

Bail Slip

The 1st Appellant/Accused No.1 viz., Sebastin S/o.Alphonse, aged about 29 years and the 2nd Appellant/Accused No.2 viz., Vedamari W/o.Alphonse aged about 55 years in S.C.No.26 of 2010 dated 21/12/2011 on the file of the Additional District Sessions Judge Cum FTC IV, Ponneri were released on bail as per order of this court dated 07/03/2012 made in Crl.MP.No.1 of 2012 in Crl.A.No.33 of 2012.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
Crl.A.No.33 of 2012

1. Sebastin
2. Vedamari

...Appellants/Accused

-Vs-

The State rep. by
The Assistant Commissioner of Police,
Madhavaram Range, Chennai.
(Crime No.520 of 2008)

...Respondent/Complainant

This Criminal Appeal is filed under Section 374 of Cr.P.C. praying to call for the entire records pertaining to S.C.No.26 of 2010 on the file of the learned Additional District and Sessions Judge-cum-Fast Track Court IV, Ponneri and set aside the same.

For Appellants : Mr.S.Ilamparithi

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

JUDGMENT

This criminal appeal has been directed against the judgment of conviction dated 21.12.2011 made in S.C.No.26 of 2010 by the learned Additional District and Sessions Judge, Additional District and Sessions Court, Fast Track Court No.4, Ponneri.

2 The respondent police registered a case against the appellants in Crime No.520/2008 for the offence punishable under Sections 498(A), 306 and 304 (b) of IPC. After completing

trial investigation, the respondent police laid charge sheet before the learned Judicial Magistrate, Thiruvotriyur, which was taken on file in P.R.C.No.22 of 2009. The learned Magistrate, since the offence charged against the appellants are triable only by the Court of Sessions, committed the case to the learned Principal District and Sessions Judge, Thiruvallur, which was taken on file in S.C.No.247 of 2010 and later made over to the learned Additional District and Sessions Judge, Ponneri, for disposal and the same was renumbered as S.C.No.26 of 2010.

3 Before the trial Court, in order to prove the case of the prosecution, P.Ws.1 to 12 were examined and Exs.P1 to 15 were marked besides one material object. After completing prosecution evidence, when incriminating circumstances culled out from the prosecution witnesses and put before the accused, they denied as false. On the side of the defence D.W.1 was examined and no document was marked.

4 The learned trial Judge, after completing trial and after hearing both the counsel, by judgment dated 21.12.2011 convicted both the appellants and sentenced them to undergo rigorous imprisonment for a period of one year with fine of Rs.500/-, in default, to undergo simple imprisonment for a further period of three months for the offence under Section 498 (A) of IPC and to undergo rigorous imprisonment for a period of two years with fine of Rs.1500/-, in default, to undergo simple imprisonment for a further period of six months for the offence under Section 306 of IPC. Aggrieved against the said judgment of conviction, both the accused had preferred the present criminal appeal before this Court.

5 The learned counsel appearing for the appellants would submit that there is no allegations against the appellants attracting either the offence under Section 498(A) or 304 of IPC. The complaint itself does not say any allegations against the appellants. The trial Court convicted the appellants based on the remarks made by the deceased in the piece of paper, which was said to have found from the deceased by the Doctor, who conducted inquest on the body of the deceased. Even in the said piece of paper, there is no cause mentioned and there is no details regarding harassment or demand of dowry or driving her to commit suicide. The deceased written two lines in a piece of paper and kept in her jacket, which was said to have found at the time of inquest. Based on the letter, the trial Court has convicted the appellants for the offence under Section 498(A) and 306 of IPC. The learned counsel would further submit that P.W.1 is father and P.W.2 is mother of the deceased, who have given evidence that after receiving information from father-in-

law of brother of 1st appellant, they went to the house of the appellants and thereafter P.W.1 lodged complaint and they have not stated anything about either demand of dowry or harassment alleged to have made by the appellants. Even the inquest report Ex.P11 does not reveal that the deceased was subjected to physical assault or cruelty. The trial Judge has observed that marriage between the first appellant and the deceased taken place on 15.09.2007 and the deceased died on 04.11.2008 i.e. within seven years, therefore drawn presumption that the deceased must have died because of the cruelty made by the appellants. Merely, a married women committed suicide within a period of seven years from the date of marriage, it does not automatically give rise to the presumption that suicide had been abetted by the husband. To support his contentions the learned counsel has placed reliance on the decisions rendered by the Hon'ble Supreme Court reported following cases.

1. (2004) 11 SCC 291
(Sakatar Singh and others vs. State of Haryana)
2. (1989) 3 SCC 390
(State of Uttar Pradesh vs. Madan Mohan and others)
3. (1984) 4 SCC 116
(Sharad Birdhichand Sarda vs. State of Maharashtra)
4. (2001) SCC 254 (Ukaram vs. State of Rajasthan)
5. 2002(1) ALL MR(Crl) 422
(Inderpal vs. State of Madhya Pradesh)
6. (2001) 6 SCC 407 (Arvind Singh vs. State of Bihar)
7. 1996 Cri LJ 894
(Mahendra Singh and another vs. State of MP)
8. (2004) 12 Supreme Court Cases 257
(Hansraj vs. State of Haryana)

The trial Court has rightly found that there is no harassment of dowry and hence acquitted the appellants for the offence under Section 304(b), but, when there is no demand of dowry, the cause of death of deceased as stated by the prosecution is highly doubtful. There is no evidence that the appellants abated or induced the deceased to commit suicide and even in the complaint Ex.P1 there is no allegations against the petitioner and subsequent to the complaint only P.Ws.1 & 2 improved their version. The trial Court, without any materials, solely based on the document Ex.P3, has come to the conclusion

that the appellants committed offence under Section 498(A) and 306 and convicted them, which warrants serious interference of this Court.

