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Crl.A.No.17



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 07.01.2026

Judgment Pronounced on : 29.01.2026

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN
and
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

Crl.A.No.170 of 2019

Perumal

.. Appellant

Vs.

State rep. By
Inspector of Police
Katpadi Police Station
Vellore District
Crime No.1285 of 2012

.. Respondent

Criminal Appeal filed under Section 374(2) of Cr.P.C., to set aside the judgment passed in S.C.No.147 of 2013 dated 08.02.2019 on the file of Fast Track Mahila Court, Vellore.

For Appellant : Mr.T.Muruganandam

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor
assisted by Ms.M.Arifa Thasneem



ORDER

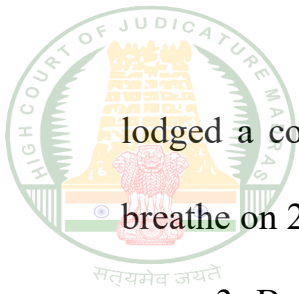
(The Order of the Court was made by P.Velmurugan, J)

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This Criminal Appeal has been filed to set aside the judgment of conviction and sentence passed in S.C.No.147 of 2013 dated 08.02.2019 on the file of the learned Sessions Judge, Fast Track Mahila Court, Vellore.

2. The case of the prosecution is that the deceased had originally married to one Dayalan and begotten 3 children and thereafter, due to misunderstanding, she estranged from her husband and subsequently was living with the appellant under one roof as husband and wife. The appellant is a lorry driver and whenever he goes to work, the deceased would stay in her parental house. On the date of occurrence i.e. on 23.11.2012 at about 12.45 a.m., the appellant who came from work, went to the parental house of the deceased and called the deceased. The mother of the deceased asked him to come and take her in the morning. However, he refused the same and took the deceased to his house. After 15 minutes, the appellant came back to the parental house of the deceased and informed to the mother of the deceased that the deceased herself poured diesel and set fire on her. Immediately, the parents and brothers of the deceased rushed to the house of the appellant and found the deceased lying naked with burn injuries all over the body. When they enquired the deceased, she informed them that the appellant beaten her by suspecting her fidelity as to why she doesn't pick up his calls and other numbers are there in her phone and when she tried to come out of the house, the appellant poured diesel and set fire on her. Immediately, they took the deceased to the hospital and also

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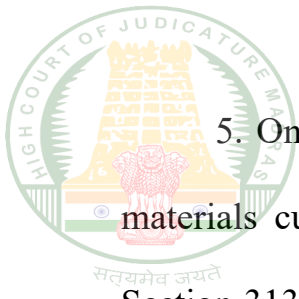


lodged a complaint. In spite of intensive treatment given to the deceased, she lost her breathe on 24.11.2012.

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3. Based on the complaint lodged by the brother of the deceased, the respondent police originally registered the case in Crime No.1285 of 2012 on 23.11.2012 for the offence under Section 307 IPC and during the course of investigation, since the victim died in the hospital, the respondent police altered the offence from 307 IPC into Section 302 IPC and Section 4(1) of TNWHA and after completion of investigation, laid the charge sheet before the Judicial Magistrate, Katpadi and the same was taken on file in PRC No.15 of 2013. The learned Judicial Magistrate, after completing the formalities under Section 207 Cr.P.C., committed the case to the Principal District and Sessions Judge, Vellore, since the offences are exclusively triable by the Court of Session. The Principal District and Sessions Judge, Vellore, took the case on file in S.C.No.147 of 2013 and after completing the formalities, framed the charges for the offences under Sections 4(1) TNWHA and Section 302 IPC. Subsequently, the case was made over to the learned Sessions Judge, Fast Track Mahila Court, Vellore.

4. The learned trial Judge, after completing the formalities, commenced the trial and during trial, in order to substantiate the charges framed against the appellant, on the side of the prosecution, totally as many as 13 witnesses were examined as P.W.1 to P.W.13 and 14 documents were marked as Exs.P.1 to P.14, besides, 2 material objects were exhibited as M.O.1 and M.O.2.



5. On completion of examination of the prosecution witnesses, the incriminating materials culled out from the prosecution witnesses were put to the appellant under Section 313 Cr.P.C. and the appellant denied the same as false. However, on the side of the defence, no oral and documentary evidence was let in.

