

Muniraj Vs. The State by, The Inspector of Police, Krishnagiri District

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Court : Chennai

Decided On : Apr-27-2016

Judge : M. Jaichandren & S. Nagamuthu

Appeal No. : Crl.A.No. 665 of 2013

Appellant : Muniraj

Respondent : The State by, The Inspector of Police, Krishnagiri District

Judgement :

(Prayer: Appeal filed under section 374[2] Cr.P.C., against the conviction and sentence imposed on the appellant in SC.No.117/2010 dated 19.04.2012 by the learned Principal Sessions Judge, Krishnagiri.)

S. Nagamuthu, J.

1. The sole accused in SC.No.117/2010 on the file of the learned Principal Sessions Judge, Krishnagiri, has come up with this appeal, challenging the conviction and sentence imposed on him. He stood charged for the offences u/s.363 IPC [2 counts] ; 302 IPC [2 counts] and 201 read with 302 IPC. By judgment dated 19.04.2012, the Trial Court acquitted him from the charges u/s.363 IPC [2 counts] and 201 r/w 302 IPC ; however convicted him for the offence u/s.302 IPC and sentenced him to undergo imprisonment for life and to pay a fine of Rs.1,500/- for each count, in default, to undergo rigorous

imprisonment for 6 months. Challenging the said conviction and sentence, the appellant is before this Court with this appeal.

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

[A] P.W.2 is the wife of the appellant/accused. They had two male children by name Jagan and Vishal, aged 4 years and 2 years respectively. They were all residing at Kottai Ulimangalam village in Krishnagiri District. P.W.2 was employed in a private company and from out of her income, the family was run, as the accused had no employment. Because the accused was unemployed and was not earning anything and since he was whiling away his time, there arose frequent quarrels between P.W.2 and the accused. Thus, there was no love last between the accused and P.W.2.

[B] On 20.11.2009, before leaving for her work in the morning, P.W.2 requested the accused to take Master Vishal to a local doctor. Her mother-in-law was also at home then. At 19.00 hrs., on the same day, when P.W.2 returned home, she found that the accused as well as both the children were not available. When she enquired her mother-in-law, she told P.W.2 that the accused had taken both the children to the hospital at Denkanikottai. For the whole night, the accused did not return. On the next day, that was on 21.11.2009, again P.W.2 had gone for her work. In the usual course, when she returned in the evening by 19.00 hrs., the accused had not returned along with the children. Within half-an-hour thereafter, the accused alone returned home. When the mother of the accused enquired him as to where the children were, he told that he had killed the children. Perturbed over the same, P.W.2 enquired the accused about the children. He told that he had admitted the children in a Children's Home. When P.W.2 repeatedly insisted him to say as to what had happened to the children, he told that he killed the first child Jagan [hereinafter referred to as D1] by throwing him in water and killed the second child Vishal [hereinafter referred to as D2] and buried the body at the burial ground. P.W.2, shocked over the same, took one Kumar [P.W.5] and rushed to the place disclosed by the accused. The accused, however, fled away from the house. P.Ws.2 and 5 went to the scene of crime and found the dead bodies of both the children, lying by the side of a small pond. Then immediately, leaving P.W.5 at the

spot, P.W.2 rushed to the office of the Village Administrative Officer at Ulimangalam village, who was the jurisdictional Village Administrative Officer. She made a statement to VAO [P.W.1] about the above incident. P.W.1 reduced the same into writing under Ex.P.1. Then, he forwarded the same to the Denkanikottai Police Station.

[C] P.W.8, the then Sub-Inspector of Police attached to the said Police Station, on receipt of the complaint under Ex.P.1 on 22.11.2009 at 07.00 hrs., registered a case in Cr.No.333/2009 for the offence u/s.302 IPC. Ex.P.16 is the FIR. He forwarded both the documents to the Court concerned, which were received by the learned Magistrate at 20.15 hrs on the same day.

[D] P.W.9, the then Inspector of Police, took up the case for investigation and proceeded to the scene of occurrence on 22.11.2009 and prepared the Observation Mahazar [Ex.P.2] and also prepared a Rough Sketch [Ex.P.17] in the presence of P.W.1 and another witness. She examined P.Ws.2 to 6 and recorded their statements. Thereafter, she held inquest on the dead body of the deceased in the presence of Panchayatdhars and other witnesses till 11.30 hrs. Ex.P.19 is the Inquest Report. P.W.9 also recovered M.Os. 1 to 3 [a blue colour underwear ; an empty bottle and an empty cool drinks bottle respectively] from the scene of crime, under a Mahazar. She sent the dead body of the deceased for postmortem.

