

Bail Slip

The Accused Viz; 1)Christy Prabhakaran-A1 2) Gnana Prakasan -A2 3)Gandhi Ruby A-3 4) Mettilda Prabavathy A-4 were released on bail on 29/06/2012 made in Crl.MP.No.1 of 2012 in Crl.A.No.378 of 2012.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.A.No.378 of 2012

and M.P.No.1 of 2012

1. Christy Prabhakaran

2. Gnana Prakasan

3. Gandhi Ruby

4. Mettilda Prabavathy ... Appellants/Accused

Vs.

State represented by

The Deputy Superintendent of Police,

Katpadi Sub-Division,

Vellore District,

(Latheri Police Station). ... Respondent/Complainant

Criminal Appeal filed under Section 374(2) Cr.P.C. against the judgment and order dated 22.06.2012 passed in S.C.No.115 of 2011 on the file of the I Additional District and Sessions Court, Vellore District.

For Appellants : Mr.V.Parthiban
for Mr.E.Kannadasan

For Respondent : Mrs.P.Kritika Kamal,
Government Advocate(Crl. Side)

JUDGMENT

This criminal appeal has been preferred seeking to set aside the judgment and order dated 22.06.2012 passed in S.C.No.115 of 2011 on the file of the I Additional District and Sessions Court, Vellore District.

2. Minus the minute details, the facts germane which are just necessary for deciding this appeal are stated as under:

2.1 It is the case of the prosecution that Christy Prabhakaran (A1) got married to Sophia @ Arokia Mary on 27.08.2007 and thereafter, the couple was living in joint family with Gnanaprakasam (A2), Gandhi Ruby (A3) and Mettilda Prabavathy (A4). Gnanaprakasam (A2) and Gandhi Ruby (A3) are the parents of Christy Prabhakaran (A1) and Mettilda Prabavathy (A4) is his sister. Sophia conceived. On 15.01.2009, Sophia suffered severe headache and was rushed to CMC, Vellore, where, she was examined by Dr.K.Prasad Mathews (PW10) who admitted her as an in-patient, diagnosed that she suffered brain haemorrhage and therefore, admitted her in the ICU. However, she breathed her last on 16.01.2009 at 4.15 p.m. at CMC, Vellore.

2.2 The family members of Sophia suspected foul play and therefore, Chandra (PW1), mother of Sophia, lodged a written complaint (Ex-P1), based on which, Jayanthi (PW15), Sub-Inspector of Police, registered a case in Crime No.17 of 2009 on 17.01.2009 under Section 174 (3) Cr.P.C. and prepared the printed FIR (Ex-P11) which was received by the jurisdictional Magistrate at 12.00 p.m. on the same day. Since the death was within seven years of marriage, investigation of the case was taken over by S.Pattabi (PW16), Deputy Superintendent of Police, who went to the place of occurrence and prepared the Observation Mahazar (Ex-P12) and Rough Sketch (Ex-P13).

2.3 At the request of the police, Ponnusamy (PW14), the Revenue Divisional Officer, conducted inquest over the body of the deceased Sophia and submitted the inquest report (Ex-P10). Thereafter, the body of the deceased was despatched to the Government Hospital, Vellore, where, Dr.Fiaz Ahmed (PW12) performed autopsy and sent the visceral samples to the Tamil Nadu Forensic Sciences Laboratory for examination and report. The Toxicology report (Ex-P6) states that no poison was detected in any of the visceral samples. After receipt of the Toxicology report (Ex-P6), Dr.Fiaz Ahmed (PW12) issued the postmortem certificate (Ex-P5).

2.4 Dr.Fiaz Ahmed (PW12), in his evidence as well in the postmortem certificate (Ex-P5) has stated that the death of Sophia was due to the effect of brain haemorrhage.

2.5 After examining witnesses and collecting various reports, the Investigating Officer completed the investigation and filed a final report in P.R.C.No.4 of 2011 before the Judicial Magistrate, Katpadi, for the offences under Sections 498-A and 304-B IPC, against Christy Prabhakaran (A1), Gnanaprakasam (A2), Gandhi Ruby (A3) and Mettilda Prabavathy (A4).

2.6 On appearance of the accused, the provisions of Sections 207 Cr.P.C. were complied with and the case was committed to the Court of Session, Vellore, in S.C.No.115 of

2011 and was made over to the I Additional District and Sessions Court, Vellore, for trial.

2.7 The Trial Court framed charges under Sections 498-A and 304-B IPC against Christy Prabhakaran(A1), Gnanaprakasam (A2), Gandhi Ruby (A3) and Mettilda Prabavathy (A4). When questioned, the accused pleaded "not guilty".

