



BAIL SLIP

The Appellant/Sole Accused namely Rahima, aged 41 years, Female, W/o.Musthaba was directly to be released on bail as per the order of this court dated 31.10.2014 in MP(MD)No. 1 of 2014 in Crl.A (MD)No.295 of 2014 on the file of this Court.

BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

Dated : 03.01.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

CRL. A. (MD) NO. 295 of 2014

Rahima

.. Appellant/A4

- Vs -

The Inspector of Police,
Ganesh Nagar Police Station,
Pudukkottai Town and District,
(Crime No.630 of 2008)

.. Respondent/Complainant

Prayer : Appeal filed u/s 374 (2) of the Code of Criminal Procedure, to admit this Criminal Appeal, the Judgment of the Mahila Court, Pudukkottai in S.C. No. 114 of 2012 dated 08.10.2014 by setting aside the Judgment and acquit this Appellant of all offences.

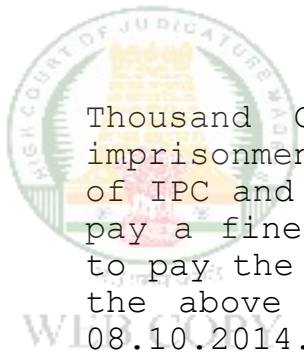
For Appellant : Mr. C. Nagamuthu

For Respondent : Mr.M. Chandrasekaran,
Additional Public Prosecutor

JUDGMENT

This Criminal Appeal is filed to set aside the Judgment, dated 08.10.2014 in S.C. No. 114 of 2012 passed by the learned Special and Sessions Judge, (Mahila Court), Pudukkottai and acquit this appellant.

2. The appellant is fourth accused in S.C. No. 114 of 2012, on the file of the Fast Track Mahila Court, Pudukkottai. Apart from the appellant/A4, first accused is the husband of the deceased and the accused Nos.2 & 3 are father and mother of the first accused, who was also an accused for the offences under Sections 498(A), 304(b) and 306 of IPC and after full-fledged trial, the trial Court has found guilty and convicted the appellant/A4 for the offences under Sections 109 r/w 498(A) of IPC and sentenced to undergo 3-Years Rigorous imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten



Thousand Only) in default to pay the fine 6-months Rigorous imprisonment and also found guilty for the offence under Section 306 of IPC and sentenced to undergo 3-years rigorous imprisonment and to pay a fine of the Rs.10,000/- (Rupees Ten Thousand Only) in default to pay the fine 6-months rigorous imprisonment and also ordered that the above said sentences are run concurrently, by Judgment dated 08.10.2014.

3. The facts of the case are briefly stated hereunder:-

The case of the prosecution is that the marriage between the deceased Akila @ Revathi and A-1/Navaneethakrishnan @ Venkatesh was solemnized on 10.02.2008 and after the marriage, both of them living happily and thereafter, the deceased Akila @ Revathi came to know that her husband/A1 had illicit intimacy with the appellant/A4 and when the same was questioned by the deceased Akila @ Revathi, the parents of the A-1/A2 & A3 had demanded more dowry and due to which the deceased Akila @ Revathi died on 15.11.2008 by committing suicide by hanging and the appellant/A-4 is the reason for the suicide of the deceased. Hence, the case was registered against the accused Nos.A1 to A4 and a charge sheet was filed against the accused persons. The trial Court convicted all the accused persons and aggrieved over the same, the present Appeal has been filed by the appellant/A-4.

4. In order to prove the case of the prosecution, on the side of the prosecution as many as 13 witnesses were examined as PW.1 to PW.13 and 18 documents were marked as Ex.P.1 to Ex.P.18 and 4 material objects were marked as M.O.1 to M.O.4. On the side of the accused, no witness was examined nor any document was marked.

5. When the appellant was questioned u/s 313 Cr.P.C. about the incriminating circumstances appearing against her, she denied the same.

6. The trial Court, on the basis of the oral and documentary evidence, convicted and sentenced the appellant as aforesaid and challenging the legality of the said conviction and sentence, the present appeal has been filed by the appellant/A-4.

Submissions

7. The learned counsel appearing on behalf of the appellant made the following submissions:

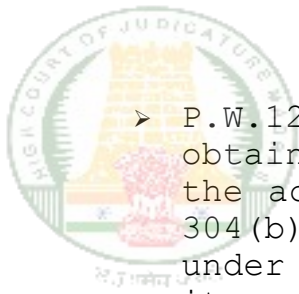
- Despite, P.W.1 is the mother, P.W.2 is the father and P.W.3 & P.W.4 are relatives of the deceased Akila @ Revathi and none of the witnesses have spoken anything in respect of prosecution case.
- P.W.5 is the neighbour who has signed in the confession statement, observation mahajar and recovery mahazar.



