appellant inside the car. This incident was reported to her friends who in turn reported the same to the parents of the appellant. The appellant's mother and grandmother assured her that such incidents would not recur and that the appellant would behave properly. However, on the same night she left for Rajapalayam and when she was about to leave for Rajapalayam, she was again confronted by the appellant who threatened her to marry him. He also threatened her that if she does not give her



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consent he would either kill her or end his own life. At the intervention of P.W.1's friends, P.W.1 left the place.

iv. On 16.02.2015, when P.W.1 returned from her home town Rajapalayam and was waiting for the lift in the ground floor of her apartment, the appellant who was wearing a hood covering his head pushed her to a corner, took out a knife from his hood and attacked her by trying to cut her right wrist. He then, with the same knife, cut her neck and again asked whether she is willing to marry him. When she refused, he cut her neck near the collar bone. When she resisted, her right palm was injured and hearing her cry her grandmother (P.W.2), a milkman (P.W.3) and a watchman of the neighbouring apartment came down and on seeing them the appellant made good his escape telling her that she had escaped now and it would not take much time for him to murder her.

v. According to P.W.1, she had bleeding injuries and called two of her friends who took her to Pondy bazaar Police Station. The police advised her to go to a hospital and she went to Government Hospital, Royapettah, Chennai, along with her friends. After



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medical treatment, she came back to the police station where she lodged a written complaint (Ex.P1). She also handed over a copy of Accident Register (Ex.P2) to the police.

vi. Dr.Rajeswari (P.W.6), Emergency Ward Doctor, Government Hospital, Royapettah, Chennai, examined P.W.1 at about 9.50 a.m. on 16.02.2015. She made the following observations in the Accident Register (Ex.P2).

" Alleged assault by her friend at 7.30 a.m on 16.02.2015 on above address while waiting for lift in her flat her friend hit her by knife on left hand and forearm, neck. Bleeding at left hand 2 x 2 cm size."

However, in her evidence she had deposed that P.W.1 sustained 8cm long cut injury on the neck, an abrasion measuring 1 cm near left eye, stab injury 1 x 2 cm on the left forehead and a cut injury on the upper portion of her left thumb.

vii.Dr.Daniel (not examined), certified that the injuries are simple in nature.



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viii. Thiru.G.Venkatesan (P.W.7), the then Inspector of Police, Pondy bazaar Police Station, received Ex.P1 from P.W.1 and registered FIR (Ex.P6) in Crime No.698/2015 of Pondy bazaar Police Station against the appellant for the offences punishable under Sections 341, 324, 307, 506 (ii) IPC and Section 4 of the Tamil Nadu Prohibition of Women Harassment Act. He took up investigation, went to the scene of occurrence and prepared an observation mahazar (Ex.P8) and a rough sketch (Ex.P7) in the presence of Sekar and Govindarajan (Both not examined). He examined the witnesses Sarada (P.W.2), Iyyanar (Milkman P.W.3) and Anandaraj (P.W.4), the father of the victim and recorded their statements under Section 161(3) Cr.P.C.

ix. Sarada (P.W.2), in her deposition had averred that she knew the accused and that her grand daughter (P.W.1) complained to her regarding the behaviour of the accused who was insisting on marrying P.W.1. She was on the balcony on the date when P.W.1 left for Rajapalayam to be with her parents. She was also seen with her friends. Later on 15.02.2015 night P.W.1 called her to inform



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her that she is returning from Rajapalayam. On 16.02.2015, she was anxiously waiting for the arrival of P.W.1 from her balcony and also saw her getting down from an auto. On hearing some commotion from the ground floor, she went down only to find the accused cutting the neck of P.W.1 with a knife and before she could react, the appellant made good his escape. Before leaving the place the appellant warned P.W.1 that this time she had escaped and next time he would kill her. P.W.1 had an injury on her right palm, two scratches and one stab injury on her neck. She expressed her ignorance as to whether P.W.1 went first to the hospital or to the police station.

x. Thiru. Iyyanar (P.W.3), the milkman turned hostile to the prosecution.

xi. Thiru. Anandaraj (P.W.4), the father of the victim had deposed that he was a permanent resident of Rajapalayam and owns an apartment in T.Nagar in which his only daughter Harisha (P.W.1) was residing along with his mother-in-law (P.W.2). His daughter was studying B.A. (Economics) in Stella Mary's College. He



