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Senthilkumar Vs. the State

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Court : Chennai

Decided On : Dec-22-2011

Judge : M.Jaichandren; S.Nagamuthu, Jj.

Acts : Indian Penal Code (IPC) - Sections 498(A), 302; Code of Criminal Procedure (CrPC) - Section 164, 313; Dowry Prohibition Act, 1961 - Section 4

Appeal No. : CRIMINAL APPEAL (MD).No.378 of 2010

Appellant : Senthilkumar

Respondent : The State

Advocate for Def. : Mr.C.Ramesh, Adv.

Advocate for Pet/Ap. : Mr.S.Ashokkumar, Adv.

Judgement :

The appellant is the sole accused in S.C.No.147 of 2003, on the file of the learned Sessions Judge (Mahila Court), Trichy. By Judgment dated 07.10.2010, the learned Sessions Judge has sentenced him to undergo imprisonment for life and to pay a fine of Rs.5,000/-, in default to undergo simple imprisonment for six months. Challenging the said conviction and sentence, the appellant is before this Court with this Criminal Appeal.

2. The case of the prosecution, in brief, is as follows:- The deceased, in this case, was one Balasundari. PW-1, PW-2 and PW-3 are the brother, father and mother respectively of the deceased. PW-1 to PW-3 are the residence of Kamarajapuram. During the year 1998, the accused was working on temporary basis as a Security in BHEL. During that time, he got introduced to the deceased and ultimately, they had fallen in love with each other. Thereafter, the accused married the deceased in the year 1998 itself. After one year of the said marriage, the accused was recruited as a Police Constable. Out of the wedlock, they have got a female child. For about two years after the marriage, they were living together happily. But, as the time progressed, the accused started ill-treating the deceased demanding dowry, which resulted in frequent quarrel between them. On so many occasions, the deceased had come to her parents' home. On all such occasions, the parents of the deceased persuaded her and sent her back to her matrimonial home. After 2+ years of the marriage, the deceased consumed sleeping tablets in an attempt to commit suicide. The said attempt was due to the intolerable torture at the hands of the accused. After the treatment, the deceased preferred a complaint against the accused at K.K.Nagar Police Station. After the said incident, the deceased staying with her parents.

3. One Mr.Senbagaraman, I.P.S., was the Superior Police of the accused. He called the accused and the deceased with their respective family members, persuaded them, compromise the matrimonial dispute and made them to live together. From that onwards, the accused and the deceased along with her child was living at D-2 Police Quarters. PW-5 to PW-8 are his neighbours. PW-1 and PW- 3 used to visit frequently the house of the accused. On 04.05.2002, PW-1 and PW- 3, as usual, visited the house of the deceased. In the evening, PW-3 left for her house. PW-1 alone stayed back at the house of the accused. At about 09.30 PM, the accused returned from duty. The deceased and the accused went to bed in the room of the house around 10.00 PM. PW-1 and the daughter of the deceased were in the hall of the house, studying. At about 10.30 PM, PW-1 heard the hue and cry of the deceased. PW-1 attempted to open the door of the room, where the deceased and the accused were sleeping. But, the door was bolted from inside. PW-1 opened the door by force. At that time, he found the accused cutting the neck of the deceased by holding her mouth with left hand. On seeing

PW-1, the accused pushed him apart and ran away. The deceased died instantaneously. Then, taking the child with him, PW-1 proceeded to the K.K.Nagar Police Station and preferred a complaint - EX-P-1.

4. PW-19, the then Sub - Inspector of Police, attached to the K.K.Nagar Police Station, received the complaint from PW-1 at 11.30 PM and registered a case in Crime No.130 of 2002, under Sections 498(A) and 302 of the Indian Penal Code. EX-P21 is the First Information Report. Then, he forwarded the First Information Report and the complaint to Court, which were received by the learned Judicial Magistrate at 06.30 PM, on 05.05.2002, at his residence. Then, he handed over the case diary to PW-22 for investigation.

5. Taking up the case for investigation, PW-22 proceeded to the place of occurrence and prepared an Observation Mahazar - EX-P7 in the presence of PW-9 and another witness. He prepared a Rough Sketch - EX-P22. He recovered bloodstained earth and sample earth from the place of occurrence under EX-P8. Then, he examined PW-1 to PW-8 and recorded their statements. On 05.05.2002, at 04.00 PM, he arrested the accused near Saranathan Engineering College on the Madurai Road in the presence of PW-10 and another witness. On such arrest, he gave a voluntary confession statement, in which he had disclosed that he would identify the place, where he had hidden the knife. In pursuance of the said disclosure statement, he took PW-22 and the witnesses to Tiruchi Viralimalai Road Junction and produced the knife in the presence of the very same witness under a mahazar. PW-22 also made arrangements for photographing the place of occurrence and the dead body. On 06.05.2002, PW-22 collected the photographs with negatives. He forwarded all the Material Objects to the Court. He also forwarded the accused for judicial remand.

