



CRL. A. No.322/2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
02.07.2024	05.09.2024

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL. A. NO. 322 OF 2021

S.Umapathy

.. Appellant

- Vs -

1. D.Ramesh @ Boopathy
2. D.Ramamurthy
Dilli (Died)
3. R.Bhuvaneshwari

4. The State, rep. By its
Inspector of Police
Ambattur Police Station
Tiruvallur District.

.. Respondents

Criminal Appeal filed u/s 372 Cr.P.C.praying to set aside the order of acquittal dated 24.02.2020 made in S.C. No.253/2016 by the learned Magalir Neethimandram (Fast Track Mahila Court), Thiruvallur, by allowing this Criminal Appeal.

For Appellant : Mr. S.Guruprasad



CRL. A. No.322/2021

WEB COPY

For Respondents : Mr. K.Selvakumaraswami for
Mr. P.Jayachandran for R-1
Mr. V.Parthiban for
Mr. V.P.Dillibabu for RR-2 & 3
Mr. G.V.Kasthuri, APP for R-4

JUDGMENT

The acquittal of the respondents through the judgment dated 24.02.2020 in S.C. No.253/2016 by the learned Sessions Judge, Magalir Neethimandram, Tiruvallur, is put in issue by the defacto complainant by filing the present appeal.

2. The respondents/accused were charged and tried for the offences u/s 498 (A), 304 (B) and 306 IPC and after trial the court below acquitted the respondents of the charges framed against. Aggrieved by the aforesaid acquittal, the defacto complainant has preferred the present appeal.

3. Shorn of unnecessary details, the facts necessary for the disposal of this appeal are as under :-

A-1 is the husband of the deceased; A-2 and A-3 are the brother and father of A-1 and A-4 is the wife of A-2. P.W.1 is the father of the deceased. The



WEB COPY

marriage between A-1 and the deceased was solemnized on 4.12.2011. It is alleged by the prosecution that A-1 under the tutoring of A-2 to A-4 was constantly demanding dowry. Initially the A-1 demanded a sum of Rs.5,00,000/- for the purchase of a lorry and P.W.1 made available a sum of Rs.1,50,000/-. Thereafter, A-2 to A-4 demanded a sum of Rs.4,00,000/- for the purchase of a land and P.W.1, pledging the jewels of the deceased to an extent of about 15 sovereigns, made a ready a sum of Rs.2,20,000/- and along with the said amount, he gave a sum of Rs.30,000/-, in all a sum of Rs.2,50,000/- to A-1.

4. It is the further case of the prosecution that the deceased was an Ayurveda Practitioner and the deceased and A-1 were staying in the house belonging to P.W.1 as a separate family after their marriage and one of the portions of the house was used as consultation area for the deceased.

5. It is the further case of the prosecution that the deceased was in the family way and she was taken to her parental house for the purpose of birth of the child and at that time the accused demanded further sum of Rs.50,000/- and 5 sovereigns of gold jewels. Thereafter, on the return of the deceased back from



WEB COPY

her parental house after birth of the child, A-1 and the deceased were living in the rented portion of the house of P.W.5.

6. On 17.5.2013, at about 11.30 p.m., P.W.1 received intimation that his daughter had committed suicide by hanging and hearing the said news, P.W.s 1 to 3 rushed to the house of the deceased where they found the body of the deceased being laid on the floor. It is alleged that A-1 was not available and the police came to the spot along with A-1. Thereafter, P.W.1 went to the police station on the early morning of 18.5.2013 and lodged the complaint Ex.P-1.

7. P.W.11, the Sub-Inspector of Police attached to Ambattur Police Station received the complaint given by P.W.1 and registered the same in Crime No.887/2013 initially u/s 174 (3) Cr.P.C. Ex.P-9 is the printed FIR. Since the deceased had committed suicide within seven years from the date of marriage, the case was placed before the Asst. Commissioner of Police, Ambattur Circle, for investigation.



