

Bail Slip

The Appellant/Accused, namely Lakshmi W/o. Subramaniam aged 60 years was released on bail by this Court order dated 21.12.2012 in MP.NO.1/12 IN CRL A.NO.877/2012.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2019

CORAM:

THE HONOURABLE Mr. JUSTICE P.N. PRAKASH

Crl.A.No.877 of 2012

Lakshmi

...

Appellant/2nd Accused

Vs.

State represented by

The Deputy Superintendent of Police,
Gobichettipalayam Sub Division,
Erode District.

...

Respondent/Complainant

Criminal Appeal filed under Section 374 (2) Cr.P.C. against the judgment and order dated 28.11.2012 passed in S.C.No.115 of 2012 on the file of the I Additional Sessions Court, Erode.

For Appellant : Mr.N.Manokaran

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

JUDGMENT

Challenge in this criminal appeal is to the judgment and order dated 28.11.2012 passed in S.C.No.115 of 2012 on the file of the I Additional Sessions Court, Erode.

2. The facts in brief leading to the filing of this case are as under:

2.1 The parents of the deceased Ishwarya had died when she was very young and hence, she was brought up by her maternal uncle Natraj and his wife Kalamani (PW1). Ishwarya had a piece of land in her name which was purchased when she was a minor and her grandfather was shown as the guardian in the document. Ishwarya completed her XII standard and when she was eighteen,

her marriage with Sivaganesan (A1) was solemnized. At the time of marriage, she was given the usual household articles that are required for setting up a family. She lived in her matrimonial home at Poolapalayam Village, Bhavani Taluk, which is a little away from her natal village Paruthikatupalayam, Avinasi Taluk. The couple was blessed with a male child, who was seven months old at the time of incident. Ishwarya committed suicide by hanging on 03.02.2011 around 10.00 a.m. in her matrimonial home when Sivaganesan (A1) was away. On seeing this, Ishwarya's mother-in-law Lakshmi (A2) panicked and called the villagers. Information was sent to Sivaganesan (A1) and Kalamani (PW1), who all rushed to the place of occurrence.

2.2 On the written complaint (Ex-P1) given by Kalamani (PW1), Chandrasekar (PW8), Sub-Inspector of Police, registered a case in Crime No.54 of 2011 for the offence under Section 174 (3) Cr.P.C. on 03.02.2011 at 15.00 hours and prepared the printed F.I.R. (Ex-P13).

2.3 Though people were seeing Ishwarya hanging from the ceiling fan through the window, none dared to open the door which was locked from inside.

2.4 After the arrival of the police, Meenapriyadharshini (PW9), Revenue Divisional Officer and Sadhasivam (PW5), Village Administrative Officer, the door was forcibly opened and the body of Ishwarya was lowered. The Revenue Divisional Officer (PW9) and the police found a suicide note (Ex-P5) in the room.

2.5 S.K.Sundararajan (PW10), Deputy Superintendent of Police, prepared the observation mahazar (Ex-P3) and rough sketch (Ex-P16). Since the death was within seven years of marriage, Meenapriyadharshini (PW9), Revenue Divisional Officer, conducted inquest over the body of Ishwarya and submitted the inquest report (Ex-P15), wherein, she has opined that there was no dowry harassment.

2.6 Dr.Ramesh Babu (PW6), who performed autopsy on the body of Ishwarya, in his evidence as well in the postmortem certificate (Ex-P11), has opined that the deceased would have died of asphyxia due to hanging.

2.7 After examining the witnesses and collecting various reports, S.K.Sundararajan (PW10), Deputy Superintendent of Police, filed a final report in P.R.C.No.8 of 2012 before the Judicial Magistrate Court No.II, Gobichettipalayam, for the offences under Sections 498-A and 306 IPC, against Sivaganesan (A1) and his mother Lakshmi (A2).

2.8 On appearance of the accused, 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.115 of 2012 and was made over to the I Additional Sessions Court, Erode, for trial.

2.9 The trial Court framed charges for the offences under Sections 498-A and 306 IPC, against Sivaganesan (A1) and Lakshmi (A2) and when questioned, the accused pleaded "not guilty".

2.10 To prove the case, the prosecution examined ten witnesses and marked seventeen exhibits and nine material objects.

2.11 When the accused were questioned under Section 313 Cr.P.C. on the incriminating circumstances appearing against them, they denied the same, but, each of them filed written explanation, which will be discussed a little later. On behalf of the accused, one Sampathkumar was examined as DW1 and no document was marked.

2.12 After considering the evidence on record and hearing either side, the trial Court, by judgment and order dated 28.11.2012 in S.C.No.115 of 2012, acquitted Sivaganesan (A1) of all charges, but, convicted and sentenced Lakshmi (A2) as follows:

Provision under which convicted	Sentence
Section 498-A IPC	Two years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo three months simple imprisonment.
Section 306 IPC	Three years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo three months simple imprisonment.

