



Crl.A.No.774 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.02.2024

PRONOUNCED ON : 20.02.2024

CORAM :

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

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

Crl.A.No.774 of 2019
and Crl.M.P.No.7352 of 2022

Mari

...Appellant/Accused

Vs.

The Inspector of Police,
T.8, Muthiyalpet Police Station,
Chennai.
[Cr.No.96 of 2016]

...Respondent/Complainant

Prayer: Criminal Appeal filed under Section 374(2) of Code of Criminal Procedure, 1973, to set aside the Judgment passed by the learned II Additional District Judge, Thiruvallur at Poonamallee in S.C.No.266 of 2016 dated 04.04.2019.

For Appellant : Mr.T.Saravanan



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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 04.04.2019 in S.C.No.266 of 2016 on the file of the learned II Additional District Judge, Thiruvallur at Poonamallee.

2 (i). It is the case of the prosecution that the deceased was the father-in-law of the accused; that the accused married the second daughter of the deceased by the name Madhavi and was living in the house of the deceased along with his wife viz. Madhavi and children; that the accused was unemployed and was in the habit of consuming alcohol everyday and fighting with the daughter of the deceased; that therefore, the deceased sent the accused out of the house eight months before the occurrence and thereafter, the accused used to threaten the deceased and family members of dire consequences; and that on 04.03.2016 at about 12:30 p.m., when the deceased was alone at home, the accused



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came to the house and attacked him with a paper-cutting knife on the right side of the neck, which resulted in the death of the deceased.

(ii). It is further the case of the prosecution that P.W.1, the wife of the deceased, who went out for a job, came to know that the accused had caused the death of the deceased and went to the house and saw the deceased with cut injuries in the neck; that she came to know from the neighbours and the public who gathered there that the accused caused those injuries and fled from the place; that P.W.1 therefore, lodged a complaint [Ex.P1], to P.W.18, the Inspector of Police, who registered the Express First Information Report [Ex.P13], for the offence under Section 302 of the Indian Penal Code.

(iii) After registration of the FIR, P.W.18 took up the investigation and went to the house of the deceased and prepared Observation Mahazar [Ex.P2] and Rough Sketch [Ex.P14]. He seized the bloodstained earth and the earth that was not bloodstained in the presence of P.W.7. On 04.03.2016, at about 6:30 p.m., he arrested the accused in the presence of P.W.9, and on the confession of the accused, he seized the knife under mahazar. On 05.03.2016 between



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7.00 a.m. and 9.30 a.m., he conducted an inquest and prepared an inquest report [Ex.P15]. He thereafter made a requisition for post-mortem which was conducted by P.W.11, the Doctor. P.W.11 issued a post-mortem certificate [Ex.P9]. P.W.18 thereafter examined the other witnesses and filed the Final Report before the learned Judicial Magistrate, Ambattur, for the offences under Sections 450 and 302 of the Indian Penal Code.

(iv) 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.266 of 2016 and was made over to the learned II Additional District Judge, Thiruvallur, at Poonamallee for trial. The trial Court framed charges under Sections 450 and 302 of the IPC as against the appellant, and when questioned, the appellant pleaded 'not guilty'.

(v) To prove the case, the prosecution examined 18 witnesses as P.W.1 to P.W.18 and marked 15 exhibits as Exs.P1 to P15, and 7 material objects as M.O.1 to M.O.7. When the appellant was questioned u/s.313 Cr.P.C. on the incriminating circumstances appearing against him, he denied the same.



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The appellant/accused did not examine any witnesses or mark any documents on his side.

(vi) The Trial Court, on appreciation and evaluation of oral and documentary evidence, convicted the accused, viz., the appellant, and sentenced him as follows:

Offences under Section	Sentence imposed
450 of the IPC	To undergo RI for 10 years and to pay a fine of Rs.1000/- in default to undergo RI for 3 months.
302 of the IPC	To undergo life imprisonment and to pay a fine of Rs.5000/- in default to undergo RI for six months.
The sentences imposed were directed to run concurrently.	

Hence, the accused has preferred the appeal challenging the above conviction and sentence.

3. Heard Mr.T.Saravanan, the learned counsel for the appellant, and Mr.A.Gokulakrishnan, the learned Additional Public Prosecutor for the respondent/State.

4. The learned counsel for the appellant submitted that the case, which is



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based on circumstantial evidence, has not been conclusively established by the prosecution; that though P.W.1 claimed that several people gathered outside the house of the deceased, none were examined; that P.W.2 cannot be relied upon as she had a grudge against the deceased and her version is contrary to the evidence of P.W.1; that P.W.1 had also stated that the occurrence took place at 12:30 p.m., which is contrary to the prosecution case; and that in view of the inconsistent versions, the Trial Court ought not to have convicted the appellant; hence, he prayed for acquittal of the appellant.

