



Crl.A.No.249 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-11-2025

CORAM

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

CRL A No. 249 of 2019

Prabhu
S/o.Subbaiah,
Othakkadai, Thamaraipatti, Madurai.
Now serving sentence at
Central Prison, Coimbatore

Appellant(s)/Accused

Vs

The Inspector Of Police
Saravanampatti Police Station,
Coimbatore City, Coimbatore District.
Crime No.81 of 2017

Respondent(s)/Complainant

Criminal Appeal filed under Section 374(2) Cr.P.C. against the
judgment dated 23.03.2018 passed in S.C.No.253 of 2017 on the file of the
Sessions Court, Special Court for Bomb Blast Cases, Coimbatore.



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For Appellant(s): Mr.Kumar Talreja
for Mr.R.Thamaraiselvam

For Respondent(s): Mr.A.Damodaran
Additional Public Prosecutor
assisted by Ms.Arifa Thasneem

JUDGMENT

(delivered by N.Sathish Kumar, J.)

Challenging the judgment 23.03.2018 passed in S.C.No.253 of 2017 on the file of the Sessions Court, Special Court for Bomb Blast Cases, Coimbatore, the appellant/accused has preferred the present criminal appeal.

2. The prosecution story runs thus:

2.1 The accused is known to the deceased Kannan and his wife (PW1) and son (PW2) and he is the distant relative of PW1. They belong to Theni District. When Kannan and PW1 visited Theni for some function, the accused on seeing them enquired about them and they told him that they are in Coimbatore and running a hotel, for which, the accused informed them that he will also come to Coimbatore. Accordingly, the accused also joined some job in Coimbatore in some other hotel. Prior to one week of



occurrence, the accused came to PW1's house and took a shelter. As the activities of the accused were not liked by the deceased Kannan, he has scolded and sent the accused out of his house. Later, the accused after one week, came in an inebriated condition and started questioning the deceased and PW1. PW1 and PW2 requested the accused to go his house and also gave Rs.200/- for bus charges. However, the accused has not gone to his place, rather, he came with petrol in a mug in one hand and fire in other hand and lit the roof. The accused also poured petrol on the deceased, while he was working in his hotel on 17.02.2017, around 8.30 p.m., lit the deceased and as a result, the deceased suffered burn injuries. This occurrence was witnessed by PW1 and PW2, who were present at the time of occurrence.

2.2 The deceased was brought to the Coimbatore Medical College and Hospital on 17.02.2017 around 9.30 p.m., where, Dr.Raghuramaiya (PW4), Medical Officer, examined him and it was informed that around 8.30 p.m. one of his known relative set him ablaze with kerosene. Later, he (PW4) issued accident register (Ex.P5).



2.3 PW1 went to police station and gave a complaint (Ex.P1). The

Sub-Inspector of Police (PW9) registered the FIR (Ex.P9) in Crime No.81 of 2017 for the offence under Section 307 IPC and forwarded the FIR to the Court and a copy to the Investigating Officer.

2.4 The deceased was succumbed to the injuries on 27.02.2017 due to burn injuries and also other complications of septicaemia, which resulted in alteration of FIR to one under Section 302 IPC under alteration report (Ex.P16).

2.5 The Inspector of Police (PW12) conducted investigation and went to the place of occurrence and prepared observation mahazar (Ex.P7) and rough sketch (Ex.P15) in the presence of witnesses and also recovered red colour plastic mug (M.O.1) under seizure mahazar Ex.P8. After alteration of the FIR, he (PW12) went to the mortuary and conducted inquest over the body of the deceased and issued inquest report (Ex.P17) and thereafter, sent a requisition to the doctor to conduct postmortem.

2.6 Dr.Kokul Pandiya Sankar (PW10), Medical Officer, who conducted autopsy on the body of the deceased, found the following injuries and issued postmortem certificate (Ex.P11):



“Infected burns seen over the top and back of the head, center of upper part of chest, front, back and both side of neck, back of chest and abdomen, outer aspect of upper part of both side chest, front and back of right and left shoulders, back of both upper limbs except front of middle part of both upper limbs and 2x2 cm infected burnt area seen in inner aspect of middle part of right leg. Some areas of burnt area are coated with pus material. Base of the burnt area is red in colour. Scalp hair of back side partly singed.”

He (PW10) also issued viscera report (Ex.P12) and final opinion (Ex.P13), wherein, he has opined that the deceased would appear to have died of complications of burns.

2.7 The Inspector of Police (PW11) arrested the accused on 07.03.2017, recorded his confession and seized black striped green colour full sleeve shirt (M.O.2) and one litre plastic bottle (M.O.3) in the presence of PW2 and Arjunan.

2.8 After completing the investigation and based on the evidence collected, the Investigating Officer (PW12) filed a final report in P.R.C.No.XXIV of 2017 before the Judicial Magistrate Court No.II, Coimbatore, against the accused for the offences under Section 302 IPC.