The aforesaid sentences were ordered to run concurrently.

2.13 Challenging the above conviction and sentences, Lakshmi (A2) has preferred the present appeal.

3. Heard Mr.N.Manokaran, learned counsel for Lakshmi (A2) and Mrs.P.Kritika Kamal, learned Government Advocate (Crl.Side) for the respondent/State.

4. The prosecution has proved the following facts beyond cavil:

(i) Ishwarya's parents had died and she was brought up by Kalamani (PW1) and her husband Natraj, the latter being the maternal uncle of Ishwarya;

(ii) Ishwarya had studied up to XII standard and thereafter, when she was eighteen, she was married to Sivaganesan (A1);

(iii) After marriage, Ishwarya lived with Sivaganesan (A1) at Poolapalayam village in Bhavani Taluk;

(iv) Ishwarya was blessed with a male child who was seven months old when she committed suicide by hanging on 03.02.2011 at 10.00 a.m.; and

(v) The death of Ishwarya was a suicide.

5. The State has not chosen to file any appeal challenging the acquittal of Sivaganesan (A1) of the charges under Sections 498-A and 306 IPC.

6. The point for determination in this appeal is, whether there are materials to show that Lakshmi (A2) had inflicted cruelty on Ishwarya and had thereby pushed her to commit suicide. The crux of the prosecution case was, Sivaganesan (A1) and Lakshmi (A2) were harassing Ishwarya to sell the land which was in her name and that she was not willing for that.

7. Kalamani (PW1), in her evidence, has stated about the parents of Ishwarya, their death, upbringing of Ishwarya by her and the marriage of Ishwarya with Sivaganesan (A1). She (PW1) has further stated that there was a land measuring about 3 ¼ cents in the name of Ishwarya and the accused were frequently asking her to dispose of the land; Ishwarya told her (PW1) that she was harassed by the accused for this reason.

8. However, in the cross-examination, Kalamani (PW1) admitted that the land was purchased in the name of Ishwarya when she was a minor and her grandfather was named as her guardian in the document; the said land was mortgaged by her (PW1's) husband Natraj with her (PW1's) son-in-law Venkatachalam for a sum of Rs.35,000/- to meet the marriage expenses of Ishwarya. She further categorically admitted that it was Sivaganesan (A1), who redeemed the land from Venkatachalam by discharging the debt.

9. All these circumstances made the trial Court to disbelieve the evidence of Kalamani (PW1) and Muthukumar (PW2) that Ishwarya was being subjected to harassment in connection with the land.

10. The evidence on record shows that Sivaganesan (A1) and Lakshmi (A2) knew that Ishwarya was an orphan and was brought

up by Kalamani (PW1) and her husband Natraj and hence, did not expect anything from the family of Ishwarya during marriage.

11. Now, adverting to the suicide note (Ex-P5) that was left by Ishwarya, a perusal of the original shows that it has been written on the reverse of the instruction pamphlet in Tamil of Belladonna Plaster, the free English translation of which is as follows:

" My mother-in-law is responsible for my death. She insulted me and my family. Therefore, I cannot live listening to this. Please take good care of my child.

-Sd-

(ISHWARYA)"

12. At this juncture, it may be necessary to recapitulate that the accused were not charged for dowry harassment under Section 304-B IPC, but were charged only under Section 306 IPC with the aid of Section 113-A of the Evidence Act.

13. The trial Court has given a clean chit to Sivaganesan (A1) after considering the evidence on record and holding that Ishwarya had no grievance against Sivaganesan (A1).

14. It is the case of the defence that Sivaganesan's (A1's) brother married a girl outside the caste and they settled in Chennai, on account of which, there used to be frequent quarrel between Ishwarya and her mother-in-law Lakshmi (A2).

15. In the cross-examination of Kalamani (PW1) and Muthukumar (PW2), they have admitted that on account of misunderstanding, Lakshmi (A2) started living separately with her husband, but, of course, in another portion of the house. Thus, the evidence on record shows that there was no love lost between the mother-in-law and daughter-in-law and both of them were quarrelling with each other for petty reasons.

16. Coming to the fateful day, Lakshmi (A2), in her statement under Section 313 Cr.P.C., has stated that she had misunderstanding with her daughter-in-law Ishwarya and therefore, she (A2) started living separately with her husband in the adjacent portion and was not under the same roof with Ishwarya. She has also stated that her eldest son got married to a girl of lower status and that was a cause of friction with her daughter-in-law Ishwarya; the day before Ishwarya's suicide, the child was left in the open sun and Ishwarya had gone to have her bath; so, when she (A2) took the child in her hand, Ishwarya quarrelled with her (A2) saying that she will cut her hand if she touches her child, for which, she (A2) brought a knife and offered it to Ishwarya to do so.

