

Bail Slip

The Appellant/Accused namely Durai S/o.Varadappa Reddy was directed to be released on bail as per order of this court dated 13/09/2010 in Crl.MP.No.1/2010 in Crl.A.No.527/10 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 10.07.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.A.No.527/2010

Durai

.. Appellant

Vs

State by  
Inspector of Police  
Kattur Police Station

Thiruvallur District.

.. Respondent

Prayer:- The Criminal Appeal is filed under section 374[2] Cr.P.C., to set aside the judgment delivered by the learned Assistant Sessions Judge, Ponneri dated 11.12.2009 in SC.No.297/2005 on the file the learned Assistant Sessions Judge, Ponneri and acquit the appellant from all the charges.

For Appellant : Mr.S.Shankar, Legal Aid Counsel

For Respondent : Mr.K.Prabakar, APP

JUDGMENT

The Criminal Appeal is filed by the appellant who is the sole accused, against the judgment of conviction and sentence dated 11.12.2009 made in SC.No.297/2005 by the learned Assistant Sessions Judge, Ponneri. The appellant/accused stood charged and tried for the commission of the alleged offences u/s.498-A, 304-B and 306 IPC and was convicted for the said offences and that, he was sentenced to undergo 3 years rigorous imprisonment and to pay a fine of Rs.3000/- with a default sentence of 2 months rigorous imprisonment for the offence u/s.498-A IPC ; sentenced to undergo 9 1/2 years rigorous imprisonment and to pay a fine of Rs.6000/- with a default sentence of 1 year rigorous imprisonment for the offence u/s.306 IPC ; and sentenced to undergo 9 1/2 years rigorous imprisonment and to

pay a fine of Rs.6000/- with a default sentence of 1 year rigorous imprisonment for the offence u/s.304-B IPC. The sentences were ordered to run concurrently.

2 The case of the Prosecution has arisen on the basis of the complaint, Ex.P1, given by PW.1. The marriage between the appellant/accused and the deceased Kasiammal took place on 30.04.2001 and that they were living at Vayalur village. Prior to 31.08.2004, the appellant/accused had been harassing and causing cruelty on the deceased by demanding dowry and thereby, committed cruelty which is of such nature as is likely to drive the woman to commit suicide within seven years of marriage. Thereby, the respondent had filed the Final Report against the appellant/accused for the commission of the offences u/s.498-A, 306 and 304-B IPC.

3 The Final Report was filed before the learned Judicial Magistrate No.2, Ponneri, and was taken up in PRC.No.23/2004 and having found that the case is exclusively triable by the Court of Sessions, had committed the same to the learned Principal District and Sessions Judge, Chengalpattu, and the case was made over to the learned Assistant Sessions Judge, Ponneri and was taken up as SC.No.297/2005.

4 The Trial Court, having been satisfied with regard to the compliance of section 207 Cr.P.C., framed charges against the appellant/accused for the offences u/s.498-A, 306 and 304-B IPC. The appellant/accused had denied the charges and sought for trial. In order to bring home the charges against the accused, the prosecution examined PW.1 to PW.20 and also marked Exs.P.1 to P.10 besides marking M.O.1.

5 On completion of the evidence on the side of the prosecution, the accused was questioned under Section 313 Cr.P.C as to the incriminating circumstances found in the evidence of the prosecution witnesses and the appellant/accused has come with the version of total denial and stated that he has been falsely implicated in this case. No oral and documentary evidence was let in on the side of the defence.

6 The court below, after hearing the arguments advanced on either side and also looking into the materials available on record, found the accused guilty and awarded punishments, as referred to above, which is challenged in these Criminal Appeal.

