



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 21.02.2020
PRONOUNCED ON : 19.11.2020

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THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

CrI.A(MD)No.296 of 2014

S.Daniel Selvakumar ... Appellant/Defacto Complainant

Versus

1.State by the Inspector of Police,
CBCID,
Pappanadu Police Station,
Thanjavur District.
In Crime No.77 of 2009. ... 1st Respondent/Complainant

2.Panchamoorthy

3.Ambika ... Respondents 2 & 3/Accused 1 & 2

PRAYER: Criminal Appeal filed under Section 372 of Cr.P.C., praying to call for the records of the learned Principal Assistant Sessions Judge (Mahila Court), Thanjavur in S.C.No.339 of 2011 and set aside the acquittal judgment dated 05.06.2014 by allowing the criminal appeal and punish the 2nd and 3rd respondents herein as per the evidence against them.

For Appellant : Mr.B.Senthilkumar

For R1 : Mr.K.Suyambulinga Bharathi,
Government Advocate [CrI. Side]

For R2 & R3 : Mr.Veerakathiravan, Senior Counsel
for Mr.C.Jeganathan

JUDGMENT

The appeal is filed against the judgment of acquittal in S.C.No.339 of 2011, dated 05.06.2014, rendered by the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thanjavur.

2.The respondents 2 and 3, who are the accused were charged for the offence under Section 306 IPC. On conclusion of trial, they were acquitted from the charge levelled against them. Aggrieved



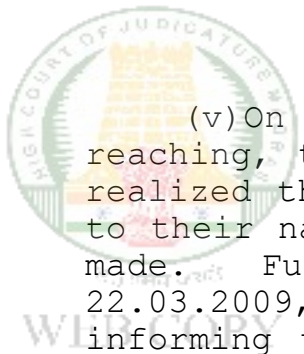
over the same, the appellant/defacto complainant/PW1 has filed the present appeal.

3(i)The case of the prosecution is that the appellant/defacto complainant/PW1 was working as Senior Officer, Customer Care in HDFC Bank from the year 2005. During the year 2007, one Sathura (deceased), daughter of the respondents 2 and 3, joined as Junior Officer in HDFC Bank. Initially, both the appellant and the deceased Sathura were moving as friends. Later, their relationship was blossomed into love affair, which was disclosed to PW13/Parameshwari, Aunt of the deceased in Chennai. The love affair was not accepted by the respondents 2 and 3 and their relatives, since appellant belongs to Christian Adi Dravidar Community, whereas, the deceased belongs to Devar Community.

(ii)Further, the father of the deceased/2nd respondent was a known personality and leader of Dravidar Kazhagam Party in their Village viz., Vadacherry, Thanjavur District. The deceased was determined in getting married to the appellant. The parents and family members of the appellant accepted their relationship and both decided to get married during January 2008. The respondents 2 and 3 along with PW13 met the deceased and asked her to come to native. She opposed the same, due to which, a commotion arose in public, which was noticed by Traffic Constable, who took them to Choolaimedu Police Station, where the deceased expressed her willingness to go with the appellant and PW2/the mother of PW1. On 23.11.2008, the deceased and the appellant met PW19/Pastor for their marriage.

(iii)On 24.11.2008, the deceased was converted to Christianity and the marriage was registered. During January 2009, the 2nd respondent invited his daughter for celebrating Pongal festival at their native, the deceased insisted that her husband also to be invited, was not accepted by them. Hence, she refused to visit her native place. The appellant made arrangements for a marriage reception to be held in Vijaya Park, Vadapalani, Chennai on 12.04.2009. The proposed reception was informed to PW13, which was conveyed to the parents of the deceased/respondents 2 and 3. On 03.03.2009, the 2nd respondent contacted PW2, informed that since he being a known personality in his Village, if the villagers come to know about his daughter's marriage, he would be looked down in the village and in his community. Further, they have another daughter, who is yet to get married and her marriage would get affected.

