
(1964) 04 MAD CK 0024

Madras High Court

Case No: Criminal Appeal No. 43 of 1964

Veluchami Thevar

APPELLANT

Vs

The State

RESPONDENT

Date of Decision: April 8, 1964

Acts Referred:

- Penal Code, 1860 (IPC) - Section 302, 324, 355

Citation: (1964) ILR (Mad) 885

Hon'ble Judges: Ramamurti, J; Anantanarayanan, J

Bench: Division Bench

Advocate: T.S. Palanisivagurunathan, Amicus Curiae, for the Appellant; N. Krishnaswami Reddi, Public Prosecutor, for the Respondent

Final Decision: Dismissed

Judgement

Anantanarayanan, J.

This is an extraordinary case, and, though the facts have been established beyond any element of reasonable doubt,

we are constrained to comment upon certain of the psychological aspects of this case, with regard to the matter of sentence. The Appellant,

Veluchami Thevar, married a certain Sundaravalli (P.W. 1), in October-November, 1962. Ravi (deceased) was a friend of the Appellant, and was

employed along with him; he was a guest at the wedding. The record does not justify the slightest suspicion that Ravi (deceased) was really on

terms of improper relationship with Sundaravalli (P.W. 1). Learned Counsel acting as amicus curiae has drawn our attention to the fact that

Sundaravalli (P.W. 1) had been previously married and divorced. But the Appellant was perfectly aware of this, and divorce was sanctioned by

the social standards of the community to which these persons belonged.

2. Very unfortunately, the Appellant entertained powerful suspicions about the fidelity of his wife (P.W. 1) in relation to Ravi (deceased).

Thereafter, he seems to have behaved to P.W. 1 in a manner that shows that he abandoned all standards of humanity, and even decency, with

regard to his wife. On one occasion, P.W. 1 was branded on the right palm with a hot iron by the Appellant; on another occasion, she was gagged

by the Appellant, and cat on the left cheek. Even under such circumstances, in response to demands of the Appellant about her relationship with

others, P.W. 1 maintained that she had no paramour, and that she was a chaste wife.

3. On the night of 26th August 1963, the night of offence, the Appellant behaved to P.W. 1 in a particularly revolting and sadistic manner. At about

11 p.m. he took her to a lonely place in a field, compelled her to stand naked, and then gave her blows with his leather belt on her back. Even

under this most painful and humiliating ordeal, P.W. 1 seems to have maintained her verbal assurances about her chastity. Not content with this, the

Appellant took P.W. 1 back home, and wanted her to confess about a paramour on threat of strangulation. Afraid for her life, P.W. 1 made a

confession that Ravi (deceased) was her paramour as the Appellant had suspected. The case is a very clear instance of the psychological truth that

a man who entertains unworthy suspicions will find material somehow for proof of his suspicions, though the suspicions themselves might be totally

false. The Appellant then took out a cloth, gagged the mouth of his wife with it, and cut off some of her hair on the head. He then cut her right ear

with his knife, closed her nose with a towel and took a bigger knife and cut her right breast. After this, he changed his clothes and left the house

taking the two knives at 2 A.M. The wife (P.W. 1) released herself and raised an alarm. Her evidence is corroborated by that of a neighbor P.W.

7, a retired Police Constable, who came in response to her cries. It is also corroborated by the doctor who examined her, and found an abrasion

on her right ear, an incised wound just above the right nipple of breast, and two other simple injuries.

4. It is after this that the Appellant went to the tea hotel run by P.W. 8 where himself and Ravi (deceased) were employees. Apparently, the

Appellant was sure that Ravi (deceased) would be sleeping there. At about 2.45 A.M. the Appellant came there and went to the lane or place

north of the hotel where Ravi (deceased) and P.Ws. 2, 3 and 4 were resting. Ravi (deceased), according to his dying declaration (exhibit P-1),

was not asleep but resting. The Appellant then stabbed the deceased and ran. The deceased shouted that the Appellant had stabbed him,

staggered towards the shop and fell in front of it P.Ws. 2 and 3 attended on Ravi (deceased). Learned Counsel for the Appellant points out that

the night was dark and that P.Ws. 2 and 3 did not purport to say that they saw the Appellant stabbing Ravi. There can be no doubt at all about

this, in view of the dying declaration of the deceased (exhibit P-1), which clearly states that the deceased was stabbed by the Appellant. It is

equally proved by the evidence of P.W. 4 that he saw the Appellant running from there, and chased him for some distance in vain.