6. On a request made by PW-22, PW-11 conducted autopsy on the body of the deceased. He found the following injuries:-

“1. An oblique incised wound, 3 cm X 1 cm X skin deep on the center of sub mental region.

2. A transverse incised wound 4 cm X 1 cm muscle deep, on the right side of sub mental region.

3. A transverse incised wound 9 cm X 3 cm X 1 cm of wind pipe deep, on the front of neck, below the level of thyroid cartilage. O/E.the underlying structures are clean out.

4. A transverse incised wound, 3 cm X 1.5 cm X muscle deep, on the front of midline of neck, 1.5 cm below the wound No.3

5. A oblique incised would 2 cm X 1 cm x muscle deep, on the right side of neck, 2 cm away from the wound No.4.

6. A transverse incised wound 1 cm X 0.5 cm X skin deep, on the front of the lower part of midline on of neck.

7. An oblique incised wound 2 cm X 1 cm cavity deep, on the side aspect of right side of chest, in the 2nd intercostal space along the mid axillary line. O/E the upper inner end is curved and lower outer end is sharp. The edges are clean out.

8. Three incised wounds ranging from 1.5 cm - 2 cm X 0.5 cm - 1 cm X muscle deep on the front of right shoulder are vertically oblique in direction placed at varying distances on an area of 8 cm X 5 cm.

9. An oblique incised wound 5 cm X 3 cm X muscle deep on the back of middle third of right arm.

10. A transverse incised wound 2.5 cm X 1.5 cm X muscle deep on the front of lower third of right forearm.

11. A transverse incised wound 3 cm X 1.5 cm X bone deep on the front of right wrist.

12. A vertical incised wound 2 cm X 1 cm X muscle deep on the thenar eminence of right hand.

13. An oblique incised wound 2 cm X 1 cm X bone deep, on the front of terminal phalanx of right thumb.

14. An oblique incised wound 1.5 cm X 1 cm X bone deep on the front of middle phalanx of right middle finger.

15. A oblique incised wound 5 cm X 2 cm X bone deep, on the back of upper third of right forearm.

16. An oblique incised wound 3 cm X 2 cm X muscle deep, on the back of middle third of right forearm.

17. A transverse incised wound 2.5 cm X 1 cm X bone deep on the back of middle third of right forearm, 2 cm above the wound No.16.

18. An oblique incised wound 2 cm X 1.5 cm X bone deep on the back of lower third of right forearm.

19. An oblique incised wound 4 cm X 1 cm X bone deep on the back of right hand.

20. An oblique incised wound 3.5 cm X 0.5 cm X skin deep on the back of right hand, 1 cm distal to the wound No.19.

21. An oblique incised wound 2 cm X 1 cm X bone deep on the back of outer aspect of right wrist.

22. Two oblique incised wounds one each on the front of terminal and middle phalanx of left middle finger, each measuring 3 cm X 1 cm X bone deep.

23. A transverse incised wound 2 cm X 0.5 cm X bone deep front of middle phalanx of left thumb.

24. A vertical incised wound 3.5 cm X 1 cm X muscle deep on the front of left elbow.

25. Two parallel incised wounds 7 cm X 1 cm X muscle deep on the inner aspect of left shoulder.

26. An oblique incised wound 2 cm X 1 cm X muscle deep on the inner aspect of left shoulder.

27. An oblique incised wound 11 cm X 0.5 cm X skin deep on the front of left shoulder.

28. An oblique incised wound 2 cm X 1 cm X muscle deep on the back of lower third of left arm.

29. A vertical incised wound 2.5 cm X 1 cm X muscle deep on the left buttoch.

30. Four stab wounds each measuring 3 cm X 1.5 cm entering into the thoracic cavity on the various quadrant of left breast, at varying distances and directions. O/E: the edges of all the wounds are clean cut. One end of all the wounds is acute and the other end of the wound is obtuse. The intercostal muscles, blood vessels nerves and third rib are clean cut.

