

BAIL SLIP

That the Appellant/Accused namely Satheesh S/o.Sivasankaran was released on bail as per order of this court dated 28.04.2014 in MP.No.1/2014 in Crl.A.No.248/2014.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.03.2020

PRONOUNCED ON : 04.06.2020

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

CRL A.No.248 of 2014

Satheesh

...Appellant

Vs.

State Rep by
The Inspector of Police
Ranipet All Women Police Station
Ranipet, Vellore District .

..Respondent

Prayer: Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code against the conviction and sentence passed in the judgment in S.C.No. 10 of 2013 dated 16.04.2014 on the file of the learned Sessions Judge, Mahila Court (FTC), Vellore vindicating him u/s 498-A of IPC.

For Petitioner : Mr. K.G. Senthilkumar

For Respondent : Mr. R. Ravichandran
Government Advocate (Crl. side)

JUDGMENT

The Sessions Judge, Mahila Neethi Mandram, Vellore, by judgment dated 16.04.2014 in SC No.10/13 has convicted the appellant / accused under Section 498-A IPC and sentenced him to undergo Rigorous Imprisonment for two years and to pay a fine of Rs.5,000/-, in default, to undergo Simple Imprisonment for 6 months and acquitted him of the offences under Sections 509 and 307 IPC. Challenging the same, the Criminal Appeal has been preferred by the appellant.

2. Briefly stated, according to the prosecution case, the accused is residing at No.5, M.S.M. Complex, 2nd floor, Kandasamy Mudali Street, Ranipet, and P.W.1 Jayanthi is his wife and the

marriage between the accused and P.W.1 took place on 19.02.2012 at Tirutani and after the marriage they were residing at Ammoor and P.W.1 was ill-treated by the accused on several occasions asking her to settle the loan borrowed by the accused and after 25.04.2012, while the accused and P.W.1 were residing at Ranipet |Erikarai street, the accused again ill treated her by demanding jewels and money on several occasions for starting computer training classes, purchase of television and also to settle the loans and in the course of the same transaction, on 03.05.2012 at 9.00 p.m. the accused with intent to demand money from P.W.1 abused her with filthy language and caught hold of her tuft and voluntarily assaulted her by hand and caused hurt on her hand and face and intimidated her by saying "உன்னை ஒழிக்காமல் விடமாட்டேன்; " and pressed her neck and attempted to murder her by suffocating her, accordingly it is put forth that the accused had committed the offences punishable under Sections 509, 498-A and 307 IPC.

3. The criminal law had been set in motion based on the complaint lodged by P.W.1 on 08.05.2012 marked as Ex.P1 at Ranipet All Women Police Station and it is found that P.W.1, for the injuries sustained by her, had taken treatment at Walajabad Government Hospital and P.W.5, Dr. Geetha of Walajabad Government Hospital who had treated P.W.1 noticed the following injuries

1. sutured 1/2 cm laceration above left eye brow,
- 2) multiple linear, parallel abrasions (nail marks) in the right side of the neck and
- 3) 2 x 1/4 cm parallel contusions (3 in numbers) on left arm and thereafter referred her to the dentist for noting whether she had sustained any fracture in her jaw and the dentist took x-ray and opined that there is no bone fracture and accordingly, the wound certificate was issued by P.W.5 describing the injuries sustained by P.W.1 as simple in nature. On receipt of the complaint from P.W.1, P.W.6, the inspector of police registered the case and prepared the printed FIR marked as Ex.P3 and visited the scene of occurrence, examined the various witnesses and recorded their statements and thereafter, arrested the accused and sent him to judicial custody and after examining the medical officer and after obtaining the records pertaining to the case, concluded the investigation and laid the final report against the accused as aforesaid.

4. To sustain the prosecution case, P.Ws.1 to 6 were examined, Exs.P1 to P3 were marked, no M.O. has been marked. On the conclusion of the prosecution evidence, the accused was examined under Section 313(1)(b) of Cr.P.C with regard to the

incriminating evidence tendered against him by the prosecution witnesses and the accused had denied the same and put forth that the case has been falsely foisted against him to wreak vengeance. On the side of the accused no oral evidence has been adduced and no M.O., has been marked.

