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CRL A No. 140 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-11-2025

CORAM

**THE HONOURABLE MR JUSTICE N. SATHISH KUMAR
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

CRL A No. 140 of 2024

Sikkandar Mandal
S/o. Sri Jahaadesh Mandal,
Pathlukka Village, Barachatty,
Gaya District. Bihar.
(Now Confined at Central prison,
Coimbatore)

Appellant(s)

Vs

The State Rep By
The Inspector of Police,
Kangayam Police Station,
Kangeyam, Crime no. 674/2017

Respondent(s)

PRAYER

This Criminal Appeal filed under Section 374(2) of Cr.P.C. to call for the records pertaining to S.C.No.59 of 2018 on the file of The Learned Sessions



Judge, Mahila Court (Fast Track Mahila court), Tiruppur and set aside the said conviction order dated 09.05.2022

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For Appellant(s): M/s. S.Manoharan

For Respondent(s): Mr. A.Damodaran,
Addl. Public Prosecutor
Ms.M.Arifa Thasneem

ORDER

(Order of the Court was made by N.Sathish Kumar J.)

Challenging the life imprisonment imposed under Section 302 IPC on the appellant, who is the sole accused before the Trial Court, has filed the present appeal.

2. The case of the prosecution, in brief, is as follows:-

The deceased and the accused are husband and wife. They are migrant labourers and were residing in the house owned by P.W.1 on a monthly rent of



Rs.300/-. The deceased was not willing to continue residing in Tamilnadu, and she persistently insisted the accused take her back to their native place. Due to this, frequent quarrel arose between them.

(ii) On 09.12.2017, at about 8.30 p.m., when P.W.1 was in his house, he heard a quarrel between the deceased and the accused. P.W.1 went to their house and tried to pacify them. At that time, the accused, holding the deceased by her neck, pushed her against the wall, causing her to sustain an injury on the right side of her head and she fell unconscious. On hearing the sound, the neighbours also came.

(iii) P.W.2, the father of P.W.1, immediately rushed to the spot on receiving the information from his son P.W.1 and saw that the deceased was taken to the hospital. P.W.4 also stated that there was a quarrel in the house of the accused and that he had seen the woman lying unconscious. Thereafter, P.W.1 called the ambulance and took the deceased to the Government Hospital at Kangayam, where she was declared dead. Subsequently, P.W.1 lodged a



complaint(Ex.P.1).

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(iv) Upon receiving the complaint, P.W.9, Sub-Inspector of Police, registered a case in Crime No.674 of 2017 for the offence under Section 302 IPC and prepared First Information Report(Ex.P.10). She forwarded the same to the jurisdictional Court, and the copy to the Investigation Officer.

(v) P.W.10, Inspector of Police,(in-charge), on receipt of the First Information Report, commenced the investigation, proceeded to the scene of occurrence, prepared the Observation Mahazar(Ex.P.2) and drew the Rough Sketch (Ex.P.11) in the presence of witnesses P.W.4 and one Palanisamy. He also recorded the statement of the witnesses.

(vi) P.W.11, Inspector of Police, took up the case for further investigation and on 14.12.2017, he conducted inquest on the body of the deceased in the presence of panchayatadars and prepared Inquest Report(Ex.P.14). Thereafter, he sent requisition for post-mortem through a constable.



(vii) P.W.8, Senior Assistant Professor, Kovai Government Medical College Hospital, after receiving the requisition, on 16.12.2017, conducted post-mortem on the body of the deceased and found the following external injuries:-

- 1. Nail mark of size 0.5 x 0.5 cm noted over right side of neck, 0.5 x 0.5 cm, 0.25 x 0.25 cm, 0.25 x 0.25 cm noted over left side of neck.*
- 2. Reddish abrasions 1 x 1 cm noted over back of right elbow, 2 x 1 cm noted over back of left elbow and 3 x 1 cm noted over right side of abdomen.*
- 3. Reddish pressure abrasion 6 x 1 cm noted over left side of abdomen.*

On dissection of scalp, skull and dura :- sub scalp contusion 4 x 3 cm seen over left occipital region.

