

BAIL SLIP

The Appellant/Accused Viz., Ramesh S/o.Late Gurusamy, aged 28 years, was released on bail in CrI.M.P.No.1129/2016 in CrI.A.No.71/2016, dated 22/02/2016.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2019

CORAM :

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

CrI.A.No.71 of 2016

Ramesh ... Appellant/Accused

Vs.

State represented by
Deputy Superintendent of Police,
Gobichettipalayam,
Erode District. ... Respondent/Complainant

Criminal Appeal filed under Section 374(2) Cr.P.C. to set aside the conviction and sentence imposed in judgment dated 31.12.2015 made in S.C.No.142 of 2015 on the file of the Sessions Judge, Mahila Court (Mahila Fast Track Court), Erode, by allowing this Criminal Appeal.

For Appellant : Mr.M.Guruprasad

For Respondent : Mrs.P.Kritika Kamal,
Govt. Advocate (CrI. Side)

J U D G M E N T
सत्यमेव जयते

This Criminal Appeal has been filed by the appellant/accused to set aside the order of conviction and sentence, passed by the Sessions Judge, Mahila Court (Mahila Fast Track Court), Erode, in S.C.No.142 of 2015 on 31.12.2015.

2.The appellant, a relative of the deceased Janaki, was in love with her and against the wishes of both families, they got married in the year 2009 and were living separately in Nehru Nagar, Kavundhapadi Village, Erode District. They were issueless. On 23.11.2014 at about 09.30 p.m., the deceased Janaki consumed Monocrotophos (insecticide) and committed suicide. On the complaint lodged by Lakshmi (P.W.1), grand-mother of the

deceased Janaki, the police registered a case in Crime No.307 of 2014 on 24.11.2014 under Section 174 Cr.P.C. and prepared the printed FIR (Ex.P11), which reached the jurisdictional Magistrate on 24.11.2014 at 9.05 a.m. Investigation of the case was taken over by Mr.Murugan (P.W.13), Deputy Superintendent of Police, Gobichettipalayam. Since, the death was within seven years of marriage, Mr.Krishnan Unni, Revenue Divisional Officer, conducted inquest over the body of the deceased and submitted the inquest report (Ex.P4), wherein, it is stated that the suicide was not on account of dowry demand, however, since there is an injury near the left eye of the deceased Janaki, a detailed probe requires to be done. The body was sent to the Government Hospital, Gobichettipalayam, where, Dr.Thangadurai (P.W.8) conducted post-mortem and issued post-mortem certificate (Ex.P7). In his evidence, as well as in the post-mortem certificate (Ex.P7), he has noted a laceration measuring 2 x 1 cm on the left upper eye-lid horizontally and abrasion measuring 2 x 2 cm below the left eye of the deceased. The visceral organs of the deceased were sent to the Department of Forensic Science for examination. The viscera report (Ex.P9) shows that Monocrotophos was detected in the viscera. After receipt of the viscera report, Dr.Thangadurai (P.W.8) gave his final opinion, which is as under.

'Final Opinion (Cause of death of deceased)

The deceased would appear to have died of Monocrotophos poisoning (Organo-phosphorus insecticide)''

3.The appellant was arrested by the police on 07.02.2015. After completing the investigation, the police filed final report in P.R.C.No.4 of 2015 before the Judicial Magistrate Court No.II, Gobichettipalayam, for the offences under Sections 498-A and 306 IPC against the appellant. On the appearance of the appellant/accused, the provisions under Section 207 Cr.P.C. were complied with and the case was committed to the Court of Session in S.C.No.142 of 2015 and was made over to the Mahila Court, Erode, for trial. The trial Court framed charges against the appellant for the offences under Sections 498-A and 306 IPC. When questioned, the appellant pleaded 'not guilty'.

4.To prove the case, the prosecution examined 13 witnesses, marked 14 exhibits and produced four material objects. When the appellant was questioned under Section 313 Cr.P.C. about the incriminating circumstances appearing against him, he denied the same. On behalf of the appellant/accused, no witness was examined and no exhibit was marked.

5.After considering the evidence on record and on hearing either side, the trial Court, by judgment dated 31.12.2015 in S.C.No.142 of 2015 convicted and sentenced the appellant as under :

Provision under which convicted	Sentence
498-A IPC	3 years rigorous imprisonment and also to pay a fine of Rs.1,000/- i.d. simple imprisonment for 6 months.
306 IPC	10 years rigorous imprisonment and also to pay a fine of Rs.5,000/- i.d. simple imprisonment for 2 years.

6.Challenging the conviction and sentence, the appellant is before this Court.

7.Heard Mr.M.Guruprasad, learned counsel for the appellant and Mrs.Kritika Kamal, learned Government Advocate (Crl. Side) appearing on behalf of the respondent police.

