

Bail Slip

The Appellants/Accused 1 to 3, namely Sriraman, S/o. Dhurvasan, (A1) Dhurvasan, S/o. Selva Naidu, (A2), Munilakshmi, W/o. Dhurvasan (A3), were directed to be released on bail as per order of this court dated 7.3.2013 made in CrI.MP.No.1/13 in CrI.A.No.138/2013.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.03.2016

CORAM

THE HONOURABLE MR. JUSTICE M. JAICHANDREN
AND
THE HONOURABLE MR. JUSTICE S. NAGAMUTHU

CRL.A.No.138/2013

1.Sriraman
2.Dhurvasan
3.Munilakshmi ..Appellants/A1 - A3
Versus

The State represented by
The Inspector of Police
Rayakottai Police Station
Krishnagiri District.
(crime No.139 of 2009) ..Respondent/Complainant

Appeal filed under section 374 Cr.P.C., against the conviction and sentence passed in the Judgment made in SC.No.128/2010 dated 08.02.2013 on the file of the learned Principal District and Sessions Judge, at Krishnagiri.

For Appellants : Mr.S.Sekar for Mr.K.Premkumar
For Respondent : Mr.M.Maharaja
Additional Public Prosecutor

JUDGMENT

[Judgment of the Court was delivered by S. NAGAMUTHU, J,]

The appellants are arrayed as A1 to A3 in SC.No.128/2010 on the file of the learned Principal District and Sessions Judge, Krishnagiri. A1 is the son of A2 and A3 and the husband of the deceased. The Trial Court framed as many as three charges against all the three accused. The first charge was u/s.4[a] and 4[c] of the Tamil Nadu Prohibition of Women Harassment Act, 1998 ; the second charge was u/s.302 IPC and the third charge was u/s.201 read with 302 IPC. By judgment dated 08.02.2013, the Trial Court sentenced each of the accused to undergo imprisonment for life and to pay a fine of Rs.50,000/- each, in default, to undergo two years rigorous imprisonment for both the offences u/s.4[a] and 4[c] of the Tamil Nadu

Prohibition of Women Harassment Act, 1998 and u/s.302 IPC and sentenced each of them to undergo two years rigorous imprisonment and to pay a fine of Rs.2000/- each, in default, to undergo two months rigorous imprisonment for the offence u/s.201 read with 302 IPC. Challenging the said conviction and sentence, the appellants are before this Court with this appeal.

2 The case of the prosecution, in brief, is as follows:-

[A] The deceased in this case was one Mrs.Vani @ Vanitha. The marriage between the first accused and the deceased was celebrated on 01.09.2008. P.Ws.1 to 3 are the father, mother and brother respectively of the deceased. According to the case of the prosecution, at the time of marriage, 25 ½ sovereigns of gold and Rs.75,000/- cash was given as dowry by the parents of the deceased to A1. After some time of the marriage, all the three accused started demanding dowry from the deceased and harassed her. It is also stated that on 28.03.2010, between 13.00 hrs and 15.45 hrs. all the three accused joined together attacked the deceased, caused injuries and then, they hanged her to appear as though she hanged herself to commit suicide.

[B] In order to prove the said case, the prosecution has examined as many as 11 witnesses, out of whom, P.Ws.1, 3, 4 and 5, who are vital witnesses, have turned hostile and they have not supported the case of the prosecution. P.W.2, the mother of the deceased has stated that on the previous day of occurrence, i.e., on 27.03.2010, she heard that the deceased was indisposed and therefore, she went to the house of the deceased and stayed over-night at the house of the deceased and on the next day morning, i.e., on 28.03.2010, at about 08.30 hrs to 08.45 hrs, she left for her house. On the same day, at 15.00 hrs. she was informed that the deceased had committed suicide by hanging. On receiving the said information, according to her, she along with her husband [P.W.1] went to the house of the deceased, found the deceased dead and thereafter, P.W.1 made a complaint [Ex.P.17] to the Sub Inspector of Police, Rayakottai Police Station. In the mean time, the body of the deceased was taken to a private hospital in an Ambulance on 28.03.2010, after being removed from the noose on the day of occurrence. On examining her, Dr.Ramanandh [P.W.6], declared her dead.