[E] P.W.3, Dr.Vijay, the Civil Assistant Surgeon attached to the Government Hospital, Denkanikottai, conducted autopsy on the body of D1 on 23.11.2009 at 11.30 hrs. He found the following injuries:-

External Appearance:-

[1] Face-swollen [2] Eyes closed. Eyeballs soften and bulged [3] Nose-blood stained fluid comes out from both nostrils [4] Mouth-open, blood stained fluid comes out from right side angle of mouth [5] Tongue bitten between teeth and protruded out.

Internal Examination:-

[1] Heart-130 gms. Chambers filled with blood. C/s congested. [2] Lungs- [Rt] 200 gms [Lt] 180 gms. C/s congested. [3]Hyoid bone-intact. [4] Stomach-empty. Mucosa normal [5]Liver-900 gms C/s congested [6] Spleen-80 gms C/s congested [7] Kidney-90 gms each; C/s congested [8]Skull and membranes-intact [9] Brain-liquification setting in 1300 gms.

Ex.P.7 is the Postmortem Certificate. He opined that the death was due to drowning. At 13.00 hrs., on the same day, he conducted autopsy on the dead body of D2. He found the following injuries:-

External Appearance:-

[1] Eyes closed. [2]Mouth-closed, whitish frothy fluid comes out. [3]Tongue-kept inside the mouth.

Internal Examination:-

[1] Heart-100 gms. Chambers filled with blood. C/s congested. [2] Lungs- [Rt] 200 gms [Lt] 180 gms. On pressing, blood-stained excretion present [3]Hyoid bone-intact. [4] Stomach-20ml of white coloured liquid present. Mucosa normal [5]Liver-800 gms C/s congested [6] Spleen-60 gms C/s congested [7] Kidney-80 gms each; C/s congested [8]Skull and membranes-intact [9] Brain-900 gms. + liquification setting in.

Ex.P.8 is the Postmortem Certificate. He opined that the death of D2 was due to drowning.

[F] P.W.9, during the course of investigation, arrested the accused on 22.11.2009 at 15.00 hrs near the Ulimangalam Bus Stand, in the presence of P.W.1 and another witness. On such arrest, the accused gave a voluntary confession statement ; but no fact was discovered out of the same. Thereafter, P.W.9 returned to the Police Station and forwarded the accused for judicial remand and also handed over the material objects to the Court.

[G] Thereafter, investigation was taken over by P.W.10 on 23.02.2010. He forwarded the material objects for chemical examination through Court. The report

revealed that there was diatom in the lung and sterna. On completion of the investigation, he laid the charge-sheet against the accused.

[H] Based on the above materials, the Trial Court framed charges against the accused as detailed in the first paragraph of the Judgment. The accused denied the same. In order to prove the case on the side of the prosecution, as many as 10 witnesses were examined, 19 documents and 3 material objects were also marked.

[I] Out of the said witnesses, P.W.2 is the wife of the accused and she has stated that this accused took the children with him lastly and he returned without the children. When she enquired, he told that he had killed the children. Thereafter, when she along with P.W.5, rushed to the place disclosed by the accused, where the dead bodies of the children were found. Thereafter, she went to P.W.1 [VAO] to make a complaint. P.W.1 has stated about the arrival of P.W.2 and recording of the statement of P.W.2. He has further stated that he forwarded the same to the police for registration of a case. P.W.1 also spoken about the preparation of the Observation Mahazar and the Rough Sketch at the place of crime. P.W.3 is the doctor who conducted autopsy on the dead bodies of the deceased children. He has stated that the death of the children was due to drowning. P.Ws.4 and 5 have turned hostile and they have not supported the case of the prosecution in any manner. P.W.6 is the mother of P.W.2. She has stated only about the hearsay information and she has not stated anything incriminating against the accused. P.W.7, the Chemical Analyst, has stated that Diatom test of the internal organs of both the deceased proved positive. P.W.8 has spoken about the registration of the case on the complaint of P.W.2. P.Ws.9 and 10 have spoken about the investigation done by them and the filing of the final report.

3. When the above incriminating materials were put to the accused u/s.313 Cr.P.C., he denied the same as false. His defence was a total denial. However, he did not chose to examine any witness nor marked any documents, on his side.

4. Having considered all the above, the Trial Court convicted and sentenced the appellant/accused as detailed in the first paragraph of this judgment. That is how the appellant is before this Court with this appeal.

5. We have heard Mr.K.Selvarangan, learned counsel appearing for the appellant and Mr.M.Maharaja, learned Additional Public Prosecutor appearing for the State and we also perused the materials placed on record carefully.

6. This is a case based on circumstantial evidence. P.W.2 is the wife of the accused. She has stated that the accused was unemployed and he was whiling away his time without making any earning. This resulted in frequent quarrels between the accused and P.W.2. This circumstance, we hold, has been proved by the prosecution. But, this is not very incriminating against the accused.

7. The next circumstance is that on 20.11.2009, before going for work, P.W.2 requested the accused to take Vishal [D2] to the hospital for treatment. On the same day, when P.W.2 returned home at 19.00 hrs, the accused and the children we

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