



Bail Slip

The Appellant/Accused namely Suresh aged about 26 years S/o.(Late) Rathnam, was directed to be released on bail as per order of this Court dated 17.07.2009 and made in MP(MD)No.1 of 2009 in Crl.A. (MD)No.178 of 2009 on the file of this Court.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

Crl. A. (MD)No.178 of 2009

Suresh

.. Appellant/Accused(Single)
Vs.

State Represented by,
The Inspector of Police,
Navalpattu Police Station,
Thiruchirappalli District.
(Crime No.113 of 2008)

.. Respondent/Complainant

Prayer : This Criminal Appeal is filed under Section 374(2) of Cr.P.C., to call for the records from the lower court and to duly set aside the Judgment of the Sessions Court, Mahalir Neethimandram, Thiruchirappalli District in S.C.No.188 of 2008 dated 23.06.2009.

For Appellant : Mr.V.Kathirvelu, Senior Counsel for
Mr.K.Prabhu.

For Respondent: Mr.A.Robinson,
Government Advocate(Crl. Side).

JUDGMENT

The appellant was convicted and sentenced vide Judgment dated 23.06.2009 in S.C.No.188 of 2008 on the file of the Sessions Judge, Mahila Court, Thiruchirappalli, as follows:-

S. No.	Offence u/s.	Sentence	Fine	Default of Payment
1.	4 of Dowry Prohibition Act	1 year Rigorous Imprisonment	Rs.1,000/-	6 months Simple Imprisonment
2.	304(B) of IPC	7 years Rigorous Imprisonment	--	--

2. The prosecution case is that the appellant got married to Akila on 18.10.2007. The accused demanded 10 sovereigns of gold and a new two wheeler as dowry. But the family of Akila was



able to offer only 7 sovereigns of gold and a second hand two wheeler. Since there was a short fall in the matter of complying with the dowry demand, the appellant ill-treated and harassed his wife. Unable to bear the same, Akila left the matrimonial home and returned to her mother's house. She committed suicide by self-immolation on 24.06.2008 at about 09.00 a.m. In this regard, P.W.1 lodged an information with Navalpattu police station leading to registration of Crime No.113 of 2008 under Section 174 of Cr.P.C.

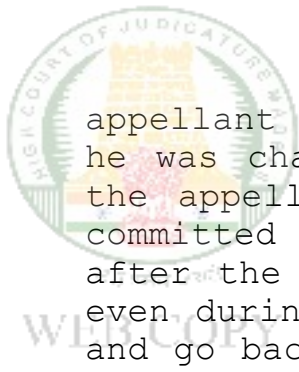
3. Inquest was conducted and after completing all the usual formalities, final report was filed against the appellant before the Judicial Magistrate, Thiruchirappalli, for the offence under Section 4 of the Dowry Prohibition Act and Section 304(B) of I.P.C. The case was committed to the Sessions Court and it was made over to the Mahila Court, Thiruchirappalli in S.C.No.188 of 2008. The charges were framed against the appellant. The appellant denied the same and claimed to be tried.

4. The prosecution examined as many as 13 witnesses and marked Ex.P.1 to Ex.P.17. M.O.1 and M.O.2 were also marked. On the side of the accused, no evidence was adduced. When the incriminating circumstances were put to him under Section 313 of Cr.P.C., the appellant denied the same as false and submitted his statement. The learned trial Judge after a detailed consideration of the evidence on record found the appellant guilty and sentenced him as mentioned above. Questioning the same, this Criminal Appeal has been filed.

5. Heard the learned Senior counsel appearing for the appellant and the learned Government counsel appearing for the prosecution.

