**BAIL SLIP**

That the Revision Petitioner/ Accused namely Karuppasamy, S/o.Ramaraj was directed to be released on Bail as this order in MP (MD)No.1/2011 in CRL RC(MD)No.644 of 2011 dated 3.8.2011 on the file of the Madurai Bench of Madras High Court.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**DATED : 27.06.2019****CORAM:****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****CRL RC(MD)No.644 of 2011**

Karuppasamy

... Petitioner /Appellant/Sole Accused

Vs.

State Rep. Through
Inspector of Police,
Periyakulam Police Station,
Theni District.
Crime No.195 of 2007.

... Respondent / Respondent /
Complainant

Prayer : This Criminal Revision Case is filed under Section 397 and 401 of Criminal Procedure Code, to call for the records Crl.A.No.20 of 2010 on the file of learned Additional District and Sessions Judge/Fast Track Judge, Periyakulam in Crl.A.No.20 of 2006 dated 29.04.2011 by confirming the judgment passed by the learned Subordinate Judge, Periyakulam in S.C No.140 of 2008 dated 31.03.2010.

For Petitioner	: Mr.R.Mariyappan
For Respondent	: Mrs.S.Bharathi, Government Advocate

ORDER

The petitioner was found guilty of the offence under Section 306 of IPC and sentenced to undergo five years rigorous imprisonment and levied with a fine of Rs.5,000/- by the learned Sub Judge/Assistant Sessions Judge, Periyakulam. Challenging the same, the petitioner filed criminal appeal before the Additional District and Sessions Judge/Fast Track Court, Periyakulam in Crl A.No.20 of 2010. The learned Appellate Judge by judgment dated 29.04.2011 confirmed the judgment passed by the trial Judge and dismissed the appeal. Questioning the same, this criminal revision case has been filed.

2.The learned counsel appearing for the revision petitioner raised very many contentions and wanted this Court to set aside the judgments passed by the courts below.

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

3.The learned Government Advocate (Crl.Side) appearing for the prosecution submitted that this Court ought to sustain the judgments

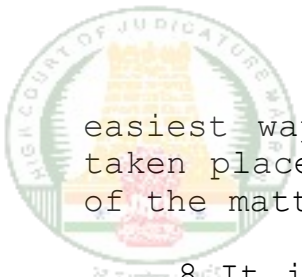
of the courts below and dismiss this criminal revision case.

4. Heard the learned counsel on either side. I carefully considered the rival contentions and perused the evidence on record. The prosecution case is that the deceased Parameswari was having a live in relationship with the accused Karuppasamy and that she committed suicide by hanging herself during the night hours of 26.05.2007. According to the prosecution, she had telephonically informed her paternal uncle Thiru.Chinnakalai, P.W.1 that the betrothal of the petitioner was already over and that the petitioner herein instigated Parameswari to commit suicide. Therefore, P.W 1 Chinnakalai had come to the residence where the petitioner and the deceased Parameswari were living. He peeped through the window and found her hanging from ceiling. He broke open the house and found her dead. He immediately informed the relatives and lodged Ex.P1 complaint before the Inspector of Police, Periyakulam Police Station.

5.P.W.14 registered Crime No.195 of 2007 against the revision petitioner herein for the offence under Section 306 IPC, Ex.P5 is the FIR. Investigation was conducted and final report was filed and cognizance of the offence under Section 306 IPC was taken and the matter was committed to the Sessions Judge and made over the learned Sub Judge/Assistant Sessions Judge, Periyakulam.

6.The revision petitioner pleaded not guilty to the charge and claimed to be tried. In support of the prosecution case, as many as 17 witnesses were examined and Exs.P1 to P7 were marked and M.O 1 to M.O.10 were marked. The learned Trial Judge after consideration of the evidence on record came to the conclusion that the charge against the petitioner was established beyond all reasonable doubt and convicted the accused and sentenced him as mentioned above and the same was also confirmed by the appellate court.

