



BAIL SLIP

Mr.Kannan @ Ramanathan, aged 43 years male S/o, Chinnakannu was enlarged on bail on 07.09.2015 in the order dated 07.09.2015 made in Crl.A(MD)No.203/15 by SNJ & VSRJ.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE **S.NAGAMUTHU**

AND

THE HONOURABLE MR.JUSTICE **M.V.MURALIDARAN****CRL.A[MD].No.203 of 2015**

Kannan @ Ramanathan : Appellant/Accused No.1

Vs.

State rep by
The Inspector of Police,
Vadakadu Police Station,
Pudukkottai, Pudukkottai District,
Crime No.190 of 2008. : Respondent

PRAYER: Appeal is filed under Section 374(2) of the Code of Criminal Procedure against the Judgment and conviction dated 27.04.2015 made in S.C.No.76 of 2011, on the file of the learned Sessions Judge, Mahila Court, Pudukkottai, Pudukkottai District.

For Appellant : Mr.A.Thiruvadikumar
For Respondent : Mr.K.S.Duraipandian
Additional Public Prosecutor

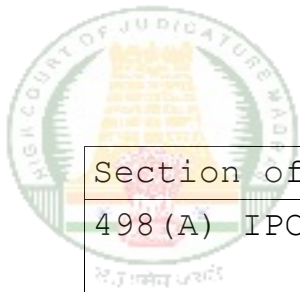
JUDGMENT

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

The appellant is the first accused in S.C.No.76 of 2011, on the file of the learned Sessions Judge, Mahila Court, Pudukkottai, Pudukkottai District. There were three other accused, by name, Mr.Chinnakannu, Mrs.Suriyakala and Mr.Baskaran, who were arrayed as Accused Nos.2 to 4 in the case. The Trial Court framed two charges against all the four accused, as detailed below.

Charge	Accused	Penal Provisions
1	1 to 4	498 (A) IPC
2	1 to 4	304 (B) IPC

By Judgment dated 27.04.2015, the Trial Court acquitted the accused Nos.2 to 4 from both the charges, however, convicted the appellant/the first accused alone, as detailed below:-



Section of Law	Sentence	Fine amount
498 (A) IPC	To undergo rigorous imprisonment for three years.	Rs.5,000/- in default to undergo rigorous imprisonment for six months.
304 (B) IPC	To undergo imprisonment for life.	Rs.1,000/- in default to undergo rigorous imprisonment for three years.

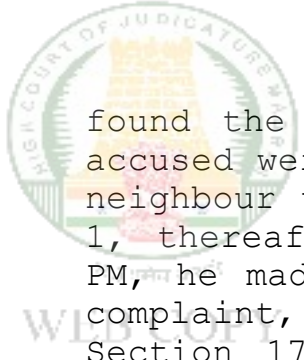
The sentences have been ordered to run concurrently. Challenging the said conviction and sentence, the appellant/the first accused has come up with this Criminal Appeal.

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

The deceased, in this case, was one Mrs. Shanthi. The appellant/the first accused is her husband. The accused Nos. 2 to 4 are the mother, the father and the brother respectively of the first accused. The marriage between the first accused and the deceased was celebrated on 16.03.2008. It is alleged that at the time of marriage, dowry articles, such as, 50 sovereigns of gold jewels, a Television, an Air Conditioner, a Motorcycle, Dining Table, a Hot, a Bureau and certain vessels were presented to the bride and bridegroom. After the marriage, the deceased and the first accused were residing along with the other accused as a joint family at Koothadivayal Village, Aranthangi, Pudukkottai District.

2.1. Initially, the marriage life was happy for sometime. It is stated that after sometime of the marriage, the first accused demanded a sum of Rs.3,00,000/- from the parents of the deceased for the purpose of going over to Singapore seeking employment. Since, according to the case of the prosecution, the deceased was harassed, demanding dowry, she returned back to her parental home. On 24.07.2008, the first accused along with the accused Nos. 2 and 3 came to the house of the parents of the deceased and persuaded the deceased to take her back. Accordingly, the deceased went along with the first accused to his house. It is stated that after going over to his house, the first accused again harassed her demanding a sum of Rs.3,00,000/-. Unable to bear the said torture, it is alleged that at 12.00 noon, on 27.07.2008, the deceased committed suicide by hanging at the house of the first accused. The said occurrence was not witnessed by anyone.

