



Crl A(MD)No.334 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2024

CORAM:

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

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Panchavarnam S/o.Irulan

... Appellant/
Sole Accused

vs.

The State, rep.by
The Inspector of Police,
Keelathooval Police Station,
Mudhukulathur Taluk,
Ramanathapuram District.

... Respondent /
Complainant

(Crime No.55 of 2005)

PRAYER : Criminal Revision Petition filed under Section 374 (2) of the Criminal Procedure Code, to set aside the conviction and sentence passed by the Principal District & Sessions Judge, Ramanathapuram in S.C No.112 of 2007 dated 26.02.2020 and acquit the appellant and thus render justice.

For Petitioner : Mr.R.Murugan

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor



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JUDGMENT

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(Judgment of the court was made by G.R.SWAMINATHAN, J.)

This appeal is directed against the judgment dated 26.02.2020 in SC No.112 of 2007 on the file of the Principal District and Sessions Judge, Ramanathapuram. By the impugned judgment, the appellant who figured as the sole accused was convicted for the offences under Sections 302 and 201 of IPC and sentenced to life imprisonment and five years rigorous imprisonment respectively. Fines were also levied with default sentence.

2.The case of the prosecution is as follows :

The deceased Thavasiammal was the wife of the accused Panchavarnam. They lived in Karungalakurichi village. The accused had developed illicit intimacy with his sister-in-law Amaravathi. Thavasiammal questioned the same. On 05.07.2005, during late evening, the accused strangled his wife to death. To screen the crime, he set fire to the dead body. Finding the house of the accused aflame at around 09.15 P.M, the residents of the locality rushed to the spot. They saw the accused coming out of the house. They saw the charred dead body of Thavasiammal. They informed Thavasiammal's



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brother Shanmugavel (PW.1) over phone. Thavasiammal's parents and siblings came from their village at around 02.00 A.M. Shanmugavel lodged complaint Ex.P1 at 05.30 A.M on 06.07.2005 before Keelathooval Police Station. Crime No.55 of 2005 was registered under Section 302 of IPC against the accused. PW.23, who was the in-charge Inspector took up the matter for investigation at about 06.45 A.M. He went to the spot and prepared Ex.P12 rough sketch. Photographs of spot were also taken. The articles found near the scene of occurrence were seized. He examined the relevant witnesses and recorded their statements. He arranged postmortem to be conducted. On 07.07.2005 at about 06.00 A.M, he arrested the accused and recorded his confession and sent him for remand. After recording the statements of the official witnesses, he filed final report. It was taken on file by the Judicial Magistrate, Mudhukulathur in PRC No.1 of 2006. Since the case was exclusively triable by the Sessions Court, it was committed to the Principal District and Sessions Judge, Ramanathapuram and the case was taken on file in SC No.112 of 2007. Charges were framed against the accused for the offences under Sections 302 and 201 of IPC. The accused denied the charges and claimed to be tried. On the side of the prosecution, PW.1 to PW.23 were examined. Exs.P.1 to P. 14 were marked. M.O1 to M.O9 were also marked. The incriminating circumstances were put to the accused during examination under



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Section 313 of Cr.PC. The accused denied them as false. On the side of the accused, a portion of the complaint was marked as Ex.D1. The learned trial Judge after consideration of the evidence on record found the accused guilty and sentenced him as mentioned above.

3.The learned counsel for the appellant submitted that the prosecution has not established the case against the accused beyond reasonable doubt. There is no eyewitness to the occurrence. The circumstances do not unerringly point to the guilt of the accused. He contended that the deceased Thavasiammal was suffering from stomach pain and that she committed suicide. According to the appellant, the brother of the deceased had falsely implicated the accused without any basis. He called upon this Court to set aside the impugned judgment and allow this appeal.

4.Per contra, the learned Additional Public Prosecutor submitted that interference with the impugned judgment is not warranted.

5.We carefully considered the rival contentions and went through the materials on record. It is beyond dispute that the occurrence took place inside the house of the accused. His presence during the relevant time has been spoken to by PW.2 Veluchamy. It has been convincingly



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established through medical witnesses (PW.12 & PW.13) who conducted postmortem that the death was not natural. The defence of the accused/appellant is that the deceased committed self immolation since she was suffering severe stomach pain. The validity of this defence may be considered first.

