

K. Palraj Vs. State

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Court : Chennai

Decided On : Jun-10-2008

Reported in : 2008CriLJ4236

Judge : P.D. Dinakaran and ;K.N. Basha, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 302, 304 and 324; Code of Criminal Procedure (CrPC) - Sections 313

Appeal No. : CrI. Appeal No. 1035 of 2007

Appellant : K. Palraj

Respondent : State

Advocate for Def. : N.R. Elango, Additional Public Prosecutor

Advocate for Pet/Ap. : V. Gopinath, Sr. Counsel for ;K. Kalyanasundaram, Adv.

Judgement :

K.N. Basha, J.

1. This appeal is directed against the judgment of the learned Principal District and Sessions Judge, Coimbatore, dated 23.10.2007 made in S.C. No. 218 of 2006 convicting the sole accused, Palraj, under Section 302 IPC and sentencing him to undergo imprisonment for life and imposing a fine of Rs. 1,000/- in default, to

undergo one month simple imprisonment and also convicting him under Section 324 IPC and sentencing him to undergo one year rigorous imprisonment. Both the sentences are ordered to run concurrently.

2. The facts of the case, as projected by the prosecution, are as follows:

(i) P.W. 1 is the friend of the deceased and both of them were working at Annoore IDPL Company. The accused, Palraj, came to the Company, where the deceased and P.W.1 were working, and demanded Rs. 20,000/-, which was received by the deceased as loan. P.W.1 and others advised the accused not to give trouble in the office and P.W. 1 also informed the father of the deceased, P.W.5, about the quarrel between the deceased and the accused. Therefore, there were strained feelings between the accused and the deceased.

(ii) On the fateful date of occurrence, i.e. on 11-06-2005 at 7.15 p.m., the deceased and P.W. 1 left the house of the deceased for taking Belpuri at 7.00 p.m. The accused was coming behind them. The accused demanded the deceased to return the amount due to him which resulted in a wordy quarrel between them and suddenly, the accused took out a knife, M.O.2, and stabbed the deceased on his right side abdomen. The deceased fell down. While the accused attempted to stab the deceased again, P.W. 1 intervened and he sustained an injury on his left hand little finger. The accused ran away from the scene with the knife. P.W.5, father of the deceased, who came there caught hold of the deceased. P.W.5 poured water into the mouth of the deceased. On hearing the hue and cry, crowd, including the mother of the deceased and others, gathered there. The deceased was taken to K.R. Hospital by P.Ws.5 and 6 and the Doctor found the deceased was in a serious condition and asked them to take the deceased to the Government Hospital. The deceased was taken in an Ambulance to the Government Hospital, Coimbatore. The Doctor, P.W. 16, found the deceased already dead. Ex. P. 14 is the copy of the Accident Register.

(iii) P.W.1 went to Perianaickenpalayam Police Station and gave a report, Ex.P. 1, to P.W. 19, Sub Inspector of Police. PW. 19 registered a case in Crime No. 354 of 2005 under Section 302 IPC. He also recovered M.O.I, shirt, from P.W.1 under Form 95. Ex.P.20 is the Express First Information Report and he sent the same to

the higher police officials and to the Court.

(iv) P.W.21, Inspector of Police, received the First Information Report on 11-06-2005 at 11.00 p.m. and took up investigation. He went to the scene and prepared the Observation mahazar, Ex.P.4 and the rough sketch, Ex.P.22. He also recovered M.O.6, bloodstained earth and M.O.7, sample earth under Ex.P.5. He examined the eye-witnesses, P.Ws.1 to 6 and others. He also made arrangements for taking photographs and video. He held inquest on the dead body of the deceased. Ex.P.23 is the inquest report. He sent the body for post-mortem.

(v) The Doctor, P.W.17, conducted postmortem on the dead body of the deceased on 12-06-2005 at 11.00 a.m. He found the following injuries.

External Injuries:

(1) A transverse incised wound 2 X 0.25 X 0.2 cm skin deep, present over the inner border of right hand 3 cm above the base of little finger.

(2) An oblique stab wound, 4 X 2 cm seen in the light upper abdomen, omentum seen protruding out.

Internal Injuries:

On dissection, the wound number (2) passes obliquely backwards and inwards into peritoneal cavity. Then it has punctured both the walls of stomach for 3 X 2 cm and has again pierced the pancreas 1.5 X 1 cm and has ended up as a point. The total depth of the wound tract is about 8 cm. The margins of the wounds are clean cut and both the ends are pointed.

Retroperitoneal area around the pancreas contains about 600 grams of clotted blood. Stomach contains 100 grams of clotted blood.

Peritoneal cavity contains 100 ml of blood.

Other findings:

Pleural cavities empty. Lungs cut section pale. Heart - Right side chambers contain a few cc of blood. Left side chambers empty. Coronaries patent. Hyoid bone intact.

Stomach - already described. Small intestine contains 20 ml of bile stained fluid, no specific smell, mucosa normal. Liver, Spleen, Kidneys c/s pale. Urinary Bladder - empty.

Ex.P.17 is the Accident Register. The Doctor opined that the deceased would appear to have died of shock and haemorrhage due to external injury number (2) and its corresponding internal injuries.

(vi) P.W.21, received the extra-judicial confession, Ex.P.6, as produced by the Doctor, P.W.7, along with the accused at 5.30 p.m. on 13-06-2005. He arrested the accused at 5.45 p.m. He recovered bloodstained cloths, M.Os. 10 and 11 from the accused under Ex.P.8. In pursuance of the admissible portion of the confession of the accused, Ex.P.7, he recovered M.O.2, knife, as produced by the accused. He found an injury on the right hand finger of the accused and referred him to the Government Hospital, Periyanaickanpalayam and thereafter the accused was remanded to judicial custody. P.W.21 received the post-mortem certificate, Ex.P. 17, chemical examination report, Ex.P.26, Viscera report, Ex.P.27, Serologist report, Ex.P.28 and grouping test report, Ex.P.29 and after completion of investigation filed the charge sheet against the accused on 11-07-2005 for the offence under Sections 302 and 324 IPC.

