

Bail Slip

The Appellant/Accused namely ie.Manjunatha Reddy S/o,Chenna Veera Reddy, Ist Accused in SC.Case No.88/09 on the file of the Additional Sessions Judge, Krishnagiri was released on bail, vide this Hon'ble court order dated 24/7/2012 made in MP No.1/12 in CrI.A.No.403/2012.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 02.03.2020

PRONOUNCED ON: 12.03.2020

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

CrI.A.No.403 of 2012

Manjunatha ReddyAppellant

-Vs-

State represented by
The Deputy Superintendent of Police,
Thally Police Station,
Thally,
Krishnagiri District.
(Crime No.165 of 2008) Respondent

Prayer: Criminal Appeal filed under section 374 CrPC against the judgment of conviction and sentence passed by the learned Additional Sessions Judge, Krishnagiri in Sessions Case No.88 of 2009 dated 19.06.2012.

For Appellant : Mr.V.Rajamohan

For Respondent : Mr.R.Ravichandran
Government Advocate (CrI.Side)

JUDGEMENT

The final report has been laid against the appellant (A1), his parents namely Rukmaniyammal (A2) and Chenna Veera Reddy (A3) by the respondent police under sections 498(A) and 304(B) IPC and section 4 of the Tamil Nadu Dowry Prohibition Act. The above final report was taken on file in S.C.No.88 of 2009 on the file of the Additional Sessions Court, Krishnagiri.

2. On the basis of the materials placed on record, both oral and documentary, the Additional Sessions Court, Krishnagiri by way of the judgment dated 19.06.2012 passed in S.C.No.88 of 2009, convicted the appellant for the offences punishable under section 498(A) and sentenced him to undergo Rigorous imprisonment for two years and to pay a fine of Rs.1,000/- in default to undergo Rigorous imprisonment for one month and section 306 IPC and sentenced him to undergo Rigorous imprisonment for seven years and to pay a fine of Rs.5,000/- in default to undergo Rigorous imprisonment for five months and acquitted him of the offence under section 4 of the Tamil Nadu Dowry Prohibition Act and section 304(B)IPC. The Additional Sessions Court had also acquitted the parents of the appellant of the offences under sections 498(A), 304(B) IPC and section 4 of the Tamil Nadu Dowry Prohibition Act. Impugning the abovesaid judgment, the appeal has been preferred by the appellant.

3. Briefly stated, according to the prosecution case, P.W.1 Vekattasamy Reddy is the father of the deceased Manjula and Manjula was married to the appellant (A1) and for celebrating their marriage, P.W1 sold one acre of land for Rs.2,00,000/- and after the marriage, the deceased Manjula and A1 were living together for some days and it is stated that the deceased had apprised P.W1 that A1 had been demanding money and the deceased and A1 came to the house of P.W1 for Deepavali and returned back to their marital house and there had been frequent quarrels between them and P.W1 was informed by his daughter Chandramma (P.W2) that the deceased was in a serious condition and asked him to visit her and when P.W.1 along with his wife Neelammal (P.W3) came to the house of the deceased, they saw the dead body of the deceased on a wooden cot lying back and noticed the injuries and following the same, they lodged a complaint Ex.P1 with the VAO Varatharajan (P.W9) and the VAO recorded the statement and forwarded the same to the police station for further action and therefore according to the prosecution, the accused A1 to A3 with the common intention of demanding dowry from the deceased, subjected her to cruelty on several occasions and they demanded dowry to the extent of Rs.50,000/- and on that score picked up quarrels often with the deceased and teased, scolded and tortured her and subjected her to cruelty and therefore it is putforth that the deceased committed suicide on 08.11.2008 by hanging herself in a room and thus the accused A1 to A3 had committed the offences putforth against them as aforestated.

