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Crl.A.No.352 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.06.2023

PRONOUNCED ON: 28.06.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.A.No.352 of 2022

Mayavan @ Mariyappan

...

Appellant

Vs.

The State rep. By,
The Inspector of Police,
Shoolagiri Police Station,
Krishnagiri District

...

Respondents

PRAYER: This Criminal Appeal has been filed under Section 374(2) of the Code of Criminal Procedure to call for the records in S.C.No.164 of 2017 on the file of the learned Session Judge (Fast Track Mahila Court), Krishnagiri District, dated 05.10.2021 and set aside the judgment dated 05.10.2017 made in S.C.No.164 of 2017.



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For Appellant : Mr. V. Parthiban
for M/s. R.Thulasi

For Respondent : Mr. A.Gokulakrishnan,
Additional Public Prosecutor

JUDGMENT

The criminal appeal has been filed against the judgment of conviction passed by the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri District dated 05.10.2021 in S.C.No.164 of 2017.

2. The appellant is the first accused in S.C.No.164 of 2017 on the file of the Sessions (Fast Track Mahila) Court, Krishnagiri District. The prosecution case is that the marriage between the deceased Sathya and the appellant/A1 took place on 05.07.2012. Thereafter, the appellant/A1 continuously harassed the petitioner by demanding jewells, two wheeler and 407 Vehicle, due to which, on 08.04.2015 at about 10.00 p.m., she committed suicide by hanging. Initially, a case has been registered for the offence under Section 174(3) Cr.P.C. Based on the complaint given by one Murugan, who is father of the deceased. After investigation, charge sheet



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has been filed under Section 304(B) IPC against the appellant/A1 and 6 other accused. The Trial Court framed charges as against the accused for the offences punishable under Sections 498(A) and 304(B) of IPC.

3. During trial, the prosecution examined 17 witnesses viz., P.W.1 to P.W.17 and marked 14 documents Ex.P1 to Ex.P14 and on the side of the accused, the first accused Mayavan @ Mariappan examined himself as D.W.1 and also filed the medical reports of the deceased Sathya Sathya as Ex.D1.

4. The Trial Court, after Trial, acquitted the 2 to 7 accused from the charges and found the appellant/A1 guilty for the following offences and convicted and sentenced them as follows;

<i>Section</i>	<i>Conviction and sentence</i>
<i>498(A) IPC</i>	<i>to undergo three years Rigorous imprisonment and to pay a fine of Rs.2000/-, in default, to undergo simple imprisonment for six months.</i>
<i>304(B) IPC</i>	<i>to undergo seven years Rigorous imprisonment</i>

Aggrieved by this conviction and sentence, the appellant/A1 had filed this present criminal appeal.



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5 .The learned counsel for the appellant submitted that the finding of the Trial Court is contrary to the evidence on record. There is a delay in lodging the complaint. According to the prosecution, the occurrence took place on 08.04.2015 and the complaint was given on 12.06.2015, but the delay is not properly explained. The Trial Court overlooked this fact and mechanically found the appellant guilty and there is no evidence for demanding dowry. Apart from this, the cause of the death of the deceased was not found and there is no medical evidence for the same. Admittedly, panchayath has took place, in which the defacto complainant demanded the accused to give a house in his wife's name. Since the accused refused, the case has been registered. The Trial Court overlooked the evidence of P.W.1 in cross in this aspect and found the appellant/A1 guilty. The prosecution failed to prove the charge beyond all reasonable doubts and the appellant/A1 is entitled for acquittal. He further reiterated the facts raised in the grounds of appeal . Therefore, the conviction and sentence imposed by the Trial Court is to be set aside and the accused is to be acquitted and the criminal appeal is to be allowed. Thus, pleaded to allow the criminal appeal.



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6.The learned Additional Public Prosecutor appearing for the respondent supported the judgment of the Trial Court and submitted that there is no ground to interfere with the finding of the Trial court and there is no merit in the criminal appeal and thus, pleaded to dismiss the Criminal Appeal.

7.I have considered the matter in the light of the submissions made by the learned counsel for the parties and perused the materials available on records carefully.

8. The first accused is the husband of the deceased and the 2nd and 3rd accused are father and mother of the first accused. The 4th accused is the sister of the first accused and 5,6,7 accused are relatives of the first accused.

9. It is not disputed that the first accused married the deceased/wife on 05.07.2012 and there is difference of opinion between the deceased/wife and the appellant/A1 with regard to demanding of dowry.



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On 08.04.2015, at about 10.00 p.m., the deceased/wife committed suicide by hanging herself in the house of the accused. In pursuance of the complaint given by the father of the deceased, namely, Murugan, the case has been registered in Crime No.413 of 2015 on 12.06.2015 for the offence under Section 174(3) Cr.P.C. Thereafter, the case has been altered into Section 304(B) IPC.

10. Before the Trial Court, the prosecution examined 17 witnesses and marked 14 documents Ex.P1 to Ex.P14. On the side of the accused, the first accused Mayavan @ Mariappan examined himself as D.W.1. The accused took the defence that the deceased committed suicide not because of dowry harassment, but because she suffered some medical ailment, for which, he had also filed the medical reports of the deceased Sathya as Ex.D1.