3. The prosecution, in order to substantiate its case examined P.Ws. 1 to 21, filed Exs.P. 1 to P.30 besides marking M.Os. 1 to 20.

4. When the accused was questioned under Section 313 Cr.P.C. in respect of the incriminating materials appearing against him, the accused has come forward with the version of total denial and stated that he has been falsely implicated in this case. He has not chosen to examine any witness on his side.

5. Mr. V. Gopinath, learned senior counsel appearing for the appellant contended that the prosecution has miserably failed to prove its case by adducing clear and

cogent evidence. It is contended that there are contradictions in material particulars between the evidence of the alleged eye-witnesses, P.Ws. 1 to 6 and P.W.9 and it is not safe to place reliance on their evidence. It is further submitted that the accused has no acquaintance with the Doctor, P.W.7 and as such he could not have reposed confidence on P.W.7 to give the extra judicial confession. The learned senior counsel would further contend that even assuming that the accused is responsible for causing the death of the deceased, he could not have been imputed with the intention of causing the death of the deceased and the entire occurrence took place due to a sudden quarrel without any premeditation.

6. Per contra, Mr. N.R. Elango, learned Additional Public Prosecutor contended that the prosecution has established the guilt of the accused by adducing clear and consistent evidence through the eye-witnesses, P.Ws. 1 to 6 and P.W.9. It is submitted that the eye-witnesses P.Ws. 2 to 4, 6 and 9 are independent witnesses and though P.W. 1 is the friend of the deceased and P.W. 5 is the father of the deceased, their evidence does not suffer from any infirmity, It is contended that the categorical version of P.Ws. 1 to 4, 6 and 9 implicating the accused is also corroborated by the medical evidence through the Doctor, P.W. 17 as there are corresponding injuries found on the deceased in respect of the overt acts alleged against the accused. Therefore, it is submitted that the prosecution has proved its case in all aspects.

7. We have given our careful and thoughtful consideration to the rival contentions put forward by either side and also perused the impugned judgment of conviction.

8. The prosecution heavily placed reliance on the evidence of eye-witnesses, P.Ws. 1 to 6 and P.W.9. Though P.W.1 is the friend of the deceased and P.W. 5 is the father of the deceased, their evidence cannot be rejected on that score and the only requirement is that we have to scrutinize their evidence with great care and caution. The fact remains that the other eye-witnesses, namely, P.Ws.2 to 4, 6 and 9 are independent witnesses.

9. At the outset, it is to be stated that there is no infirmity or inconsistency in the evidence of the eye-witnesses, P.Ws. 1 to 6 and P.W.9. The fact remains that the prosecution has also rightly placed reliance on the extra judicial confession,

Ex.P.6, said to have been given by the accused to the Doctor, P.W. 7. It is also pertinent to be noted that P.W. 1 has clearly stated about the occurrence in Ex.P. 1 including the quarrel took place between the deceased and the accused in respect of money transaction. Therefore, the evidence of P.Ws. 1 to 6 and P.W.9 coupled with the alleged extra judicial confession, Ex.P.6, is corroborated by the medical evidence as the Doctor, P.W. 17, found corresponding injuries as per the specific overt acts alleged against the accused. The accused also sustained an injury on his thumb and it is stated to the Doctor that he sustained such injury while removing the knife from the body of the deceased and therefore, we have no hesitation to hold that the deceased died only due to homicidal violence and that too at the hands of the accused.

10. Now we are left with the crucial question of nature of offence said to have been committed by the accused. In the light of the materials available on record through the evidence of eye-witnesses, P.Ws. 1 to 6 and P.W.9 and the alleged extra judicial confession, Ex.P.6 said to have been given by the accused to the Doctor, P.W.7, it is crystal clear that a wordy quarrel preceded the occurrence. The undisputed fact remains, as per the version of P.W. 1, that the accused even on an earlier occasion came to the office of the deceased and demanded to settle the dues. It is pertinent to be noted that only due to the quarrel, the accused said to have suddenly took out a knife from his pant pocket and gave a single stab on the abdomen of the deceased. Though the postmortem certificate, Ex.P. 17 discloses two injuries, namely, one on the right hand little finger and another on the stomach, the eyewitnesses categorically spoke about only one single stab. The alleged extra judicial confession, Ex.P.6 also discloses that only after the wordy quarrel and after the deceased refused to settle the dues due to provocation, the accused took out the knife from his pant pocket and stabbed the deceased on his stomach. Therefore, we have no hesitation to hold that there is absolutely no premeditation or pre-plan on the part of the accused to cause the death of the deceased and he stabbed the deceased only due to sudden quarrel and due to refusal of the deceased to settle the dues to him.

11. In view of the aforesaid reasons, we are of the considered view that the accused could not be imputed with the intention of causing the death of the

deceased and he could have had the knowledge that the injury would likely to cause the death and as such the appellant is liable to be convicted only under Section 304(ii) IPC.

12. Accordingly, the conviction and sentence imposed on the appellant by the learned Principal District and Sessions Judge, Coimbatore, in S.C. No. 218 of 2006 dated 23-10-2007 for the offence under Section 302 IPC are hereby set aside and instead the appellant is convicted under Section 304(ii) IPC and sentenced to undergo five years rigorous imprisonment.

13. The conviction and sentence imposed on me appellant by the trial Judge for the offence under Section 324 IPC are hereby confirmed.

14. With this modification in conviction and sentence, this appeal is partly allowed.

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