

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S).229 OF 2012

MURUGAN

APPELLANT(S)

VERSUS

THE STATE OF TAMIL NADU

RESPONDENT(S)

O R D E R

1. We have heard the learned counsels for the parties and perused the relevant material.

2. The accused-appellant (Murugan, A-1) who has been convicted under Section 302 IPC is in appeal challenging his conviction and consequential sentence of life imprisonment.

3. Initially, the prosecution had levelled charges under Section 302 IPC with the aid of Section 149 IPC against as many as 12 accused. While Accused Nos. A-7 to A-12 (Rahamathullah, Iqbal, Khaja Mohhideen, Khader Mohideen, Bahrudin, Syed Abutahir respectively) were acquitted by the learned trial Court, accused Nos. A-2 to A-4 (Mari, Sahayam, Mariappan respectively) and A-6 (Raja) were acquitted by the High Court by the very same impugned order. The accused No.A-5

(Baskar) had remained an absconder. It is only the accused-appellant, who was the first accused in the alleged crime, who has been convicted and sentenced as aforesaid.

4. There are two eye-witnesses to the occurrence i.e. PW-1 (Jarina Banu) and PW-2 (Hameed). PW-2 had turned hostile. PW-1 is the wife of the deceased. We have been taken through the evidence of PW-1 in detail. What we find therefrom is a solitary statement made by the said eye-witness that the accused-appellant had cut the deceased with a knife. The post-mortem report indicates that the deceased suffered as many as 23 injuries including several cut injuries. The cause of death according to the Doctor (PW-20) was shock and hemorrhage due to the multiple cut injuries.

5. The prosecution has not been able to correlate the injury caused by the accused-appellant to any of the specific injuries found on the deceased in the post-mortem. As the accused-appellant (Murugan, A-1) is the sole accused found guilty of the commission of offence, it is his individual act alone which would make him liable. Viewed thus, in light of the evidence, discussed

above, it is crystal clear to us that on the basis of the evidence of PW-1, the conviction of the accused-appellant under Section 302 IPC cannot be sustained. At best, he would be liable for the offence under Section 326 IPC. We, accordingly, modify the conviction of the accused-appellant to one under Section 326 IPC.

6. It is stated at the Bar that the accused-appellant has been in custody for over 8 years now. We, therefore, alter the sentence to one of the period undergone and order for release of the accused-appellant from the custody forthwith unless such custody is required in connection with any other case.

7. Consequently and in light of the above, the appeal is partly allowed.

.....CJI.  
(RANJAN GOGOI)

....., J.  
(SANJAY KISHAN KAUL)

....., J.  
(K.M. JOSEPH)

NEW DELHI  
OCTOBER 10, 2018

ITEM NO.105

COURT NO.1

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

Criminal Appeal No(s). 229/2012

MURUGAN

Appellant(s)

VERSUS

THE STATE OF TAMIL NADU

Respondent(s)

Date : 10-10-2018 This appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE K.M. JOSEPH

For Appellant(s) Mr. P. Vinay Kumar, AOR

For Respondent(s) Mr. M. Yogesh Kanna, AOR  
Mr. S. Partha Sarathi, Adv.  
Ms. Sujatha Bagadi, Adv.

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

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

Pending applications, if any, shall stand disposed of.

(NEETU KHAJURIA)  
COURT MASTER

(ASHA SONI)  
ASSISTANT REGISTRAR

(Signed order is placed on the file.)