

Bail Slip.

The Accused namely Narasimman, S/o Jayaraman 1st Appellant/1st Accused, in S.C.No.48 of 2002 dated 08.01.2008 on the file of the Assistant Sessions Judge, Ponneri was released on bail in Crl.M.P. 2/2008 in Crl.A.No.72 of 2008 dated 17.04.2008 on the file of this court.

The Accused namely Thulasi W/o Jayaraman, Jayaraman S/o.Krishnan, Amudha W/o. Rashupathy accused 2 to 4 in S.C.No.48/2002 dated 08.01.2008 on the file of the Assistant Sessions Judge, Ponneri were released on bail in Crl.M.P. 1/2008 in Crl.A.No.72 of 2008 dated 04.02.2008 on the file of this court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2018

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

Crl.A.No.72 of 2008

1.Narasimman
2.Thulasi
3.Jayaraman
4.Amudha

.. Appellants/Accused

Vs.

State by:
Inspector of Police,
Thiruvattiur Police Station
Crime No.567 of 2000.

.. Respondent/Complainant

Prayer: Criminal Appeal filed under Section 374(2) of Criminal Procedure Code, call for the records of the case in S.C. No. 48/02 on the file of the Assistant Sessions Judge, Ponneri and setaside the conviction and sentence dated 08.01.2008.

For Appellants : Mr.J.C.Durai Raj for A1
Mr.A.Manoj Kumar for A2 to A4
Legal Aid Counsel

For Respondent :Mr.R.Ravichandran,
Government Advocate (Crl.side)

J U D G M E N T

This criminal appeal has been filed by the appellants/accused No.1 to 4, as against the conviction and sentence dated 08.01.2008 made in S.C.No.48/2002 on the file of learned Assistant Sessions Judge, Ponneri.

2.The brief facts of the prosecution case are as follows:P.W.1 is the father of the deceased. P.W.2 is the mother of the deceased. P.W.3 is the brother of the deceased. The marriage between the appellant/first accused and deceased

(Lakshmi) was performed with the consent of both the families. Thereafter, A1 and deceased were blessed with one male child. While he was 1½ years old, again the deceased got pregnant. However, A1 and other accused person forced the deceased for abortion. Thereafter, they took the deceased to her parents home and left her by throwing Rs.1,000/- on the door steps. After abortion, again the deceased was sent back to the matrimonial home. Due to the above torture and continuous demand of dowry, on 24.06.2000, the deceased committed suicide by hanging herself. At the time of committing suicide, no family members were available, in respect of which P.W.1 lodged the complaint Ex.P1.

3.P.W.9 Sub Inspector of Police received the complaint Ex.P1 from P.W.1 and registered a case in Crime No.567 of 2000 under Sections 201 and 306 IPC. Ex.P5 is the printed FIR. The investigation officer took up the case for investigation and went to the place of occurrence, prepared observation mahazar Ex.P8 and Rough Sketch Ex.P.9 and recovered material object MO1 saree and he has also conducted inquest over the dead body and issued inquest report Ex.P6. After examining the medical officer and other witnesses the offence was altered into one under Sections 201 and 306 IPC. The alteration report is marked as Ex.P.12.

4.P.W.12 took up the case for further investigation and arrested A1 to A4 on 26.06.2002. Thereafter, he laid a final report as against the accused for the offences under Sections 201 and 306 IPC.

5. Based on the above materials, the trial Court framed the charges for the offences under Sections 201 and 306 IPC against the accused and the accused denied the same. In order to prove the charges, on the side of prosecution P.W.1 to P.W.12 were marked, Exhibits P.1 to P.12 were marked and MO1 were marked.

6. When the trial Court questioned the accused under Section 313 of Cr.P.C., in respect of incriminating evidence available against them, they denied the complicity in the crime and pleaded innocence. However, they did not examine any witnesses nor marked any document.