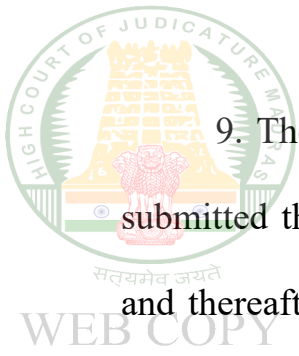
6. After completion of trial and upon hearing of the arguments advanced on either side and perusal of records, the trial Court found the guilt of the accused for the offences under Sections 302 IPC and 4(1) of TNWHA and convicted and sentenced him to undergo life imprisonment with fine of Rs.1,000/-, in default to pay the fine amount, to undergo RI for one month for the offence under Section 302 IPC and sentenced to undergo one year RI with fine of Rs.10,000/-, in default to pay the fine amount, to undergo RI for 6 months for the offence under Section 4(1) of TNWHA.

7. Aggrieved over the judgment of conviction and sentence passed by the trial Judge, the accused has filed the present appeal before this Court.

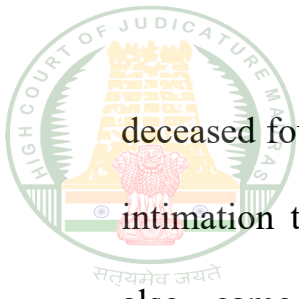
8. The learned counsel for the appellant would submit that there is no eyewitness to this case and except the dying declaration, there is no other material to connect the appellant with the commission of alleged offence. He further submitted that according to the version of prosecution, the deceased had sustained 65% to 75% of burn injuries. When that be the case, there is no possibility for the deceased to give dying declaration as projected by the prosecution. Further, the alleged occurrence has taken place in a residential area. However, none of the witnesses have spoken about the quarrel related to the offence. He would submit that the deceased and the appellant were maintaining a



cordial relationship between them. The appellant and the deceased were living together for about 8 years and none of the witnesses have stated that there were quarrel between the appellant and the deceased. Further, there were material contradictions with regard to the statement given by the deceased to the Special Sub Inspector of Police and the dying declaration given before the Magistrate. Further, the Doctor/P.W.13 who made entry in the Accident Register/Ex.P.13, has deposed that when the deceased was brought to the hospital for treatment by her sister-in-law by name Dhanalakshmi, she was unconscious and the said Dhanalakshmi had informed him that the husband of the deceased had poured diesel and set the deceased on fire. However, the said Dhanalakshmi was not examined by the prosecution. Further, the dying declaration itself is highly doubtful and the same was tutored by the mother and sister-in-law of the deceased. He would further submit that the conviction was recorded by the trial Court solely on the ground of dying declaration alleged to have been given by the deceased and that there is no eyewitness to this case and also no other material to show that the appellant only had caused the injuries to the deceased and set fire on her by pouring diesel. Therefore, the case of the prosecution itself is highly doubtful and hence, the benefit of doubt should have been extended to the appellant. But the trial Court failed to appreciate the evidence in a right perspective and simply convicted the appellant on the ground of sympathy without any corroborative evidence. Therefore, the judgment of conviction and sentence rendered by the trial Court warrants interference and the same is liable to be set aside and the appeal has to be allowed.



9. The learned Additional Public Prosecutor appearing for the respondent police submitted that the deceased had originally married to one Dayalan and had 3 children and thereafter, due to misunderstanding she left him and subsequently was living with the appellant under one roof as husband and wife. The appellant is a lorry driver and if he goes to work, he would come after 10 to 15 days and during that period, the deceased used to stay in her parental house and whenever the appellant returns from work, the deceased would go and live with the appellant. While so, on 23.11.2012 at about 12.45 in the midnight, the appellant came to the parental house of the deceased, knocked the door and called the deceased to come to his house. P.W.2/mother of the deceased asked him to come and take her in the morning. However, the appellant refused and took the deceased to his house. After 15 minutes, the appellant came back to the parental house of the deceased and informed to the mother of the deceased that the deceased herself poured diesel and set fire on her. Immediately, the parents and brothers of the deceased rushed to the house of the appellant and they saw the deceased lying naked with burn injuries all over the body. The deceased informed them that the appellant beaten her by suspecting her fidelity as to why she doesn't pick up his calls and other's phone numbers are there in her phone and when she tried to come out of the house, the appellant poured diesel and set fire on her. Immediately, they took the deceased to the hospital and also informed to police and lodged a complaint. The duty Doctor/P.W.13, on examination of the deceased found that she had sustained burn injuries of about 65% to 75% and admitted her in the hospital. Thereafter, the Doctor/P.W.11 gave treatment to the



