

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2017

CORAM

THE HONOURABLE MR. JUSTICE M.VENUGOPAL

Crl.A.No. 593 of 2014

S.Sivakumar

... Appellant / Accused No.1

Vs.

State Rep. By
The Inspector of Police,
Government Railway Police Station,
Erode

... Respondent / Complainant

PRAYER: Criminal Appeal is filed under Section 374(2) of the Code of Criminal Procedure to set aside the conviction and sentence passed by the Learned Sessions Judge, Magalir Neethimandram (Fast Track Court), Erode dated 10.03.2014 made in Sessions Case No.116 of 2013.

For Appellant : Mr.P.Sivakumar

For Respondent : Mr.R.Ravichandran
Government Advocate (Crl.Side)

J U D G M E N T

Preface

The Appellant / A.1 has focussed the instant Criminal Appeal before this Court as against the Judgment dated 10.03.2014 in S.C.No.116 of 2013 passed by the Learned Sessions Judge, Magalir Neethimandram (Fast Track Court), Erode.

2. The trial Court while passing the impugned Judgment in S.C.No.116 of 2013 on 10.03.2014 at Paragraph 20 had observed that “in the result, the 1st Accused (Appellant) was found guilty in respect of an offence under Section 306 of IPC and imposed punishment of three years of Rigorous Imprisonment, besides imposing a fine of Rs.1,10,000/- in default of payment of fine, further one year Simple Imprisonment was imposed. The period already undergone by the 1st Accused (Appellant) was directed to be set off under Section 428 of Cr.P.C., Further, it was ordered that if the fine of Rs.1,10,000/- was paid, from and out of the said amount, a sum of Rs.1,00,000/- was to be deposited in a fixed deposit in any one of the nationalised bank in the name of Arunkumar, rep.by P.W.4 (Sivalingam – Guardian) since the said Arunkumar (a mentally challenged child) was born to the 1st Accused (Appellant) and deceased Rajeswari. In fact, the trial court had acquitted the Appellant (1stAccused) in respect of an offence under Section 498 A and acquitted the 2nd Accused under Sections 498A and 306 of IPC, since the same were not proved beyond reasonable doubt and accordingly the benefit of doubt was given on their favour and ultimately they were acquitted under Section 235(1) of Cr.P.C.”

3. Challenging the Judgment dated 10.03.2014 in S.C.No. 116 of 2013 passed by the trial court, the Appellant / A.1 has filed the instant Appeal before this Court by taking a plea that the trial court had failed to

appreciate the evidence in favour of the Appellant in a proper perspective, which had resulted in a serious miscarriage of justice.

Appellant's Contentions

4. The Learned Counsel for the Appellant urges before this Court that father of the deceased, Rajeswari (P.W.4) in his evidence had stated that the deceased was a brave girl and also she was an intelligent person, but these vital facts were not taken into consideration by the trial court, at the time of passing the Impugned Judgment.

5. The Learned Counsel for the Appellant proceeds to state that there is no iota of evidence on the day of occurrence that the Appellant / A.1 had picked up the quarrel and shouted at the deceased, Rajeswari, as averred by the prosecution.

6. According to the Learned Counsel for the Appellant, the trial court should have seen that P.W.6 (Neighbour) categorically deposed that there was no such cruelty or fight took place at any point of time in the house of the deceased, as alleged by the prosecution.

7. The Learned Counsel for the Appellant brings it to the notice of this Court that the trial court had failed to consider that neither P.W.4, Father and P.W.5, Brother of the deceased had deposed that prior to the alleged

occurrence the deceased made any complaint about the particular ill-treatment.

8. It is represented on behalf of the Appellant that the Respondent / Prosecuting agency had failed to establish the allegations of cruelty or ill-treatment or scolding caused to the deceased, Rajeswari at Appellant's instance.

9. Advancing his arguments, the Learned Counsel for the Appellant draws the attention of this Court to the fact that the ocular evidence tendered by the witness on the side of the Respondent / Prosecution were sketchy, unreliable and untrustworthy of acceptance and as such, the 'Judgment of Conviction' rendered by the trial court is clearly unsustainable in the eye of Law.

10. The Learned Counsel for the Appellant contends that the improved version of evidence of P.W.4 and P.W.5 point out that the entire story in regard to the factum of alleged cruelty and behaviour of the Accused towards the deceased was built up during the time of trial (at the time of evidence being recorded before Court) and therefore, no conviction can be made, of course, based on the improved version of the evidence.

11. The Learned Counsel for the Appellant submits that there are material contradictions in regard to the 'Time Of Occurrence' by whom the said fact was noticed and when there were serious discrepancies about by whom the said fact was brought to the knowledge of P.W.1 and then to P.W.2 (Investigation Officer), the trial court should have rejected the prosecution case and resultantly acquitted the Appellant.

12. The Learned Counsel for the Appellant takes an emphatic stand that P.W.1, P.W.2 and P.W.7 had admitted that 'this type of accidental deaths were happening in the railway track and that most of the villagers are using short cut way by crossing railway track to reach Kakkanpalayam from Iyanpalayam'.

13. The Learned Counsel for the Appellant submits that the P.W.4 (Father of deceased, Rajeswari) admitted in his evidence (in cross examination) that his , Rajeswari (deceased) used to walk from Ayyampalayam to Kakkampalayam to board the bus and come to his house and that the distance between Ayyampalayam and Kakkampalayam was nearly 10 Kms. However, the deceased, Rajeswari would take a short cut route by crossing the railway track and by this, Kakkampalayam would be reached at the distance of 2 Kms.

14. The Learned Counsel for the Appellant contends that the alleged uttering of words by the Appellant in a 'fit of anger or emotion' without any intention, do not amount to 'Instigation' and in fact, Rajeswari (since deceased) committed suicide only on account of her depressed mind.

15. It is the submission of the Learned Counsel for the Appellant that when there are significant omissions in the statements of witnesses (recorded under Section 161 of Cr.P.C.), the ocular evidence as regards the events preceding actual incident rested exclusively on their statement and indeed, an improved version was adduced during the trial. However, these significant aspects were not borne in mind by the trial court at the time of passing the impugned Judgment.

