

Bail Slip

The Appellant in Crl.A.No.373 of 2013 viz., Susila, W/o.Purushothaman, aged about 60 years was directed to be released on bail as per order of this Court dated 22.05.2013 made in MP.No.1 of 2013 in Crl.A.No.373 of 2013.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2020

CORAM :

THE HONOURABLE Mr.JUSTICE P.N. PRAKASH

Crl.A.No.373 of 2013

Susila Appellant

Vs.

The State rep by
Inspector of Police,
S-6, Shankar Nagar Police Station,
Chennai - 600 076. Respondent

Prayer : Criminal Appeal filed under Section 374(3) Cr.P.C., praying to set aside the judgment of conviction and sentence dated 17.05.2013, passed by the Sessions Judge, Mahila Court, Chengalpattu, in S.C.No.99 of 2011.

For Appellant : No Appearance

For Respondent : Mrs. Kritika Kamal. P.
Government Advocate (Crl. Side)

J U D G M E N T

This Criminal Appeal has been filed to set aside the judgment of conviction and sentence, dated 17.05.2013, passed by the Sessions Judge, Mahila Court, Chengalpattu, in S.C.No.99 of 2011.

2. It is the case of the prosecution that the appellant was running chit transactions and the deceased Amutha, who was her daughter-in-law, joined the chit and was paid Rs.50,000/-. When Amutha wanted the appellant to return the amount, the appellant was evading, due to which, frequent quarrels arose between them. It is alleged that one such quarrel arose on

16.09.2008, in which, the appellant is said to have abused Amutha, unable to bear it, Amutha doused herself with kerosene in the bathroom of her house and committed self immolation. Amutha was rushed by her neighbour Vijayalakshmi to the nearby Government Hospital at Tambaram, where she was examined by Dr.Bhuvaneswari (PW-8), who gave her first aid vide Ex.P7 and referred her to the Government Hospital, Kilpauk for further treatment. Amutha was taken to Kilpauk Government Hospital, where she was examined by Dr.Rajasekaran (PW-6), who noted the injuries found on her in the accident register, a copy of which was marked as Ex.P5 and admitted her to the burns ward. On getting information, Deivasigamani (PW-11), Inspector of Police went to the burns ward and recorded the statement (Ex.P11) of Amutha and registered a case in Crime No.628 of 2008 on 16.09.2008 at 23.00 hours and prepared the printed First Information Report (Ex.P12). At the request of the police, Vijayakumar (PW-9), XXIII Metropolitan Magistrate, Chennai recorded the dying declaration (Ex.P9) of Amutha in the hospital in the presence of Mr.Ahamed Rafeeq Meeran (PW-10), who certified that Amutha was conscious and fit to give statement. Amutha succumbed to injuries on 17.09.2008 at 2.30.a.m, pursuant to which, the case was altered from one under Section 309 IPC to Section 306 IPC against the appellant vide alteration report (Ex.P13). Inquest was conducted over the body of the deceased and the inquest report was marked as Ex.P17.

3. Dr.Madavan (PW-7) performed autopsy on the body of the deceased and in his evidence as well in the postmortem certificate (Ex.P6) has opined that the deceased would appear to have died of hypovolumic shock due to burns. It may be relevant to state that Amutha suffered 85% burns as could be seen from Ex.P7. During the course of investigation, the police prepared the observation mahazar (Ex.P14) and rough sketch (Ex.P15). They also seized a plastic kerosene cane (M.O.1) under mahazar (Ex.P16).

4. After recording the statement of witnesses and collecting various reports, the police completed the investigation and filed a final report in PRC.No.50 of 2010 in the Court of the Judicial Magistrate, Tambaram for the offence under Section 306 IPC against the appellant. The case was committed to the Court of Session in SC.No.99 of 2011 and was made over to the Mahila Court, Chengalpattu for trial. The Trial Court framed a charge under Section 306 IPC and when questioned, the appellant pleaded 'not guilty'.

5. The prosecution examined 11 witnesses, marked 17 exhibits and one material object. When the appellant was

questioned under Section 313 Cr.P.C on the incriminating circumstances appearing against her, she denied the same. No witness was examined from the side of the appellant nor any document marked.

6. After considering the evidence on record and hearing either side, the Trial Court, by judgment and order dated 17.05.2013, in S.C.No.99 of 2011, convicted the appellant of the offence under Section 306 IPC and sentenced her to five years Rigorous Imprisonment and to pay a fine of Rs.3,000/-, in default, to undergo Rigorous Imprisonment for six months. Challenging the aforesaid conviction and sentence, the appellant is before this Court.

7. This Court suspended the sentence and released the appellant on bail in Crl.M.P.No.1 of 2013 dated 22.05.2013.

8. No representation for the appellant. Heard Mrs.P.Kritika Kamal, learned Government Advocate (Crl. Side) for the respondent and perused the records.

9. The prosecution has proved beyond cavil the following facts:-

a. Amutha got married to Venkatesan sometime in the year of 1988 and the couple were blessed with two daughters, Mahalakshmi, (19 years) (PW-1), Pavithra (6 years) and were living in Door No.27, 4th Street, Adam Nagar, Pammal;

b. Venkatesan was a Tailor;

c. The appellant is the mother-in-law of Amutha and she was living separately nearby;

d. Amutha committed self immolation on 16.09.2008 in her house and died on 17.09.2008.

