

Bail Slip.

The Appellant/Accused namely Venkatesalu, S/o Kesava Achari, was directed to be released on bail vide order of court dated 17.08.2006 made in CrI.M.P. 1/2006 in CrI.A. 648/2006.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2017

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Criminal Appeal No.648 of 2006

Venkatesalu
S/o.Kesava Achari

.. Appellant/Accused

Vs.

State represented by
Inspector of Police,
Siva Kanchi Police Station,
Kancheepuram District.
Kancheepuram.

Crime No.1381 of 2004

.. Respondent/Complainant

Criminal Appeal preferred under Section 374(2) of Code of Criminal Procedure against the judgment of learned Additional Sessions Judge, Fast Track Court II, Kancheepuram, passed in S.C.No.185 of 2006 on 12.07.2006.

For Appellant : Mr.S.Thankira

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

J U D G M E N T

This appeal arises against the judgment of learned Additional Sessions Judge, Fast Track Court II, Kancheepuram, passed in S.C.No.185 of 2006 on 12.07.2006.

2. Prosecution case is that appellant/accused, husband of deceased, ill-treated her both physically and mentally owing to which the deceased committed suicide by self-immolation on 07.10.2004 at about 11.30 a.m. A case was registered in Crime No.1381 of 2004 on the file of respondent u/s.174 Cr.P.C. and later, the same was altered to reflect offences u/s.306 IPC. On completion of investigation, a charge sheet was filed informing offence u/s.306 IPC before learned Judicial Magistrate I, Kancheepuram. On committal, the case was tried in S.C.No.185 of

2006 on the file of learned Additional Sessions Judge, Fast Track Court II, Kancheepuram.

3. Before trial Court, prosecution examined 15 witnesses, marked 9 exhibits and 3 material objects. None were examined on the side of defence nor were any exhibits marked.

4.1. PW-1, father of deceased, has spoken to a love affair between appellant/accused and deceased, of deceased marrying appellant/accused without the family's consent and that thereafter, they had no connection with the deceased. PW-1 has spoken to deceased calling PW-2, his wife, over phone on 07.10.2004 at about 10.00 a.m., informing her that appellant/accused was torturing her and requesting PW-3 to take her back to the parental home. PW-2 informed her son P.W.3, who, in turn informed PW-1. All of them were in discussion in the house, when they were informed that deceased poured kerosene and set herself on fire. They immediately went to the house of appellant/accused. P.W.1 saw his daughter had died and preferred Ex.P1, complaint with the respondent police. PW-2 and PW-3, mother and brother of deceased, have spoken on the same lines.

4.2. PW-4, house owner, has spoken to quarrel between appellant/accused and deceased, of deceased speaking to her brother over her (P.W.4's) phone on the occurrence day and of seeing deceased with burn injuries. PW-5, husband of PW-4 has spoken on the same lines.

4.3. PW-6, neighbour of appellant/accused, deposed to going over along with P.W.4 upon hearing of smoke emanating from the house of appellant/accused and seeing the body of deceased with burn injuries.

4.4. PW-7, neighbour of appellant/accused, has spoken to attesting Ex.P2, observation mahazar and Ex.P3, seizure mahazar.

4.5. PW-8, Revenue Divisional Officer, has spoken to conduct of inquest and of submitting Ex.P4, inquest report.

4.6. PW-9, Constable, has spoken to handing over the body of deceased for conduct of post-mortem and on completion thereof, handing over the same to her relatives.

4.7. PW-10, Sub-Inspector of Police, has spoken to registering First Information Report in Crime No.1381 of 2004 on the file of respondent u/s.174 Cr.P.C., of forwarding the same to Court, Revenue Divisional Officer and Deputy Superintendent of Police and of assisting higher officials. The printed First Information Report is Ex.P5.

4.8. PW-11, Inspector of Police, has spoken to altering the First Information Report to reflect offence u/s.306 IPC on coming to know that deceased had committed suicide owing to ill-treatment of accused, of forwarding Ex.P6, alteration report, to Court and of arresting the accused on 13.10.2004 at about 10.30 a.m.

4.9. PW-12, Doctor, who conducted post-mortem on the body of deceased, has opined that the deceased appeared to have died owing to hypovolemic shock due to severe burn injuries.