16. Lastly, the Learned Counsel for the Appellant / A.1 winds up his argument by submitting that when glaring omissions were made by the material witnesses and the evidence let in the present case 'is one of' no evidence, then, the trial court ought to have acquitted the Accused instead of convicting the Accused.

17. The Learned Counsel for the Appellant cites the Judgment of this Court in **Crl.A.No.412 of 2009 between K.Obuliraj V. State rep. By the**

Inspector of Police, Annathanapatty Police Station, Salem whereby

and whereunder at Paragraph Nos.13, 35 and 41, it is observed as under:-

“13. Also, the Learned Counsel for the Appellant seeks in aid of the Judgment dated 05.01.2010 in Criminal Appeal No.1301 of 2002 reported in CDJ Law Journal (CDJ 2010 SC 004) between “Gangula Mohan Reddy V. State of Andhrapradesh” whereby and whereunder in Paragraph No.15, it is observed and held as follows:-

5. Learned Counsel also placed reliance on another judgment of this Court in Ramesh Kumar V. State of Chhattisgarh (2001) SCC 618. A three- Judge Bench of this Court had an occasion to deal with a case of a simiar nature. In a dispute between the husband and wife, the appellant husband uttered “ your are free to do whatever you wish and go wherever you like”. Thereafter, the wife of the appellant Ramesh Kumar committed suicide. The Court in Paragraph-20 has examined different shades of the meaning of “instigation”. Para 20 reads as under:

“20. Instigation is to goad, urge forward, provoke, incite or encourage to do “an act”. To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to inicite the consequence must be capable of being spelt out, the present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word

uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.”

35. It cannot be forgotten that in order to bring home a case within the four corners of ingredients of Section 306 of IPC, there must be a case of suicide and in the commission of said offence, the person, who is said to have abetted the commission of suicide should have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. As such, the act of abetment by the Appellant / Accused charged with the said offence must be proved and established by the Respondent / Prosecution before he could be convicted under Section 306 of IPC.

41. Moreover, the words uttered in a “fit of anger or emotion” without intending the resultant consequences to follow cannot be construed to be an act of instigation, in the considered opinion of this Court.”

18. He also relies on the decision of **Hon'ble Supreme Court in Vijender V. State of Delhi reported in 1997 (6) SCC at Page 171 at Spl. Pages 181 and 182** wherein at Paragraph Nos.21 and 22, it is observed as follows:

“21. Without going into the probative value of the evidence ad-duced by the prosecution witnesses and fully replying upon the same if we proceed on the assumption that the above facts and circumstances stand established, it can be said that the prosecution has succeeded in only proving that

khurshid was kidnapped. As regards the proof of his murder, the evidence relied upon by the prosecution is that of P.W. 6, who identified the dead body, found by the officers of Loni Police Station near the Railway lines and later on brought to the Ghaziabad mortuary, as that of his son and the report of the post mortem examination, (Ext. PW 21/A) which we have found to be legally inadmissible for non-examination of the doctor who held the autopsy. Even if we accept the post mortem report as a valid piece of documentary evidence, we notice therefrom that it relates to an unknown male aged about 25/30 years, and not to a boy aged 17/18 years. We next get that on the person of the dead body the doctor found three external injuries : one large swelling on the right side of the head, another large swelling over the right side of the jaw and fracture of right parietal bone. The opinion given by the doctor therein is that death was caused by shock and haemorrhage as a result of the injuries. In absence of any medical opinion that the injuries were homicidal, accidental death of the victim cannot therefore be ruled out.

22. However, to prove that the death was homicidal the prosecution relied - and the trial Judge gave much emphasis upon the presence of a hole/tear mark upon the back of the shirt round on the dead body and the opinion of the Ballistic expert that it (hole/tear) was caused by a firearm which was fired from a close range. The above opinion of the Ballistic expert shows that the post mortem report could not be related to Khurshid for there is no reference to any injury on the back, much less with blackening or charring which was expected in case of close range firing. The fact that the report relates to a person aged 25/30 years and not a boy aged 17/18 years lends further assurance to our above inference. The only other

inference that can be legitimately drawn from the preceding facts and circumstances is that the identification of the dead body by P.W. 6 as that of his son is incorrect. Even though photographs of the dead body were taken, she did not identify her son from the photographs but from the wearing apparels, which included the shirt referred to above. Since the injuries found on the dead body did not fit in with the hole/tear found on the shirt which could be caused by firing the shirt could not be that of her son. As, according to her, she saw the dead body after the post mortem examination which necessarily needed dissection, her identification on the basis of a cut mark on the finger also loses its importance. In any view of the evidence, therefore, it must be said that the prosecution failed to prove that Khurshid met with a homicidal death. Surprisingly enough, this aspect of the matter was completely over-looked by the trial Judge.”

19. The Learned Counsel for the Appellant refers to the decision of **Hon'ble Supreme Court between Swamy Prahaladdas V. State of M.P. And Another reported in 1995 Supp (3) SCC at Page 438 and at Special Page 439** wherein at Paragraph No.3, it is observed as under:

“3. At the time of framing of charge, the trial court thought it appropriate to associate the appellant herein as an accused because of the words he uttered to the deceased. We think that just on the basis of tht utterance the Court of Session was in error in summoning the appellant to face trial. In the first place it is difficult, in the facts and circumstances, to come to even a prima facie view that what was uttered by the appellant

was enough to instigate the deceased to commit suicide. Those words are casual in nature which are often employed in the heat of the moment between quarrelling people. Nothing serious is expected to follow thereafter. The said act does not reflect the requisite mens rea on the assumption that these words would be carried out in all events. Besides the deceased had plenty of time to weigh the pros and cons of the Act by which he ultimately ended his life. It cannot be said that the suicide by the deceased was the direct result of the words uttered by the appellant. For these reasons, the error is apparent requiring rectification. The appeal is accordingly allowed. The orders of the High Court and that of the Court of sessions are thus upset. The appellant need not face the charge.”