17. This Court finds that this defence was consistently maintained by the accused right from the enquiry by the Revenue Divisional Officer (PW9), as could be seen from the report of the Revenue Divisional Officer (PW9).

18. Bearing in mind the above, if the suicide note is analysed, it is obvious that Ishwarya had written it with vengeance. If the sale of land was the bone of contention between the accused and Ishwarya as alleged by Kalamani (PW1), then Ishwarya would have implicated her husband also in the suicide note.

19. On a conspectus of the facts obtaining in this case, it is axiomatic that the mother-in-law and daughter-in-law duo was at each other's throats for petty reasons and Ishwarya being hypersensitive, decided to end her life and cause misery to her mother-in-law Lakshmi (A2). Thus, this is not a case, where, the mother-in-law had inflicted cruelty on a docile daughter-in-law and pushed her to the wall to commit suicide.

21. Albeit presumption under Section 113-A of the Evidence Act, this Court does not find any sufficient material to confirm the conviction of Lakshmi (A2).

In the result, this criminal appeal is allowed by setting aside the judgment and order dated 28.11.2012 passed in S.C.No.115 of 2012 on the file of the I Additional Sessions Court, Erode. As a sequel, Lakshmi (A2) is acquitted of all charges. Bail bond, if any, executed by Lakshmi (A2) shall stand discharged. Fine amount paid, if any, shall be refunded.

Sd/-
Assistant Registrar(CS)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

nsd

To

1. The I Additional Sessions Judge,
Erode.

2. Do thro the Chief Judicial Magistrate, Erode(for information)

3. The Judicial Magistrate, Gobichettipalayam.

WEB COPY

4.The Deputy Superintendent of Police,
Gobichettipalayam Sub Division,
Erode District.

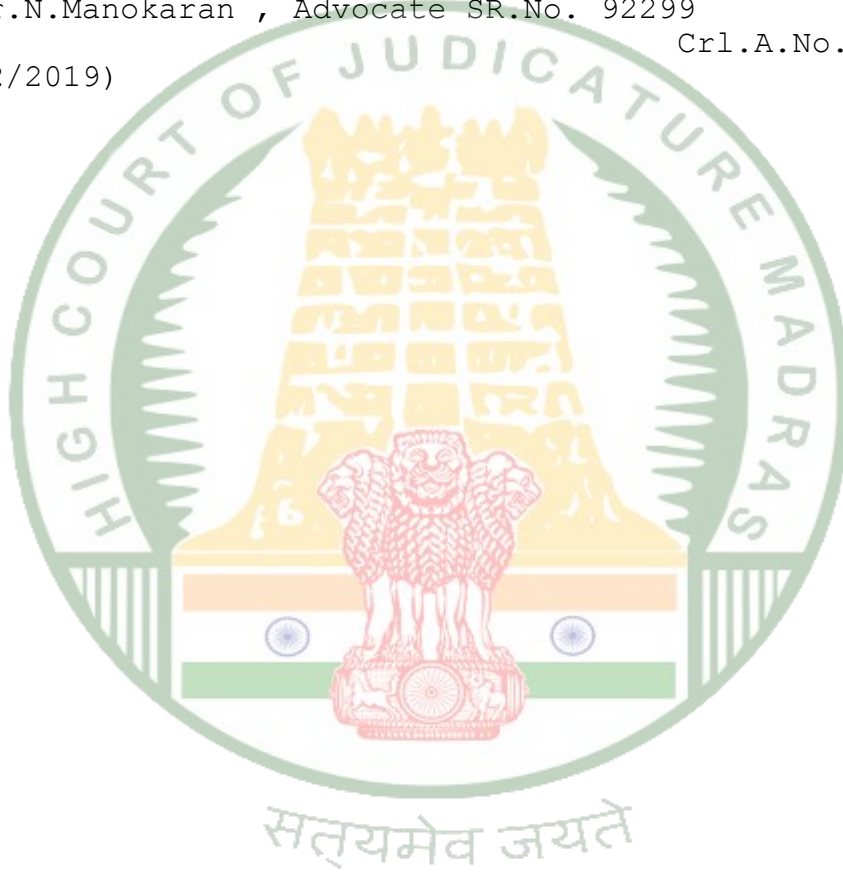
5. The Public Prosecutor,
Madras High Court, Chennai - 600 104.

6. The Deputy Registrar (Crl.Section),
Madras High Court,
Chennai - 600 104.

+lcc to Mr.N.Manokaran , Advocate SR.No. 92299

Crl.A.No.877 of 2012

A.SK(18/12/2019)



WEB COPY