

Bail Slip

The Appellant/Accused viz John Vincent S/O Ahimas was released on bail vide order of this Court dated 16/07/2009 and made in CRL.MP.No.1/2009 in CRL.A.359/2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2017

C O R A M

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Criminal Appeal No.359 of 2009

John Vincent
S/o.Ahimas

.... Appellant/Accused

Vs

State represented by
Deputy Superintendent of Police,
D-3 Guduvancheri Police Station,
Kancheepuram District.

... Respondent/Complainant

Criminal Appeal filed under Section 374 of the Code of Criminal Procedure praying to set aside the conviction and sentence dated 8.06.2009 imposed on the appellant by the learned Sessions Judge, Mahila Court, Chengalpattu in S.C.No.163 of 2007 and allow the Criminal Appeal.

For Appellant : Mr.N.R.Elango
Senior Counsel
for Mr.C.Robert Bruce

For Respondent : Mr.V.Arul
Additional Public Prosecutor.

J U D G M E N T

This appeal arises against the judgment of learned Sessions Judge, Mahila Court, Chengalpattu, passed in S.C.No.163 of 2007 on 08.06.2009, convicting appellant/accused for offences u/s.498-A and 306 IPC and sentencing him to 1 year R.I. and fine of Rs.500/- i/d 3 months S.I. for offence u/s.498-A IPC and 3 years R.I and fine of Rs.1,000/- i/d 6 months S.I.

2. The case of the prosecution is that the marriage between appellant/accused and the deceased was solemnized on 26.06.2002.

They lived together in a separate house at Ayyancherry. The accusation is that on 06.08.2006 at about 2.30.p.m., due to quarrel between the deceased and the appellant/accused, the deceased committed suicide by consuming poison.

3. PW-11, father of the deceased, preferred Ex.P5, complaint, on 07.08.2006 at 14.30 hours. PW-7, Sub Inspector of Police, Guduvancherry, registered a case in Crime No.595 of 2006 on the file of respondent u/s.173 Cr.P.C. The printed First Information Report is Ex.P4. PW-8, Deputy Superintendent of Police, took up investigation on 07.08.2006, visited the place of occurrence, prepared Ex.P3 - Observation Mahazar and Ex.P4-Rough Sketch in the presence of witnesses. He examined PWs-3 and 4 and recorded their statements. Thereafter, he went to SRM Hospital, examined PW-2 Doctor and recorded his statement. PW-8 also went to Government Hospital, Chengalpet and saw the body of the deceased. PW-9, RDO conducted inquest over the body of the deceased in the presence of witnesses and panchayathars. The inquest report is Ex.P8. PW-8 examined PWs-1, 11 and 12 and recorded their statements. He examined PW-7, Sub Inspector of Police, Guduvancherry and recorded her statement. He altered the FIR to one under Section 306 IPC and sent a report to the learned Judicial Magistrate. On 30.09.2006 PW-8 handed over the investigation to PW-13 Deputy Superintendent of Police, Chengalpet. On 26.10.2006 at about 8.00.a.m, PW-13 arrested the accused in front of his house. On the same day at about 9.00.a.m, he went to Guduvancherry Police station along with accused and sent the accused to judicial custody. On 05.11.2006, he examined PW-6 and recorded his statement. He obtained photos and negatives, which were marked as M.O.1. On 19.12.2006, he obtained post-mortem report and examined PW-10 Doctor and recorded her statement. The post-mortem report is Ex.P13. PW-10 forwarded the viscera deceased for chemical analysis. On 10.01.2007, PW-13 examined Head Constable and recorded his statement. On 18.01.2007, he examined PW-9, recorded his statement and obtained PW-9 RDO's report. On completion of investigation, he filed a charge sheet before learned Judicial Magistrate II, Chengalpet alleging offences u/s. 304(B), 498(A) and 306 IPC. Upon committal, the case was tried in S.C.No.163 of 2007 on the file of learned Sessions Judge, Mahila Court, Chengalpattu for offences u/s. 304(B), 498(A) and 306 IPC.