20.The Learned Counsel for the Appellant draws the attention of this Court to the decision of **Hon'ble Supreme Court reported in (2001) 9 SCC at Page 618 at Special Page 629, 630 (Ramesh Kumar V. State of Chhattisgarh)** wherein at Paragraph Nos.20, 21, and 23 it is observed and laid down as follows:-

“20. Instigation is to goad, urge forward, provoke, incite or encourage to do “an act”. To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a

continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.

21. In State of W.B. V. Orila Jaiswal (1994) 1 SCC 73 this Court has cautioned that the court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end her life by committing suicide. If it transpires to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.

23. In our opinion there is no evidence and material available on record wherefrom an inference of the accused-appellant having abetted the commission of suicide by Seema may necessarily be drawn. The totality of the circumstances discussed hereinabove, especially the dying declaration and the suicide notes left by the deceased herself, which fall for consideration within the expression "all the other circumstances of the case" employed in Section 113-A of the Evidence Act, do

not permit the presumption thereunder being raised against the accused. The accused-appellant, therefore, deserves to be acquitted of the charge under Section 306 IPC.”

21. The Learned Counsel for the Appellant brings it to the notice of this Court to the decision of **Hon'ble Supreme Court reported in (2002) 5 Supreme Court Case at Page 371 and at Page 372 at Special Pages 374 and 375** wherein in Paragraph Nos.8 and 12 it is observed as follows:

“8. In Swamy Prahaladdas V. State of M.P. (1995 SCC (Cri) 943) the appellant was charged for an offence under Section 306 IPC on the ground that the appellant during the quarrel is said to have remarked to the deceased “to go and die”. This Court was of the view that mere words uttered by the accused to the deceased “to to and die” were not even prima facie enough to instigate the deceased to commit suicide.

12. Reverting to the facts of the case both the courts below have erroneously accepted the prosecution story that the suicide by the deceased is the direct result of the quarrel that had taken place on 25.07.1998 wherein it is alleged that the appellant had used abusive language and had reportedly told the deceased “to go and die”. For this, courts relied on a statement of Shashi Bhushan, brother of the deceased, after coming back from the house of the appellant, told him that the appellant had humiliated him and abused him with filthy words. The statement of Shashi Bhushan, recorded under Section 161 Cr.P.C., is annexed as Annexure P-3 to this appeal and going through the statement, we find that he has not stated that the deceased had told him that the appellant had asked him “to go

and die". Even if we accept the prosecution story that the appellant did tell the deceased "to go and die", that itself does not constitute the ingredient of "instigation". The word "instigate" denotes incitement or urging to do some drastic or inadvisable action or to stimulate or incite. Presence of mens rea therefore, is the necessary concomitant of instigation. It is common knowledge that the words uttered in a quarrel or on the spur of the moment cannot be taken to be uttered with mens rea. It is in a fit of anger and emotion. Secondly, the alleged abusive words, said to have told to the deceased were on 25-07-1998 ensued by a quarrel. The deceased was found hanging on 27.07.1998 . Assuming that the deceased had taken the abusive language seriously, he had enough time in between to think over and reflect and, therefore, it cannot be said that the abusive language, which had been used by the appellant on 25.07.1998 drove the deceased to commit suicide. Suicide by the deceased on 27.07.1998 is not proximate to the abusive language uttered by the appellant on 25.07.1998. The fact that the deceased committed suicide on 27.07.1998 would itself clearly point out that it is not the direct result of the quarrel taken place on 25.07.1998 when it is alleged that the appellant had used the abusive language and also told the deceased to go and die. This fact had escaped notice of the courts below."

22. The Learned Counsel for the Appellant seeks in aid of the decision of the **Hon'ble Supreme Court in Hans Raj V. State of Haryana ((2004) 12 SCC at Page 257 at Special page 260 and 261** wherein at Paragraph Nos.6 to 8, it is observed as under:-

“6. In the FIR only two allegations were made by Munshi Ram, PW-2, firstly, that there were frequent quarrels, sometimes resulting in physical assault, between the appellant and Jeeto on account of his being addicted to consumption of 'Bhang', and secondly, that the appellant was aggrieved by the fact that his sister was not being properly looked after by his brother-in-law namely, Fateh Chand, PW-3.

7. Munshi Ram was examined by the prosecution as PW-2. In his deposition he stated that the appellant was addicted to liquor and bhang and whenever Jeeto attempted to persuade him to desist from this addiction he used to misbehave with her and even beat her. According to him, 8-9 days before her death Jeeto had come to his house alongwith the appellant. The appellant had then complained to him that Jeeto was not good looking and therefore he was not going to take her back and that he intended to perform a second marriage. However, on their persuasion he stayed at his village for 2-3 days whereafter he persuaded his daughter Jeeto to accompany the appellant to village Kheri. From his cross-examination, it appears that the case sought to be made out at the Trial that the appellant was addicted to liquor was not stated in the course of investigation. Similarly, Munshi Ram, PW-2 had not stated in the course of investigation that the appellant had complained that Jeeto was not good looking. It also appears that in the course of investigation he had not stated about Jeeto having told him that the accused had been beating her.

8. Fateh Chand, PW-3 also deposed in favour of the

prosecution and he also alleged that the appellant was addicted to liquor and bhang and that he had been told by Jeeto that the appellant did not want to keep her as he did not find her to be good looking. According to Fateh Chand, PW-3 whenever Jeeto came to their house she used to complain about the treatment meted out to her by the appellant. Even the appellant had told him that he did not like Jeeto. PW-3 further deposed that for about a year and a half after marriage the appellant and Jeeto lived in harmony. In his statement before the police in the course of investigation there is no mention about the fact that the appellant was addicted to liquor. PW-3 also admitted that in his statement before the police he did not state that the accused had told him that his sister was not good looking, nor did he state that his sister had told him that the accused felt aggrieved because she was not good looking.”

