



WEB COPY

CRL A No. 389 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-07-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL A No. 389 of 2017

Raja @ Azhagar Raja,
S/o.Late. Chinnaya,
Now confined in Central Prison,
Coimbatore District.

..Appellant(s)

Vs

The State of Tamil Nadu,
Rep. by its Inspector of Police,
Erode South Police Station,
Erode.

..Respondent(s)

PRAYER: Criminal Appeal filed under Section 374(2) of Cr.P.C., praying to set aside the judgment passed against the appellant on 29.07.2016 by the learned Sessions Judge (Mahalir Fast Track Court), Erode in S.C.No.48 of 2015 and acquit him from all charges.

For Appellant(s): Mr.V.Murali,
Legal Aid Counsel

For Respondent(s): Mrs.Sharada Vivek,
Counsel for Government of Tamilnadu (Crl. Side)

JUDGMENT

The appellant/accused in S.C.No.48 of 2015 was convicted by the trial Court, by judgment dated 29.07.2016 for the offence under Section 306 of I.P.C. and sentenced to undergo ten years rigorous imprisonment and to pay a



fine of Rs.100/-, in default, to undergo six months simple imprisonment.

Aggrieved against his conviction, the appellant/accused preferred the above appeal.

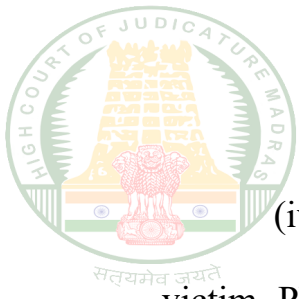
2. (i) The gist of the prosecution case is that the deceased, who completed the 12th standard, joined the fruit shop, namely, Pazhamudir Nilayam owned by PW5 as a bill clerk-cum-cashier. The appellant/accused was also employed in the said shop. The deceased was working in the shop for about nine months. On 09.10.2014, when the shop was opened, the deceased found that a cash of Rs.6,000/- missing from the cash counter and she informed the same to the appellant, who was present in the shop. At that time, the appellant accused that the deceased had stolen the cash. The deceased refused the same and there was a heated arguments in this regard. Thereafter, PW5, the owner of the shop came there, pacified both of them and informed the appellant to forego the amount and not to accuse the deceased and he left the shop. Thereafter too, the appellant made accusation against the deceased.

(ii) The deceased went to her house for lunch. PW1/father, PW2/sister and PW3/mother all had lunch together. At that time, the deceased informed about the harassment and false accusation made against her by the appellant. PW1/father informed that he would speak to the owner in the evening and asked her to go for work. Thereafter, PW1 to PW3 went to attend their own work.



PW4/brother was informed about the incident by PW1 to PW3. PW2/sister, who was married and residing nearby, was informed by the neighbours that her sister had self-immolated by pouring kerosene and was burning. She immediately rushed to the spot. The neighbours and PW2 extinguished the fire and took the deceased to the Government Hospital, Erode, where PW10, the Casualty Doctor admitted her in the hospital and issued Accident Register/Ex.P9 and informed the police through the intimation/Ex.P10.

(iii) PW13, the Sub-Inspector of Police received the information at about 4.00 p.m. and proceeded to the hospital. Finding that the victim was unable to speak, she returned to the police station. On 11.10.2014, at about 12.30 p.m., she again visited the hospital, found the victim in a conscious state and recorded her statement/Ex.P13 in presence of PW2. In the meanwhile, PW9, the another Casualty Doctor finding that the victim regained consciousness, informed the Magistrate/PW8 for recording her dying declaration. Accordingly, PW8 came to the hospital and recorded the dying declaration/Ex.P6, wherein, the victim clearly stated that the reason for her committing suicide was the false accusation and abetment of the appellant. PW13 registered F.I.R./Ex.P14 in Crime No.453 of 2014 for offence under Section 306 of I.P.C. against the appellant and informed to PW14, the Inspector of Police, who visited the scene of occurrence, prepared observation mahazar and rough sketch in presence of PW7, collected the burnt dress/M.O.1 and M.O.2 of the victim, and kerosene can/M.O.3 in presence of witnesses.