deceased found that the deceased had sustained 90% of burn injuries and therefore, gave intimation to the Judicial Magistrate for recording dying declaration. The Magistrate also came to the hospital and in the presence of the Doctor/P.W.11, the Magistrate/P.W.12 recorded the dying declaration. The doctor/P.W.11 has also certified that prior to the recording of the dying declaration and throughout the recording of the dying declaration and also after recording of the dying declaration, the deceased was conscious oriented and fit state of mind. Subsequently, the deceased died in the hospital. Thereafter, based on the request of the respondent Police, P.W.7 conducted the post-mortem and sent viscera to the Forensic Lab. After completing the investigation, the respondent Police altered the Sections of offences and filed the charge sheet. The trial Court after considering the materials, found that the appellant has committed the charged offences and thereby convicted him. Therefore, there is no merit in this appeal and the same is liable to be dismissed.

10. Heard both sides and perused the materials available on record.

11. In this case, during trial, on the side of the prosecution, totally 13 witnesses were examined as P.W.1 to P.W.13. The brother of the deceased who lodged the complaint and set the law in to motion was examined as P.W.1 and during examination, he deposed that 14 years back, her sister/deceased was given in marriage with one Dayalan and she begotten 3 children. Since the Dayalan is a drunkard and used to harass his sister, her sister estranged him and came to their house. Subsequently, she married to one Perumal/the appellant who was working as a lorry driver. Whenever, the appellant



goes to work, his sister/deceased would come and stay in his parents house. While so, on

23.11.2012 at about 12.45 midnight, the appellant knocked the door of his mother's house and asked his mother/P.W.2 to send his sister/deceased with him. When P.W.2 asked him to take the deceased in the morning, he refused the same and took his sister/deceased with him. About 15 minutes later, the appellant came back to his house and informed that his sister/deceased herself poured diesel and set fire on her. Immediately, he along with his parents and brother went to the house of the appellant and found his sister/deceased lying naked with burn injuries. When they enquired her, she informed that the appellant had beaten her by suspecting her fidelity stating as to why she doesn't pick up his calls and unknown numbers are there in her phone and when she tried to come out of the house, the appellant locked the door and poured diesel on her and set her fire. Thereafter, they took her to hospital and despite given treatment, she died on 24.11.2012.

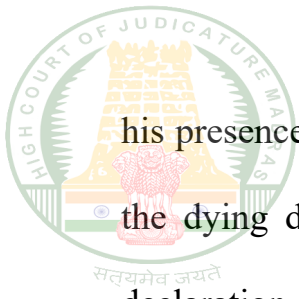
12. The mother of the deceased was examined as P.W.2 and she has deposed that 14 years back, her daughter was given in marriage with one Dayalan and begotten 3 children. Thereafter, due to misunderstanding, her daughter estranged her husband and was living with them. Subsequently, her daughter got acquaintance with the appellant and was living with him for 4 years and they were residing in the opposite street to their street. Whenever, the appellant goes to work, her daughter would come and stay in their house. While so, on the date of occurrence at about 12.30 a.m., the appellant came to her house from work and took the deceased to his house. About 5 minutes later, the



appellant came to her house and informed that the deceased herself poured diesel and set fire on her and the appellant tried to escape, however, they caught hold of him and immediately, she along with her husband and sons, rushed to the house of the appellant wherein, her daughter was found lying naked with burn injuries. When they asked the cause, she informed that the appellant had beaten her by suspecting her fidelity and poured diesel on her and set fire on her. When a suggestion was put before P.W.2 whether the deceased was not in a position to speak and lying with burn injuries, P.W.2 stated that the deceased talked to her.

13. The P.W.13 is the duty Doctor who admitted the victim/deceased in the hospital and made entry in the Accident Register/Ex.P.13. In his evidence, he has deposed that on 23.11.2012 at 1.35 a.m., the injured/deceased was brought by her relative by name Dhanalakshmi, who informed him that the husband of the injured poured diesel and set fire on her. He has further deposed that when the deceased was brought to the hospital, she was unconscious and had sustained 65% to 75% of burn injuries, however, her pulse was normal and she was sent for further treatment.