4.10. PW-13, photographer, has spoken to taking photographs of the body of deceased on the instructions of police officials. Photographs and negatives are MO-1 and MO-2 series.

4.11. PW-14, Deputy Superintendent of Police, who initially conducted investigation, has spoken to visiting the scene of crime, preparation of mahazars, seizing of articles, examining witnesses and recording their statements and that on finding that deceased had committed suicide not owing to dowry demand but owing to ill-treatment of accused, handing over the case papers to PW-15 for further investigation.

4.12. PW-15, Deputy Superintendent of Police, has spoken to examining witnesses, recording statement and on completion of investigation, filing charge sheet informing commission of offence u/s.304 IPC on 22.04.2004.

5. On appreciation of materials before it, trial Court, under judgment dated 12.07.2006, convicted accused for offence u/s.306 IPC and sentenced him to 7 years R.I. and fine of Rs.1,000/- i/d 6 months S.I. Against such finding, the present appeal has been filed.

6. Heard learned counsel for appellant and learned Additional Public Prosecutor.

7.Ex.P.1 - complaint has been preferred by P.W.1, father of the deceased. He has admitted to the relationship with the deceased having been severed after she went away with the accused to marry him. He deposed that he has not seen the deceased after her marriage and neither had the deceased and accused asked him for any help nor had he rendered any. The prosecution story is of the deceased having called her mother over phone informing that she had been tortured by the accused and requesting that she be taken back to the parental home by P.W.3, her brother. If true, one would expect such position to be informed in Ex.P.1 - complaint. Not so. P.W.3, brother of the deceased also has spoken to the severance of relationship with

the deceased. P.W.4, the owner of the house, wherein the appellant and deceased resided, has spoken to their leading a congenial married life. P.W.4 has spoken to the deceased having used the phone in her house to speak to her brother P.W.3 and that she was then crying whereupon P.W.4 over phone asked P.W.3 either to effect a compromise or to take her to their home. P.W.3 had replied that the appellant and deceased had got married on their own. P.W.4 stated that she did not follow what was said as deceased had been conversing in Telugu. Such evidence does not ring true as in cross P.W.4 admitted that she never had heard of any bad conduct on the part of the appellant, and was not aware any misgivings between the appellant and deceased till her death. She claimed to have heard there of through an occupant of another portion of the house by name Geetha, who was not examined. P.W.5, husband of P.W.4 has spoken to Arumugam, husband of the said Geetha informing him on the way home at 10.00 p.m. of some quarrel between the appellant and the deceased, that the deceased was then standing outside and immediately upon seeing him the appellant had pulled her inside the house. Knowledge of P.W.5 of differences between the appellant and deceased besides being hearsay does not ring true as in cross he would admit that he had no knowledge of any differences between the couple. P.W.4 has spoken to telephonic conversation between the deceased and her brother P.W.3 and that deceased was weeping thereafter. P.W.3 also has spoken to such conversation. It is the defence case that aggrieved on being abused by P.W.3, the deceased had committed suicide. We will never know. There is absolutely no trustworthy evidence indicating any wrong doing on the part of the appellant. Quite contra, there is much evidence of congenial relationship between the appellant and deceased. In such scenario the appellant is entitled to acquittal.

8. The Criminal Appeal shall stand allowed. The judgment of learned Additional Sessions Judge, Fast Track Court II, Kancheepuram, shall stand set aside. Appellant/accused is acquitted of all charges. Fine, if any, paid shall be refunded. Bail bonds, if any, executed shall stand cancelled.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

gm/sj

To

- 1.The Additional Sessions Judge,
Fast Track Court II,
Kancheepuram.
 2. Do Through The Principal Sessions Judge
Chengalpattu.
 3. The Judicial Magistrate
Kancheepuram.
 4. Do Thro The Chief Judicial Magistrate
Chengalpattu.
 5. The Superintendent
Central Prison
Cuddalore.
 - 6.The Inspector of Police,
Siva Kanchi Police Station,
Kancheepuram District.
Kancheepuram.
 - 7.The Public Prosecutor,
High Court, Madras.
- +1 CC to Mr.S.Thankira, Advocate sr 49486.

Criminal Appeal No.648 of 2006

SP(14/08/2018)

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