AIR 1993 SC 1230 : AIR 1992 SC 1230 : (1993) CriLJ 61 : (1992) 2 SCALE 698 : (1993) 3 SCC 301 Supp

Supreme Court of India

Case No: Criminal Appeal No. (SIC) of 1992 (arising out of S.L.P. (Cri.) No. 2561 of 1991)

Venkatesh — APPELLANT

Vs

State of Tamil Nadu — RESPONDENT

Date of Decision: Sept. 9, 1992

Acts Referred:
Penal Code, 1860 (IPC) â€" Section 302, 304, 309, 323, 34

Citation: AIR 1993 SC 1230 : AIR 1992 SC 1230 : (1993) CriLJ 61 : (1992) 2 SCALE 698 : (1993) 3 SCC 301 Supp

Hon'ble Judges: P. B. Sawant, J; N. Venkatachala, J

Bench: Division Bench

Final Decision: Allowed

Judgement

1. 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 u/s 302 red with Section 34 of the Indian Penal Code [I.P.C. for short] for

killing Rangan; u/s 506, I.P.C. for criminally intimidating Maran [PW-1] and u/s 309, I.P.C. for attempting to commit suicide. The Trial Court

convicted them u/s 302 read with Section 34, I.P.C. and sentenced each of them to suffer life imprisonment. The court also convicted the appellant

u/s 506 [latter part], I.P.C. and sentenced him to suffer rigorous imprisonment for three years. The court further convicted both the accused u/s

309, I.P.C. and sentenced each of them to suffer rigorous imprisonment for six months. The court acquitted accused No. 2 of the offence u/s 506,

I.P.C.

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 u/s

302 read with Section 34, I.P.C. and instead convicted the appellant u/s 304 [Part II], I.P.C. 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 u/s 323, I.P.C. 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 u/s 506

[Part II], I.P.C. The Court also convicted both the accused u/s 309, I.P.C. 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 grievious 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 would become payable to Lakshmi on her attaining the age of 21 years.

8. The appellant to be released from jail forthwith.

9. The appeal is allowed accordingly.