23. Also in the aforesaid decision at pages 263 and 264 at Paragraph No.13, it is observed as follows:

“13. Unlike Section 113 B of the Indian Evidence Act, a statutory presumption does not arise by operation of law merely on proof of the circumstances enumerated in Section 113-A of the Indian Evidence Act. Under Section 113-A of the Indian Evidence Act the prosecution has first to establish that the woman concerned committed suicide within a period of seven years from the date of her marriage and that her husband (in this case) had subjected her to cruelty. Even if these facts are established the Court is not bound to presume that the suicide had been abetted by her husband. Section 113-A gives a discretion to the Court to raise such a presumption, having

regard to all the other circumstances of the case, which means that where the allegation is of cruelty it must consider the nature of cruelty to which the woman was subjected, having regard to the meaning of word cruelty in Section 498-A I.P.C. The mere fact that a woman committed suicide within seven years of her marriage and that she had been subjected to cruelty by her husband, does not automatically give rise to the presumption that the suicide had been abetted by her husband. The Court is required to look into all the other circumstances of the case. One of the circumstances which has to be considered by the Court is whether the alleged cruelty was of such nature as was likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health of the woman. The law has been succinctly stated in *RameshKumar Vs. State of Chhattisgarh* (2001) 9 SCC 618 wherein this Court observed : "This provision was introduced by the Criminal Law (Second) Amendment Act, 1983 with effect from 26-12-1983 to meet a social demand to resolve difficulty of proof where helpless married women were eliminated by being forced to commit suicide by the husband or in-laws and incriminating evidence was usually available within the four corners of the matrimonial home and hence was not available to anyone outside the occupants of the house. However, still it cannot be lost sight of that the presumption is intended to operate against the accused in the field of criminal law. Before the presumption may be raised, the foundation thereof must exist. A bare reading of Section 113-A shows that to attract applicability of Section 113-A, it must be shown that (i) the woman has committed suicide, (ii) such suicide has been committed within a period of seven years from the date of her marriage, (iii) the husband or his

relatives, who are charged had subjected her to cruelty. On existence and availability of the abovesaid circumstances, the court may presume that such suicide had been abetted by her husband or by such relatives of her husband. Parliament has chosen to sound a note of caution. Firstly, the presumption is not mandatory; it is only permissive as the employment of expression "may presume"

suggests. Secondly, the existence and availability of the abovesaid three circumstances shall not, like a formula, enable the presumption being drawn; before the presumption may be drawn the court shall have to have regard to "all the other circumstances of the case". A consideration of all the other circumstances of the case may strengthen the presumption or may dictate the conscience of the court to abstain from drawing the presumption. The expression "the other circumstances of the case" used in Section 113- A suggests the need to reach a cause-and-effect relationship between the cruelty and the suicide for the purpose of raising a presumption. Last but not the least, the presumption is not an irrebuttable one. In spite of a presumption having been raised the evidence adduced in defence or the facts and circumstances otherwise available on record may destroy the presumption. The phrase "may presume" used in Section 113-A is defined in Section 4 of the Evidence Act, which says "Whenever it is provided by this Act that the court may presume a fact, it may either regard such fact as proved, unless and until it is disproved, or may call for proof of it".

24. Apart from the above, the Learned Counsel for the Appellant

placed reliance on the following decisions:

a. In the decision of **Hon'ble Supreme Court between Kishori Lal V. State of M.P. reported in (2007) 10 SCC at Page 797 at Special Page 799** at Paragraph Nos. 6 to 8 it is observed as under:-

“ 6. Section 107 IPC defines abetment of a thing. The offence of abetment is a separate and distinct offence provided in IPC. A person, abets the doing of a thing when (1) he instigates any person to do that thing; or (2) engages with one or more other persons in any conspiracy for the doing of that thing; or (3) intentionally aids, by act or illegal omission, the doing of that thing. These things are essential to complete abetment as a crime. The word “instigate” literally means to provoke, incite, urge on or bring about by persuasion to do any thing. The abetment may be by instigation, conspiracy or intentional aid, as provided in the three clauses of Section 107. Section 109 provides that if the act abetted is committed in consequence of abetment and there is no provision for the punishment of such abetment, then the offender is to be punished with the punishment provided for the original offence. “Abetted” in Section 109 means the specific offence abetted. Therefore, the offence for the abetment of which a person is charged with the abetment is normally linked with the proved offence.

7. In cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. The mere fact that the husband treated the deceased wife with cruelty is not enough. (see Mahendra Singh V. State of M.P. (1995 SCC (Cri) 1157)). Merely on the allegation of harassment conviction in terms of Section 306 IPC is not

sustainable. There is ample evidence on record that the deceased was disturbed because she had not given birth to any child. P.Ws 8, 10 and 11 have categorically stated that the deceased was disappointed due to the said fact and her failure to beget a child and she was upset due to this.

8. If the background facts are analysed it is crystal clear that the prosecution has failed to establish its case. That being so, the appeal deserves to be allowed, which we direct”.

b. In the decision of **Hon'ble Supreme Court in Bhagwan Das V. Kartar Singh and Others ((2007) 11 SCC at Page 205) at Special Page 209** wherein at Paragraph No.12 it is observed as under:-

“ 12. Similarly, in Mahendra Singh V. State of M.P. (1995 SCC (Cri) 1157) it was observed by this Court that it is common knowledge that the words uttered in a quarrel or in the spur of the moment or in anger cannot be treated as constituting mens rea. In that case the appellant said to the deceased “to go and die”. As a result of such utterance, the deceased went and committed suicide. However, the Supreme Court observed that no offence under Section 306 read with Section 107 IPC was made out because there was no element of mens rea.”

c. In the decision of **Hon'ble Supreme Court in Sohan Raj Sharma V. State of Haryana ((2008) 11 SCC at Page 215) at Special page 218** wherein at Paragraph Nos.13 and 14 it is observed as under:-

“13. When the factual scenario is examined, it is clear that the accused has been described as a sexual pervert and

that he had behaved like an animal and the deceased had tolerated the insulting manner in which he behaved. They were married in court. It was stated that the accused was impotent and he was trying to defame the deceased for having relationship with ladies.

