

BAIL SLIP

The Appellant / Accused namely THADDI VENKATASURI APPARAO, S/o. Lokkanna was directed to be released on bail as per order of this Court dated 02/11/2012 in Crl.mp.No.1 of 2012 in Criminal Appeal No.748/2012 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.03.2020
PRONOUNCED ON : 16.03.2020

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

CRL A.No.748 of 2012

Thaddi Venkatasuri Apparao ... Appellant
Vs.

State Rep by
Asst. Commissioner of Police
MKB Nagar Range, Chennai ... Respondent

Prayer: Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code against the judgment in S.C.No.523/2010 dated 14.09.2012 passed by the Magalir Neethimandram, Chennai convicting and sentencing the appellant to 3 years R.I. and Rs.5,000/- fine for the offence u/s. 498-A IPC and 10 years RI and Rs.10,000/- fine for the offence u/s 306 IPC.

For Petitioner : Mr. S. Rajendra Kumar
for M/s. Norton and Grant
For Respondent : Mr. R. Ravichandran
Government Advocate (Crl. Side)

JUDGMENT

This Criminal Appeal is directed against the judgment dated 14.09.2012 passed in S.C.No.523/2010 on the file of Magalir Neethimandram, Chennai, convicting the appellant Under Section 498-A IPC and sentencing him to undergo Rigorous Imprisonment for 3 years and to pay a fine of Rs.5,000/-, in default, to undergo Simple Imprisonment for 3 months and Section 306 IPC and sentencing him to undergo Rigorous Imprisonment for 10 years and to pay a fine of Rs.10,000/-, in default, to undergo Simple Imprisonment for 6 months and the sentences of imprisonment imposed on the accused are ordered to run concurrently.

2. Shorn of unnecessary details, briefly stated, according to the prosecution case, the marriage between the deceased Sathyajothi and the accused took place on 06.05.2006 at Kothapalem village in Andhrapradesh. At the time of marriage, the father of the deceased Jagannatha Rao, presented 5 thula gold jewels to the accused (bride groom) and 20 thula gold jewels to the deceased Sathyajothi (bride) and also presented Rs.5,50,000/- and other seervarisai articles and the accused was working in the Petroleum Corporation Company at Manali and it is stated that after the birth of the first female child to the deceased and the accused, they set up the family at Chennai and the second female child born to the deceased and the accused, was a pre-matured baby and delivered at Vijaya Hospital and the accused had informed that a sum of Rs.1,05,000/- had been spent towards the medical expenses for the delivery of the second child and according to the prosecution, the father of the deceased had paid Rs.5,000/- and the company, where the accused had been working, had reimbursed an amount of Rs.1,00,000/- towards the medical expenses for the delivery of the second child at Vijaya Hospital. However, it is put forth that the accused had been insisting the deceased and her father P.W.2 to pay the sum of Rs.1,00,000/- despite the same having been reimbursed to him by the company and accordingly he had been repeatedly insisting his wife to prevail upon her father to pay the said amount and though at the first instance P.W.2, the father of the deceased, had resisted the abovesaid demand of the accused, however, later, had agreed to pay the amount in instalment. However, the accused had been inflicting cruelty and torture upon his wife and driving her to insist her parents to pay the said amount of Rs.1,00,000/- immediately and due to the mental agony caused to the deceased thereby, according to the prosecution, unable to bear the same, she was forced to commit suicide at her residence by hanging herself in the ceiling fan by using a nylon saree and died unnaturally within 7 years from the date of their marriage and thereby the accused had committed the offences punishable under Section 498-A and 306 IPC.

3. The criminal law had been set in motion in respect of the abovesaid case, based on the compliant lodged by P.W.1 Venugopal, the owner of the premises, where the accused and his wife had been living and the complaint given by P.W.1 has been marked as Ex.P1. P.W.8, Sub Inspector of Police, Kodungaiyur police station, on receipt of the complaint lodged by P.W.1, registered the case in Crime No.248 of 2010 under Section 174(3) Cr.Pc and the FIR has been marked as Ex.P8 and forwarded the FIR to the higher officials for further investigation and action.