(iv)On 08.03.2009, the respondents 2 and 3 along with PW11, cousin brother of the 2nd respondent and PW17/friend of the 2nd respondent met PW2 at Chennai and informed that the marriage would be conducted at their native place Vadacherry on 23.03.2009. The deceased was taken to the house of PW13, where she stayed for a day. On 16.03.2009, the respondents 2 and 3 came to Chennai, purchased new dresses to PW1 for the marriage and handed over 100 marriage invitations to him.



(v) On 18.03.2009, the deceased reached Vadacherry. After reaching, the deceased was in touch with PW1. Later, the deceased realized that her father and relatives enacted a drama to take her to their native and no marriage arrangements as promised were being made. Further, her parents attitude towards her changed. On 22.03.2009, at about 01.30 a.m., the deceased sent a message to PW1 informing that her father is a person of dual personality and her life is in danger and she would be done to death. Sensing fear for her life, she sent messages to PW1, who consoled her. On the same day, at about 09.00 p.m., the deceased contacted PW1 and informed him that her father was making arrangements to kill her. PW1 along with PW2 and another friend immediately proceeded to Vadacherry, Thanjavur. While they were proceeding in bus, he received a phone call from the deceased, informing that her father will not permit her marriage with PW1, since PW1 belongs to different community and her father was forcing to end her life. At that time, PW1 informed PW1 that he would pacify the respondents 2 and 3 and requested PW1 not to approach the Police. At about 4.30 a.m., he received last message from the deceased stating that they cannot be separated by anyone. At about 8.30 a.m., PW1 received phone call from his office colleague that the deceased was dead. At that time, they were in Trichy, immediately PW1 and PW2 approached the Inspector General of Police, Central Zone and informed about the suspicious death of his wife Sathura.

(vi) The Inspector General of Police instructed them to approach PW30/the Inspector of Police, Pappanadu. PW1 lodged a complaint to PW30. On receipt of the complaint [Ex.P1], a case in Crime No.77 of 2009 [Ex.P13] under Section 174 Cr.P.C., was registered. Thereafter PW30 informed PW31/the Deputy Superintendent of Police, Orathanadu and PW27/Revenue Divisional Officer about the death of the deceased Sathura. PW31 and PW27 reached the residence of the deceased, conducted enquiry, examined the persons present in the scene of occurrence, conducted inquest, prepared Observation Mahazar [Ex.P14] and sent the body for postmortem. The autopsy was conducted by PW23 and PW24, which were videographed by PW22. After postmortem, the body was handed over to the parents of the deceased/respondents 2 and 3. PW1 insisted that the body of his wife should be handed over to him. PW30 informed that there is a tensed situation and the villagers are already agitated and he asked PW1 not to visit the village and attend funeral, since his safety cannot be assured.

(vii) PW1 on coming to know that his wife Sathura was murdered by administering poison through her ears, he approached Mr.Rajendran, Additional Director General of Police and lodged a complaint. The said Mr.Rajendran advised him to approach Mr.Chokkalingam, Superintendent of Police. There was no proper investigation and the local police were making arrangement to close the case. Hence, PW1 filed a direction petition before this Court and this Court directed CBCID to conduct investigation. The 1st respondent took up the investigation, examined witnesses, collected



reports from Forensic Science and Handwriting Expert and examined the Forensic Surgeon for getting second opinion for cause of death. On collection of documents and on examination of witnesses, charge sheet was filed against the respondents 2 and 3 under Section 306 IPC.

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(viii) The prosecution, in this case, examined PW1 to PW32 and marked Exs.P1 to P18 and MO1 to MO18. The Trial Court, on conclusion of the trial, acquitted the respondents 2 and 3, against which, the appellant/defacto complainant/PW1/husband of the deceased Sathura, filed the above appeal to set aside the judgment of the trial Court.