[C] P.W.10, the then Sub Inspector of Police attached to Rayakottai Police Station, at the relevant point of time, on receipt of the said complaint from P.W.1 under Ex.P.17, registered a case in Crime No.139/2010 for the offence u/s.174 Cr.P.C. [Suspicious death]. Ex.P.18 is the FIR. Then, he forwarded both the documents, viz., the complaint [Ex.P.17] and the FIR [Ex.P.18] to the Court concerned, which were received by

the learned Magistrate at 00.30 hours on 30.03.2010 and to his higher officials.

[D] P.W.11, the then Deputy Superintendent of Police took up the case for investigation. He proceeded to the scene of occurrence at about 09.30 hrs. on 29.03.2010 and in the presence of P.W.5 and one Eswaran, he prepared the Observation Mahazar [Ex.P.19] and a Rough Sketch [Ex.P.20]. He also recovered a Bedsheet [M.O.1] ; a screw [M.O.2] and a towel [M.O.3] under a Mahazar [Ex.P.21]. He also recorded the statements of few more witnesses in the place of occurrence. He forwarded the copy of the FIR to the Revenue Divisional Officer/Executive Magistrate, for holding inquest on the dead body of the deceased. On 30.03.2010, upon examining the witnesses and on coming to know that the deceased had committed suicide due to dowry harassment by the accused persons, P.W.11 altered the case into one u/s.306 IPC. Ex.P.22 is the altered FIR and the same was sent to the Court concerned.

[E] P.W.9, the then Revenue Divisional Officer at Hosur, on receipt of the FIR, held inquest on the body of the deceased in the presence of the Panchayatdars and other witnesses and prepared the Inquest Report [Ex.P.6]. He also examined the witnesses and recorded their statements. He then forwarded the body of the deceased for postmortem through P.W.7, a Police Constable. Since P.W.9 was of the opinion that the death of the deceased was not due to dowry harassment and that in order to find out the true cause of the death, he sent a report [Ex.P.16] on 31.03.2010 to P.W.11.

[F] P.W.8-Dr.Navaneethan, a Civil Assistant Surgeon in the Government Hospital, at Hosur, during the relevant point of time, on receipt of the requisition, conducted autopsy on the dead body of the deceased at 15.00 hrs. on 29.03.2010. He found the following injuries:-

"External Injuries:-

A mark encircling the neck 2x20 m in diameter, supra thyroid area in mid line runs spherically up to both mastoid process knot mark not able to trace. 10X10 cm echymosis in the left shoulder joint extends up to left lateral chest wall.

Internal Examination:-

Hyoid bone preserved in formal m. Scar tissue with adjacent dermal tissue preserved in formal m. Ribs 2, 3, 4 are # at the costochondral junction. Heart: 325 gm C/s.pale.

Chambers empty. Right lung-480g c/s. Congested. Left lung-450g. 13X10 cm contusion anterior aspect of left apical with 3x3x3 cm laceration. 250ml of blood in the mediastinal cavity with haemothorax left side. Stomach:- 450ml of fully digested rice + ragi. Liver-1450 g. c/s.congested. Spleen:90g. C/s. Congested. Kidney:90G.c/s congested. Uterus-empty. Lower mid line scar, vertical abdomen. Skull-normal. Membranes-normal. Brain-normal. Base of the skull-normal."

Ex.P.5 is the Postmortem Certificate. He opined that the fractures of the ribs were antemortem in nature and the death was due to hanging.

[G] P.W.11, continuing the investigation, received Ex.P.5 the Postmortem Certificate and altered the case to one u/s.302 IPC. Ex.P.23 is the altered FIR. He also examined P.Ws.1 to 3 and one Santhi, Srikanth and recorded their statements. On 30.03.2010, at 08.00 hrs, he arrested the accused persons in the Hosur Bus Stand. On returning to the Police Station, he forwarded all the three accused for judicial remand and also the material objects to the Court under Form-95. He also examined the doctor who conducted the autopsy on the body of the deceased and recorded his statement. On completion of the investigation, he laid the charge sheet against all the three accused.

