

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE **V.BHARATHIDASAN**

Criminal Appeal No.481 of 2000

State by
Assistant Commissioner of Police,
(Law & Order), Coimbatore West,
Coimbatore,
rep. by
Public Prosecutor,
High Court, Madras .. Appellant

1. Abbas
2. Sowra .. Respondents

Prayer:- Criminal Appeal filed under Section 378 Cr.P.C., against the judgment and order of acquittal passed by the learned Additional Sessions Judge cum Chief Judicial Magistrate, Thothukudi in S.C.No.97/1998.

For Appellant : Mrs. M.F.Shabana,
Govt. Advocate (Criminal)

For Respondents : Mr. D.Veerasekaran

JUDGEMENT

The appeal is preferred against the order of acquittal passed by the learned II Additional Assistant Sessions Judge, Additional Assistant Sessions Court, Coimbatore in S.C.No.97 of 1998 dated 20.09.1999.

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

The deceased, in this case, one Sakila Banu, is wife of the first respondent/A1. The marriage took place between them on 06.07.1996 and they were living together in the matrimonial house. Subsequently, A1 and A2 have demanded a sum of Rs.50,000/- as dowry from the deceased and A1 also threatened her that if she failed to bring dowry, he will marry someone else. Subsequently, on 22.10.1996, in the midnight, the deceased consumed poison and she was taken to the Government Hospital, Coimbatore.

3. On receipt of the memo from the hospital, P.W.11, Sub-Inspector of Police, attached to the respondent police, went to the hospital and found the deceased in unconscious stage and he obtained statement from P.W.1. Based on the said statement, he registered a case in Crime No.2248/1996 for the offences under Sections 498(A) and 306 IPC. Subsequently, the deceased died on 23.10.1996, at about 3.15 a.m.

4. Then, P.W.12, R.D.O., conducted inquest on the dead body of the deceased and postmortem was conducted in the Government Hospital, Coimbatore. P.W.13, Assistant Commissioner, conducted the investigation and after recording the statement of the witnesses, he laid the charge sheet.

5. Based on the above materials, the trial Court framed charges for the offence u/s. 498A and 306 IPC and the accused denied the same. In order to prove its case, on the side of the prosecution, as many as 13 witnesses were examined and 10 documents were exhibited.

6. Out of the witnesses examined, P.W.1 is the mother of the deceased. According to her, after marriage, both the accused demanded dowry from the deceased and harassed her. P.W.2 is the sister of the deceased. According to her, the deceased complained to her that both the accused were demanding dowry from the deceased. P.W.3 is residing near the house of the accused. He has also stated that the accused demanded dowry and harassed the deceased. P.W.4 is the neighbour of the accused and she has spoken about the frequent quarrel between the accused and the deceased. P.W.5 is the Doctor who has given treatment to the deceased. P.W.6, Doctor, who conducted postmortem on the dead body of the deceased and

has given postmortem certificate, Ex.P.2. P.W.7, who is a secretary of the Jamath, has spoken about the marriage between the deceased and A1 and dowry demand made by the accused. P.W.8 has turned hostile. P.W.9 is a witness to the observation mahazar. P.W.10, Doctor who admitted the deceased in the hospital. According to him, when the deceased was brought to the hospital by A1, she was conscious and she was in a condition to answer the questions. He has also issued the Accident Register, Ex.P.5. P.W.11, Sub-Inspector of Police, has spoken about the registration of the case. P.W.12, RDO, conducted inquest on the dead body of the deceased. P.W.13, Assistant Commissioner of Police, conducted investigation and laid charge sheet against the accused.

7. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., they denied the same as false. And they examined sister of A1 as DW1 and marked 3 documents to show that A1 also consumed poison and taken treatment in the hospital.

8. Having considered all the above materials, the trial Court acquitted all the accused, in respect of above charges, as detailed in the first paragraph of this judgment. Aggrieved against the acquittal of the accused, the present Criminal Appeal has been

filed.

9. We have heard the Mrs.M.F.Shabana, learned Government Advocate (Crl. Side) for the petitioner and Mr.D.Veerasekaran, learned counsel appearing for the respondents and I have also perused the records, carefully.

10. P.W.1 in her evidence has categorically stated that the respondents/accused have demanded money only for business purpose. Even as per the evidence of P.W.1, there is no dowry demand. Apart from that even for the money given at the time of marriage, there is no evidence for demand of dowry at the time of marriage and according to the prosecution witnesses, the money has been given voluntarily.

11. Even as per the evidence of P.W.4, neighbour of the deceased, there were wordy quarrels between the accused and the deceased frequently. From the above all evidences, it cannot be concluded that the accused have demanded dowry and the demand is not related to any dowry.

12. So far as the offence under Section 306 IPC , there is no evidence available to show that the accused abetted the deceased to

commit suicide. Apart from the evidence of the doctor, it is seen that A1 also consumed poison and he was also admitted in the hospital, but there was no investigation on that aspect.

13. Considering all the above, the trial court came to a conclusion that the prosecution failed to prove the case beyond reasonable doubt and acquitted the accused.

14. In an appeal against acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him and the fundamental principle of criminal justice delivery system is that every person, accused of committing an offence shall be presumed to be innocent, unless his guilt is proved by a competent Court of law. Secondly if the accused has secured an order of acquittal, the presumption of his innocence is reaffirmed and strengthened by the trial Court. Even if two reasonable conclusions are possible on the basis of evidence on record, the appellate Court should not disturb the finding of the acquittal recorded by the trial Court. In the instant case, the trial Court has rightly acquitted the accused. Hence, I find no perversity in the judgment of the trial Court. In the above said circumstances, I find no reason to interfere with the order of acquittal passed by the trial Court. Hence, the appeal fails and the same is deserves to be

dismissed.

15. In the result, the Criminal Appeal fails and accordingly, the same is dismissed. The judgment of the trial Court in S.C.No.97 of 1998 dated 29.11.1999 is hereby confirmed.

19.01.2017

mrp

Index:Yes/ No
Internet: Yes/No

To

1. The II Additional Assistant Sessions Judge,
Coimbatore.
- 2.The Public Prosecutor,
High Court, Madras.

सत्यमेव जयते

WEB COPY

V.BHARATHIDASAN,J

mrp



Crl.A.No.481 of 2000

WEB COPY

19.01.2017