4. On receipt of the FIR, P.W.10, Assistant Commissioner of Police took the case for investigation and prepared the Observation Mahazar and Rough Sketch, Exs.P9 and P10

respectively, in the presence of the witnesses and also recovered M.O.1, rose colour saree worn by the deceased under Ex.P11 Seizure Mahazar and made arrangements to send the body to the hospital for conducting postmortem. Inasmuch as the deceased had died within 4 years from the date of marriage, he had sent a requisition marked as Ex.P5 to the Personal Assistant to the District Collector to conduct inquest over the dead body of the deceased.

5. Following the abovesaid requisition, P.W.15, Subbulakshmi, Personal Assistant to the District Collector went to the Government Stanley Hospital and conducted the inquest on the dead body of the deceased Sathyajothi in the presence of her parents, husband and panchayatdars, recorded their statements and sent the body for postmortem and based on the information collected by her, concluded that the accused had been repeatedly demanding the deceased to fetch Rs.1,00,000/- towards the medical expenses incurred for the birth of the second female child and on account of the persistent demands put forth by the accused and thereby torturing her to obtain the said amount from her parents, determined that only due to the same, unable to bear the torture committed by the accused, the deceased had committed suicide and the Inquest Report prepared by P.W.15 has been marked as Ex.P6 and the Report prepared by her has been marked as Ex.P7.

6. Autopsy on the body of the deceased had been conducted by the medical officer examined as P.W.4 and the Postmortem certificate issued by him has been marked as Ex.P4, which states that the deceased appeared to have died of asphyxia due to hanging.

7. Following the receipt of the Inquest Report and the Enquiry Report of the Personal Assistant to the District Collector marked as Exs.P6 and P7, P.W.10, Assistant Commissioner of Police has altered the case into Section 306 and 498-A IPC and recorded the statements of the parents of the deceased and other witnesses and arrested the accused and after examining the Medical Officer and the other witnesses, concluded the investigation and laid the final report against the accused as above pointed out.

8. To sustain the charges put forth against the accused, the prosecution has examined P.Ws.1 to 10 and marked Exs.P1 to P12 and M.O.1 has also been marked. After the conclusion of the prosecution evidence, the accused was examined under Section 313 Cr.P.C qua the incriminating evidence tendered by the prosecution witnesses and the accused had denied the same. The accused had examined D.Ws.1 to 3 in support of his defence version and according to the accused, he had not committed any torture and cruelty on the deceased insisting her to fetch Rs.1,00,000/- towards the medical expenses for the delivery of the second female child. According to him, the abovesaid amount had been agreed to be paid voluntarily by the parents

of the deceased, therefore, he has not committed the offences levelled against him.

9. On an appreciation of the material placed on record, both oral and documentary, the trial court was pleased to convict and sentence the accused as aforesaid. Impugning the same, the present Criminal Appeal has been preferred by the accused.

10. From the materials placed on record, it is found that the marriage between the deceased Sathyajothi and the accused had been celebrated on 06.05.2006 at Kothapalem Village in Andhrapradesh. It is not in dispute that at the time of marriage, the parents of the deceased had presented 20 thula gold jewels to the deceased and 5 thula gold jewels to the accused and also gave Rs.5,50,000/- and it is seen that, out of the abovesaid amount, Rs.1,50,000/- was spent towards the marriage and Rs.4,00,000/- had been utilised by the accused for purchasing a site. The same had been admitted by the accused himself during the enquiry conducted by the Personal Assistant to the District Collector and thus it is found that dowry had been presented to the accused at the time of marriage. No doubt, it is seen that the abovesaid dowry had been presented to the accused and his wife (deceased) by the parents on their own accord. It is found that at the time of marriage, the deceased was working in ISRO, Sriharikota and he set up his family at Sulturpet. Out of the wedlock, it is further noted that, the deceased gave birth to a female child. It could be seen from the materials placed on record, particularly, the evidence of P.Ws.2 and 3, the birth of the female child to the deceased was not to the taste and liking of the accused. As could be seen from the materials available on record, after the birth of the first female child, the accused and his family members had not visited the deceased immediately and they had proceeded to take back the deceased nearly 11 months after the birth and according to the prosecution, even at that point of time, the parents of the deceased had presented certain seer and the same had also been stated by P.W.2 during the enquiry before the Personal Assistant to the District Collector and thus it is found that, by and large, the accused had been demanding money from the parents of the deceased one way or the other and the parents had also been obliging to his demands with a view to ensure that the life of their daughter is peaceful and happy with the accused. It is found that, subsequently, the accused had resigned his job from ISRO and joined in a company at Chennai and thereby set up his family at Chennai. According to the prosecution, the same had been done by the accused without even informing to the parents of the deceased. Be that as it may, when the deceased had committed suicide, it is seen that she and the accused were living at Chennai. At Chennai, it is found that the deceased got conceived again and from the materials placed on record, it is found that the second female child born to the deceased was a pre matured baby which was