WEB COPY

8. P.W.13, the Asst. Commissioner of Police, on receipt of the FIR in Crime No.887/2013, took up investigation. Since the deceased had died within seven years from the date of marriage, P.W.13, made a request to the Revenue Divisional Officer for conducting inquest over the dead body of the deceased.

9. P.W.12, the Revenue Divisional Officer, Ambattur, on receipt of the request from P.W.13, reached the Kilpauk Medical College Hospital, where the dead body of the deceased was kept and conducted inquest over the dead body of the deceased during which time, he examined P.W.s 1 and 2 as also A-1 to A-4 and other persons, including the panchayatadars and prepared inquest report, Ex.P-10 holding that there appears to be material to establish dowry harassment and submitted his report Ex.P-11.

10. P.W.13, in the meantime, continuing with his investigation, reached the scene of occurrence and prepared observation mahazar, Ex.P-12 in the presence of witnesses. He seized the duppatta, M.O.1, in the presence of witnesses under recovery mahazar, Ex.P-13 and the same were sent to court under Form 91, Exs.P-14 and P-15. P.W.13 gave requisition to the Kilpauk



WEB COPY

Government Hospital for conducting autopsy on the body of the deceased.

P.W.13 changed the section of offence to one u/s 498 (A), 306 and 304 (B) IPC and prepared alteration report, Ex.P-16.

11. Upon receipt of request from P.W.13, P.W.10, the doctor attached to the Government Hospital, Kilpauk, conducted post-mortem on the body of the deceased. During post-mortem, the doctor found the following on the body of the deceased :-

“Injuries :

A faint incomplete, asymmetrically oblique, brownish ligature abrasion 20 cm on the front and sides of the neck at the level of thyroid cartilage and crossing the posterior hairline. The upper border of ligature mark to right mastoid process is 7 cm with width 2 cm to the chin is 7 cm with width 2 cm and to the left mastoid process is 6 cm with width 2 cm, the lower border of ligature mark to the sterna notch is 6 cm.

On dissection : The base of the ligature abrasion is dry, pale and parchment like, the underlying neck structure and subcutaneous soft tissues of the neck are pale, the hyoid bone and other laryngeal cartilages were intact. There were no other external or internal injuries anywhere on the body.



WEB COPY

Heart : Normal in size, multiple petechialhaemorrhage seen over surface of left ventricle. C/S : Right side chambers contained fluid blood. Left side chambers were empty.

Valves : Normal. Coronaries : Patent. Freat Vessels : Normal.

Lungs : Normal in size. Multiple sub-pleural petechial haemorrhages on the surface of both the lungs. C/S : Congested.

Stomach : 100 gms., of partly digested food particles with no specific smell. Mucosa : Normal.

Intestines : Brown chime present.

All internal organs : Normal in size. C/S : Congested.

Bladder : Empty. Pelvis and Spinal column : Intact.

Scalp/Duramater/Skull Bones : Intact. Brain : Edematous.

Surface vessels engorged. C/S : Congested. Viscera sent for chemical analysis.

Opinion as to cause of death –

(a)

(b) The deceased would appear to have died of Asphyxia due to hanging.”

After completion of post-mortem, the doctor issued Ex.P-8, post-mortem certificate opining that the deceased would appear to have died of asphyxia due to hanging.



WEB COPY

12. P.W.13, continuing with his investigation arrested the accused on various dates and sent them for judicial remand. Upon receipt of the inquest report and RDO's report, Exs.P-10 and P-11 and after examining the other witnesses and after obtaining the expert opinion, P.W.13 filed the final report against the accused before the jurisdictional court on 15.5.2014.

13. To establish the charges levelled against the accused, the prosecution examined P.W.s 1 to 13 and marked Exs.P-1 to P-16 and marked M.O.s 1 and 2.

14. On completion of the evidence on the side of the prosecution, the accused were questioned under Section 313 Cr.P.C. on the incriminating circumstances appearing against them in the evidence tendered by the prosecution witnesses. They denied all the incriminating circumstances. On the side of the defence, neither any oral evidence was adduced nor any documents were marked.

