



Bail Slip

That the Petitioner/Accused Viz., Arunachalam aged 33 Years S/O Molaiyan @ Perumal was directed to be released on bail as per order dated 27.06.2008 made in M.P.No.2/2008 in CrI A.No.76/2008 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.06.2018

DELIVERED ON: 19.07.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE R. HEMALATHA

CrI.A.No.76 of 2008

Arunachalam

... Appellant/Accused

Vs.

State represented by its
Deputy Superintendent of Police,
Pennagaram Sub Division,
Dharmapuri District
(Crime No.775 of 2000 of
Papparapatti Police Station)

... Respondent/Complainant

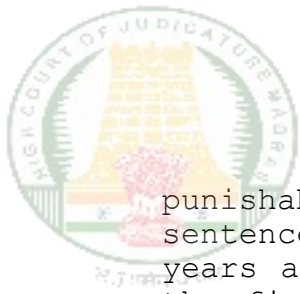
Prayer : Criminal Appeal filed under Section 374(2) of the Code of Criminal Procedure to set aside the judgment of conviction and sentence passed by the learned Additional Session Judge, Fast Track Court, Dharmapuri in S.C.No.259 of 2005 dated 07.01.2008 and acquit the appellant herein.

For Petitioner : Mr.R.Karthikeyan

For Respondent : Mr.T.Shunmugarajeswaran,
Government Advocate (CrI.Side)

JUDGMENT

The appellant Arunachalam has filed the present appeal against the conviction and sentence passed by the Additional Sessions Judge, Fast Track Court, Dharmapuri in S.C.No.259 of 2005 dated 07.01.2008.



2. The appellant/accused was convicted for an offence punishable under Section 304-B of the Indian Penal Code and was sentenced to undergo Rigorous Imprisonment for a period of 7 years and also to pay a fine of Rs.2,000/- and in default to pay the fine amount, to undergo Rigorous Imprisonment for a period of one year.

3. The appellant was the only accused convicted out of the 5 accused namely 1. Arunachalam, 2. Angammal, 3. Senthamarai, 4. Mathesh and 5. Kailasam. The case of the prosecution in brief is that the appellant was married to the deceased Rathinammal in 1996 and during 4 years of their marriage life, he has harassed her mentally and physically, demanding dowry in different forms, till she decided to end her life. The victim Rathinammal was sent back home several times during this period to fetch money, citing several reasons and the last occasion was to get Rs.5,000/- to enable the present appellant to build a house. The father of the deceased Perumal (Pw2) had promised to give the financial assistance, after sale of ground nut, which was cultivated by him. The contention of the prosecution is that, the victim was under tremendous pressure and stress and could not even think of going back to her husband's place, without the demanded money. In such circumstances, it is understood that her brother Jamberi (Pw1) and her father Perumal (Pw2) cajoled her and sent her back, where she was allegedly tortured forcing her to take the extreme step of committing suicide by consuming poison (pesticide). On the side of the prosecution, 14 witnesses were examined and though minor contradictions were pointed by the trial court by and large, the theory of prosecution was adequately substantiated. The main point, which was decided by the trial court was that the death was due to the demand for dowry and the harassment the victim underwent.

4. The appellant's main contention is that Section 304-B of the Indian Penal Code is not applicable in the instant case, as the death was only due to consuming of poison by the victim, which necessarily need not be due to harassment or torture by way of demanding dowry. As the law stipulates any death due to burn or bodily injury or otherwise than under normal circumstances or physical assault, as a result of demand for dowry or any unnatural death within 7 years of the marriage would attract Section 304-B of the Indian Penal Code. It is relevant to extract Section 304-B of the Indian Penal Code

304-B. Dowry death - (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within 7 years of her marriage and



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it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for or in connection with, any demand for dowry, such death shall be called "dowry death" , and such husband or relative shall be deemed to have caused her death.