4. Following the complaint lodged by P.W1 with VAO, on receipt of the same, P.W12 Mathivanan, Special Sub Inspector of police registered a case in Crime No.165 of 2008 under section 174 CrPC. Ex.P3 is the printed F.I.R and forwarded the same to the Sub Divisional Magistrate Chinnasamy (P.W.16)

and on the basis of the same, P.W16 visited the marital house of the deceased and examined the P.Ws1 to 3 and other witnesses and conducted the inquest over the dead body of the deceased and concluded the proceedings that the deceased had committed suicide only due to dowry harassment. The inquest report has been marked as Ex.P18. He further directed the police to continue the investigation. Ex.P17 is the proceedings of P.W16 with regard to the cause of the death of the deceased. P.W.3 Medical Officer (Dr.Rajkumar) conducted the post-mortem of the deceased body and issued Ex.P5 post-mortem certificate and opined that the deceased appeared to have died due to asphyxia on account of hanging and noted various external injuries on her body as disclosed in the post-mortem certificate (Ex.P5). Thereafter, after conducting the other formalities of the investigation, the I.O examined various witnesses and on the basis of the report received from P.W16, altered the case from section 174 CrPC to sections 498(A), 304(B) IPC and Section 4 of the Tamil Nadu Dowry Prohibition Act and after arresting the accused, recorded their confession statement and sent them to judicial custody and further investigation had been conducted by the subsequent I.O examined as P.W.17 and after completing the investigation, laid the final report against the accused as aforesated.

5. To sustain the prosecution case, P.Ws.1 to 17 were examined. Exs.P1 to 18 were marked. M.O.1 has also been marked. After the conclusion of the prosecution evidence, the accused were examined under section 313 CrPC qua the incriminating the evidence tendered against them by the prosecution witnesses and the accused had denied the same. No oral and documentary evidence has been adduced on the side of the accused and no material object has been marked on their side.

6. On a consideration of the materials placed on record, both oral and documentary, the Additional Sessions Court, Krishnagiri as aforesated, convicted the appellant (A1) under sections 498(A) and 306 IPC and sentenced him as aforesated and acquitted him of the remaining charges putforth against him as well as acquitted his parents of all the charges putforth against them. Impugning the conviction and sentence imposed on him by the Additional Sessions Court, Krishnagiri, the present Appeal has been preferred by the appellant.

7. From the materials placed on record, it is found that A1 got married to the deceased Manjula on 15.06.2008 and after marriage, they had been found to be living in the marital home of A1. Now according to the prosecution, A1 and his parents had been harassing the deceased by demanding her to provide dowry amount of an extent of Rs.50,000/- and on that score, according to the prosecution, they had been continuously, teasing, scolding and torturing the deceased and unable to

bear their harassment, it is putforth that the deceased Manjula committed suicide by hanging. The deceased is found to have died on 08.11.2008.

8. Inasmuch as the deceased is found to have sustained the death within seven years from the date of her marriage with A1 and as the appellant(A1) had been charged with the offences of demanding dowry and on that score causing cruelty to the deceased and subjected her to torture and harassment and thereby the deceased had ended her life by committing suicide, in the light of the abovesaid position, as rightly determined by the trial court, the prosecution should establish that soon before her death, the deceased must have been subjected to cruelty or harassment by her husband or any relative of the husband and such cruelty or harassment must be in connection with the demand for dowry.

9. As rightly pointed out by the trial court, considering the evidence of P.Ws1 to 3 namely the father, sister and mother of the deceased, it is found that there is no specific testimony on their part as to how much the accused had demanded as the dowry and when the said amount had been demanded by them and therefore, further when there is no clear evidence on the part of P.Ws1 to 3 as to when from the accused had been demanding dowry and only on that score the accused had been torturing the deceased and when the evidence with reference to the demand of dowry is found to be conspicuously absent in the evidence of P.Ws.1 to 3 and though in Ex.P1 complaint the accused are said to have demanded the dowry to an extent of Rs.50,000/- at the time of Deepavali function, however considering the evidence of P.W1, when he has deposed that during Deepavali function both the accused and the deceased came to his house and stayed for 2 to 3 days and thereafter the accused left her daughter in his house and went away, as rightly held by the trial court, P.W1 in particular has not deposed as to how much amount had been demanded by the accused as dowry and when they demanded the same and whether he had paid any amount to them and similarly the deceased sister Chandrammal P.W2 has also not stated in her evidence as to how much amount had been demanded by the accused as dowry and when they demanded the same. As regards the evidence of P.W3, she has not spoken anything about the same. Therefore the trial court has rightly concluded that from the evidence of P.Ws1 to 3 no conclusion could be arrived at that the accused had been demanding dowry from the deceased and on that score, committing cruelty on her as alleged by the prosecution.