4.The learned counsel for the appellant submitted that the case is that of intercaste love marriage. The appellant was working in HDFC Bank in Chennai. At that time, the deceased joined the bank and they developed love affair between them. PW1 belongs to Christian Adi Dravidar Scheduled Caste community. The deceased belongs to Backward Class. They got married and it was later registered. After the marriage, they were living in Chennai till 17.03.2009 as husband and wife. Thereafter, the respondents 2 and 3, who are the parents of the deceased came to Chennai and took the deceased to their native at Vadacherry, on the pretext that they would conduct formal marriage in the presence of villagers in their native. Even invitation cards were printed and handed over to the appellant. The marriage was to be held on 23.03.2009. On 22.03.2009, the appellant received phone call from the deceased informing that all was not well at her residence and she was pressurized to marry another person of her parents' choice and her life was in danger.

5.The learned counsel for the appellant further submitted that the appellant received several short mail messages from his wife, which were handed over to the Investigating Officer. Sensing fear, the appellant proceeded to the house of the deceased Sathura. On the way, when he was reaching Trichy, he received a message from one Aneesa, friend of the deceased that the deceased had committed suicide. Immediately, the appellant approached the Inspector General of Police, Trichy, suspecting that his wife would have been done to death, as honour killing. The Inspector General of Police advised the appellant to approach the Pappanadu Police Station. The appellant reached the Police Station by the middle of the day. In the meanwhile, the Inspector General of Police informed the concerned Police Station about the complaint of the appellant. Thereafter, the case was registered at about 01.45 p.m. The learned counsel further submitted though the poison was found in the viscera, but the chemical combination was not detected. From the second report, it is found that the poison is a pesticide. This report is in favour of the respondents 2 and 3. Further, MO1 Dying Declaration creates suspicion and the Handwriting Expert had not



6.All the witnesses including VAO had sided with the respondents, except the official witnesses PW1 to PW5, who are the appellant, his family members and friends. The other witnesses are from Vadacherry, native of respondents 2 and 3. Hence, they have not supported the case of prosecution. PW16 is the Manager of Marriage Hall, through him, Ex.P2, the marriage hall booking receipt was marked. According to the appellant, this receipt is a got-up document to cover up the misdeeds of the respondents 1 and 2. The said receipt is signed by PW16/T.Rajendran, who feigns ignorance about the person, who made booking and no marriage arrangement was made till the last day. Despite investigation got transferred to CBCID, no substantial improvement was made in the investigation and the truth has not come to open. The communal clannishness closed the eyes of every one, even the persons in position.

7.It is further submitted that PW1 handed over the SMS received from the deceased Sathura informing about the danger of her life and also produced the mobile phone. The copy of SMS received is found in the case bundle, but it was not marked as exhibit and no evidence brought forth in furtherance to the SMS produced. The appellant is not aware for what reason and why the SMS were not marked as exhibits. In this case, from the scene of occurrence, MO17/the mobile phone, MO18/Airtel Sim Card of the deceased were seized, no steps were taken to find out the call details and also SMS particulars. The specific case of the appellant is that the toxic substances was induced into the ear of the deceased. From the Postmortem Report [Ex.P4], it is observed that left ear lobe, inner side of the ear, pinna appeared blueish in colour. On internal observation, it is found that the lungs and heart were congested in bright red color, but no explanation or clarification was sought for from the Doctor for such deformities. It is also seen that the Postmortem Doctors/PW23 and PW24 opined that only a qualified Police Surgeon can give opinion for the cause of the death. It is seen from the Forensic Report [Ex.P8], the presence of Dichlorvos was found in the bed sheet and pillow covers. PW26/Police Surgeon had given a report [Ex.P9], confirming the death was occurred due to poisoning. The report of Handwriting Expert is not conclusive. The Lower Court ignored the medical evidence against the accused on the fact that the death had taken place in the house of the respondents 2 and 3 and no explanation whatsoever given by the respondents 2 and 3 either through cross examination or during questioning under Section 313 Cr.P.C and acquitted the respondents 2 and 3. The trial Court elaborately discussed about the marriage and relationship of PW1 with the deceased, which is not a fact in issue of the case. The trial Court has not given any finding and reasons to the medical evidence against the respondents 2 and 3. Hence, the learned counsel for the appellant prayed to set aside the judgment of acquittal.