7.As rightly contended by the learned counsel appearing for the revision petitioner, even according to the prosecution, the motive for the occurrence was the betrothal function said to have been taken place for the petitioner. But then, no effort was taken by the prosecution to establish this motive at all. The deceased Parameswari is said to have telephonically contacted her paternal uncle Chinnakalai in the previous night and appraised him about the alleged instigation perpetrated by the petitioner herein. In fact, the entire prosecution case hinges on the testimony of P.W 1. In turn, the testimony of P.W 1 hinges on the so called telephone call said to have been made by the deceased Parameswari to him. During the cross examination of the Investigation Officer, it was specifically suggested that since no such telephonic conversation had been taken place. The prosecution did not even mention the cell number of the deceased. Admittedly, the conversation between P.W 1 and the deceased was a tele conversation. It could have been taken place from a landline or through a mobile phone. If that be so, the cell number could have been easily traced. It was the very



easiest way to establish the tele conversation that had allegedly taken place. The prosecution case is totally silent on this aspect of the matter.

8. It is seen that the cross examination of P.W 17 done in this regard was not properly appreciated by the courts below. I come to the conclusion that the conversation said to have taken place between P.W 1 Chinnakalai and the deceased in the previous night has not at all been proved by the prosecution. The other major contention urged by the learned counsel for the petitioner is that the prosecution has suppressed the material information received in connection with the suicide of Parameswari.

9. The revision petitioner's counsel draws my attention to the testimony of P.W.10. P.W.10 is the owner of the house in which the deceased and the accused were residing. The evidence of P.W 10 is that on the fateful date, he noted that the house was remaining locked and that therefore, he informed the police. It was the police who broke open the house and found Parameswari hanging. Thereafter, observation mahazar was prepared and P.W 10 and one Karuppaiah had affixed their signatures in Ex.P2 Observation Mahazar. Of course, the defence needlessly challenged Ex.P2 Mahazar when it was in their favour. But, as the writ petitioner's counsel would rightly point out that this Court should not attach too much of significance to a formal challenge to Ex.P2. As per Ex.P2 at about 12.00 Noon, the house in question was broken open by the Police. If that be so, the claim of P.W.1 that it was he who after noticing the deceased was hanging broke open the door and went inside cannot be true. Exs.P1 and P2 do not come together.

10. P.W.10 is a prosecution witness. He is not a defence witness. He had categorically deposed that it was he who informed the police that the house in question was remaining in a locked condition. If that be so, some entry would have been made in the General Diary of the Police Station. It is not as if the accused was very much present with the deceased during the relevant time and that he did not inform the police. In fact, even according to the prosecution case, the accused was not with the deceased for the preceding three days. Therefore, even if the accused by his act had caused inner disturbance to the deceased, there is no proximity. According to the prosecution, the provocation for the commission of suicide appears to be the conduct of the betrothal function of the accused. The deceased in this case got married to P.W 2 some fourteen years ago. She had begotten three children through him. She abandoned her husband and the three children and come to live with the accused. When she was not faithful to her husband, she cannot obviously expect the accused to be faithful to her. In other words, when she was not Seetha to her husband, she cannot expect the accused to be Rama to her. It is obvious that the deceased had developed an obsessive love for the accused and she was unable to bear the thought that the accused had lost interest in her. Therefore, she was driven to commit suicide. The accused cannot be faulted for the act of the deceased. The



accused never intended that she should die.

11. The courts below have failed to bear in mind the true scope of Section 306 IPC. The judgments passed by the courts below are set aside for non appreciation of the aspects set out above.

12. This criminal revision case is allowed. The petitioner is acquitted. If any fine amount has been remitted by the accused, the same shall be refunded to him. The bail bond if any executed by the petitioner shall stand cancelled.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

Skm

To

1. The Additional District and Sessions Judge/Fast Tract Judge, Periyakulam.

2. The Subordinate Judge, Periyakulam.

3. The Principal District and Sessions Judge, Periyakulam

4. The Judicial Magistrate, Periyakulam.

5. The Chief Judicial Magistrate, Periyakulam.

6. The Inspector of Police,
Periyakulam police Station.

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

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

9. The Superintendent of Police,
Periyakulam, Theni District.

+1 CC to M/s. R. MARIYAPPAN, Advocate (SR-72100[F] dated 28/06/2019)

CRL RC (MD) No. 644 of 2011

27.06.2019