not to the desire and preference of the accused and accordingly, it is found that the accused was not in a happy mood after the birth of the second female child. It is further noted that a sum of Rs.1,05,000/- had been incurred towards the medical expenses for the birth of the second female child and it is seen that Rs.5,000/- had been advanced by P.W.2, father of the deceased, and Rs.1,00,000/- was reimbursed to the accused by the company where he had been working. Now according to the prosecution, though the company had reimbursed the said amount of Rs.1,00,000/- to the accused, still the accused had been insisting the deceased and her parents to pay the said amount of Rs.1,00,000/- as according to the accused, the amount reimbursed by his company is only his money and accordingly it is the case of the prosecution that the accused had been persistently and continuously nagging and demanding the deceased to fetch Rs.1,00,000/- from her parents and accordingly, it is found that the deceased had also been repeatedly requesting her parents to pay the said amount in order to satisfy her husband and it is further noted that the parents of the deceased had agreed subsequently to pay the said amount, however, in instalments. On the other hand, inasmuch as the accused had been insisting for the payment of the said amount immediately and it is also seen that the accused had also directly called upon the parents, particularly P.W.2, to pay the amount immediately over telephone and the same had also been reiterated by the daughter informing that if the amount is not paid, her life would become miserable and also apprised her parents that the accused had been torturing and ill treating her by demanding the said amount and the facts being above, it is found that unable to bear the torture committed by the accused, the deceased is found to have committed suicide by hanging in her house and died thereby.

11. As regards the continuous demand made on the part of the accused, particularly, the medical expenses incurred towards the birth of the second female child amounting to Rs.1,00,000/-, it is found that though the amount had been reimbursed by the company where the accused had been working, still the accused is found to have insisted the payment of the said amount by the deceased and her parents. From the statement given by the accused to the Personal Assistant to the District Collector, it is found that the accused had admitted that he had directed his father in law to pay the said amount. However, according to him, inasmuch as his father in law on his own accord had agreed to pay the said amount, he had been requesting him to pay the said amount. By way of the same, according to the accused, there is no compulsion or force exercised by him demanding his father in law to pay the said amount. However, as could be seen from the evidence of P.Ws.2 and 3, the accused had been nagging and torturing his wife one way or the other insisting upon her to fetch a sum of Rs.1,00,000/- from her parents and also the deceased unable to bear the torture inflicted upon her by the accused, had been

requesting her parents to part with the said amount and the same had been conveyed by the deceased to her parents over telephone and at that point of time the deceased had been apprising her parents about the ill treatment and cruelty perpetrated by her husband, the accused, and that she was unable to bear the same and therefore, as rightly found and held by the trial court, considering the evidence of P.Ws.2 and 3, the parents, and particularly when they had given the statement to that effect to the Personal Assistant to the District Collector as well as to the Assistant Commissioner of Police with reference to the continuous demand of Rs.1,00,000/- on the part of the accused from them and his wife, the deceased, and the torture and cruelty inflicted upon the deceased by the accused on account of the same and accordingly, when the abovesaid aspects of the matter had been clearly spelt out by P.Ws.2 and 3 even during the enquiry conducted by the Personal Assistant to the District Collector and as above pointed out, the accused had also admitted before the Personal Assistant to the District Collector with reference to his direction to P.W.2 to pay the said amount and when the deceased had conveyed the insistence of the accused in getting the amount one way or the other from her parents and the same having been conveyed by the deceased to her parents over telephone and thereby expressed the difficulty she had been experiencing at the hands of the accused as well as the cruelty caused to her by the accused by ill treating, torturing and beating her and as rightly pointed and noted by the trial court, when the panchayat members examined by the Personal Assistant to the District Collector had also tendered statement to the effect particularly the deceased having conveyed the difficulty experienced at the hands of the accused on account of his persistent demand to pay the sum of Rs.1,00,000/- from her parents, in such view of the matter, the trial court, in my considered opinion, is justified in relying upon the evidence of P.Ws. 2 and 3 in coming to the conclusion that the deceased had suffered ill treatment, harassment and torture by the accused by continuous and persistent demand of the payment of Rs.1,00,000/- incurred towards the medical expenses of the birth of the second child and though the parents had agreed to pay the said amount, however, in instalments, still not satisfied with the same and when it is noted that the accused had been insisting the payment of Rs.1,00,000/- immediately in one lumpsum, in such view of the matter, it is found that on account of the continuous nagging, cruelty and torture inflicted by the accused, unable to bear the torture committed by him, the deceased had decided to end her life and accordingly committed suicide by hanging.