(iv) On 12.10.2014, on receiving information about the death of the victim, PW14 went to the hospital and conducted inquest/Ex.P16. On the same day, at about 10.30 a.m., on getting information about the appellant/accused, he was arrested, his statement recorded and he was produced before the Magistrate for remand. PW1/father, PW2/sister and PW3/mother all confirmed that the appellant falsely accused the deceased of committing theft and misappropriating the cash of Rs.6,000/-. PW6, a nearby shop owner, deposed that he had seen the deceased and the appellant together at about 2.30 p.m. on the date of occurrence. On completion of investigation, charge sheet filed in this case.

3. During trial, on the side of the prosecution, PW1 to PW14 examined and Exs.P1 to P16 marked and M.O.1 to M.O.3 produced. On the side of the defence, no witnesses examined and no documents marked. On conclusion of the trial, the Trial Court convicted the appellant as stated above.

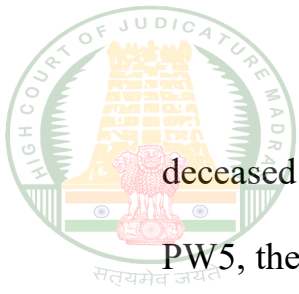
4. After the conviction, the appellant was confined in prison. He had not preferred any appeal against his conviction. Through the Legal Services Authority, a Legal Aid Counsel was appointed and the present appeal is filed with a delay of 272 days along with a petition seeking suspension of sentence and bail. The above appeal was filed on 27.06.2017 and this Court granted bail to the appellant on 13.11.2017.



5. The learned counsel for the appellant submitted that in this case PW1 to PW14 examined during trial. The appellant was arrested on 12.10.2014 and he was in prison throughout the trial. Since the appellant was undefended, none of the witnesses was cross-examined. As per Section 304 of Cr.P.C., the Trial Court ought to have ensured the appointment of Legal Aid Counsel to defend the appellant, but the Trial Court failed to do so and proceeded with the trial and convicted the appellant, which is not proper.

6. The learned counsel further relied upon the judgment of the Hon'ble Apex Court in the case of ***Kashibai and Others vs. State of Karnataka*** reported in ***2023 SCC OnLine SC 575*** for the point that there has to be evidence with regard to the instigation, conspiracy or intentional aid on the part of the accused. In this case, there is no evidence to show that soon before her death, the appellant instigated or intentionally aided the deceased in committing suicide, which is a pre-condition under Section 107 of I.P.C. Hence, he prayed to set aside the conviction.

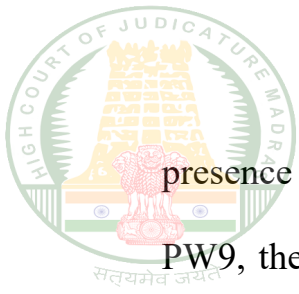
7. The learned counsel for Government of Tamilnadu (Criminal Side) submitted that in this case the appellant and the deceased were working in the Pazhamudhir Nilayam owned by PW5. On 09.10.2014, the shop was opened at about 8.30 a.m., at that time, the deceased found Rs.6,000/- missing from the cash box. She informed the appellant, who made the accusation against the



deceased that she had taken the money and there was a fight between them.

PW5, the shop owner came there, questioned and he advised the appellant not to make false accusation on the deceased. The deceased parents are daily coolies, her father is a load man. After completing her 12th standard, the deceased joined the shop of PW5 and worked there for almost nine months and during that period, no remarks against her, which was confirmed by PW5. On the same day, the deceased had gone to her house to have lunch and was in a very depressed and pensive mood and informed about the incident to her parents PW1 and PW3 and sister/PW2 during lunch. PW1 informed that he would speak to the owner in the evening hours. Thereafter, all three left for work but the deceased unable to bear the insult and humiliation, set herself on fire by pouring Kerosene over her body. The neighbours informed PW2, who was residing nearby, she came, doused the fire and took the deceased in an Ambulance to the Government Hospital, Erode. PW10, the Casualty Doctor admitted the deceased in the hospital, issued AR copy and informed the respondent police.

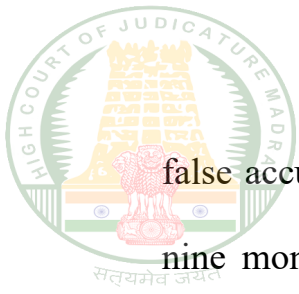
8. She further submitted that PW13, on receipt of information, came to the hospital and found that the deceased was not in a position to talk. Thereafter, on 11.10.2014, found that the deceased regained consciousness, recorded her statement at an early hour and based on her statement/Ex.P13, F.I.R./Ex.P14 registered and submitted to PW14, the Investigating Officer. PW14 took up the investigation, visited the scene of occurrence, prepared observation mahazar in



presence of witnesses, collected M.O.1 to M.O.3 under the cover of mahazar.