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further stated that he knew the appellant and that both P.W.1 and the appellant were working for a Non-Governmental Organisation. On 13.02.2015 at about 07.30 a.m. his daughter was going to her college in her car and was intercepted by the appellant. According to him, the appellant harassed his daughter and assaulted her insisting she should marry him. Subsequently, his daughter called up the mother and grandmother of the appellant who assured that the appellant would mend his ways. The same day evening his daughter had left Chennai to come down to Rajapalayam when the appellant had again blocked her way near her residence. All these incidents were narrated to him by his daughter when she visited him on 14.02.2015 morning. He had re-assured his daughter all his assistance and advised her to concentrate on studies and to be courageous. She left for Chennai on 15.02.2015 night and on the very next day at about 07.30 a.m. he received a call from his daughter stating that she was attacked by the appellant near the lift area of T.Nagar apartment and that she had bleeding injuries on her neck and hand. He reportedly advised her to go to the Hospital and also lodge a police complaint. He along with his wife reached by evening and went to the police station where the police had



enquired him.

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xii.Venkat (P.W.5), a friend of P.W.1 is a resident of Sastri Nagar, Adyar, Chennai. He had deposed that on 16.02.2015 he received a call at 08.00 a.m. from P.W.1 asking him to rush to her residence immediately. He along with another friend Hari Narayanan (not examined) went to P.W.1's apartment at about 08.30 / 08.45 a.m. He found P.W.1 with injuries on her neck, right palm and right wrist. P.W.1 explained to him how she was attacked by the appellant with a knife near the lift area of the apartment. He has also deposed that both P.W.1 and the appellant were in a relationship and then separated. He took P.W.1 to the Government Hospital, Royapettah, Chennai, for treatment and then to Pondy bazaar Police Station for giving a police complaint. The same day at about 03.00 p.m., at the request of the police, he along with Hari Narayanan went to Kodambakkam Railway Station where the appellant was already arrested and after they identified him, they returned to the police station and signed the confessional statement of the appellant before the police. It is also his contention that the appellant handed over the knife (M.O.2) to the police which was seized under a seizure mahazar (Ex.P5). He signed the seizure



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mahazar.

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xiii. Thiru. Venkatesan (P.W.7), the Investigation Officer, arrested the appellant near Kodambakkam Railway Station in the presence of Hari Narayanan and Venkat (P.W.5). He recorded his confessional statement. According to him, the appellant handed over the knife which was in his pocket. He seized the same under the cover of a seizure mahazar (Ex.P5) in the presence of Venkat (P.W.5) and Hari Narayanan. He brought him to the Police Station and sent him to the Jurisdictional Magistrate for judicial custody. He went to Government Hospital, Royapettah, and examined Dr. Rajeswari (P.W.6) and also obtained a copy of the Accident Register. He also examined Dr. Daniel who had opined on the nature of injuries. After concluding investigation, he laid a final report against the appellant for the offences punishable under Sections 341, 354 & 307 IPC before VII Metropolitan Magistrate, Saidapet, in P.R.C. No.106/15.

xiv. The learned VII Metropolitan Magistrate, Saidapet, committed the case to the court of sessions after furnishing copies of records to the appellant under Section 207 Cr.P.C., committed the case to



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Court of Sessions. The Principal Judge, City Civil Court, Chennai, took the case on file in S.C. No.337/2015 and made over the same to the Sessions Court, Mahalir Neethimandram, Chennai.

xv. The learned Sessions Judge, Mahilir Neethimandram, Chennai, framed charges against the appellant for the offences punishable under Sections 341, 307 & 354 IPC.

xvi. In order to bring home the guilt of the appellant the prosecution examined 7 witnesses, marked Ex.P1 to Ex.P8 and also marked 2 Material Objects (M.O.1 and M.O.2).

xvii. The accused, when questioned under Section 313 Cr.P.C with regard the incriminating circumstances appearing in evidence against him, he denied of having committed any offence. He marked a greeting card, a letter written by P.W.1 and photographs of him and the victim as defence side Material Objects 1 to 6.

xviii. The learned Sessions Judge, Mahilir Neethimandram, Chennai, after analysing the oral and documentary evidence on record,



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acquitted the appellant of the offences under Sections 341 and 354 IPC and convicted him for the offence punishable Under Section 307 IPC and sentenced him as stated in Paragraph No.2.

xix. Aggrieved over the judgment and orders passed by the trial Court judge, the appellant has preferred the present appeal.