15. The trial court, on consideration of oral and documentary evidence and other materials, acquitted the accused/respondents herein aggrieved by



WEB COPY

which, P.W.1, the defacto complainant has filed the present appeal challenging the said acquittal.

16. Learned counsel appearing for the appellant submitted that the trial court failed to appreciate the evidence of P.W.s 1 to 4, who have cogently deposed that there was constant dowry demand from the accused for the purchase of lorry and for the land. It is the further submission of the learned counsel that P.W.s 1 to 4 have also deposed that even during the time of Seemandam of the deceased, there was demand for Rs.50,000/- and 5 sovereigns of jewels from the accused. The abovesaid facts have not only been deposed before the court, but even at the earliest point of time in the complaint as well as in the inquest conducted by P.W.12, P.W.s 1 and 2 have narrated the entire sequence of events, including the demand for dowry. However, without considering all the above materials, erroneously the court below had acquitted the respondents herein, which is perverse and unsustainable.

17. It is the further submission of the learned counsel that the continuous mental cruelty meted out to the deceased by A-1 as spoken to by P.W.s 1, 2 and



WEB COPY

7 have not been properly considered by the court below. In spite of the fact that the deceased was a strong willed person, as spoken to by P.W.2, the mother, yet she had committed suicide, which itself would be proof of the extent of mental harassment meted out to the deceased, which clearly attracts Section 306 IPC.

18. It is the further submission of the learned counsel that the deceased had committed suicide in the house of A-1 and there is no explanation from A-1 for the deceased to commit suicide and in the absence of satisfactory explanation, the only presumption that could be drawn is that the continuous mental cruelty meted out to the deceased in the form of demand of dowry had led the deceased to take the extreme step of committing suicide, which facts have failed the attention of the court below.

19. It is the further submission of the learned counsel that the friction between the accused and the deceased has been spoken to by P.W.s 1 to 6 and the frequent quarrels between the A-1 and the deceased had led to the deceased committing suicide.



WEB COPY

20. It is the further submission of the learned counsel that the continuous demand for dowry stands established by the demand for lorry and a sum of Rs.4,00,000/- for the purchase of land and also the demand for Rs.50,000/- and 5 sovereigns of gold at the time of Seemandham of the deceased, which have been spoken to by P.w.s 1 to 4 clearly establish that the offence u/s 498 (A) and 304 (B) have been made out. The respondents have not taken any steps to disprove the said evidence and in the absence of the same, the appreciation of the evidence by the trial court is flawed and the acquittal based on such appreciation deserves to be set aside.

21. Per contra, the respective learned counsel appearing for the respondents 1 to 4 submitted that if two views are possible and the view that has been beneficial to the respondents has been taken by the trial court, merely because the other view is also probable, that alone cannot be the criteria to set aside the order of acquittal passed by the trial court.

22. It is the further submission of the learned counsel that the presumption of innocence of the respondents stands strengthened by the order



CRL. A. No.322/2021

WEB COPY

of acquittal of the respondents and in such a situation unless there is glaring discrepancies in the appreciation of the evidence, the appellate court shall not interfere with the said order in exercise of its appellate powers.

23. It is the further submission of the learned counsel that there are very many inconsistencies, infirmities and contradictions in the evidence of P.W.s 1 to 6, which have been properly appreciated by the court below. It is the further submission that there is contradiction even with regard to the author of Ex.P-1 and also the time at which the said complaint had come into existence. It is the further submission of the learned counsel that in fact, it is the 1st respondent/A-1, who had gone to the police station upon coming to know of the suicide of the deceased to lodge the complaint and the police had accompanied A-1 to the scene of occurrence, which stands established even through the evidence of P.W.1. Such being the case, rightly the court below had appreciated the act of A-1 in the light of the deposition of the witnesses and acquitted the accused.

