

Bail Slip.

The Accused namely

1. Murugan S/o Ganesan
2. Bhoopathy W/o Ganesan

were directed to be released on bail as per order of this Court dated 10.03.2014 in M.P. 1/2013 in Crl.A.No.717 of 2013.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2017

CORAM

The Hon'ble Mr.JUSTICE C.T.SELVAM

Crl.A.No.717 of 2013

1.Murugan
S/o Ganesan

2.Bhoopathy
W/o Ganesan

...Petitioners

Vs.

The Assistant Commissioner of Police,
(L&O) East, Police Station
Coimbatore City
(Crime No.12 of 2011)

...Respondent

Criminal Appeal filed under Section 374 of the Criminal Procedure Code praying to call for the records and to set aside the judgment and conviction dated 11.10.2013 imposed in S.C.No.112 of 2012 on the file of learned Sessions Judge, Magalir Neethimandram (Mahila Court) Coimbatore, and quash the same.

For Appellants : Mr.T.Munirathnam Naidu
For Responden : Mr.M.Mohammed Riyaz
Government Advocate(Crl.Side)

O R D E R

This appeal arises against the judgement of the learned Sessions Judge, Mahila Court, Coimbatore in S.C. 112/2012 dated 11.10.2013 convicting the accused u/s 498(A) IPC and sentencing them to 1 year RI and fine of Rs.5000 each i/d 1 month SI and u/s 306 IPC to 7 years RI and fine of Rs.10000 each i/d 3 months SI.

2. The case of prosecution is that the deceased married A1 and was continuously subjected to cruelty by the husband and his mother. Owing thereto, she committed suicide by hanging on 11.05.2011 between 9 and 10 am. A complaint was preferred by PW 1 at the Meensuriti Police Station on 13.01.2011 and was received by PW 9, then SI (Ex.P.1). A complaint was registered as CSR No. 13/2011 but it was dropped after the compromise of the parties. Another complaint was preferred by A1 in Jeyankondam Police Station and it was received by PW 10, an Inspector (Ex.P.4). This complaint was also dropped after compromise of the parties. Another written complaint was preferred by PW 4 in Women's Police Station (East) on 11.05.2011 at 1:30 pm. It was received by PW 14, SI and a case was registered as Cr.No.12/2011 u/s 174 Cr.P.C. The written complaint and printed copy of FIR were sent to RDO for investigation. They are marked as Ex.P.10 and Ex.P.11 respectively. PW 12, RDO conducted inquest, enquired and recorded the statements of relatives of both the parties. He stated that the failure of the victim to bring her jewels from her parental home was the reason for conflict and suicide. The inquest report, RDO report and statements are marked as Ex.P.7.

3. Prosecution examined PW 1 to PW15, marked exhibits Ex.P.1 to Ex.P.13 and material objects M.O.1 to M.O.5.

4. PW-1, the mother of the deceased, deposed that the accused had pressurised the deceased for dowry and she was ill-treated for not bringing her jewels to her matrimonial home after delivery. PWs.-2 and 3 are father and brother of the deceased. Their statements were similar to that of PW-1.

4.1. PW-4, a neighbour, deposed that there was a quarrel between the deceased and A1 and that it could have led to suicide. PW-5, daughter-in-law of PW-4, has also spoken on the same lines.

4.2. PW-6, a resident at Avarampalayam, is an attesting witness to the mahazars.

4.3. PW-7, a neighbour, deposed that the mother-in-law of the deceased used to quarrel with the deceased and on getting information, he went to the house of deceased and saw her hanging.

4.4. PW-8, photographer, deposed to having caused photographs of the body of the deceased.

4.5. PW-9, Sub-Inspector of Police, spoke to PW-1 having preferred a complaint and on enquiry, both parties have agreed to compromise the matter among themselves and requested him to not to take any action on the complaint.

4.6. PW-10, Sub-Inspector of Police, spoke to preference of complaint by the father of the accused and the same was closed upon both parties agreed to compromise the matter among themselves.

4.7. PW-11, Joint Director of Forensic Science Department, deposed to having compared the handwriting in the document dated 11.05.2011 with the handwriting in Diary and found that both were written by one and the same person. PW-11 also deposed to having submitted Exs.P5 and P6, Document Expert Report and Reasoning sheet in this regard.