8.The learned Government Advocate [Crl. Side] appearing for the 1st respondent submitted that on receipt of the complaint [Ex.P1] from PW1, a case in Crime No.77 of 2009 [Ex.P13] was registered by PW30/Investigating Officer. Thereafter, PW30 reached the scene of occurrence, informed his superior officer and RDO, prepared Observation Mahazar [Ex.P14], Rough Sketch [Ex.P15]. PW31/the Deputy Superintendent of Police and PW27/the Revenue Divisional Officer were requested to conduct inquest and enquire, since the death took place within five month of marriage of PW1 with the deceased. The collected materials from the scene of occurrence were forwarded to the Court for scientific examination. The marriage between PW1 and deceased was against the wish of respondents 2 and 3. Later, the respondents 2 and 3, in the guise of conducting marriage, brought the deceased from Chennai to Vadacherry on 18.03.2009. On 22.03.2009, the deceased consumed poison and ended her life. During the investigation, it was found that the respondents 2 and 3 were abusing the deceased for marrying PW1, a low caste person. Except PW1 to PW5, the other independent witnesses have not supported the case. PW26, the Revenue Divisional Officer conducted inquest, examined PW1 and the respondents 2 and 3, recorded their statements and gave finding that the deceased had committed suicide and the 2nd respondent is the reason for the same.

9.PW23 and PW24, the Doctors conducted Postmortem, which was video graphed by PW22. In the Postmortem report, it is seen that a congestion was found in the lungs and heart and also in the left ear lobe and the inner side of the ear turned blueish in colour, denoting the presence of poison. From the Forensic report [Ex.P16], it is seen that there was no poison in the viscera. The Investigating Officer unable to come to a conclusion, approached PW26/Police Surgeon to get second opinion. PW26, in his opinion [Ex.P9] observed that the presence of ash color fluid material in the stomach, sub pleural haemorrhages & congested viscera are consistent with OPC - insecticide poisoning. The death was taken place in the house of respondents 2 and 3 and both of them has not given any valid explanation except the denial.

10.The learned Government Advocate [Crl. Side] fairly submitted that the details of SMS are found in the case bundle and submitted to the lower Court. The Investigating Officer did not take any steps to probe into these aspects, as well on MO17 and MO18. This omission had no bearing in the out come of investigation. In this case, the investigation was conducted by a special agency, who produced all the evidence before the trial Court. The trial Court on appreciation of evidence and materials, acquitted the respondents 2 and 3.

11.The learned counsel for the respondents 2 and 3 submitted that in this case, the daughter of the respondents 2 and 3 <https://hcservices.courts.gov.in/hcservices/> joined HDFC Bank as Junior Officer. While she was

working there, the appellant/PW1 was working as Senior Officer, having been in a dominant position had influenced their daughter Sathura. They have yet another daughter for whom marriage to be conducted. The relationship between the appellant and the deceased was initially rejected, since it would not be acceptable in their village. The respondents 2 and 3 reasoned out the same as parents of the deceased. The deceased due to her young age was unable to understand the reality and to agree with her parents. Thereafter, without informing her parents, the marriage was said to be conducted by PW16 and the same was registered. On coming to know that the deceased was very firm and determined in marrying the appellant, the respondents 2 and 3 agreed to conduct their marriage in their native place. Therefore, they came to Chennai, met their daughter, convinced her about marriage and took her to their native.