5. The subsequent facts are heavily against the Appellant. At about 3-15 a.m. the Appellant went and surrendered himself at Sivakasi Police

station before a Head Constable (P.W. 13) along with the two knives M.Os. 1 and 2. His statement has not been admitted in evidence, but his

surrender with bloodstained weapons is a relevant piece of conduct admissible under the law of evidence, which is of the utmost significance. Not

merely this. The Appellant later made a voluntary confession to the Sub-Magistrate (P.W. 11) which was recorded as exhibit P-8. In this

statement, the Appellant gives a long account of his marriage, admits that he treated P.W. 1 in a very cruel fashion, and then confesses that he went

where Ravi (deceased) was sleeping, and stabbed him in the stomach.

6. We cannot conceive of a case in which the evidence could be more clear and conclusive. The autopsy conducted by P.W. 10 shows that the

unfortunate Ravi, who was, in all probability, quite innocent, had sustained very grave internal injuries because of this stab wound, to his right

kidney and right ribs. In brief, he was stabbed to death with a single cruel blow. Under the circumstances, we are unable to see the slightest ground

for doubting the propriety of the convictions u/s 302, Indian Penal Code, for the murder of Ravi and under Sections 324 and 355, Indian Penal

Code, in respect of the cruel treatment and injuries caused to P.W. 1. The convictions are, accordingly, confirmed.

7. With regard to the sentence, we are constrained to observe that the learned Sessions Judge has given no reason for imposing the lesser

sentence, in paragraph 49 of his judgment, though in paragraph 45 he expresses the view that the Appellant had the excuse that he was wounded

in his tenderest feelings by his wife's ultimate confession. Unfortunately, the State has preferred no revision upon the matter of sentence and we

hence feel most reluctant to interfere. But, in the interests of justice, we are constrained to point out that this is a case in which the extreme penalty

of the law definitely appears to be called for. The learned Sessions Judge seems to have been of the view, judging from paragraphs 42, 43 and 44

of his judgment, where he discusses the question whether the murder of Ravi could amount to a desert offence, that the wife (P.W. 1) was

perhaps of unchaste conduct, and that she perhaps had criminal intimacy with Ravi (deceased). We are totally unable to agree, and we have to

point out that any such inference is quite against the probabilities. The learned Judge points to the sudden confession on the part of P.W. 1, which

might have surprised the Appellant and taken him off his balance. We are somewhat surprised at this line of reasoning. According to the

unimpeachable evidence, the Appellant tortured his wife in a very cruel and sadistic manner, and extorted a confession from her under threat of

strangulation. We are totally unable to see how the slightest value or credence could be attached to a confession of a wife wrung from her under

such circumstances, by a temporarily insane husband. On the contrary, the previous conduct of P.W. 1 in persisting in the affirmation of her

chastity, notwithstanding the shameful and cruel treatment meted out to her by the husband (accused), compels us to conclude that P.W. 1 was in

all probability, a very much wronged and innocent wife. The Appellant seems to have worked himself up into a mood of insane suspicion and

jealousy, and to have stabbed his friend, who perhaps did not betray him at all, deliberately because he allowed this jealousy to cloud and darken

his mind. The offence was deliberate, and shows signs of planning. It was very cruel, and we are unable to see any mitigating circumstances about

it. We are making these observations because we wish to make it very clear for the guidance of Courts of trial, that while there is a judicial

discretion vested in Sessions Judges to award the lesser penalty in a case of murder, and the Code of Criminal Procedure, as now amended, does

not require reasons to be stated, this does not mean that any special pleading or formal excuse should displace such properly bestowed judicial

discretion and thought. It is the duty of the Courts toward the extreme penalty of the law, for purposes of deterrence, in all cases of murder, where

the crime is deliberate and there are no extenuating features. That duty cannot be shirked merely because there is a discretion vested in Courts, and

because it might be irksome to award the extreme penalty. With these observations, the sentences are also confirmed and the appeal is dismissed.