

**Bail Slip**

Appellant / Accused No.1 viz., P.Pitchaimuthu, S/o. Pitchai was released on bail vide this Court order dated 27/3/2015 and made in MP(MD)No.1/15 in Crl.A(MD) 84/19

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	07.08.2019
Date of Judgment	15.11.2019

CORAM

THE HONOURABLE JUSTICE MRS.T.KRISHNAVALLI
CRL.A(MD)No.84 of 2015

P.Pitchaimuthu

: Appellant/1st Accused

Vs

State represented by
The Inspector of Police,
Eriodu Police Station,
Dindigul District.
(Crime No.68 of 2008)

: Respondent/Complainant

Prayer: This Criminal Appeal is filed under Section 374(2) of Criminal Procedure Code against the judgment of the Fast Track Mahila Court, Dindigul made in SC No.77 of 2011, dated 17.02.2015

For Appellant

: Mr.K.Prabhu

(Legal Aid Counsel)

For Respondent

: Mr.R.Anandharaj

Additional Public Prosecutor

J U D G M E N T

This Criminal Appeal is directed against the judgment of the Fast Track Mahila Court, Dindigul, made in SC No.77 of 2011, dated 17.02.2015.

2.The case of the prosecution is that the marriage between the deceased Poongodi and A2 was solemnized four months prior to the occurrence and after the marriage, A2 along with his father/A1 tortured her by demanding additional dowry of 4 sovereigns of gold, chased her out and when she came to her father's house, A2 came with his relatives on 31.03.2008 and hit her which made her run away from the spot, consumed Oleander seeds and died. The Inspector of Police attached to Eriodu Police Station has filed a final report against the accused examining the witnesses.

3.The trial court, after proper appreciation of the entire materials available on record, convicted the appellant/A1 for the offence under sections 306 and 498(A) IPC and sentenced him to undergo simple imprisonment for four years and to pay a fine of Rs.10,000/-, in default to undergo simple imprisonment for one year for the offence under section 306 IPC and sentenced him to undergo simple imprisonment for two years and to pay a fine of Rs.1,000/-,



in default to undergo three months of simple imprisonment. The sentences are directed to run concurrently. The trial court acquitted A2 from the charges levelled against him. Aggrieved by the judgment of the trial court, the appellant/A1 is before this court.

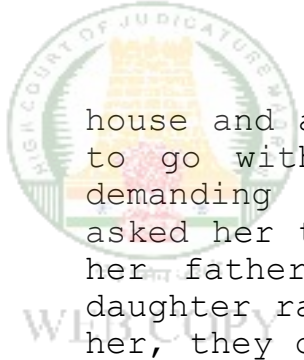
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4. Heard both sides and perused the materials available on record.

5. The main contention raised on the side of the appellant/A1 is that there are contradictions in the evidence of the prosecution witnesses and PW1 to PW4 are interested witnesses and hence, their evidence cannot be relied upon and the prosecution failed to examine more independent witnesses and there is no sufficient witness for the charges under sections 306 and 498-A IPC to convict the appellant/A1 and further there was no *mens rea* on the part of the appellant/A1 and there was no nexus between the death of the deceased and the appellant/A1 and prays that the appellant/A1 is entitled to acquittal.

6. PW1 is the mother of the deceased and PW2 is the father of the victim. PW1 gave complaint in respect of the occurrence. PW1 in her complaint and evidence stated that the marriage between son of A1 and the deceased was solemnized and after Pongal, her daughter came to their house stating that the accused demanded dowry and she was subjected to cruelty and the parents of the deceased said that now it is not possible to give the amount to victim and advised their daughter to stay in their house and after 3 months, the father-in-law and the sister-in-law of the deceased and the uncle of A1 came to their house and asked the victim to return the matrimonial home, but her daughter refused to go with them since she was subjected to cruelty by way of demanding dowry and one Kaleeswaran caught hold of her hand and asked her to return to the matrimonial home, but she refused and hence her father-in-law beat her daughter in their presence and then her daughter ran away from the spot into the bush and when they ran behind her, they could not find her, subsequently they observed that her daughter consumed oleander seeds and was vomiting near a bridge. Then they rushed to the spot and took the victim to Dindigul Government Hospital, but after sometime, she died and Kaliammal the mother-in-law of the deceased insisted her that she should give a complaint that her daughter died due to stomach pain. But she refused and informed the police about the occurrence. Then her statement was recorded and her daughter died only due to the harassment by the father-in-law.

