

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:03.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.479 of 2012

Jamruth

..Petitioner/Defacto Complainant (PW1)

-Vs-

1. The Assistant Commissioner of police,
J8 Neelangarai Police Station,
Neelangarai,
Chennai.

2. Khadar Basha

3. Sukur Shahib

4. Nasurin Taj

5. Sahin Taj

6. Thammem

.....Respondents

This Criminal Revision Case is filed under Section 397 read with Section 401 of Cr.P.C., to set aside the judgment passed by the learned Mahalir Neethimanram, Chennai in S.C.No.85 of 2008 on 29.10.2011 acquitting the respondents 2 to 6.

For Petitioner

: Mr.M.Rajavelu

For Respondents

: Mr.R.Natesh Kumar

- R2 to R6

Mr.T.Shanmugarajeswaran - R1

Government Advocate (Crl.Side)

ORDER

This Criminal Revision has been filed to set aside the judgment passed by the learned Mahalir Neethimanram, Chennai in S.C.No.85 of 2008 on 29.10.2011.

2. The first respondent police registered a case against the respondents 2 to 6 in Crime No.205 of 2007, for the offence under registered the case for the offence under Sections 498(A)

and 304(B) IPC as against the second respondent and registered the offence under Section 304(B) read with 34 IPC as against the respondent 3 to 6. After investigation, the respondent police filed a charge sheet as against the second respondent viz., A1, for offence under Section 498(A) and 304(B) of IPC and filed charges for the offence under Section 304(B) read with 34 IPC as against the respondents 3 to 6 viz., A2 and A5 before the learned Judicial Magistrate, Alandur, and the same was taken on file in P.R.C.No.35 of 2007. Since the offences are triable by the Sessions Court, the case was committed to the learned Principal Sessions Judge, Chennai. The learned Sessions Judge, Coimbatore has taken the case on file in S.C.No.85 of 2008 and the same was made over to the Mahila Court, Chennai for disposal, since the offences were made against a woman.

3. During trial, in order to prove the case, on the side of the prosecution, the respondent police examined as many as 12 witnesses viz., P.W.1 to P.W.12, marked as many as 17 documents viz., Ex.P1 to Ex.P17 and produced 4 material objects viz., M.O.1 to M.O.4.

4. After completing the evidences of prosecution, the incriminating circumstances culled out from the prosecution were put before the respondents 2 to 6/accused, the respondents denied all the evidences as false. On the side of the defence, no oral evidence was let in and one document was marked as Ex.D1. After completing the trial and considering the materials, the learned Sessions Court found that the respondents 2 to 6 found not guilty for the offence under Section 304(B) read with 34 IPC and acquitted them. Challenging the said judgment, the defacto complainant/mother of the victim has filed the present revision before this Court.

5. The learned counsel for the revision petitioner would submit that when the victim was admitted in the hospital, the doctor who attended the patient, was examined as P.W.8. He has clearly spoken that when the deceased was admitted in the hospital, she was conscious, and she has stated that her husband harassed her to bring more jewels, at the instigation of his parents and in-laws. Therefore, she attempted to commit suicide and she poured kerosene over her and set fire. The case sheet was marked as Ex.P6. On a reading of the evidence of P.W.8 and Ex.P6, the deceased herself has stated before the Doctor why she has set fire to herself.

6. On a reading of the judgment, it is seen that though in paragraph no.21 of the judgment, the trial Court has discussed about the deposition of the P.W.8, the trial Court has not

discussed about Ex.P6 and also there is no findings in this regard. Therefore, this Court finds the judgment of the trial Court is perverse.

7. In the result, this revision is allowed and the judgment passed by the learned Mahalir Neethimandram, Chennai in S.C.No.85 of 2008 dated 29.10.2011 is set aside. The matter is remitted back to the trial Court and the learned Mahalir Neethimandram, Chennai is directed to consider the evidence of P.W.8 and also Ex.P.6 and give findings in accordance with law.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Sessions Judge, (Mahalir Neethimandram)
Chennai.
2. The Assistant Commissioner of police,
J8 Neelangarai Police Station,
Neelangarai,
Chennai.
3. The Public Prosecutor,
High Court, Madras.

+1 cc to M/s.M.Rajavelu, Advocate Sr.No. 55731

+1 cc to Mr.R.Natesh Kumar, Advocate Sr.No.55286

AKM/31.10.19/3P-6C /

Cr1.R.C.No.479 of 2012