- P.W.6/local villager who examined for the purpose to prove the confession statement of A1 to A3 and P.W.1 to P.W.6 not supported the prosecution case.
- P.W.7/Doctor conducted post-mortem and issued final opinion. According to P.W.7, the death was caused by hanging.
- P.W.8/Revenue Divisional Officer who conducted enquiry and given a report that the reason for the death of the deceased Akila @ Revathi was not due to demand of dowry. His report was marked as Ex.P.12.
- P.W.9/Deputy Superintendent of Police conducted investigation, prepared Observation mahazar/Ex.P.13 and rough sketch/Ex.P.14. He also recovered material objects through Ex.P.15/recovery mahazar. He prepared alteration report/Ex.P.16 for the offences under Sections 304(b), 306 and 498(A) of IPC.
- P.W.10/Inspector of Police who received a complaint/ Ex.P.17 from the P.W.1/complainant, a case in FIR/Ex.P.18 registered in Crime No. 628 of 2008 for the offence under Section 174 Cr.P.C. P.W.11/Head Constable handed over the body of the deceased Revathi @ Akila to her parents.
- P.W.12/Superintendent of Police conducted major part of investigation and handed over the same to P.W.13 and the P.W.13/Deputy Superintendent of Police, who conducted further investigation filed charge sheet against the accused Nos. 1 to 3 for the offences under Sections 498(A), 304(b), 306 of IPC and against A-4 for the offences under Sections 109 r/w 498(A) and 306 of IPC.
- He further submitted that the witnesses P.W.1 to P.W.13 have not stated any evidence as against the appellant/A-4. The trial Court came to a wrong conclusion based on the evidence of P.W.8/RDO and a report/Ex.P.12 and had convicted the appellant.

8. The learned Additional Public Prosecutor appearing on behalf of the respondent Police made the following submissions:

- In this case, P.W.1 is the mother of the deceased had lodged a complaint and immediately on receipt of the same, P.W.10 registered a case in Crime No. 630 of 2008 for the offence under Section 174 Cr.P.C. and thereafter, forwarded the First Information Report to the Revenue Divisional Officer who conducted inquest and sent the body for postmortem and thereafter, the doctor conducted autopsy on the body of the deceased.
- P.W.9/Deputy Superintendent of Police who conducted investigation. He went to the scene of occurrence enquired the witnesses, recorded their statements and prepared Ex.P.13/observation mahazar and Ex.P.14/rough sketch. He prepared Ex.P.15/recovery mahazar for the articles found in the scene of occurrence and also filed Ex.P.16/alteration report.
- P.W.11 handed over the body of the deceased to his father after conducting post-mortem. P.W.12/Deputy Superintendent of Police enquired the witnesses.



- P.W.12/Deputy Superintendent of Police filed charge sheet after obtaining postmortem certificate and forensic report against the accused Nos.1 to 3 for the offences under Sections 498(A), 304(b) , 306 and against the accused No.4 for the offences under Section 109 r/w 498(A), 306 of IPC. During the enquiry it was found that A-4 was having illicit relationship with A-1 and the relationship continued after the marriage of A-1 with deceased. Hence, A-4 is the main reason for the deceased committed suicide.
- He further submitted that the trial Court on considering the evidence and materials placed on record, had rightly convicted the appellants.

Discussion:-

9. Considering the rival submissions made by the learned counsel appearing on either side and materials placed before this Court, it is seen that though P.W.1 & P.W.2 are parents of the deceased and both of them have categorically stated that their daughter after the marriage living happily with A-1, A2 and A3 and also stated that they do not know the appellant/A4. Further, P.W.1 stated that she has only signed a paper and she does not know about the contents in the complaint. Likewise, the witnesses who signed the observation mahazar and other documents have stated that their signatures were obtained in the police station and they do not know the contents.

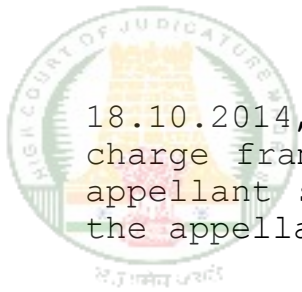
10. This Court by Judgment, dated 16.08.2019 in CrI.A.(MD) No. 281 of 2014 had allowed the appeal filed by the accused Nos.1 to 3 and acquitted them.

11. From the available materials, it cannot be stated that the appellant had instigated the deceased to commit suicide. There is no material to show that the accused had intentionally aided the deceased in any manner to commit suicide.

12. For the reasons aforesaid, this Court finds that the judgment of conviction and sentence passed by the trial court is not on less evidence, but on no evidence and, therefore, the same deserves to be set aside by this Court in this Appeal. Hence, the conviction of the appellant under Sections 109 r/w 498(A) and 306 of the Indian Penal Code cannot be sustained, since the prosecution failed to prove the same. It is also not on record that the deceased committed suicide because of any abatement on the part of the appellant. In such view of the matter, this Court is inclined to interfere with the findings of the Trial Court.

Conclusion

13. In the result, the Criminal Appeal is allowed. The conviction and sentence imposed on the appellant in S.C.No.114 of 2012, on the file of the Fast Track Mahila Court, Pudukkottai, dated



18.10.2014, is set aside and the appellant is acquitted of the charge framed against her. The bail bonds, if any, executed by the appellant shall stand cancelled. The fine amount, if any, paid by the appellant shall be refunded to her.

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Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1. The Fast Track Mahila Court,
Pudukkottai
- 2.The Judge, Mahila court, Pudukkottai
- 3.The Judicial Magistrate, Pudukkottai.
4. The Inspector of Police,
Ganesh Nagar Police Station,
Pudukkottai Town and District,
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
6. The Section Officer, (2 copies)
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.V.SELVA, Advocate (SR-411[F] dated 06/01/2020)

**JUDGMENT IN
CRL. A. (MD) NO. 295 of 2014
03.01.2020**

VB(29.01.2020) 5P 9C