

**BAIL SLIP**

S.Sivakumar, S/o.Subramani, male, Aged about 40 years is released on bail vide order dated 06.10.2016 made in CrI.MP(MD)No.6148 of 2016 in CrI.A.(MD) 273 of 2006

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 21.12.2018

DELIVERED ON : 29.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CrI.A(MD)No.273 of 2016

and

CrI.M.P(MD)No.11175 of 2017

S.Sivakumar

... Appellant/Sole Accused

Vs.

The State represented by
The Inspector of Police,
Venkamedu Police Station,
Karur District.
(Crime No.94 of 2013)

... Respondent/Respondent

PRAYER: Appeal filed under Section 374(2) of the Code of Criminal Procedure against the judgment dated 09.12.2015 made in S.C.No.24 of 2014, on the file of the Sessions Court (Mahila Fast Track), Karur.

For Appellant : Mr.P.Ganapathi Subramanian

For Respondent : Mr.K.K.Ramakrishnan
Additional Public Prosecutor
assisted by
Mr.R.Rajaraman

* * * * *

JUDGMENT

R.SUBBIAH, J.

The appellant is the sole accused in S.C.No.24 of 2014, on the file of the Sessions Court (Mahila Fast Track), Karur. He stood charged for the offences punishable under Sections 498-A and 302 I.P.C. By Judgment dated 09.12.2015, the trial Court while acquitting the accused for the offence under Section 498-A I.P.C.,



has convicted the accused and sentenced him, as detailed below:

Section of Law	Sentence of imprisonment	Fine amount
302 IPC	To undergo imprisonment for life.	Rs.1,000/- in default to undergo simple imprisonment for three months.

Challenging the said conviction and sentence, the appellant/accused has come up with this Criminal Appeal.

2. The case of the prosecution, as put forth by its witnesses, is consciously narrated below:

2.1. P.W.1 - Rajeswari is the mother of the deceased Parvatham. The appellant/accused married the deceased Parvatham nine years prior to the date of occurrence. The marriage between them is a love marriage. Due to the wedlock, a male child was born and his name was Harish (P.W.2) who was aged about 5 years at the time of the occurrence. They were residing at second floor of Uma Complex, Selvam Nagar, Vengamedu. The deceased Parvatham was working as a Teacher. The appellant/accused very often used to beat the deceased Parvatham under the influence of alcohol. Hence, the deceased Parvatham complained about the same to her mother P.W.1 - Rajeswari, who very often used to come to the house of the appellant/accused at Karur and pacified them. While so, on 07.04.2013, the deceased Parvatham made a phone call and complained that the appellant/accused had beaten her under the influence of alcohol and on the same day evening, P.W.1 - Rajeswari along with P.W.3 - Meenakshi, elder sister of the deceased Parvatham, came to the house of the appellant/accused and advised them. Thereafter, on 16.04.2013 at about 09.00 p.m., the deceased Parvatham called P.W.1 over phone and enquired about her health. While so, on the same day, at about 11.45 p.m., the mother of the appellant/accused came to the house of P.W.1 - Rajeswari and informed that her daughter had died and on hearing the same, P.W.1 - Rajeswari proceeded to Karur along with her relatives and went to the Government Hospital, Karur and found the deceased Parvatham with contusions on the neck and blood was oozing from nose and mouth. On enquiry, P.W.1 - Rajeswari came to know that the appellant/accused doubting the fidelity of the deceased Parvatham that she is having illicit intimacy with P.W.8 - Veluchamy @ Suresh, had beaten her brutally and strangulated her neck with a saree and committed the murder and thereafter, hanged the body of the deceased Parvatham on the hook in the ceiling of the bedroom. Hence, P.W.1 - Rajeswari lodged a complaint through P.W.4 - Kanagaraj, who accompanied her from Thanjavur.

