



Crl.A(MD)No.275 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 27.09.2023
PRONOUNCED ON : 24.01.2024

CORAM:

THE HONOURABLE Mr.JUSTICE M.S.RAMESH
and
THE HONOURABLE Mr.JUSTICE M.NIRMAL KUMAR

Crl.A(MD)No.275 of 2021

Petchiyammal

... Appellant

-Vs-

State through
The Inspector of Police,
Aathoor Police Station,
Thoothukudi District.
(In Crime No.229 of 2014)

... Respondent

PRAYER: Criminal Appeal filed under Section 374(2) of the Code of Criminal Procedure, to call for the entire records connected to the judgment in S.C.No.115 of 2015 on the file of the II Additional District Sessions Judge, Thoothukudi dated 23.06.2016 and set aside the conviction and sentence imposed against the appellant.

For Appellant : Mr.R.Alagumani

For Respondent : Mr.A.Thiruvadikumar
Additional Public Prosecutor



JUDGMENT

M.NIRMAL KUMAR, J.

This Criminal Appeal arises out of the judgment of Conviction and Sentence rendered by the learned II Additional District Sessions Judge, Thoothukudi in S.C.No.115 of 2015, dated 23.06.2016.

2.On conclusion of trial in S.C.No.115 of 2015, the learned trial Judge found the appellant guilty and convicted her for the offence under Section 302 of IPC and sentenced her to undergo life imprisonment and to pay a fine of Rs. 1,000/-, in default, to undergo one year simple imprisonment.

3.The facts leading to filing of this appeal and necessary for its disposal, are as follows:-

3.1.The deceased Kameswaran, aged about eight years, was done to death by the appellant, who was a spinster, by dousing kerosene on him and setting him on fire. The appellant is the sister of Kameswaran's mother and daughter of PW2. At the time of occurrence, the deceased Kameswaran was studying in 3rd Std at Hindu Primary School, Keeranur Village, Aathoor Taluk, Thoothukudi District which is closer to his maternal grandmother's/PW2 house. The deceased Kameswaran was living with his parents/PW1 & PW5



about a few streets away from PW2's house. Since the maternal grandmother's house was closer to the school, the deceased Kameswaran used to visit his grandmother/PW2 during lunch hours and after school hours to have snacks and refreshment and spend time with them.

3.2.On 12.09.2014, at about 01.20 p.m., when the deceased Kameswaran had gone to PW2's house, there was a small wordy quarrel between the deceased Kameswaran and his Aunt/appellant, who was present there. The appellant being a mentally deranged person and affected with paranoid schizophrenia, bolted the house from inside, doused kerosene on Kameswaran and set him on fire. After seeing the smoke emanating from the house, the neighbours had informed Rajammal/PW2 about the same. PW2 along with others had broke open the door and went to find the deceased Kameswaran in a charred condition on the floor, while the appellant was sitting motionless beside him. When PW2 had informed her daughter/PW1, the mother of Kameswaren about the incident, PW1 had went there and took his son Kamaeswaran to the hospital in an ambulance driven by PW7.

3.3.PW8/Casualty Doctor had examined the injured Kameswaran and after issuing the Accident Register (Ex.P4), admitted him as an inpatient



(Ex.P5). At that time, Kameswaran was conscious, but was unable to speak.

Thereafter, PW9, Burns Ward Doctor had examined Kameswaran and declared him as dead. Accordingly, he had issued death certificate (Ex.P6) to that effect. The death information was then informed to the respondent Police. PW14/Sub Inspector of Police, on receiving the information, reached the hospital and recorded the statement of PW1/mother of the deceased, in the presence of PW11. An FIR (Ex.P10) in Crime No.229 of 2014 for the offence under Section 302 IPC was registered. Thereafter, PW15/Investigating Officer had visited the scene of occurrence, prepared the Observation Mahazar (Ex.P11) and the Rough Sketch (Ex.P12), in the presence of PW6 and another. PW15 had then examined the witnesses viz., PW1/mother of the deceased, PW2/grandmother of the deceased, PW3 & PW4/neighbours, PW5/father of the deceased, PW7/Ambulance Driver, PW8/Casualty Doctor and PW9/Burns Ward Doctor. Subsequently, he had conducted inquest on the body of the deceased Kameswaran and sent it for postmortem. PW10/Doctor had conducted postmortem on the body of the deceased and issued the postmortem certificate (Ex.P8), confirming that the death was due to burn injuries. After collecting reports and other materials, the charge sheet was filed before the trial Court.