4.8. PW-12, Assistant Commissioner, Revenue Divisional Office, Chennai, spoke to conducting inquest on the body of deceased in the presence of two witnesses and on completion thereof, examining the witnesses and recording their statements. It was found that there was some quarrel between deceased and her husband regards jewels, owing to which the deceased died. PW-12 submitted a report informing that first accused was the reason for the death of the deceased. Ex.P7 is the inquest report.

4.9. PW-13, Doctor, who conducted post-mortem, opined hat the deceased would appear to have died of hanging.

4.10. PW-14, Sub-Inspector of Police, spoke to registering a case in Crime No.12 of 2011 u/s.174 Cr.P.C. on receipt of complaint, forwarding the same to Revenue Divisional Officer and higher officials. Ex.P10 is the complaint and Ex.P11 is the First Information Report.

4.11. PW-15, Assistant Commissioner, who conducted investigation in the case, spoke to spoke to visiting the place of occurrence, preparation of mahazars, examination of witnesses, arrest of accused, seizure of material objects and of obtaining various reports. PW-15 also deposed that on completion of investigation, he filed a charge sheet informing commission of offence u/s.498-A and 304-B IPC.

4.12 On appreciation of the materials before, the learned Sessions Judge, Mahila Court, Coimbatore in S.C. 112/2012 dated 11.10.2013 convicted the accused u/s 498A IPC and sentenced them to undergo 1 year RI and fine of Rs.5000 each i/d 1 month SI and

convicted them u/s 306 IPC and sentenced them to undergo 7 years RI and fine of Rs.10000 each i/d 3 months SI. There against the appellants preferred C.A. No.717/2013.

4.13. Heard the contentions of the prosecution and defence and perused the materials available on record.

5. Suicide note translates as follows:

My husband and mother in law are responsible for my death. Sister Vanitha please forgive me. I thought I would follow your advice and phoned my mother in law asking forgiveness but she said that I would call your father and mother and conduct a Panchayat in the midst of the Villagers and said if I do not ridicule your mother and father in the middle of Panchyatars my name is not Bhoopathy. My mother and father have suffered so much because of me I do not wish to cause more difficulty to my mother and father who had suffered so much because of me. At least in the next birth I must be born a daughter who fulfills wishes of my mother. Let not anybody quarrel for my son. Leave him in the care of my mother. My last wish. I have not done anything for my son. Mother please take good care of him. Mother and father please forgive me.

Sd/-
Nagavalli

6. The first appellant and the deceased had been in love and entered upon marriage. From the reading of evidence in the case it appears that though the deceased girls family particularly the mother was opposed to the marriage subsequently had accepted the same. A boy child was born to the couple on 18.12.2010. Though the evidence of P.Ws.1 and 2 inform of much demands having been made and much harassment had been meted out to the deceased, there has been absolutely no complaint made by the prosecution party. On the other hand, the first accused has preferred a complaint informing that the wife/deceased and family members had treated him shabbily and refused him access to his child. The same has been marked as Ex.P.5. Reading of Exs.P.4 and 5 reveal that the husband/A1 has preferred a complaint informing that he had been most shabbily treated by his wife and her family members and that he had been denied access to the child. On such complaint having been entered in

the Community Service Register both husband and wife have appeared before the respondent, Mahalir Police Station, Jayankondam and the dispute between them has been settled on the understanding that the wife having had undergone a cesarean operation, would stay at her mother's residence for a period of five months and that the appellant/A1 would duly provide for her.

7. The very reading of the suicide note dated 11.05.2011 reflects the position that the deceased admitted to being wrong and, following the advice of P.W.5, sought to make amends by calling her mother in law over phone but she was rebuffed. It is the unchallenged deposition of P.W.5- Vanitha, the person addressed by the deceased in the suicide note that there was a dispute over the quality of feeding bottle purchased by A1/husband for the child, on the date prior to the occurrence. P.W.5 has further deposed that she advised her. Thereafter on the next day, when the appellant/A1 sought to proceed on the motorcycle to work, the deceased told him not to take the motor cycle which had been purchased by her father. P.W.5 questioned why a problem was being created while the appellant/A1 was going to work. The appellant/A1 pacified the deceased and went to work.