4. Before trial Court, prosecution examined 13 witnesses, marked 13 exhibits and 1 material object. None were examined on the side of defence nor were any exhibits marked. When questioned u/s.313 Cr.P.C., accused denied charges. On appreciation of materials before it, trial Court, under judgement dated 08.06.2009, while acquitting appellant/accused of offence u/s.304(B) IPC, convicted him for offence u/s.498-A and 306 IPC and sentenced him to 1 year R.I. and fine of

Rs.500/- i/d 3 months S.I. for offence u/s.498-A IPC and 3 years R.I and fine of Rs.1,000/- i/d 6 months S.I. for offence u/s. 306 IPC. Trial Court directed sentences to run concurrently.

5. Heard learned counsel for appellant and learned Additional Public Prosecutor for respondent. Perused the records.

6. P.W.11 father of the deceased has preferred Ex.P5- Complaint. Therein he has informed of an amicable relationship between the deceased and the accused and not knowing the reason for deceased resorting to suicide. P.W.7 is the Head Constable who registered the FIR. PW-9 is the RDO who conducted inquest and Ex.P9 is the Inquest report. Both the person as also the report inform that no suspicion was cast upon the appellant/accused and the reason for the deceased resorting to suicide was not known. It is only PW-12, brother of the deceased who has spoken to having been present at the time of occurrence and of an on going dispute between the appellant/accused and his wife regards pledged jewels and of the appellant/accused accusing the deceased wife of causing a wedge between him and his brother as also beating and seeking to throttle her. He has claimed to not having informed the RDO at the inquest, since he had been threatened by the appellant/accused. P.W.8- the initial Investigating Officer has deposed to PW-12 not having informed him of any dispute or wrongful action of the accused. P.W.13 is the Investigation Officer who filed the charge sheet. P.W-1 is the sister of the deceased. She has spoken to having been informed by PW-12, her brother, of the death of the deceased on the evening of 06.08.2006 and that PW-12 stated he would inform other particulars in person and disconnected the telephone call. P.W.5 is a Police Constable and P.W.6 is a photographer PW-2 was the Doctor at hospital to whom the deceased was brought at about 03.15 p.m on 06.08.2006. He has spoken to the deceased having been brought by the appellant/accused who informed that the deceased had consumed insecticide. PW-3 is a neighbour of the appellant/accused and as against the claim of PW-12 that he used the phone of PW-4 to inform the death of his sister. PW-3 has stated that it was her phone which was used by PW-12. PW-3 has spoken to having been informed of the death by PW-4 another neighbour. PW-4 has spoken to accompanying the appellant/accused in taking the deceased to hospital.

7. P.W.12 is seen to be a witness disworthy of credit. Amicable relationship between the appellant/accused and his wife is reflected both in the complaint Ex.P.5, as also the evidence of RDO- P.W.9 and his report Ex.P.9. All these, uniformly inform that the reason for deceased resorting to suicide was not known. In the circumstances, the appellant/accused is entitled to be acquitted.

8. The Criminal Appeal shall stand allowed. The conviction and sentence passed by learned Sessions Judge, Mahila Court, Chengalpattu, in S.C.No.163 of 2007 on 08.06.2009, is set aside and appellant is acquitted of all charges. Fine amount, if any, paid shall be refunded Bail bond(s), if any, executed shall stand cancelled.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

kmi

To

1.The Judicial Magistrate,
No.II Chengalpattu.

2.The Chief Judicial Magistrate,
Chengalpattu.

3.The Sessions Judge,
Mahila Court, Chengalpattu.

4.The Deputy Superintendent of Police,
D-3 Guduvancheri Police Station,
Kancheepuram District.

5.The Public Prosecutor,
High Court, Chennai.

+2cc to Mr.C.Robert Bruce, Advocate, S.R.No.58975

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MP(CO)
GSP(11/09/2018)

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