7 This Court heard the submissions of the learned counsel on either side.

8 The learned counsel for the appellant/accused, assailing the impugned judgment of conviction passed by the Trial Court, would put forth the following submissions:-

- (a) The prosecution has not let in any evidence to show that soon before the death, the deceased was subjected to cruelty or harassment by the appellant/accused in connection with any demand for dowry and when such being so and there being any further evidence that the appellant/accused abetted the deceased to commit suicide and there being no evidence that the appellant/accused had subjected the deceased to such cruelty, the Trial Court had erred in convicting the appellant/accused.
- (b) Even as per the evidence, the marriage between the appellant/accused and the deceased took place on 30.04.2001 and that the death of the deceased was on 31.08.2004 and that the alleged incidents between the spouses were nothing but matrimonial quarrels which should not amount to cruelty.
- (c) When the prosecution has failed to prove its case, the Trial Court had erroneously convicted the appellant/accused.
- (d) There are evidence to show that the deceased was under depression and undergoing mental agony since she had suffered miscarriage thrice and that being the reason for deceased to commit suicide, the appellant/accused cannot be held responsible for having abetted his wife/deceased to commit suicide.
- (e) The prosecution is bound to prove the foundational facts before raising the presumption against the appellant/accused. However, in this case, the prosecution has not let in any evidence to prove the same.

9 The learned counsel for the appellant/accused, in support of his contentions, placed reliance on the following decisions:-

- (a) 2017 [1] SCC 101 [BAIJNATH AND OTHERS V. STATE OF MADHYA PRADESH] ; and
- (b) 2015 [3] SCC 724 [SHER SINGH ALIAS PARTAPA V. STATE OF HARYANA].

10 Per contra, the learned Additional Public Prosecutor, while refuting the contentions put forward by the learned counsel for the appellant/accused would submit that the prosecution has proved its case beyond all reasonable doubts. He would further submit that the prosecution has, by letting in cogent evidence, proved that the appellant/accused had subjected the victim to cruelty which has resulted in the victim committing suicide within seven years of marriage. He would submit that the prosecution has proved the foundational facts and that, when the same has been proved, the presumption under section 113-A of the Evidence Act, is applicable against the appellant/accused, which he has failed to discharge, thereby the Trial Court had rightly convicted him. He would also submit that the testimonies of the witnesses are cogent, clear and trustworthy and that though there are minor and trivial

discrepancies in the evidences, the same has not affected the case of the prosecution and would pray that the judgment of conviction and sentence passed by the Trial Court, does not warrant any interference.

11 At this juncture, the learned counsel for the appellant/accused would submit that taking into consideration the entire occurrence, there is nothing on record to show that the victim/deceased [wife of the appellant/accused] was subjected to cruelty on account of demand of dowry soon before her death. It is also submitted that admittedly, the marriage took place on 30.04.2001 and the alleged occurrence took place on 31.08.2004 and P.W.1, who is the brother of the victim as well as the defacto complainant in this case, had taken 3 sovereigns of jewels from the victim/deceased for his expenses and that, he having failed to return the jewels to the deceased, his sister, there was a quarrel between the appellant/accused and the deceased in that regard.

12 I have given my careful and anxious consideration to the rival contentions put forward by either side and thoroughly scanned through the entire evidence available on record and also perused the impugned judgement of conviction.

Points for consideration:-

13 [a] Whether the prosecution has proved the guilt on the part of the appellant / accused beyond all reasonable doubt by adducing cogent, convincing and legally acceptable evidence ? ;

[b] Whether the Trial Court is right and justified in convicting the appellant/accused for the offences u/s.498-A, 306 and 304-B IPC?

14 [a] P.W.1-Vasu, in the chief examination, had deposed that he is a resident of Thalayaripalayam and was working as a Salesman at a TASMACH shop. He is the brother of the deceased Kasiammal. He had deposed that the marriage between the appellant/accused and his sister/deceased took place on 30.04.2001 and that, at the time of marriage, 9 sovereigns of gold jewels ; household articles and cash of Rs.10,000/- were given as Sreedhana. He had further deposed that the spouses were residing at Vaayalur and that the appellant/accused, without going for any job, often used to harass and torture his wife to get money from her parental home and the same was meted out by P.W.1 and his family. P.W.1 also deposed that he had pledged the necklace of the deceased to meet out his family expenses and thereby, there arose frequent quarrels between the spouses in that regard and the appellant/accused harassed the deceased and cruelly treated her and however, the appellant/accused used to get money from his wife/deceased for meeting his expenses. P.W.1 further deposed about a relative,