3.4. During trial, fifteen witnesses were examined as PW1 to PW15 and twelve documents were marked as Exs.P1 to P12 and two Material Objects were marked as MO1 & MO2 on the side of the prosecution. On the side of the defence, no witnesses were examined nor any documents were marked. On conclusion of trial, the trial Court rendered a judgment of conviction as stated above.

4. The submissions of the learned counsel for the appellant are as follows:

4.1. The learned counsel for the appellant submitted that in this case, admittedly, there is no eye witness to the occurrence and the trial Court had convicted the appellant based on circumstantial evidence. Furthermore, there was no evidence to show that the appellant and the deceased were last seen together. The case, as projected by the prosecution, was that the appellant before setting fire on deceased, had tied both his hands with a rope. However, no such rope was seized from the scene of occurrence during investigation. Added to it, no other burnt articles were seized by the respondent Police, from the scene of occurrence. It was also projected that the appellant had pushed her mother/PW2 outside and bolted the door from inside and then doused kerosene on the deceased and set him on fire. On the other hand, the evidence



of PW2 is that at the time of occurrence, she was not at home and only after receiving information about fire was emanating from her house, she had immediately rushed there and tried to open the door, which was locked from inside.

4.2.The learned counsel further submitted that since the Accident Register (Ex.P4) had recorded the time of occurrence as 02.00 p.m., and in the FIR (Ex.P10) it was recorded as 01.30 p.m., the time of occurrence itself is doubtful. The evidence of the ambulance driver/PW7 is that the deceased Kameswaran was accompanied by PW1 and PW2, who had initially gone to Kayalpattinam Government Hospital where the boy was given first aid for about half an hour. At about 02.30 p.m., they had gone to Tiruchendur Government Hospital where further treatment was given. They then went to Thoothukudi Government Hospital at about 04.00 p.m. But none of these Doctors were examined nor any records were produced from Kayalpattinam Government Hospital and Tiruchendur Government Hospital. PW11, who accompanied PW1 and PW2 along with Kameswaran had stated that first aid was given to Kameswaran in a private clinic at Tiruchendur and thereafter, he was taken to Thoothukudi Government Hospital.



4.3.PW3 and PW4, who are the neighbours were examined to state about breaking of the door, entry into the house and on the charred condition of Kameswaran in the scene of occurrence. However, both the witnesses did not support the case of the prosecution. At the time of occurrence, PW5/father of the deceased Kameswaran was working at Sayalkudi. But in the Accident Register (Ex.P4), it was recorded as though PW5 had brought his son Kameswaran to the hospital. PW6 is the witness for Observation Mahazar (Ex.P2). Though PW6 had stated that in his presence, the Observation Mahazar (Ex.P2) was prepared and MO1 & MO2 were seized by Seizure Mahazar (Ex.P3), he does not know the contents of the Observation Mahazar (Ex.P3) and hence, Exs.P2 & P3 cannot be construed as proved. PW8/Casualty Doctor had recorded the injuries sustained by the deceased Kameswaran in the Accident Register (Ex.P4) and about admitting Kameswaran at about 03.10 p.m., by recording that he had burn injuries all over his body.

