



BAIL SLIP

The Appellant/Accused was directed to be released on Bail vide order in Crl MP(MD)No.1/2015 in Crl A(MD) No.308/2014 Dated 28.1.2015 on the file of the Madurai Bench of Madras High Court.

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BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

Dated : 17.12.2019

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

CRL. A.(MD)No. 308 of 2014

Kanava Sait @ Kanavapitchai

.. Appellant

- Vs -

State by:

1.The Deputy Superintendent of Police,
Dindigul Town, Dindigul.

(Crime No.80/2007 on the file of the
Town South Police Station)

2.The Inspector of Police,
Town South Police Station,
Dindigul.

(Crime No.80 of 2007)

.. Respondent

Prayer : Appeal filed under Section 374 of the Code of Criminal Procedure, to call for the entire records connected with the judgment passed in S.C.No.44 of 2010, dated 22.09.2014 on the file of the learned Sessions Judge, Magalir Neethimandram, (Fast Track Mahila Court) Dindigul and set aside the conviction and sentence imposed on the appellant.

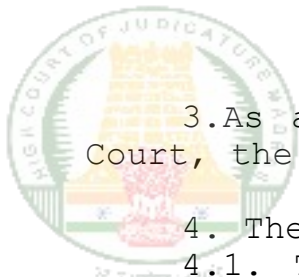
For Appellant : Mr.M.Seeni Sultan

For Respondents : Mr.M.Chandrasekaran,
Additional Public Prosecutor.

JUDGMENT

This Criminal Appeal is arising out of conviction and sentence imposed by the learned Sessions Judge, Magalir Neethimandram, (Fast Track Mahila Court) Dindigul, S.C.No.44 of 2010, dated 22.09.2014, and acquit the appellant.

2.The appellant is accused in S.C.No.44 of 2010 and he has been charged for the offence under Section 304(B) IPC and sentenced him to undergo 10 years Simple Imprisonment.



3.As against the conviction and sentence imposed by the trial Court, the appellant preferred this appeal.

4. The facts of the case are briefly stated hereunder:-

4.1. The marriage between the appellant and the deceased was solemnized on 14.04.2006. At the time of marriage, on the appellant's side, there was dowry demand for 23 sovereigns of gold. Due to inability, the deceased parents gave 19 sovereigns and they agreed to give the remaining items after three months.

4.2. Thereafter, the deceased came to her house, complaining that she is being tortured for balance jewels. In such circumstances, on 31.01.2007, the deceased set fire by pouring kerosene on herself and died. Therefore, a complaint has been lodged by the father of the deceased (P.W.1). On receipt of the complaint from P.W.1, the Sub-Inspector of Police, Krishnankovil Police Station/P.W.14 went to the place of occurrence at about 01.30.p.m, registered a case in Crime No.80 of 2007/ Ex.P.7.

5. In order to prove the case of the prosecution, 17 witnesses have been examined as P.W.1 to P.W.17 and 13 exhibits have been marked as Ex.P.1 to Ex.P.13 and 2 materials objects have been produced. On the side of defence Ex.D1 has been marked.

6. The available evidences from the prosecution side are as follows:

(i) P.W.1/Mohammed Kasim, father of the deceased is the complainant. He speaks about the marriage between the appellant and his daughter and also dowry demand made by the appellant side.

(ii) P.W.2/Rasiya Begam, mother of the deceased she also speaks about the dowry demand made by the appellant.

(iii) P.W.3/Chinnaraj, he is the neighbor of the deceased.

(iv) P.W.4/ Aatchiramavalli, is also the neighbour of the deceased, turned hostile.

(v) P.W.5/Ragavan, is the fireman.

(vi) P.W.6 / Sahul Hameed, turned hostile.

(vii) P.W.7 / Muthukani, is neighbor of the appellant.

(viii) P.W.8/ Thalayammal, is the house of the appellant

(ix) P.W.9/Kadaroli, is the witness of the observation mahazar. He signed in the Ex.P.2 and Ex.P.3

(x) P.W.10/Ayyavu, is the photographer. He took photographs in the occurrence place.

(xi) P.W.11/Subramani, is Sub-Inspector of Police. He received the FIR copy and sent the same to the R.D.O office.

(xii) P.W.12/Rajendran, arranged the body of the deceased for conducting postmortem.

(xiii) P.W.13/Thirunavukarasu, conducted postmortem on the deceased and issued Ex.P.4.

(ivx) P.W.14/Mariappan, is Sub-Inspector of Police, Town South Police Station, received the complaint from P.W.1 and registered the



(vx) P.W.15/Thangavel, is Revenue Divisional Officer. He examined the witnesses and issued Ex.P.8.

(xvi) P.W.16/Chinnasamy, is Deputy Superintendent of Police, visited the occurrence place and prepared observation mahazar, rough sketch (Ex.P.9 and Ex.p10).

(xvii) P.W.17/Bose, is Investigating Officer, examined the witnesses and arrested the appellant/accused. After completing investigation, he filed a final report.

7.After the prosecution evidence was closed, the incriminating materials were put to the accused under Section 304(B) I.P.C and the accused denied the same.

8.On conclusion of the trial, the learned trial Judge, held that the prosecution has established its case beyond reasonable doubt, convicted the accused as stated above.