11. I have gone through the evidence of the prosecution. P.W.1 Murugan is the father and P.W.2, Angammal is the mother of the deceased. P.W.1 Murugan deposed that he came to know about the demand of 5



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sovereigns of jewells and one 407 vehicle and two wheeler through his wife P.W.2 as P.W.2 was informed by the deceased daughter Sathya. He had no direct knowledge about the demand of dowry by the appellant/A1 and his father and mother. Further, he deposed that at the time of occurrence, deceased contacted her mother P.W.2 through mobile phone and informed about the harassment meted out by her. P.W.2 Angammal, mother of the deceased, deposed that on the date of occurrence, between 7.00 p.m. to 7.30 p.m., her daughter Sathya contacted her through mobile phone and informed about the harassment. In these circumstances, the learned counsel appellant/A1 contended that the allegation of harassment regarding dowry demand was informed by the deceased Sathya to her mother through the mobile phone. In order to establish the fact that on the date of occurrence immediately before the death the deceased, she contacted her mother and informed the harassment through phone, the mobile phone was not seized by the police and not ascertained as to whether the deceased contacted her mother immediately before the occurrence is not established. The valuable evidence of mobile phone is available, but the prosecution failed to produce it. It raises a serious doubt



that about the allegation that before the death of the deceased, she contacted her mother and informed about the harassment meted out by her with regard to demand of dowry. This argument cannot be rejected in the absence of contact details of the mobile phone used by the deceased.

12. Further in this case, according to the prosecution. The deceased committed suicide on 08.04.2015 at about 10.00 a.m.. After suicide, the deceased father , mother and the relatives participated in the cremation and at that time, there was no suspicious circumstances and they had not given any complaint immediately. Thereafter, a panchayath was held with regard to the transfer of some properties. Since the panchayath was not feasibly effected, the complaint was given on 12.06.2015 belatedly. Further, the records reveals that after the complaint on 12.06.2015, the body was exhumed and post-mortem has been done after 3 months. P.W.8 Dr.Thunder and P.W.9. Dr. Arunprabhu, conducted the postmortem upon the body of the deceased. P.W.8 Doctor deposed before the Court that since the body was decomposed, unable to find out the cause of death of the deceased and gave a Port Morterm Report Ex.P.7 and the Chemical



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analysis report was marked as Ex.P.6. In the Post-mortem report, it was mentioned that there is no external injuries on the body of the deceased. Under these circumstances, the cause of death is not ascertained by the prosecution.

13. Further, P.W.17 Rohithnathan, investigation officer, during the cross examination admitted that the deceased talked with her parents before her death and he did not see the body hanging in the house and did not find any mark on her neck. His evidence runs as follows:

“சத்யா இறப்பதற்கு முன்பு அவர்களது பெற்றோர்களிடம் பேசியிருக்கின்றார். மேலும் சத்யா துக்கில் தொங்கிய நிலையில் பார்க்கப்படவில்லை. அவர் படுக்க வைக்கப்பட்ட நிலையிலேயே இருந்திருக்கின்றார். துக்கில் தொங்கியதற்கான தடம் எதுவும் கழுத்தில் காணப்படவில்லை. “

14. In such circumstances, the prosecution failed to collect the contact particulars of the deceased with her parents by securing the mobile phone available with the parents. Further on perusing Ex.D1 medical records, it reveals that before the occurrence, the deceased suffered because of abortion and had taken treatment for the same.



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15. In this case, on perusal of the entire prosecution evidences, it is found that there is no satisfactory proof of harassment in connection with demand of dowry by the accused to the deceased. When the suicide of the wife was not due to any ill-treatment or harassment in connection with the demand of dowry, the charge under Sections 498(A), and 304(B) cannot be sustained. Further in this case, the occurrence took place on 08.04.2015, but the complaint was given belatedly on 12.06.2015 and it is not satisfactorily explained by the defacto-complainant and the prosecution. Under these circumstances, the delay goes to the root of the prosecution case and it creates a serious doubt about the genuineness of the prosecution case. Therefore, when there is an element of genuine doubt, then there must be an acquittal. A moral conviction regarding the guilt of an individual has no place in criminal jurisprudence. The Trial Court overlooked this aspect and without properly appreciating the evidence found the accused guilty and hence, the judgment has to be set aside and the accused is entitled for benefit of doubt. In this case, the prosecution failed to prove the charges against the appellant/A1 beyond all reasonable doubts and hence, the accused is entitled for acquittal by giving benefit of



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doubt and the finding of the Trial Court is liable to be set aside.

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16. Accordingly, the conviction and sentence passed by the Trial Court is hereby set aside and the Appellant/A1 is acquitted from all the charges. Fine amount, if any, paid by the accused shall be refunded. The accused is on bail, the bail bond executed by the accused is are hereby cancelled.

Index: Yes/No
Internet: Yes/No
mrp

28.06.2023

Note : Issue order copy today

To

1. The Session Judge,
Fast Track Mahila Court,
Krishnagiri District
2. The Inspector of Police,
Shoolagiri Police Station,
Krishnagiri District
3. The Public Prosecutor,
High Court, Madras.



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V.SIVAGNANAM, J.

mrp

Pre-delivery Judgement in
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