

Venkatesh

Vs

State of T. N.

Criminal Appeal No.554 of 1992

(P. B. Sawant, N. Venkatachala JJ)

09.09.1992

JUDGMENT

1. Leave granted. The only part of the prosecution story which is necessary to be reproduced here for the purpose of this order is that the deceased, Rangan alias Dasarangan was a deaf person on 16-1-1984 at about 10 p.m. he came to the house of one Palaniswamy [PW-2] and asked for "Pongal" and Palaniswamy's wife, Mani gave "Pongal" to him. After eating the "Pongal", Rangan started singing songs in front of the house of PW-2. At that time accused No. 1, viz., the present appellant and accused No. 2 came there and admonished Rangan for creating noise by singing and asked him to run away from the place. But the deaf Rangan continued to sing. The appellant lost his temper and took a wooden reaper and beat Rangan on his head and back. The other accused fisted Rangan with his hand on his face, chest and back. Rangan fell down after receiving the blows and became unconscious. The beating by the wooden reaper was so hard that it broke. It is only when one Rama Devan [PW-3] intervened that the appellant and the other accused stopped beating Rangan Maran Muthamal, widow of Rangan who was informed of the assault came along with her younger son, Veerasamy to the scene of the incident and saw the deceased, Rangan lying in front of the house of Palaniswamy [PW-2]. When Maran [PW-1] was asking Palaniswamy [PW-2] about the occurrence, he told her that it was the appellant and the other accused who had assaulted Rangan. Upon this the appellant threatened Maran [PW-1] and asked her to take Rangan away and also warned her not to tell about the incident to anybody else and that if she did so, her house would be set on fire. Thereafter, the appellant and the other accused left the scene. On the next morning, PW- 1 and her elder son Palaniswamy took Rangan to CMC Hospital, Coimbatore in unconscious condition, and treatment was given to Rangan in the hospital; but he continued to be in unconscious condition. Rangan ultimately expired in the evening of 24-1-1984.

2. It appears further that feeling remorse for what they had done, the appellant and the other accused tried to commit suicide by drinking poison on 19-1-1984 at "Pretty Lodge, Pollachi". They were also admitted to Government hospital, Pollachi.

3. The appellant and the other accused were charged for the offence under Section 302 read with Section 34 of the Indian Penal Code ['IPC' for short] for killing Rangan; under Section 506, IPC for criminally intimidating Maran [PW-1] and under Section 309, IPC for attempting to commit suicide. The trial Court convicted them under Section 302 read with Section 34, IPC and sentenced each of them to suffer life imprisonment. The court also convicted the appellant under Section 506 [latter part], IPC and sentenced him to suffer rigorous imprisonment for three years. The court further convicted both the accused under Section 309, IPC and sentenced each of them to suffer

rigorous imprisonment for six months. The court acquitted accused No. 2 of the offence under Section 506, IPC.

4. In appeal filed by the accused, the High Court, by the impugned judgment dated 14-6-1991, set aside the conviction of both the accused under Section 302 read with Section 34, IPC and instead convicted the appellant under Section 304 [Part II], IPC and sentenced him to suffer rigorous imprisonment for five years and to pay a fine of Rs. 3,000/-. The Court convicted the other accused under Section 323, IPC and sentenced him to undergo rigorous imprisonment for one year and to pay a fine of Rs. 1,000/-. The Court further set aside the conviction and sentence of both the accused under Section 506 [Part II], IPC. The Court also convicted both the accused under Section 309, IPC and sentenced each of them to suffer simple imprisonment, instead of rigorous imprisonment, for six months. The Court further directed that out of the fine amount, if collected, Rs. 3,000/- be paid to PW-1, widow of the deceased, Maran. The substantive sentences were directed to run concurrently.

5. The other accused has not preferred any appeal. The learned counsel appearing for the appellant contended that both the appellant and the other accused were quite young at the time they committed the offences. According to him, it is obvious from the evidence that both of them were unaware of the fact that the deceased was a deaf person. As soon as they realised their grievous error, both of them tried to commit suicide and in fact for that they have been convicted. He further submitted that the appellant is a young graduate and hails from a very respectable family. There are no antecedents and the offence in question was committed in the, heat of the moment. He further submitted that the appellant has already been in jail for about 7 months and 5 days and after remission he would have to undergo imprisonment for 2 years 10 months and 16 days. He submitted that no useful purpose would be served in detaining the appellant in jail and that this is a fit case where the substantive sentence can be reduced and sufficient fine imposed to compensate the dependents of the deceased.

6. Taking into consideration the facts on record and after hearing the learned counsel for the State, we are of the view that if a steep sentence of fine is imposed and the fine is made payable to the widow and the unmarried daughter of the deceased, it will serve the ends of justice in the present case. Hence, we maintain the conviction of the appellant for all the offences but reduce the sentence of imprisonment to the one already undergone, and enhance the sentence of fine to Rs. 1,00,000/-. We are informed that the appellant has already deposited the said amount in the trial Court. There is, therefore, no need to pass any substantive sentence in default of the payment of the fine.

7. We direct that the trial Court should pay over the said amount of Rs. 1,00,000/- to the widow and the unmarried daughter of the deceased in the following manner. The trial Court will deposit Rs. 75,000/- in the account of Muthamal, widow of Rangan alias Dasarangan by opening an account in her name in any nationalised bank. Similarly, the trial Court will deposit Rs. 25,000/- in the name of Lakshmi [17], unmarried daughter of Rangan alias Dasarangan by opening a fixed deposit account in her name in any nationalised bank, in a manner that the said amount along with the interest accruing thereon should become payable to Lakshmi on her attaining the age of 21 years. The appellant to be released from jail forthwith. The appeal is allowed accordingly.

Appeal allowed.

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