2.2. P.W.19 - Sub Inspector of Police, on receipt of the complaint - Ex.P.1 from P.W.1 - Rajeswari registered a case in Service No. 94 of 2013 under Section 302 I.P.C. Ex.P.13 is the First Information Report and P.W.19 forwarded the same to the learned Judicial Magistrate No.I, Karur, through P.W.17 and a copy of the

he called
place of

2.4. Thereafter, P.W.20 - Inspector of Police conducted the inquest on the body of the deceased in the presence of the panchayatdars. The inquest report was marked as Ex.P.15 and then, made a request through Ex.P.8 - requisition letter through P.W.18 - Gr.I. Police Constable to P.W.16 - Doctor, to conduct post-mortem on the body of the deceased Parvatham.

"External findings: (i) Blood stained froth over both the nostrils and mouth. (ii) Ligature mark of 10 cm length x 2 cm breadth running obliquely from 2 cm below the angle of the Right mandible. Passing above the thyroid cartilage upto 2 cm below the angle of the left mandible. (iii) Abrasion of 1 cm x 0.5 cm over the left side of the nose. (iv) Contusion of 1 cm x 2 cm over the left elbow. (v) Abrasion of 1 cm x 0.5 cm over the Right hip."

2.6. Thereafter, on the same day, i.e., on 17.04.2013, P.W.20 - Inspector of Police recorded the statements of P.W.6, P.W.7, one Balasubramani, P.W.8 - Veluchamy and Karthikeyan. Then, P.W.20 recovered M.O.4 - light blue and thick blue colour nighty; M.O.5 - to M.O.6 under Form 91 through P.W.18 and sent to the Court under Form 9. On 18.04.2013 at about 10.00 a.m., P.W.20 arrested the accused at Vangal Bus Stop near Five Road and recorded the voluntary confession statement given by the appellant/accused in the presence of P.W.11 - Village Administrative Officer and one Subramani and the admissible portion of the confession statement of the appellant/accused was marked as Ex.P.3. Pursuant to the same, a light blue colour polyster saree - M.O.1 was recovered and the same was forwarded to the Court under Form 91 and thereafter, the investigation was handed over to P.W.21.

2.7. P.W.21 deposed that since the rough sketch and observation mahazar prepared by P.W.20 tallies with the place of occurrence, he did not prepare any observation mahazar and rough sketch. Since the witnesses had made the very same statements, he has not recorded any separate statements. However, he recorded the statements of the witnesses, namely, Murali, Sathish, Manikrishnan, Ramkumar, Dr.Dhanapal, Dr.Senthilkumar, Marirani,



Senthilkumar, Kannan and Gouri. On 05.11.2013, he recorded the statement of the son of the deceased and the accused, namely, Harish and on completion of the investigation, he laid the charge sheet against the accused under Section 302 I.P.C.

2.8. Based on the above materials, the trial Court had framed a charge under Sections 498-A and 302 I.P.C., against the accused. When the accused was questioned in respect of the charges, he pleaded innocence. In order to prove the charge, on the side of the prosecution, as many as 21 witnesses were examined as P.W.1 to P.W.21 and Exs.P.1 to P.17 were marked, besides six Material Objects (M.O.1 to M.O.6).

2.9. When the accused was questioned under Section 313 Cr.P.C., with reference to the incriminating materials adduced by the prosecution, the accused denied his complicity in the crime and pleaded innocence. However, on the side of the accused, D.W.1 to D.W.3 were examined, but no documentary evidence was let in.

2.10. The trial Court, after considering the oral and documentary evidence, while acquitting the accused for the charge framed under Section 498-A I.P.C., has found the accused guilty of the charge under Section 302 I.P.C., and accordingly, convicted and sentenced the accused, as stated supra. Challenging the said conviction and sentence, the appellant/accused has come forward with the present Criminal Appeal.