viz, Kuppan, meeting the deceased to give marriage invitation and the said Kuppan witnessing the appellant/accused scolding the deceased to get money and jewels from her parental home and that he pacifying the deceased as she was crying and he informing about the said incident to P.W.1. P.W.1 further deposed that on 31.08.2004 at about 7.30 p.m., one Munusamy came and informed him that he received a phone call stating that the sister of P.W.1 committed suicide by hanging. Immediately, the family of P.W.1 rushed to Vaayalur village and they saw the dead body of the deceased lying in a Freezer box. Thereafter, P.W.1 went to the respondent police and gave a complaint under Ex.P.1. Since the deceased had died within 7 years of marriage, RDO Enquiry was also conducted. In the cross examination, P.W.1 had stated about miscarriage suffered by the deceased twice and that she was suffering from stomach pain. He had also stated that the alleged incident of harassment and cruelty suffered by the deceased at the hands of the appellant/accused, as narrated by one Kuppan, was made known to him only through his parents.

[b] P.W.2-Chokkalingam in his chief examination had deposed that he is a resident of Thalayaripalayam and that P.W.1 is his son and that deceased Kasiammal is his daughter. He had deposed about he giving his daughter in marriage to the appellant/accused and of his giving Sreedhana articles at the time of marriage. He had further deposed that he came to know about the earlier marriage of the appellant/accused only subsequent to the marriage of his daughter with the appellant/accused and that, his daughter often used to complain of her husband harassing and treating her cruelly on account of demand of money from her parental home and that, he had also deposed about the panchayat convened for pacifying the couples. P.W.2 had also stated about one Munusamy informing them about the death of the deceased and after reaching Vaayalur, they went to the respondent police and gave a complaint for dowry harassment. In his cross examination, P.W.2 had claimed that no statement had been recorded from him by the police and that he denied borrowal of the jewels from the deceased for getting a Government job for his son/P.W.1.

[c] P.W.3-Jaya is the mother of the deceased Kasiammal and P.W.1/wife of P.W.2. In the chief examination, she had deposed about the cruelty and harassment suffered by her daughter at the hands of appellant/accused on account of dowry demand. She had also deposed about the appellant/accused pouring kerosene on her daughter. She further deposed about the receipt of death intimation from one Munusamy and lodging of complaint before the respondent police. In her cross examination, she had claimed of having borrowed the jewel of the deceased for P.W.1 and that the appellant/accused was a drunkard and was harassing her daughter. She further deposed that the

police had recorded the statement of her son/P.W.1 only and her statement was not recorded. She also stated about the miscarriage suffered by the deceased thrice and that the deceased suffered stomach pain on account of the appellant/accused kicking her on the stomach and that P.Ws.2 and 3 took the deceased to the hospital for the stomach pain and she also deposed that the deceased was suffering due to stomach pain very often.

[d] P.W.4-Gopal is the Village President of Thalayaripalayam and in the chief examination he had deposed that he is an agriculturist by profession and that, he had deposed about the marriage between the appellant/accused and the deceased and the sreedhana given during the said marriage by the parents of the deceased. He had also deposed about the cruelty and harassment suffered by the deceased at the hands of her husband/appellant herein and the panchayat convened for the same. P.W.4 further deposed about the deceased and her mother/P.W.3 informing him of the dowry demand and harassment on account of the same and the advice given by him to the deceased. He also deposed about the receipt of death intimation of Kasiammal through Munusamy. When P.W.4 went to the house of the deceased along with P.Ws.1 to 3, he saw the dead body of Kasiammal kept on the verandah and that he came to know that the deceased committed suicide by hanging on account of matrimonial dispute. P.W.5-Durai, had deposed about the marriage that took place between the appellant/accused and the deceased and giving of sreedhana articles and about the panchayat convened on account of frequent quarrels between the couples. He had also deposed that after 1 ½ months of panchayat, he received the information about the death of the deceased through Munusamy and that he saw the dead body on the verandah of the house and the appellant/accused was not present. He along with the others, went to the respondent police and gave a complaint and that he heard that the deceased committed suicide due to demand of dowry. P.W.5 also deposed about the deceased informing him of her husband causing burn injuries on her legs.