5. Mr.A.Gokulakrishnan, the learned Additional Public Prosecutor, *per contra*, submitted that the circumstances have been conclusively established; that the motive has been established; and that the arrest and recovery conclusively proved the prosecution case beyond reasonable doubt, and hence he prayed for dismissal of the appeal.

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

7. P.W.11 is the post-mortem Doctor who issued the post-mortem certificate [Ex.P9]. As per the post-mortem certificate, the Doctor found two



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major injuries on the vital parts of the body, namely the neck and another injury in the right hand, and the Doctor opined that death was due to injuries to major vessels in the neck and the stab injury. The evidence of the Doctor [P.W.11], coupled with the post-mortem certificate, established that the deceased died due to homicidal violence.

8. Admittedly, the occurrence took place when the deceased was alone at home. The motive for the occurrence has been spoken by P.W.1 and P.W.2. P.W.1 had stated that since the accused was in the habit of harassing his wife, the daughter of the deceased, P.W.1, the deceased sent him out of the house, and therefore, the accused/appellant always threatened them of dire consequences.

9. P.W.2 corroborates the evidence of P.W.1 with regard to motive. The defence has not disputed the motive aspect spoken to by P.W.1 and P.W.2. In fact, strangely, the defence has not chosen to cross examine P.W.1. It is P.W.1's version that she went out to work and that the deceased, who also went to work, came to the house for lunch. It is P.W.2's version that she was staying at home on the date of the occurrence and her parents and her younger sister/Madhavi had gone for work; that when the deceased came for lunch,



she went out to buy cool drinks for him, and when she was away from the house, the occurrence took place, and when she heard the sound of the people who gathered outside her house, she rushed to the house and saw the deceased. It is true that P.W.1's complaint does not specifically refer to the presence of P.W.2 at home. However, she would only state that she and her daughter Madhavi went out to work, and when the deceased was alone, the occurrence took place. The version of P.W.1 in the complaint, in our view, is not contrary to the deposition in Court. It is well settled that the FIR is not an Encyclopaedia, and in the heat of the moment, the presence of P.W.2 in the house may not have been stated in the FIR.

10. Though P.W.2 would state that the deceased told her that it was the accused who inflicted injuries on him, considering the nature of the injuries, that version may be improbable. However, *Falsus in uno, falsus in omnibus* (*False in one thing, false in everything*) is not applicable in our country. Hence, we are not inclined to disbelieve the other portions in the evidence of P.W.2. P.W.5 is another important witness, who is an independent witness who saw the accused going out of the house around 12:30 p.m. with a knife in his hand. The



evidence of P.W.5 inspires confidence, and we are inclined to believe his version. The cross-examination done by the defence has not affected his version in any manner.

11. P.W.4 is the grandson of the deceased, who saw the accused running away from the house. His house is situated opposite to the house of the deceased. He had also come home for lunch. Therefore, his evidence of seeing the accused leave the house also inspires confidence.

12. P.W.3 is the nephew of the deceased and resides nearby, he speaks about the motive of the appellant. He took P.W.1 to the police station to lodge a complaint. The recovery of the knife on the confession of the accused is spoken to by P.W.9. He supported the case of the prosecution, and on an overall reading of his deposition, we are inclined to believe his testimony.

13. P.W.14, the Assistant Director, who was working in the Forensic Science Laboratory, Chennai, issued Ex.P12, report, wherein it is stated that there were dark brown stains in a foldable paper cutter. However, we may note here that the weapons were not sent for chemical analysis. However, in the



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facts and circumstances of this case, we are of the view that the said infirmity in the prosecution does not affect its case in any manner. The motive, the presence of the accused at the time of the occurrence, his fleeing away from the house of the deceased and the recovery of the weapon or knife have been established. In our view, this forms a complete chain pointing only to the guilt of the accused, ruling out any other hypothesis.

14. In these circumstances, therefore, we are of the considered view that the prosecution case proved its case beyond reasonable doubt, and there is no reason to interfere with the judgment of the trial Court convicting the appellant of the charge against him. In the result, the Criminal appeal is liable to be dismissed, and hence, Crl.A.No.774 of 2019 is dismissed. The Judgment of conviction and sentence imposed upon the appellant/accused in S.C.No.266 of 2016 passed by the learned II Additional District Judge, Thiruvallur, at Poonamallee dated 04.04.2019 is confirmed. Consequently, the connected Criminal Miscellaneous Petition is closed.

(M.S.R.,J.)

(S.M.,J.)



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Index : yes
Neutral citation : yes
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Copy to:

1. The II Additional District Judge,
Thiruvallur at Poonamallee.
2. The Inspector of Police,
T.8, Muthiyalpet Police Station,
Chennai..
3. The Public Prosecutor,
High Court of Madras,
Chennai – 600 104.

M.S.RAMESH,J.
AND
SUNDER MOHAN,J.
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Pre-delivery judgment in
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