



Crl.A.(MD).No.159 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2024

CORAM

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

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Ramesh @ Karikattai

..Appellant/Sole Accused

Vs.

The Inspector of Police,
Chinnamanur Police Station,
Theni District.
(Crime No.542/2016).

.. Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374 of Criminal Procedure Code, to call for the records pertaining to the judgment made in S.C.No.39 of 2017 dated 28.08.2018 on the file of the learned Additional District Court (Fast Track Court), Theni and set aside the same by allowing above appeal.

For Appellant : Mr.S.Poornachandran

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor



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JUDGMENT

DR.G.JAYACHANDRAN,J.
and
C.KUMARAPPAN,J.

The present Criminal Appeal is filed by the sole accused against the conviction and sentence rendered by the Additional District Court (Fast Track Court), Theni in S.C.No.39 of 2017 vide judgment dated 28.08.2018.

2. The appellant/sole accused was found guilty for the offence under Section 302 IPC and he was sentenced to undergo life imprisonment and to pay a fine of Rs.5000/-, in default to undergo six months simple imprisonment.

3.1. The case of the prosecution is that the deceased Sekar and the accused belong to the same Village and they are known to each other. The deceased used to tease the accused as a mentally unstable person (வழக்கப் பயலே) and therefore, the accused had grudge against the deceased. On 16.09.2016 at about 6.00 AM, when the deceased along with the villagers were attending their nature call near Karuppasamy Kovil, the accused came there, picked quarrel with the deceased and stabbed him on the chest with a



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knife. When the deceased tried to escape to save his life, the accused chased him and attacked him with a sickle (Angaruval). The deceased sustained injuries leading to his death.

3.2. The matter was reported to Chinnamanur Police Station at 8.00 hours on 16.09.2016. A case was registered in Crime No.542 of 2016 by the Sub Inspector of Police, N.Muthupandi and the same was taken up for investigation. On 16.09.2016, at about 5.00 PM, the accused was arrested and based on his confession statement, his blood stained clothes and the knife used by him were recovered under Mahazar, Ex.P7. From the scene of occurrence, the photograph of the son of the accused and the Angaruval were recovered under Ex.P4 and Ex.P5 Mahazar, besides blood stained soil, which was taken up for examination. The Investigating Officer prepared a rough sketch Ex.P13, Observation Mahazar Ex.P3 and after recording the inquest, proceeded with the investigation recording the statements of the witnesses, who had seen the occurrence and the other witnesses like postmortem Doctor and the witnesses to the confession and recovery. On completion of investigation, final report was filed and the same was committed to the Court of Sessions to be tried. The District Sessions Court,



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Theni, on perusal of the final report, framed charge under Section 302 IPC and tried the accused.

4. Before the Trial Court, 17 witnesses, 15 exhibits and 13 material objects were relied upon by the prosecution to prove the charge against the accused.

5. The Trial Court held that P.W.1 and P.W.2 are the eye witnesses to the occurrence. P.W.3 had spoken about the previous motive. P.W.4, P.W.5 and P.W.6 had spoken about their knowledge about the murder of the deceased Sekar. Apart from the eye witnesses, the villagers were examined as P.W.6 and P.W.7, who had spoken about the unnatural death of the deceased Sekar. P.W.8 and P.W.9 had spoken about the arrest of the accused, confession and recovery of material objects based on his confession. The other witnesses are the Police, who assisted in conducting investigation and the Doctor, who has conducted postmortem. P.W.16 is the Investigating Officer, who had taken up the investigation from N.Muthupandi, who registered the FIR. P.W.17 is the subsequent Investigating Officer, who has forwarded the final report to the Court on



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completion of investigation. The Trial Court further held that the complaint given by P.W.1, who is one of the eye witnesses, is supported and corroborated by P.W.2. The recovery of weapon and the blood stained clothes of the accused based on his confession were the vital incriminating evidence, which has been found against the accused. Hence, the Trial Court convicted the accused and sentenced him to undergo life imprisonment as stated above. Aggrieved by the conviction and sentence, the present Criminal Appeal is filed.

6. The learned counsel appearing for the appellant took pains to point out the contradictions between the evidence of P.W.1 and P.W.2, who are supposed to be the eye witnesses to the occurrence. The learned counsel first raised a doubt about the weapon used in the alleged occurrence, since P.W.1 had mentioned that at one place, the deceased was attacked by the accused with a knife on the chest and subsequently, had stated that the second attack was with an angaruval (sickle) on the neck and he has not spoken anything about the further injuries. The Police has recovered angaruval near the scene of crime and the knife in a different place based on the confession statement of the accused. Neither P.W.1 nor P.W.2, who



claims to be the eye witnesses to the occurrence, had specifically stated that the accused used both the weapons, angaruval M.O.1 and knife M.O.2. The learned counsel also submitted that according to the prosecution, blood stains were found in the knife recovered under Ex.P7 Mahazar based on the confession of the accused. However, the result of the biological/serological analysis of the knife indicates “disintegrated”.