2.9 On appearance of the accused, 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.253 of 2017 and was made over to the Sessions Court, Special Court for Bomb Blast Cases, Coimbatore, for trial.

2.10 The trial Court framed the charge under Section 302 IPC against the accused. When questioned, the accused pleaded 'not guilty'.

2.11 To prove the guilt of the accused, the prosecution examined twelve witnesses and marked eighteen exhibits and three materials objects.

2.12 When the accused was questioned under Section 313 Cr.P.C. on the incriminating circumstances appearing against him, he denied the same. No witness was examined and no document was marked on behalf of the accused.

2.13 After considering the evidence on record and hearing either side, the trial Court, by judgment and order dated 23.03.2018 in S.C.No.253 of 2017, has convicted the accused under Section 302 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default to undergo one month simple imprisonment.



3. Heard the learned counsel for the appellant/accused and the learned Additional Public Prosecutor appearing for the respondent/police.

4. The learned counsel appearing for the appellant would submit that the evidence of the eye-witnesses are highly unbelievable. Before PW4, the deceased himself stated that only kerosene was poured on him, whereas, the evidence of eye-witnesses indicate that petrol has been poured on him. This creates doubt about their version. He would further submit that PW3 has clearly stated that the deceased left the rope in the place of occurrence, whereas, in the observation mahazar (Ex.P7) and rough sketch (Ex.15), the Investigating Officer did not find any rope. He would submit that it is only the clear case of accident and there is no homicidal death and therefore, he would submit that the prosecution has not proved the case.

5. The learned Additional Public Prosecutor appearing for the respondent/police would submit that the eye-witnesses have clearly spoken about the incident and there is no motive for them to implicate the accused in this case.



WEB COPY 6. We perused the materials on record.

7. PW1 and PW2 is the wife and son of the deceased, respectively, and PW3 is the neighbour. The evidence of PWs.1 to 3 clearly indicate that the deceased and his family members were running a hotel in the place of occurrence in Coimbatore. The accused also belonged to the native of the deceased. The accused previously came to the house of the deceased and stayed there for some time and when he watched TV in high volume, the same was objected by the deceased. Thereafter, the accused was sent out from the house by the deceased. Later the accused came in an intoxicated condition and therefore, PW1 and others pacified the accused to go to his native. However, the accused did not go to the native place and returned to the place of occurrence with M.O.1 and fire, lit the roof and the deceased, while he was in hotel. It is also evidence of PW1 that the accused is a distant relative and also deceased has hit the accused in an earlier occasion, for which, the accused set him on fire.



8. The evidence of PW3 clearly indicates that he has also witnessed the occurrence as PW1 and PW2. He is also the eye-witness and PW3 is the neighbour of the deceased.

9. Before PW4/Medical Officer, the deceased also gave statement to the effect that his relative has set him on fire after pouring kerosene. Though the eye-witness has stated that the accused carried petrol and set the deceased on fire, this difference in the evidence that the deceased poured kerosene or petrol, we are of the view that the same will not dent the prosecution. The witnesses may not be in a position to find out as to whether it is petrol or kerosene when the occurrence took place. However, their evidence clearly indicate that inflammable liquid was brought by the accused and poured on the deceased to set him ablaze.

10. The motive has also been clearly spoken by PW1 and PW2 that the accused got agitated for sending him out from the house by the deceased.



11. The statement of the deceased before PW4/Medical Officer and the evidence of the eye-witnesses draw complicity of the accused with the crime.

12. Though the FIR was registered under Section 307 IPC and there are some delay in dispatching the same to the Court, we are of the view that such delay will not be fatal to the prosecution, since there was no motive whatsoever suggested for the false implication of the accused. Admittedly, the deceased succumbed to burn injuries and the nature of the burns is more than 55% and the deceased died on 27.02.2017 after twenty days of the occurrence. The evidence of PW10/Medical Officer clearly shows that the deceased has died not only of burn injuries, but, also due to the complications of burns.

13. Considering these aspects, it is clear that there is no motive whatsoever established for false implication of the accused. Taking into consideration the fact that the deceased died after twenty days in the hospital due to the complications and further the accused was also in the fit



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of rage and in sozzled condition, poured kerosene on the deceased and his act would come under 304(I) IPC.

14. In such view of the matter, we are inclined to modify the sentence of the accused by confirming his conviction under Section 304(I) IPC.

Accordingly, this criminal appeal is partly allowed. The conviction of the accused under Section 304(I) IPC is confirmed, but, the sentence is modified to eight years rigorous imprisonment. Fine amount imposed by the trial Court shall remain unaltered.

(N.S.K., J.) (M.J.R., J.)
03.11.2025

nsd

To

- 1.The Special Sessions Judge,
Special Court for Bomb Blast Cases, Coimbatore.
- 2.The Superintendent, Central Prison, Coimbatore.
- 3.The Public Prosecutor,
Madras High Court, Chennai – 600 104.



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