[e] P.W.6-Saminathan, who is also a resident of Thalayaripalayam and an agriculturist by profession had also deposed in the same lines as that of P.W.5-Durai. He had also deposed about the ill-treatment and harassment by the appellant/accused on account of demand of dowry. P.W.7-Kuppan had been treated as a hostile witness asince he did not support the case of the prosecution. However P.W.7 in his cross examination, had stated about the deceased of having informed him about the appellant/accused demanding money from her parents. P.W.8-Pattaiyan, a resident of Thalayaripalayam and a coolie by profession, had deposed about the frequent dowry demand by the appellant/accused and the harassment caused to

the deceased. He had also deposed that he came to know that the deceased committed suicide on account of dowry demand. P.W.9-Venkatesan and P.W.10-Ramakrishnan, were the witnesses to the preparation of the Observation Mahazar and Exs.P.2 and P.3 pertain to their signatures in the said Mahazar. They were treated as hostile witnesses. P.W.11-Dasaradhan also deposed about the marriage that took place between the appellant/accused and the deceased and the dowry given at the time of marriage and about the panchayat convened as frequent quarrels ensued between the spouses on account of dowry demand. He had also deposed that the deceased had committed suicide due to continuous torture and harassment by the appellant demanding dowry. P.W.12-Kuppan also deposed about the deceased committing suicide on account of dowry demand made by the appellant/accused. P.W.13-Munusamy had deposed that he received a phone call on 31.08.2004 which was attended by his daughter and when enquired her, she had told him that the phone call was from Vaayalur village and that the deceased Kasiammal, wife of the appellant/accused had died by committing suicide by hanging and that, to inform the same to the family members of Kasiammal. P.W.13 also duly informed the same to P.Ws.1 to 3 who are respectively the brother ; father and mother of the deceased Kasiammal.

[f] P.W.14-Dilli a resident of Vaayalur Village had deposed that on 31.08.2004, he and the appellant/accused returned from their jobs and that he heard the noise in the neighbouring houses and when he enquired, he was informed that the wife of the appellant/accused had committed suicide by hanging. P.W.15-Dr.Andal who was working in the Government Hospital at Ponneri at the relevant point of time, upon receipt of the orders from the learned jurisdictional Magistrate as well as RDO, commenced postmortem on the dead body of Kasiammal on 01.09.2004 at 4.35 pm. She noted the following injuries:-

External Injury:-

A linear shaped ligature mark seen on the front of neck size 1.5cm [length] x 1cm [depth] x 1.5cm [breadth] extending from right tempero mandibular joint to left tempero mandibular joint. Skin over the area is shattered.

Internal Examination:-

Hyoid Bone -fractured. Sent for opinion.  
Ribs - intact. Heart-Four chambers contain blood. Lungs - congested. Abdominal cavity:-  
Liver, Spleen, Kidney - congested -----  
Cranial Cavity:- Skull bones-intact. Brain and Membranes congested-----''

Ex.P.4 is the Postmortem Certificate and the doctor had opined that the death of the deceased was due to asphxia and the

dysfunction of the brain. In her cross examination, the doctor had deposed that she had not mentioned the time during which the death could have happened and that the inner portion of the uterus of the deceased was damaged and was in the rotting stage.

[g] P.W.16-Dr.Abraham, had deposed that he also had taken part in conducting postmortem on the dead body of the deceased along with Dr.Andal [P.W.15] and that the signature found in the Postmortem Certificate was that of his signature under Ex.P.5 and that P.W.15 was Senior to him. P.W.17-Susainathan, Head Constable attached to the respondent police, had deposed about the handing over of the dead body of the deceased for postmortem along with the requisition and after the completion of the postmortem, handed over the body to the relatives of the deceased. P.W.18-Suji Thomas, was the Sub Collector of Ponneri at the relevant point of time and she had deposed about the enquiry conducted under section 176 Cr.P.C., on account of the death of the deceased within 7 years of marriage and had further deposed of submitting her Report under Ex.P.6 to the jurisdictional Court, stating that there was no dowry harassment. P.W.19-N.K.Pandiyan, the Sub Inspector of Police attached to the respondent police had deposed about the receipt of the complaint from P.W.1 under Ex.P.1 and registration of the case in Crime No.179/2004 for the offences u/s.498A, 304-B and 306 IPC and preparation of the printed FIR under Ex.P.7. He had also deposed about informing of the occurrence to the Deputy Superintendent of Police, Ponneri as well as to the Revenue Divisional officer, Ponneri.