12. If really, as put forth by the counsel for the accused, the deceased and the accused had been leading a peaceful life after the birth of the second female child, as to why the deceased had chosen to end her life by hanging, has not been properly explained by the accused. As regards the

untimely death of the deceased by hanging in her house, that too, after the birth of the second female child, no valid and acceptable defence had been put forth by the accused with reference to the same and the accused having only averred that he had not committed any torture or cruelty qua the obtainment of Rs.1,00,000/- incurred towards the medical expenses, however, when as above pointed out, P.Ws.2 and 3 have tendered clear evidence with reference to the same and in addition to that when the accused himself had admitted before the Personal Assistant to the District Collector that he had also directed P.W.2 to part with the said amount, though the accused would further add that the said amount had been agreed to be paid by P.W.2 voluntarily, however, considering the version of P.Ws.2 and 3 when it is seen that they had agreed to part with the said amount in the event of the company not reimbursing the same, however, when the materials placed on record go to disclose that the company had reimbursed the said amount, despite the above position, the insistence and conduct of the accused in directing P.W.2 to pay the said amount to him would only go to show the avarice and greediness in grabbing the maximum amount from the parents of the deceased one way or the other and despite the position being that the parents of the deceased had agreed to pay the said amount in instalments, as the accused had insisted the payment in one lumpsum immediately and on that score, is found to have been torturing and ill treating her wife continuously and repeatedly and the same had also been conveyed to the parents by the deceased over telephone by expressing her difficulties at the hands of the accused, we could visualise the situation the deceased had been pushed to and therefore, to say that there has been no ill treatment and cruelty inflicted upon the deceased by the accused and P.Ws.2 and 3 have given improved version and evidence than what had been stated by them to Personal Assistant to the District Collector and the Investigation Officer, as such, cannot be accepted. If really P.Ws.2 and 3 had tendered evidence improving their case and by giving a new version during the course of trial, the accused would have endeavoured to cross examine P.W.5, Personal Assistant to the District Collector as well as Assistant Commissioner of Police P.W.10 with reference to the same and on the other hand, it is found that absolutely no cross examination had been made by the accused with reference to the alleged embellishments and improvements said to have been made by P.Ws.2 and 3 during the course of evidence. On the other hand, it is found that P.Ws.2 and 3 had only reiterated as regards the demand of Rs.1,00,000/- by the accused from their daughter and the torture inflicted upon their daughter by the accused on account of the same and in such view of the matter, the argument put forth by the counsel for the accused that the improved versions of P.Ws.2 and 3 during the course of trial cannot be the basis for sustaining the conviction of the accused, as such, cannot be made applicable to the case at hand.