2.8 To prove the case, the prosecution examined sixteen witnesses and marked fifteen exhibits.

2.9 When the accused were questioned under Section 313 Cr.P.C on the incriminating circumstances appearing against them, they denied the same. On behalf of the accused, no witness was examined nor any document marked.

2.10 After considering the evidence on record and hearing either side, the Trial Court, by judgment and order dated 22.06.2012 in S.C.No.115 of 2011, has acquitted all the accused of the offences under Section 304-B IPC, but, has convicted them under Section 498-A IPC and sentenced each one of them to undergo three years rigorous imprisonment and pay fine of Rs.1,000/-, in default to undergo three months rigorous imprisonment. Challenging the conviction and sentence, the accused are before this Court.

3. Heard Mr.E.Kannadasan, learned counsel for the accused and Mrs.P.Kritika Kamal, learned Government Advocate (Crl.Side) for the respondent/State.

4. The facts incontrovertible in this case are:

- (a) the inter se relationship of the accused;
- (b) marriage of Christy Prabhakaran (A1) with Sophia on 27.08.2007;
- (c) death of Sophia on 16.01.2009.

5. The allegation in the charge is that, Sophia committed suicide by consuming poison, whereas, unimpeachable evidence of Dr.K.Prasad Mathews (PW10) of CMC, Vellore, who treated Sophia at the first instance and that of Dr.Fiaz Ahmed (PW12), who conducted the postmortem, coupled with the Toxicology report (Ex-P6), show that Sophia was pregnant, she suffered brain haemorrhage, on account of which, she became brain dead and thereafter, she died. Thus, the prosecution hypothesis that Sophia committed suicide stood demolished.

6. That apart, Ponnusamy (PW14), the Revenue Divisional Officer, in his evidence, has stated that a grave typographical error has crept into the findings portion of his inquest report (Ex-P10), inasmuch as, instead of typing "there was no dowry harassment", it was wrongly typed as "there was dowry harassment". Of course, the prosecution has not chosen to challenge the acquittal of the accused under Section 304-B IPC before this Court. Now, we are left with the evidence of Chandra (PW1), the mother of Sophia, Gopu (PW2), Babu (PW3) and Prabhu (PW4), brothers of Sophia and Jersiranni (PW5), sister of Sophia.

7. All these witnesses in their evidence have stated that Sophia got married to Christy Prabhakaran (A1) on 27.08.2007 and at the time of marriage, they gave thirty sovereigns of gold and other household articles; after marriage, the accused did not permit Sophia to speak to them; for the baby shower ceremony on 18.01.2009, the accused demanded two sovereigns of gold and thirty plates of fruits, flowers, eatables, etc., as Stridhana ; on 15.01.2009, they received information that Sophia has been admitted in the hospital; they came to the hospital and were told that she had died; her death was on account of harassment by the accused.

8. In the chief-examination and even in their statements to the Revenue Divisional Officer at the time of inquest, they had not stated as to when the demand was made, who made the demand and what sort of cruelty was perpetrated by the accused on Sophia. Even in the evidence before the Court, none of the witnesses has stated as to who inflicted cruelty and what was the cruelty that was inflicted on Sophia. They have made a sweeping allegation against all the family members of Christy Prabhakaran (A1) to the effect that they did not permit Sophia to even speak to them. However, Chandra (PW1) has stated that whenever Sophia came home, she would give her money. This shows that Sophia used to go to her natal home frequently and therefore, the allegation that the accused prevented her from speaking to her family members stands belied.

9. In the opinion of this Court, the sudden death of Sophia while in the family way, had triggered her mother and siblings to implicate the entire family of the accused and make them responsible for her death. In such perspective of the matter, the evidence adduced by the prosecution for the offence under Section 498-A IPC is insufficient to sustain the conviction.

In the result, this criminal appeal is allowed and the judgment and order dated 22.06.2012 passed in S.C.No.115 of 2011 on the file of the I Additional District and Sessions Court, Vellore District, is set aside and the accused are acquitted of

the charge under Section 498-A IPC. The bail bonds executed by the accused shall stand cancelled. Fine amount paid by the accused, if any, shall be refunded. Connected M.P. is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

nsd
To

1. The I Additional District and Sessions Judge,
Vellore District.
2. The Deputy Superintendent of Police,
Katpadi Sub-Division,
Vellore District,
(Latheri Police Station).
3. The Public Prosecutor,
Madras High Court,
Chennai - 104.
4. The Chief Judicial Magistrate
Vellore
- 5.The District Munsif-cum Judicial Magistrate
Katpadi
- 6.The Superintendent
Central Prison Vellore
- 7.The Superintendent
special Prison for women Vellore

+1 cc to M/s.Kannadasan Advocate sr76945

Cr1.A.No.378 of 2012

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