[h] P.W.20-Muthu Nalliappan, the Deputy Superintendent of Police, Ponneri Division, on receipt of the FIR and the Case Diary from P.W.19 on 01.09.2004, took up the case for investigation and went to the scene of occurrence at about 6.00 a.m., on the same day. He prepared the Observation Mahazar and a Rough Sketch [Exs.P.8 and P.9 respectively] in the presence of P.Ws.9 and 10. At about 7.30 a.m., he recovered the ashes of the rope [M.O.1] used for committing suicide by the deceased in the presence of the same witnesses under a Mahazar [Ex.P.10]. He enquired the witnesses and recorded their statements. On 02.09.2004 at about 12.00 Noon, he effected the arrest of the appellant/accused at the Vaayalur Bus stand and took him to the police station; recorded his statement and thereafter, sent the appellant/accused for judicial remand. On 03.09.2004 and 13.09.2004, he examined P.Ws.13 and 14 and P.Ws.15 and 16, the doctors who conducted postmortem on the dead body of the deceased and recorded their statements. On 30.10.2004, upon receipt of the report from the Sub Collector, Ponneri, he completed his investigation and laid the final report against the appellant/accused on 31.10.2004 for the offences u/s.498-A, 304-B and 306 IPC.

'304B. 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 seven years of her marriage and 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''

16 No doubt, the deceased Kasiammal committed suicide by hanging within seven years of marriage and that, the factum of suicide has not been denied. Now, this Court has to see whether the prosecution has made out its case as against the appellant/accused for the alleged commission of the offence u/s.304B IPC.

17 A cursory view of the provisions of section 304B IPC would reveal that the important ingredient of section 304B IPC is ''soon before her death'' which indicates that the deceased must have been subjected to harassment and cruelty in connection with dowry demand immediately preceding her death. A thorough scanning of the evidences adduced on the side of the prosecution, viz., P.Ws.1 to 12, would go to show that the appellant/accused had harassed and cruelly treated his wife Kasiammal on account of P.W.1 having pledged the necklace of the deceased and not returning it and thereby, there arose frequent quarrels between the spouses and that panchayats were convened to pacify the spouses. It is the categorical evidence of P.Ws.1 and 2, in their cross examination, that two days prior to the occurrence, the deceased went to attend a marriage of their relatives and that she had not complained of any harassment or cruelty at the hands of the appellant/accused during the recent past. Hence, the very crucial aspect, viz., ''soon before her death'', with regard to dowry demand has not been proved by the prosecution beyond all reasonable doubt.

18 The Hon'ble Supreme Court of India in Baijnath and Others Vs. State of Madhya Pradesh reported in 2017 [1] SCC 101

has categorically held that:-

'Mere factum of unnatural death in matrimonial home within seven of marriage not sufficient to convict the accused under sections 304-B and 498-A IPC. Only when the prosecution proves beyond doubt that deceased was subjected to cruelty / harassment in connection with dowry demand soon before her death, presumption under section 113-B can be invoked....

...

Section 113-B of the Act enjoins a statutory presumption as to dowry death. Noticeably this presumption as well is founded on the proof of cruelty or harassment of the woman dead for or in connection with any demand for dowry by the person charged with the offence. The presumption as to dowry death thus would get activated only upon the proof of the fact that the deceased lady had been subjected to cruelty or harassment for or in connection with any demand for dowry by the accused and that too, in the reasonable contiguity of death.'

19 Further, the Apex Court, in the above cited judgment, in paragraph No.25, has clearly laid down three essential limbs to constitute the offence u/s.304-B IPC, which reads thus:-

'25 Whereas in the offence of dowry death defined by section 304-B of the Code, the ingredients thereof are:-

[i] death of the woman concerned is by any burns or bodily injury or by any cause rather than in normal circumstances, and

[ii] is within seven years of her marriage, and

[iii] that soon before her death, she was subjected to cruelty and harassment by her husband or any relative of the husband for, or in connection with, any demand for dowry.'