5. On an appreciation of the materials placed on record, both oral and documentary, the trial court was pleased to convict and sentence the accused as aforestated under Section 498-A IPC and acquitted him of the offences under Sections 509 and 307 IPC. Challenging the conviction and sentence imposed on him, the present Criminal Appeal has been preferred by the accused.

6. From the materials placed on record, it is found that the accused and P.W.1 were married on 19.02.2012 at Thiruthani and at the time of marriage, the parents of P.W.1 had presented 15 sovereigns of jewels to her and 2 sovereigns to the accused and after the marriage, both were residing at Ammoor village for a short period. It is found that even there, according to the prosecution, the accused had ill treated P.W.1 asking for her jewels to settle his loan. Therefore, it is found that P.W.1 went to her parent's house and following the compromise entered into between the parties, it is found that, thereafter, the accused and P.W.1 set up their residence at Erikarai Street, Ranipet and even thereafter, as the accused persistent in demanding more money in a sum of Rs.1,00,000/- from P.W.1 to purchase LCD TV for his computer centre and also to settle his loan and thereby started abusing her and also assaulting her and further intimidated her that he would finish her and thereby attempted to murder her, thus, it is put forth that the accused had committed the offences leveled against him.

7. To sustain the case of the prosecution, the wife of the accused had been examined as P.W.1 and P.W.1 Jayanthi has stated about the ill treatment and torture made by the accused demanding money for settling his loan and also for the purchase of computer both at Ammoor and Ranipet and according to her, on the date of occurrence, the torture of the accused became worse and according to her, demanding money and jewels, the accused assaulted and attacked her with hands and caught hold of her tuft, dashed her head against the wall and she has sustained injuries on her left eye-brow and also the accused threatened her that he would burn her alive and also ascertaining whether she is breathing or not, continued to attack and assault her and when she attempted to escape from his clutches, the accused caught hold of her hands firmly and thereby she had sustained injuries on her neck due to the nail scratches and thereafter,

she escaped from him and ran out of the house and her neighbours helped her and thereafter, she was taken to the hospital for treatment. Considering the evidence adduced by P.W.1 and when P.W.1 had also asserted the incident during the course of cross examination and when nothing has been culled out from her to discredit her evidence during the course of cross examination on the part of the accused and when the evidence of P.W.1 regarding the demand of jewels and money from her had also been corroborated by the evidence of the father of P.W.1, examined as P.W.2, and the sister of P.W.1 examined as P.W.3, in toto, as held by the trial court, considering the evidence of P.Ws.1 to 3 together would go to reveal that right from the date of marriage, the accused had been insisting P.W.1 to give her jewels and bring money for settling his loan and also for purchasing LCD TV, etc., and torturing her one way or the other and on the date of occurrence, he had even gone to the extent of attacking and assaulting her physically and accordingly, it is found that P.W.1 had sustained injuries on her body and it is further noted that P.W.1 had been intimidated by the accused and also the accused attempted to murder her by dashing her head against the wall and finally P.W.1 was able to escape from his clutches and run out of the house and saved by her neighbours and taken to the hospital for treatment. In the light of the abovesaid factors, considering the testimony of P.Ws.1 to 3, as held by the trial court, the accused had been torturing P.W.1 by persistently and continuously demanding her to fetch jewels and money for his requirements and for settling his loan and therefore, the conclusion of the trial court that the accused has committed cruelty on P.W.1 is not liable to be interfered with in any manner.

8. To sustain that P.W.1, on account of the attack and assault committed on her by the accused, has sustained injuries, the prosecution has examined the medical officer as P.W.5 and considering the wound certificate issued by P.W.5, as above pointed out, it is found that P.W.5 has noted injuries on her body and the injuries sustained by her also correspond to the attacks inflicted upon her by the accused, thus, it is seen that the accused had not only given physical torture upon P.W.1 by demanding jewels and money from her but also caused mental agony and torture on her by demanding amount and jewels from her. Therefore, the evidence of the medical officer P.W.5, the wound certificate Ex.P2 also corroborate the occurrence as spoken to by P.W.1 and therefore, it is seen that the prosecution has established the case of cruelty committed by the accused on P.W.1 both physically and mentally by demanding jewels and money from her.

