SUPREME COURT OF INDIA

Ramiah Asari

Vs.

State of T.N.

Crl.A.No.238 of 1975

(N. L. Untwalia and S. Murtaza Fazl Ali, JJ.)

20.07.1977

JUDGEMENT

S. M. FAZAL ALI, J.:-

1. This appeal by special leave is directed against the judgment of the Madras High Court dated 15th July, 1974. The appellant has been convicted under Section 302, I.P. C. for causing the death of his wife Eswarammal and his father-in-law Chelliah Asari. The prosecution case has been narrated in detail in the judgments of the Sessions Judge and the High Court. It appears that the appellant was married to Eswarammal about 10 years before the occurrence and their relations were little strained because the appellant was spendthrift and did not pay any money to his wife. The father-in-law was gracious enough to permit the appellant to live in his house. In spite of this there had been constant quarrels between the husband and the wife. Sometimes the father-in-law intervened and at other times the neighbours. Two days prior to the occurrence, at about 10.30 p.m. there was again a quarrel between Eswarammal and the appellant, but P. W. 3 intervened and pacified the matter. On the night of 24th May, 1973 at about 2.00 a.m. while P. Ws. 1 and 2 were sleeping in their houses, they heard some noise coming from the court-yard of appellant, where the appellant and deceased were living. P. Ws. 1 and 2 got up and came to the court-yard and saw the accused beating his wife. P. Ws. 1 and 2 then separated the appellant and his wife. By that time Chelliah Asari woke up and

abused the appellant. The appellant then took hold of a aruval and started assaulting his wife and after inflicting a large number of injuries on the person he proceeded towards Chelliah Asari, his father-in-law, whom also he assaulted with the aruval. There were 22 injuries on the person of his deceased wife Eswarammal and 13 injuries on Chelliah Asari. The entire occurrence has been proved by P. Ws. 1 and 2 who have been believed by the two courts. Moreover, the appellant was caught hold by the witnesses and produced before the police station, where an F.I.R. was lodged at 2.30 a.m. the same night. The police visited the scene of occurrence and after usual investigation submitted charge sheet against the appellant. The case was thereafter put up before the Sessions Judge, who convicted the accused and sentenced the appellant to death. The High Court confirmed the sentence of death. Hence this appeal by special leave.

2. We have gone through the entire matter and heard Mr. S. J.S. Fernandez, counsel for the appellant. We are extremely grateful to Mr. S.J.S. Fernandez, amicus curiae in this case and his arguments have been of very great assistance to us. We are, however, unable to find any error law in the judgment of the High Court. The central evidence against the appellant consists of P.Ws. 1 and 2 who are close neighbours and who have been believed by the two courts. The evidence of these witnesses is corroborated by the conduct of the accused in producing the aruval (murder weapon) at the police station. It was argued by Mr. Fernandez that there was some discrepancy in the time when the F.I.R. was lodged. He relied on a statement of the Inspector that he came to the police station at 4.30. a.m., which according to him falsified the version of the prosecution that the F.I.R. was lodged at 2.30. a.m. We have perused the record and we feel that there is some confusion in this regard. According to the evidence of the Investigation Officer he had reached the place of occurrence at 4.30 a.m. and he has also stated that he had received information of the occurrence at 2.30 a.m. It seems to us that the Sessions Judge instead of recording place of occurrence, wrote police station obviously be mistake, otherwise, the evidence of investigation officer becomes wholly unintelligible. It was then argued that there were other neighbours who were not examined by the prosecution. That, however, by itself is no ground to discredit the prosecution case. Finally, Mr. Fernandez. pleaded on the question of sentence. It is, however, a case of unprovoked dastardly double murder and we feel that this was a fit case where the extreme penalty of death was rightly inflicted The appellant was a spend-thrift. He killed not only his wife but also his father-in-law, who was his benefactor and had given shelter to him in his house. As many as 22 injuries were caused to the wife and 13 to the father-in-law, of whom some of them proved fatal. We, therefore, do not see any reason to reduce the sentence. The result is that there is no merit in the appeal which is dismissed and the sentence of death is confirmed.

Appeal dismissed.