

BAIL SLIP

The Appellant/Sole Accused Viz., Ravichandran @ Dhanasekaran, aged 38 years, S/o. Palayam, was released on bail as per order of this court dt.3/2/2011 in Crl.MP.1/2011 in Crl.A.75/2011.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRL.A.No.75 of 2011

Ravichandran @ Dhanasekaran ... Appellant/Sole Accused

Vs.

State represented by
Inspector of Police,
Selaiyur Police Station,
Selaiyur,
Kancheepuram District.
(Crime No.13 of 2008)

... Respondent / Complainant

PRAYER: Criminal Appeal filed under Section 374 of the Criminal Procedure Code, to set aside the judgment of the learned Sessions Judge, Mahalir Neethimandram, Chengalpattu, Kancheepuram District, made in S.C.No.186 of 2009 dated 22.01.2011 and acquit the appellant/accused from the charges.

For Appellant : Mr.T.R.Ravi

For Respondent : Mr.T.Shanmugarajeswaran
Government Advocate (Crl. Side)

JUDGMENT

This Criminal Appeal has been filed to set aside the judgment of the learned Sessions Judge, Mahalir Neethimandram, Chengalpattu, in S.C.No.186 of 2009 dated 22.01.2011.

2. The case of the prosecution is that the deceased is the wife of the accused. The accused demanded dowry and caused cruelty and very often beaten her. Due to that, she consumed poison and committed suicide.

3. Based on the complaint given by one Sundaram/P.W.3/father of the deceased, the respondent police initially registered the

case under Section 174 Cr.P.C, suspicious death. After inquest report through the Revenue Divisional Officer, on examining the relatives of the deceased, the respondent police registered the case against the accused for the offence under Section 498(A) and 304(b) IPC and Section 4 of Tamil Nadu Prevention of Harassment of Woman Act. After investigation, the respondent police laid a charge sheet before the learned Magistrate for the offences under Section 498(A) and 304(b) IPC. Since offences are triable only by the Sessions Court, the learned Magistrate committed the case to the Sessions Court. The learned Sessions Judge, Chengalpet, took the appeal on file in S.C.No.186 of 2009.

4. Before the trial Court, in order to prove the case of the prosecution, as many as 10 witnesses have been examined viz., P.Ws.1 to P.W.10 and as many as 9 documents were marked as Ex.P1 to Ex.P9 and there is no Material Object produced by the respondent police.

5. After completion of prosecution side evidence, the accused has been questioned under Section 313 Cr.P.C., the appellant had denied the incriminating circumstances and denied all evidences as false. On the side of the defence, no oral and documentary evidence was marked. After hearing the arguments of both sides, the learned Sessions Judge found the accused guilty for the offence under Sections 304(B) and 498(A) IPC and convicted and sentenced him to undergo rigorous imprisonment for a period of 10 years and to pay a fine of Rs.5000/-, in default, to undergo rigorous imprisonment for a period of two years.

6. Challenging the said judgment of conviction and sentence passed by the Sessions Court dated 22.01.2011, the appellant has preferred this Criminal Appeal before this Court.

7. The learned counsel for the appellant would submit that in the complaint/Ex.P2, there is no whisper about demand of dowry. The father of the victim was examined as P.W.3. He has not made any complaint against the accused regarding demand the dowry. Even in the complaint, he has stated that the appellant used to harass her daughter and made cruelty. Subsequently, he has improved the version of demand of and car. Due to not bringing of the same, caused cruelty against his wife, due to which, she committed suicide. The brother of the victim has also stated that the accused has not demanded dowry soon before the death. The prosecution has not proved its case beyond reasonable doubt. The inquest report itself stated that there was a snake bite mark in the body of the deceased and the doctor, who conducted post mortem, has opined that the deceased has not consumed poison. The medical records was not examined to corroborate the same. None of the witnesses have stated that the appellant demanded dowry soon before the death. Therefore, Section 304(B) IPC is not made out. In the absence of the

evidence, the learned Judge could only convict the appellant for the offence under Section 498(A) IPC, not under Section 304 (B) IPC. Soon after the death, the appellant along with other persons, took the deceased to various hospital to safeguard her wife. Therefore, he could not have caused for her death. The death of the victim is natural. When there are two views possible, the view which is favourable to the accused should be taken. The prosecution has not proved its case beyond reasonable doubt. The benefit of doubt should be extended to the appellant. The trial Judge failed to appreciate the contradictory evidence of the prosecution. The prosecution witnesses have not corroborated with each other, except father and brother. Therefore, the order of conviction and sentence passed by the trial Court are liable to be set aside and the appeal has to be allowed.

8. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that father of the victim has clearly stated that the appellant demanded dowry and also asked his father to sell the house and pay the amount to the appellant. Even the brother of the victim has also stated the same. The inquest report has clearly shows that it is unnatural death and not natural death. The Doctor's evidence and the medical reports have also spoken about the cause of the death. Therefore the prosecution has established its case reasonable doubt. The trial Court has rightly appreciated the case and convicted the accused.

9. Heard the learned counsel appearing for the appellant and the learned Government Advocate(Criminal Side) appearing for the respondent and also perused the documents available on record.

10. The case of the prosecution is that the deceased is the wife of the accused. The accused demanded dowry and caused cruelty and very often beaten her. Due to that, on 03.01.2008, she consumed poison and committed suicide.

