

**Bail Slip**

The Appellant/Accused was directed to be released on Bail made in CrI.MP(MD).No.2/2011 in CrI.A(MD).No.212/2011 dated 26.08.2011 on the file of the Madurai Bench of Madras High Court.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CrI.A.(MD)No.212 of 2011

1. Rajamanickam
2. Vethiyappan
3. Chellammal

.. Appellants/Accused

Vs.

The Inspector of Police,
Alangudi Police Station,
Pudukkottai District.

.. Respondent/Respondent

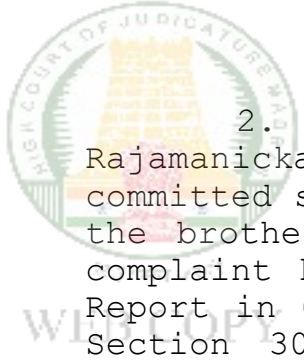
Prayer : This Criminal Appeal is filed under Section 374 of Cr.P.C., to set aside the Judgment of the learned Additional District and Sessions Judge, Mahila Court, Pudukkottai, passed in S.C.No.147 of 2010, dated 05.07.2011 convicting the appellants/accused for the offences punishable under Section 498(A) to undergo 3 years Rigorous Imprisonment and pay a fine of Rs.5,000/- each in default of payment to undergo 4 months Rigorous Imprisonment each and under Section 304(b) of I.P.C., to undergo 7 years Rigorous Imprisonment.

For Appellants : Mr.A.V.Arun

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

J U D G M E N T

The appellants were convicted for the offences under Sections 498(A) and 304(B) of I.P.C., and sentenced to 3 years Rigorous Imprisonment and 7 years Rigorous Imprisonment respectively vide Judgment dated 05.07.2011 in S.C.No.147 of 2010 on the file of the Mahila Court, Pudukkottai.



2. The prosecution case is that the first accused Rajamanickam was married to Periyannayagi on 23.08.2001. She committed suicide by consuming poison on 01.02.2007. In this regard, the brother of the deceased, namely, Thiru.Veeraiah lodged Ex.P.1 complaint before Alangudi police station. Ex.P.8 First Information Report in Crime No.42 of 2007 was registered for the offence under Section 304(B) of I.P.C. Investigation was taken up and after completing of all the usual formalities, final report was laid against the appellants before the Judicial Magistrate, Alangudi, for the offences under Sections 498(A) and 304(B) of I.P.C. Cognizance of the offences was taken and the case was committed to the Sessions Court in P.R.C.No.13 of 2010. The case was made over to the Additional District and Sessions Judge, Pudukkottai, for trial in S.C.No.147 of 2010. Charges were framed against the accused. They pleaded not guilty and claimed to be tried. The prosecution examined as many as 12 witnesses and marked Ex.P.1 to Ex.P.11. M.O.1 to M.O.4 were also marked. The learned trial Judge after a detailed consideration of the evidence on record, came to the conclusion that the prosecution had established its case beyond reasonable doubt and convicted and sentenced the appellants as mentioned above. Challenging the same, this Criminal appeal came to be filed.

3. Heard the learned counsel on either side.

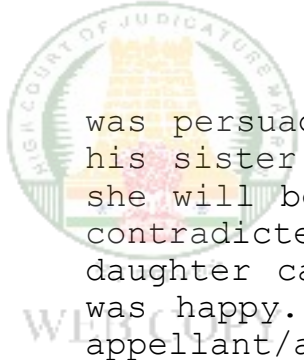
4. The learned counsel appearing for the appellants reiterated all the contentions set out in the appeal memorandum and wanted this Court to reverse the impugned Judgment and acquit the appellants.

5. Per contra the learned Government Advocate(Crl. Side) submitted that the impugned Judgment does not warrant any interference and wanted this Court to dismiss the Criminal appeal.

6. I carefully considered the rival contentions and perused the evidence on record.

7. The first appellant is the husband of the deceased while the other two appellants are the father-in-law and mother-in-law respectively. It is not in dispute that the marriage was solemnized between the first appellant and the deceased Periyannayagi on 23.08.2001. It is also not in dispute that she died on 01.02.2007 by consuming poison. The only question that arises for consideration is whether the said Periyannayagi was subjected to dowry related cruelty, soon before her death.

8. The prosecution examined as many as 12 witnesses. P.W.1 is the brother of the deceased and P.W.2 is the mother of the deceased. P.W.1 in his cross examination admitted that he received information about the death of his sister at around 05.30a.m., on 02.02.2007. <https://hcservices.ecourts.gov.in/hcservices/> he further stated that the accused harassed his sister for bringing additional dowry and that his sister returned home as a result. She



was persuaded and sent back only on 31.01.2007. P.W.1 claimed that his sister requested him to not to send her as she was afraid that she will be killed. But though P.W.1 had deposed so, it is totally contradicted by the testimony of P.W.2. P.W.2 stated that when her daughter came home, she was happy and when she went back also, she was happy. It is admitted both by P.W.1 and P.W.2 that the first appellant/accused No.1 came home to take back his wife. If as claimed by the defacto complainant, Periyamayagi was driven away from the matrimonial home for bringing additional dowry, certainly, the husband would not come for taking his wife back. It is not the case of the prosecution that the demand of additional dowry was complied and that is why the appellant came to the house of P.W.2 to take back his wife. This is sufficient to falsify the case of dowry demand as projected by the prosecution.