2.2. PW-1 is the father of the deceased. According to him, around 12.00 noon, on 27.07.2008, someone informed him over phone about the death of the deceased. Immediately, he went along with the other family members to the house of the first accused. They



found the deceased lying with a ligature mark on her neck. The accused were very much available there. The accused as well as the neighbour told that the deceased committed suicide by hanging. PW-1, thereafter, went to the Vadakadu Police Station and at 02.00 PM, he made a complaint to the police. On the basis of the said complaint, a case was registered in Crime No.190 of 2008, under Section 174(b) of the Code of Criminal Procedure. EX-P1 is the complaint and EX-P8 is the First Information Report. The case was taken over for investigation by PW-19. Then, he forwarded a copy of the First Information Report to the Revenue Divisional Officer to hold inquest, since the death of the deceased had occurred within seven years of the marriage.

2.3. PW-18, the then Revenue Divisional Officer, conducted inquest on the dead body of the deceased, held enquiry and submitted a report. On 27.07.2008, PW-19 proceeded to the place of occurrence, prepared an Observation Mahazer and a Rough Sketch, showing the place of occurrence in the presence of the witnesses. He recovered a saree, which was used by the deceased as a ligature to hang herself. After the enquiry was over by the Revenue Divisional Officer, the dead body was sent for postmortem.

2.4. PW-14 and PW-16 conducted autopsy on the body of the deceased, at 12.40 PM, on 28.07.2008. They found a ligature mark around the neck of the deceased, measuring 6X2 CM, extending up to an anterior neck. They gave opinion that the deceased died due to hanging.

2.5. PW-19, then, handed over the case diary to his successor for further investigation. PW-20 examined PW-1 to PW-4, but did not record their statements, as PW-19 had already recorded their statements. On 30.07.2008, PW-20 arrested the accused Nos.1, 2 and 4 in the presence of the witnesses at Alangudi Kamarajar Statue. Then, he forwarded the accused Nos.1, 2 and 4 to the Court for judicial remand. On completing the investigation, he laid charge sheet against all the four accused, on 30.12.2008.

2.6. Based on the above materials, the Trial Court framed appropriate charges, as detailed in the first paragraph of this Judgment. When the accused were questioned in respect of the charges, they pleaded innocence. In order to prove the charges, on the side of the prosecution, 20 witnesses were examined, 10 documents and one material object were marked. Out of the said 20 witnesses, PW-1 - the father, PW-2 - the brother, PW-3 - the mother and PW-4 - a neighbour have spoken about the marriage between the accused and the first accused, the presentation made at the time of marriage and the frequent quarrels between them. They have further stated that the appellant/the first accused demanded a sum of Rs.3,00,000/- from the deceased for the purpose of going over to Singapore seeking employment. They have further

2.7. WEB COPY

2.8. PW-15, a Head Police Constable, has stated that he handed over the dead body to the hospital for postmortem. PW-17 has spoken about the registration of the case, on the complaint made by PW-1. PW-18, the then Revenue Divisional Officer, has spoken about the inquest held by him. PW-19 and PW-20 have spoken about the investigation conducted by them and the filing of final report.

2.9. When the Trial Court examined the accused under Section 313 of the Code of Criminal Procedure in respect of the incriminating evidences available against them, they denied the same as false. However, they did not choose to examine any witness nor to exhibit any document. The defence of the accused was that the deceased was a graduate, holding BBA Degree to her credit, whereas, the first accused had studied only upto 10th standard. Though the deceased was not willing to marry the first accused, out of compulsion from her parents, she married the first accused. But, from the day one, she was not happy with the marriage and thus, the marriage was not consummated on account of total non-cooperation on the part of the deceased. Thus, according to them, all the accused were innocence and they never demanded any dowry, nor did they harass them.

2.10. Having considered all the above materials, the Trial Court has acquitted the accused Nos.2 to 4, but convicted the appellant/the first accused, as detailed in the first paragraph of this Judgment and punished him accordingly. That is how, the appellant/the first accused is now before this Court with this Criminal Appeal.



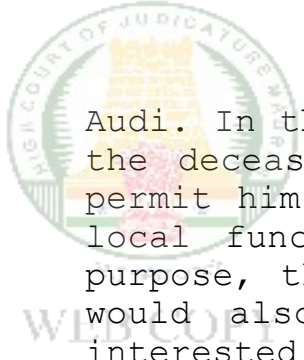
appellant, the learned Additional Public Prosecutor appearing for the respondent and also perused the records carefully.

4. There is no denial of the fact that the marriage between the first accused and the deceased was celebrated on 16.03.2008. It is also not in dispute that the deceased was a graduate, holding BBA Degree to her credit, whereas the appellant/the first accused had studied only upto 10th standard. The fact that the jewels and the other household articles were presented at the time of marriage by the parents of the deceased has also not been disputed seriously. To this extent, there is no controversy over the facts, as alleged by the prosecution.