12.The learned counsel for the respondents 2 and 3 further submitted that the grievance of the parents was explained to their daughter and also the importance of the community living. The 2nd respondent is running pesticide shop in the ground floor and residence was in the first floor. The deceased Sathura being in a confused state of mind and probably repenting for her impulsive action taken in Chennai, had committed suicide on her own, for which the respondents 2 and 3 are not the reason. The appellant on a wrong premise and in impulsiveness, gave a false complaint against the respondents 2 and 3. The respondents 2 and 3 were in a state of shock on the sudden death of their daughter, who was brought up with all love and affection. The deceased left a suicidal note, in which she has clearly stated that the respondents 2 and 3 are not the reason for the extreme steps taken by her. The same was sent to the Handwriting Expert, who confirmed the writing as that of the deceased. The medical evidence, Forensic Report does not point towards the respondents 2 and 3. Apart from PW1 to PW5, none of the witnesses has spoken anything against the respondents 2 and 3. Further, PW26/Revenue Divisional Officer, in his report [Ex.P10], has indicated the 2nd respondent only. The 1st respondent Police for obvious reasons has included the 3rd respondent in the case. The Trial Court, on analyzing the evidence and materials adduced by the prosecution, gave a well reasoned judgment, acquitting the respondents 2 and 3, which need not be interfered. Thus, the appellant has preferred this appeal on surmises and conjunctures without any supporting materials.

13.In support of the arguments, the learned counsel for the respondents 2 and 3 relied upon the following citations:-

- *Vaijnath Kondiba Khandke Versus State of Maharashtra* and another reported in (2018) 7 Supreme Court Cases 781, for the point that "*if a situation is created deliberately so as to drive a person to commit suicide, there would be room for attracting Section 306 IPC.*"



- M.Arjunan Versus State Represented by its Inspector of Police reported in (2019) 3 Supreme Court Cases 315 and the relevant portion is extracted as follows:-

"The essential ingredients of the offence under Section 306 I.P.C. are: (i) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide."

- Jagdishraj Khatta Versus State of Himachal Pradesh reported in (2019) 9 Supreme Court Cases 248 for the point that *"unless there existed grave infirmity finding of the trial Court to be interfered with."*
- State of West Bengal Versus Indrajit Kundu and others reported in (2019) 10 Supreme Court Cases 188, for the point that *"there seems to be reasonable certainty to inside the consequence and the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred."*

14.Considering the rival submission and perusal of materials available on record, this Court finds as follows:-

- The deceased Sathura and the appellant belonged to different community. Their love affair was rejected and objected by the parents of the deceased/respondents 2 and 3 and their family.
- The deceased Sathura and the appellant were working in HDFC Bank, Chennai. Both were in love with each other. Despite opposition from the respondents 2 and 3, the deceased Sathura married the appellant with the support of the appellant's family and the marriage was solemnized and registered. From the month of November 2008, they lived as husband and wife.
- The parents of the deceased Sathura took her to their native, Vadacherry on 18.03.2009 to conduct marriage in Vadacherry on 25.03.2009. The deceased died unnaturally on 22.03.2008 - 23.03.2008 at her parental home. The 3rd respondent first saw the body of Sathura and was dead on 23.03.2009 at 05.30 a.m., and informed the 2nd respondent at about 06.00 a.m. Both of them failed to inform the appellant about the death.
- No Observation Mahazar was prepared in the bed room, where Sathura died. The Observation Mahazar [Ex.P14] denotes the place where the body was kept later.
- Ex.P12 is the Form 91 series. It is seen from Form 91 No.0250513, MO1, MO4, MO10 and MO18 are the articles, found at the place of death, which were seized by the Inspector of Police/PW30. MO5 diary of the year 2006 in Form 91 No.0971458 seized by PW32, CBCID Inspector. From the Toxicology Report [Ex.P8], it is seen that Dichloroas is detected in the bed sheet, pillow and on the dress of the deceased.