[H] Based on the above materials, the Trial Court framed charges against the accused as detailed in the first paragraph of the Judgment. The accused denied the same. In order to prove the case on the side of the prosecution, as many as 11 witnesses were examined, 23 documents and 3 material objects were also marked.

[I] As we have already pointed out, P.Ws.1, 3, 4 and 5 have turned hostile and they have not supported the case of the prosecution in any manner. P.W.2 alone has supported the case of the prosecution to some extent. P.W.6, is the doctor who examined the deceased and declared her dead on arrival. P.W.7 is the Police Constable who took the dead body of the deceased for postmortem. P.W.8 is the doctor who conducted autopsy on the body of the deceased and his final opinion regarding the cause of death. P.W.9 is the Revenue Divisional Officer who had held inquest on the dead body of the deceased and his opinion regarding the death. He has stated that the death of the deceased was not due to dowry harassment. P.W.21, is the Sub Inspector of Police, who has spoken about the registration of the case on the complaint of P.W.1 under Ex.P.17. P.W.211, the Deputy Superintendent of Police has spoken about the investigation done and the filing of the final report by him.

3 When the above incriminating materials were put to the accused u/s.313 Cr.P.C., they denied the same as false. Their defence was that the deceased committed suicide by hanging. However, on the side of the accused, neither any witness was examined nor was any document marked.

4 Having considered all the above, the Trial Court convicted and sentenced the accused persons, as detailed in the first paragraph of the judgment. Challenging the said conviction and sentence, the appellants are before this Court.

5 We have heard the learned counsel appearing for the appellants and Mr.M.Maharaja, learned Additional Public Prosecutor appearing for the State and we also perused the materials placed on record carefully.

6 As we have already pointed out, the prosecution relies only on the evidence of P.W.2, the mother of the deceased. P.W.2 is not an eyewitness to the occurrence. According to her, by about 09.00 hrs on 28.03.2010, she left for her house and in the evening by about 15.00 hrs, she received the information that her daughter had committed suicide by hanging. The medical opinion itself is that the death was due to hanging. It is not as though these three accused alone were in the house. Absolutely there is no evidence in any manner connecting any of these accused, either to the death of the deceased or with the fracture of the ribs. Thus, there is no evidence, either direct or circumstantial, to prove that the accused had committed murder of the deceased.

7 So far as the offence u/s.4[a] and 4[c] of the Tamil Nadu Prohibition of Women Harassment Act, 1998, the evidence of P.W.2 is not cogent and the same is not convincing. It is very vague in nature. There is no corroboration from any other sources also. She has not given any details in respect of the alleged demand made by these accused and the harassment meted out, including the occasion or the time at which such harassment was made. There is no other corroboration to her evidence also. Therefore, the evidence of P.W.2 alone would not go to clinchingly prove the guilt of the accused. In our considered view, the prosecution has failed to prove the case beyond reasonable doubts and hence, the appellants/accused are entitled for acquittal.

8 Accordingly, the criminal appeal is allowed. The conviction and sentence imposed on the appellants/accused for the offences u/s. 4[a] and 4[c] of the Tamil Nadu Prohibition of Women Harassment Act, 1998, 302 IPC and 201 read with 302 IPC, by the learned Principal Sessions Judge, Krishnagiri, in SC.No.128/2010 dated 08.02.2013, are set aside. The appellants are acquitted of all the charges leveled against them.

9 It is reported that the appellants are on bail. Bail bonds executed by them, shall stand discharged. Fine amount if any paid, shall be refunded to them.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Judicial Magistrate, Denkanikottai.
 2. -do- Through The Chief Judicial Magistrate, Krishnagiri.
 3. The Principal District and Sessions Judge Krishnagiri.
 4. The Superintendent, Central Prison, Vellore.
 5. The Inspector of Police Rayakottai Police Station Krishnagiri District.
 6. The Superintendent, Special Prison for Women Vellore.
 7. The Public Prosecutor High Court, Chennai.
- + 1 cc to Mr.K. Premkumar, Advocate SR.19439

Judgment in Cr1.A.No.138/2013

EV(CO)
EU 28.04.2016

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