6 The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the marriage between the first appellant and the deceased was solemnized on 15.11.2007. At the time of marriage, parents of the deceased P.Ws.1 & 2 have provided 45 sovereigns of gold along with sridhana articles worth Rs.1.00 lakh and it is stated that first appellant spent Rs.2.00 Lakhs for marriage. Subsequently, after marriage, the appellants insisted the deceased to give 50% of the amount spent by the first appellant for marriage. The deceased informed the same to her parents. P.W.1 is father, P.W.2 is mother and P.W.3 is brother of the deceased and they all categorically stated about the demand made by the appellants. Further the first appellant along with the deceased went to the house of P.W.1 for Diwali and made demand of money, P.Ws.1 & 2 expressed their inability to pay the amount, since they conducted the marriage of the deceased only one year prior and pacified the matter and stated that they would arrange in a short time. All of sudden, on 04.11.2008, P.Ws.1 & 2 received information from the father-in-law of brother of the first appellant that their daughter committed suicide by strangulating herself and immediately soon after receiving information, reached the destination and lodged complaint. Even though, the complaint/Ex.P1 does not say anything about the cruelty caused by the appellants, subsequently, during investigation, the parents of the victim have clearly stated about the demand made by the appellants. Further, during inquest, inside the jacket of the deceased, a piece of paper was recovered, in which the deceased has written that the appellants are the cause for her death and they should be punished, which itself proves that the deceased was subjected to cruelty by the appellants. Even though, she did not narrate any harassment and cruelty caused by the appellants, in a short remarks she written that the appellants are the only reason for her death. Therefore, prosecution has proved its case beyond reasonable doubt and the appeal is liable to be dismissed.

7 Heard the learned counsel appearing on either side and perused the materials available on record.

8 Case of the prosecution is that the marriage between the first appellant and the deceased was solemnized on 15.11.2007 and at the time of marriage, parents of the deceased P.Ws.1 & 2 have provided 45 sovereigns of gold along with sridhana articles worth Rs.1.00 lakh and it is stated that first

appellant spent Rs.2.00 Lakhs for marriage. Subsequently, after marriage, the appellants forcibly insisted the deceased to bring 50% of the amount spent by the first appellant for marriage. The deceased informed the same to her parents. The first appellant along with the deceased went to the house of P.W.1 for Diwali and made demand of money, P.Ws.1 & 2 expressed their inability to pay the amount, since they conducted the marriage only one year prior and pacified the matter and stated that they would arrange in a short time. While so, on 04.11.2008, P.Ws.1 & 2 received information from the father-in-law of brother of the first appellant that the deceased committed suicide by strangulating herself and immediately soon after receiving information, reached the destination and lodged complaint and based on the same the present case was registered, which was ended in conviction.

9 It is seen that the deceased died unnaturally by strangulation she also wrote letter in a piece of paper stating that the appellants are the cause for her death. It is not in dispute that the victim was living in the matrimonial home along with the appellants and on the date of occurrence, no one was present in the house. The first appellant went to his job and the second appellants went to Church none was in the house and when they came to the house, the door was locked and they broke the door and saw that the deceased was hanging in the sealing fan. Thereafter neighbours have gathered and villagers intimated to the police and they went to the spot and information was given to parents of the deceased. The next day of occurrence, complaint was lodged and during inquest, recovered Ex.P3 from the body of the deceased. Even though, P.W.1, in Ex.P1 complaint did not say anything about the harassment made by the appellants, but, subsequently after seeing the note written by the deceased, during investigation by the police, P.Ws.1 to 3 have categorically stated about the harassment made by the appellants. Cases like this, no girl would reveal the cruelty or harassment caused by her husband, immediately after the marriage to their parents, they would think about their parents, since under many difficulties their parents would have performed the marriage and as much as possible they would try to bear the harassment and very few girls only would reveal their grievance. Even though, the deceased had not written the letter narrating every harassment, she written that the appellants are reason for her death and they should be punished, which shows that the deceased should have suffered untold harassment made by the appellants. The decisions referred to by the learned counsel for the appellants are not applicable to the facts and circumstances of the present case on hand. The trial Court has elaborately discussed evidence of prosecution witnesses and convicted the

appellants, which is being well founded and need not be interfered with.

10 This Court, as an appellate Court, while re-appreciating the entire evidence, does not find any reason to interfere with the judgment of conviction recorded by the trial Court. Therefore, the criminal appeal stands dismissed as devoid of merit and substance. The trial Court is directed to secure the appellants to serve remaining period of sentence, if any.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional District and Sessions Judge,
Additional District and Sessions Court,
Fast Track Court IV, Ponneri.
2. The Public Prosecutor, High Court of Madras.
3. The Assistant Commissioner of Police,
Madhavaram Range, Chennai.

+lcc to Mr.S.Ilamparithi, Advocate sr.74419

CrI.A.No.33 of 2012

GP(CO)
nr 14/11/2019

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