15. In this case, admittedly, PW1 is the husband of the deceased; PW2 is the mother of PW1; PW3 is brother-in-law of PW1; PW4 and PW5 are the friends of PW1. The evidence of these witnesses is to the effect that there was intercaste love marriage between PW1 and the deceased, which was not agreed by the respondents 2 and 3, who are the parents of the deceased. PW1 and the deceased got married and living as husband and wife. The respondents 2 and 3 took the deceased to their native Vadacherry, Thanjavur on 18.03.2009 for formal marriage ceremony to be held on 25.03.2009. The deceased death was unnatural at early hours on 23.03.2009. PW1 stated that the deceased informed him that her parents were not willing to perform the marriage and her life was in danger and consoled her. Further, PW1 produced SMS recorded messages, which is available in the case records. On perusal of the same, it is seen that the message available is from 22.03.2009 01.23 hours to 23.03.2009 04.35 hours, in which the deceased expressed her apprehension and fear about her life and safety to PW1. These messages cannot be held against the respondents 2 and 3 without further materials. On the other hand, the deceased had left a letter, which was marked as MO1. In that letter, it was written as follows:-

“என் அப்பாவக் கு என்னால் ஏற்பட்ட அவமானங்கள் கண்டு என்னால் தாங்க இயலாமல் இந்த முடிவை நான் எடுத்தேன். இதில் என் அப்பாவக்கோ, அம்மாவக்கோ எந்த சம்மந்தம் இல்லை. என்னுடைய சுய சிந்தனையோடு இந்த முடிவை எடுத்துள்ளேன்.”

16. PW25, the Hand Writing Expert gave report [Ex.P11]. From Ex.P11 it is seen that the questioned writings were marked as Q1 and Q2 and the standard writings were marked as A1 to A27. The Hand Writing Expert had given a finding that a person, who wrote A1 to A27 has also wrote the writing and signature marked as Q1 and Q2. On perusal of MO1 letter, it is seen that the deceased absolved her parents for the steps taken by her. This letter [MO1] was seized through Form-91 on 29.03.2009, no reason was given for the delay in seizure.

17. As stated above, other than the official witnesses and PW1 to PW5, none others supported the case of the prosecution. In such circumstances, the links are not continuously interlinked and it is cut and broken. PW22 and PW23 are the Postmortem Doctors, who had issued Postmortem report [Ex.P4] and Final Opinion [Ex.P5]. From the Post-Mortem report [Ex.P4] it is observed as follows:-

“Body of a female lie on back, arm close to sides of the body, symmetrical. RM passed off in both upper limbs present in both lower limbs. Eyes closed, pupils dilated, lips open. Teeth complete, tongue kept inside the mouth, left ear lobe, inner side of ear, pinna blueish in color.

External genitalia normal.



Stomach Empty.

No external injury.

Opening of Thorax: No fracture ribs, lungs congested, bright red in color. Hyoid bone sent for forensic science examination. Larynx, Trachea, Bronchi intact.

Abdomen: Stomach contains ash color, fluid about 50 ml, approximately liver no injury C/s compared bright red in colour - Intestine - empty - Large Intestine..... with gas. Bladder-empty. Uterus-Normal Cavity empty.

Skull-No Bone injury-membranous intact, Brain-No Injury. PM concluded at 04.00 p.m.

"Death would have occurred approximately 30-40 hours prior to autopsy."

Stomach and contents, intestine, liver, kidney, preservative, sample of brain, ear, ear drum, hyoid bone for forensic examination."

In the Final Opinion [Ex.P5], it is observed as follows:-

"Viscera Report: Ref.No.T.No.8296/2009, Tox-H.No.296/2009, dated 2009-9th April.

Forensic Science Department Tanjavur.

The following articles, viz., Stomach, Intestine, Liver, Kidney, Brain, earlobe, pinna, ear-drum, preservative were examined, but insecticide or other poison was not detected.

Hyoid Bone Report: Bone case No.12/09, dated 13.04.09, Forensic Medicine, Madras Medical College, Chennai-Hyoid bone-Intact.

No definite opinion could be given regarding exact cause of death, as there was no external injury, and viscera found to be negative for poison material as per Chemical Analysis Report.

Any further clarification can be kindly obtained from police surgeon."

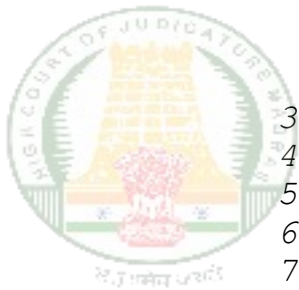
18.By way of clarification, opinion was obtained through questionnaires from PW23 and PW24. In Exs.P6 & P7, they stated that "Only an expert (Qualified Police Surgeon) can alone able to answer the question" whether the death is due to poisoning and the poisoning could not be deducted in Chemical Analysis Report.

