



Crl.A.(MD)No.26 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 22.08.2023

CORAM

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl. A.(MD)No.26 of 2017

Sangarakonar

.. Appellant

Vs.

1.Murugan @ Balasubramanian
2.Vadivuammal
2.The Inspector of Police,
Thalaiyuthu Police Station,
Tirunelveli District.
(Crime No.261 of 2009)

.. Respondents

Prayer : This Criminal Appeal is filed under Sections 374 of Cr.P.C., to set aside the judgment dated 14.06.2016 passed in S.C.No.241 of 2013 on the file of the learned Sessions Judge, Mahalir Neethimantram, Tirunelveli and convict the respondents 1 and 2 by imposing the sentence on them for the offence under Section 498A and 306 of IPC.

For Appellant	: Mr.S.Muthumalai Raja
For Respondents	: Mr.S.Prabha, Legal Aid Counsel
For 3 rd Respondent	: Mrs.M.Aasha
	Government Advocate (Crl. Side)

JUDGMENT

This appeal has been filed by the appellant to set aside the judgment and



Crl.A.(MD)No.26 of 2017

conviction passed in S.C.No.241 of 2013 dated 14.06.2016, on the file of the Sessions Judge, Mahalir Neethimantram, Tirunelveli, wherein the trial Court has acquitted the accused for the offence under Sections 498A and 306 of IPC. Aggrieved by the said judgment, this present Criminal Appeal is filed by the defacto complainant.

2. According to the prosecution case, on 29.12.2009, the deceased died by hanging in her in-law's house. The deceased is the wife of A1, A2 and A3 are parents of A1. Four months before the death, the marriage between A1 and deceased was solemnized. All the accused demanded dowry from the deceased and they harassed the deceased and caused cruelty to the deceased. But the accused asked Rs.50,000/- to settle his debt of his sister's marriage and thereafter, the father of the deceased by pledging jewels, arranged a sum of Rs.50,000/- and had given to A1 and again A1 demanded Rs.50,000/-. They were not unable to arrange the said money. In the meantime, on 29.12.2009, the deceased died by hanging due to the harassment made by A1 to A3. Thereby, the P.W.1 has given complaint before the respondent police and on the basis of the complaint, FIR has been registered in Crime No.261 of 2009 before the respondent police and thereafter, P.W.10 investigated the case and examined the witnesses and thereafter, filed final report. After filing the final report, the copies of records relied on by the prosecution were furnished to the accused



Crl.A.(MD)No.26 of 2017

under Section 207 of Cr.P.C. After receipt of final report, the learned Magistrate committed the case to the learned Principal District Judge and the learned Principal District Judge, Tirunelveli made over the case to the Mahila Court. The Sessions Judge, Mahila Court has framed charges under Sections 498A and 306 of IPC as against the accused. During pending investigation, the father of A3 died and charges were framed as against A1 and A2. After framing charges, the charges were read over and explained to the accused but the accused denied the charges.

3.The prosecution had examined P.W.1 to P.W.10 and marked Exs.P.1 to P.10. On the side of the accused, no one was examined and no document was marked. After examination of prosecution witnesses, the accused was examined under Section 313(1)(b) of Cr.P.C., and he denied the evidences.

4.Upon perusing the oral and documentary evidences, the trial Court found the accused not guilty for the offence punishable under Sections 498A and 306 of IPC and the accused were acquitted from the offence under Sections 498A and 306 of IPC, by a judgment, dated 14.06.2016.

5.Aggrieved by the said acquittal judgment, the appellant i.e., defacto complainant has preferred this present appeal on the following grounds:-



Crl.A.(MD)No.26 of 2017

the accused demanded dowry but the trial Court failed to consider the same. The trial Court has wrongly acquitted the accused based on the evidence of P.W.6. Therefore, the accused is liable to be convicted by allowing this appeal.

