

Bail Slip

The Appellant/Accused, namely Baskar S/o.Kannian Accused in SC .NO.52/12 on the file of the Additional Sessions Judge, Karaikal was released on bail as per order dated 11.10.2012 in MP.NO.1/12 IN CRL A.NO.670/2012 on the file of this Hon'ble court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Judgment 24.10.2019	Date of pronouncing Judgment 06.11.2019
--	--

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Crl.A.No.670 of 2012

Baskar .. Appellant/Accused
S/o.Kannian Versus

The Union Territorial
represented by its
The Sub-Inspector of Police
Nedungadu Police Station
Nedungadu, Karaikal,
Karaikal District,
Puducherry State. .. Respondent/Complainant

Appeal filed under Section 374 (2) of Cr.P.C. against the Judgment of conviction and sentence passed by the learned Additional Sessions Judge, Karaikal, in S.C.No.52 of 2012 dated 18.09.2012.

For Appellant : Mr.R.Muruga Bharathi
For Respondent : Mr.Bharath Chakaravarthy
Public Prosecutor (Pondicherry)

Judgment

This Criminal Appeal has been preferred by the accused challenging the Judgment of conviction and sentence passed by the learned Additional Sessions Judge, Karaikal, in S.C.No.52 of 2012 dated 18.09.2012.

2. The prosecution story is as follows:-

The deceased Vasanthi (aged 45) was living with her husband Venukumar (PW.1) and children Senthamizh Pandian (PW.6)

and Ambika (PW.7) in Door No.7, Pillaiyar Koil Street, Puthakudi in Karaikal. Baskar (appellant herein) was her neighbour. There were boundary disputes between the deceased Vasanthi and the appellant and they were quarrelling frequently. On the request of Vasanthi, the Revenue Officials came to the property and fixed the boundaries, which was not accepted by the appellant. When the appellant created problems, a complaint was lodged by Venukumar (PW.1) and Vasanthi on 01.08.2010 at the Nedungadu Police Station. It is alleged that on 02.08.2010, the appellant quarrelled with Vasanthi, removed his lungi and committed acts of indecent exposure (flashing) and told Vasanthi that she can do nothing and abused Vasanthi by saying that she cannot even pluck one hair of his. This disturbed Vasanthi terribly and she asked her husband to intervene. Her husband Venukumar (PW.1), who was impervious to her protest, expressed helplessness. On 03.08.2010 at 2.00 a.m unable to withstand the humiliation, Vasanthi doused herself with kerosene and committed self immolation. On hearing her cries, the family members woke up and she was carried to the Primary Health Centre, Nedungadu, by her husband Venukumar (PW.1), where she was examined by Dr.S.Vijaya Shankar (PW.2), who noted that she had 70% burns. Vasanthi was referred to the Government Hospital, Karaikal and intimation was sent to the jurisdictional police. While she was taking treatment in the Government Hospital, Karaikal, G.Sundarrajan (PW.5), Judicial Magistrate No.II, Karaikal, came to the hospital and recorded her statement in the presence of DMO (Duty Medical Officer) at 12.15 p.m on 03.08.2010. The Dying Declaration was marked as Ex.P4. On the statement (Ex.P1) of Venukumar (PW.1), the police registered a case in Crime No.84 of 2010 on 03.08.2010 at 7.30 a.m under Section 309 IPC and prepared the printed FIR (Ex.P10). Vasanthi succumbed to the injuries around 14.40 hours on 06.08.2010, at the Government Hospital, Karaikal and therefore, the police filed Alteration Report (Ex.P13) altering the case from one under Section 309 IPC to Section 306 IPC against the appellant. Dr.Narasimha Murthy (PW.4) conducted autopsy on the body of the deceased and it is evident as well in the postmortem certificate (Ex.P2), has opined as follows:-

"Death is due to Septicaemic shock
as a result of burns sustained."

The appellant was arrested by the police. After examining witnesses and collecting various reports, the police filed a final report in PRC No.23 of 2011 before the learned Judicial Magistrate No.II, Karaikal, under Section 306 IPC against the appellant.

3. On appearance of the appellant, the provisions of Section 207 Cr.P.C. were complied with and the case was committed to the Court of Session in S.C.No.52 of 2012 and was made over to the Additional Sessions Court, Karaikal, for trial.

4. The trial Court framed charge under Section 306 IPC against the appellant and when questioned, he pleaded not guilty.

5. To prove the case, the prosecution examined 12 witnesses, marked Exs.P1 to P16 and M.O.1. When the appellant was questioned under Section 313 Cr.P.C., on the incriminating circumstances appearing against him, he denied the same. No witness was examined on the side of the appellant nor any document marked.

6. After considering the evidence on record and hearing either side, the trial Court, on 18.09.2012 in S.C.No.52 of 2012, convicted the appellant of the offence under Section 306 IPC and sentenced him to undergo 3 years rigorous imprisonment and pay a fine of Rs.2,500/- in default to undergo 2 months simple imprisonment.

7. Challenging the conviction and sentence, the present appeal has been filed.

8. Heard Mr.R.Muruga Bharathi, learned counsel for the appellant and Mr.Bharath Chakaravathy, learned Public Prosecutor (Pondicherry) for the respondent.