24. It is the further submission that even at the earliest point of time, there was no allegation of dowry demand made by P.W.s 1 to 4, which clearly



WEB COPY

show that it is only an improvisation resulting in bringing in an element of dowry demand. Further, even according to the prosecution, the marriage was performed by the respondents, which clearly show that there was no demand made by the respondents. It is the further submission of the learned counsel that it is not the case of the prosecution that at the time of marriage, there was demand for dowry, but it is only that the deceased was given the jewels and other stridhana items by her parents. Such being the case, the dowry demand, alleged to have been made at a later point of time, is only to fasten the death of the deceased on the accused.

25. It is the further submission of the learned counsel that even with regard to the purchase of lorry, which is alleged by the prosecution to be a demand, it is the evidence of P.W.1 that he had accompanied the brother of A-1 for deciding the purchase of the lorry. If really there was demand by the respondents, definitely, no father would have gone along with the accused to purchase the lorry, as the cruelty meted out to the deceased in the form of demand of dowry would not have gone well with the parents. Therefore, the deposition of P.W.1 is an improvised version with regard to demand of dowry.



CRL. A. No.322/2021

WEB COPY

26. In fine, it is the submission of the learned counsel that in view of the very many infirmities and inconsistencies in the deposition of the witnesses, which strikes at the root of the case, the court below has rightly appreciated the same and acquitted the respondents and the same does not require any interference at the hands of this Court.

27. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing for the parties and perused the materials available on record.

28. Time and time again, the scope and power of the High Court to interfere with an order of acquittal recorded by the trial court has been highlighted by the Supreme Court and recently in ***Babu Sahebagouda Rudragoudar & Ors. – Vs – State of Karnataka (C.A. No.985/2010 – Date – 19.04.2024)***, the Supreme Court had captured the ratio succinctly, which have to be followed in an appeal against an order of acquittal and for refreshing the law, the same is quoted hereunder :-



WEB COPY



CRL. A. No.322/2021

37. This Court in the case of **Rajesh Prasad v. State of Bihar and Anr. (2022 (3) SCC 471)** encapsulated the legal position covering the field after considering various earlier judgments and held as below: -

“29. After referring to a catena of judgments, this Court culled out the following general principles regarding the powers of the appellate court while dealing with an appeal against an order of acquittal in the following words: **(Chandrappa case [Chandrappa v. State of Karnataka, (2007) 4 SCC 415]**

“42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:

(1) An appellate court has full power to review, reappraise and reconsider the evidence upon which the order of acquittal is founded.

(2) The Criminal Procedure Code, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.

(3) Various expressions, such as, “substantial and compelling reasons”, “good and sufficient grounds”, “very strong circumstances”, “distorted conclusions”, “glaring mistakes”, etc. are not intended to curtail



WEB COPY

extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of “flourishes of language” to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.”

38. Further, in the case of **H.D. Sundara & Ors. v. State of Karnataka (2023 (9) SCC 581)** this Court summarized the principles governing the exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378 of CrPC as follows: -



WEB COPY



CRL. A. No.322/2021

“8.1. The acquittal of the accused further strengthens the presumption of innocence;

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to reappreciate the oral and documentary evidence;

8.3. The appellate court, while deciding an appeal against acquittal, after reappreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;

8.4. If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and

8.5. The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible.”

39. Thus, it is beyond the pale of doubt that the scope of interference by an appellate Court for reversing the judgment of acquittal recorded by the trial Court in favour of the accused has to be exercised within the four corners of the following principles:-



WEB COPY



CRL. A. No.322/2021

(a) That the judgment of acquittal suffers from patent perversity;

(b) That the same is based on a misreading/omission to consider material evidence on record;

(c) That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.

40. The appellate Court, in order to interfere with the judgment of acquittal would have to record pertinent findings on the above factors if it is inclined to reverse the judgment of acquittal rendered by the trial Court.”

