

Bail Slip

The Petitioner/Accused namely Utthandi, S/o. Govindaraj, aged 38 years is directed to be released on Bail as per order dated 6.3.2014 in CrI.MP.No. 1 of 2014 in CrI.A.No.114 of 2014 on the file of this Honourable Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 11.06.2019

CORAM
THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.A.No.114 of 2014
and
M.P.No.1 of 2014

Utthandi

... Appellant/Accused

Vs.

State represented by
Inspector of Police,
J-3, Guindy Police Station,
Guindy, Chennai.
(Crime No.1768 of 2011)

... Respondent / Complainant

PRAYER: Criminal Appeal is filed under Section 374 of the Criminal Procedure Code, to set aside the judgment passed against the appellant on 07.01.2014 in S.C.No.453 of 2012 on the file of the learned Mahila Sessions Judge, Chennai.

For Appellant : Mr.V.Kannadasan (Legal Aid Counsel)

For Respondent : Mr.T.Shanmugarajeswaran
Government Advocate (CrI. Side)

सत्यमेव जयते
JUDGMENT

This Criminal Appeal has been filed to set aside the judgment passed against the appellant on 07.01.2014 in S.C.No.453 of 2012 on the file of the learned Sessions Judge, Mahila Court, Chennai.

2. The case of the prosecution is that the appellant and his wife were living together at Door No.4/32, Narasingapuram III street, Guindy, Chennai-32. On 02.08.2011, the appellant has not made any arrangement to attend the relatives family function of the deceased. On that day the appellant consumed alcohol and came to the house without money and quarrelled with his wife.

Therefore, she committed the suicide. The appellant is charged with inducing the deceased to commit suicide.

3. Based on the complaint given by one Revathy/P.W.1 before the respondent police for the offence under Section 306 IPC. The accused was arrested and a case was registered against him in Crime No.1768 of 2011. After registering the case, police investigated the matter and laid a charge sheet before the learned Judicial Magistrate-IX, Saidapet in P.R.C.No.103 of 2012 and the learned Magistrate, after serving copies to the accused, since offences are triable by Sessions Court, the case was committed to the Sessions Court. The learned Sessions Judge, Chennai made over the case to the learned Sessions Judge, Mahila Court, Chennai. Since the offence was made against a woman, the case was made over to the Mahila Court in S.C.No.453 of 2012. The learned Sessions Judge framed a charge against the appellant for the offence punishable under Section 306 of IPC. Before the trial Court, in order to prove the case of the prosecution, as many as 9 witnesses have been examined viz., P.W.1 to P.W.9 and as many as 9 documents were marked viz., Ex.P1 to Ex.P9 and one Material Object was produced as M.O.No.1 by the respondent police. After completion of the evidence on the prosecution side, the accused was questioned under Section 313(1)(A) Cr.P.C. The appellant denied the incriminating circumstances and denied all evidences as false. There is no oral and documentary evidence on the side of the appellant. After hearing the arguments of both sides, the trial Court has come to the conclusion that the appellant/accused committed the offence under Section 306 I.P.C., and convicted him and sentenced to undergo 10 years Rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo six months simple imprisonment.

4.Challenging the said judgment of conviction and sentence passed by the learned Sessions Judge, Mahila Court, Chennai in S.C.No.453 of 2012 dated 07.01.2014, the appellant/accused has preferred the present Criminal Appeal before this Court.

5.The learned counsel for the appellant would submit that the appellant was working as lorry driver and the deceased is his wife. Prior to the occurrence, the deceased received invitation from her relative for family function. They wanted to attend the function for which they did not have money. The deceased asked the appellant to arrange for money for attending the function. Accordingly, the appellant went to the house of his employer, who is the owner of the lorry and since he could not get the money, he consumed alcohol with the available money and came to his house. A quarrel arose between them and he convinced his wife that he will make arrangement and go to function on the next day. The deceased did not get convinced

with the words of the appellant and committed suicide.

6. There is no evidence to show that the appellant induced the deceased to commit suicide and there is no eyewitness. P.W.1 is neither an eye witness nor the family member of the deceased or the appellant. P.W.8 and P.W.9 have clearly stated that there is no evidence to show that the appellant induced his wife to commit suicide. Therefore, the trial Judge failed to consider the evidence in toto and there is a material contradiction between the witnesses. Therefore, the order of conviction and sentence passed by the trial Court is liable to be set aside, and the appeal has to be allowed.

7. Per contra, the learned Government Advocate appearing for the State would submit that P.W.1, who is the defacto complainant, has clearly stated that on the occurrence day, there was a wordy quarrel between the appellant and the deceased and the inquest report also clearly proves the same. The trial Court rightly appreciated the evidence of the prosecution and convicted the accused. There is no reason to interfere with the judgment of the trial Court.

8. Heard the learned counsel appearing for the appellant and the learned Government Advocate (Criminal Side) appearing for the respondent and perused the documents available on record.

9. The case of the prosecution is that the appellant/husband and the deceased/wife were living together at Door No.4/32, Narasingapuram III street, Guindy, Chennai-32. On 02.08.2011, the appellant has not arranged the money to attend the relatives family function of the deceased. On that day, the appellant consumed alcohol and came to the house without money and quarrelled with the deceased. Due to that, the deceased committed suicide. The appellant induced the deceased to commit suicide. In order to substantiate the case, the respondent police has examined 9 witnesses and marked 9 documents and produced one material object.