9. Learned counsel for the appellant submitted that even according to the complaint (Ex.P1) given by Venukumar (PW.1), it is stated that Vasanthi quarrelled with her husband for not questioning Baskar (appellant) and since her husband remained aloof, she got frustrated with him and committed suicide. He further contended that the alleged quarrel had taken place on 01.08.2010, whereas Vasanthi committed self-immolation on 03.08.2010 and therefore, it cannot be stated that the conduct of the appellant had triggered the suicide.

10. Per contra, learned Public Prosecutor (Pondicherry) refuted the contention.

11. This Court gave anxious consideration to the rival submissions.

12. In this case, the prosecution has proved beyond doubt the following facts:-

- a) Vasanthi was living with her husband Venukumar (PW.1) and children Senthamizh Pandian (PW.6) and Ambika (PW.7) in Door No.7, Pillaiyar Koil Street, Puthakudi in Karaikal.
- b) The appellant was the neighbour of Vasanthi;
- c) Vasanthi committed self-immolation around 2 a.m. on 03.08.2010;

d) Vasanthi gave a statement to the learned Magistrate on 03.08.2010;

e) Vasanthi died on 06.08.2010 due to burn injuries.

13. The short point is whether the appellant had abetted the suicide of Vasanthi. Venukumar (PW.1) and two children of Vasanthi, namely, Senthamizh Pandian (PW.6) (aged 22 years) and Ambika (PW.7) (aged 23 years) have stated that the appellant was frequently quarrelling with Vasanthi in connection with boundary dispute. Venukumar (PW.1) had stated that the Revenue Authorities came to the property, measured it and fixed the boundary. This was not agreed to by the appellant and he continued to quarrel with them and therefore, on 01.08.2010, he went along with his wife and lodged a complaint; the police enquired the appellant and thereafter, the activities of the appellant became very bad; when his wife was in the garden, the appellant, on the other side, removed his clothes and behaved indecently; this disturbed his wife so much that she complained to him, for which he told her that they can go and complain to the police next morning; after dinner, they retired to bed at 11 p.m.; around 3 a.m., he heard noise and when he got up, he saw that his wife was aflame; he along with the children immediately doused the flame and carried her to the Primary Health Centre, from where, she was taken to the Government Hospital, Karaikal, where she was admitted in the Burns Ward and died on 06.08.2010. In the cross-examination, Venukumar (PW.1) admitted that he also sustained burn injuries and was admitted in the hospital. He was further confronted with the complaint (Ex.P1), which was given by him, wherein he has not stated that the appellant had committed acts of indecent exposure. It is true that in the complaint (Ex.P1) Venukumar (PW.1) has not stated about the indecent conduct of the appellant, but has only stated that the appellant was quarrelling with his wife and his wife was chiding him (PW.1) for not being aggressive like the appellant. However, in the Dying Declaration (Ex.P5) that was given by Vasanthi, she has stated as follows:-

"About one year back, there was a dispute between us and our neighbour. He abused me in filthy language. He removed his clothes and asked me to suck. His name is Baskaran. Yesterday at 10' o clock in the night, my husband Venukumar scolded me saying 'why is he (Baskaran) using such abusive words.' Therefore, unable to bear the humiliation, I commit self-immolation."

14. Senthamizh Pandian (PW.6), the son of the deceased, has stated that on 02.08.2010, the appellant did acts of exhibitionism at his mother and his mother complained to them in

the night and wept. Of course, he admitted in the cross-examination that he was not present when the alleged incident had taken place. But the conduct of the deceased in complaining to her family members on the same day is relevant under Section 8 of the Evidence Act. Ambika (PW.7) has also corroborated the evidence of Senthamizh Pandian (PW.6) that her mother complained to them about the indecent conduct of the appellant on 02.08.2010. Though the deceased would have had a grievance against her husband Venukumar (PW.1) for remaining nonchalant when she complained to him, what triggered the suicide was the conduct of the appellant in removing his lungi showing his private parts and asking her to suck. In the result, this Court does not find any infirmity in the judgment and order of the trial Court warranting interference.

15. In the result, the appeal is devoid of merits and accordingly, dismissed. The conviction and sentence passed by the learned Additional Sessions Judge, Karaikal, in S.C.No.52 of 2012 dated 18.09.2012 is hereby confirmed. The trial Court is directed to secure the accused and commit him to prison to serve out the remaining period of sentence. Registry is directed to transmit the original records to the Sessions Court forthwith.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mra

To

1. The Additional Sessions Judge, Karaikal.
2. The Sub-Inspector of Police
Nedungadu Police Station
Nedungadu, Karaikal,
Karaikal District, Puducherry State.
3. The Public Prosecutor, High Court, Madras.
4. The Public Prosecutor, Pondicherry.
5. Deputy Registrar (Criminal Section)
High Court, Madras.
6. The Judicial Magistrate NO.II, Karaikal
7. The Chief Judicial Magistrate, Puducherry
copy to : The Section Officer,
Criminal Section, High Court, Madras

+1cc to Mr.R.Muruga Bharathi , Advocate SR.No. 92072

+1 cc to Government Pleader Sr.No. 92145

CrI.A.No.670 of 2012

A.SK(11/12/2019)