4.4.PW1 had stated that in the ambulance, her son Kameswaran informed about the appellant setting fire on him, but from Exs.P4 & P6, it is seen that the boy was with 100% burn injuries with hypovolemic shock. Thus, except the evidence of PW1 and PW2, no other witnesses have spoken about



the appellant. The claim that PW1 and PW2 saw the appellant along with the deceased at the time of occurrence has not been substantiated in this case. The trial Court without considering these facts, had merely proceeded by placing reliance on the evidences of PW1, PW2, PW10/Postmortem Doctor, other Doctors/PW8 & PW9 and postmortem report (Ex.P8) in convicting the appellant. Furthermore, there are discrepancies with regard to the time of occurrence and presence of PW2 in the place of occurrence. While PW1 had stated that the occurrence had taken place in the kitchen, PW2 stated that it took place in the front room. On the other hand, the evidence of Investigating Officer/PW15 and Rough Sketch (Ex.P11) show that the scene of occurrence was in the middle portion of the house. Above all, the motive for the appellant to indulge in such an act has not been established.

4.5. In this case, PW1 and PW2, the sister and mother of the appellant confirmed that the appellant was of unsound mind for more than ten years and that she was taking regular treatment for her mental disorder. PW2 in her evidence qualifies the mental state of the appellant by stating that the appellant used to laugh for no reason and that she under regular treatment for mental disorder. Eight days prior to the occurrence, she was sleepless and roaming around in a disturbed state of mind. Though this fact was informed



and made known to the Investigating Officer/PW15, he had not collected any medical records for the same. The admitted case of the prosecution is that the appellant was found motionless sitting besides charred Kameswaran inside the locked house, which PW1, PW2 and others had broke open the door. PW11 speaks about breaking the door and entering the house, finding of the charred condition of Kameswaran and taking him to the hospital in the ambulance of PW7. In such circumstances, PW15/Investigating Officer ought to have produced the appellant before the Doctor to confirm her mental condition. On the other hand, without conducting any investigation in this regard, he had proceeded with the case and filed a charge sheet.

4.6.The learned counsel further submitted that the trial Court had failed to conduct any enquiry with regard to the unsound mind of the appellant, despite sufficient materials being found at the stage of committal and during trial. From the date of her remand, the appellant was being referred to the mental hospital for treatment. During the course of remand, committal and trial, she could not be produced promptly on many occasions, since she was undergoing treatment as an inpatient in the mental hospital. There was also some delay for appearance of the appellant before the Trial Court. The Jail authorities had been sending communications informing the trial Court about



the Doctors' recommendation and her health condition. In such circumstances, the trial Court ought to have enquired and ascertained the mental condition of the appellant as per the provisions of the Mental Health Care Act, 2017. This apart, the procedure under Chapter XXV of Cr.P.C., contemplated for examining a person of unsound mind was not followed.

4.7.He further submitted that the medical records of the appellant from the date of remand, until recently, confirms that the appellant was suffering from paranoid schizophrenia. Hence, the appellant ought to have been acquitted from the case as as General Exception under Chapter IV. As per Section 84 IPC, nothing is an offence which is committed by a person of unsound mind.

4.8.The learned counsel for the appellant had produced the Court communications regarding medical treatment and health condition of the appellant and the communication sent to the Psychiatry, Government Medical College, Trichy, Superintendent of Special Prison (Women), Trichy, letter from the Doctors attached to the Government Hospital, Trichy, Superintendent of Central Prison, Madurai, Medical advice from the Government Rajaji Hospital, Madurai and from the Institute of Medical Health, Kilpauk, Chennai



confirming the mental state of the appellant. These medical reports of the Doctors, confirm the appellant to have had mental disorder during the under trial period, as well as after her conviction.