9. It is mainly contended by the counsel for the accused that with reference to the demand of jewels and money from P.W.1, no independent witness has been examined on the side of the prosecution and only P.Ws.1 to 3 were examined and according to him, P.W.4 did not support the prosecution case and therefore, the prosecution case should be disbelieved. However, as rightly contended by the Government Advocate, in the case of matrimonial disputes, normally, only the victim and the relatives would come forward to speak about the incident which occurred in the matrimonial home for one reason or the other and in such view of the matter when P.Ws.1 to 3 have clearly spoken to about the offences committed by the accused by demanding jewels and money from P.W.1 and causing her physical and mental cruelty, in my considered opinion and also as rightly held by the trial court, the non examination of independent witness by itself would not dis credit the prosecution case.

10. According to the prosecution, the occurrence took place on 03.05.2012 at Ranipet. No doubt, the complaint has been lodged by P.W.1 on 08.05.2012. Now, according to the counsel for the accused, there is a huge delay in the lodgement of the complaint and on that score alone, the prosecution case should be rejected. Considering the evidence of P.W.1, it is found that after escaping from the clutches of the accused and running out of the house, according to P.W.1, her neighbours saved her and took her to hospital for treatment and on the information being passed on to her parents, her parents and sister came and took her to Walajah hospital for treatment and thereafter, they took her to Chengalpattu for treatment and after taking treatment according to P.W.1, she had lodged the complaint on 08.05.2012, marked as Ex.P1. She also asserted about the same during the course of cross examination and she would state that after escaping from the house, her neighbours took her to a private clinic in an autorickshaw and she had not disclosed the incident to the police on that night and thereafter when she was taken to Walajabad hospital she has not informed to the police and according to her she has taken treatment in Walajabad hospital only as out patient and thereafter, according to her she had proceeded to Chengalpattu along with her family members and did not lodge any complaint and only after taking treatment at Chengalpattu, she had chosen to prefer the complaint. In the light of the abovesaid position, when P.W.1 had sustained injuries on account of the assault and attack inflicted by the accused on 03.05.2012 and thereby when it is found that P.W.1 had sustained injuries and the nature of the injuries sustained by her as spoken to by P.W.5, medical officer, and Ex.P2 medical certificate tally with the occurrence as spoken to by P.W1, in such view of the matter, merely because P.W.1 had not chosen to

lodge the complaint immediately after the occurrence or subsequent there to by itself would not mean that the prosecution case a false one. P.W.1 having sustained injuries in the incident, naturally the endeavor of her family members would only be to provide treatment to the injuries sustained by her and particularly when the injuries are found to be sustained by her due to the attack committed by her husband, namely the accused, normally in such circumstances, the family members as well as P.W.1 would have been hesitant as to whether they should immediately lodge the complaint against the accused for the acts committed by him and therefore when they had primarily concentrated in providing treatment to P.W.1 and accordingly after providing the initial treatment to P.W.1 at Walajabad hospital, they having taken P.W.1 to Chengalpattu and accordingly P.W.1 having chosen to prefer a complaint subsequently on 08.05.2012, in such view of the matter, in my considered opinion, as also rightly held by the trial court, the delay in the lodgment of the complaint has been properly explained by the prosecution and therefore, on that score, the prosecution case cannot be held to be a false one.

