

**Bail Slip**

Accused Viz., Manavalan, S/o.Baskaran, age about 26 years was released on bail vide order of this Court dated 28.02.2013 in MP (MD)No.1 of 2012 in CrI.A(MD)No.194 of 2012.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHANCrI.A.(MD)No.194 of 2012

Manavalan

... Appellant/Sole Accused

Vs.

The State rep. by,
The Inspector of Police,
Thiruverambur Police Station,
Trichy.
(Crime No.262 of 2011)

... Respondent/Complainant

Prayer: Criminal Appeal is filed under Section 374(2) of Cr.P.C, to set aside the Judgment and sentence passed in S.C.No.104 of 2012 dated 23.08.2012 on the file of the Sessions Judge(Mahila Court), Tiruchirappalli, convicting the appellant under Section 498 (A), 304(B) of I.P.C. and Section 4 of Dowry Prohibition Act and sentenced to undergo three years Rigorous Imprisonment for the offence under Section 498(A) of I.P.C. imposed fine of Rs.50,000/- in default to undergo 6 months simple imprisonment and sentence for undergo 12 years Rigorous Imprisonment for the offence under Section 304 of I.P.C. and sentenced to undergo two years Rigorous Imprisonment for the offence under Section 4 of Dowry Prohibition and imposed fine of Rs.10,000/- in default to undergo 6 months simple imprisonment and order to concurrently and total fine of Rs.6,000/- a sum of Rs.10,000/- shall be treated as fine for the states and the fine of Rs.50,000/- to be paid as compensation to P.W.1 and P.W.2 the parents of the deceased.

For Appellant : Mr.P.Ganapathy Subramanian,
for Mr.S.Manoharan.

For Respondent : M/s.S.Bharathi,
Government Advocate(CrI. Side).

JUDGMENT



The appellant was convicted and sentenced vide Judgment dated 23.08.2012 in S.C.No.104 of 2012 on the file of the Sessions Judge, Mahila Court, Thiruchirappalli, as follows:-

Accused	Penal Provisions u/s.	Punishment
Sole Accused	498(A) of I.P.C.	To undergo Rigorous Imprisonment for three years with fine of Rs.50,000/-, in default to undergo six months Simple Imprisonment.
	304(B) of I.P.C.	To undergo Rigorous imprisonment for 12 years.
	4 of Dowry Prohibition Act	To undergo Rigorous Imprisonment for two years with fine of Rs.10,000/-, in default, to undergo six months Simple Imprisonment.

Out of the total fine of Rs.60,000/-, a sum of Rs.10,000/- should be treated as fine for the state and a sum of Rs.50,000/- should be paid as compensation to P.W.1 and P.W.2, namely, the parents of the deceased.

2. The prosecution case is that the appellant was married to the daughter of P.W.1, namely, Sudha on 18.11.2010 at Annadhana Chathiram, Trichy. On account of cruelty and harassment caused to Sudha by the appellant for dowry related demands, Sudha committed suicide by hanging herself on 22.04.2011 between 10.00 p.m., and 11.20 p.m., in the house of her parents. In this regard, P.W.1 lodged Ex.P.1 complaint before Thiruverambur police station. Ex.P.13 First Information Register in Crime No.262 of 2011 was registered for the offence under Section 174(1) of Cr.P.C. Investigation was undertaken and after completion of the usual formalities, final report was filed before the Judicial Magistrate, Thiruchirappalli, for the offence under Sections 498(A) and 304(B) of I.P.C., and Section 4 of Dowry prohibition Act. Cognizance of the said offences were taken and the case was committed to the Sessions Court in P.R.C.No.11 of 2012. It was made over to the Mahila Court, Thiruchirappalli in S.C.No.104 of 2012. The appellant denied the charges and claimed to be tried. The prosecution examined as many as 8 witnesses and marked Ex.P.1 to Ex.P.16. On the side of the accused, D.W.1 was examined, as the defence witness and EX.D.1 to Ex.D3 were marked. M.O.1 sari was also marked by the prosecution.

3. The learned trial Judge, after consideration of the evidence on record, convicted and sentenced the appellant as mentioned above. Challenging the same, this Criminal Appeal came to be filed.

<https://hcservices.ecourts.gov.in/hcservices/>

4. Heard the learned counsel on either side.



5. The learned counsel appearing for the appellant reiterated the contentions set out in the appeal memorandum and wanted this Court to reverse the impugned Judgment.

6. Per contra the learned Government Advocate (Crl. Side) submitted that the impugned Judgment does not warrant any interference.

7. I carefully considered the rival contentions and went through the evidence on record.

8. The case of the prosecution is that the appellant treated his wife Sudha with cruelty in connection with the dowry demands and unable to bear the same, Sudha committed suicide on 22.04.2011. P.W.1 is the father of Sudha. P.W.2 is the mother of Sudha. P.W.3 is the neighbour. P.W.4 conducted Postmortem on the body of Sudha.

