

Ravichandran Vs. State Represented by the Inspector of Police

Ravichandran Vs. State Represented by the Inspector of Police

SooperKanoon Citation : sooperkanoon.com/833854

Court : Chennai

Decided On : Sep-19-2005

Reported in : 2006CriLJ894

Judge : M. Karpagavinayagam ;and S.R. Singharavelu, JJ.

Acts : Indian Penal Code (IPC) - Sections 302; Code of Criminal Procedure (CrPC) - Sections 313

Appeal No. : Criminal Appeal No. 546 of 2003

Appellant : Ravichandran

Respondent : State Represented by the Inspector of Police

Advocate for Def. : E. Raja, Addl. P.P.

Advocate for Pet/Ap. : M.V. Karunakaran, Adv.

Disposition : Appeal dismissed

Judgement :

M. Karpagavinayagam, J.

1. Challenging the conviction and sentence passed against him for the offence under Section 302 IPC, Ravichandran, the appellant herein, has filed this appeal.

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

'(a) Chinnappa, the deceased in this case, is the husband of Rajeswari, P.W.1. P.W.2 Sundari is their daughter. The accused Ravichandran is related to the deceased. Ten years prior to the incident, the deceased arranged for the marriage of the sister of the accused Suseela with one Paulraj. Immediately after the marriage, Suseela, the sister of the accused, committed suicide, since there was no cordial relationship between the husband and wife. Therefore, the accused developed an impression that Chinnappa is the root-cause for his sister's suicide. The accused also used to declare that he would kill the deceased one day or the other.

(b) The fateful occurrence had taken place on 20.7.2001 at about 12 Noon. In the early morning, at 6.00 a.m., the deceased left his house to forest area to cut the trees. Till 11.00 a.m., he did not turn up. So, P.W.1 Rajeswari, the wife of the deceased and P.W.2 Sundari, the daughter of the deceased left the house and went to the forest area in search of the deceased. At about 12 Noon, at the river bed, they saw both the accused and deceased quarrelling with each other. When they came near to the deceased, the accused took out a 'koduval', which was kept in his pocket and he gave cuts on right and left side of the neck of the deceased and continued to inflict injuries all over the body. P.Ws.1 and 2 on seeing the ghastly incident, cried aloud. Then, the accused ran towards the casuarina grove with the weapon. P.Ws.1 and 2 came near the deceased and found him already dead. So, leaving P.W.2 at the scene of occurrence, P.W.1 alone went to the Police Station.

(c) At about 1.30 p.m., Ex.P.1 complaint was given by P.W.1 to P.W.7, the Sub Inspector of Police. P.W.7 registered the case for the offence under Section 302 IPC against the accused.

(d) On receipt of the message, P.W.9, the Inspector of Police, took up investigation at about 3.00 p.m. and thereafter came to the scene and prepared Ex.P.2 Observation Mahazar and Ex.P.14 rough sketch. Then, he held inquest over the body of the deceased and also examined the witnesses. He recovered the bloodstained earth-M.O.2 and sample earth-M.O.3. Thereafter, the body of the

deceased was sent for Post-Mortem.

(e) On 21.7.2001, at about 11.00 a.m., P.W.8 Doctor conducted autopsy on the dead body of the deceased and found six injuries on various parts of the body. He issued Ex.P.13 Post-Mortem Certificate in which the Doctor opined that the deceased would appear to have died of shock and haemorrhage due to multiple cut injuries and cut injury to the trachea.

(f) On the same day, i.e. on 21.7.2001 at about 3.30 p.m., P.W.9, the Inspector of Police arrested the accused at Vellaru bridge and on his confession, M.O.1 knife was recovered. He also recovered M.O.5 lungi and M.O.6 shirt worn by the accused. Then, he sent the material objects for chemical examination. On the transfer of P.W.9, P.W.10 took up further investigation and after completion of the investigation, he filed the charge sheet against the accused for the offence under Section 302 IPC.'

3. During the course of trial, P.Ws.1 to 10 were examined, Exs.P.1 to P.16 were filed and M.Os.1 to 11 were marked.

4. When the accused was questioned under Section 313 Cr.P.C., he denied his complicity in the crime. However, no evidence was adduced on the side of the defence.

5. The trial Court, on having considered the entire materials available on record, concluded that the offence under Section 302 IPC has been clearly established by the prosecution beyond reasonable doubt and convicted the accused for the offence under Section 302 IPC and sentenced him to undergo life imprisonment and also to pay a fine of Rs. 3,000/=, in default to undergo six months rigorous imprisonment. This finding is the subject matter of the appeal.