4. Heard Mr.V.T. Narendiran, learned counsel for the appellant and Mr.S. Raja kumar, learned Additional Public Prosecutor appearing for the respondent.

5. The case of the prosecution harps on the evidence of P.W.1(victim), P.W.2 and P.W.5. P.W.1 being the victim was the person who had narrated the first hand account of the sequence of events which according to her led to her injuries. P.W.1's deposition was that the appellant was only a 'friend' whom she met in a voluntary organisation when they happen to work together. It is also seen from the deposition of her grandmother (P.W.2) and father (P.W.4) that they already knew the appellant. This being so, Venkat (P.W.5), her friend, and P.W.7, the Investigation Officer had deposed that P.W.1 was in a relationship with



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the appellant. P.W.1 even in her written complaint (Ex.P1) had categorically mentioned that the appellant was pestering her for a marriage and that her refusal to accept his proposal had infuriated him. P.W.1 further had deposed that, on 13.02.2015, just a few days before the incident of stabbing she was intercepted on a public road when she was driving a car and was slapped by the appellant insisting her to marry. Subsequently, according to P.W.1, her friends had spoken to the appellant's relatives who in turn assured that no such untoward incidents would happen and that the appellant would behave properly. This incident of stabbing allegedly took place on 16.02.2015 when P.W.1 had returned from her home town Rajapalayam at about 7.30 a.m. after visiting her parents and apprising them of the situation. It was when she entered the lift area of her apartment she was confronted by the appellant who was wearing a hood. P.W.1's version was that the appellant repeated his request for a marriage which she negated and immediately she was attacked by the appellant with the knife (M.O.2) which he had hidden in his left pocket of his hood. Her attempt to prevent the attack led to injuries on her left hand and forearm and a cut on her neck. On hearing her cry, her grandmother (P.W.2) rushed to the spot and took her to home from where she had called two of her friends. Venkat (P.W.5)



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reached P.W.1's house at about 8.45 a.m and took her to Government Hospital, Royapettah, after visiting the police station who asked P.W.1 to get medical aid. According to P.W.1, Iyyanar (P.W.3), the milkman was also a witness to the occurrence.

6. While P.W.3 turned hostile, P.W.2, her grand mother had a different version in her deposition. During the course of chief examination she had told that she was an eye witness to the stabbing of her grand daughter by the appellant. However, it was elicited during the course of cross examination that she was not present in the scene of occurrence and after hearing a commotion in the ground floor she had taken the staircase from her second floor flat to reach the ground floor by which time the alleged incident was over. It is also evident from the deposition of P.W.4, who had taken P.W.1 to the hospital, that P.W.1 with the injuries sustained in the alleged assault waited for him to arrive till 8.45 a.m and reached the hospital only at 9.50 a.m. This shows that the injuries were not so serious to warrant immediate medical attention. While P.W.1 had deposed that she was taken to the police station first who then advised her to go to the hospital, her friend (P.W.5) who accompanied had deposed that they directly went to Government



Hospital, Royapettah, for treatment. Dr.Rajeswari (P.W.6) who attended

P.W.1 in Government Hospital, Royapettah, had mentioned in the

Accident Register thus:

" hit by knife on left hand and forearm, neck. Bleeding at
left hand 2 x 2 cm size."

whereas in her deposition she had mentioned a cut injury on P.W.1's neck measuring 8 cm. It is pertinent to point out that P.W.6 was examined two years after the occurrence. Her memory power seems to be 'amazing' since she has interpreted something much more than what she had recorded in the Accident Register (Ex.P2). Many of the vital aspects of the prosecution case do not carry the conviction which they are supposed to have. There is no denial of the fact from the side of the appellant that he was present near the lift area of the apartment in which P.W.1 was residing. P.W.1 had deposed that the appellant was wearing a hood to mask his identity and also took out a knife from the left pocket of his hood.