10. On a perusal of the evidence, it is seen that a family function of the relative of the deceased was to be held 03.08.2011 for which the deceased asked her husband to arrange money for attending the function. Since he could not arrange money and further on the day also he came with an inebriate mood, there was a quarrel between them.

11. On a reading of the entire evidence, it is seen that no witness has spoken that the appellant induced his wife to commit suicide. From the evidence of P.W.1, P.W.2 and P.W.3, it is seen that the appellant used to drink alcohol frequently and there was quarrel between the appellant and deceased. Therefore, that may not be a reason for committing suicide. The only reason

is that the appellant has not arranged money for attending the function to be held on 03.08.2011. Therefore, the deceased got upset and committed suicide and not because of the inducement of the appellant.

12. On a reading of the entire evidence, it is seen that there is no evidence to show that the appellant induced his wife to commit suicide or he did not do any cruelty to commit suicide.

13. It is seen that the appellant and the deceased used to quarrel with each other frequently likewise on the fateful night also. The appellant appears to be a habitual drinker. The couple has often quarreled with each other. On the fateful night, the appellant has come home without getting money as his wife has asked to bring, in order to visit their relatives house for attending function. On the next day infuriated over this, the wife started quarrel with her husband. None bringing of money seems to be main factor which forced the wife to take an extreme steps of committing suicide. Therefore, it cannot be so, the appellant induced his wife to commit suicide. Inducement to commit suicide should be in the form of words or actions.

14. From the evidence of the prosecution witnesses, it is seen that the accused has not uttered any word asking the deceased to commit suicide. In the absence of any such evidence, there is no question of charging the appellant for inducement for committing suicide.

15. When there are two views are possible, the view which is favourable to the accused should be taken. In this case, there is no evidence to show any inducement on the part of the appellant to make his wife to commit suicide.

16. In view of the discussion held above, this criminal appeal is allowed and the judgment in S.C.No.453 of 2012 dated 07.01.2014 passed by the learned Sessions Judge, Mahila court, Chennai is hereby set aside and the appellant/accused is acquitted of the charge under Section 306 IPC. Consequently, connected miscellaneous petition is also closed.

17. Mr.V.Kannadasan, Legal Aid Counsel, who is appearing for the appellant, is entitled for getting legal fees as per the rules.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Inspector of Police,
J-3, Guindy Police Station,
Guindy, Chennai.
- 2.The Sessions Judge (Mahila Court),
Chennai.
- 3.The Public Prosecutor,
High Court of Madras.
- 4.The Tamil Nadu Legal Services Authority,
Chennai.
- 5.The Superintendent,
Central Prison -I,
Puzhal, Chennai.

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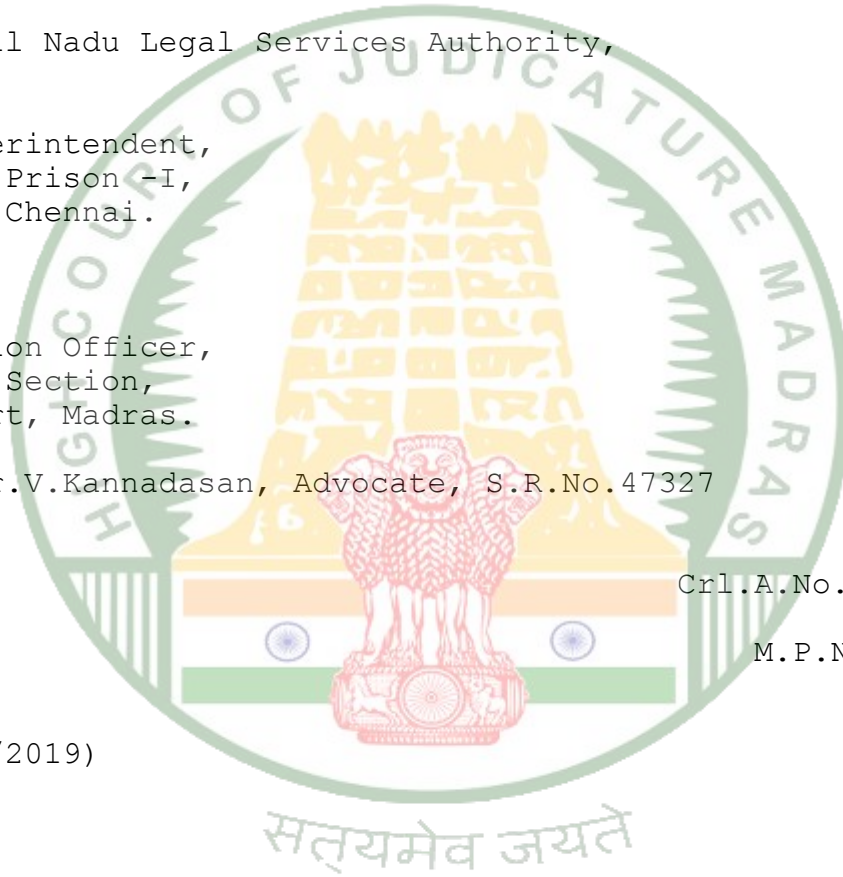
The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.V.Kannadasan, Advocate, S.R.No.47327

Crl.A.No.114 of 2014
and
M.P.No.1 of 2014

NMI (CO)

RRS (25/07/2019)



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