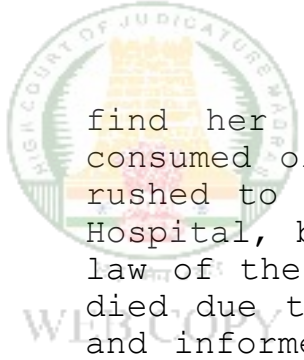
7. PW2 is the father of the victim, who in his evidence stated that the marriage between the son of A1 and the deceased was solemnized and after Pongal, his daughter came to their house stating that the accused demanded dowry and she was subjected to cruelty and since it was not able to give the amount to victim and made their daughter to stay in their house. After 3 months, the father-in-law and sister-in-law and the Uncle of A2 came to their



house and asked the victim to return home, but his daughter refused to go with them since they subjected her to cruelty by way of demanding dowry and one Kaleeswaran caught hold of her hand and asked her to return to the matrimonial home, but she refused, hence her father-in-law hit her daughter in their presence, then his daughter ran away from the spot into the bush. When they ran behind her, they could not find her and subsequently they observed that her daughter consumed oleander seeds and was vomiting near a bridge. Then they rushed to the spot took the victim to Dindigul Government Hospital, but after sometime, she died and one Kalliamal insisted her that she should give a complaint that his daughter died due to stomach pain. But he refused and informed the police about the occurrence. Then his statement was recorded and his daughter died only due to the harassment by the father-in-law.

8.PW3 is the sister-in-law of PW1. PW3 deposed in her evidence that the marriage between the deceased and son of A1 was solemnized and after Pongal, the deceased came to PW1's house stating that the accused demanded dowry and she was subjected to cruelty and since, it was not able to give the amount to the victim, PW1 and PW2 requested the deceased to stay in their house after three months, the father-in-law, sister-in-law and the uncle of A2 came to their house and asked the victim to return the matrimonial home, but her daughter refused to go with them since they subjected her to cruelty by way of demanding dowry and one Kaleeswaran caught hold of her hand and asked her to return to the matrimonial home, but she refused and hence her father-in-law beat her daughter in their presence and then her daughter ran away from the spot into the bush. When they ran behind her, but they could not find her and subsequently they observed that the deceased had consumed oleander seeds and was vomiting near a bridge. Then PW1 and PW2 rushed to the spot and took the victim to the Dindigul Government Hospital, but after sometime, she died and Kalliammal the mother-in-law of the deceased insisted to give a complaint that the deceased died due to stomach pain. But the parents of the deceased refused and informed the police about the occurrence and then her statement was recorded and the deceased died only due to the harassment by her father-in-law.

9.PW4 and PW5 are the sister-in-law of PW1. PW4 and PW5 deposed in their evidence that the marriage between the deceased and son of A1 was solemnized and after Pongal, the deceased came to her parents house stating that the accused demanded dowry and she was subjected to cruelty and since it was not able to give the amount to the victim, PW1 and PW2 requested the deceased to stay in their house and after 3 months, the father-in-law, sister-in-law and the uncle of A2 came to their house and asked the victim to return the matrimonial home, but her daughter refused to go with them since they subjected her to cruelty by way of demanding dowry and one Kaleeswaran caught hold of her hand and asked her to return to the matrimonial home, but she refused and hence her father-in-law beat her daughter in their presence and then her daughter ran away from the spot into the bush. When they ran behind her, but they could not



find her and subsequently they observed that the deceased had consumed oleander seeds and was vomiting near a bridge. Then they rushed to the spot and took the victim to the Dindigal Government Hospital, but after sometime, she died and Kaliammal the mother-in-law of the deceased insisted to give a complaint that the deceased died due to stomach pain. But the parents of the deceased refused and informed the police about the occurrence. Then their statement was recorded and the deceased died only due to the harassment by her father-in-law.

10. From the evidence of PW1 to PW5, it reveals that prior to the occurrence, the accused demanded dowry from the victim and due to it, she came to her parental home and on the date of occurrence, the accused came to the house of the victim and asked her to return to her matrimonial home, but she refused and then the accused and one Kaleeswaran and the father-in-law of the accused pulled the hand of the victim. But she refused to go with them and then she left the place and consumed oleander seeds. Hence, the evidence of PW1 is corroborated with the evidence of PW2 to PW5.