4.9. In support of his submissions, the learned counsel for the appellant relied upon the following decisions.

- ***Zakir Hussain Versus The State of Assam and another, Rep., by the P.P., Assam in Crl.A.376/2019.***
- ***Sumitra Bai Versus The State of Chhattisgarh*** reported in **2023 LiveLaw (SC) 322.**
- ***Prakash Nayi @ Sen Versus State of Goa*** reported in **2023 LiveLaw (SC) 71** wherein the Hon'ble Apex Court referring to various judgments in details had discussed the circumstances under which Section 84 IPC and Section 105 of the Indian Evidence Act to be invoked and also discussed the condition of schizophrenia patient in detail and finally allowed the appeal finding that the appellant therein was entitled the benefit conferred under Section 84 IPC.
- ***Reji Thomas @ Vayalar Versus State of Kerala in Crl.A.No.43 of 2023*** wherein the final report has been filed concealing the fact of mental illness of the accused and thereby, the accused is entitled to benefit under Section 84 IPC.
- ***Madhu Bala Versus State*** reported in **2023 SCC OnLine Del 3661** wherein it is extracted the meaning of symptoms and varieties of schizophrenia and medical records.



4.10. In view of the above, the appellant was affected with paranoid schizophrenia prior to the occurrence, during the occurrence and after the occurrence which is substantiated from the evidences of PW1, PW2, PW15 and the medical reports of the Doctors attached to the Prison, Trichy Medical College Hospital and Institute of Medical Health, Kilpauk, Chennai.

4.11. He further submitted that the appellant has been disowned by her family and from 12.09.2014, no members of her family have visited the appellant and no one had taken any steps to obtain bail or seek for any leave after the judgment. The appellant is in confinement with her mental illness and hence, she is entitled to be acquitted under Section 84 of IPC and can be referred to the hospital for continuation of her treatment and for her well being. During trial, she was assisted by a Legal Aid Counsel. The appeal was also conducted by the counsel as *pro bono*.

5. The learned Additional Public Prosecutor appearing for the respondent Police submitted that in this case, an eight year old boy studying in 3rd Std was done to death at the hands of the appellant by dousing kerosene and setting him on fire. At the time of occurrence, the boy was studying in Hindu Primary School at Keeranur village which is opposite to his maternal



grandmother's house. The boy used to visit the house for refreshment during lunch hours or after the school hours. On 12.09.2014 at about 01.20 p.m., the boy went to the house of the grandmother. The appellant, a spinster woman, with mental disorder was staying along with her mother PW2 in the house. On 12.09.2014, at about 01.30 p.m., the villagers found smoke emanating from the house and informed the same to PW2, who had rushed to the scene and finding the door locked from inside, broke open the door with others help and went inside to find the deceased Kameswaran in a charred condition on the floor. Immediately, he was taken to the hospital by P.W.1 and P.W.2 in an ambulance driven by PW7. Information was given to PW5, the father of the boy, who was working in Sayalkudi. The boy was taken to the Government Hospital, Thoothukudi at about 03.10 p.m. PW8, the Casualty Doctor examined the boy and issued Accident Register (Ex.P4) and admitted him in the burns ward and issued Ex.P5. PW9 is the Doctor attached to the ward who examined him and declared dead at about 04.30 p.m. In the meanwhile, PW5, the father had reached the hospital and thereafter, information was sent to the respondent Police. PW14, on receipt of the information, visited the hospital, recorded the statement of PW1 as complaint (Ex.P1) which was signed by PW1 and attested by PW11. On registration of the FIR, it was sent to the Court and other higher officials.



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5.1.PW15/Investigating Officer had received the FIR and visited the scene of occurrence. He then had prepared Observation Mahazar (Ex.P11) and Rough Sketch (Ex.P12). In presence of PW6, he had seized MO1 and MO2, recorded the statement of PW3 and PW4, PW1 mother, PW5 father, PW2 grandmother of Kameswaran, conducted inquest on the body of the deceased and sent it for postmortem. PW10 is the Postmortem Doctor who had issued the postmortem certificate (Ex.P9), confirming that the deceased had died of complications of superficial burns. Exs.P4, P5 & P6 are the Accident Registers and death intimation given by PW8 and PW9, which affirms that the deceased was found with 100% burn injuries with hypovolemic shock. The appellant is the Aunt of the deceased, who was of an unsound mind and taking treatment for several years, as confirmed by PW1 and PW2. Eight days prior to the occurrence, the appellant was sleepless and her health condition, got aggravated, owing to which, she had committed the offence. The statement of witnesses confirm that the appellant was sitting besides the charred body of the deceased, without any reaction. On that day, the appellant and the deceased were alone in the house. MO1 and MO2, which were seized from the scene of occurrence, were used to douse and set the deceased on fire. The Accident Register (Ex.P4) and Doctors confirmed



that Kameswaran died due to burn injuries. On completion of investigation, the charge sheet was filed before the trial Court.