11. On reading of the complaint, it shows that the appellant demanded dowry. Except father and brother of the victim, none of the witnesses have spoken about demand of dowry. Even independent witnesses have not spoken about the demand of dowry and cruelty made by the appellant. The first available document is the complaint. the complainant/informant is none other than the father of the victim. He has not spoken about demand of dowry, soon before the death. There is no specific allegation that the deceased consumed rat poison. Post- mortem report says that she consumed Oleander seed (அலரி விதை). Therefore, the type of poison taken by the accused has not been brought on record.

12. On reading of the materials, it is clear that the death is unnatural one and she has committed suicide. Now the Court has to decide as to whether the appellant demanded dowry soon before the death.

13. On a reading of the entire materials, this Court does not find that the appellant demanded the dowry soon before the death. The appellant has caused cruelty. Further, on a reading of the evidence, it is seen that the appellant used to lock his wife, when she was inside, suspecting her fidelity, character. The father of the victim says that he accused locked the house and beaten his daughter and also harassed her. It is an admitted fact that the victim was a village councillor for some time. Suppose if there was any demand of dowry or harassment, naturally she would have informed the neighbours or parents. But there is no evidence to show that soon before the death, there was a demand of dowry made by the appellant. Therefore, ingredients of Section 304(B) IPC is not made out and therefore, conviction under Section 304(B) IPC is set aside.

14. As regards Section 498(A) IPC is concerned, even in the complaint, father of the deceased has stated that the appellant has beaten his daughter several times and also he has stated in the evidence that the appellant used to keep her wife inside the house. Therefore, he committed cruelty under Section 498(A) IPC. The evidence of P.W.1 to P.W.4 and also complaint and inquest report, clearly show that the appellant caused cruelty under Section 498(A) IPC. Therefore, the appellant has committed the offence punishable under Section 498(A) IPC.

15. In the result, this appeal is partly allowed. In order to meet ends of justice, the accused is convicted and sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.5,000/- in default, to undergo six months simple imprisonment for the offence under Section 498(A) IPC.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate,
Tambaram.

2.The Chief Judicial Magistrate,
Chengalpattu.

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3.The Sessions Judge, Mahalir Neethimandram,
Chengalpattu.

4.The Inspector of Police,
Selaiyur Police Station,
Selaiyur,
Kancheepuram District.

5. The Public Prosecutor,
High Court of Madras.

6.The Superintendent, Central Prison No.I,
Puzhal, Chennai.

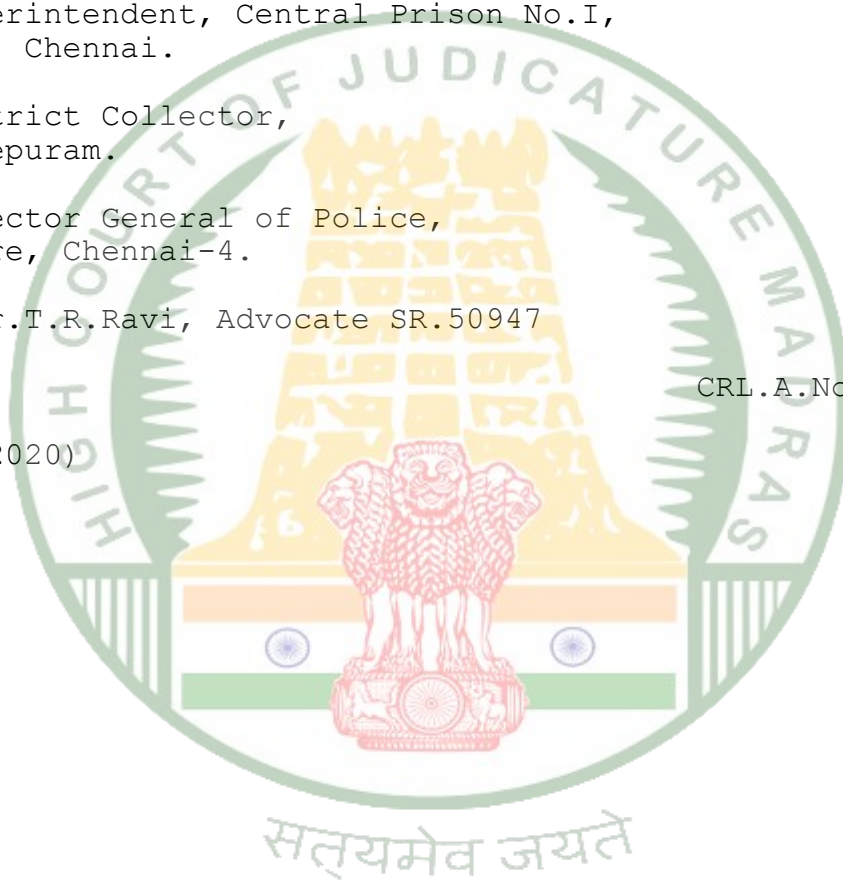
7.The District Collector,
Kancheepuram.

8.The Director General of Police,
Mylapore, Chennai-4.

+lcc to Mr.T.R.Ravi, Advocate SR.50947

CRL.A.No.75 of 2011

CA(CO)
CB(31/01/2020)



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