3. The learned Counsel for the appellant/accused would submit that the prosecution has miserably failed to establish its case beyond all reasonable doubt. This is a case of suicide and immediately after the occurrence, the appellant/accused informed his mother and his superior over phone about the occurrence and the appellant/accused only sent the body in a private ambulance to the hospital. Further, he submitted that the saree near the body of the deceased Parvatham as noticed by P.W.5, P.W.6 and P.W.12 was not recovered by P.W.20. If the said saree was produced before the trial Court, damages in the saree will be proved and defence version will be probablised. P.W.20 - the Investigating Officer had deposed that the appellant/accused alone went inside the house and brought the saree and thus, the recovery of saree alleged to have been used for the commission of the crime was not legally proved. Therefore, P.W.20 failed to recover the saree which was found in the photograph - M.O.2 - series. It is the case of the prosecution that the appellant/accused asked his minor son, i.e., P.W.2 who was present in the place of occurrence, to bring scissors and had cut the hanging saree, but if it is so, there should be a cut in the saree, but the said saree was not produced. Whereas the saree which was produced as M.O.1 was not the one which was available in the place of occurrence and as per the version of P.W.2, there was a knot in the saree and initially, the appellant/accused tried to cut the saree, but he could not remove the saree. However, no damaged saree was produced before the Court. Even according to P.W.20, the appellant/accused produced the saree alleged to have been involved in the crime



under Ex.P.4 - recovery mahazar. P.W.2, in his cross-examination, had stated that on the date of occurrence, two policemen came to the house and took his father along with them in a two wheeler. He had also stated that he was watching the television and he was examined only after six months and thus, it would create a reasonable doubt and moreover, the cross-examination of P.W.2 has not supported the case of the prosecution. If it is so, the arrest and recovery on 18.04.2013 is totally false and thus, the prosecution has miserably failed to prove its case beyond all reasonable doubts and thus, prayed for allowing this appeal.

4. In support of his arguments, the learned Counsel for the appellant/accused relied on the following decisions:

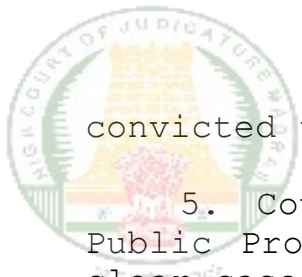
- (a) **Vijayee Singh and others v. State of U.P. reported in (1990) 3 Supreme Court Cases 190**, wherein the Honourable Supreme Court held, *"In criminal cases the general burden of proof is always on the prosecution and never shifts. This flows from the cardinal principle that the accused is presumed to be innocent unless proved guilty by the prosecution and the accused is entitled to the benefit of every reasonable doubt. The prosecution is not absolved of its duty of discharging the initial burden of establishing the case beyond all reasonable doubts even in respect of cases covered by Section 105 of the Evidence Act."*
- (b) **Mohd. Zahid v. State of T.N. reported in (1999) 6 Supreme Court Cases 120**, wherein the Honourable Supreme Court held, *"Sufficient weightage should be given to the evidence of the doctor who has conducted the post-mortem, as compared to the statements found in the textbooks, but giving weightage does not ipso facto mean that each and every statement made by a medical witness should be accepted on its face value even when it is self-contradictory. In the present case there is reasonable doubt in regard to the cause of death of the deceased and it is not safe to rely upon the evidence of PW8 solely for the purpose of coming to the conclusion that the deceased's death is proved by the prosecution to be homicidal."*
- (c) **Suryanarayana v. State of Karnataka reported in (2001) 9 Supreme Court Cases 129**, wherein the Honourable Supreme Court held, *"The evidence of the child witness cannot be rejected per se, but the court, as a rule of prudence, is required to consider such evidence with close scrutiny and only on being convinced about the quality of the statements and its reliability, base conviction by accepting the statement of the child witness. The fact that the witness being a child witness would require the court to scrutinise her evidence with care and caution. If she is shown to have stood the test of cross-examination and there is no infirmity in her evidence, the prosecution can rightly claim a conviction based upon her testimony alone. Corroboration of the*



testimony of a child witness is not a rule but a measure of caution and prudence for discarding the testimony. Discrepancies in the deposition, if not in material particulars, would lend credence to the testimony of a child witness who, under the normal circumstances, would like to mix-up what the witness saw with what he or she is likely to imagine to have seen. While appreciating the evidence of the child witness, the courts are required to rule out the possibility of the child being tutored. In the absence of any allegation regarding tutoring or using the child witness for ulterior purposes of the prosecution, the courts have no option but to rely upon the confidence inspiring testimony of such witness for the purposes of holding the accused guilty or not."