(Emphasis Supplied)

29. Thus, from the aforesaid proposition of law, it is beyond a cavil of doubt that the power of this Court is not curtailed or limited, as it is within its realm to reappraise the evidence available on record to render a finding. However, in reappraising the evidence, this Court has to see whether the view taken by the trial court could not be taken by any prudent man on appreciating the materials available before it. If the view taken by the trial court, considered overall on the materials placed, is just and reasonable that the view taken by the



WEB COPY

trial court is on proper appreciation of the materials, the High Court cannot interfere with the acquittal on the ground that another view is possible.

30. In light of the above legal principles enunciated by the Apex Court, this Court will now proceed to analyse the evidence on record to find out whether the view arrived at by the trial court is based on the materials available on record or whether there are materials, which warrants grant of leave by this Court.

31. There is no quarrel with the fact that the marriage between A-1 and the deceased was an arranged marriage and towards the conduct of marriage, the expenses was borne out by the family of the respondents. In fact, there is a categorical deposition from P.W.s 1 to 4 with regard to the expenses for the marriage being borne by the respondents. Equally, at the time of marriage, 60 sovereigns of jewels were given to the deceased along with other stridhana articles. It is not the case of the prosecution that there was demand for jewels and stridhana articles by the respondents at the time of marriage. Therefore, at the time of marriage, there was no demand for dowry by the accused, as is evident from the deposition of P.W.s 1 to 4.



WEB COPY

32. The whole concept of demand of dowry, from the evidence of P.W.s 1 to 4, starts only after the marriage. According to P.W.1, A-1 demanded a sum of Rs.5 Lacs to be obtained by the deceased from her parents for the purchase of a lorry for carrying on his business activities. As per the deposition of P.W.1, he gave a sum of Rs.1.50 Lakhs to the deceased towards the said purpose, which, as per the deposition of P.W.1, was utilised for the purpose of purchasing the lorry.

33. However, what is crucial in the said deposition is that P.W.1 had accompanied A-2 for the purpose of purchase of the lorry. If really the amount was a demand made by the respondents from the parents of the deceased, definitely there would have been bad blood between the two families which would not have prompted P.W.1 to accompany A-2 for the purchase of the lorry. Therefore, the act of P.W.1 in accompanying A-2 for the purchase of the lorry cannot colour the amount given by P.W.1 for the purchase of lorry as a demand for dowry.



WEB COPY

34. It is the further evidence of P.W.1 that there was a further demand of about Rs.4 Lakhs by A-1 towards purchase of lands. In this regard, it is the deposition of P.W.1 that he pledged about 14 sovereigns of the jewels of the deceased and obtained Rs.2,20,000/- and adding Rs.30,000/- to it, he gave a sum of Rs.2.50 Lakhs to the deceased to be given to A-1. In this regard, it is to be noted that if really the respondents had demanded dowry from the parents of the deceased, they would definitely have not parted with the jewels, which were given to the deceased at the time of marriage for the purpose of realising the amount, which was demanded of the deceased. The act of the respondents in allowing P.W.1 to pledge the jewels and obtain the money and receiving it would only denote that the respondents have taken the help of P.W.1 for pledging the jewels and realising the money to be used for the purpose of purchasing the land. When the jewels belong to the deceased, which has been used by her husband/A-1 for the purpose of purchasing land, the act of pledging the jewels and obtaining the money cannot be brought within the dowry demand.

35. One other fact, which also strengthens the above view of this Court is the fact that it is the deposition of P.W.1 in cross that he purchased a land at



WEB COPY

Uthukottai for which about 4 sovereigns of the jewels belonging to the deceased was pledge. When the deceased had given her jewels for pledging to realise money for the purchase of land by her father, P.W.1, definitely, for the purpose of purchase of land by her husband/A-1, the deceased would have voluntarily parted with her jewels for pledging and realising the said money. Therefore, the money, which P.W.1 had given by pledging the jewels of the deceased cannot be said to be money given on account of demand of dowry.