7. The seizure of the knife (M.O.2) which was allegedly used by the appellant in the attack is not also very convincing. Firstly, while P.W.5 had deposed that the knife was handed over by the appellant to the



police and was seized by the police by way of a mahazar which was signed by his friend Hari Narayanan and him, the Investigation Officer had stated that it was seized near Kodambakkam Railway Station. Secondly, the knife which is 22.5 cm long, as claimed by the prosecution, could not have been carried in the left pocket of the hood. Thirdly, the weapon (M.O.2) was not shown to the doctor (P.W.6) and this clearly causes suspicion whether the weapon was actually used by the appellant. Fourthly, the nature of injuries sustained by the victim (P.W.1) does not support the prosecution theory that there was an attempt to murder P.W.1. Moreso, when the appellant was just a young lad of 21 years of age and had he attacked P.W.1 with such a big weapon and that too with an intention to kill her, the injuries could have been more serious and grievous. It is also the case of the prosecution that the appellant was arrested near a Railway Station and 22.5 cm long knife (M.O.2) was seized from him. When the Investigation Officer in his deposition had stated that 22.5 cm long knife was taken out by the accused from his pocket, the seizure mahazar (Ex.P5) is silent on this aspect. Moreover, M.O.2 did not have any blood stain on it, strengthening the suspicion of its usage. The dress worn by the appellant was not seized either. Non examination of Dr. Daniel who gave opinion on the injuries is also fatal



to the case of the prosecution.

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8. In a case under Section 307 IPC, the prosecution must prove unequivocally and beyond reasonable doubts that the offender intended to kill the victim. In the instant case the usage of weapon is in doubt. The appellant was a college student and not a professional killer to always carry a weapon with him.

9. It appears to be a love story gone sour. In fact, the victim (P.W.1) reported to the doctor who examined her that it was her friend who had assaulted her. Though it is claimed by P.W.1 that there was an earlier incident on 13.02.2015 when her car was intercepted by the appellant and she was assaulted and that she had informed her friends about the incident, no such narration was found in the deposition of P.W.5. The prosecution also has not attempted to bring this aspect into picture in order to substantiate the intention of the appellant. In fact, in her complaint she claims to have been saved by a police officer on 13.02.2015 which again has not been substantiated or investigated by the prosecution. In her deposition P.W.1 has not mentioned about the police officer coming for rescue. It is also pertinent to point out that P.W.1 in her deposition had brought a new angle that she was threatened by the



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appellant referring to some photos of both of them (Defence side

Material Objects 4 to 6) that they would be made public, about which

there is no mention in her complaint. A perusal of these photos shows

that they do not contain any objectionable content. However, this

allegation against him appears to be an after thought. Such abrasions and

infirmities in the prosecution theory do not augur well for any criminal

case. As already mentioned, the usage of M.O.2 as well as its recovery

smack of credibility. There also appears to be no intention on the part of

the appellant to murder P.W.1. Therefore, conviction under Section 307

IPC by the trial court cannot stand on its own feet. The injuries actually

sustained by P.W.1, as found in the Accident Register, do not match with

the evidence of the doctor. In fact, the evidence of the doctor talks about

an injury near her left eye which does not find a place in the Accident

Register. As already mentioned 8 cm long cut injury on the neck of

P.W.1 is not also found in the Accident Register. The injury '2 x 2 size'

has not been described properly. The prosecution had relied on two

photographs of the victim (M.O.1 series) which show that she had simple

injuries on her left neck. However, the photographer who took photos

of the victim has not been examined and the CD is not filed before the

court. Thus the prosecution has miserably failed to establish that the



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appellant has committed the offence punishable under Section 307 IPC.

For the above stated reasons, the judgment and orders of the trial court is liable to be set aside.

10. In the result,

- i. The Criminal Appeal is allowed.
- ii. The judgment and orders dated 18.05.2017 passed by the learned Sessions Judge, Mahalir Neethimandram, Chennai, in S.C.No.337 of 2015, is set aside.
- iii. The appellant (accused in S.C.No.337 of 2015) is acquitted from all the offences, of which he is charged. Bail bonds, if any executed by the appellant, shall stand cancelled. Fine amount, if already paid, shall be refunded.

06.06.2024

Index : yes/no
Speaking /Non speaking Order
bga



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1. The State represented by
The Inspector of Police,
R4 Soundarapandiyanar Angadi Police Station,
Chennai - 600 017.
(Crime No.698/2015)
2. The Sessions Judge, Mahalir Neethimandram, Chennai.
3. The Public Prosecutor, High Court, Madras.
4. The Section Officer, Criminal Section, High Court, Madras.



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