

Bail Slip

The Appellants/Accused Viz. 1) Raja, S/o.Govindaraj, 2) Govindaraj, S/o.Irulan, 3) Pandiammal, W/o.Govindaraj are enlarged on bail by the order of this Court in MP(MD).No.1/2010 in Crl.A(MD).No.16/2010 dated 28.01.2010.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.A.(MD)No.16 of 2010

1.Raja

2.Govindaraj

3.Pandiammal

... Appellants

Vs

State represented by,
Inspector of Police,
Usilampatty Taluk Police Station,
In Crime No.78/2007.

... Respondent

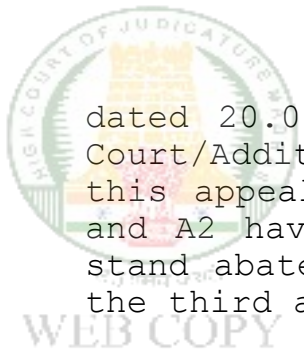
PRAYER: Criminal Appeal is filed under Section 374 of Cr.P.C., against the conviction and sentence passed by the learned Additional Session Judge/Mahila Judge, Madurai made in S.C.No.218 of 2008, the charges framed by the trial Court under Section 304(B) of IPC and 498 of IPC and on 20.01.2010, the trial Court had found guilty for an offence under Section 498(A) of IPC to undergo one years rigorous imprisonment and to pay a fine of Rs.100/-, in default, to undergo one month simple imprisonment and also found guilty for an offence 304(B) to undergo seven years rigorous imprisonment.

For Appellants : Mr.S.Mahendrapathy
for Mr.AK.Azhagarsami

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

JUDGMENT

The petitioners herein were convicted and sentenced for the offences under Sections 498(A) and 304(B) of IPC, vide Judgment
<https://hcservices.ecourts.gov.in/hcservices/>



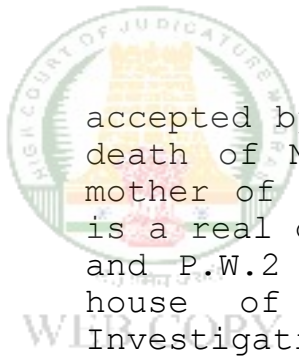
dated 20.01.2010 in S.C.No.218 of 2000 on the file of the Mahila Court/Additional Sessions Judge, Madurai. During the pendency of this appeal, both the first appellant and the second appellant /A1 and A2 have passed away. Therefore, the proceedings against them stand abated. The appeal has to be disposed of only in respect of the third appellant/A3.

2.The case of the prosecution is that on 08.11.2006, the marriage between the deceased Nathiya and the first accused was solemnized and that, thereafter, the accused demanded a sum of Rs.30,000/- as dowry. Since the accused had told the Nathiya either she must bring Rs.30,000/- as dowry or she should die, on 11.04.2007, at about 12.00 noon, the said Nathiya committed suicide. In this regard, Crime No.78 of 2007 was registered on the file of the Inspector of Police, Usilampatti Taluk Police Station. The Deputy Superintendent of Police, Usilampatti sub division, took up investigation and after recording the statements of the witnesses and completing all the formalities, he filed final report before the Judicial Magistrate, Usilampatti. The same was committed to the Sessions Court in P.R.C.No.6 of 2008. The case was ultimately made over to Mahila Court, Madurai, in S.C.No.218 of 2008. The accused pleaded not guilty to the charges and claimed to be tried. The prosecution examined 12 witnesses and marked Ex.P1 to Ex.P14. On the side of the accused, no evidence was adduced. The learned trial Judge, after a careful consideration of the evidence on record, found the accused guilty and sentenced them to seven years rigorous imprisonment for the offence under Section 304(B) of IPC and one year rigorous imprisonment for the offence under Section 498(A) of IPC. The fine amount was also levied. Challenging the same, this criminal appeal has been filed.

3.Heard the learned counsel on either side.

4.It is seen that the marriage between the first appellant and Nathiya was a love marriage. It is further admitted by P.W.1 who is the main witness for the prosecution that soon after marriage, A1 and also Nathiya were living only her house. There is a clear discrepancy in the testimony of the prosecution witnesses as to where the deceased committed suicide. It is seen from the testimony of the Investigating Officer that Nathiya committed suicide in her mother's house. The Revenue Divisional Officer had deposed on the same lines. The appellant's counsel therefore argued that there is a doubt relating as to where the deceased actually committed suicide.

5.The Government Advocate (Crl.side) drew my attention to the endorsement made in the Accident Register-Ex.P9. It is seen that the deceased Nathiya had attempted suicide and was brought to the hospital only by her husband Raja namely the first accused. But this is consistent with the testimony of P.W.1. Initially, both



accepted by A2 and A3. I am of the view that for the unfortunate death of Nathiya, it would be most unfair to blame the surviving mother of A1 because she had kept away from A1 and Nathiya. There is a real dispute as to where the deceased committed suicide. P.W.1 and P.W.2 would claim that Nathiya committed suicide only in the house of her husband. While Revenue Divisional Office and Investigating Officer would admit that Nathiya committed suicide in the house of her parents. I am of the view that benefit of doubt should go to the surviving appellant/A3. In this view of the matter, the impugned Judgment is set aside insofar as the surviving appellant A3 is concerned. This criminal appeal is allowed insofar as A3 is concerned. The appellant/A3 is acquitted. The fine amount, if any, paid by her shall be refunded forthwith. The bail bond, if any, executed by the appellant/A3 shall stand cancelled.

Sd/-

Assistant Registrar

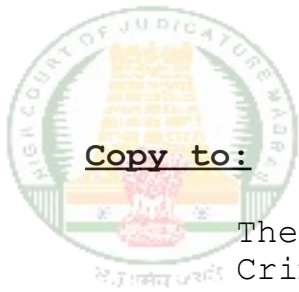
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Sub Assistant Registrar(CS)

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To

- 1.The Additional Session Judge/ Mahila Judge, Madurai.
- 2.The District Munsif cum Judicial Magistrate, Usilampatti.
- 3.The Judicial Magistrate No.I, Usilampatti.
- 4.Do Through the Chief Judicial Magistrate, Madurai.
- 5.The Superintendent, Central Prison, Madurai.
- 6.The Inspector of Police,
Usilampatty Taluk Police Station.
- 7.The Officer-in-Charge, Special Prison for Women, Trichy.
- 8.The Superintendent of Police, Madurai District.
- 9.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



Copy to:

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

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+1 CC to M/s.A.K.ALAGARSAMY, Advocate (SR-74615[F] dated 10/07/2019

Crl.A. (MD) No.16 of 2010
08.07.2019

JMN(26.09.2019) 4P : 13C