l\214 ITEM NO.101 COURT NO.6 SECTION IIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No. 1208/2007

CHANDRASEKARAN Appellant(s)

VERSUS

STATE REP. BY INSPECTOR OF POLICE Respondent(s)

(With office report)

Date : 08/12/2015 This appeal was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA
HON'BLE MR. JUSTICE AMITAVA ROY

For Appellant(s) Mr. G. Balaji, A.O.R.

For Respondent(s) Mr. M. Yogesh Kanna, A.O.R.
Mr. Jayant Patel, Adv.

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

The appeal is partly allowed in terms of the signed order.

We have been told, during the course of the arguments by the learned counsel for the appellant, that he has already undergone 11 years of imprisonment as on date. In view of the sentence awarded by this Court, if it is actually so, he would be released forthwith, subject to payment of the fine, unless he is wanted to be detained in connection with any other case.

[KALYANI GUPTA]
COURT MASTER

[SHARDA KAPOOR]
COURT MASTER



[SIGNED ORDER IS PLACED ON THE FILE.]

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1208 OF 2007

CHANDRASEKHARAN ..... APPELLANT

VERSUS

STATE REPRESENTED BY
INSPECTOR OF POLICE ..... RESPONDENT

O R D E R

The challenge in this appeal is to the impugned order dated 10th October, 2005 of the Madras High Court rendered in Criminal Appeal No. 1416 of 2004, affirming the conviction and sentence recorded by the Court of Sessions, Nagapattinam in Sessions Case No. 105 of 2004 convicting the appellant under Section 302 I.P.C. and sentencing him to undergo imprisonment for life and also fine of Rs. 2,000/-, in default to suffer rigorous imprisonment for one year.

2. We have heard Mr. G. Balaji, learned counsel for the appellant and Mr. M. Yogesh Kanna, learned Standing Counsel for the State.

Criminal Appeal No. 1208 of 2007

3. The prosecution case unfolds with the receipt of an information on 17th May, 2002 at the Kudavassal Police Station about the incident in which the deceased Krishnaveni, wife of the appellant had suffered severe burn injuries. As the F.I.R. registered thereon would disclose, the incident occurred on the same day i.e. 17th May, 2002 at 8:00a.m. in her house, the allegation being that the appellant, her husband, had doused her with kerosene and had set her ablaze. The F.I.R. further discloses that the couple used to remain engaged in persistent quarrels over the husband's share of property which according to the deceased had been wrested away from him by her sisters-in-law to their prejudice. In

terms of the F.I.R, on her insistence that the appellant would stick to his claim for his share, the sisters-in-law made it a point to persuade the husband to eliminate her to be entitled thereto. On the date of occurrence, as per the version of the deceased which finds place in the F.I.R., there was a quarrel with her husband and at the peak thereof he blurted out saying that she should die and then only



he would get his share. Saying so, he went inside, brought a kerosene can and poured the contents thereof on her and lit a match stick and threw it on her as a result whereof she caught fire. The F.I.R. records that as per the version of the wife, at that point of time their two sons Karthikeyan and Vignesh were present and that before the offending act, they were pushed out of the house, whereafter the door was bolted. It was on her hue and cry, out of the burn injuries, in which her sons also joined, that, the neighbours, Rajendran and others came to her rescue and she was removed to the Kumbakonam Hospital. The F.I.R. was formally registered on 18th May, 2002, on which the deceased who then was alive had put her thumb impression.

4. Investigation followed and charge sheet was laid against the appellant under Section 302 IPC. He denied the charge and so was made to stand trial. In his Statement under Section 313 of the Code of Criminal Procedure, he denied the charge as well.

5. At the trial, the prosecution examined several

witnesses including Karthikeyan, son of the deceased, P.W. 1, Rajendran and Babu P.W. 2 and P.W. 3 respectively, the neighbours, P.W.6 Smt. Charuhasini, District Munsif cum Judicial Magistrate who had recorded the Dying Declaration of the deceased, P.W. 9 Dr. Arunachalam who had attended the injured when she was first brought to the hospital and P.W. 11 Dr. Sonia Kumari, the doctor who certified her fitness to give the Dying Declaration.

6. The defence did not adduce any evidence and on the closure of the trial, the learned Court below on an assessment of the evidence on record convicted and sentenced the appellant as above. The appellant having been unsuccessful before the High Court is in appeal before this Court.

7. The learned counsel for the appellant has urged that in the Dying Declaration recorded by P.W. 6, the District Munsif cum Judicial Magistrate, the deceased in categorical terms had disclosed that following a quarrel on the denial of her husband’s share of his paternal property, he asked her to go



out of the house and on her resistance he pushed her and then started beating the children. When she objected, he again pushed her and then brought out a kerosene can and started pouring kerosene on her. According to the deceased, her husband used to smoke

frequently and on that day, after the kerosene had been poured on her, he took out a match stick to light his cigarette and in the process her nylex saree caught fire for which she sustained the burn injuries. The deceased sought to convey thereby that the appellant was not aware of such consequences to follow. She also stated that he thereafter brought her in a car and admitted her in the hospital. She even went to the extent of branding the husband as completely insane.