19.The Chemical Analysis Report [Ex.P16] is extracted as follows:-

"The following articles were received here on 30th March 2009 with proper labels through Head Constable No.586 Thiru.Krishnamoorthy, under unbroken seals which corresponded with the sample seal sent viz.,:-

1.Stomach

2.Intestine



- 3.Liver
- 4.Kidney
- 5.Brain
- 6.Ear lobe with pinna and ear drum
- 7.Preservative

Report: The above seven articles were examined, but insecticide or other-poison was not detected in any of them."

20.Thereafter, opinion has been obtained from the Police Surgeon through Ex.P9, which is extracted as follows:-

"In the above case though insecticide or other poison was not detected in chemical analysis, clinical & Postmortem findings (ie-presence of ash color fluid material in the stomach, sub pleural hemorrhages & congested viscera) are consistent with OPC - insecticide poisoning."

21.On combined analysis of the above documents and the witnesses, it is seen that the death had occurred due to poisoning. It is to be seen that whether the poison was consumed by herself or administered forcibly.

22.From the Postmortem report [Ex.P4], it is seen that there is no external injury, whatsoever denoting violence and forceful administration of poison. It is an admitted case that the 2nd respondent is running a pesticide shop in ground floor and they are residing in the first floor of the house. The deceased was sleeping in a separate bed room and the respondents 2 and 3 were sleeping in another bed room. On the fateful day, the deceased was sleeping alone. On 23.09.2009, the 3rd respondent is the first person, who saw the deceased at about 05.30 a.m., and found vomit spread on the dress of the deceased as well in pillow cover and bed sheet. Though there is some dispute with regard to seizure of these articles and non preparation of Observation Mahazar in the scene of occurrence, from the Toxicology Report, it is found that the dichlorvos in bed sheet [MO10], pillow cover [MO11] and the dress of the deceased [MO6 & MO7] was present. On what time the deceased consumed poison is not known. The non deduction of the poisonous substance in the viscera report and the presence of blueish color in the ear might have been due to effluence by the deceased after consuming the poison. From the Medical and Forensic Report, it can be safely held that the poison is not administered through the ear. There are some suspicion pointing towards the respondents 2 and 3 in this case. It is well settled principle that however, grave the suspicion, the same cannot be a subsistence for evidence. There are missing links in the chain of circumstances. Further, the occurrence has taken place in the year 2009.



23.The prosecution failed to establish circumstances by cogent evidence to complete the chain to arrive at a irresistible conclusion to bring home the charge levelled against respondents 2 and 3. There are many missing links in chain of circumstances to prove guilt of respondents 2 and 3 for offence under Section 306 IPC. Hence, the natural corollary is that the respondents 2 and 3 have to get benefit of doubt and was acquitted by the trial Court and the same cannot be interfered with by this Court.

24.In view of the above, the judgment of acquittal dated 05.06.2014, in S.C.No.339 of 2011, passed by the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thanjavur is, hereby, affirmed and the appeal stands dismissed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rst/vv2

To

1.The Sessions Judge, Mahalir Neethimandram
(Fast Track Mahila Court), Thanjavur.

2. The Judicial Magistrate, Thiruvaiyaru.

3. The Chief Judicial Magistrate, Thanjavur.

4.The Inspector of Police, CBCID,
Pappanadu Police Station,
Thanjavur District.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

6. The Section Officer,Criminal Records,
Madurai Bench of Madras High Court, Madurai.(2 copies)

+1 CC to M/s.C.JEGANATHAN, Advocate (SR-22241[F] dated 20/11/2020)

JUDGMENT IN

Cr1.A(MD)No.296 of 2014

19.11.2020

SGS (CO)

TR(03.12.2020) 12P 9C