11. The Doctor, who conducted postmortem on the body of the victim was examined as PW6. PW6 found the following internal injuries:-

"Hyoid bone intact, No # Rib, lungs c/s congested Heart Chambers Lf side empty RT side full stomach : contains 15 ml Yellow coloured fluid Mucosa - Eroded Liver, Spleen, Kidney, C/s congested Bladder empty, Uterus empty & Normal size. Spinal cord & skull No# membranes intact. Brain c/s congested."

and PW6 further opined that the victim died due to consumption of oleander seeds. PW1 to PW5 deposed that when the accused compelled her to come to the matrimonial home, but the victim refused and ran away from the place of the occurrence and consumed oleander seeds. Hence the evidence of PW6 is corroborated with the evidence of PW8.

12. The learned counsel for the appellant/A1 argued that there is no abatement on the part of the accused to make the victim to commit suicide and further, there was no nexus between the death of the victim and the accused and hence, the appellant/A1 is entitled to acquittal.

13. At this juncture, it is necessary to refer section 306 IPC, which would run thus:-

"306. Abetment of suicide-If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."



14.As it was laid down in **AIR 1986 SC 752: (1986 Cri.LJ 816) (Chanchal Kumari V. Union Territory, Chandigarh)**, abetment to commit suicide is concerned, there should be dependable evidence with regard to actual abetment by the accused. Hence, it is necessary to see whether there is any dependable evidence with regard to actual abetment by the accused. In this case, PW1 to PW5 categorically stated that after the marriage, the accused demanded dowry from the victim and due to it, she came to her parental home and stayed with her parents and after 3 months, the appellant/accused came to the house of the victim and compelled her to come to her matrimonial home, but the victim refused and hence, she left the place and consumed oleander seeds. Hence, it reveals that only due to the abetment of the appellant/accused, she consumed oleander seeds and therefore, there is no *mens rea* on the part of the appellant/accused and the appellant/accused subjected the victim to cruelty. Further the appellant/accused has not taken steps immediately to take back victim to the matrimonial home. Hence, it is held that only due to the compulsion and assault by the appellant/accused, the deceased consumed oleander seeds and died. Hence, there was nexus between the death of the victim and the appellant/accused. Hence, the prosecution has proved the case beyond reasonable doubt.

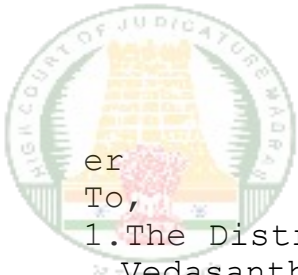
15.For all the reasons stated above, this court is of the considered view that the trial court, after proper appreciation of the entire materials available on records, had given a correct finding, which according to this court, it does not require any interference by this court. However, considering the facts and circumstances of the case and also considering the fact that the appellant/A1 is the only breadwinner, the punishment imposed on the appellant/A1 requires modification and accordingly, the punishment imposed on the appellant/A1 for the offence under section 306 IPC is reduced to 2 years SI and the punishment imposed on the appellant under section 498(A) IPC is reduced to one year SI.

16.In the result, the criminal appeal is **partly allowed**. The punishment imposed on the appellant/A1 for the offence under section 306 IPC is reduced to 2 **years SI** and the punishment imposed on the appellant/A1 for the offence under section 498(A) IPC is reduced to **one year** SI. In respect of fine amount, the findings of the trial court are confirmed. The sentences imposed on the appellant/A1 are directed to run concurrently. The period of sentence, if any, already undergone by the appellant/A1 shall be given set off under Section 428 of Cr.P.C.

Sd/-

Assistant Registrar (CS-III)

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To,

1.The District Munsif Cum Judicial Magistrate,
Vedasanthur.

2.The Chief Judicial Magistrate, Dindigul.

3.The Inspector of Police,
Eriodu Police Station, Dindigul.

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

+1 CC to M/s.K.PRABHU, Advocate (SR-98650[F] dated 15/11/2019)

CRL.A(MD) .No.84 of 2015
15.11.2019

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