8. Relying on this, the learned counsel for the appellant has contended that it will be apparent therefrom that the appellant had no intention of setting the deceased on fire and thus his conviction under Section 302 IPC is not sustainable in law and on facts. Referring as well to the evidence of the son P.W. 1 Karthikeyan, the learned counsel, drawing



our attention, in particular, to the cross-examination of this witness has asserted that this witness in fact had not seen the appellant actually lighting the match stick and setting on fire the deceased. The learned counsel has also argued that the testimony of P.W.2 and P.W.3, the neighbours, would indicate that they are not the eye witnesses of the actual incident but did intervene on seeing the deceased in flames and removed her to the hospital. The learned counsel in the above state of evidence has argued that the statements made by the doctors P.W. 9 and P.W. 11 do not displace the version of the deceased so as to convincingly conclude that it was the appellant who had, with the required intention

and knowledge and for the purpose of deliberately eliminating the deceased, had poured kerosene on her and had set her on fire.

9. As against this, learned Standing Counsel for the State has argued with particular reference to the evidence of P.W. 9, Dr. Arunachalam, that it is apparent therefrom, in terms of the first statement made by the deceased, when she was brought to the



hospital in a totally burnt state, but fit to make her statement, that the appellant had poured kerosene on her and had set her on fire in their residence. The learned Standing Counsel has, thus, argued that this statement of the deceased ought to receive primacy over the others recorded at a later point of time with marginal variations and thus having regard to this piece of evidence, when read with the other evidence on record more, particularly that the son P.W.1, conviction and sentence was fully justified and that it does not merit any interference at this end.

10. We have traversed the evidence on record and have duly considered the rival submissions. A pronounced feature of the case in hand is that the couple used to incessantly quarrel with each other over the husband’s share in the paternal property. She not only had said so in her Dying Declaration, she was particularly sore of the fact that her jewelleries had been taken away from her by her in-laws and that her husband was unjustly denied his share in the

ancestral property, more particularly her sisters-in-law. It is also a matter of record that on her repeated insistence, the sisters-in-law used to react, commenting that she should firstly be eliminated and that the husband then would get his share. That there used to be frequent quarrels between the husband and the wife on this issue almost as a daily feature is thus apparent. One can visualise thus that in this, agitated state of affairs, it is not unlikely that on the date of the incident in course of such quarrel, that the appellant might have lost his mental balance and on the spur of the moment and due to the persistent and sustained provocation mounted on him by the deceased, had resorted to the extreme step of pouring kerosene on her and setting her on fire so as to seek a practical alleviation from his day to day torture in life. There is no semblance of evidence on record to suggest that the appellant-husband was possessed of a criminal bent of mind to be accused of a nature prone to such criminal acts. In other words, there is



nothing on record to suggest that he was a seasoned offender. It is not unlikely that in the course of the quarrel and having regard to the issue involved and his failure to claim and acquire his share of the property that he might have been subjected to all kinds of taunts and abuses by the deceased which might have reached the height of things on that day provoking him to do the act for which he stands charged.

11. On a combined reading of the evidence of P.W.1, P.W. 2 and P.W. 3 and the sequence of events that had occurred in a series and also the Dying Declarations recorded, we, however, do not entertain any doubt that it was the appellant who had doused the deceased with kerosene and had set her on fire resulting in her death. The above notwithstanding, for the reasons cited hereinabove we do not feel persuaded to hold that, in the singular facts and circumstances of the case, he can be held to be guilty of murder under Section 302 IPC.



12. The evidence on record demonstrates the heated situation under which the incident had occurred and the background thereof had deprived the appellant of his power of self control fuelled by the grave and sudden provocation extended by the deceased. It is an admitted position, that just before the offending act there was animated quarrel between the husband and the wife. In the above view of the matter, in our opinion, the facts and circumstances of the case adequately draws the incident within the purview of explanation (1) and explanation (4) of Section 300 IPC. In the facts and circumstances of the case in hand, we feel inclined to scale down the offence from Section 302 to Section 304 Part I IPC.

13. We also feel, having regard to the backdrop of the incident, that the sentence of imprisonment ought to be ten years. We, however, maintain the sentence of fine as awarded by the trial Court and affirmed by

the High Court. We order accordingly.

14. We have been told, during the course of the



arguments by the learned counsel for the appellant, that he has already undergone 11 years of imprisonment as on date. In view of the sentence awarded by this Court, if it is actually so, he would be released forthwith, subject to payment of the fine, unless he is wanted to be detained in connection with any other case.

15. The appeal is thus partly allowed.

.....J
[FAKKIR MOHAMED IBRAHIM KALIFULLA]

.....J
[AMITAVA ROY]

NEW DELHI
DECEMBER 08, 2015.