7. The learned counsel for the appellant further submitted that the testimony of P.W.2, who is yet another eye witness, also suffers a similar contradiction in respect of the weapon used by the accused to attack the deceased. It is also the evidence of P.W.1 and P.W.2 that they saw the blood stained shirt, towel and lungi of the deceased near his body. But, in the cross-examination of P.W.2, he had deposed that the deceased was lying dead nakedly. Pointing out these contradictions, the learned counsel for the appellant submitted that the evidence of P.W.1 and P.W.2 is wholly unbelievable and that they should not be considered as eye witnesses to the occurrence because of the contradictions and furthermore, they are close relatives of the deceased and therefore, they are interested witnesses.



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8. Per contra, the learned Additional Public Prosecutor appearing for the respondent would submit that the evidence of P.W.1, P.W.2, P.W.3 and P.W.7 speaks about the motive because the deceased was frequently teasing the accused. On the date of the incident, the accused had gone to the place where the deceased was attending nature's call and had decided that it was a right time to take revenge and stabbed the deceased on the chest with the knife he carried. The learned Additional Public Prosecutor further submitted that being a person working in a grape orchard, the accused always used to carry an angaruval, M.O.1, with him, but on the date of occurrence, in addition to angaruval, he had also carried M.O.2 knife. Therefore, it is a premeditated murder. The said fact has been proved through the eye witnesses and the trail of blood, which is found from SOC-1 to SOC-2 marked in the rough sketch, indicating that the first stab in the chest by the accused was the place of SOC-1. It is further stated that near SOC-1, the photograph of the son of the accused and the angaruval, which the accused used to carry, has fallen down and further, after 40 feet, the deceased fell down with multiple injuries indicating that subsequent injuries were caused on the deceased, which had crippled him to run further. Hence, the learned Additional Public Prosecutor prayed to dismiss the appeal.



9. Heard the learned counsels and perused the materials available on record.

10. As pointed out by the learned counsel for the appellant, there is some discrepancy about the weapon used in causing the multiple injuries found on the body of the deceased. The prosecution has marked two weapons, one is M.O.1 angaruval and another is M.O.2 knife. The postmortem certificate, Ex.P12, indicates the antemortem injuries noted by the Doctor, which are as follows:

“1)A deep vertical incised wound of size 8 X 2 X 1.5cm seen in lower part of left cheek, 3cm from the chin.

2) An oblique deep incised wound of size 18 X 4 X 3cm seen in upper part of neck, 3cm of tailing in its right side, 8cm from the chin, it cuts underlying soft tissues, vessels, nerves and wind pipe.

3) An oblique deep incised wound of size 19 X 3 X 3 – 0.5cm seen in upper part of neck, 3cm of tailing in its right side and 0.5cm from the injury no – 2, it cuts underlying soft tissues, vessels, nerves and wind pipe.

4)An oblique deep incised wound of size 20 X 3 X 3 - 0.5cm seen in upper part of neck, 2cm of tailing in its right side and 0.5cm from the injury no – 3, it cuts underlying soft tissues, vessels and nerves.



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5) *Incised wound of size 3 X 1.5 X 1cm seen in upper part of left side chest, 9cm from the acromian process (left).*

6) *Incised wound of size 4 X 1.5 X 0.5cm seen in upper part of left side chest, 2cm lateral to injury no – 5.*

7) *Incised wound of size 4 X 1.5 X 1.5cm seen in upper part of left side chest, 2cm below to injury no – 5.*

8) *A deep incised wound of size 8 X 2 X 1.5cm seen in between right thumb and index finger, it cuts underlying soft tissues, vessels and nerves.*

9) *Incised wound of size 2 X 1 X 0.5cm seen in middle of left index finger.*

10) *Incised wound of size 2 X 1 X 0.5cm seen in middle of left middle finger.*

11) *Incised wound of size 2 X 1 X 0.5cm seen in upper part of left ring finger.*

12) *Incised wound of size 1 X 1 X 0.5cm seen in upper part of left little finger.*

13) *Abrasions of size 3 X 3cm seen in outer aspect of right elbow.*

14) *Abrasions of size 2 X 2cm seen in back of right elbow.*

15) *Abrasions of size 5 X 4cm seen in right knee.*

16) *Abrasions of size 3 X 3cm seen in front of left knee.*

17) *Abrasions of size 8 X 5cm seen in right gluteal region.*



18) Abrasions of size 6 X 1cm seen in middle of outer aspect of right thigh.

19) Abrasions of size 2 X 2cm seen in upper part of outer aspect of right leg.

20) An oblique penetrating injury of size 3 X 1 cm X cavity deeps seen in upper part of middle of abdomen, its upper end is blunt and 4cm from xiphoid process, its lower end is sharp and 12cm from umbilicus. Omentum protruded out through this injury. On dissection of abdomen 1.2 liter of blood stained fluid noted, through and through injury noted in right lobe of liver and gall bladder.”