9. The Revenue Divisional Officer who held the inquest was examined as P.W.10. P.W.10 in his evidence admitted that in his inquest report Ex.P.9 he had not stated that there was dowry demand. In fact the witnesses examined by the Revenue Divisional Officer also did not state anything about the dowry demand.

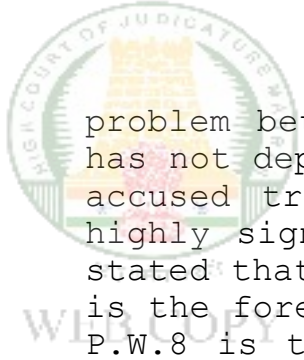
10. A careful reading of the testimony of P.W.1 as well as P.W.2 would indicate that they suspected that Periyamayagi was murdered by the appellants herein. In fact that was the stand taken by the prosecution witnesses. P.W.1 in his cross examination admitted that he lodged Ex.P.1 complaint, after consulting the prominent persons of his village.

11. The suggestions put by the defence in the cross examination of P.W.1 and P.W.2 are significant. It was suggested to both the witnesses that Periyamayagi suffered successive abortions. In fact one child born to her died shortly, after birth. Therefore, Periyamayagi was apparently under a state of mental stress and depression. It was further suggested in the cross examination that Periyamayagi was given some native treatment.

12. It is also relevant to note that while the marriage took place on 23.08.2001, her death was only on 02.02.2007. Thus, there is a gap of more than 5½ years between the date of marriage and the date of death. Periyamayagi had not left behind any suicide note. There was no dying declaration obtained from her.

13. To a specific question posed in the cross examination P.W.1 admitted that the first accused received hand loans from him earlier and he repaid the same also. Thus on a careful reading of the testimony of P.W.1 and P.W.2, I have to necessarily come to the conclusion that Periyamayagi committed suicide on account of mental depression and that her death is not attributable to any dowry demand.

14. P.W.3 is a resident of the locality where the appellants and the deceased lived. He had stated that there used to be some



problem between accused No.1 and the deceased Periyamayagi. But he has not deposed anywhere that there was any dowry demand or that the accused treated Periyamayagi cruelly. The testimony of P.W.3 is highly significant. P.W.4 is the postmortem doctor. He had clearly stated that on account of consuming poison, Periyamayagi died. P.W.5 is the forensic officer. P.W.6 and P.W.7 are the mahazar witnesses. P.W.8 is the head constable who produced the body for postmortem. P.W.9 is the Sub Inspector of Police who registered the First Information Report. P.W.10 is the Revenue Divisional Officer who conducted the inquest. P.W.11 is the Inspector of Police who conducted the initial part of the investigation. P.W.12 concluded the investigation and filed final report.

15. Thus excepting the evidence of P.W.1 and P.W.2, there is no other corroborating material. In fact there are quite a few major contradictions between the testimony of P.W.1 and P.W.2. The discrepancy between the testimony P.W.1 and P.W.2 will go to the root of the matter. While P.W.1 would claim that his sister Periyamayagi was very reluctant to leave their house, P.W.2 stated that Periyamayagi left the house happily. While P.W.1 claimed that as a result of quarrel, Periyamayagi came home, P.W.2 claimed that Periyamayagi came home happily. Thus both these witnesses admitted that accused No.1 came to their home to take his wife back. Both P.W.1 and P.W.2 admitted the miscarriage, abortion and death of the child suffered by Periyamayagi. Therefore, it is likely that the deceased Periyamayagi committed suicide on account of her inner state and not on account of cruelty or dowry demand. I am of the view that the prosecution had not at all established the charge against the appellants.

16. The impugned Judgment of the Court below stands set aside. The appellants are acquitted. The Criminal appeal stands allowed, accordingly. The bail bond, if any executed by them, shall stand cancelled. The fine amount, if any paid by them shall be refunded, forthwith. No costs.

Sd/-

Assistant Registrar (CO)

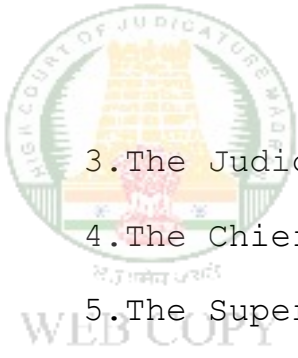
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Sub Assistant Registrar (CS)

To

1. The Additional District and Sessions Judge,
Mahila Court, Pudukkottai.

2. The Inspector of Police,
<https://hcservices.ecourts.gov.in/hcservices/>
Alangudi Police Station,
Pudukkottai District.



3.The Judicial Magistrate, Alangudi

4.The Chief Judicial Magistrate, Pudukkottai

5.The Superintendent, Central Prison, Trichy

6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to:

The Section Officer, (2 Copies)
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.A.V.ARUN, Advocate (SR-81833[F] dated 16/08/2019)

Crl.A.(MD)No.212 of 2011
14.08.2019

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