On dissection of Neck : Contusion of neck muscles 4 x 3 cm noted over left side of the neck at the level of thyroid cartilage. Fracture of thyroid cartilage noted over right side in between body and superior horn,. Fracture of left side of hyoid bone in between body and greater cornu.



He issued Postmortem Certificate Ex.P.7 with opinion that the deceased would appear to have died of Asphyxia due to violent compression of neck by throttling. The time of death 24 to 36 hours prior to the body kept in cold storage.

(viii) In continuation of investigation, P.W.11 arrested the accused on 14.12.2017 and recorded his confession (Ex.P.15) in the presence of P.W.5 and one Andrews, Village Administrative Officer. Based on his confession, he recovered rose colour saree, blouse and in-skirt (ExP.8 to Ex.P.10) under Form-91(Ex.,P.16). Thereafter, he recorded the statements of other witnesses and the doctor, who conducted post-mortem on the dead body of the deceased. On completion of investigation, he laid a final report against the accused under Section 302 IPC.

3. The Trial Court, after hearing arguments of both sides and upon perusing the relevant records, framed a charge against the accused for offence under Section 302 of IPC and the same have been read over and explained to the accused. The



accused has denied the charges and claimed to be tried.

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4. In order to prove the case of the prosecution, on the side of the prosecution, as many as eleven witnesses were examined as P.Ws.1 to 11 and sixteen documents were marked as Ex.Ps.P.1 to 16. Besides, ten Material Objects were marked as M.Os.1 to 10.

5. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., he denied the same as false. However, he did not choose to examine any witness nor mark any documents on his side.

6. The Trial Court, on appreciation of the entire evidence on the side of the prosecution and the exhibits marked, including the materials objects, found that the charge against the appellant/accused under Section 302 was proved and imposed life imprisonment. Challenging the said finding, the appellant has filed the present appeal.



7. The learned counsel for the petitioner would submit that except the evidence of P.W.1, there is no material to show that the accused has committed the offence. The medical evidence clearly shows that something had happened to the deceased, but there is no evidence to show that the accused has intentionally caused the death of the deceased. Therefore, he would submit that the accused has already been in jail for about seven years, at the most, the case of the accused would fall within the ambit of Section 304 IPC and not 302 IPC.

8. The learned Additional Public Prosecutor appearing for the respondent would submit that the post-mortem report clearly shows that the deceased was strangled and accused has offered no explanation. Admittedly, the deceased is the wife of the accused. The occurrence took place inside the house. Therefore, he would submit that the prosecution has proved the case against the accused beyond all reasonable doubts.

9. We have considered the matter in light of the submissions made by the learned counsel and perused the materials available on records carefully.



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10. Admittedly, the deceased is the wife of the accused. The accused and the deceased were migrant labourers. They were residing in P.W.1's house as tenants on a monthly rent of Rs.300/-. P.W.1, in her evidence, has stated that the deceased was not happy residing in Tamilnadu, and therefore, she insisted the accused to take her to their native place, which resulted in frequent quarrels between them. One such quarrel took place on the date of occurrence, i.e. on 09.12.2017. On hearing their sound, P.W.1 went to their house. At that time, the accused, by holding the neck of the deceased, dashed her head against the wall, and as a result, she sustained injuries on the head. Immediately she fainted and P.W.1 and others took her to the hospital in ambulance. It is also relevant to note that P.W.2 also reached spot and saw the deceased being taken into ambulance.

11. There is no reason whatsoever to disbelieve the evidence of P.W.1. The entire evidence is spontaneous, and there is no artificiality attached to it. In fact, law was set in motion based on the complaint given by P.W.1. It is also relevant to note that as the deceased was a migrant labourer, even to identify her



body, the relatives were not there. The body was kept in cold storage and inquest was conducted only on 14.12.2017 by P.W.11. In that situation, there is no reason to disbelieve the evidence of P.W.1. He has immediately rushed the deceased to the hospital on the same date and later lodged Ex.P.1, complaint, the very next day. Therefore, we are definite opinion that the deceased died only due to the injury caused by the accused.

