

ITEM NO.32

COURT NO.14

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (Cr1.) No.7286/2017

(Arising out of impugned final judgment and order dated 23-08-2016 in CRLA No. 386/2016 passed by the High Court Of Judicature At Madras)

UJJAL MANDAL

Petitioner(s)

VERSUS

THE STATE OF TAMIL NADU

Respondent(s)

Date : 30-09-2019 This petition was called on for hearing today.

CORAM : HON'BLE MS. JUSTICE INDIRA BANERJEE
HON'BLE MR. JUSTICE M.R. SHAH

For Petitioner(s) Dr. J. P. Dhanda, AOR
Mrs. Raj Rani Dhanda, Adv.
Mr. Vineet Dhanda, Adv.
Mr. N.A. Usmani, Adv.

For Respondent(s) Mr. M. Yogesh Kanna, AOR

UPON hearing the counsel the Court made the following
O R D E R

This special leave petition is against the judgment and order dated 23rd August 2016 passed by the Madras High Court, dismissing Criminal Appeal No.386/2016 and affirming the conviction of the appellant under Section 341 of IPC, 392 and 302 r/w 34 of IPC and 120(B) of IPC. The Trial Court on consideration of the evidence acquitted the appellant from the charge under Section 376(D) r/w 34 of IPC.

The victim, a 23 year old under-graduate Computer Engineer, employed in a Consultancy Firm at Kancheepuram went to office as usual on 13.2.2014 and left office at about 10.20 p.m.

after completing her work. The victim however did not return home.

The victim's father lodged a missing complaint on the basis of which Crime Number 92 of 2014 was registered. After few days the dead body of the victim was recovered from a bush near the Siruseri SIPCOT IT Park. The dead body was decomposed and beyond recognition. However, the victim was identified from her wearing apparel and accessories as also the identity card carried in her purse. She had apparently been raped and murdered.

After investigation two of the accused were arrested and charged under Sections 120(B), 341, 392 read with Section 34, 376 (D) read with Section 34, 302 read with Section 34 and 379 read with Section 34 of the Indian Penal code (IPC).

The appellant who was proceeding to Kolkata was arrested at the Howrah station by PW-47. The appellant was also charged for the same offence under Sections 120(B), 341, 392 read with Section 34, 376 (D) read with Section 34, 302 read with Section 34 and 379 read with Section 34 of the Indian Penal code (IPC). In course of investigation, ample materials were recovered which established the guilt of the accused beyond reasonable doubt including an ATM card of the victim, jewellery worn by the victim, mobile phone used by the victim, SIM cards used in the phones carried by the victim, call details of phone calls made from mobile phones/SIM cards, clothes etc. Based on the materials recovered, the post mortem report, forensic evidence such as DNA and blood stains of the victim, the Trial Court framed charges against the appellant and the other accused.

By a judgment and order dated 28.11.2014 the Trial Court convicted three accused persons including the appellant under Sections 341, 392 read with Section 34, Section 302 read with Section 34, Section 120 (B) and Section 379 read with Section 34 of the IPC. The accused-appellant and the other accused persons were sentenced for life for offence under Sections 302 read with Section 34 of the IPC. The Trial Court however acquitted the appellant and the other two accused from the charge under Section 376 (D) read with Section 34 of the IPC.

It is true as argued on behalf of the appellant that the conviction was based on circumstantial evidence and there was no eye witness to the crime. Even though the conviction is based on the circumstantial evidence, there is abundant evidence establishing circumstances which establish the guilt of the appellant and the other accused as discussed in the elaborate judgments of the Trial Court and the High Court.

In our view, the High Court has rightly affirmed the judgment of conviction and sentence of the Trial Court. The High Court and the Trial Court having concurred, this Court is not inclined to interfere with the concurrent finding of the Trial Court and the Appellate Court/High Court.

The culpability of an accused for an offence alleged has to be proved beyond reasonable doubt as has been done in this case, and not beyond any iota of doubt.

On 28th February 2014 the appellant made a voluntary confession which was reduced into writing in Tamil. He also made disclosures on the basis of which a mobile phone instrument and

some clothes were recovered. The appellant along with the other accused identified the shop from where they had purchased two knives used for commission of offence. They also identified the shop from where they purchased the SIM cards.

Even though this case is based on circumstantial evidence, the circumstances establish a complete chain which unerringly points to the guilt of the appellant and the other accused. Moreover the appellant as observed above made a confession of his guilt. Weapons were recovered *inter alia* on the basis of his disclosure.

We find no grounds to interfere with the detailed judgment rendered by the High Court.

The Special Leave Petition is dismissed.

(RACHNA)
SENIOR PERSONAL ASSISTANT

(BEENA JOLLY)
BRANCH OFFICER