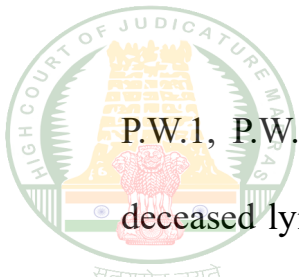
14. The Doctor who gave treatment to the deceased in the hospital was examined as P.W.11 and he has clearly stated that on 23.11.2012, when he was on duty, the injured was admitted in the hospital as in-patient for treatment and he sent a requisition letter/Ex.P.11 to the Judicial Magistrate for recording dying declaration through outpost Police Station. Accordingly, the Magistrate/P.W.12 came to the hospital and after satisfying with the formalities, she recorded the dying declaration from the deceased in



his presence at 6.05 a.m. He has further deposed that he certified that prior to recording the dying declaration, the victim was conscious and fit state of mind to give dying declaration and based on which, the dying declaration was recorded in his presence and further throughout the recording of the dying declaration and after recording also, the deceased was conscious. The certificate issued by P.W.11 was marked as Ex.P.10.

15. The Magistrate who recorded the dying declaration of the deceased was examined as P.W.12 and the learned Magistrate has deposed that on 23.11.2012 at about 5.30 a.m., she received a requisition letter through outpost Police Station of Vellore Adukkamparai Hospital and she went to the hospital at about 6.00 a.m. P.W.11/Doctor identified the injured and also certified that the injured was conscious and fit state of mind and fit enough to give dying declaration and based on which, she asked general questions with the injured and after confirming that the injured was in a fit state of mind to give dying declaration, she recorded the dying declaration at about 6.10 a.m. Thereafter, the Doctor again certified that during the recording of dying declaration and after recording the dying declaration, the injured was conscious and thereafter, she sent the dying declaration to the Judicial Magistrate Court, Katpadi.

16. Admittedly, there is no eyewitness in this cases. The evidence of P.W.1/brother of the deceased and P.W.2/mother of the deceased shows that on 23.11.2012 at about 12.45 a.m., the appellant took the deceased to his house and immediately within a short period of time i.e. within 15 minutes, he came back to the parental house of the deceased and informed that the deceased herself poured diesel and set fire on her. Immediately,



P.W.1, P.W.2 and others rushed to the house of the appellant wherein, they saw the deceased lying naked with burn injuries. When they asked the deceased as to what had happened to her, the deceased informed them that the appellant by suspecting her fidelity had beaten her and poured diesel on her and set her fire. Immediately, she was taken to the hospital.

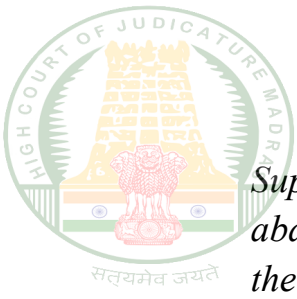
17. Immediately after the occurrence, the first statement was made to P.W.13/Doctor by the sister-in-law of the deceased that the husband of the deceased/appellant set fire on the deceased. The same has been recorded in the Accident Register/Ex.P.13. On preliminary examination of the deceased, the Doctor/P.W.13 found that the deceased had sustained burn injuries of 65% to 75% and sent the deceased for further treatment. Though P.W.13 stated that at the time of admitting the deceased in the hospital, she was unconscious, however, he has stated that the pulse was normal. The Accident Register/Ex.P.13 proves the same.

18. P.W.7 is the doctor who conducted post-mortem on the deceased has clearly stated that apart from burn injuries, the deceased had sustained other injuries. The post-mortem report was marked as Ex.P.5 and the relevant portion reads as follows:

Injuries noted:

1. Contusion on the forehead 6x3 cm, back of scalp (occipital region, 4cm diameter) both wrists and dorsum of hands (each 4x2 cm), front of thighs 7cm x 2cm;

2. Both upper and lower lips show contused laceration 2x1x1cm. The gum margins in the front row (both upper and lower) show laceration with blood clots.