7. The trial Court, after considering the oral and documentary evidence, has found the A1 to A4 guilty of the offences under Sections 201 and 306 IPC. Accordingly, the trial Court convicted the accused and sentenced them to undergo rigorous imprisonment for nine years and to pay a fine amount of Rs.9,000/- on each accused and in default to undergo rigorous imprisonment for two years for the offence under Section 306 IPC and Rs.1,000/- each for the offence under Section 201 IPC and in

default to undergo six months rigorous imprisonment. The sentence imposed on the accused were ordered to run concurrently. Challenging the said conviction and sentence, A1 to A4 has preferred this appeal.

8. Heard, the learned counsel for the appellants and the learned Government Advocate (Crl.side) for the respondent.

9. The learned counsel appearing for the appellants would submit that there is no material to prove the charges under Section 306 and 201 IPC against the accused. Ex.P1 complaint is totally contrary to the evidence of P.W.1 to P.W.4. Admittedly, the deceased committed suicide at her husband's house. P.W.1's evidence is that accused family abused and tortured the deceased daughter. The improved version of witnesses cannot be accepted.

10. The learned counsel further submit that the second accused and P.W.1 is sister and brother, with their consent, the marriage was performed and no cruelty whatsoever is alleged by the prosecution. In fact, P.W.1 and his family offered job from MRF Company where A1 and A3 working and since they were not able to secure a job, thereby, there was a family dispute between them, in which, P.W.1 laid false complaint against the accused persons and no one knows the reason for committing suicide.

11. Per contra, the learned Government Advocate (Crl.side) appearing for the respondent submitted that P.W.1 to P.W.3 have clearly spoken about the dowry demand and harassment by the accused persons. The accused persons joined together and forced the deceased for abortion and due to unbearable torture, the deceased committed suicide.

12. In the light of the above submissions, now it has to be analysed as to whether the prosecution has proved the guilt of the accused beyond all reasonable doubt.

13. The evidence of P.W.1, the father of the deceased, indicates that the deceased was residing at matrimonial home and P.W.1 further disclosed that both A1 and the deceased lived happily in the matrimonial home. Immediately after birth of a male child, the accused family demanded five sovereigns gold. However, P.W.1 gave only 1½ sovereigns gold. Apart from the above, the deceased was forced to abort the second child, citing the reason that the first child is only 1½ years old. The entire evidence of P.W.1 clearly alleged about the quarrel between the accused and the deceased which was heard by P.W.1 through his deceased daughter.

14. The evidence of P.W.2 who is the mother of the deceased and P.W.3 brother of the deceased also corroborated

with the version of P.W.1 and the evidence of both P.W.2 and P.W.3 indicates that there was some quarrel between the two families for not giving further ''Seedana'' to the family. Further, the accused family continuously tortured the deceased, due to which she committed suicide in the house of the accused. The evidence of P.W.2 and P.W.3 appears to be hearsay evidence and they did not know what had actually happened to the deceased in the house of the accused.

15.P.W.4 is the house owner of the accused where the deceased lived. P.W.5 is Mahazar witness. P.W.6 is also Mahazar witness and all the above three witnesses were turned hostile.

16.P.W.7 is the private Doctor, who had initially given treatment and after treatment he was informed about the said incident and thereafter he reported the death of the deceased. P.W.8 is the Doctor who conducted the post-mortem and certified that death was caused due to hanging.

17.It is the admitted case of the prosecution, at the time when the deceased committed suicide, no one was available in the house and the prosecution has not taken any steps to enquire the proper witnesses and failed to find the reason for committing suicide.

18.Therefore, even assuming that there was quarrel between the accused and the deceased families which had happened 4½ months prior to the occurrence which led the deceased to commit suicide, such a quarrel may not amount to instigation or abetment and would not bring the act of accused within the scope of Section 306 of IPC.

19.Even on perusal of evidence of P.W.1 and P.W.2, there was no quarrel between A1 and the deceased and both were living happily in the matrimonial home. P.W.1 is brother of A2, with their consent, the marriage was performed and even RDO report did not reveal any reason for death and the RDO report also clearly indicate both the families are close relative and the deceased lived in the matrimonial home without any major issues.