found that the torture and cruelty inflicted upon the deceased by the accused had also been spoken to by P.W.6 Venkatareddy and from the evidence of P.W.6, it is found that the accused had been repeatedly and persistently nagging his wife one way or the other to fetch Rs.1,00,000/- from her parents and the deceased had conveyed the cruelty inflicted upon her by the accused with reference to the same to her parents over telephone and the abovesaid aspects had also been spoken to by the brother of the deceased examined as P.W.7 and therefore, it is found that the trial court had also placed reliance upon the evidence of P.Ws.6 and 7 as corroborating to the evidence of P.Ws.2 and 3 and considering the evidence of P.Ws.2,3,6 and 7 in toto, coupled with the evidence of P.W5, Personal Assistant to the District Collector and her report marked as Ex.P7, in all, it is found that the trial court is justified in coming to the conclusion that the deceased had been subjected to cruelty at the hands of the accused as contemplated under Section 498-A IPC by repeatedly and persistently demanding her to fetch Rs.1,00,000/- from her parents and despite the parents of the deceased having admitted to pay the said amount in instalments, the accused still not being satisfied with the above, as he had continued the cruelty towards his wife in fetching the said amount in one lumpsum and as her parents were unable to satisfy the abovesaid need of the accused immediately and on the other hand as the torture and cruelty of the accused on the deceased did not abate and on the other hand continued, as rightly held by the trial court, unable to bear the torture, the deceased had chosen to end her life and resultantly hanged herself to death in the house. The postmortem certificate marked as Ex.P4 and the evidence of Medical officer would go to show that the deceased had died only due to asphyxia on account of hanging. If really the marital life between the deceased and the accused had been smooth and cordial particularly, the deceased, having given birth to the second female child, would not have chosen to end her life by committing suicide and on the other hand inasmuch as the torture inflicted upon by her by the accused has gone to such a level, it is noted that she had decided to meet her fate and committed suicide and in such view of the matter, the trial court is found to have rightly determined that it is only the accused who had abetted the commission of suicide of the deceased by inflicting cruelty upon her as above pointed out.

14. In support of the defence version, the accused had chosen to examine three witnesses as D.Ws. 1 to 3. However, considering the evidence of D.W.1, it is found that he had mediated between the accused and the parents of the deceased over the return of the dowry to the parents of the deceased after the demise of the deceased and considering his evidence, it is found that even during the course of chief examination, he had accepted that he had been informed by P.W.2 that his daughter had been put to death and considering the evidence adduced by him during the course of cross examination, when he

had pleaded ignorance about the dowry presented by P.Ws.2 and 3 to the deceased at the time of marriage and also admitted that he does not know the marital life between the deceased and the accused and also pleaded ignorance about the cruelty and ill treatment inflicted upon the deceased by the accused and in particular pleaded complete ignorance about their marital life at Chennai, in such view of the matter, the evidence of D.W.1 would not, in any manner, advance the defence version put forth by the accused that he had not committed the offence levelled against him.

15. Similar is the evidence of D.W.2 and when D.W.2 has admitted that he does not know as to how they had been living at Chennai, in such view of the matter, when the entire problem had erupted between the parties only at Chennai, in such view of the matter, the evidence of D.W.2 would be of no use to sustain the defence case.

16. D.W.3, Yuvaraj, would claim that he has knowledge about the life led by the deceased and the accused at Chennai. However, he would also admit that only his mother used to have converse with the deceased and when D.W.3 is not claimed to have any direct contact with the deceased, in such view of the matter, his evidence could only be treated as hearsay evidence as having been informed to him by his mother and therefore, the trial court is justified in not relying upon the evidence of D.W.3 for holding that the life between the deceased and the accused had been cordial and smooth as sought to be projected by the accused. In all, it is found that the evidence of D.Ws.1 to 3 would not be of any use to sustain the defence version and rightly not taken into consideration by the trial court.

17. The counsel for the accused would contend that there is no proof on the part of the prosecution to hold that it was the accused who had abetted the commission of her suicide and according to him as to the proof of the ingredients of Section 306 IPC, the courts had been repeatedly holding that the entire facts and circumstances and the evidence adduced before it should be analysed before holding whether the accused had committed cruelty and harassment meted out to the victim and thereby the victim, with no other alternative, had decided to put an end to her life and in this connection placed reliance upon the following decisions reported in

- 1) CDJ 2018 MHC 7317 (Sasikumar vs. State rep. by Deputy Superintendent of Police).
- 2) CDJ 2009 SC 1210 (Manju Ram Kalita vs. State of Assam).
- 3) CDJ 2001 SC 566 (Satvir Singh vs. State of Punjab & another).
- 4) CDJ 2010 SC 1042 (Dr. Sunil Kumar Sambhudayal Gupta & others vs. State of Maharashtra).
- 5) CDJ 2009 SC 1974 (Amalendu Pal @ Jhantu vs.

State of West Bengal).

6) CDJ 2020 BHC 306 (The State of Maharashtra vs.
Rasul Ganibhai Shaikh (Desai) & others).