31. A transverse incised wound 1.5 cm X 1 cm X bone deep on the front of center of chest, at 4th rib attachment with sternum.

32. A vertical stab wound 3 cm X 1 cm X entering into the cavity on the front of left side of chest, on the left first intercostals space, 4 cm away from the midline. O/E: the edges are clean cut, the lower end of the wound is obtuse and the upper end of the wound is acute. The 1st rib, intercostals muscles, blood vessels and nerves are clean cut.

33. A transverse incised wound 2.5 cm X 1 cm X muscle deep, on the upper part of left side of neck.

34. Eight stab wounds, all measuring 3 cm X 1 cm entering into the cavities on the back of left side of trunk at varying distances, and on varying directions. O/E: the edges are clean cut, one end of the wound is obtuse and the other end of the wound is acute. The muscles, blood vessels and nerves and membranes are clean cut.

35.Three stab wounds, measuring from 2.5 cm - c cm X 1 -2 cm entering into the cavities on the back of right side of trunk. O/E all the wound are placed at varying

distances and on varying directions. The edges are clean cut one end of the wound is curved and the other end is acute.

Inter examination:-

Heart- A stab wound, 2 cm X 1 cm X deep to cavity on the left ventricle. Chambers empty, pericardial fear present. Pericardial cavity contains fluid blood.

Lungs: Right upper lobe, three stab wounds, ranging from 1X2.5 cm X 0.5 cm - 1 cm X 0.5 cm lower lobe collapsed. C.S Pale.

Left Lung: Upper Lobe: 2 stab wounds each measuring 2.5 cm X 1 cm X 1.5 cm.

Lower Lobe : 5 stab wounds, each measuring 1.5 cm - 2 cm X 1 cm - 1.5 cm X 1 cm.

Collapsed C/S Pale.

Thoracic cavity contains fluid blood/Hyoid intact. Pericardial cavity contains fluid blood.

Hyoid : intact.

Stomach: Full sized cooked rice particles, No specific smell, Mucosa - pale.

Uterus: Normal in size C/S empty. No foreign body.

Brain: Surface vessels, empty C/S.Petachiae present, CSF - clear;spinal column and cord intact.

In all the above mentioned wounds, the blood is diffused into the wound [N.C]. They are all antemortem in nature. No other external, internal on bony wound present."

Finally, he gave opinion that the deceased died of hypoxia and haemorrhage due to multiple wounds.

7. Continuing the investigation, PW-22 collected the clothe materials found on the body of the deceased and forwarded the same to the Court. He also collected the Post-mortem Certificate and examined the doctor. Then, the investigation was taken up by PW-23. He examined the Police Officials and the Doctor and recorded their statements. He gave a request to the learned Judicial Magistrate [EX-P17] for recording the statements of the witnesses of Sundaram - PW-1, Mahadevan - PW-2 and Sumathi PW-3 under Section 164 of the Code of Criminal Procedure. PW-17 recorded their statements, accordingly. On completing the investigation, he laid charge sheet against the accused under Sections 498(A), 302 r/w 34 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act, 1961.

8. Based on the above materials, the Trial Court framed as many as two charges against the accused. The first charge is under Section 498(A) of the Indian Penal code and under Section 4 of the Dowry Prohibition Act, 1961. The second charge is under Section 302 of the Indian Penal Code. When the accused was questioned in respect of the above said charges, he pleaded innocence, and therefore, he was put on trial. During trial, on the side of the prosecution, as many as 23 witnesses were examined and 32 documents were exhibited. Out of the said witnesses, PW-1 is an eye - witness to the occurrence. He has vividly spoken to about the injuries caused on the deceased by the accused. PW-2 and PW- 3, the parents of the deceased, have spoken to about the motive. PW-4 to PW-8 are the neighbours. PW-5 to PW-7 have turned hostile. They found the police broke opening the door of the house of the accused by force and entering into the same. Thereafter, the dead body of the deceased was found inside. PW-10 has spoken to about the arrest, disclosure statement made by the accused and the recovery of knife from the possession of the accused. PW-11 has spoken to about the autopsy conducted by him. PW-16 - Mr.Senbagaraman, I.P.S., has spoken to about the compromise effected by him between the deceased and the accused. PW-17 has spoken to about the statements of the witnesses recorded under Section 164 of the Code of Criminal Procedure. PW-18 was the Revenue Divisional Officer, Tiruchirappalli. He has spoken to about the inquest held by him. EX-P19 is the inquest report submitted by him. The others are the Police Officials.