14. The most significant part of the letter the deceased had written is as follows:

"I desired to kill you along with us but no, if you have any sense of shame you will die as a result of sequence of events. But it does not make any difference for shameless person because these abuses will sound as correct if you realise your capacity. You have not spent even eight days in a period of eight years in peace with me. You yourself are responsible for death of these children. Flowers had been prayed for from the dieties of your family regarding whom you disclosed ' they are not mine they are with me from my friend (girl friend) on, you, the condemned the day children will be born as a result of cohabitation of a woman with woman, a woman will stop giving birth to man like you."

Above being the factual scenario, it cannot be said that the ingredients of Section 306 IPC have been established. Therefore, the conviction as recorded cannot be maintained. The order of the High Court is set aside. The appellant be released forthwith unless required in connection with other case."

d. In the decision of **Hon'ble Supreme Court in Amalendu Pal**

Alias Jhantu V. State of West Bengal ((2010) 1 SCC at Page 707) at Special Page 712 wherein at Paragraph Nos.12 and 13, it is observed as follows:-

“12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, the Court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide conviction in terms of section 306 IPC is not sustainable.

13. In order to bring a case within the purview of Section 306 IPC there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence be proved and established by the prosecution before he could be convicted under Section 306 IPC.”

e. In the decision of **Hon'ble Supreme Court in Gangula Mohan Reddy V. State of Andhrapradesh ((2010) 1 SCC at Page 750)** at Special Page 755 wherein at Paragraph No.17, it is observed as follows:-

“17. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by this Court is clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he committed suicide.”

f. In the decision of **Hon'ble Supreme Court in S.S.Chheena V. Vijayakumar Mahajan and Another ((2010) 12 SCC at Page 190)** at Special Page 195 wherein at Paragraph No.13 it is mentioned as follows:-

“13. The appellant submitted that the main question which arises for adjudication is whether it would be just and fair to compel the appellant to face the rigmarole of a criminal trial in the absence of any credible material against him? According to the appellant, a careful reading of the suicide note clearly leads to the conclusion that the appellant was not even remotely connected with the offence of abetment. When the appellant was in no manner connected with the offence of abetment. When the appellant was in no manner connected with this case and there was no credible material to connect the appellant with the crime, in this view of the matter, according to the appellant, it would be a futile exercise to compel him to undergo the

rigmarole of a criminal trial.”

g. Also in the aforesaid decision at page Nos.197 and 198 at Paragraph Nos.25 and 27, it is observed as under:-

“25. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide.

27. When we carefully scrutinise and critically examine the facts of this case in the light of the settled legal position the conclusion becomes obvious that no conviction can be legally sustained without any credible evidence or material on record against the appellant. The order of framing a charge under Section 306 IPC against the appellant is palpably erroneous and unsustainable. It would be travesty of justice to compel the appellant to face a criminal trial without any credible material whatsoever. Consequently, the order of framing charge under Section 306 IPC against the appellant is quashed and all proceedings pending against him are also set aside.”

h. In the decision of Hon'ble Supreme Court in Ghusabhai Raisangbhai Chorasaya & Others V. State of Gujarat (2015 (1) MWN

(Cr.) 353 (SC) at Special Page 359 and 360 wherein at Paragraph Nos.18

and 19 it is observed as follows:

"18. From the aforesaid authorities it is quite clear that the first limb of Section 498A, which refers to cruelty, has nothing to do with demand of dowry. In the present case, in fact, there is no demand of dowry. If the evidence is appropriately appreciated, the deceased was pained and disturbed as the husband was having an illicit affair with the appellant no.4. Whether such a situation would amount to cruelty under the first limb of Section 498A IPC is to be seen. A two-Judge Bench of this Court in Pinakin Mahipatray Rawal V. State of Gujarat, 2013(10) SC 48, while dealing with extra marital relationship, has held thus:

"Marital relationship means the legally protected marital interest of one spouse to another which include marital obligation to another like companionship, living under the same roof, sexual relation and the exclusive enjoyment of them, to have children, their upbringing, services in the home, support, affection, love, liking and so on. Extramarital relationship as such is not defined in the Penal Code. Though, according to the prosecution in this case, it was that relationship which ultimately led to mental harassment and cruelty within the Explanation to Section 498A and that A-1 had abetted the wife to commit suicide."

"We are of the view that the mere fact that the husband has developed some intimacy with another, during the subsistence of marriage and failed to discharge his marital obligations, as such would not amount to "cruelty", but it must be of such a nature as is likely to drive the spouse to commit

suicide to fall within the Explanation to Section 498A IPC. Harassment, of course, need not be in the form of physical assault and even mental harassment also would come within the purview of Section 498A IPC. Mental cruelty, of course, varies from person to person, depending upon the intensity and the degree of endurance, some may meet with courage and some others suffer in silence, to some it may be unbearable and a weak person may think of ending one's life. We, on facts, found that the alleged extramarital relationship was not of such a nature as to drive the wife to commit suicide or that A-1 had ever intended or acted in such a manner which under normal circumstances, would drive the wife to commit suicide."

The Court further proceeded to state:

"Section 306 refers to abetment of suicide. It says that if any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment for a term which may extend to 10 years and shall also be liable to fine. The action for committing suicide is also on account of mental disturbance caused by mental and physical cruelty. To constitute an offence under Section 306, the prosecution has to establish that a person has committed suicide and the suicide was abetted by the accused. The prosecution has to establish beyond reasonable doubt that the deceased committed suicide and the accused abetted the commission of suicide. But for the alleged extramarital relationship, which if proved, could be illegal and immoral, nothing has been brought out by the prosecution to show that the accused had provoked, incited or induced the wife to commit suicide."

19. After holding as aforesaid, the Court found on facts

and especially referring to suicide note that one can infer that the deceased was so possessive of her husband, and was always under an emotional stress that she might lose her husband and that apart she had exonerated the husband and accordingly it would not come within the scope and ambit of Section 306 IPC.”

Respondent's Submissions

25. Per contra, it is the submission of the Learned Government Advocate (Crl.Side) that, before the trial court in the main case, on behalf of the Respondent / Prosecution, witnesses P.W.1 to P.W.10 were examined and Ex.P.1 to P.11 were marked. As a matter of fact, it is represented on behalf of the Respondent that the trial court on an appreciation of entire available oral and documentary evidences had come to a resultant conclusion that the Appellant / A.1 was guilty in respect of an offence under Section 306 of Indian Penal Code and imposed him necessary punishment, which may not be dislodged by this Court, sitting in Appellate Jurisdiction.