PW9, the another Casualty Doctor informed the Magistrate/PW8 for recording her dying declaration. PW8 after getting fitness certificate from PW9, recorded dying declaration/Ex.P6. On 11.10.2014, the deceased succumbed to the burn injuries. PW9 sent death intimation to the police and the body was handed over to PW12, who identified the body to PW11, the Post-mortem Doctor. PW11 conducted post-mortem and issued post-mortem report/Ex.P12 confirming that the death was caused by burn injuries. The appellant/accused was arrested on 12.10.2014 at about 11.30 a.m. and produced for remand. On conclusion of investigation, charge sheet filed in this case. She further submitted that during trial PW1 to PW14 examined, Exs.P1 to P16 marked and M.O.1 to M.O.3 produced. The Trial Court, on the evidence and materials produced, had rightly convicted the petitioner. Hence, she prayed to dismiss the appeal.

9. On the submissions of the learned counsel for the appellant and the learned counsel for the Government of Tamilnadu and on perusal of the materials, it is seen that the appellant and the deceased were employed in the shop of PW5. The deceased was in charge of billing and receiving cash. On 09.10.2014, an amount of Rs.6,000/- found missing from the cash box, which was informed by the deceased, but the appellant made accusation against the deceased that she had only taken the amount of Rs.6,000/- and there was a heated arguments. PW5 came later and instructed the appellant not to make



false accusations, finding that the deceased working in the shop for more than nine months without any remarks, but the appellant continued to make false accusations and also threatened the deceased that her photograph would be published in all newspapers and TV channels stating that she committed the theft of Rs.6,000/-, which greatly dejected the deceased.

10. The deceased complained to her parents and sister/PW1 to PW3 about the false accusation. PW1/father informed that he would speak to the owner in the evening and asked her to go for work. Thereafter, PW1 to PW3 went to attend their work. PW6, a nearby shop owner, saw the appellant and the deceased fighting each other. The deceased committed self immolation by pouring kerosene on her body at about 4.00 p.m. She was immediately rushed to the hospital. PW10/Casualty Doctor admitted the deceased and PW2 accompanied her. PW9, the another Casualty Doctor informed PW8, the Judicial Magistrate, that the deceased was in a conscious state. PW8 went there and after ascertaining her mental state and getting a fitness certificate from PW9, recorded the dying declaration. In the dying declaration, the deceased clearly stated that the extreme steps to commit suicide was due to false accusations made by the appellant and the dying declaration marked as Ex.P6.

11. The Post-mortem Doctor/PW11 conducted post-mortem and confirmed that the death was due to burn injuries, which is marked as Ex.P12. The chain of events confirms that it is the appellant, who is the reason for the



deceased taking the extreme step and committing suicide. Thus, the prosecution proved the case by cogent evidence. It is seen that the appellant was arrested on 12.10.2014 and has remained in jail throughout the trial. After his conviction, he continued to be detained in prison. After the Legal Aid Counsel was appointed, the appeal was filed on 27.06.2017 and the appellant was granted bail by this Court on 13.11.2017. Thus, the appellant was in prison from 12.10.2014 till 13.11.2017. It is seen that in this case none of the witnesses cross-examined.

12. In view of the above, this Court finds that the conviction of the appellant for offence under Section 306 of I.P.C. is sustainable. But modifies the sentence of ten years to the period already undergone by the appellant.

13. With the above modification, this Criminal Appeal is partly-allowed.

14. This Court appreciates Mr.V.Murali, Legal Aid Counsel for the appellant for his strenuous efforts in doing research and putting forth the case of the appellant effectively. The Legal Services Authority shall pay the remuneration to the Legal Aid Counsel as per Rules.

29-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
RSI



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M.NIRMAL KUMAR J.

RSI

WEB COPY

To

- 1.The Sessions Judge
Mahalir Court (Mahalir Fast Track Court),
Erode.
- 2.The Inspector of Police,
Erode South Police Station,
Erode.
- 3.The Public Prosecutor,
High Court of Madras.

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