7.The learned counsel appearing for the respondents 1 and 2 contended that the case has been initially registered under Section 174 of Cr.P.C. Thereafter, the charges were altered into Sections 498A and 306 of IPC. P.W.1 and P.W.2 are close relatives. Except P.W.1 and P.W.2 all other independent witnesses turned hostile. There are major contradictions regarding the evidence of P.W.1 and P.W.2, with regard to the manner of the occurrence and time of occurrence. In the case P.W.6 conducted the enquiry and deposed that there was no demand of dowry and the suicide is not due to dowry harassment. After analyzing evidence, the trial Court correctly acquitted the accused. There is no grounds to interfere in the acquittal judgment passed by the trial Court.

8.The learned Government Advocate appearing for the third respondent has submitted that initially the case was registered under Section 174 of Cr.P.C. Thereafter, the charges were altered into Sections 498A and 406 of IPC. After four months from the date of marriage, the death was caused due to dowry demand and cruelty caused by the accused. The complaint was lodged by P.W.1 and based on



Crl.A.(MD)No.26 of 2017

Ex.P1 complaint, FIR was registered. As per contents of the complaint, the accused demanded dowry and also part of the amount was paid by pledging the jewels of the deceased. P.W.2 and P.W.3 also categorically deposed about the alleged amount demanded by them and they also asked for further payment of Rs.50,000/- and thereby, the prosecution clearly proved the case against the accused. P.W.10 Investigating Officer also deposed about the demand of dowry. The Doctor who conducted post mortem also deposed that the deceased died due to hanging. Thereby, the prosecution has established the case through sufficient evidence for the offence under Sections 498A and 306 of IPC. The trial Court without properly analyzing the evidence adduced on both sides wrongly acquitted the accused. Thereby the accused are liable to be convicted by allowing the appeal.

9. Upon hearing both sides and perusing the records and grounds, the points for determination in this appeal are whether the prosecution has proved the charges against the appellant under Sections 498A and 306 of IPC beyond reasonable doubt and the judgment of acquittal passed by the trial Court is sustainable in law and facts.

Point:-

10. The prosecution case is that A1 married the victim on 13.08.2009. After



Crl.A.(MD)No.26 of 2017

four months, the deceased died by hanging in the house of the accused due to the cruelty caused by the accused by demanding dowry. One day prior to the date of the alleged occurrence, the deceased made phone call to P.W.1 and stated about the demand of dowry. Thereafter, the deceased died on the next day. Prior to the occurrence, all the accused asked money from the father of the deceased and P.W.1 also arranged of money of Rs.50,000/- by pledging the jewels and again they have demanded money and also due to harassment, she committed suicide. In order to prove the case, P.W.1 to P.W.10 were examined and Exs.P1 to P10 were marked on the side of the prosecution.

11.In this case, there is no dispute that the deceased died due to hanging and P.W.9 Doctor who conducted autopsy of the deceased also stated that the deceased died due to Asphyxia due to hanging. P.W.1 is the main witness and he is the father of the victim as well as the defacto complainant in the case. P.W.1 in his evidence stated that A1 demanded money to settle the amount borrowed during his sister's marriage. Thereafter, P.W.1 arranged Rs.50,000/- by pledging jewels of the deceased and handed over the same to the accused. After one month, the accused again demanded money of Rs.50,000/- and the same was informed by the deceased to P.W.1 over phone and on the next day, on 28.12.2009, at about 07.00 a.m., the P.W.1 went to the house of the accused and they demanded money. Thereafter, on



Crl.A.(MD)No.26 of 2017

the same date at about 07.30 p.m., the deceased daughter stated that the accused demanded Rs.50,000/- and caused cruelty to her and he informed that he would arrange money within two days. Thereafter, on 29.12.2009, one Esakki informed him that his daughter died by hanging. But P.W.1 in his cross examination, he admitted that during the course of enquiry of RDO, he stated that he did not know how his daughter died and there is no any dispute between the accused and his daughter. P.W.6 who conducted inquest also in his evidence stated that during the enquiry, there is no dowry demand made by the accused. In this context, the P.W.1 during his cross examination stated that எனது மகள் சந்தானம் இறப்பில் கோட்டாட்சியர் என்னை விசாரித்தபோது வாக்குமூலம் கொடுத்துள்ளேன். மேற்படி கோட்டாட்சியர் விசாரணையில் எனது மகள் எதற்கு இப்படி செய்தாள் என்று தெரியவில்லை, அவர்களுக்குள் என்ன நடந்தது என்று தெரியாது என வாக்குமூலம் கொடுத்துள்ளேன் என்றால் சரியல்ல. கடன் பிரச்சினையை தவிர ஆஜர் 1ம் எதிரிக்கும் இறந்த எனது மகள் சந்தானத்திற்கும் இடையே வேறு எதுவும் கிடையாது.