20 The Hon'ble Apex Court, in Sher Singh @ Partapa's case [cited supra], has held that:-

'The words "soon before her death" indicate that there must be a live link between the cruelty emanating from a dowry demand and the death of a young married woman, as is sought to be indicated by the words "soon before her death", to bring section 304-B into operation ; the live link will obviously be broken if the said cruelty does not persist in proximity to

the untimely and abnormal death. It cannot be confined in terms of time. The demand for dowry should not be stale or an aberration of the past, but should be the continuing cause for the death under section 304B or the suicide under section 306 IPC.'

No doubt, in the instant case, the death of the deceased Kasiammal/wife of the appellant/accused was a suicidal one and that too, within seven years of her marriage and the said aspects has been amply proved by the prosecution. However, the prosecution has miserably failed to prove the third limb/third ingredient of section 304-B IPC, viz., that the deceased was subjected to cruelty and harassment at the hands of the appellant/accused soon before her death and in connection with any demand for dowry and that too, when there is a reasonable contiguity of death. There should be a live-link or proximity between the cruelty arising out of dowry demand and the death of the victim and that the demand should not be stale but should be the continuing one. In the case on hand, though there seems to be a vague of dowry demand by the appellant/accused, there is no proximity between the demand and the suicide of his wife/the victim herein. Hence, this Court is of the considered view that the prosecution has failed to prove the offence u/s.304-B IPC as against the appellant/accused.

21 Next question arises for consideration is whether the prosecution has proved its case of matrimonial cruelty and the suicide committed by the deceased at the instigation or abetment of the appellant/accused. For the said purpose, it is to be seen as to what are the essential ingredients of sections 498-A and 306 IPC which are necessarily to be proved by the prosecution to fasten the liability of guilt against the appellant/accused under the said sections. The Hon'ble Apex Court in Baijnath's case [cited supra], in paragraph No.25, has further held thus:-

'25.....

The offence under section 498-A IPC of the Code is attracted qua the husband or his relative if she is subjected to cruelty. The explanation to this section expositis 'cruelty' as:

[i] any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health [whether mental or physical], or

[ii] harassment of the woman, where such harassment is with a view to coercing her or any person related to her to meet an unlawful demand

for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.''

22 Section 306 IPC states that ''if any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine''. The basic constituents of an offence under section 306 IPC are suicidal death and abetment thereof and the essential ingredients of abetment are the intention of the accused to aid or instigate or abet the deceased to commit suicide is necessary.

23 Section 113-A of the Indian Evidence Act deals with presumption as to abetment of suicide by a married woman. It states that when a woman commits suicide within seven years from the date of marriage and that the same has been abetted by her husband or his family members, then the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband and his family members.

24 In the case on hand, a thorough scanning of the evidence of P.Ws.1 to 6, 11 and 12, who are respectively the family members, relatives and the villagers of Thalayaripalayam, would amply establish the factum of the appellant/accused treated the deceased cruelly in respect of pledging of jewels by P.W.1 and has also assaulted her, at frequent intervals, though not soon before her death and the quarrels ensued between the spouses on account of the matrimonial discard and the panchayat convened at regular intervals in the said Village. Even as per the evidence of P.W.3, the mother of the victim/deceased, in her cross examination, she had stated that when her husband [P.W.2]/ father of the deceased, went to the matrimonial home of his daughter, he witnessed the appellant/accused kicking on the stomach of the victim and that she was taken to the hospital as she suffered pain on account of such kicking. Thus, it is evidently clear that it was the appellant/accused who had harassed the victim due to matrimonial dispute since the marriage between the appellant/accused and the victim and such conduct of the appellant/accused had driven the victim to take an extreme end of doing away herself by committing suicide and it is crystal clear that it was the appellant/accused who had abetted or aided or instigated the victim/deceased to commit suicide. This Court, on an independent application of mind to the entire evidence on record, especially the evidence of the parents, brother of the deceased as well as the villagers, presumes that it was the appellant/accused who had abetted the victim to commit suicide.

25 Thus, this Court is of the considered opinion that the prosecution has established its case against the appellant/accused for the commission of the offences u/s.498-A and 306 IPC beyond all reasonable doubt.