9. When the accused was questioned under Section 313 of the Code of Criminal Procedure in respect of incriminating evidences available against him, he denied the same as false. He has submitted a written statement to the Trial Court, in which he has stated that PW-1 to PW-3 were giving ill-advise to the deceased. As a result, there was a misunderstanding between them. He has further stated that on 27.04.2002, he had gone to Kumbakonam. On 03.05.2002, he returned to his house. On that day, PW-3 alone came and she returned. At about 09.30 PM, on the same day, he returned to his house, after making a short visit outside. At that time, he found the child standing outside the house. The child cried for banana and biscuits. Therefore, he took the child to the bazaar, got the child banana and biscuits and he returned to his house with child. At that time, he found his wife in a pool of blood with injuries on her neck. She was dead. On seeing her, he was very much shocked. Immediately, he locked the house from outside and taking the child went to the K.K.Nagar Police Station. Thereafter, the police got the address of PW-1 to PW-3 from him and informed them over phone. Subsequently, they rushed to the Police Station, where a false complaint was preferred by PW-1, upon which the present case has been registered. He has also denied the discovery of Aruval at his instance. In essence, his defence is that he was not the assailant and the assailant was not known. On his side, he has examined as many as three witnesses as DW-1 to DW-3. DW-1 - Johnson, has stated that around 10.20 PM, on 04.05.2002, he found the accused in the bazaar. When he enquired him, he told him that since his child cried for banana and biscuits, he took the child to the bazaar and got the child banana and biscuits. He had come to know that the deceased was done to death by unknown person and he had also come to know that the accused was kept in the Police Station.

10. DW-2 - Mr.Poonkunju was working then as Tamil Nadu Special Battalion Force. He has stated that on 04.05.2002, at 11.00 PM, he heard that the deceased had been done to death and the accused was in the Police Station. He has further stated that he went to the Police Station, where he found the accused and the child. In this regard, according to him, he submitted a report to his Superior.

11. DW-3 - Mr.Senthilkumar was working as a Camp Officer to Commissioner of Police, Tiruchirappalli. He has stated that on 04.05.2002, at 11.00 PM, he heard

that the accused had gone to K.K. Nagar Police Station, where he found the accused with his child in the Police Station.

12. Having considered all the above materials, the Trial Court found the accused guilty under Section 302 of the Indian Penal Code and punished him, accordingly. That is how, the appellant is now before this Court with this Criminal Appeal.

13. We have heard the learned Senior Counsel for the appellant, the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

14. The first and foremost contention of the learned Senior Counsel appearing for the appellant is that the evidence of PW-1 cannot be believed, in view of the evidences of PW-4, PW-6, PW-7 and PW-8. PW-4 is a Police Constable in the Tamil Nadu Special Police Battalion Force, where the accused was also working. According to him, on the day of occurrence, when he was returning from Market, he found the K.K.Nagar Police in front of the house of the accused. He further found K.K.Nagar Police to break open the lock of the house of the accused, which was locked from inside. When the door was opened, it was found that the deceased was found lying in pool of blood with injuries. PW-6 is also working in the same Battalion. He has also stated that on 04.05.2002, at 10.30 PM, he heard that there was a murder at the house of the accused. Immediately, he rushed to the house of the accused. At that time, he found that the house of the accused was locked from outside. The K.K.Nagar Police inspected the house of the accused, broke open the door of the house and entered into the house of the accused. PW-7 is an Auto Driver. His wife was a Police Constable during the relevant time. Thus, he was the neighbour of the accused. He has also stated that on the crucial date, K.K.Nagar Police broke open the lock of the house of the accused and then, entered into the house. PW-8 is the wife of PW-7. She has also turned hostile and she has not stated anything.

15. The learned Senior Counsel appearing for the appellant would submit that had it been true that PW-1 was present at the time of occurrence, there would have been no occasion for the police to break open the lock, because, absolutely, there is no evidence as to who locked the house of the accused. The accused has

stated in his statement under Section 313 of the Code of Criminal Procedure that it is he, who locked the house. Therefore, according to the learned Senior Counsel, PW-1 would not have been present at the time of occurrence at all.

16. The learned Additional Public Prosecutor would submit that the evidence of PW-1 is very cogent, which requires acceptance at the hands of this Court. He would further submit that PW-4 to PW-8 are the neighbours of the accused and they were also in the very same department working as Police Constables, except PW-7, and so, they have supported the accused. The learned Additional Public Prosecutor would, therefore, submit that their evidences need to be rejected. However, the fact remains that except PW-5 to PW-7, the other witnesses, i.e., PW-4 to PW-8 have not been treated as hostile.