10. The short question is, whether the appellant had abetted the suicide of Amutha.

11. It is pertinent to state that Mahalakshmi (PW-1), Amutha's daughter did not support the prosecution case. Similarly, Suryakala (PW-2), Sister of Amutha and Vijayalakshmi (PW-3), Sister-in-law of Amutha also turned hostile and did not support the prosecution case. Therefore, we are left with only the two dying declarations of Amutha viz., the one given to the police (Ex.P11) and the other given to the Magistrate (Ex.P9). In Ex.P11, Amutha has stated about her family details and has further added that her mother-in-law was running chit transaction in that area; she had joined a chit and paid upto Rs.50,000/- without the knowledge of her husband; her mother-in-law was not returning the amount; they used to frequent quarrel

in this regard; on 16.09.2008 around 4.p.m her mother-in-law abused her and exhorted her to die and therefore, she committed self immolation. In the dying declaration recorded by the Magistrate, Amutha has not stated any other story, but has simply said that she had quarrels with her mother-in-law during the last one week and so she committed self immolation. Mahalakshmi (PW-1), in her evidence, has stated that her mother had joined a chit for Rs.20,000/- with her grand mother (Appellant) and that money was used for her (PW-1's) marriage. In this case, the suicide of Amutha was not within seven years of marriage and hence the presumption under Section 113A of The Evidence Act cannot be invoked.

12. Therefore, this Court is left with only the two dying declarations, which have been alluded to above. A reading of the dying declarations show that the mother-in-law and the daughter-in-law were having financial dealings without the knowledge of Venkatesan, on account of which, there were frequent quarrels between them. As a fall out of one such quarrel, on 16.09.2008, Amutha doused herself with kerosene and committed self immolation. There is absolutely no shred of evidence except the averment in the dying declaration that the appellant asked her to die, to show that the appellant had abetted the suicide of Amutha.

13. In the result, this Criminal Appeal is allowed and the judgment of conviction and sentence dated 17.05.2013 in SC.No.99 of 2011 passed by the learned Sessions Judge, Mahila Court, Chengalpattu, is set aside. The appellant is acquitted of the charge for the offence under Section 306 IPC. Fine amount, if any paid by the appellant, shall be refunded to her. Bail bond, if any, executed by the appellant, shall stand discharged.

Sd/-

Assistant Registrar(C.S.VI)

/True Copy/

Sub Assistant Registrar

To

1.The Sessions Judge,
Mahila Court,
Chengalpattu.

2.The Judicial Magistrate,
Tambaram.

3.The Chief Judicial Magistrate,
Chengalpattu.

4.The Inspector of Police,
S-6, Shankar Nagar Police Station,
Chennai - 600 076.

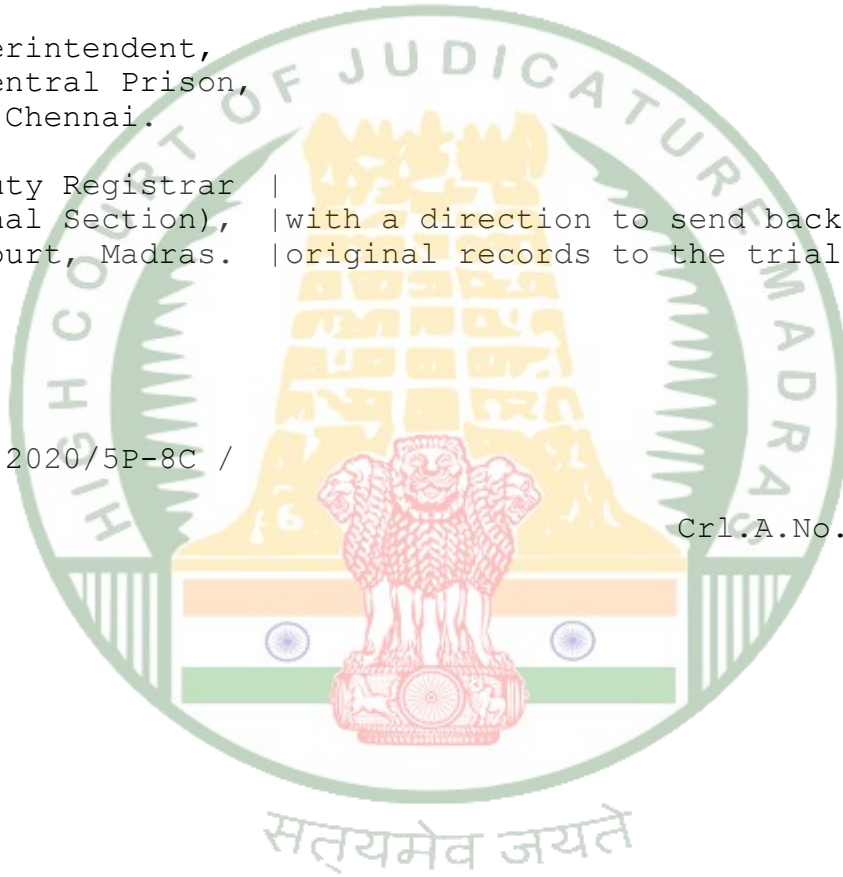
5.The Public Prosecutor,
High Court, Madras.

6.The Superintendent,
Women Central Prison,
Puzhal, Chennai.

7.The Deputy Registrar |
(Criminal Section), |with a direction to send back the
High Court, Madras. |original records to the trial Court

AKM/12.03.2020/5P-8C /

Cr1.A.No.373 of 2013



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