5.2.He further submitted that the appellant is confined in prison from the date of remand without anybody's aid or help. Further, from the day of remand, the appellant behaviour was violent where she spent sleepless nights, crying and shouting. The appellant was diagnosed to be of a person suffering from paranoid schizophrenia. She has been regularly taken to hospital for treatment. She had also developed neurological problem. He fairly submitted that the trial Court, finding the appellant to be a person with mental disorder, ought to have taken appropriate steps to have her examined medically and proceeded accordingly.

5.3.This Court had called for the medical records from the prison and accordingly the prison authorities have also submitted the medical reports and other records of the appellant from the date of remand, till recent period. The medical records confirm that the appellant to be of a known case of psychiatric illness, taking treatment at Tirunelveli Medical College and Hospital, from the age of 16 years. Though some records were not available, it was confirmed by the Doctors that from 12.09.2014, she had been in prison



and during this period, she had been referred to Trichy Medical College and thereafter, to the Institute of Medical Health, Kilpauk, Chennai and she is reported to be suffering from paranoid schizophrenia.

6.This Court has considered the rival submissions and perused the materials available on record, as well as the medical records of the appellant.

7.In this case, the death of Kameswaran, who was aged about eight years, was due to burn injuries and the same is confirmed from the evidence of PW8, PW9 and PW10. The appellant and the minor Kameswaran were inside the house of PW2 on 12.09.2014, at about 01.30 p.m. The house was bolted from inside and then the appellant had doused kerosene and set fire on him. His body was charred and the same was confirmed through the evidences of PW1, PW2, who are the mother and grandmother of Kameswaran and elder sister and mother of the appellant. From the scene of occurrence, a kerosene can (MO1) and match box (MO2) were seized in the presence of PW6 and the same was recorded in Exs.P2 & P3. Immediately, after the occurrence, the charred Kameswaran was rushed to the hospital in the ambulance of PW7 accompanied by PW1, PW2 and PW11. In the meanwhile, PW1 had informed her husband/PW5, father of the deceased about the incident, who was working



in Sayalkudi and who had reached the hospital in his two-wheeler.

PW8/Casualty Doctor had examined him and recorded the 100% burn injuries through Ex.P4 and admitted Kameswaran in the Burns Ward. PW9/Burns Ward Doctor had also examined him and declared him dead at 04.15 p.m., in his death intimation report (Ex.P5).

8.Thus, it is stands substantiated that the appellant and Kameswaran were inside the house on 12.09.2014, at about 01.30 p.m.; the house was locked from inside and the door was broke open; from there the boy was taken to Government Hospital, Thoothukudi and the same was confirmed by PW1, PW2, PW5, PW7, PW8, PW9 and PW11; in presence of PW6, MO1 & MO2 were seized; the inquest report Ex.P12 was prepared; PW10 had conducted postmortem and confirmed the death of Kameswaran due to burn injuries; and all the three Doctors had found the boy to have been with 100% burn injuries.

9.Thus, the chain of events are so complete, unerringly leading to conclusion that the appellant had committed the offence. Now, the only ground to be considered is whether the appellant was affected with mental disorder prior to occurrence, during the occurrence and after the occurrence. In this case, from the evidence of PW1, PW2/sister and mother of the



appellant, it is found that for nearly ten years prior to occurrence, the appellant was suffering from mental disorder and she has been regularly taking treatment at Tirunelveli Government Medical College and Hospital.