26.To appreciate the factual matrix of the main case, it is useful for this Court to make a pertinent reference to the evidence of witnesses P.W.1 to P.W.10.

Summation of Evidence of Witnesses

27. P.W.1 (presently working as Assistant Master at Perundurai

Railway station) in his evidence had deposed that on 01.03.2013 when he was serving as Station Master at Erode Railway station, at about 9.25 a.m., he received a phone call from Chinnaraj (P.W.2) and the information was that near Magudanchavadi Railway track between 349/28 - 350/08 one dead body of woman and child were lying and this was confirmed by one Ganesh (P.W.7), who was working at the railway station and in this regard, he gave Ex.P.1, Complaint before the Erode Railway Police Station. P.W.1 (in his cross examination) had deposed that he was informed that the women was of 40 years old and the girl child was of five years old and except that he does not know more details and that he had not inspected the place and prior to this, in the railway track, like this, so many people had died.

28. P.W.2 (Presently serving as Station Manager, Magudanchavadi Railway Station) in his evidence had deposed that on 01.03.2013 in the same railway station when he was working as Manager, the Key man Ganesh, (P.W.7) and railway servant phoned up to him at about 9.00 clock informed him that at near Magudanchavadi railway track in between 349 /2008, 350/2008 one body of woman and one body of child were in dead condition after being hit and he informed P.W.1 for taking action (Railway Station Assistant Manager) and that he was examined by the police.

29. It is the evidence of P.W.2 (in cross examination) that he had not seen the dead bodies and to a suggestion (before this) that whether many had died at the same place, he had stated that they had tress passed. Further, P.W.2 had stated that it was correct to state that recently two youngsters who went on affixing postures were hit by the train and died.

30. P.W.3 in his evidence had stated that he was informed that on 01.03.2013 his relative Rajeswari and Madubala had died at the Iyyampalyam Railway track and he proceeded to the said place and at place, the Railway Police were enquiring him into the matter and they had prepared a Plan and Observation Mahazar in which he and Periyasamy had affixed their signatures and that the Observation Mahazar was marked as Ex.P.2.

31. P.W.4 (Father-In-Law) in his evidence had deposed that the Appellant / A1 is his son-in-Law and that A.2 is A.1's Mother and that he conducted marriage of his daughter to the Appellant / A.1, 10 years ago by putting ten sovereigns of Jewels and his daughter, Rajeswari had one Son and Daughter and after the birth of these children, the Appellant / A.1 involved in the habit of taking drinks and the Appellant / A.1 had pledged the 10 sovereigns of jewels given by him (at the time of marriage) and spent the amount and further that the girl from Kerala was brought by the Appellant / A.1 (his son in Law) to his house and was keeping her because

of this, the Appellant scolded his daughter, Rajeswari to go to his house and was causing harassment / Cruelty to her and later he compromised the matter by telling her daughter, Rajeswari (who came to his house) that she along with her children Arunkumar and Madubala should reside in the house of her husband on any count.

32. It is the further evidence of P.W.4 that on 27.02.2013 his brother's son died and he phoned up to Rajeswari on 28.02.2013 and asked her to attend the said death and she asked him to be there and informed him that she would arrive there and 01.03.2013 at about 7.00 a.m. in the morning they received the phone call from Ayyampalayam and the Panchayat Thalaivar informed him that his daughter and grand daughter lying dead at the railway track and that went along with their family members and that he found his daughter and his grand daughter dead with blood injuries at the railway track, then, they went to the Kondalampatti police station, who informed him to go to the Railway Police Station.

33. P.W.4 proceeds to add in his evidence that every month, he used to send 50 Kgs of Rice to his daughter and in the weaving work, her husband had met with a debt, for redeeming the 'Loom' she asked him to pay a sum of Rs.10,000/- as loan and that since his grand son, Arunkumar brain is not proper he had incurred expenses of Rs.1,00,000/- and he is keeping him in his house and he had put One Sovereign of goldchain to his

grand son, Arunkumar, which was also snatched away by Appellant / A.1 and that for his grand daughter, Madhubala, he had put Half a sovereign of ear ring, which was also snatched away by the Appellant / A.1.

34. It is the evidence of P.W.4 (In cross examination) that about 10.30 in the morning they went to Kodalampatti police station and that he had not given the written complaint and further that he had not given the complaint before the railway police. Further, it is the evidence of P.W.4 that the distance of between Ayyampalayam to Kakkampalayam is about ten Kms and if one comes to Kakkapalayam in a short way, it would be two Kms distance and only in this short way, his daughter (deceased Rajeswari) would come to Kakkampalayam and after boarding bus would reach his house.

35. P.W.5 in his evidence had deposed that his sister (deceased Rajeswari) was married to the Appellant / A.1 and at the time of her marriage, 15 sovereigns of jewels were put to her and thereafter, in the house there was a continuous problem and that the Appellant / A.1 his sister's husband had mortgaged her 10 sovereigns of jewel and settled the debt and when her sister asked for the return of the same, there was a problem in the house (as informed by her sister) and that the Appellant/ A.1 was owning a power loom and was running the same and he mortgaged the same and had obtained the loan and since the Appellant / A.1 would

beat his sister (Rajeswari) and created a problem, his sister came to his house and after two or three days later, they compromised the matter and sent her to her in-law house.

36. Continuing further, P.W.5 in his evidence had deposed that he was informed by his sister (who came to his house) that the Appellant / A.1 was keeping one Kerala girl in the house and therefore her sister created a problem for which the Appellant / Accused picked up a quarrel and that he contacted uncle Srirangan and others compromised the matter and sent her sister to her husband and thereafter, she was in good state and on 28.02.2013 his sister (Rajeswari) was informed about the death of his elder father's son on 27.12.2013 and through phone call at 7.00 a.m. on 01.03.2013 he was informed the death of his sister and her daughter and that he went and saw his sister and that he does not know as to how she had died and that investigated by the railway police.