The principles of law outlined in the abovesaid decisions with reference to the factors to be taken into consideration for arriving at the guilt of the accused under Section 498-A and 306 IPC, the same are applied to the case at hand as applicable and resultantly considering the evidence of P.Ws.2, 3, 6 and 7 in toto and considering the untimely demise of the deceased and when there is no plausible explanation offered by the accused with reference to her death, that too, after the birth of the second female child, in all, it is found that the deceased had decided to put an end to her life only on account of the cruelty and ill treatment caused to her by the accused by his continuous and persistent demand of Rs.1,00,000/- incurred towards the medical expenses of the second female child and unable to bear the said torture, the deceased having decided to commit suicide, in such view of the matter, the determination of the trial court that the accused had committed the offences punishable under 498-A and 306 IPC do not warrant any interference and furthermore, considering the sentence imposed on the accused by the trial court, the same also does not call for any interference.

18. In the light of the abovesaid discussions, this Criminal Appeal is dismissed and the trial court is directed to secure the presence of the accused to undergo the sentence imposed on him as per law.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

Bga

To

1.The Sessions Judge,
Magalir Neethimandram, Chennai.

2. The X Metropolitan Magistrate,
Egmore, Chennai.

3. The Chief Metropolitan Magistrate,
Egmore, Chennai (For Information)

4. The Public Prosecutor,
High Court, Chennai.

5. The Assistant Commissioner of Police,
MKB Nagar, Range, Chennai.

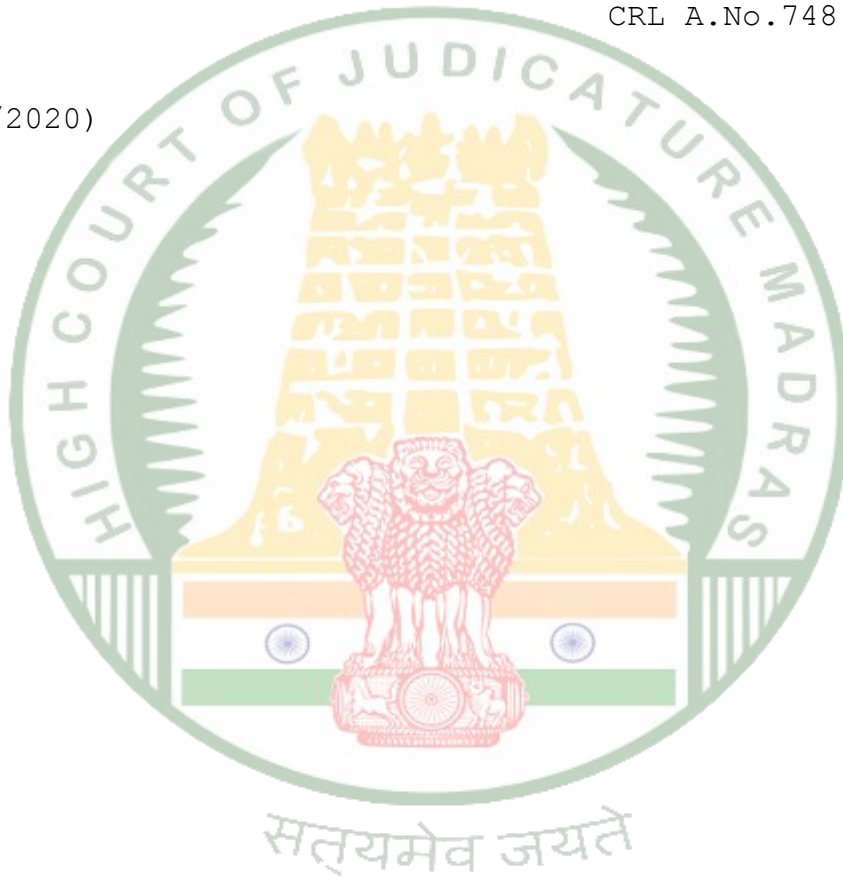
6. The Superintendent
Central Prison, Puzhal.

7. The Section Officer,
Criminal Section
High Court Madras - 104

+2cc to M/s.Norton & Grant, Advocate, SR. No. 22976

CRL A.No.748 of 2012

VSNI (CO)
RMP (17/07/2020)



WEB COPY