5. According to the further case of the prosecution, the first accused had developed illicit intimacy with a girl, by name, Sundari. This came to the knowledge of the deceased. The first accused also became a drunkard. Whenever the deceased questioned the first accused about his illicit relationship with the said Sundari, she was harassed by the first accused, that too, in a drunken state. In a very vague manner, PW-1 to PW-4 have stated that on one occasion, the deceased told them that the first accused demanded a sum of Rs.3,00,000/- from her parents to enable him to go over to Singapore seeking employment.

6. It is in evidence that before the marriage, the first accused was in Singapore and he was employed there in a private concern. After the marriage, according to PW-1 to PW-4, the first accused wanted to go back to Singapore seeking employment. For this purpose, he demanded a sum of Rs.3,00,000/-. But, nowhere it is stated that the said amount was demanded in connection with the marriage. Further, except a vague allegation that the first accused wanted the deceased to get a sum of Rs.3,00,000/- from her parents to go over to Singapore, there is no other evidence, even to remotely infer that the deceased was harassed, demanding dowry. Though these four witnesses have stated that the first accused demanded a sum of Rs.3,00,000/-, in our considered view, going by all the other facts and circumstances of the case, we find it difficult to believe this part of the evidence of PW-1 to PW-4. From the answers elicited during cross-examination of these witnesses, it is inferable that the deceased was not happy with the marriage.

7. Though it is stated that the deceased had come to her parental home, sometime before the occurrence, it was not out of any harassment. It is in evidence that it was the customary practice of that area to separate the bride and the bridegroom, after the marriage, during the Tamil month of Audi. It was as per the said customary practice, the deceased was taken back to her parental home. As per the practice, the deceased should have remained at the house of her parents till the end of Tamil Month



Audi. In the middle of the month, the accused came to the house of the deceased and requested PW-1 and the other family members to permit him to take the deceased to his house, because there was a local function, known as "Moi Virundhu". It was only for that purpose, the deceased was sent along with the first accused. This would also go to show that the first accused was very much interested in the marital life and he took the deceased to his house only to make her to participate in the function. It is not in evidence that the first accused made any demand for any amount from PW-1 and the other family members. Absolutely, there is no other evidence that either before or after the said incident, the first accused made any demand from any of the family members of the deceased.

8. Thus, having regard to these facts and all the other circumstances, we find that there is some truth in the defence taken by the accused that the deceased was depressed, because she had suspicion over the chastity of the first accused. She often quarreled with him suspecting that he had illicit intimacy with the said Sundari. The first accused also became a drunkard. Because of the above, the deceased would have frustrated in her life and committed suicide. Thus, we find it difficult to believe the case of the prosecution that the deceased had committed suicide on account of the alleged harassment. As we have already pointed out, absolutely, there is no other evidence to show that soon before the death of the deceased, she was subjected to harassment, demanding any property or valuable security in connection with the marriage.

9. In view of the above foregoing discussion and having regard to all the facts and circumstances of the case and on having a complete analysis of the evidence let in by the prosecution, we hold that there is no acceptable evidence to prove the charges framed against the first accused and thus, the first accused is entitled for acquittal.

10. In the result, this Criminal Appeal is allowed; the conviction and sentence imposed on the appellant/the first accused, by Judgment dated 27.04.2015, made in S.C.No.76 of 2011, on the file of the learned Sessions Judge, Mahila Court, Pudukkottai, Pudukkottai District, is set aside and the appellant/the first accused is acquitted. Fine amount, if any, paid by the appellant shall be refunded to him. Bail bond executed by the appellant and the sureties shall stand terminated.

Sd/-

Assistant Registrar(CO)

/True copy/



To

1.The Sessions Judge, Mahila Court,
Pudukkottai, Pudukkottai District.

2.The Judicial Magistrate, Alangudi.

3.The Cheif Judicial Magistrate, Pudukkottai.

4.The District Collector, Pudukkottai District.

5.The Director General of Police, Chennai.

6.The Superintendent, Central Prison, Trichy.

7.The Inspector of Police,
Vadakadu Police Station,
Pudukkottai, Pudukkottai District.

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

+1 cc to M/s.A.Thruvadikumar, Advocate in SR.No. 60633

NB

CSL/PV/10.11.2016: 7P/10C

JUDGMENT MADE IN
CRL.A[MD] .No.203 of 2015
07.10.2016