

Bail Slip

The Appellants/Petitioner/Accused No.S.C.NO.153/2010 R. Rajasekar, S/o. Rajendran was directed to be released on bail as per the order of this court dated 18.7.2013 in CrI.MP.No.1/2013 in CrI.A.481/2013 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2017

C O R A M

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Criminal Appeal No.481 of 2013

R.Rajasekar S/o.Rajendran ... Appellant/Accused 1

-vs-

The State represented by
The Inspector of Police,
J-8 Neelangarai Police Station,
Neelangarai,
Chennai.Crime No.242 of 2008 ... Respondent/Complainant

Criminal Appeal filed under Section 374 (2) of the Code of Criminal Procedure against the judgment of learned Sessions Judge, Mahila Court, Chengalpet, passed in S.C.No.153 of 2010 on 26.06.2013.

For Appellant : Mr.M.Nirmal Kumar
For Respondent : Mr.M.Mohammed Riyaz
Government Advocate [CrI.side]

J U D G M E N T

This appeal arises against judgment of learned Sessions Judge, Mahila Court, Chengalpet, passed in S.C.No.153 of 2010 on 26.06.2013, convicting appellant/A1 for offence u/s.498-A IPC and sentencing him to 1 year R.I. and fine of Rs.5,000/- i/d 6 months R.I.

2. The case of the prosecution is that the marriage between appellant/A1 and the deceased was solemnized on 26.05.2005. They lived jointly with accused 2 and 3. The accusation against accused is that they demanded dowry and harassed the deceased, owing to which the deceased committed suicide by hanging herself.

3. PW-1, mother of the deceased, preferred Ex.P1, complaint, on 11.04.2008 at 06.30 hours. PW-6, Sub-Inspector of Police, registered a case in Crime No.242 of 2008 on the file of respondent u/s.174(3) Cr.P.C. The Printed First Information Report is Ex.P2. PW-10, Assistant Commissioner of Police, took

up investigation on 11.04.2008, visited the place of occurrence, prepared Ex.P8 - Observation Mahazar and Ex.P9 - Rough Sketch in the presence of witnesses PWs.4 and 5. Since the deceased died within 7 years of marriage, he sent a requisition to the Personal Assistant to the Collector towards conducting inquest. He examined PWs.1 to 8 and recorded their statements. In the enquiry conducted on 13.04.2008, it came to light that the death occurred owing to demand of dowry and hence, offences were altered to Sec.498-A and 306 IPC. The alteration report is Ex.P10. On 13.04.2008, P.W.10 arrested accused 2 and 3 at the Enjampakkam Police Station and sent them for judicial custody. On 14.04.2008, he obtained postmortem report from PW-8, Doctor and recorded his statement. A1 had surrendered before Alandur Court on 29.04.2008. On 07.05.2008, PW-10, examined A1 and recorded his voluntary confession statement. At about 11.30 a.m., he seized the marriage photos of A1 under mahazar and in the presence of witnesses. On his transfer, one Murali, Assistant Commissioner of Police, took up investigation. He examined the Revenue Divisional Officer and recorded his statement. Upon completion of investigation on 04.12.2009, he filed a charge sheet informing commission of offences u/s.498-A, 304-B IPC and 4 of Dowry Prohibition Act. The case was tried in S.C.No.153 of 2010 on the file of learned Sessions Judge, Mahila Court, Chengalpet.

4. Before the trial Court, prosecution examined PWs.1 to 10 and marked Exs.P1 to P10. None were examined on behalf of the defence nor were any exhibits marked. On questioning u/s.313 Cr.P.C., the accused denied charges. Learned trial Judge, on appreciation of evidence, under judgment dated 26.06.2013, while acquitting accused 2 and 3 of all charges and acquitting A1 of offences u/s.304-B IPC, convicted him u/s.498-A IPC and sentenced him to 1 year R.I. and fine of Rs.5,000/- i/d 6 months R.I. There against, the present appeal.

5. Heard learned counsel for appellant and learned Government Advocate [Crl.side]. Perused the records.

6. In convicting appellant for offence u/s.498-A IPC, trial Court has reasoned that PW-1 clearly had deposed that appellant/accused used to drink and beat the deceased. Trial Court has accepted the deposition of PW-1, mother of deceased, to the effect that one day the appellant/accused, in drunken state, came along with his mother and beat both her as also deceased and pushed them down. It has also taken into consideration the evidence of PW-3 that appellant/accused called him over phone and abused him. Deceased has resorted to suicide on 10.04.2008. Trial Court has failed to consider the admission of PW-1, her mother, that she had not gone to her daughter's house since 01.01.2007 and that she has admitted to informing the Revenue Divisional Officer at the inquest that her daughter did not inform her of happenings in her marital home. PWs.1 to 3

are mother and brothers of deceased. PW-1 has also admitted to others examined at the inquest being her relatives or well-wishers. PW-9, a neighbour, examined to speak of unnatural happenings in the house of appellant/accused, has turned hostile. PWs.4 and 5, witnesses to the observation mahazar Ex.P8, have turned hostile. Other witnesses are only official witnesses. Trial Court has failed to see that the wrongful acts of appellant/accused spoken to by PW-1 and accepted by it necessarily are exaggerations. We are of the view that appellant/accused wrongfully stands convicted for offence u/s.498-A IPC and accordingly, appellant is entitled to benefit of doubt.

The Criminal Appeal shall stand allowed. The conviction and sentence passed by learned Sessions Judge, Mahila Court, Chengalpet, passed in S.C.No.153 of 2010 on 26.06.2013, are set aside. 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-II)

//True Copy//

Sub Assistant Registrar

gm

To

- 1.The Sessions Judge,
Mahila Court, Chengalpet.
- 2.The Inspector of Police,
J-8 Neelangarai Police Station,
Neelangarai, Chennai.
- 3.The Public Prosecutor,
High Court, Chennai.
4. The Judicial Magistrate, Alandur.
5. The Section Officer, Criminal Section,
High Court, Madras.
6. The Chief Judicial Magistrate, Chengalpet.

+ 1 cc to M/s. M. Nirmal Kumar, Advocate Sr.20636

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KAN(CO)

EU (19/03/2018)