37. It is the evidence of P.W.5 (in cross examination) that his uncle gave a complaint before the police that the Appellant / A.1 was keeping Kerala Girl in his house and that the complaint was given at Kodalampatti police station, which was not stated by them before the police. Further, he had not mentioned in the police enquiry that his uncle Srirangan had a compromise talk and it is correct to state that after the compromise talk, the Appellant / A.1 and his sister Rajeswari were in good terms.

38. P.W.6 in his evidence had deposed that one year before at about 7.00 a.m. in the morning there was a talk that Rajeswari had died at the railway track and in fact P.W.6 was treated as ' Hostile Witness'.

39. P.W.7 in his evidence had deposed that at Veerapandi Block, Head Railway Station when he was serving as Key Man at Gang No.3, on 01.03.2013 at about 9.20 a.m. there was a body of women and a women child in between the railway track 349-350 and about this he gave an information to the Station Master and that he was examined by the Railway Police Inspector.

40. P.W.8 in his evidence had deposed that on 01.03.2013 in Crime No.55 of 2013 of the Railway Police, he took the body of the deceased Rajeswari, at the railway track and produced the same at the Erode Government Hospital Mortuary for the purpose of conducting post mortem and after completion of post mortem he handover the body of Rajeswari to her relatives and that he was examined by the Inspector.

41. P.W.9 (Presently working as Grade II Constable of Erode Railway Police) in his evidence had deposed that on 01.03.2013 in Crime No.55 of 2013 on the file of Railway police he took the body of five year old

girl child (which was laying at the railway track) for the purpose of conducting post mortem at Erode Government Hospital and after completion of post mortem he handed over the body of the girl child to her relatives and that he was examined by the Inspector.

42. P.W.10 (Inspector of police of Erode Railway Police Station) in his evidence had deposed that on 01.03.2013 in between Madunchavadi and Veerapandi Railway Station at Erode Railway Station Circle, P.W.1 (Railway Station officer), Sadananda Misra gave a complaint after coming to the police station to the effect that one woman aged about 45 and one female child aged five years were hit by the train and they were laying dead and soon after receipt of the said complaint, he registered FIR (Ex.P.3) in Railway Police Station Crime No.55 of 2013 under Section 174 of Cr.P.C., and on the same day he took up the investigation and after inspecting the dead bodies, he prepared an Observation Mahazar Ex.P.2 and Rough plan Ex.P.4 in the presence of witness Vyapuri and K.Periyasamy and after obtaining the signature of witness in the observation mahazar, she conducted inquest report over the body of the woman in the presence of panchayatdars and obtained an Inquest Report, Ex.P.5 and later in respect of 5 year girl child body, she conducted inquest enquiry in the presence of Panchayatdars and obtained Ex.P.6, inquest report and through the requisitions Ex.P.7 and Ex.P.8, she sent the two dead bodies along with letters through the Railway Woman Constable,

Amudha and Prabakar, Grade I to the Government Hospital for the purpose of conducting post mortem and later, she examined Sivalingam (P.W.4) father of the deceased, Rajeswari and obtained statement and from his statement, she came to know that his daughter, Rajeswari was ill-treated by the Appellant (A.1) and A.2 (Deceased mother-in-law) and because of that his daughter committed suicide, then, she altered Sections of the case from Section 174 Cr.P.C., into that of Section 306 of IPC and sent the alteration report Ex.P.9 to the Learned Judicial Magistrate.

43. P.W.10 in her evidence went on to add that she examined Dr.Ezhil Sundar (who conducted post mortem on the dead bodies) and obtained a post mortem certificate and since the said Doctor went to Delhi in connection with his office work and was not aware as to when he would return, Ex.P.10 and Ex.P.11 (two post mortem reports) were marked through the Investigation officer and after completion of investigation, since A.2 was absconding, she mentioned the same and laid a final report against the Appellant/A.1 and A.2 under Section 306 of Indian Penal Code.

Analysis

44. It is to be noted that the 1st charge levelled against the Appellant / A.1 and A.2 (his mother) was that in his house on 28.02.2013 at about 5.00 'o' clock in the evening at Nada Street, Salem District Vempadithalam Post,

Iyampallayam, Appellant / A.1 scolded his wife Rajeswari that 'if you proceed to your elder father son's (Marriappan) Death ceremony don't come to the House again, 'Go anywhere and Die once and for all' and because of the use of harsh words, he harassed his wife (deceased) mentally and hence committed an act, which was liable to be punished under Section 498 A of Indian Penal Code.

45. The 2nd charge levelled against the Appellant / A.1 was that because of his Act, heart broken, his wife Rajeswari because of her imbalanced mental treatment of mind was instigated to commit suicide along with her daughter, Madhubala by falling in front of the train (which came from Salem to Erode) on 01.03.2013 at about 9.30 a.m. in between railway stations Madudanchavadi and Veerapandi KM 349/28 - 350/02 and because of the said fact, was liable to be punished under Section 306 of IPC.

46. Inasmuch as the Appellant's Mother, A.2 (Mother-in-Law of deceased Rajeswari) was acquitted by the trial court in respect of an offence under Sections 498A and 306 of IPC, and also because of the fact that the present Appeal is related to only Appellant / A.1, this Court is not referring to the charges levelled against A.2 (Appellant's Mother under Sections 498A and 306 of IPC in detail)

47. From evidence of P.W.4 and P.W.5 it transpires that the Appellant / A.1 had mortgaged the jewel of his wife Rajeswari and the same was not redeemed by him and when he was enquired about the same, at that point of time, he created a problem and because of the eruption of frequent problem, his wife, Rajeswari came to her parent's house and that apart, the Appellant / A.1 had kept one Kerala Girl in his house and in regard to this also there arose a problem which was informed to her father (P.W.4) and her Brother (P.W.2) and again she was compromised and later when the Appellant / A.1 and his wife, Rajeswari were running the family, the Appellant / A.1 had not permitted his wife Rajeswari to go to the house of her elder father for attending her elder father son's death ceremony and heart broken, along with her daughter Madhubala committed suicide at the railway track and in this regard the evidences of P.W.4 and P.W.5 are quite natural, cogent, coherent and quite convincing one, in the considered opinion of this Court.