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3. *The inner cheek mucosa on both cheeks show contusion. Superficial burns seen all over the body, except lower part of abdomen and groin region and front of left thigh and leg. Base of the burnt areas red in color. Peeling and blackening of skin seen over the burnt areas. Degloving of skin of both hands. Singeing of scalp hair in the frontal region, eyebrows, eyelashes and armpit.*

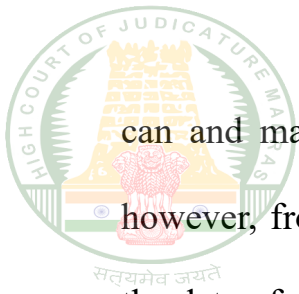
19. Therefore, the evidence of P.Ws.1 and 2 that the appellant had beaten the deceased before setting fire on her, was proved by the medical evidence/Ex.P.5/Post-mortem report and also corroborated with the evidence of P.W.7/doctor who conducted post-mortem on the deceased.

20. The evidence of P.W.8 who is the landlord of the house of the appellant shows that the appellant and the deceased were living together with the children under one roof in her house as tenant. P.W.8 has deposed that the appellant was working as a lorry driver and if he goes to a trip, he will come after 15 to 20 days and during such period, the deceased used to stay in her parental house and 5 years before the date of giving evidence, the appellant took the deceased from her parents house and on the next day morning the deceased died.

21. Subsequent to the arrest, the appellant gave confession and the same was recorded by the Inspector of Police in the presence of independent witnesses. Though confession statement recorded by the police is not admissible in evidence, however, the admitted portion leading to recovery is admissible in evidence.

22. The evidence of P.W.5 shows that the Investigating Officer came to the occurrence place, made investigation, prepared rough sketch and also recovered plastic

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can and match box. Though the confession statement is not admissible in evidence, however, from the evidence of P.W.1 and P.W.2 coupled with P.W.8, it is clear that on the date of occurrence, the appellant and the deceased were in the house of the appellant and when P.W.1 and P.W.2 saw the deceased in the appellant's house, she was lying naked with burn injuries.

23. Since the appellant and the deceased were together under one roof and within four walls at the time of occurrence, when the inmate sustains injuries and subsequently dies, it is for the appellant to give explanation.

24. Though there is no eyewitness to this case, the circumstantial evidence namely dying declaration and evidence of P.Ws.1, 2, and 13 clearly shows that the appellant is the one who set fire on the deceased and caused the injuries to the deceased.

25. Therefore, the evidence of P.Ws.1 and 2 shows that the deceased was fit state of mind and was in a position to speak about the occurrence. The doctor/P.W.11 who gave treatment to the deceased and the Magistrate/P.W.12 who recorded the dying declaration have also clearly stated that the deceased herself gave the dying declaration and while giving the statement, the deceased was conscious and sound state of mind. Ex.P.10, certificate issued by the Doctor/P.W.11 proves the same.

26. A combined reading of the evidence of P.Ws.1, 2, 11, 12 and 13 and dying declaration recorded by the Magistrate/Exs.P.12 clearly shows that the appellant is the one who caused the injuries to the deceased due to which, she succumbed to the injuries.



27. This Court finds that the evidence of P.Ws.1, 2, 8, 11, 12, 13 are cogent and consistent and inspires the confidence of this Court, especially the dying declaration recorded by the Magistrate.

28. The dying declaration/Ex.P.12 clearly shows that the appellant is the one who set fire on the deceased and prior to setting fire, the appellant had beaten her due to which, she sustained injuries. Subsequently the deceased succumbed to the injuries. The post-mortem report/Ex.P.5 clearly shows that the deceased had not only sustained burn injuries but also sustained other injuries.

29. This Court as an appellate Court and final Court of fact finding, while re-appreciating the entire evidence, finds that the prosecution has proved its case beyond all reasonable doubt and this Court finds no reason to interfere with the judgment of the trial Court.

30. Therefore, there is no merit in this appeal and the same is liable to the dismissed.

31. Accordingly, this Criminal Appeal is dismissed.

(P.V., J) (M.J.R., J)
29.01.2026

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To

1. The Sessions Judge,
Mahila Court, Mahalir Neethimandram, Vellore

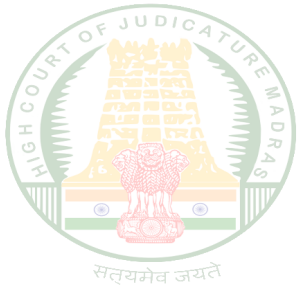
2. The Inspector of Police
Katpadi Police Station
Vellore District

3. The Public Prosecutor,
High Court of Madras.

4. The Central Prison,
Coimbatore

Copy to:

The Section Officer
V.R. Section
High Court of Madras



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and

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