11. As seen from the above, Injury Nos.13 to 19 are abrasion wounds and the other wounds are incised wounds or penetrating injury. This indicates the possibility of using two weapons. The postmortem Doctor, who was examined as P.W.15, had stated that Ex.P12 is the postmortem certificate given by him and that the injuries found on the body of the deceased could have been caused with a knife. The suggestion put to him that those injuries could not have been caused by a single person with a knife has been denied. At the same time, regarding the abrasion wounds found in Injury Nos.13 to 19, the Doctor admits that it could have been caused when a person falls down.



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12. Now, when we examine the testimony of P.W.1 and P.W.2 in the light of the postmortem certificate, this Court finds that P.W.1 had deposed that the accused, who is working in the grape orchard, normally used to carry a knife to reap grapes. He also states that the accused always used to carry angaruval (sickle) with him. The recovery mahazar, Ex.P4, indicates that the said angaruval is 10 cm. P.W.1 had spoken about the two injuries and two weapons. The first injury caused with a knife in the chest of the deceased and the second injury with a sickle on the neck. Both the injuries were caused at two different places. The second injury has been caused when the deceased tried to run away from the attack. P.W.2, the yet another eye witness, apart from deposing that the accused normally used to carry sickle in his pocket, had also deposed that when the deceased went to attend nature's call near Kannimar Kovil, the accused followed him and on hearing the sound of the deceased, when he and P.W.1 rushed to the spot, they saw the accused stabbing the deceased on his chest and the accused ran towards Kannimar Kovil. They tried to catch him, but could not succeed. When they returned, they saw Sekar, the deceased bleeding with cut injury on his neck and his dress materials soaked with blood and also saw the photograph



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of the son of the accused and the sickle. Thereafter, the matter was reported to the Police.

13. No doubt, there are certain discrepancies and contradictions regarding the dress material and the weapon. But, on a holistic consideration of the evidence relied upon by the prosecution, there is little scope to disbelieve the testimony of P.W.1 and P.W.2 to reject their evidence as false or to presume that they could not have seen the occurrence. Except the minor discrepancies, their evidence is natural and it correlates with the medical evidence. Nearly 13 injuries, which are very grievous in nature and the injuries on the vital part of the body of the deceased, would expose the animosity and anger of the assailant. The intention to cause death could be easily inferred from the nature of injuries caused by the accused.

14. When it is a case of direct evidence, the failure on the part of the prosecution to prove the presence of human blood in the weapon used by the accused or the discrepancy in recovery of the weapon based on the confession statement pales into insignificance, provided the testimony of the eye witnesses inspires the confidence that they are wholly reliable



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eyewitnesses. In the present case, this Court finds that the evidence of P.W.1 and P.W.2, though the appellant wants to condemn them as interested witnesses, it is borne by record that they are not only relatives to the deceased, but also to the accused and therefore, their testimony cannot be disbelieved for the reason that they are related to the deceased, besides, their presence at the scene of crime is natural and not a case of implanting for the purpose of prosecution.

15. The learned counsel for the appellant submitted that the accused has also sustained injury and he was treated by P.W.14 and his wound certificate is marked as Ex.P11. The prosecution has miserably failed to explain the injuries found on the accused, which creates grave doubt about their credibility.

16. The learned Additional Public Prosecutor, in response to the above allegation, submitted that the confession statement of the accused had disclosed as to how he sustained the injury. The injured person is the best person to tell about the injury and it is within his exclusive knowledge, which has been revealed in the confession statement. The discovery of the



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fact that the injuries were sustained by the accused while he had a fight with the deceased and it is a self-inflicted injury, has no reason to be disbelieved when there is no contra evidence available on record.

17. This Court is totally convinced with the submissions made by the learned Additional Public Prosecutor in respect of the injuries sustained by the accused. The injuries as found in Ex.P11 is a lacerated injury with size of 0.2 X 0.2 cm over right middle finger and another injury of same size over the middle of right index finger. The Doctor has certified that the injuries are simple in nature and the injured was treated as out-patient after suturing the wound. The size of the injury and the seat of the injury probabilies that it was due to the weapons handled by the accused in the course of fight while attacking the deceased and that it is a self-inflicted injury. In fact, in the cross-examination of P.W.14, the Doctor, who has treated the accused, a specific suggestion was put to him that a person cannot cause a self injury in his right hand with a knife in the same right hand. However, that suggestion has also been denied indicating that it is possible. In such circumstances, this Court holds that the injury on the accused is a self-inflicted injury.



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18. In view of the above findings, this Court finds no merits in the appeal to interfere with the judgment of the Trial Court. Hence, the Criminal Appeal is dismissed. The conviction and sentence imposed on the appellant/sole accused by the Additional District Court (Fast Track Court), Theni, in S.C.No.39 of 2017, vide judgment dated 28.08.2018, stands confirmed.

19. In view of dismissal of this appeal, the bail bond executed by the appellant shall stand cancelled. The appellant shall surrender before the Trial Court within 15 days from today, to undergo the remaining period of sentence. Failing which, the respondent Police shall secure him and commit him to prison to undergo the remaining period of sentence.

(G.J.,J.) (C.K.,J.)
13.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1.The Additional District Court (Fast Track Court),
Theni.

2.The Inspector of Police,
Chinnamanur Police Station,
Theni District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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