20. When that being the position even assuming that there was a family quarrel between the two families, in which the deceased was abused, this Court is of the view that the same would not amount to instigation or abetment to force a person to commit suicide. Though there was a petty quarrel between the accused and deceased families it cannot be brought under the act of instigation or abetment to commit suicide. Thus, I am of the view that the prosecution has not proved the guilt beyond all reasonable doubt. Hence, judgment of the trial Court needs

interference and the same is liable to be set aside.

21. In the result, the criminal appeal is allowed. The conviction and sentence as against the appellants/A1 to A4 in the judgment dated 08.01.2008 in S.C.No.48 of 2002 passed by the learned Assistant Sessions Judge, Ponneri, are set aside. The appellants/A1 to A4 are acquitted from the charges under Sections 306 and 201 of IPC. The fine amount, if any, paid by them is ordered to be refunded to them. The bail bonds executed by them, shall stand terminated/discharged.

s/d-

Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

AT

To

1. The Assistant Sessions Judge, Ponneri
2. The Superintendent
Central Prison, Puzhal, Chennai.
3. The Inspector of Police
Thiruvattiur Police Station
Chennai.
4. The District Munsif cum Judicial Magistrate
Thiruvattiur.
5. The Chief Judicial Magistrate
Chengalpattu.
6. The Public Prosecutor
High Court, Madras 104.
7. The Director General of Police
Mylapore, Chennai 4.
8. The Superintendent
Central Prison for Women
Puzhal, Chennai.
9. The Section officer
Criminal Section
High Court, Madras 104.

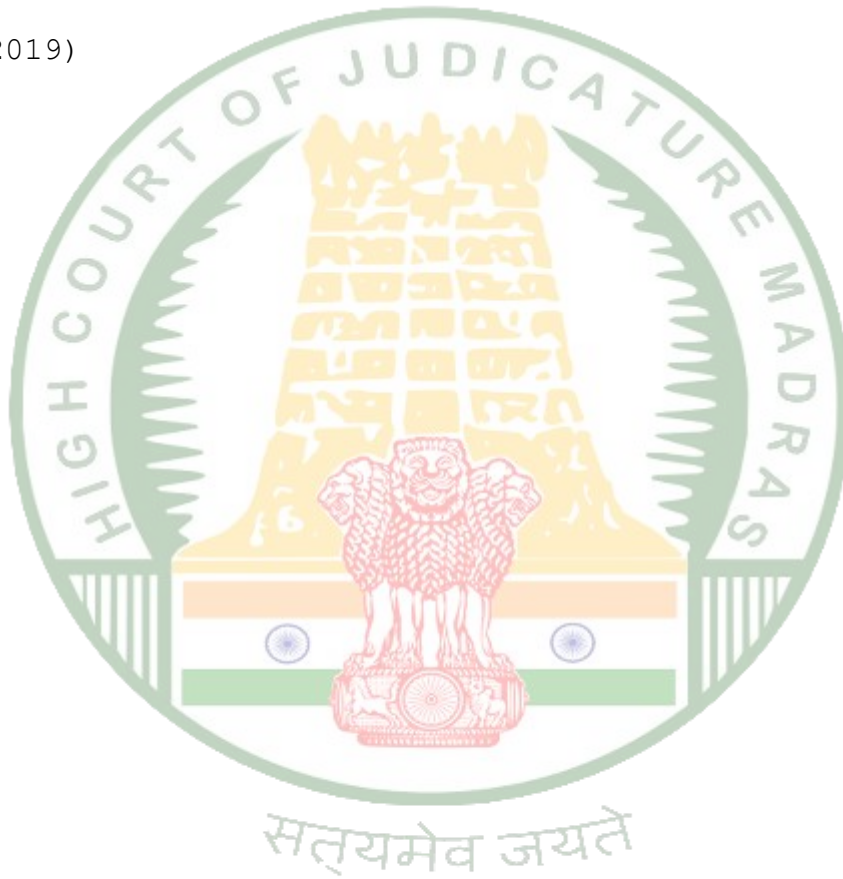
10. The District Collector
Thiruvallur.

+1 CC to Mr.A.Manoj Kumar, Advocate sr 86138.

+1 CC to Mr.J.C.Durairaj, Advocate sr 86378.

Crl.A.No.72 of 2008

SSI (CO)
SP (07/02/2019)



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