8. In the circumstances, this Court finds erroneous the conviction for offence u/s. 498(A) and 306 I.P.C. It is apparent that there has been frequent quarrels between the parties. As seen from the deposition of P.W.5, there was a quarrel regarding a small issue of a feeding bottle on the date prior to the occurrence and on the date of occurrence the deceased picked up a quarrel with A1/ appellant requiring him not to take the bike purchased by her father. According to the prosecution the deceased had left a suicide note and committed suicide by hanging. Resorting to the irrational act of suicide by one in a fit of anger as is the state the deceased seemed to be in cannot lead to a charge u/s. 306 IPC. Material on record does not support the charge u/s. 498 A I.P.C.

9. The appeal shall stand allowed. The judgment passed by the learned Sessions Judge, Magalir Neethimandram (Mahila Court) Coimbatore, passed in S.C.No.112 of 2012 on 11.10.2013, shall stand set aside. The appellants are acquitted of the charges against them in S.C.No.112 of 2012. Fine, if any, paid, shall be refunded. Bail bonds, if any, executed shall stand cancelled. Connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

1.The Sessions Judge,
Magalir Neethimandram
(Mahila Court), Coimbatore

2.The Assistant Commissioner of Police,
(L&O) East, Police Station
Coimbatore City

3.The Public Prosecutor,
High Court,
Madras - 600 104.

4. The Superintendent
Central Prison, Coimbatore.

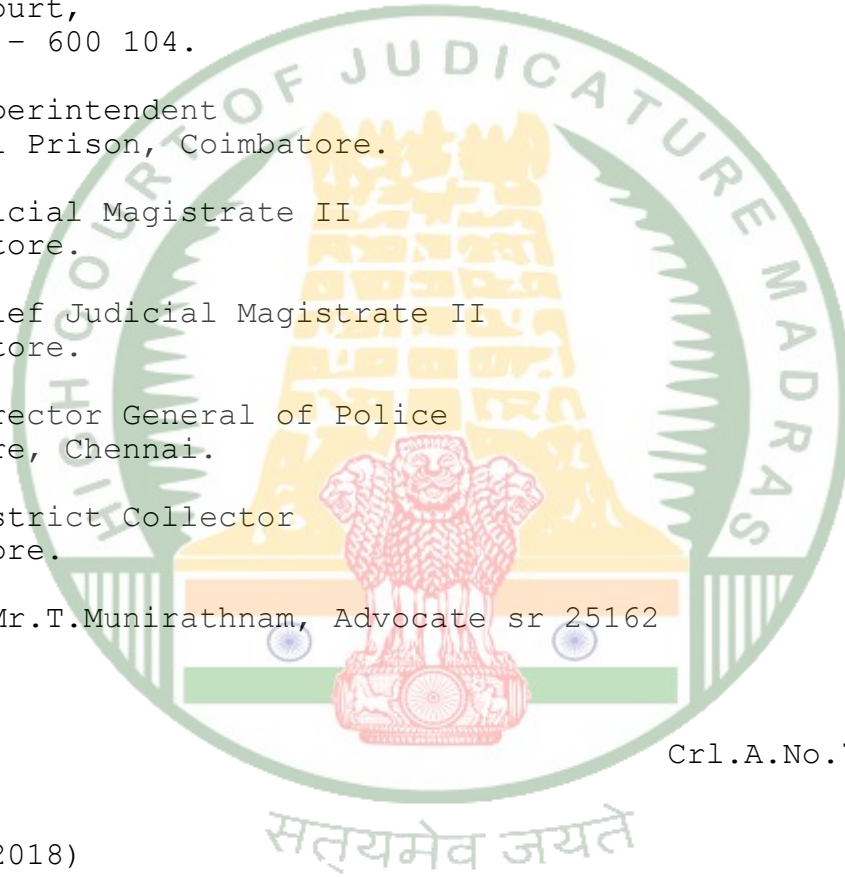
5 The Judicial Magistrate II
Coimbatore.

6. The Chief Judicial Magistrate II
Coimbatore.

7. The Director General of Police
Mylapore, Chennai.

8. The District Collector
Coimbatore.

+1 CC to Mr.T.Munirathnam, Advocate sr 25162



CrI.A.No.717 of 2013

NRI (CO)
SP(05/12/2018)

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