10.PW2/mother of the appellant, who was residing along with the appellant had stated that eight days prior to the occurrence, the appellant was sleepless and in a disturbed condition and was also laughing on her own without reason. Since she was known to be suffering from mental illness, PW2 had not taken it seriously. On 12.09.2014, Kameswaran had come to the house of his grandmother at about 01.10 p.m. from his school, which fact is not disputed. At that time, the appellant had doused him with kerosene and set him on fire. When the neighbours had informed PW2 about smoke emanating from the house, she had rushed to the scene and tried to open the door, only to find the door bolted from inside. She had then broke open the door and entered the house and found charred condition of Kameswaran, which is substantiated from the evidences of PW1 & PW2. In the scene of occurrence, they had seen the appellant sitting beside the boy, without any action or reaction, further confirming that she was not in her normal sense and that she was mentally ill. Thereafter, the appellant was arrested on the same day and remanded to judicial custody.



11.From the date of remand, the appellant was found to be mentally deranged person and was referred to Government Hospital, Trichy. From then on, she has been taking regular taking treatment at Trichy, Madurai and Chennai. She is a diagnosed case of paranoid schizophrenia by the Institute of Mental Health, Kilpauk, Chennai on 27.09.2015. After conviction, she was confined in the Special Prison for Women, Trichy and in Special Prison for Women Madurai. She was regularly taking treatment, with follow up visits to Government Rajaji Hospital, Madurai. She was under strict vigil and observation by the prison authorities. Now, the appellant is in the aid and advice of Psychiatric and District Mental Health Doctor attached to Special Prison for Women, Madurai. Since the appellant's condition was deteriorating, she was referred to the Institute of Mental Health, Kilpauk, Chennai in the year 2021 and treated as an inpatient. Thereafter, she was referred to Rajaji Hospital Madurai for continuous monitoring. She was also put under hemodialysis treatment in Neprology Ward of the Government Rajaji Hospital Madurai. Even now, the appellant is suffering from sleep disturbances, anxiousness, sudden outbursts, irrelevant talks with violent and irrational behaviour. All these conducts confirm her psychiatric illness.

12.The scanned reproduction of the medical report of the appellant is as follows:



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MEDICAL REPORT OF CONVICT PRISONER

NO.09 PETCHIAMMAL D/O RAMAIAH NADAR, AGE: 41/2023

She has been an Inmate of Prison from 23.06.2016 in Special Prison for Women, Madurai. She has been a known case for psychiatric illness diagnosed in Tirunelveli Medical College Hospital at 16 Years of age - records not available. Later, she was taken as remand prisoner on 12.09.2014 in Special Prison for Women, Trichy and referred from Trichy Medical College Hospital to Institute of Mental Health (IMS), Kilpauk, Chennai for higher opinion and treatment for the same on 18.06.2015. There she was diagnosed as a case of paranoid schizophrenia at IMH - Kilpauk on 27.09.2015 and was on regular follow up treatment in Special Prison for Women, Trichy. She then came as convict prisoner to Special Prison for Women, Madurai on 23.06.2016 and was continued with regular follow up treatment in Special Prison for Women, Madurai and Government Rajaji Hospital, Madurai. She has been on strict vigilance and observation by psychologist and District Mental Health Programme (DMHP) Psychiatrist regularly in Special Prison for Women, Madurai.

On DMHP Psychiatrist opinion after examining the prisoner, he advised to refer the prisoner to Institute of Mental Health for further management on 13.08.2021. She was referred to Institute of Mental Health (IMH), Kilpauk, on 22.08.2021 and was treated there and discharged and taken back in Special Prison for Women, Madurai on 19.12.2021. She was apparently normal for 10 days. She presented with facial puffiness and decreased urine output on 02.01.2022 and was referred to Government Rajaji Hospital, Madurai through emergency escort on 02.01.2022. She was diagnosed to have rapidly progressive renal failure and 6 sessions of hemodialysis via right IIV catheter was given. She also had



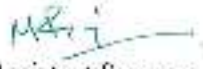
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hyponatremia, which was corrected by normal saline and she has become dialysis independent and she was then treated on OP basis and discharged in 24.01.2022 from GRIL, Madurai to Special Prison for Women, Madurai.