12.Further the P.W.1 in his cross examination stated that he did not state the above talks of deceased with his father about the demand of money dated 28.12.2009 and also admitted that he did not take food from his daughter on that day. Therefore, from the evidence of P.W.1, it reveals that except loan no other disputes between his daughter and the accused. Though the P.W.1 deposed that he did not give statement before the Revenue Divisional Officer, the Revenue Divisional



Crl.A.(MD)No.26 of 2017

Officer was examined as P.W.6 and he deposed that based on statements of Panchayats and the in laws of the deceased, death was not due to demand of dowry and the deceased died due to the reason that there would be no any dispute through her and committed suicide. Further the report of P.W.6 was marked as Ex.P5 and it reveals that the deceased committed suicide due to the frustration since her father's angry words. Therefore, the reasonable doubt would rise about the case of prosecution.

13.P.W.2 also in his evidence stated about the demand of dowry made by the accused. Further the P.W.2 admitted in his cross examination that after four months from the date of marriage, he went to the house of accused at the time the accused did not demand dowry money and thereafter two days prior from the date of death only, P.W.2 went to the house of the deceased and he is not an eye witness to the occurrence. Further P.W.3 turned hostile and the evidence of P.W.1 and P.W.2 are not sufficient to prove the alleged demand of dowry made by the accused. PW.6 also made enquiry and filed a report stating that on his enquiry, he stated that demand of dowry was not made by the accused. The P.W.10 Investigating Officer also in his evidence admitted the Revenue Divisional Officer enquiry reveals that no demand of dowry and the deceased committed suicide due to frustration over the angry words of father of deceased. The trial Court also rightly discussed about the



Crl.A.(MD)No.26 of 2017

evidence adduced by the prosecution and after relying on the evidence of P.W.6.

P.W.1 and P.W.2 are the main witnesses and their evidence did not disclose the abatement to commit suicide and correctly came to the conclusion that the prosecution has failed to prove the charges beyond reasonable doubts.

14.As far as the charges under Sections 498A and 306 of IPC are concerned, the evidences of P.W.1 and P.W.2 are not sufficient and no evidence that the accused caused cruelty and no evidence that the accused positively done some actions to drove the deceased to commit suicide. In this case, there is no eye witness to the occurrence and the case is based on circumstanced evidence and the prosecution failed to prove the case through linking the chain without break and no evidence that the accused abetted the deceased to commit suicide. Apart from that, no witnesses have deposed about the alleged demand of dowry and cruelty caused by the accused. Therefore, the prosecution has failed to prove the charges as against the accused for the offence under Sections 498A and 306 of IPC. Therefore, there is no infirmity found in the judgment passed by the trial Court. Therefore as discussed supra, this Criminal Appeal has no merits and deserves to be dismissed.

15.Accordingly, this Criminal Appeal is dismissed and the judgment of acquittal passed in S.C.No.241 of 2013 dated 14.06.2016 by the learned Sessions



Crl.A.(MD)No.26 of 2017

Judge, Mahalir Neethimantram, Tirunelveli is confirmed.

WEB COPY

22.08.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes/No

Mrn

To

1.The Session Judge, Mahalir Neethimandram, Tirunelveli.

2.The Inspector of Police,
Thalaiyuthu Police Station,
Tirunelveli District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.A.(MD)No.26 of 2017

P.DHANABAL, J.

Mrn

Crl.A.(MD)No.26 of 2017

22.08.2023