9. P.W.1 lodged Ex.P.2. It is necessary to carefully go through the contents of the complaint. All that P.W.1 would state in his complaint is that there arose a strain in the relationship between the appellant Manavalan and the deceased Sudha. As a result of which, Sudha left her matrimonial home and returned to her parents' home. It is admitted by P.W.1 that on 20.04.2011 at 04.00 p.m., the appellant and his mother and other relatives came to the house of P.W.1. P.W.1 would allege that the appellant quarreled with his wife and demanded that she should affix her signature in some papers. But the fact remains that the appellant lodged a complaint before Thiruverambur police station in the evening hours on 20.04.2011. The complaint lodged by the appellant was marked as Ex.P.12. In Ex.P.12, the appellant had stated that he wanted to take back his wife and that is why he came to the house of P.W.1 along with his parents and others. But P.W.1 hit him on his head with a stick. As a result of which, he had suffered a minor injury. The appellant wanted the police to take action against his father-in-law. It appears that the said complaint was closed as there was a compromise between the parties on 21.04.2011. Sudha committed suicide on 22.04.2011.

10. Now the question that arises as to what drove Sudha to commit suicide. In Ex.P.2 complaint of P.W.1, it is nowhere alleged that she was subjected to cruelty on account of any dowry demand. The version set out in the earliest complaint of P.W.1 should therefore be taken note of. If dowry was not the cause for her death, the question arises what could have been the reason. The appellant in his statement filed under Section 313 of Cr.P.C., has stated that he was having some psychological issues while led him to take treatment in Saranya Hospital, Trichy. The appellant had been taking treatment in the hospital from the month of March onwards. When Sudha came to know about the same, she became deeply upset and that is why she left the matrimonial home and went to her parents house. The appellant wanted his wife back and that is why he went to



take her back on 20.04.2011. But then, there was physical scuffle between the appellant and his father-in-law, namely, P.W.1. In this background, Sudha had committed suicide. It is not as if, the appellant made a self-serving statement in this regard. He examined Dr.Balasubramanian who gave treatment to him as D.W.1.

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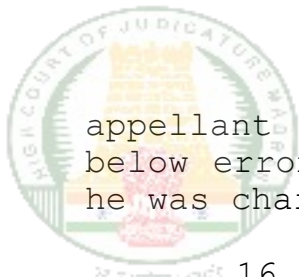
11. I carefully went through the testimony of D.W.1. D.W.1 had stated that the appellant was taking treatment from 04.03.2011 onwards. The prosecution had suggested to D.W.1 Dr.Balasubramanian that even according to D.W.1, the appellant was in a sound mental condition. The issue is not whether the appellant was in a sound mental condition or not. The issue is whether the appellant had taken treatment from psychiatrist or not. It has been established beyond reasonable doubt by the accused. He was under psychological treatment. When Sudha came to know about the same, she developed serious misgivings. She felt that she could not lead the rest of her life with a person suffering from mental illness.

12. The learned Government Advocate wanted this Court to reject the testimony of D.W.1. She would point out that even though according to D.W.1, the appellant was taking treatment from 04.03.2011. In the case sheet, it has been mentioned that the appellant was taking treatment from 03.03.2011. In the column meant for spouse, it is mentioned that Sudha died. Sudha actually died only on 22.04.2011. Therefore, she would contend that the documents have been prepared to sustain the defence of the accused.

13. I am unable to agree with the submission of the learned Government Advocate. D.W.1 is a super speciality doctor. The appellant is only a driver. D.W.1 doctor would not dare to spoil his reputation by such false testimony. On the side of the accused, Ex.D.1 to Ex.D.6 were marked, to sustain his defence that he was taking psychiatric treatment. It is seen that on a careful perusal of these defence exhibits, one can say that the details and the treatments given to the appellant from 03.03.2011 have been clearly established. It is impossible that these documents could have been fabricated and anti-dated. It is also seen that the appellant had taken a scan in Bharath Computer Diagnostics. Those medical records have also been marked before the Court below.

14. Therefore, I am of the view that the reason for commission of suicide by Sudha has been clearly explained by the accused. The accused cannot be said to have committed cruelty under Section 498(A) of I.P.C. Section 304(B) of I.P.C., can be invoked only if Sudha was subjected to cruelty or harassment in connection with any demand for dowry. If there was any dowry demand, the same would have been reflected in Ex.P.2 complaint itself.

15. As rightly pointed out, Sudha had committed suicide not in the matrimonial home but in the house of her parents. The accused had explained as to what led Sudha to leave the matrimonial home. The developments are truly unfortunate. But then, the



appellant cannot be fastened with any penal liability. The Court below erroneously convicted the appellant of the offence with which he was charged.

16. The impugned Judgment of the Court below is set aside. The appellant is acquitted of the charges. The bail bond, if any, executed by him shall stand cancelled. The fine amount, if any, paid by him shall be refunded forthwith. The Criminal Appeal stands allowed.

Sd/-

Assistant Registrar (Crl.Side)

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Sub Assistant Registrar(CS)

To:

1. The Sessions Judge, Mahila Court, Thiruchirappalli.
2. The Judicial Magistrate No.VI, Trichy.
3. Do through the Chief Judicial Magistrate, Trichy.
4. The Superintendent, Central Prison, Trichy.
5. The Inspector of Police, Thiruverambur Police Station, Trichy.
6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
7. The Section Officer, Criminal Section, (Records) - 2 Copies
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.P.GANAPATHI SUBRAMANIAN, Advocate (SR-78102[F] dated 26/07/2019)

Crl.A.(MD)No.194 of 2012
26.07.2019

pmu

SDS (19.05.2020) 5P-10C