- (d) **Mousam Singa Roy and others v. State of W.B reported in (2003) 12 Supreme Court Cases 377**, wherein the Honourable Supreme Court held, "The burden of proof in a criminal trial never shifts, and it is always the burden of the prosecution to prove its case beyond reasonable doubt on the basis of acceptable evidence. It is the settled principle of criminal jurisprudence that the more serious the offence, the stricter the degree of proof, since a higher degree of assurance is required to convict the accused."
- (e) **Sahadevan and another v. State of Tamil Nadu reported in (2012) 6 Supreme Court Cases 403**, wherein the Honourable Supreme Court held, "Where the court finds that the prosecution evidence suffers from serious contradictions, is unreliable, is ex facie neither cogent nor true and the prosecution has failed to discharge the established onus of proving the guilt of the accused beyond reasonable doubt, the court will be well within its jurisdiction to return the finding of acquittal and even suo motu extend the benefit to a non-appealing accused as well, more so, where the court even disbelieves the very occurrence of the crime itself. Of course, the role attributed to each of the accused and other attendant circumstances would be relevant considerations for the court to apply its discretion judiciously."
- (f) **Sunil Kundu and another v. State of Jharkhand reported in (2013) 4 Supreme Court Cases 422**, wherein the Honourable Supreme Court held, "When the prosecution is not able to prove its case beyond reasonable doubt it cannot take advantage of the fact that the accused have not been able to probablise their defence. It is well settled that the prosecution must stand or fall on its own feet. It cannot draw support from the weakness of the case of the accused, if it has not proved its case beyond reasonable doubt."

By relying upon the above judgments, learned Counsel for the appellant/accused submitted that the prosecution has miserably failed to prove the death of the deceased was homicidal. But, the trial Court without properly appreciating the evidence has



convicted the accused.

5. Countering the said submissions, the learned Additional Public Prosecutor appearing for the State submitted that it is a clear case of homicidal death and not a suicide. The incident took place inside the bed room and the appellant/accused ought to have explained the cause of death, otherwise, it would be presumed that the death was caused by the appellant/accused. The wife of the appellant was attacked and she became unconscious and thereafter, the appellant/accused tied the saree around her neck and hanged her and caused her death by strangulation around 09.45 p.m., on 16.04.2013, that too, suspecting fidelity of his wife even after entering into a love marriage with her.

6. He further submitted that in view of Section 106 of the Evidence Act, there will be a corresponding burden on the inmates of the house to give a cogent explanation as to how the crime was committed. The inmates of the house cannot get away by simply keeping quiet and offering no explanation on the supposed premise that the burden to establish its case lies entirely upon the prosecution and there is no duty at all on the appellant/accused to offer any explanation.

7. The learned Additional Public Prosecutor appearing for the State invited the attention of this Court to the evidence of P.W.5, wherein he had deposed that he was residing in the first floor of Uma Complex and on 16.04.2013 at about 09.15 p.m., when he returned to his house, he heard the noise of the appellant/accused quarrelling with his wife and thereafter, the appellant/accused knocked the doors of P.W.5 and asked about P.W.8 and his brother. P.W.5 told the appellant/accused that they were residing in the adjacent house and the appellant/accused told that he will murder both of them and went to his house. He further invited the attention of this Court to the deposition of P.W.8, wherein he stated that he came to the house at about 10.30 p.m., and he was informed that the appellant/accused came to his house and knocked the doors shouting against them, which would clearly show that there was a quarrel. Therefore, it is the bounden duty of the appellant/accused to give a proper explanation for the cause of the death of his wife. According to P.W.2 - son of the appellant/accused, his father (accused) went to buy a chocolate for him and the appellant/accused had not offered any explanation as to why he left for 10 minutes during night hours. With regard to strangulation, though the Doctor who conducted post-mortem opined as "No definitive opinion possible", the learned Additional Public Prosecutor appearing for the State submitted that in the absence of Hyoid bone fracture, it cannot be presumed to be a suicide and hence, the prosecution had proved its case beyond all reasonable doubt and therefore, prayed for the dismissal of this appeal.