She was then referred to Nephrology OPD – Government Rajaji Medical Hospital, Madurai for review and follow up on 05.02.2022, 07.02.2022, 21.02.2022, 26.02.2022, 26.03.2022, 28.03.2022, 28.05.2022 and 07.06.2022. She was apparently normal for 3 months. She had sleep disturbances, Sudden anger outburst and irrelevant talks. Under District mental Health Psychiatrist opinion, She was referred to Institute of Mental Health (IMH), Kilpauk, Chennai on 12.10.2022.

She was on treatment at Institute of Mental Health (IMH), Kilpauk, Chennai upto 17.12.2022 discharged and taken back to Special Prison for Women, Madurai. She has been on regular follow up by psychiatrist. She was apparently normal for 7 months.

Then she had excessive talk & sleep disturbance so again she referred to Institute of Mental Health (IMH), Kilpauk, Chennai on 16.08.2023. Now she is on treatment at Institute of Mental Health (IMH), Kilpauk, Chennai.


Assistant Surgeon,
Special Prison for Women,
Madurai - 16



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13.The Hon'ble Apex Court in the case of “*Prakash Nayi @ Sen Versus State of Goa* reported in *2023 LiveLaw (SC) 71*”, had relied on its earlier judgments and held that once a person's unsoundness of mind is confirmed, then no offence is committed by such person as per Section 84 of IPC. Section 84 of IPC starts with a negative connotation that nothing is an offence which is done by a person of unsoundness mind and further, the Apex Court referred to Section 105 of Indian Evidence Act and by deliberating on the laudable object of Section 84 IPC, held that the Courts have their distinct role to play in cases of such nature. Of course, the materials produced on behalf of the person claiming unsoundness has to satisfy the conscience of the Court and had further detailed on schizophrenia mental illness, by referring to various medical journals. Thus, in sum and substance, the applicability of Section 84 of IPC and the consequent orders to be passed, have been elaborated therein.

14.Taking cue from the same, we are satisfied that the appellant is a person who is entitled to the benefit of Section 84 of IPC.



15.After the occurrence, remand and till date, the appellant has been disowned by her family members, which is confirmed from the records submitted by the prison authorities. In view of the same, the provisions under Chapter XXV of Cr.PC. requires to be followed since the appellant had committed the offence, owing to her unsound mind and incapable of knowing the nature of her act.

16.Thus the impugned judgment, dated 23.06.2016 of the Trial Court of convicting and sentencing the appellant for the offence punishable under Section 302 IPC is set aside and the appellant is acquitted of all charges. The bail bond of the appellant shall stand cancelled. The fine amount, if any, paid shall be refunded.

17.Finding that the appellant's mental health condition is precarious and she is now without any assistance from her family, the appellant is ordered to be detained in safe custody, as per Section 335 Cr.P.C.

18.The appellant shall be given treatment at the Institute of Mental Health, Kilpauk, Chennai. If her mental health condition improves, she shall be kept in any of the Welfare Home for Women maintained by the Social



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Welfare Department, where she shall be under constant observation with periodical medical aid and review, until any of the family members or relatives file any application by giving security to the satisfaction of this Court and seeking for custody of the appellant. Any application if made before this Court, this Court may take a decision in this regard.

19. With the above findings and observations, the Criminal Appeal stands partly allowed.

[M.S.R., J] [M.N.K., J]
24.01.2024

Speaking Order
Neutral Citation : Yes
Internet : Yes
Index : Yes

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M.S.RAMESH, J.
and
M.NIRMAL KUMAR, J.

vv2

To

- 1.The II Additional District Sessions Judge,
Thoothukudi.
- 2.The Inspector of Police,
Aathoor Police Station,
Thoothukudi District.
- 3.The Public Prosecutor,
High Court, Madras.

Pre-Delivery Judgment in
Crl.A(MD)No.275 of 2021

24.01.2024