6. I carefully considered the rival contentions and perused the evidence on record. P.W.1 Anjalai is the mother of Akila. P.W.2 is a neighbour. P.W.3 is also a resident of Kandhalur from where Akila hailed from. P.W.4 was the Panchayatar and relative of P.W.1. P.W.5 speaks about harassment of the appellant. P.W.6 is also the neighbour who is hailing from Kandhalur. P.W.7 is the Observation Mahazar witness. P.W.8 is the uncle of the accused and he turned hostile. P.W.9 is the Revenue District Officer who held the inquest. P.W.10 is the Postmortem Doctor. P.W.11 registered the First Information Report. P.W.12 Deputy Superintendent of Police conducted investigation and filed final report. P.W.13 is the brother of the accused and he also turned hostile.

7. It must be stated at the outset that P.Ws.1 to 4 and 6 supported the prosecution case. Now the only question that arises for consideration is whether based on their testimony, the



appellant could have been found guilty of the offences with which he was charged. It is not in dispute that the marriage between the appellant and Akila took place on 18.10.2007 and that Akila committed suicide on 24.06.2008. Not even eight months had lapsed after the marriage took place. It is seen from the evidence that even during this period, Akila used to leave the matrimonial home and go back to her mother's home. While the prosecution witnesses will claim that Akila returned to her mother's place, unable to bear the dowry harassment at the hands of the appellant, the appellant would project a different version. The appellant admittedly is working as Chef in a Parotta stall. The appellant is not an educated person. The appellant would claim that there was no physical relationship between them, since Akila was not happy with the marriage.

8. Now the question is whether the version of the appellant is probable. Admittedly, no complaint was lodged before the police during the subsistence of the marriage, when Akila was alive. The complaint against the appellant came to be lodged only following her demise. It is true that Ex.P.1 complaint is said to have been given on the date of occurrence itself. But then, it reached the Revenue District Officer only on the next day. It reached the Court only on 03.07.2008. P.W.1 in her testimony admitted that her daughter was angry with the appellant and used to leave the home. The expression "would get angry" occurring in the chief examination of P.W.1, in my view is significant. P.W.1 has not stated that her daughter came crying. That apart P.W.1 had stated that even a day prior to the occurrence, it was the appellant who came to her house and asked her to send the daughter back to home. If he was aggrieved over any unfulfilled dowry demand, he will not seek his wife back. In this case it is admitted by the prosecution witnesses that the Panchayat was conducted on quite a few occasions. Panchayat is conducted only if there are any outstanding issues between the parties. If it was a case of dowry demand, the question of holding a Panchayat will not arise. P.W.1 in her cross examination had also admitted that she never saw any injury on her daughter's person. Akila was with P.W.1 for over 15 days prior to the occurrence. Self-immolation was committed only in the house of P.W.1. It is also seen from the evidence on record that P.W.6 Pitchaiyammal and P.W.2 Baby Latha had advised Akila to return to the matrimonial home and rejoin the husband. P.W.1 had also admitted that when betrothal function was conducted and when the alliance was finalized, the appellant did not raise any dowry demand.

9. From a careful reading of the evidence of the prosecution witnesses, one can come to the conclusion that Akila did not want to live with the appellant. Feeling that she may be pressured to rejoin her husband, she took the extreme step of



committing suicide.

10. In this view of the matter, the impugned Judgment is set aside. The appellant is acquitted of the charges. The Criminal Appeal stands allowed. The bail bond, if any, executed by him shall stand cancelled and the fine amount if any paid by him shall be refunded forthwith. No costs.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

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Sub Assistant Registrar (CS)

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To

1. The Sessions Judge,
Mahalir Neethimandram, Thiruchirappalli District.
- 2.Do Through:
The Principal Sessions Judge, Tiruchirappalli.
- 3.The Judicial Magistrate No.III, Tiruchirappalli.
- 4.Do Through:
The Chief Judicial Magistrate, Tiruchirappalli.
- 5.The Superintendent, Central Prison, Tiruchirappalli.
6. The Inspector of Police,
Navalpattu Police Station,
Thiruchirappalli District.
- 7.The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai.
- 8.The Section Officer,-2 copies
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.K.PRABHU, Advocate (SR-79504[F] dated 02/08/2019)

Crl. A. (MD)No.178 of 2009

01.08.2019