8. In support of his contentions, the learned Additional Public Prosecutor appearing for the State placed reliance on the following decisions:

- (a) **Nika Ram v. State of Himachal Pradesh reported in (1972) 2 Supreme Court Cases 80**, wherein the Honourable Supreme Court

observed, "The fact that the accused alone was with Churi deceased in the house when she was murdered there with the khokhri and the fact that the relations of the accused with the deceased, as would be shown hereafter, were strained would, in the absence of any cogent explanation by him, point to his guilt. ... The conduct of the accused in neither raising hue and cry nor going to the police even though his wife was murdered in his house is hardly consistent with his innocence. ... On the contrary, the evidence on record establishes beyond any manner of doubt that the dead body of the deceased was recovered after the accused had visited the house of Shri Mahajan. We are, therefore, of the view that it was the accused and none else who caused injuries to Churi deceased as a result of which she died. We, therefore, maintain his conviction."

- (b) **Darshan Singh v. State of Punjab reported in 1995 Supreme Court Cases (Cri) 702**, wherein the Honourable Supreme Court held, "No doubt, the prosecution has to prove the case beyond reasonable doubt but when the prosecution has established all the circumstances connecting the accused with a crime and in the absence of any explanation, it cannot be said that the conduct of the accused has to be ignored and need not be taken into account. The appellant being the husband, it is within his knowledge as to how he parted his company with the deceased. The evidence on record shows that he was in the village. When once it is established that he was with his wife at the place of occurrence and when there is no explanation as to how he parted his company with her then it lends assurance to the evidence of the eyewitness as to the manner of occurrence. The evidence of the witnesses fully incriminates the appellant with the crime and there is no ground to interfere with the order of acquittal passed by the High Court."

- (c) **Trimukh Maroti Kirkan v. State of Maharashtra reported in (2007) 1 Supreme Court Cases (Cri) 80**, wherein the Honourable Supreme Court held, "In view of Section 106 of the Evidence Act there will be a corresponding burden on the inmates of the house to give a cogent explanation as to how the crime was committed. The inmates of the house cannot get away by simply keeping quiet and offering no explanation on the supposed premise that the burden to establish its case lies entirely upon the prosecution and there is no duty at all on an accused to offer any explanation. Where an accused is alleged to have committed the murder of his wife and the prosecution succeeds in leading evidence to show that shortly

be fa

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



case. It is true that the autopsy surgeon did not find any fracture on the hyoid bone. Existence of such a fracture leads to a conclusive proof of strangulation but absence thereof does not prove contra. It cannot be concluded that fracture of hyoid bone, is a must in all the cases. The fact that the dead body was decomposed with maggots all over it must be considered. Other marks of strangulation which could have been found were not to be found in this case. The dead body was found after a few days."

- (i) **Prashant Mahadeo Chavan v. State of Maharashtra reported in 2009 CRI.L.J. (NOC) 90 (BOM.)**, wherein the Bombay High Court observed, "Even in a case which is found on circumstantial evidence, the Court must have due regard to the provisions of Section 106 of the Evidence Act. The burden of establishing facts within the special knowledge of any person lies on that person."
- (j) **Ravirala Laxmaiah v. State of Andhra Pradesh reported in (2013) 9 Supreme Court Cases 283**, wherein the Honourable Supreme Court held, "In a case based on circumstantial evidence, where no eyewitness account is available, the principle is that: when an incriminating circumstance is put to the accused and the said accused either offers no explanation for the same, or offers an explanation which is found to be untrue, then the same becomes an additional link in the chain of circumstances to make it complete. In cases where the accused has been seen with the deceased victim (last seen theory), it becomes the duty of the accused to explain the circumstances under which the death of the victim has occurred. If the accused does not offer any explanation how the wife received injuries or offers an explanation which is found to be false, it is a strong circumstance which indicates that he is responsible for commission of the crime."