17. We have considered the above submissions. There is no controversy, in this case, that PW-1 is the only eye - witness to the occurrence. The question is as to whether based on the said eye - witness, the conviction of the accused can be sustained or not. A perusal of the evidence of PW-1 would go a long way to show that his evidence is cogent and convincing. Even the learned Senior Counsel has not pointed out anything in the evidence of PW-1 rendering his evidence unbelievable. But, the evidence of PW-1 is sought to be assailed on the basis of the evidences of PW-4 to PW-7. Of course, these witnesses have stated that the house of the accused was found locked. If the evidences of these witnesses are accepted, then, it becomes a bounden duty of the prosecution to explain as to who locked the house. Admittedly, the house was not locked by PW-

1. Realizing this defect, the learned Additional Public Prosecutor would refer to the statement made by the accused under Section 313 of the Code of Criminal Procedure, wherein he has stated that it is he, who locked the house from outside.

18. In our considered view and as per the settled law, a portion of the statement made by an accused under Section 313 of the Code of Criminal Procedure cannot be made use of against the accused either it should be accepted in toto or it should be rejected in toto. Therefore, it is not open for the prosecution to rely on a portion of the statement of the accused made under Section 313 of the Code of Criminal Procedure so as to try to explain that the house was locked by the

accused. Therefore, this argument of the learned Additional Public Prosecutor cannot be accepted. Thereafter, the learned Additional Public Prosecutor would submit that PW-4 to PW-8, since they are neighbours, working with the accused, have stated that the house was found locked only with a view to help the accused. But, unfortunately, these witnesses have not been treated as hostile. Though PW-5 to PW-7 have been treated as hostile and their evidences are of no use either for the prosecution or for the accused, in our considered opinion, in view of the hostility shown by PW-5 to PW-7, their evidences that the house was found locked at the crucial time cannot be accepted.

19. Similarly, the evidence of PW-4, in our considered opinion cannot be acted upon, because the said version cannot be true. It is not suggested to the Inspector of Police by the accused that the house was found locked and the same was broke open by him. PW-9, the witness for Observation Mahazar has spoken to about the preparation of Observation Mahazar. The defence has not elicited anything from him that the house was found locked. It was not suggested to him that the house was found locked and the same was opened only by the Inspector of Police. Therefore, in our considered view, the theory that the house was found locked, as has been spoken to by PW-4 is only a theory found for the purpose of helping the accused. In the light of the evidences of PW-9 and PW-22, the evidence of PW-4 and the other witnesses, who have spoken to the fact that the house was found locked, deserves only to be rejected.

20. Now, coming to the arrest of the accused, PW-10 has spoken to the said fact, besides the evidence of PW-22. In pursuance of the same, the knife MO-2 has been seized. During chemical examination, it has been found out that there was human blood on MO-2 - knife. Though the blood group could not be found out, MO-2 has been identified by PW-1. The accused has not explained the possession of the bloodstained knife. Thus, the evidences of PW-10 and PW-22 that the accused was found in possession of the bloodstained knife in a place of concealment would further go to strengthen the evidence of PW-1. In respect of the motive, the evidences of PW-1 to PW-3 and that of PW-16 speak volumes. PW-16 was the then Commandant of the Special Police Battalion at Tiruchirappalli. He has spoken to about the compromise effected by him between

the deceased and the accused, thereby settling the matrimonial dispute between them.

21. The learned Senior Counsel, by referring to the evidence of PW-16, would submit that the accused surrendered before the K.K.Nager Police Station, on 04.05.2002, i.e., on the day of occurrence itself. From the evidence of this witness, the learned Senior Counsel would submit that the theory that the accused was arrested later on cannot be believed. But, a perusal of the cross- examination of this witness would go to show that he heard that the accused had surrendered before the K.K.Nagar Police Station on the same day. However, he has further stated that he did not verify the correctness of the same by going to the Police Station. Thus, this part of the evidence, spoken to by him during cross-examination that he heard that the accused surrendered before the K.K.Nagar Police Station, is hit by hearsay rule, and therefore, the argument of the learned Senior Counsel deserves only to be rejected.

