

SUPREME COURT OF INDIA

Velayuda Pulavar

Vs.

State BY Sub-Inspector of Police

Crl.A.No.595 of 2002

(Dr. Arijit Pasayat and Asok Kumar Ganguly JJ.)

16.04.2009

JUDGEMENT

DR. ARIJIT PASAYAT, J.

1. Challenge in this appeal is to the judgment of a Division Bench of the Madras High Court upholding the conviction of the appellant for offences punishable under Section 302 and 201 of the *Indian Penal Code*.

2. Two persons faced trial for commission of murder of Viswanatha Pulavar (hereinafter referred to as "the deceased"). The appellant is the younger brother of the deceased while the second accused was the wife of the deceased.

3. Learned Sessions Judge, Tirunervelli, held the appellant guilty of the offences punishable under Section 302 and 201 IPC; but directed acquittal of the co-accused of the charges relating to offence punishable under Section 302 read with Section 34 IPC. Though the co-accused has been convicted for the offence punishable under Section 201 IPC she did not question her conviction under the said offence.

4. Background facts in a nutshell are as follows:- The appellant and the deceased and his wife were staying together. There were frequent quarrels between the deceased and the present appellant as the former suspected the fidelity of his wife (accused No.2) and he was of the confirmed view that the appellant was having illicit relationship with his wife.

5. On 18.6.1986, the Village Administrative Officer PW.1 of the concerned village found that a big crowd had assembled at the Panchayat Office at about 7.30 P.M. In that crowd, he noticed PW.2, PW.3, the accused persons, and others.

6. He was told that the accused had murdered the deceased and had buried him in the Punja land. When PW.1 enquired from the appellant he made an extra judicial confession stating that he had cut his brother Viswanatha Pulavar with (aruval) (M.O.1), and both he and the second accused buried him in the punja land. The statement which is Ex. P.1 was reduced

into writing, read-over and the accused appellant put his signature thereon. PW.1 and PW.2 attested the same. Thereafter the special report (Ex.P.2) was written and the same was handed over to the Sub- Inspector of Police (PW.9). The accused persons were also handed over to the police along with Exs. P.1 and P.2. The investigation was undertaken and on completion thereof charge sheet was filed. Since the accused persons pleaded not guilty, trial was held primarily placing reliance on the evidence of PW.1 and the extra judicial confession.

7. The accused appellant was held guilty.

8. In the appeal before the High Court it was submitted that the extra judicial confession has no evidentiary value and, therefore, the trial court was not justified in recording the conviction. The High Court by the impugned judgment dismissed the appeal holding that the extra-judicial confession provided sufficient material to hold the accused guilty.

9. In support of the appeal, learned counsel for the appellant submitted that without any corroboration merely on the extra-judicial confession, the conviction could not have been recorded. Learned counsel for the respondent, on the other hand, supported the judgment of the High Court.

10. In the instant case, the extra judicial confession was made before the Village Administrative Officer who is not a stranger to the first accused and he knew him for quite some time. The evidence on record clearly establishes that Ex.P.1 was recorded by the Village Administrative Officer PW. 1 in the Panchayat Office in the presence of many persons. The evidence of PW. 3 also corroborates the version of PW. 1 that the present appellant made extra judicial confession (Ex. P.1) in the Panchayat Office and he is one of the attestors to Ex. P.1. So far as plea relating to corroboration is concerned, if the court looks for such corroboration of a judicial confession or an extra judicial confession, same need not be in material particulars. It can be and will have to be only corroboration in general. Each and every piece of information mentioned in the extra-judicial confession need not be corroborated by independent evidence. It is well settled that conviction can be recorded solely on the basis of the extra judicial confession if it is found to be credible and worthy of acceptance. PW.1's evidence coupled with that of PW.3 makes the position clear that there was a voluntary extra-judicial confession made by the appellant before the Village Administrative Officer (PW.1). That being so, we find no scope for interference in this appeal. The appeal is, accordingly, dismissed. The appellant is on bail. His bail bonds shall stand cancelled. The appellant shall surrender to custody forthwith to serve remainder of the sentence.