10. However, as rightly putforth by the Government Advocate, considering the evidence P.Ws.1 and 2 in toto, it is found that the deceased had apprised P.W1 about the accused demanding the amount from her and that he had pacified her and

sent her to her in-laws house and again his daughter informed him about the fight which took place between her and her husband and his deceased daughter had also apprised the same to his elder daughter P.W2 and thereafter it had been informed by P.W.2 and when they went to see the deceased at her in-laws house, they showed her dead body. Similarly, P.W2 has also tendered evidence that she had been informed by the deceased of all the troubles faced by the deceased in her in-laws house and her father was unable to provide the amount demanded by the appellant/accused and her sister namely the deceased was necessitated to join in a garment company for a job and her sister had often apprised her of the ill-treatment caused to her by her husband that he used to beat her and she had pacified her sister and further, her deceased sister had also contacted her over telephone and informed that her husband has been regularly beating her and she had informed the deceased that she would come and meet her, after taking her child to the hospital and thereafter she was informed that her sister had died and immediately she had apprised the same to her parents and all came to know that the deceased had died by committing suicide. Therefore, from the abovesaid clear evidence of P.Ws1 and 2, it is found that the appellant, in particular had been harassing the deceased one way or the other and causing cruelty to her by demanding money and only on account of the same, it is found that the deceased had apprised the same to her father P.W1 as well as her sister P.W2 and therefore when there is a clear evidence adduced on the part of P.Ws1 and 2 that the deceased had been tortured by the appellant quite often and furthermore, when considering the injuries found on the dead body of the deceased as disclosed in the inquest report Ex.P.18, postmortem certificate Ex.P5, it is found that the various nail marks are noted on the body of the deceased and when P.Ws1 and 2 have also tendered evidence about the injuries noted on the body of the deceased and when the above injuries are found to be ante-postmortem injuries, accordingly, it is found that the same would have been caused to the deceased only on account of beating and torture caused to her by the appellant. Therefore, all the abovesaid factors would in toto go to establish that the deceased had been subjected to torture and cruelty by the appellant in particular and the same had forced her to take a call on her life and thereby committed suicide.

11. The argument that the injuries found on the body of the deceased are self inflicted injuries caused at the time of hanging as has put forth by the accused counsel, as such, cannot be countenanced, particularly, when the bangles worn by the deceased are found to be not broken. Therefore, as rightly determined by the trial court, the injuries noted on the body of the deceased would have been caused only due to the beating, torture and harassment caused to her by the appellant. In the light of the abovesaid factors, when there

is ample, clear, reliable and convincing evidence from the mouth of P.Ws1 and 2 with reference to the cruelty inflicted upon the deceased by the appellant prior to her death and when the cruelty caused to the deceased by the appellant fall within the purview of section 498(A)IPC, but, as above pointed out, when there is no clear evidence adduced by P.Ws.1 and 2 that the accused had demanded dowry as such, however when it is seen that the deceased had decided to put an end to her life on account of the torture and harassment caused to her by the appellant, particularly when the appellant had shown his true colour and started ill-treating her within a short time of the marriage, in such view of the matter, the deceased unable to bear his torture, is found to have hanged herself and died due to the same. In the light of the abovesaid factors, as rightly held by the trial court, though the offence of dowry death as contemplated under section 304(B) IPC has not been brought home by the prosecution, however, when it is seen that when the deceased is found to have been harassed and tortured by the appellant, the appellant is liable to be convicted for the offence under section 498-A IPC, though not under section 304-B IPC. Similarly, as held by the trial court, when the cruelty caused to the deceased has been clearly established as having occasioned only due to the ill-treatment and harassment caused to her by the appellant and thereby the deceased had been forced to commit suicide by hanging herself, in the light of the abovesaid factors, as determined by the trial court, by way of his conduct in torturing and harassing the deceased very immediately after the marriage, it is found that the appellant had abetted the commission of suicide of the deceased and in such view of the matter, as outlined by the Apex Court in various decisions, though a specific charge under section 306IPC has not been framed against the accused in the proceedings, still it is found that the Court is empowered to uphold the conviction of the accused under section 306 IPC instead of section 304-B IPC. In the light of the abovesaid factors, the trial court is found to be justified in holding that the accused is guilty of the offence under section 306 IPC also.