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

An independent enquiry by the Revenue Divisional Officer is mandatory in such case and his report plays a vital role in determining whether there was harassment caused by way of demand for dowry. Though Mr.R.Karthikeyan, learned counsel appearing for the appellant contended that the suicide could have been due to unbearable stomach pain, which the deceased used to suffer during her menstrual period, it is evident that such a theory has not been substantiated by adducing acceptable evidence. In fact, no evidence has been adduced by the accused for the deceased having visited any hospital for any such stomach pain.

5. Another contention of the learned counsel appearing for the appellant is that the victim had earlier attempted to commit suicide and many of her family members too, did not have the mental resilience to withstand any difficulty in life and had attempted suicide earlier. Such a sweeping allegation appears to be unfounded and without any basis. The Doctor's Postmortem Report (Ex.P8) and chemical analysis report (Ex.P13) dated 29.12.2000 clearly confirm that the death was due to the consuming of poison. However, there were external injuries on the body of the deceased and this is clear from the inquest report (Ex.P11). Nevertheless, the death is not under a normal circumstance and there was a dowry demand, which could not be met by the victim's father, forcing the deceased to take the extreme step. The appellant has not brought any documentary or oral evidence to substantiate his contentions. On the contrary, from the oral evidence adduced by Pw3, Pw4, and Pw5, who were present in the Panchayat, which took place in the village in order to sort out the issues between the couple, it is clear that during the panchayat, the matter of demand for dowry was elaborately discussed to that extent that a proposal to levy a fine on the appellant/accused was also made and at the request of the father of the victim, it was not implemented. Absolutely, there is no cross examination on this aspect of



convening of panchayat and the deliberations which took place in the panchayat. Another striking feature is that the couple was childless and the victim was frequently referred to as "maladi", colloquial term for a childless married woman. The Revenue Divisional Officer in his report had made it clear that there was dowry demand on the side of the appellant and the version of the prosecution that the victim was subjected to cruelty and harassment has been established by the prosecution satisfactorily. Barring a few doubts raised by the trial court, which have enabled the other accused to be acquitted, the role of the appellant is prominent and he ought to have protected her, but instead, he turned out to be a tormentor.

6. It is also relevant to extract Section 498A of the Indian Penal Code.

498-A. Husband or relative of husband of a woman subjecting her to cruelty - Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

6. A bare perusal of Section 498-A and 304-B of the Indian Penal Code shows that these provisions are intended to deter such crimes against women. The women, who are not financially independent are often coerced to stay put with their husbands, even under difficult circumstances. The husband, who is supposed to be the equal life partner, turns out to be a person influenced by extraneous factors and starts acting differently. The trial court has rightly found the appellant guilty and convicted him for the offence made out under Section 304-B of the Indian Penal Code. Therefore, I do not find any reason to interfere with the judgment of conviction and sentence passed by the Additional Sessions Judge, Fast Track Court, Dharmapuri in S.C.No.259 of 2005 dated 07.01.2008.

7. In the result, this criminal appeal is dismissed and

(i) The judgment of conviction and sentence passed by the learned Additional Sessions Judge, Fast Track Court, Dharmapuri in S.C.No.259 of 2008 dated 07.01.2008 are confirmed.



(ii) The appellant /accused (Arunachalam) is directed to appear before the Additional Sessions Judge, Fast Track Court, Dharmapuri, within a period of 15 days from the date of receipt of a copy of this order, failing which the respondent police is at liberty to arrest the accused and produce him before the concerned court to serve the remaining sentence.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The District Sessions Judge,
Fast Track Court,
Dharmapuri.
2. Deputy Superintendent of Police,
Pennagaram Sub Division,
Dharmapuri District
(Crime No.775 of 2000 of
Papparapatti Police Station)
3. The Superintendent,
Central Prison, Vellore.
4. The Public Prosecutor,
Madras High Court.
5. The Judicial Magistrate,
Pennagaram.
6. The Chief Judicial Magistrate,
Dharmapuri @ Krishnagiri. (For Information)

+1cc to Mr.R.Karthikeyan, Advocate Sr.48443

Cr.A.No.76 of 2008

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srg 30/07/2018