11. According to the counsel for the accused, inasmuch as P.W.1 has spoken to as having taken treatment at Walajabad hospital, accordingly she would have given information to the doctor about the occurrence who had examined her and the prosecution has failed to place the said evidence or collect the material from Walajabad hospital as regards the same and therefore, according to him, the hospital authorities would have apprised the police about the incident and therefore, it is put forth that prior to Ex.P1 complaint there should have been an earlier complaint in the matter and the same having been suppressed by the prosecution, according to him, the prosecution case should be rejected. However, the abovesaid contention does not merit acceptance. As above pointed out, according to P.W.1, after taking treatment in a private clinic, thereafter, she was taken to Walajabad Hospital and when it is stated by her that she had taken treatment at Walajabad only as out patient and immediately shifted to Chengalpattu by her parents for further treatment, in such view of the matter, it is highly doubtful whether the hospital authorities would have apprised the police about the treatment provided to P.W.1 at the hospital. Now, as per the prosecution case, for the treatment taken by her at Walajabad hospital, P.W.5 had spoken to and also the wound certificate issued by P.W.5 has been marked as Ex.P2. As held by the trial court, P.W.5 was not cross examined as to whether any intimation has been sent by the hospital to the police with reference to the treatment provided to P.W.1. When according to P.W.1, she had only taken treatment as out patient, it cannot be

stated that the hospital would have furnished information to the police about the treatment provided to P.W.1 and when P.W.1 is found to have been taken to Chengalpattu by her parents for further treatment and thereafter, she came back and lodged the complaint on 08.05.2012, in such view of the matter, as rightly held by the trial court, no delay in the lodgment of the complaint could be attributed and even if there is any delay, it is found that the same is properly explained.

12. The counsel for the accused also commented about the complaint being written by an advocate. As rightly held by the trial court, merely because the complaint had been written by an advocate, that cannot be a reason for discarding the same. When it is found that P.Ws.1 and 2 are not aware of reading and writing Tamil, in such view of the matter, it is natural on their part to seek the help of the third person in lodging the police complaint and accordingly, the mere factor that they had solicited the assistance of an advocate in preferring the complaint Ex.P1, would not, in any manner, undermine the prosecution case.

13. In the light of the above discussions, when the demand of jewels and money from P.W.1 by the accused for meeting his requirements has been clearly spoken to by P.Ws.1 to 3 and when the cruelty inflicted upon P.W.1 thereby had been clearly established by P.W.1 and the factum of P.W.1 having sustained injuries had been corroborated by the medical officer P.W.5 and the wound certificate Ex.P2, in such view of the matter, the prosecution is found to have clearly established the torture both physically and mentally caused by the accused by beating and assaulting P.W.1 and in such view of the matter, the trial court is found to be justified in upholding the conviction of the accused under Section 498 A IPC.

14. In support of his various contentions, the counsel for the accused placed reliance upon the following decisions reported in

- 1) (2018) 7 Supreme Court Cases 536 (Kumar vs. State represented by Inspector Police)
- 2) (2003) 1 SCC 398 (Raghunath vs. State of Haryana and another)
- 3) CrI A. No.1099 of 2002 before the High Court of Kerala at Ernakulam (Firoz and others vs. State of Kerala)
- 4) CrI. A. No.451 of 2000 before the High Court of Judicature at Bombay, Bench at Aurangabad (Ramesh vs. The State of Maharashtra)
- 5) Criminal Appeal Nos1008-1009 of 2007 before the

Supreme Court of India (Ankush Maruti Shinde and others vs. State of Maharashtra)

6) Crl A(MD) No.295 of 2017 before the Division of Bench of Madurai Bench of Madras High Court (Thambiraja Amson @ Thambiraja vs. The State represented by the Inspector Police, Tirunelveli District)

7) Crl Appeal No.132 of 2002 before the Division Bench of Madurai Bench of Madras High Court (Suresh and Others vs. State rep. by Inspector of Police, Checkkanoorani Police Station, Madurai District)

The principles of law outlined in the abovesaid decisions are taken into consideration and followed as applicable to the case at hand.

15. In the light of the abovesaid discussions, the conviction and sentence imposed on the appellant by the Sessions Judge, Mahila Neethi Mandram, Vellore, by judgment dated 16.04.2014 in SC No.10/13 are confirmed and resultantly, the Criminal Appeal is dismissed. The trial court is directed to secure the presence of the accused and commit him to prison to undergo the sentence imposed on him as per law.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Sessions Judge, Mahila Neethi Mandram, (FTC)Vellore.

2.The Inspector of Police
Ranipet all Woman Police Station
Ranipet
Vellore District

3.The Public Prosecutor High court,
Madras

CRL A.No.248 of 2014

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