

Bail Slip

The Appellant in Criminal Appeal. 87/08 viz Srinivasan S/o.Ramaswamy chettiar was directed to be released on bail as per order of this Court dated 04.02.2008 and made in MP.NO.1/08 IN CRL A 87/08.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2018

C O R A M

THE HON'BLE Mr.JUSTICE M. DHANDAPANI

Crl.A.No.87 of 2008

Srinivasan

... Appellant

Versus

State Represented by
Inspector of Police,
Central Police Station,
Coimbatore.

Crime No.27 of 2006

... Respondent

PRAYER: Criminal Appeal filed under Section 374 (2) of the Code of Criminal Procedure against the Judgment dated 11.01.2008 passed in S.C.No.280 of 2006 by the learned District Judge, Mahila Court, Coimbatore.

For Appellant

... Mr.H.Maruthiraj
Legal Aid Counsel

For Respondent

... Mr.R.Ravichandran,
Government Advocate (Crl. Side)

ORDER

This Criminal Appeal has been filed by the Appellant - sole accused in S.C.No.280 of 2006 on the file of the learned District Judge, Mahila Court, Coimbatore.

2.Brief facts of the prosecution case are as follows:

The accused and the deceased Umamaheswari are the husband and wife. This is the second marriage for the deceased and earlier, she married and got divorced. P.Ws.1 & 2 are parents of the deceased. P.W.5 is the sister and P.Ws.9 & 10 are brothers of the deceased. After marriage, the accused and the deceased were residing in a separate

house, at Coimbatore. Marriage of the accused and the deceased was arranged by the parents of their respective family and it was performed at family temple of the deceased, viz., Angala Parameshwari Amman Temple. At the time of marriage, P.Ws.1 & 2 gave 30 sovereigns gold jewels and Rs.3,00,000/- as sridhana. Initially, they started their matrimonial life in Pollachi. Immediately after marriage, appellant demanded huge money from the deceased in order to develop his business. Due to intolerable torture from the appellant, the deceased gave 20 Sovereigns gold jewels and paid Rs.2,20,000/- to him. Further, she kept the balance amount of Rs.92,000/- for her delivery expenses, since, the deceased was pregnant at the time of occurrence. However, on 18.01.2006, the appellant left the deceased in her parents house and demanded some amount to take lease of one house in Pollachi. But, the deceased denied to give the amount and informed that she need the balance amount for her delivery purpose. The appellant threatened the deceased that he will murder her. Again on 19.01.2006, appellant came to P.W.1's house and attacked the deceased. Hence, P.W.1 taken the deceased to the hospital in Pollachi, there, the deceased was admitted as in-patient for two days. In hospital also, the appellant demanded money and attacked the deceased. Further, on 20.02.2006, he voluntarily discharged the deceased from hospital and taken the deceased along with him to his house at Coimbatore, by leaving the parents of the deceased in hospital itself. Thereafter, on 21.02.2006, at around 12.30 pm, parents of the deceased received the information through phone, that her daughter committed suicide by hanging herself.

3.Immediately, P.Ws.1 and 2 rushed to the place of occurrence and thereafter approached the respondent police and lodged a complaint on 21.02.2006. P.W.12, Medical Officer, attached with Government Hospital, Coimbatore, who conducted post mortem and issued post mortem certificate, marked as Ex.P.9, reveals that the deceased died due to hanging herself. However, it is declared that the deceased had some external injuries all over the body.

4.Initially, P.W.15, the Sub-Inspector of Police received a complaint, Ex.P.1, from P.W.1 and registered a case in Crime No.27 of 2006 under Section 304B IPC and she forwarded the FIR, Ex.P.13 to the Revenue Division Officer and other higher officials in Police Department. Further, the Investigating Officer took up the case for investigation, went to the place of occurrence and prepared an Observation Mahazar (Ex.P.2), Seizer Mahazar (Ex.P.3), Rough Sketch (Ex.P.14) and M.O's.1 and 2. He also conducted inquest over the dead body of the deceased in the

presence of the witnesses and issued inquest report (Ex.P.11). After examining the Medical Officer and other witnesses, the Investigating Officer has laid final report against the accused for the offences under Section 498A and 304B IPC.

5.On the basis of the above materials, the trial Court framed charges for the offences under Section 498A and 304B IPC against the accused.

6.In order to prove the charges, on the side of the prosecution, P.Ws.1 to 16 were examined; Exs.P.1 to 15 were marked; M.O's.1 and 2 were marked and on the side of the defence D.W's.1 to 6 were examined and Exs.D.1 to 18 were marked.

7.When the trial Court examined the accused under Section 313 Cr.P.C, in respect of the incriminating evidences available against him, he denied his complicity in the crime and pleaded innocence. However, the defence counsel has made a submission that the deceased committed suicide, since, there was a loss in the business run by her. Further, the accused/appellant is in no way connected to the suicide committed by the deceased. Further, the defence counsel strongly denied the allegations made in the suicidal note, wrote by the deceased, before committing suicide.

8.The trial Court after considering the oral and documentary evidence, has found the accused guilty under Section 498A IPC and accordingly convicted the accused under Section 498A IPC and sentenced him to undergo three years Rigorous Imprisonment with fine of Rs.5,000/- in default to undergo three months Rigorous Imprisonment. The trial Court however, has not convicted the accused for offence under Section 304B I.P.C.

