

Bail Slip

The Appellants, namely 1.Anthonisamy, S/o.Rayappan, 2.Ramachandran, S/o.Ramakrishnan(Accused 1 and 2 in sessions case No.74 of 2011) on the file of the Additional sessions Judge, Karaikal) were released on bail vide order of this court, dated 08/08/2012 and made in Crl.Mp.No.1 of 2012 in Crl.A.468 of 2012.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.03.2019

Coram:

The Honourable Dr.Justice G.Jayachandran

Criminal Appeal No.468 of 2012

and M.P.No.1 of 2012

1.Anthonisamy

2.Ramachandran

.. Appellants/Accused 1 and 2

/versus/

State rep.by

The Inspector of Police,

Karaikal Town Police Station,

Karaikal

(Crime No.39 of 2010)

.. Respondent/Complainant

Criminal Appeal has been filed under Section 374(2) of Criminal Procedure Code praying to set aside the judgment dated 26.07.2012 passed in S.C.No.74 of 2011 on the file of the Additional Sessions Judge at Karaikal convicting the appellants for the alleged offence under Section 306 read with 34 of Indian Penal Code.

For Appellants : Mr.S.Santhosh Kumar
for S.P.Vijayaraghavan

For Respondent : Mr. V.Balamurugane,
Additional Public Prosecutor(Pondy.)

J U D G M E N T

Heard the learned counsel for the appellants and the learned Additional Public Prosecutor(Pondy).

2. This appeal is directed against the judgment in S.C.No.74 of 2011 passed by the learned Additional Sessions Judge at Karaikal, dated 26.07.2012.

3. The case of the prosecution is that on 08.02.2010 at 07.00 hours one Ramesh, Night Watchman at the premises of PASIC Wines, P.K.Salai near CRC shed, found dead by hanging. On hearing the news, Mr.Sasikumar brother of the deceased went to the scene of the occurrence and found suicide note written by the deceased in the pages of "Kudumba Malar". He has collected the suicide note, gone to the police station, given a complaint about the death of his brother narrating the suspicion in his death and handed over the "Kudumba Malar" book where the deceased had written the cause for his death. The respondent-police has taken the complaint for investigation and registered First Information Report for offence under Section 174 Cr.P.C. After investigation, the Investigating Officer has altered the offence under Section 306 IPC r/w 34 IPC and the same has been intimated to the Court vide letter Ex.P.14. The prosecution, based on the information collected during the course of investigation has filed a final report along with the statement of witnesses, hand writing expert's opinion and collected suicide note at the scene of death.

4. The Court below has framed the charge against the accused viz., Anthonisamy and Ramachandiran as follows:

"That in between 07.02.2010 at about 22.30 hrs. and 08.02.2010 at 07.00 hrs. at the premises of PASIC Wines, P.K.Salai near CRC shed, Karaikal, one Ramesh committed suicide by hanging and you abetted the commission of the suicide as you were frequently blaming the deceased as regards the office duty of the deceased and thereby committed an offence punishable u/s.306 IPC and within my cognizance."

5. To prove the charges, the prosecution has examined 10 witnesses as PW-1 to PW-10. 16 Exhibits and 16 Material Objects were marked. The Court below after considering the evidence held that the hand writing found in M.O.1-suicide note is that of the deceased Ramesh. The evidence of PW.1[T.Sasikumar] brother of the deceased and PW.2[S.Thangavelu] father of the deceased indicates that the deceased was subjected mental agony and tortured by the accused persons. This has forced Ramesh to commit suicide after recording the reasons to commit suicide in the "Kudumba Malar" magazine, which was recovered near the place, where the deceased found hanging. Therefore, the trial Court has held both the accused guilty, convicted them and sentenced to undergo 2 years Rigorous Imprisonment and to pay a fine of Rs.2,500/- each; in default to undergo simple imprisonment for the period of three months each. Aggrieved by the judgment of conviction and sentence, the present appeal is preferred by the appellants/accused.

6. Pending appeal, the first accused died. The death certificate of the first accused is also furnished.

7. The short point involved in this case is (i) whether the suicide note alleged to have been written by the deceased leads to any inference that the deceased was abetted by the appellants to commit suicide and (ii) whether the evidence of PW.1 and PW.2 suffice to infer.

8. The trial Court relying upon the judgment, which was rendered in the case of dowry death has concluded that the circumstances under which the deceased found death, the suicide note recovered from the scene of occurrence, the opinion of the hand writing expert put together indicates that the deceased was subjected to mental torture forcing him to commit suicide.

9. However, on perusal of the records, this Court finds that there is no iota of evidence to show that the deceased was subjected to torture by any manner by the appellants. The only incriminating material, which is collected and placed before the Court, is the suicide note [M.O.1] written by the deceased. The reading of the suicide note appears to be the expression of the depressed person about the happening in his office. No doubt, the name of the appellants are mentioned in the suicide note. He has referred the name accusing that they are making false allegation against him and others had created a bad impression about him with the superior officer. He has concluded that his death will put an end in future any person saying ill about the others. To accuse a person for aid or assistant to commit suicide, there must be material to show that at a particular point of time, there was some interaction between the deceased and the accused and that interaction has been some way prompted the deceased person to commit suicide. The proximity of the death and the alleged aid or assistant should have been established. Further, the alleged aid or assistant should also be sufficient to trigger the other man to commit suicide.

10. In this case, even if the entire evidence placed by the prosecution is to be accepted, the three ingredients, which have been pointed above lacks. Therefore, this Court hold that the trial Court has misapplied law of precedent and failed to consider the want of evidence to hold the appellants guilty of offence under Section 306 IPC. Hence, the trial Court judgment is liable to be set aside.

11. Accordingly, the Criminal Appeal is allowed. The judgment of conviction and sentence passed by the trial Court is hereby set aside. The appellant is set at liberty. Fine amount,

if any paid by the accused shall be refunded to them. Bail bond if any executed by the accused shall stand cancelled. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rpl

To

1.The Judicial Magistrate No.II, Karaikal.

2.do Thro The Chief Judicial Magistrate,
Pondicherry.

3.The Additional Sessions Judge, Karaikal.

4.The Principal Sessions Judge,
Puducherry.

5.The Inspector of Police,
Karaikal Town Police Station,
Karaikal.

6.The Public Prosecutor(Pondy),
High Court, Madras.

copy to:

The Section Officer, सत्यमेव जयते
Criminal Section,
High Court, Madras.

+1cc to The Public Prosecutor, Puducherry sr.27123

Cr1.A.No.468 of 2012

nr 09/07/2019