8.The prosecution has proved beyond cavil that the deceased Janaki committed suicide on 23.11.2014 by consuming Monocrotophos (insecticide).

9.Lakshmi (P.W.1), in her evidence, has stated that the deceased Janaki was her grand-daughter, born to her son Rathnam and daughter-in-law Sundarambal; Sundarambal died 15 years back, leaving behind four girl children, including the deceased Janaki; after the death of Sundarambal, she (P.W.1) was taking care of Sundarambal's children along with Saraswathi (P.W.2), sister of Sundarambal; the deceased Janaki was the second daughter of Rathnam and Sundarambal; the deceased Janaki was working in a company and the appellant was having a work-shop; the appellant and the deceased fell in love and they got married in the year 2009, after which, family members of the deceased Janaki kept themselves away from the couple; however, she (P.W.1) used to visit her grand-daughter's house off and on; the appellant used to consume liquor and quarrel with his wife; he will not give any money to his wife for household expenses; one year prior to the incident, the deceased Janaki consumed poison, but, her life was saved; one day, her grandson Eswaran called her over phone and told her that the deceased Janaki had consumed poison and is in a critical condition; when she went to the deceased Janaki's house, she found her dead; she (P.W.1) saw an injury near the left eye of the deceased; therefore, she gave a complaint to the police. In the cross-examination, she (P.W.1) admitted that, both appellant and the deceased Janaki were her (P.W.1's) grand-children, one born to her son and the

other born to her daughter; she accepted that, after they got married, the deceased Janaki's parents and relatives kept themselves away from the couple and she (P.W.1) would visit off and on; she had never seen the deceased Janaki and the appellant quarrelling; the deceased Janaki had never come and stayed in her (P.W.1's) house after any quarrel; she visited the deceased Janaki's house, six months prior to the incident; during the last six months, there was no quarrel between the deceased Janaki and the appellant; no one had made any complaint to her that the appellant was ill treating the deceased Janaki; she was told that the injury near the deceased Janaki's eye occurred when she (deceased) was being carried in auto-rickshaw; she further categorically admitted that, in the complaint (Ex.P1) given by her, she had not made any allegations that the appellant had ill treated the deceased Janaki; she further admitted that, had the deceased Janaki delivered a child, she (deceased) would not have committed suicide.

10.Saraswathi (P.W.2), aunt of the deceased Janaki, has not spoken even a word about the alleged cruelty meted out to the deceased Janaki by the appellant.

11.Kumar (P.W.4), driver of the auto-rickshaw, has stated that he knows the appellant and the deceased Janaki and at the request of the appellant, he carried the deceased Janaki to the hospital and at that time, her forehead hit the frame of the auto-rickshaw, resulting in the injury. This witness was not declared hostile by the prosecution.

12.Dr.Kalidass (P.W.7), in his evidence, has stated that he was the duty doctor in Sundaram Hospital in Kavundhapadi; on 23.11.2014 at around 09.30 p.m., the deceased Janaki was brought to the hospital by her relatives, who told him that she had consumed insecticide; hence, he asked them to take her to the Government Hospital, Erode. He has further stated that, in the year 2011 also, the deceased Janaki consumed poison and she was treated and her life was saved.

13.Thus, from the evidence on record, it is seen that the marriage of the appellant and the deceased Janaki was a love marriage; there was no demand of dowry. The couple were issueless and that must have been bothering the deceased Janaki, because, even in the year 2011, she had once attempted to commit suicide, but was saved. This Court does not find any credible material in the evidence on record to hold that the appellant had inflicted cruelty on the deceased Janaki to such an extent as to push her to commit suicide. The injury that was found near the eye of the deceased Janaki has been satisfactorily explained through the evidence of the prosecution witnesses themselves. The presumption under Section 113-A of the Indian Evidence Act, 1872, has been dislodged by the appellant via cross-examination of prosecution witnesses.

14.In the result, this Court holds that the appellant has not abetted the suicide of the deceased Janaki, nor has he inflicted cruelty on her. Therefore, this Criminal Appeal is allowed and the order of conviction and sentence, passed by the Sessions Judge, Mahila Court (Mahila Fast Track Court), Erode, dated 31.12.2015, in S.C.No.142 of 2015 is set aside.

15.Fine amount, if any, paid by the appellant shall be refunded to him. Bail bond, if any executed, shall stand discharged.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The Sessions Judge,
Mahila Court (Mahila Fast Track Court),
Erode.
2. The Deputy Superintendent of Police,
Gobichettipalayam,
Erode District.
3. The Public Prosecutor,
High Court, Madras.
4. The Superintendent,
Central Prison, Coimbatore.
5. The Judicial Magistrate No.II, Gobichettipalayam.

+1 cc to Mr.M.Guruprasad, Advocate, S.R.No.53599

Cr1.A.No.71 of 2016

CA(CO)
SSM(24/07/2019).

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