9.The learned counsel appearing on behalf of the appellant made the following submissions:

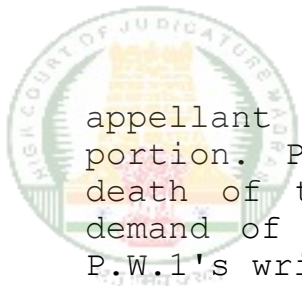
9.1. The learned counsel for the appellant submitted that P.W.1 and P.W.2 are father and mother of the deceased and others are neighbors of the deceased. None of other witnesses including neighbours have not spoken any thing with regard to the demand of dowry. P.W.15 /Revenue Divisional Officer in his report, categorically given a finding that there was no demand of dowry. The Revenue Divisional Officer had examined P.Ws.1 and 2 as well as neighbours of the deceased (Thalaiammal and Muthukani PW.7 and P.W.8). Even before the Thasildar, they have not stated about the demand of any dowry.

9.2. The marriage between the deceased and the appellant at taken place on 14.04.2006. On 31.01.2007, the occurrence has taken place at about 09.30.a.m, she was immediately, taken to the hospital at about 10.00.am. Thereafter, she died on account of burn injuries at about 12.30.p.m.

9.3.The accident register (Ex.P.6) has been marked by P.W.13/the Postmortem Doctor, he seen the body of the deceased, which had sustained at 100% burn injuries. P.W.3 and P.W.5 admit that the door of the house was locked from inside and it was broke opened. Hence, it is proved that the deceased had committed suicide by self humiliation. As regard to the dowry demand, except P.W.1 and P.W.2 (father and mother of the deceased), nobody spoke about any demand of dowry made by the appellant.

9.4. He further submitted that there was some dispute between the appellant and the deceased with regard to waking at late hours, due to which, the appellant scolded the deceased. The neighbours have also confirmed about the same. Other than this, there was no

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appellant and the deceased were living happily in a separate portion. P.W.1 and P.W.2/parents of the deceased, due to sudden death of their daughter an emotional mood, had stated about the demand of dowry at the instance of others as could be seen from P.W.1's written complaint/Ex.P.1.

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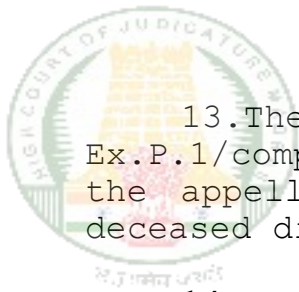
9.5.Further, the learned counsel for the appellant submitted that P.W.1 and P.W.2 admitted about Ex.D1/compromise deed, which was entered between them before Jamathars, while handing over the articles of the deceased to P.W.1 and P.W.2. In Ex.D1 mentioned that one teacher had informed to the respondent police with regard to the fire accident and P.W.1 and P.W.2 admitted that it was only a fire accident and they have also categorically stated that there was no dowry demand from the appellant or his family members. Hence, the appellant may be acquitted.

10.The learned Additional Public Prosecutor submitted that P.Ws.1 and 2 are father and mother of the deceased, who have categorically spoken about the demand of dowry. P.W.3, who is the adjacent resident of the deceased, had broke open the door and tried to save the deceased. P.W.5 is a person from fire service department, who spoke about the fire accident. P.Ws.7 and 8 are neighbors of deceased, who have stated that smoke emanated from the house. P.W.4 and P.W.6 turned hostile not supported the case of the prosecution.

10.1.He also submitted that the appellant though raised several points in this appeal, he had not drawn the attention of the witnesses with regard to the same during the trial. The trial court on proper analysis of the evidence, had convicted the appellant, which need not be interfered with.

11.Heard the learned counsel appearing for the appellant and the learned Additional Public Prosecutor appearing for the respondents and also perused the records.

12. It is seen that Ex.P.8/Revenue Divisional Officer enquiry report, there was no dowry demand by the appellant. Further, P.Ws.3, 7 and 8 are the neighbors of the deceased, P.W.8 is the house owner, they have not stated anything with regard to demand of dowry made by the appellant. From the reason given by the appellant to Revenue Divisional Officer, it is seen that there was some difference of opinion. The appellant, who was running a fruit shop, normally goes to his shop at early morning. This fact is corroborated by the neighbor witnesses. P.W.1 and P.W.2 are the parents of the deceased, who have stated about the dowry demand, which is not supported with materials. Ex.D1 executed by P.W.1 and P.W.2, reveals that there was no dowry demand. P.W.1 in his evidence has also admitted that there was no dowry demand.



13. There is some doubt in the manner in which, Ex.P.1/complaint came to be lodged by P.W.1. The marriage between the appellant and the deceased solemnized on 14.06.2006 and the deceased died on 31.01.2007.

14. In view of above, there is no evidence for dowry demand, therefore, the offence under Section 304(b) is not made out. The deceased committed suicide in the matrimonial home, where the appellant and the deceased were living. This Court finds that the appellant is the cause of deceased committing suicide, for which, the appellant could be convicted. The appellant is found guilty for the offence under Section 306 IPC, convicted and sentenced to undergo one year Rigorous Imprisonment. The period of imprisonment already undergone by the accused is set off under Section 428 Cr.P.C.

15. In view of the above modification, this Criminal Appeal is Partly allowed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Das

To

1. The Sessions Judge, Magalir Neethimandram,
(Fast Track Mahila Court) Dindigul.

2. The Judicial Magistrate No.III,
Dindigul.

3.-Do- Through The Chief Judicial Magistrate, Dindigul.

4. The Superintendent, Central Prison, Madurai.

5. The Deputy Superintendent of Police,
Dindigul Town, Dindigul.

6. The Inspector of Police,
Town South Police Station,
Dindigul.

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



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

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