9.Challenging the said conviction and sentence, the appellant/accused has come up with this appeal.

10.Heard the learned counsel for the appellant and the learned Government Advocate (Criminal Side) appearing for the respondent.

11.The learned counsel appearing for the appellant/accused would contend that there is no material whatsoever available on record to prove the charges under Section 498A against the accused. Ex.P.1 is totally contradictory to the evidences of P.Ws.1, 2, 5, 9 and 10. Admittedly, the deceased committed suicide by hanging herself in her husband's house. In the absence of any cruelty or coercion, implicating the accused under Section

498A is an unlawful act. However, the trial Court erred in believing the witnesses and convicting the accused under Section 498A. Hence, he prayed for acquittal of the accused.

12.Per contra, the learned Government Advocate (Criminal Side) would submit that P.Ws.1 and 2, parents of the deceased have clearly spoken about the quarrel and harassment made by the accused/appellant against the deceased and clearly deposed that the accused/appellant harassed the deceased by demanding money for the purpose to lease out an house in Pollachi, which lead the deceased to commit suicide. Further, the deceased was 8 months pregnant at the time of suicide. Hence, the Judgment of the trial Court need not be interfered.

13.In the light of the above submissions, now, it has to be analyzed, whether the prosecution has proved the guilt of the accused beyond all reasonable doubt ?.

14.The evidence of P.W.1, father of the deceased clearly indicate that the deceased was residing initially at Coimbatore, thereafter, they shifted their residence in Pollachi. At the time first marriage, 30 sovereigns of gold jewels and Rs.3 lakhs were given to the deceased as sridhana. Thereafter, the said marriage was dissolved and the sridhana amount was collected from the first husband of the deceased and thereafter, the said 30 sovereigns of gold and Rs.3 lakhs were used for the second marriage of the deceased. After, the said marriage was performed at the family temple of P.W's.1 and 2, the appellant/accused demanded huge sum of money from the deceased and accordingly, received Rs.2,20,000/- and 20 sovereigns of gold jewels from the deceased for the purpose of leasing out the house and for his business development. Though, the first child was born and died, the deceased was pregnant at the time of occurrence and due to the torture of the appellant/accused, P.Ws.1 and 2 admitted the deceased in hospital. However, by force, the appellant discharged the deceased and brought her along with him to Coimbatore. Immediately, on the next day, i.e., on 21.02.2006, the parents of the deceased received the information that her daughter passed away, by hanging herself in her husband's house.

15.Further, the evidence of prosecution witnesses, would clearly corroborate with each other and in fact P.W.5, in her evidence has clearly spoken about the cruelty leveled against the deceased. P.Ws.9 and 10, who are the brothers of the deceased and also partners in the business of the accused/appellant have clearly deposed that they

were stayed at the deceased house for few months and at that time, the appellant continuously tortured the deceased for want of money.

16. Admittedly, prior to the commission of suicide, the deceased was admitted in Thirumalai hospital by her parents. In hospital also the appellant attacked the deceased and voluntarily discharged her from hospital and taken her to Coimbatore. On the very next day, the appellant informed that the deceased committed suicide by hanging herself.

17. On perusal of P.Ws.1 and 2 evidence, who were present at the hospital, even when they refused to discharge the deceased from hospital, the appellant, by force, discharged the deceased from Thirumalai hospital and taken her along with him.

18. Per contra, on perusal of the defence evidences, all the witnesses have spoken about the business run by the deceased and its loss. However, no witness can able to point out the defence theory, that the business run by the deceased went into loss. Moreover, because of the business loss, the deceased committed suicide, is not reliable. However, no document is available to prove the defence theory and all the evidences produced by the defence side, indicates only the business run by the deceased along with D.W.5 and other documents are registration of Certificate, un-registered partnership between the deceased and D.W.5. Further, some medical records are available in respect of the deceased. However, based on the same, this Court cannot come to the conclusion, that the deceased committed suicide due to business loss. P.Ws.1, 2, 5, 9 and 10 clearly corroborates each other and P.Ws.14 and 16 also endorse the evidence of the parents of the deceased.

19. Though, there is a suicide note available in this case, the same was sent for expert opinion and it reveals that the signature contained in the suicidal note is of the signature of the deceased. However, the trial Court not believed the suicide note and arrived at a conclusion with the evidences of P.Ws.1 and 2 and implicating the accused in the above said crime. Yet another information available in the suicide note is that the appellant/accused had illegal intimacy with one Kokila.

20. Thus, I am of the considered view, that the prosecution has proved the case beyond all reasonable doubt and the Judgment of the trial Court need not be interfered with. Further, the prosecution witnesses viz., P.Ws.1 and 2 clearly corroborated with each other and proved the prosecution case.

21.In the result, the Criminal Appeal stands dismissed. Judgment dated 11.01.2008 passed in S.C.No.280 of 2006 by the learned District Judge, Mahila Court, Coimbatore, is hereby confirmed. The trial Court is directed to secure the presence of the accused/appellant to undergo the remaining period of sentence, if any.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1.The District Judge,
Mahila Court, Coimbatore.

2.The Public Prosecutor
High Court of Madras.

3.The Inspector of Police,
Central Police Station,
Coimbatore.

COPY TO

The Section Officer
Criminal Section , High Court of Madras.

+1cc to Mr.H.Maruthiraj , Advocate SR.No. 88189

Crl.A.No.87 of 2008

A.SK(05/03/2019)