48. Besides the above, since the Appellant / A.1 had already brought one kerala girl to his house and was keeping her at his house and also since he had refused to redeem the jewel, which was mortgaged by him and because of these acts of Appellant / A.1, Rajeswari was driven to the extent of committing suicide. It is true that there was a demand of money and articles to be produced by Rajeswari and in this regard, there was no evidence of cruelty being committed, by the Appellant / A.1 under Section

498A of IPC. Therefore, the trial court had rightly found the Appellant / A.1 not guilty in respect of an offence under Section 498A of Indian Penal Code.

49. It cannot be forgotten that an offence of 'Abetment of Suicide' punishable under Section 306 of IPC is much wider in scope than an offence punishable under Section 304B of IPC. Cruelty or Harassment sans demand of dowry, which forces the wife to commit suicide attracts the offence of abetment of suicide under Section 306 of Indian Penal Code, as opined by this Court.

50. In the instant case, the relationship between the Appellant / A.1 and his wife (deceased, Rajeswari) was not in good state and in fact, she had lost charm in her life and therefore, she had committed suicide along with her female child, Madhubala. In the present case, the conduct and the behaviour of the Appellant /A.1 towards his wife (deceased Rajeswari) was not satisfactory. At this juncture, this Court relevantly points out that 'Instigation' is to be gathered from the circumstances of the case, in a particular case, there may not be direct evidence relating to instigation, having a direct nexus to the suicide. There may be case where the circumstances created by the Accused are such that an individual may feel completely frustrated and finds it difficult to continue existence.

51. It is pertinently pointed out by this Court that Section 306 of IPC provides punishment for 'Abetment of suicide' while Section 309 of IPC punishes 'Attempt to commit suicide', ordinarily a mere harassment of wife by her husband due to differences per se does not attract Section 306 r/w Section 107 of IPC. An overt act words on the part of the Appellant / A.1 in the present case by employing harsh words by wife scolding his wife that she should not go to her elder father son's funeral ceremony and if she attend that ceremony, die and disappear etc., had driven the Appellant's wife along with her daughter to commit suicide and the conduct of the Appellant's / A.1 through his acts and words definitely come within the purview of instigation and as such, this Court comes to an irresistible conclusion that the Respondent / Prosecution had established his case against the Appellant / A.1 under Section 306 of IPC and in this regard, the trial court had rightly found him guilty (in this regard this Court is in complete agreement with the view arrived at by the trial court)

52. The trial court in respect of an offence under Section 306 of IPC had awarded punishment of Three Years Rigorous Imprisonment and directed to pay a sum of Rs.1,10,000/- as being fine amount, in default of payment of fine, it also directed him to undergo One Year Simple Imprisonment. Further, from and out of the fine of Rs.1,10,000/- after remittance of the said amount, the sum of Rs.1,00,000/- was ordered to be given to the deceased Rajeswari and to the Appellant / A.1's son

Arunkumar (maintained by P.W.4- Grand Father) and the said amount was directed to be deposited in any one of the nationalised bank in the name of said Arunkumar.

53. It is to be pointed out that an amount of compensation can be directed to be recovered as a fine. It cannot be gainsaid that a legal fiction is raised in relation to recovery of fine. Viewed in that perspective, term 'fine' is on a higher pedestal than the compensation granted by a Court of Law. Moreover, in a case when fine is also imposed for an offence apart from the Sentence of Imprisonment, compensation could be paid out on fine. That apart, as per Section 431 of Cr.P.C., money ordered to be paid shall be recoverable as if it were of fine.

54. Significantly in awarding compensation, it is for the Court Concerned to determine whether the particular case is a fit one in which a compensation deserves to be granted, if the Court is of the earnest opinion (after subjectively satisfying itself), the compensation should be paid, then, the quantum of compensation is to be decided by taking into factors like gravity of crime, nature of injury suffered and the ability of the Accused to pay the compensation etc., It is aptly pointed out by this Court that in the decision **C.Ganga V.Lakshmi Ammal (2008 CRLJ at Page 3359 (3369) (Kerala)** it is held that the Criminal Courts are competent to impose a default sentence while ordering payment of compensation under Section

357(3) of Cr.P.C. Furthermore, the amount of compensation so awarded by a Court of Law, can be recovered as Arrears of Land Revenue under the Land Revenue Act as per Sections 421 and 431 of Cr.P.C.

55. Be that as it may, in the light of the aforesaid qualitative and quantitative discussions and also this Court taking note of the facts and circumstances of the case in a cumulative fashion, reduces the punishment of Three Years Rigorous Imprisonment to that of Two Years Rigorous Imprisonment. The period already undergone by the Appellant / A.1 is directed to set off under Section 428 of Cr.P.C.

56. At this stage, the Learned Counsel for the Appellant brings it to the notice of this Court that the Appellant / A.1 is a coolie and had not remitted a fine of Rs.1,10,000/- before the trial court to the credit of S.C.No.116 of 2013.

57. Considering the fact that the Appellant / A.1 is a coolie and had not remitted the fine amount of Rs.1,10,000/- before the trial court etc., this Court in default of payment of fine, directs the Appellant / A.1 to undergo Two Months further Simple Imprisonment (instead of one year Simple Imprisonment awarded by the trial court) to advance the cause of justice.

58. With the aforesaid observations, the Criminal Appeal is allowed

in part. The Learned Mahila Judge (Fast Track Court), Erode is directed to secure the presence of Appellant / A.1 to immure him in prison to serve the remaining period of sentence.

06.02.2017

Index : Yes / No
Internet : Yes / No

ssd

M.VENUGOPAL,J.,

ssd

To

1. State Rep. By
The Inspector of Police,
Government Railway Police Station,
Erode

2.The Learned Mahila Judge (Fast Track Court),
Erode

3. The Record Keeper,
High Court, Madras

Crl.A.No. 593 of 2014

02.02.2017

<http://www.judis.nic.in>