9. We have heard Mr.P.Ganapathi Subramanian, learned Counsel for the appellant/accused and Mr.K.K.Ramakrishnan, learned Additional Public Prosecutor appearing for the State. We have scrupulously and consciously examined the evidence and materials available on record, including the decisions relied on either side with the onerous responsibility imposed on us. We have also gone through the judgment of the trial Court.

10. The case of the prosecution is that on the date of the occurrence, the appellant/accused quarrelled with the deceased suspecting her fidelity that she is having illegal intimacy with P.W.8 who is residing in the first floor of Uma Complex. P.W.5 and P.W.6 in their evidence, had stated that the appellant/accused knocked the doors of their house and enquired about P.W.8 and since the doors of the house of P.W.8 were locked, he went outside and later, he came back to his house. Thereafter, he came shouting



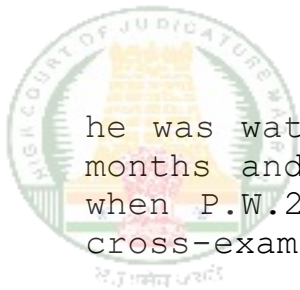
that his wife had committed suicide.

11. According to the learned Counsel for the appellant/accused, this is a case of suicide and immediately after the occurrence, the appellant/accused informed his mother and his superior over phone about the occurrence and the appellant/accused only sent the body in a private ambulance to the hospital. Moreover, the saree near the body of the deceased Parvatham as noticed by P.W.5, P.W.6 and P.W.12 was not recovered by P.W.20 - Investigating Officer. If the said saree was produced before the trial Court, damages in the saree will be proved and defence version will be probablised. P.W.20 deposed that the appellant/accused alone went inside the house and brought the saree and thus, the recovery of saree alleged to have been used for the commission of the crime was not legally proved. Therefore, P.W.20 failed to recover the saree which was found in the photograph - M.O.2 - series. Further, P.W.2 categorically deposed that the appellant/accused was taken into custody by the police on the date of the occurrence itself in a two wheeler and thus, the arrest and recovery of saree - M.O.1 from the place of the occurrence is totally false. Further, P.W.20 - Investigating Officer deposed that the witnesses and the police stood outside the house of the appellant/accused and they were not aware as to where from the appellant/accused brought the saree - M.O.1 and thus, the very arrest and recovery of the weapon is highly doubtful.

12. Moreover, the learned Counsel for the appellant/accused placing heavy reliance on Section 106 of the Evidence Act, stated that since the occurrence took place inside the bed room and P.W.2 was also present at the time of the occurrence, there should be proper explanation for the cause of the death of the deceased. Since P.W.2 has not supported the case of the prosecution in his cross-examination which was conducted on the same day, the question of application of Section 106 of the Evidence Act, does not arise in this case.

13. Whereas it is the case of the prosecution that the appellant/accused asked P.W.2 who was present in the place of occurrence, to bring scissors and had cut the hanging saree, but if it is so, there should be a cut in the saree, but the saree was not produced. M.O.1 - saree was not the one which was available in the place of occurrence and as per the version of P.W.2, there was a knot in the saree and initially, the appellant/accused tried to cut the saree, but he could not remove the knot in the saree. However, no damaged saree was produced before the Court. Even according to P.W.20, the appellant/accused produced the saree alleged to have been involved in the crime under Ex.P.4 - recovery

<https://hcmjcs.courts.gov.in/Hcmjcs2cs/> in his cross-examination, had stated that on the date of occurrence, two policemen came to the house and took his father along with them in a two wheeler. He had also stated that



he was watching the television and he was examined only after six months and thus, it would create a reasonable doubt, especially, when P.W.2 has not supported the case of the prosecution in his cross-examination.