12. The Medical Officer's evidence and the post-mortem certificate (Ex.P.7) clearly shows that besides the head injury on the neck, there was also strangulation. That medical evidence also corroborates the version of P.W.1. P.W.1 has clearly stated that during the quarrel, the accused by holding her neck dashed her head against the wall. This fact clearly indicates that the accused has only caused the death.



13. In the light of the above admitted position, now it has to be seen whether the act of the accused, would fall within the ambit of Section 300 IPC (103 BNS)

14. No doubt, the accused has pressed the neck of the deceased, which resulted in a fracture of the hyoid bone, and also dashed her head against the wall. The entire occurrence has taken place during a sudden quarrel arising out of the persistent demand of the deceased to go to her native place. Therefore, the occurrence took place in a sudden quarrel. It is relevant to note that the accused was aged about 19 years at the relevant point of time and the deceased was aged about 18 years. They were also blessed with a child. They came to Tamilnadu as migrant workers to earn their livelihood from Bihar. When the accused was working in Mill, as per the evidence of the prosecution, the wife did not like staying with him or working in the Mill. She insisted continuously on going back to her native place. As a result, there were frequent quarrels between the husband and wife. When the husband shifted to Tamilnadu to meet out his livelihood and to look after his wife and child, the wife was continuously



demanded that he take her back. This demand provoked the accused and the provocation was not a one-day incident. As per the evidence of P.W.1, there were frequent quarrels for the same issue. Therefore, there was sustained provocation on the part of the accused, which resulted in a violent push on his wife against the wall by holding her neck. In that process, she also suffered severe injuries on the neck, which resulted in death.

15. Therefore, this Court is of the view that, as the entire occurrence took place due to provocation, which was continuing for some time and as there was a sudden quarrel and occurrence took place in a heat of passion, the accused appears to have been deprived of self-control. By such sudden provocation, the injury caused by the accused would fall within exception (1) to Section 300 IPC (101(2) BNS).

16. Considering the above, we hold that the act of the accused does fall within the ambit of Section 300 Exception 1, though the accused has violently pressed the neck of the deceased, Taking into account the nature of the push



and the circumstances, we are of the view that this act will certainly fall within
Section 304 Part I IPC.

17. Considering the nature of the quarrel and the fact that the accused had no intention of causing death, and that resultant injuries were due to a sudden quarrel and provocation, and further considering that they were also blessed with a child, we are of the view that a conviction for a period of seven(7) years will meet the ends of justice. The conviction is modified under Section 304 Part (I) IPC for the period of seven(7) years. It is stated by the appellant/accused that he has already served the jail term from the date of arrest , i.e. from 14.12.2017 till date.

18. In the result, this Criminal Appeal is partly allowed and the judgment of the learned Sessions Judge, Mahila Court (Fast Track Mahila Court), Tiruppur, dated 09.05.2022 in S.C.No.59 of 2018, convicting the appellant/accused for the offence under Section 302 IPC and sentencing him to



undergo life imprisonment, is modified and he is convicted under Section 304 (part I) of IPC (103(2) of BNS), for which the appellant is sentenced to undergo Rigorous Imprisonment for a period of Seven(7) years.

19. If the appellant/accused is completed the sentence of seven(7) years as on date, he shall be set at liberty forthwith, unless his custody is required in connection with any other case.

(N.SATHISH KUMAR J.) (M.JOTHIRAMAN J.)
13-11-2025

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

mrp

To

1.The Sessions Judge,
Mahila Neethimandram.



2. The Inspector of Police,
Kangayam Police Station,
Kangeyam,

3. The Public Prosecutor,
High Court of Madras, Chennai.



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