6.PW.12 Dr.Latha and PW.13 Dr.Balasubramanian jointly conducted the autopsy. They issued postmortem certificate Ex.P6 and final opinion Ex.P7. They categorically opined that the cause of death was due to asphyxia and not on account of burn injuries. They further deposed that the burns are not antemortem. They justified their opinion by pointing out that there was no presence of soot in trachea. If the deceased had committed self immolation, she would have certainly inhaled the smoke and soot particles would have been found in her trachea and lungs. That her respiratory system was free of soot is a clear indication that the death was not due to fire. The Hon'ble Supreme Court in the decision reported in ***AIR 1992 SC 1175 (Mulakh Raj vs. Satish Kumar and ors)*** had held that ante-mortem burn injuries are characterised by the presence of burnt carbon particles (soot) in the trachea which is absent in the case of postmortem burn injuries. The Hon'ble Supreme Court relied on Modi's Medical Jurisprudence and Toxicology. There is yet another circumstance. If the deceased had set fire to herself, certainly, she would have shrieked in pain and called out



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for help. The residents of the locality did not hear any such sound or noise emanating from the house. This also rules out the possibility of fire being the cause of death.

7. Therefore, one can come to the safe conclusion that the death has taken place only due to asphyxia. The defence counsel contended that since hyoid bone was intact and not fractured, strangulation could not have been the cause of death. There is no merit in this contention. Even in the case of strangulation, hyoid bone can be intact. In the decision reported in (2008) 5 SCC 587 (Ponnusamy vs. State of T.N), the Hon'ble Supreme Court quoted as follows :

“**24.** In *Journal of Forensic Sciences*, Vol. 41 under the title — Fracture of the Hyoid Bone in Strangulation : Comparison of Fractured and Unfractured Hyoids from Victims of Strangulation, it is stated:

“The hyoid is the U-shaped bone of the neck that is fractured in one-third of all homicides by strangulation. On this basis, post-mortem detection of hyoid fracture is relevant to the diagnosis of strangulation. However, since many cases lack a hyoid fracture, the absence of this finding does not exclude strangulation as a cause of death. The reasons why some hyoids fracture and others do not may relate to the nature and magnitude of force applied to the neck, age of the victim,



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nature of the instrument (ligature or hands) used to strangle, and intrinsic anatomic features of the hyoid bone...”

Dr.Meyyalagan (PW.22), the forensic expert clarified in his evidence that the death could have taken place due to smothering also.

8.PW.1 is the brother of the deceased. He deposed that the deceased Thavasiammal was given in marriage to the accused two years prior to the occurrence. He further testified that she would come back to her mother's house often on account of misunderstanding caused due to the intimacy between the accused and his sister in law Amaravathi. PW.1 stated that the accused would thereafter come to take her back. This was a regular happening. On the occurrence date, at around 10.00 P.M, Veluchamy PW.2 informed PW.1 about the incident. PW.2 Veluchamy was a former councillor. He deposed that on 05.07.2005, at about 09.15 P.M, there was a blaze in the house of the accused and that the residents of the locality rushed to douse the same. They found the accused fleeing from the house. They found the dead body of Thavasiammal. The accused never took the defence that he was not present at the spot. He was therefore obliged to explain as to how the occurrence had taken place. Section 106 of the Evidence Act states that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. An accused can



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discharge the burden either by eliciting appropriate answers during cross examination or by adducing evidence. The accused in this case had not at all discharged the burden cast on him under Section 106 of the Evidence Act.

9.The prosecution case no doubt rests on circumstantial evidence. The following circumstances have been established beyond reasonable doubt :

- a) Thavasiammal, the deceased is the wife of the accused/appellant.
- b) She died in the matrimonial home.
- c) Her death was not natural
- d) The defence that she committed self immolation is falsified by the absence of soot particles in her respiratory system.
- e) Medical evidence has established that she died due to asphyxia.
- f) During the relevant time, the accused was present in the scene of occurrence.
- g) There was a sudden blaze and the accused was found fleeing from the house
- h) The deceased questioned the accused over his relationship with his sister in law Amaravathi and on the occurrence date, the couple were found quarrelling.
- i) The accused absconded immediately after occurrence and was arrested only on 07.07.2005.



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10.All these circumstances cumulatively point to the guilt of the accused. The chain of circumstances is complete. The defence projected by the accused has been falsified. The trial court rightly came to the conclusion that the prosecution had proved its case beyond reasonable doubt. The accused asphyxiated his wife to death. Thereafter, to screen the crime, he set the body on fire. The court below rightly found the accused guilty of the offence under Section 302 and 201 of IPC. Interference with the well considered judgment of the learned trial judge is not warranted. There is no merit in this appeal. It stands dismissed. The learned trial Judge is directed to take steps to implement this judgment.

(G.R.S., J.) & (R.P., J.)
05.12.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
SKM

To

1.The Inspector of Police, Keelathooval Police Station,
Mudhukulathur Taluk, Ramanathapuram District.

2.The Principal District & Sessions Judge, Ramanathapuram.

Copy to :

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



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