14. Though the learned Additional Public Prosecutor appearing for the State contended that according to the medical jurisprudence, based on the ligature mark and hyoid bone intact, the issue of suicide or homicide cannot be decided and the manner of using the saree like the object to strangulate the deceased may have the different impact on the ligature mark, we are of the opinion that even according to P.W.2, his father called him to bring scissors and they tried to lay down the body and also untie the knot with a bite and in that process, the body of the deceased would have shaken on several occasions. In such a situation, ligature mark has no significance to decide the issue, especially, when the evidence of P.W.2 - minor son of the deceased and the appellant/accused clearly goes against the case of the prosecution. In fact, the appellant/accused examined himself as D.W.3 and deposed that when he went outside to buy chocolate for his son and on his return, P.W.2 came and informed that the deceased was hanging and thus, the cross-examination of P.W.2 clearly corroborates the testimony of the appellant/accused - D.W.1.

15. The prosecution mainly relied on the evidence of P.W.1, P.W.2, P.W.5 and P.W.6 to prove the guilt of the appellant/accused. From the materials on record, it is seen that at the time of the occurrence, the appellant/accused and P.W.2 - son of the appellant/accused and the deceased were alone in the company of the deceased. Though in the chief examination of P.W.2, he deposed in support of the case of the prosecution, during the cross-examination, which was done on the very same day, P.W.2 did not support of the case of the prosecution that it was the appellant/accused who murdered the deceased, however, deposed to the effect that he was watching the television in the hall and when he went to the bed room, the deceased was hanging and hence, he ran to inform the same to the appellant/accused, who went outside to buy chocolate for P.W.2 and thereafter, both the appellant/accused and P.W.2 went inside the house and at that time, the appellant/accused tried to untie the knot, but he could not untie the same and hence, he asked P.W.2 to bring scissors and thereafter, he untied the knot by a bite and laid down the body on the floor near the bed.

16. In our considered opinion, the crucial witness in this case is P.W.2 - the son of the appellant/accused and the deceased, who was present at the time of the occurrence. After the examination, P.W.2 had supported the case of the prosecution, in the cross-examination, he had clearly stated that he was watching



the television and when he went to the bedroom, his mother was hanging and immediately, he called his father, namely, the appellant/accused for her rescue and the appellant/accused who went to buy chocolate for him, took P.W.2 and rushed back to his house. Thereafter, the appellant/accused asked P.W.2 to bring scissors to cut the saree and when it was not possible to cut the saree by scissors, he released the knot by a bite and then, he laid down the body of the deceased on the floor near the bed. The cross-examination of P.W.2 was done on the same day and hence, the evidence of P.W.2 attracts more significance in this case and it clearly corroborates the version of the appellant/accused.

17. Thus, we have no hesitation to hold that the prosecution has miserably failed to prove its case beyond reasonable doubt and accordingly, the appellant succeeds.

18. In the result,

- i. This Criminal Appeal is allowed;
- ii. The conviction and sentence imposed on the appellant/accused for the offence under Section 302 I.P.C., by judgment dated 09.12.2015 made in S.C.No.24 of 2014, on the file of the Sessions Court (Mahila Fast Track), Karur, are set aside and the appellant/accused is acquitted;
- iii. Fine amount, if any, paid by the appellant shall be refunded to him; and,
- iv. The bail bond, if any, executed by the appellant and the sureties shall stand terminated.
- v. Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Sessions Court (Mahila Fast Track), Karur.

2. The Judicial Magistrate No.I, Karur

3. The Chief Judicial Magistrate, Karur

4. The Inspector of Police,
Venkamedu Police Station,
Karur District.

5. The Superintendent, Central Prison, Trichy

6. The District Collector, Trichy



7.The Commissioner of Police, Tricity

8.The Director General of Police,
Mylapore, Chennai 4

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

10.The Record Keeper, (2 copies)
Vernacular Section, Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P.GANAPATHI SUBRAMANIAN, Advocate (SR-57882[F] dated
29/03/2019)

+1 CC to M/s.R.RAJARAMAN, Advocate (SR-57805[F] dated
29/03/2019)

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JUDGMENT MADE IN
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and
CrI.M.P(MD)No.11175 of 2017
29.03.2019

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