22. The learned Senior Counsel, nextly, refer to the evidence of PW-18, wherein, PW-18 has stated that in his report, he had recorded that PW-2 told him that on information from the police, he came to the place of occurrence. Relying on this part of the evidence of PW-18, the learned Senior Counsel would submit that had it been true that PW-1 was the eye - witness to the occurrence, quite naturally, he would have informed the police about the occurrence. But, in this case, the information was passed on to the parents of the deceased only by the police. From this, according to the learned Senior Counsel, it would emerge that PW-1 would not have been an eye - witness to the occurrence. We are not persuaded by the said argument, for the simple reason that in his evidence, PW-3 has stated that the information regarding the murder of his daughter was passed on to him by the police first and immediately followed by PW-1.

23. In our considered opinion, since PW-1 happened to be the eye - witness to the occurrence, he would have been under a severe shock, and therefore, he would not have informed the same to the police immediately. According to his evidence, he rushed to the Police Station with child to prefer complaint. The First Information Report had reached the Court at 06.30 AM, and thus, there is no delay. Therefore,

the police would have informed PW-2 about the occurrence. From this, one cannot say that PW-1 was not an eye - witness to the occurrence. So, this argument of the learned Senior Counsel deserves to be rejected.

24. Lastly, we would like to state about the conduct of the accused. As we have already narrated, so far as his statement under Section 313 of the Code of Criminal Procedure is concerned, either it should be accepted in toto and it should be rejected in toto. Under the Code of Criminal Procedure, a statement of an accused made under Section 313 of the Code of Criminal Procedure cannot be equated to the evidence of a person on oath. This is only an explanation. If this explanation is plausible, thereby strengthening the defence case, there may not be any difficulty for the Court to accept the explanation of the accused. But, in the case on hand, a reading of the statement of the accused would go to show, comprehensively, it, instead of probabilizing the explanation of the accused, goes only to support of the case of the prosecution. According to his explanation, when he returned to his house with his child, he found his wife dead with injuries lying in a pool of blood. Had it been true, quite naturally, the accused would have raised hue and cry out of outburst of his emotion. But, it is not his case that he did so. He has stated that he simply went to the Police Station with his child. In such a situation, he would have sought for the help of his neighbours, who are, after all his fellow men in the very same police force. None of the witnesses has stated that the accused either raised hue and cry or he did seek their help. It is also not explained as to why did he lock the house, when he went out to the Police Station. Had it been true that it was he, who locked the house, the key would have been with him, in which event, he would have handed over the key to the police to enable them to go and open the house and enter into the same. But, he has not explained that also in his statement.

25. Further, it would have been quite natural for him to inform PW-1 to PW-3 about the occurrence at least over phone, if it is true that he was innocent. He has also not done the same. As per the evidences of PW-10 and PW- 22, he was absconding and he was arrested only on 05.05.2002, at 04.00 PM. Since we are not prepared to believe that the accused surrendered before the police on the same day, the conduct of the accused in absconding up to 05.05.2002, at 04.00

PM, would speak volumes about the guilt of the accused. Thus, all the circumstances, which we have narrated above, would all go to conclusively show that the explanation offered by the accused cannot be accepted. In order to substantiate his explanation, DW-1 to DW-3 have been examined. In our considered opinion, they are only obliging witnesses for the accused. It is not the case of the accused that DW-1 to DW-3 were examined during inquest by the police and they were omitted to be examined by the prosecution during trial. It is not to say that because they happened to be the defence witnesses, their evidences should be rejected outright. But, we are of the considered view that their evidences cannot be believed, because, they are obliging witnesses, as they are the fellow Policemen of the accused.

26. As we have already discussed above, the motive has been established, the frequent quarrel between the accused and the deceased has been proved, the accused caused injury on the deceased has been proved and the death was due to the injury caused by the accused has been proved. Thus, the prosecution has clearly proved that it was this accused, who alone caused the death of the deceased. Going by the motive, weapon used by the accused, location of the injuries i.e., on the vital parts of the deceased and the number of injuries caused by the accused, we have no hesitation to hold that the accused had a definite intention to cause the death of the deceased, which falls within the first limb of Section 300 of the Code of Criminal Procedure, and therefore, the offence committed by the accused will squarely fall under Section 302 of the Indian Penal Code. Thus, the Trial Court was right in convicting him.

27. Now, coming to the quantum of sentence, since the Trial Court has imposed only a minimum punishment of imprisonment for life, there is nothing to interfere with the same.

28. In view of all the above, we do not find any merit in this appeal. The appeal has to fail. In the result, the Criminal Appeal is dismissed. The conviction and sentence imposed on the appellant is confirmed.

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