6. Mr. M.V. Karunakaran, the learned counsel for the appellant, would take us through the entire evidence and contend that the prosecution case would suffer from several infirmities and as such, the accused is liable to be acquitted. The gist of his submission is as follows:

i) According to the Doctor, through Ex.P.13 Post-Mortem Certificate, the stomach of the deceased contained undigested kanji. According to P.W.1, the deceased left at 6.00 a.m., after taking kanji and as such, the occurrence must have taken place within two hours or so of his leaving the house. But, according to the prosecution, the occurrence had taken place at 12.00 Noon. Therefore, the presence of P.Ws.1 and 2 at the scene, at 12.00 Noon, is doubtful.

ii) Even according to P.Ws.1 and 2, after seeing the dead body, both of them fell on the body and cried. In that event, the clothes worn by them would have stained with bloodstains. But, admittedly, the bloodstained clothes of P.Ws.1 and 2 were not recovered by P.W.9.

iii) Even according to the prosecution, the Investigating Officer P.W.9 had examined the Teachers and Headmaster of the School, which is situated nearby, during the course of investigation. However, there is no reason as to why they were not examined in the Court and if they were examined, the truth would have come out regarding whether P.Ws.1 and 2 were present at the scene during the relevant time. Therefore, the failure on the part of the prosecution to examine them, is fatal to the prosecution case.'

7. On these aspects, we have heard the learned Additional Public Prosecutor.

8. We have given our thoughtful consideration to the rival contentions.

9. According to the prosecution, on 20.7.2001, the deceased left the house at 6.00 a.m., after informing P.W.1 that he would go to the forest to cut the trees and would be back at 11.00 a.m. Since he did not turn up, both P.Ws.1 and 2, respectively the wife and daughter of the deceased, went in search of the deceased. At that time, they found both the accused and deceased quarrelling with each other and in the end, when they came near the deceased, the accused took out a 'koduval' and gave cuts all over the body of the deceased. On seeing the incident, P.Ws.1 and 2 cried aloud. Thereupon, the accused fled away from the scene. Immediately, P.W.1 rushed to the Police Station and gave a complaint. The Sub Inspector of Police-P.W.7 registered the case at 1.30 a.m. In Ex.P.1 complaint and Ex.P.11 FIR, it is noticed that they reached the Magistrate at 5.00

p.m on the same day.

10. In Ex.P.1, the details of the occurrence and the presence of P.Ws.1 and 2 have been clearly mentioned. In Ex.P.1, P.W.1 has specifically mentioned that the accused had a grudge against the deceased, since he thought that the deceased is the root cause for the suicide committed by his sister Suseela. Therefore, the motive aspect as well as the presence of P.Ws.1 and 2 at the scene has been mentioned in Ex.P.1 itself.

11. It is strenuously contended by the learned counsel for the appellant that P.Ws.1 and 2 could not have been present at the scene since according to P.W.1, the deceased took food at 6.00 a.m., when he left the house and in that event, the occurrence would not have taken place at 12.00 Noon, as pleaded by P.Ws.1 and 2 since the Post-Mortem would show that the stomach of the deceased contained undigested kanji. No question was put to the Doctor P.W.8 regarding the time required for digestion. Further, on going through the evidence of P.W.1, she does not state that on that day, the deceased took food and then left the house at 6.00 a.m. Therefore, we are not able to accept the first contention of the learned counsel for the appellant, with reference to the presence of undigested food particles in the stomach.

12. Nextly, it was contended by the learned counsel for the appellant that bloodstained clothes of P.Ws.1 and 2 were not recovered. It is not the case of P.Ws.1 and 2 that their clothes were stained with blood. Unfortunately, no question was put to P.W.9, the Investigating Officer, with reference to the bloodstained clothes worn by P.Ws.1 and 2.

13. Thirdly, it was contended that the other witnesses, viz. the Teachers and the Headmaster of the School, situated nearby, were not examined. The non-examination of these witnesses, would not, in any way, affect the core of the prosecution case. We are only concerned with the evidence of P.Ws.1 and 2, who have witnessed the occurrence. It is not the case of the prosecution that the Headmaster and Teachers working in the School have witnessed the occurrence. As a matter of fact, these people have been examined during the course of investigation. When it is not the case of the prosecution that the Teachers and the

Headmaster of the School have also witnessed the occurrence, it cannot be said that they are the material witnesses to be examined during the course of trial.

14. On going through the evidence of P.Ws.1 and 2, whose names have been mentioned in the complaint and the FIR, it is clear that their evidence is cogent and consistent and placing reliance on their evidence, it can be safely held that the prosecution has established its case beyond reasonable doubt and as such, the conviction and sentence passed against the accused/appellant by the trial Court is perfectly justified.

In the result, this Criminal Appeal fails and the same is dismissed.

The conviction and sentence passed against the appellant/accused for the offence under Section 302 IPC, by the Principal Sessions Judge, Cuddalore in Sessions Case No. 132 of 2002, dated 17.12.2002, is confirmed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com