

Mani Vs. State of Kerala

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Court : Kerala

Decided On : Dec-16-1986

Reported in : 1987CriLJ1965

Judge : Chettur Sankaran Nair, J.

Appellant : Mani

Respondent : State of Kerala

Judgement :

Chettur Sankaran Nair, J.

1. The appellant-accused stood trial before the Court of Session, Trichur for having caused the death of one Rajan at or about 8 P.M. on 28-12-1982 by stabbing him with a knife, the offence punishable under Section 302, I.P.C. There was an exchange of words between the accused and the deceased. When the deceased called the mother of the accused a whore, it is said the accused took out a knife and stabbed him. P.W. 2 who was nearby, tried to intervene. In this process, he was injured, and he let go of the accused. P.Ws. 1 and 2 and Ors. took the injured to the Wadakkancherry hospital, and thence to the District hospital, Trichur. The police registered a case under Section 307, I.P.C. Later, the injured died, and the charge was altered to Section 302, I.P.C.

2. P.W. 9 performed an autopsy on the body of the deceased, and issued Ext.P6 certificate noticing ten injuries. According to the doctor, injuries 2 and 3 were necessarily fatal. Serious damage was caused to the kidney and liver. The opinion of P.W. 9 cannot be disputed, and has not been disputed either. The court below rightly found that the deceased suffered injuries, which were necessarily fatal, and died as a result thereof.

3. The evidence of P.Ws. 1 and 2 is relied on by the prosecution to prove that the accused was instrumental to the death of Rajan. These witnesses testify to the occurrence. Their evidence has been placed before me. I am impressed with the evidence. These are witnesses of truth, and they have spoken to a cogent, natural and acceptable version of the occurrence.

4. Counsel for appellant attempted to put the evidence in an unfavourable light, imputing artificiality on more grounds than one. It was urged that no information was lodged with Wadakkancherry police, as should have been done. P.W. 1, when asked about this, gave a convincing answer. He was anxious to take the injured to the district hospital in an attempt to save his life, and did not go to the police to lodge a complaint. The explanation is, reasonable and natural. It was then contended that the deceased himself had not made a report to the police and that the first information emanated from P.W. 1. P.W. 1, stated that the deceased was not in a condition to speak. That is a good reason for not making a statement. Besides, there is no rule or principle of evidence requiring that the injured should always be the first informant. The Rules of Evidence and the rules of life cannot be far apart. A first information report which sets the process of law in motion can come from any quarters, even anonymous sources. This contention of the counsel does not commend acceptance.

5. It is then urged that the first information report is silent about the injuries sustained by P.W. 2, in the course of the same transaction. I do not find my way to think that this is a serious infirmity, or for that matter an infirmity at all. The witness was anxious about Raj an, and what was upper most in his mind, according to him, was to get help for the dangerously injured man. In all likelihood, in the state of agitation in which he was, he would not have considered it necessary to give out

every detail that he knew. It might not have even occurred to him. A first information report is not, and need not be, a catalogue of all information that may be in the mind of the informant. Several factors would determine what would be said, and what would be missed. The dimensions of perception, the sense of importance or unimportance of events in the mind of the maker of the statement, his own state of mind, his view of relevancy and irrelevancy, would all form the back-drop in which the statement made, will have to be considered. It is well to remember that a first information report is not an encyclopedia of the entire prosecution case but, only a starting point that alerts the investigating machinery into the process of probe, the result of which will be evaluated by the court. In this view, I am not persuaded to think that there was any omission, much less suppression of facts, in the first information report.

6. P.Ws. 1 and 2 as stated herein-before have shown themselves to be trustworthy witnesses. Nothing has been brought out to taint their evidence, or to impute motives or animosity to them. They have come out with a graphic picture, rich in details and unshaken by cross-examination. The court below rightly acted on their evidence.

7. The court then found that grave and sudden provocation was offered by the deceased and that the accused could claim Exception 1 to Section 300, I.P.C. Accordingly, he was convicted for the offence under Section 304, Part I. It is clear that the accused committed the offence whilst deprived of process of self control by grave and sudden provocation, offered by the deceased by obscene words and innuendo to his mother's morals.

8. Counsel for appellant further submitted that the sentence passed is more severe than, what the offence merits. The accused attacked the deceased, causing as many as ten injuries. Though Exception 1 to Section 300 mitigates the offence and brings it under Section 304, Part 1, a further mitigation in the form of reduction of sentence is not called for. The Sessions Judge, if he erred, did not err on the side of leniency.

The appeal fails, and is dismissed.