36. Further, the aforesaid allegations in the light of Ex.P-1, the complaint, which was given by P.W.1 on 17.5.2013, where there is no demand for dowry raised, the improvisation in the evidence could be very well seen from the evidence of P.W.3, who, in cross examination had deposed that when A-1 and A-3 came to the house of P.W.1 after child birth for seeing the new born child, had made a demand for 100 sovereigns of jewels and a car as dowry. However, no such demand has been raised by P.W.s 1 and 2. This clearly shows that there are improvisations and embellishments in the evidence of the witnesses with regard to demand of dowry to suit the prosecution case.



WEB COPY

37. One other aspect, which also defies the case of the prosecution is that P.W.4, in cross examination has clearly admitted that A-1 was paying rent for the house, which belonged to P.W.1, in which A-1 and the deceased were staying. However, P.W.1 had spoken contradictory to the said question put forth by the defence. P.W.4 had clearly deposed in the affirmative about the payment of rent to the house belonging to P.W.1 and also the expenses expended by the accused towards the marriage of A-1 and the deceased.

38. Further, one other deposition of P.W.1 which is of much significance is that in cross it is the deposition of P.W.1 that after marriage, A-1 and the deceased were living separately and not in a joint family. That being the admitted stand of P.W.1 in cross, the inclusion of respondents 2 to 4 as abettors to the offence is nothing but an act of the prosecution to rope in all the persons into the clutches of law with regard to commission of offence, which is the general tendency of the prosecution in matters relating to death of a lady within a period of seven years from the date of her marriage. May be, the political affiliations of P.W.1 had prevailed upon the prosecution to rope in all the other members of the family as accused, which not only deserves to be deprecated, but



WEB COPY

it is to be pointed out that the prosecution and the law enforcing agency ought not to act as puppets of the political bigwigs. Therefore, the allegation of dowry demand does not survive consideration as the allegations put forth by the prosecution will not fit in with the demand of dowry and rightly the court below has negatived the contentions, while holding in favour of the accused/respondents herein.

39. With regard to the knowledge about the commission of suicide by the deceased, while P.W.1 has deposed that P.W.5, the owner of the house in which the deceased and A-1 were staying as tenants informed him about the death of the deceased, however, P.W.2 deposed that the son of the house owner had informed that the deceased was not feeling well and, therefore, she had been admitted in the hospital, whereinafter, P.W.s 1 to 3 had gone to the house where the deceased was staying. P.W.3 in cross examination has deposed on similar lines with regard to the admission of the deceased in the hospital as was said to have been informed to him by P.W.1. P.W.4, who is also a relative of P.W.1 in his chief examination had deposed that P.W.5, the owner of the house had informed him about the death of the deceased. However, passing of such information by



WEB COPY

P.W.5 to P.W.4 has not been spoken to by P.W.5. Therefore, there is no consensus on who had informed about the suicide of the deceased to P.W.1. What is more intriguing with regard to the above depositions is the fact that P.W.6, who is the brother of P.W.5 has deposed that it was A-1 who informed about the death of the deceased to P.W.1. P.W.6 had further deposed that thereafter upon giving the information, A-1 accompanied P.W.6 to the police station to lodge the complaint. The above contradictions in the evidence of P.W.s 1 to 4 when pitted against the evidence of P.W.6, who is an independent witness, clearly establish that the evidence of P.W.s 1 to 4 cannot be trusted in its entirety as there are too many contradictions and embellishments in the said evidence and, therefore, giving a finding against the respondents herein/accused on the basis of the said evidence would be wholly impermissible.

40. Further, P.W.s 1 to 4 have spoken that the deceased, right from the time of her marriage to A-1 had been complaining that she was being treated cruelly by the accused. In fact, the evidence of P.W.s 1 to 4 is on the said lines, in which they claim that they came to know about the ill-treatment of the deceased by the accused. However, P.W.s 5 and 6, who are independent witnesses have



WEB COPY

clearly deposed that there was no quarrel at any point of time between A-1 and the deceased. In fact, it is the specific deposition of P.W.5 that he had never seen the deceased and A-1 fighting with each other and on the other hand, they were leading a happy life. It is the evidence of P.W.6 that during the time when the deceased and A-1 were residing as tenant, there was no fight or quarrel between the deceased and A-1. In the light of the evidence of the independent witnesses directly being in contradiction to the evidence of P.W.s 1 to 4, placing reliance only upon the said evidence of P.W.s 1 to 4, who are interested witnesses, would not be proper.