26 In the result, the criminal appeal is partly allowed and the conviction and sentence imposed on the appellant/accused by the Assistant Sessions Judge, Ponneri, vide impugned judgment dated 11.12.2009 in SC.No.297/2005 for the offence 304-B IPC are hereby set aside ; the conviction and sentence imposed on the appellant/accused for the offence u/s.498-A IPC stands confirmed ; and the conviction imposed on the appellant/accused for the offence u/s.306 IPC stands confirmed ; however, the sentence is modified to one of period of three years rigorous imprisonment. Fine amounts stand confirmed. The sentences imposed for the offences u/s.498-A and 306 IPC shall run concurrently. Since the appellant/accused is reported to be on bail, the Trial Court is directed to take steps to secure the appellant/accused to undergo the remaining period of sentences awarded u/s.498-A and 306 IPC.

27 Before parting with the matter, this court is constrained to place it on record the commendable service rendered by Mr.S.Shankar, learned counsel as Legal Aid Counsel for the appellant. He is entitled to a remuneration from the Tamilnadu State Legal Services Authority as per the norms.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

AP

To

1.The Assistant Sessions Judge, Ponneri.

2.The District and Sessions Judge, Tiruvallur.

3.The Judicial Magistrate No.2  
Ponneri.

4.The Chief Judicial Magistrate  
Tiruvallur.

5.The Inspector of Police  
Kattur Police Station  
Thiruvallur District.

6.The Superintendent of Prisons  
Central Prison, Puzhal, Chennai.

7.The Public Prosecutor  
High Court, Madras.

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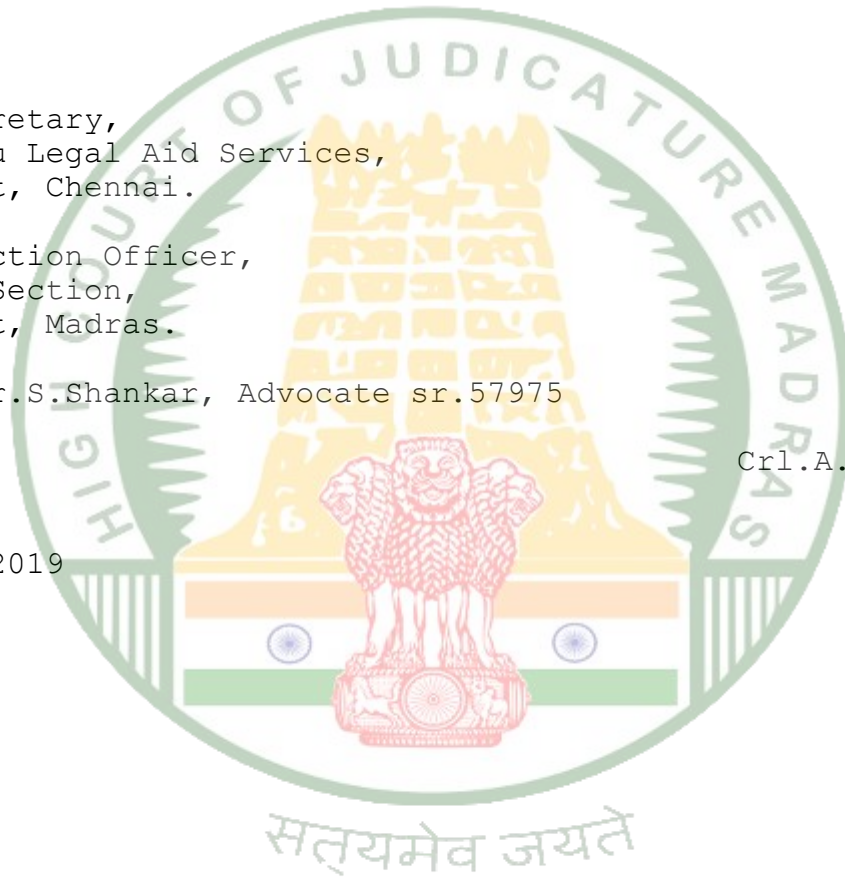
1.The Secretary,  
Tamil Nadu Legal Aid Services,  
High Court, Chennai.

2. The Section Officer,  
Criminal Section,  
High court, Madras.

+1cc to Mr.S.Shankar, Advocate sr.57975

Crl.A.No.527/2010

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