12. The counsel for the accused contended that there is a delay in the lodging of the F.I.R by P.W1 and further according to him, P.W1 has not lodged the complaint directly to the police. However considering the turmoil and sufferings suffered by P.W1, on hearing the death news of his daughter by hanging, one cannot expect him to come out of the said trauma immediately and rush to the police station to lodge a complaint. On the other hand, from the materials available on record, it is found that, P.W1 had chosen to lodge the complaint before the VAO and the VAO after recording the same is found to have forwarded the same to the police and the police on the strength of the said complaint, initiated the

investigation in the matter and as above pointed out, laid the final report against the accused. In the light of the abovesaid reasons, I am unable to accede to the arguments put forth by the accused counsel that there is a delay in the lodging of the F.I.R and on that score, the prosecution case should be thrown out.

13. The accused counsel further contended that the neighbors of the accused house had not been examined to sustain the torture and harassment alleged to have caused to the deceased by the accused. Though some residents had been examined, it is found that they have turned hostile. Be that as it may, considering the fact that P.Ws.1 and 2 have tendered clear evidence about the inflictment of the cruelty and torture caused by the accused on the deceased and when there is nothing brought home on the part of the accused during the cross examination of P.Ws.1 and 2 in support of the defence version, in such view of the matter, the mere failure of the prosecution to adduce the positive evidence of the neighbors, as such, cannot be held to have undermined the prosecution case.

14. It is not the case of the accused that the deceased is a hyper sensitive woman and unable to bear the ordinary petulance, discord and difference in domestic life and in such view of the matter, no liability could be fastened upon the appellant for the deceased committing suicide. However, when the evidence had been brought by the prosecution clearly that the deceased has been forced to put an end to her life only on account of the torture and cruelty inflicted upon her by the appellant and furthermore when the deceased has not shown to be a hyper sensitive woman and unable to tolerate the ordinary difference which could have occurred in the marital home between her and her husband/in-laws, in such view of the matter, the abovesaid contention put forth by the appellant's counsel does not merit acceptance.

15. In the light of the abovesaid factors, the principles of law outlined in the authorities relied upon by the accused counsel reported in

1. Crl.Appeal No.539 -540 of 2008 dated 26.04.2019 of Supreme Court of India [Jagdishraj Kkhatta Vs. State of Himachal Pradesh]

2. MANU/SC/0161/2011 in Crl.Appeal No.611 of 2011 dated 01.03.2011 of Supreme Court of India [M.Mohan Vs. The State rep. by The Deputy Superintendent of Police]

3. MANU/SC/7650/2007 in Crl.APPal No.720 of 2007 dated 14.05.2007 of Supreme Court of India [Bhagwan Das Vs. Kartar Singh and Others]

4. MANU/SC/1808/2009 in Cr1.Appeal No.2091 of 2009 dated 11.11.2009 of Supreme Court of India [Amalendu Pal Vs. State of West Bengal] are taken into consideration and followed as applicable to the case at hand.

16. In the light of the abovesaid reasons, the trial court is found to be justified in holding the appellant/A1 guilty of the offences under sections 498A and 306 IPC and the sentence imposed on the appellant by the trial court is also found to be not excessive. In view of the same, I do not find any valid reason to interfere with the conviction and sentence imposed on the accused/appellant by the trial court.

17. For the reasons aforesaid, the Criminal Appeal is dismissed and the trial court is directed to secure the appellant/A1 and commit him to prison to undergo the sentence imposed on him as per law.

Sd/-

Assistant Registrar(ADI-MDU)

//True Copy//

Sub Assistant Registrar

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To

1.The Additional Sessions Judge,
Additional Sessions Court,
Krishnagiri.

2.The Public Prosecutor,
High Court, Madras.

3.The Chief Judicial Magistrate,
Krishnagiri.

4.The Judicial Magistrate,
Denkanikottai.

5.The Deputy Superintendent of Police,
Thally Police Station, Thally,
Krishnagiri District.

6.The Superintendent of Central Prison,
Vellore.

+1cc to Mr.N.Mohideen Basha, Advocate SR.21882 (23/12/2020)

Cr1.A.No.403 of 2012

RSV(CO)
CB(09/07/2020)