41. In the aforesaid backdrop, a perusal of Ex.P-1, the complaint, which was given by P.W.1 on 17.5.2013 at the scene of occurrence, there is a clear indication that he came to know from P.W.6 that upon seeing the deceased hanging, A-1 had informed P.W.6 and with the help of P.W.s 5 and 6, the door was broken open where they found out that the deceased hanging. The statements in Ex.P-1 coincides with the deposition of P.W.6 before the Court. In Ex.P-1, there is no whisper by P.W.1 with regard to any demand for dowry by the accused at any point of time. Further, a perusal of Ex.P-1 reveals that it was



WEB COPY

recorded at 4.00 a.m. on 17/18.5.2013 and the case was registered on the said basis.

42. When the complaint Ex.P-1 was given at 4.00 a.m. on 17/18.5.2013, in which there is no whisper about any demand for dowry by the respondents, however, in Ex.P-2, which is alleged to be a complaint, given by about 6.00 a.m. on 18.5.2013 to the RDO, a diagonally opposite statements have been made by P.W.1 in which P.W.1 has given details about the dowry demands at particular points of time by the respondents. The two complaints, which have been given by P.W.1 being diametrically opposite to each other, placing reliance on one or the other complaint, in the light of the contradictions pointed out above, would not be in the interest of justice. The two diametrically opposite complaints strike at the substratum of the prosecution case and the allegations, which have been pin pointed in Ex.P-2, could only be termed to be improvements, after discussion between the family members and it cannot form the basis to convict the respondents.



WEB COPY

43. To bring home the charge against the respondents with regard to dowry demand and instigation to commit suicide, there should be clear demand for dowry, which has to be proved in the manner known to law and the instigation of the accused by driving the deceased to end her life should be made out. However, in the case, on hand, it is the specific case of the prosecution that marriage was conducted by the respondents by spending about Rs.8 Lakhs and during marriage, the deceased was given 60 sovereigns of jewels and other stridhana articles. It is not the case of the prosecution that any demand for dowry was made by the accused at the time of the marriage. Such being the case, a duty is cast on the prosecution to establish the demand of dowry by the accused. Equally, the instigation of the accused on the deceased to commit suicide has also not been proved, as even according to the prosecution, A-1 and the deceased were not within the joint family, but leading a separate life. Such being the case, no material has been placed by the prosecution to show that there was instigation by the other accused on the deceased, which drove her to commit suicide.



CRL. A. No.322/2021

WEB COPY

44. All the aforesaid aspects have been properly gone into by the court below, by placing reliance on the ratio of the Apex Court with regard to the offences u/s 498 (A), 306 and 304 (II) and the said decision being just, reasonable and based on proper appreciation of the evidence available on record, the acquittal of the respondents recorded by the trial court does not require any interference at the hands of this Court.

45. For the reasons aforesaid, this criminal appeal fails and the same is dismissed confirming the judgment of acquittal of the respondents dated 24.02.2020, recorded by the learned Sessions Judge, Magalir Neethimandarm, Fast Track Mahila Court, Tiruvallur, in S.C. No.253/2016.

05.09.2024

Index : Yes / No

GLN

To

1. The Sessions Judge
Magalir Neethimandram
Fast Track Mahila Court



CRL. A. No.322/2021

WEB COPY Tiruvallur.

2. The Inspector of Police
Ambattur Police Station
Tiruvallur District.
3. The Public Prosecutor
High Court, Madras.



WEB COPY 4.



CRL. A. No.322/2021

M.DHANDAPANI, J.

GLN

**PRE-DELIVERY JUDGMENT IN
CRL. A. NO.322 OF 2021**

Pronounced on



WEB COPY



CRL. A. No.322/2021

05.09.2024