



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Order
12.07.2021

Date of Pronouncing Order
04.10.2021

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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.A.No.209 of 2015

The State represented by
The Public Prosecutor,
High Court, Madras.
(Erode South Police Station)
Crime No.393/2012

...Appellant/Complainant

Vs.

1.Abdul Azeez
2.Sowkath Ali
3.Fairoj Begum
4.Fathima Beebi

...Respondents/Accused 1 to 4

PRAYER : Criminal Appeal is filed under Section 378 of Criminal Procedure Code, to set aside the judgment of acquittal of the respondents/accused (A1 to A4) passed in Sessions Case No.103/2013, dated 30.01.2014 by the Mahalir Sessions (Fast Track) Court, Erode and convict the respondents/accused (A1 to A4) for the charges framed against them.

For Appellant : Mr. R. Vinoth Raja,
Government Advocate

For Respondents : Mr.P.Palani Nathan

J U D G M E N T

The matter is heard through "Video Conference".

2. This Criminal Appeal is filed against the order of acquittal of the respondents/A1 to A4, passed in S.C.No.103 of 2013, by Mahilar Sessions (Fast Track) Court, Fast Track Court, Erode. The Inspector of Police Erode South Police Station, after investigation in Crime No.393 of 2012 had filed the charge sheet before learned Judicial Magistrate and taken on file as S.C.No.103 of 2013.



3. The case of the prosecution in brief is that

3(a) the marriage between the deceased and the accused(A1) was performed on 16.11.2011 and on that occasion, as demanded by the accused (A2 & A3), 50 sovereign of gold jewels, out of the marriage expenses of Rs.2,00,000/-, a sum of Rs.1,00,000/- and other seers of bureau, refrigerator, mixie and washing machine were given as dowry and the parents of the deceased agreed to pay the balance of Rs.1,00,000/- and a cot within, four months. Since, they did not pay as agreed after four months, the accused (A1) took the deceased (his wife) to her parent house and left her on 10.04.2012.

3(b) Then, on 14.04.2012, Balkees Bibi (mother of the deceased) and her sister's son Hakkim brought back the deceased to her husband's house (matrimonial home) and on seeing them, the accused persons abused them as they have not fulfilled the demand of dowry and also scolded the deceased as "mGjhy; cd;ida [k; Juj;jp thHh btl;oahf;fp tpLnthk;" and the accused have also snatched the sim card from the deceased in order to prevent her to speak with her parents and family members and subjected her severe mental agony and tortured her and of the above acts of the accused persons, the deceased was forced to commit suicide, as she was unable to bear their torture and had no other option and in pursuance of the acts of all the accused persons, the deceased on 29.04.2012 at 1.00 pm, committed suicide in the house of accused(A2) by hanging herself in the ceiling fan with her saree.

4. During trial, on the side of the prosecution, P.W.1 to P.W.14 witnesses were examined and Exs.P1 to P18 were marked. Further, four material objects were marked.

5. The respondents /A1 to A4 were charged for the offence under Section 498(A), 306 of IPC. Ex.P3/report of the investigation officer and the independent witnesses of the family viz., PW1 to PW6, are supporting the charges framed against the respondents/A1 to A4.

6. The learned Government Advocate for the appellant would contend that there is a sufficient material for demand of dowry, which lead to suicide by hanging. Further, he would submit that the medical evidence of the Doctor and Forensic Department under Exs.P6 to P9 supports that the deceased has committed suicide by hanging.

7. Further, he would submit that the trial Court has failed to take into account of the clear co-gent evidence of PW1 to PW3 namely the relatives of the deceased Palkis Bibi, Ayesha & Shiek Syed Hakim, the date of marriage between the deceased



and the first respondent accused is on 16.11.2011 and she committed suicide by hanging at the accused house [matrimonial house) on 29.04.2012 within five months of the marriage she has died in an unnatural death in the matrimonial home, wherein all the four accused were residing. While the accused 2 is father in law of the deceased; accused 3 is the mother in law of the accused; accused 4 is the grand mother of the first accused (husband of the deceased).

8. In support of his contentions, the learned counsel for the respondents relied upon the following judgments, which are as follows:-

2010 (1) MWN (Cr.) 310 (M. Sathishkumar Vs. State by the Inspector of Police)

"Sections 306 & 307 - Suicide - Abetment of suicide - Ingredients - Unless established by prosecution beyond reasonable doubt that there was either direct or indirect act of inducement to commission of suicide, mere fact that husband treated deceased-wife with cruelty not enough to convict accused under Section 306."

2010 (1) Acquittal 389 (Madhukar Vs. State of Madhya Pradesh (now Chhattisgarh)

"For abetment instigation to do a particular thing must be there - None of the witnesses stated if deceased was abetted by appellant to commit suicide - Deceased might have taken extreme step under the influence of mental imbalance - Conviction could not be sustained."

2010-2 L.W. (Crl.) 764 (Amalendu Pal @ Jhantu Vs. State of West Bengal)

"Merely on the allegation of harassment without their being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable."

"There is no direct evidence to show that the appellant had by his acts instigated or provoked the deceased to commit suicide and has not done any act which could be said to have facilitated the commission of suicide by the deceased - Court finds no reason to take a different view than what has been taken by the trial Court and the High Court as far as Section 498A IPC is concerned - Appeal allowed in part."



9. Keeping the above legal position stated by the Hon'ble Supreme Court in mind let us examine the materials available on record.

10. The case of the prosecution in brief is that at the time of the marriage, the first accused and other three appellants have demanded a sum of Rs.2,00,000/- as dowry from the family of the deceased and Rs.1,00,000/- was paid in cash by them and thereafter, within four months another one lakh has to be paid. Since, the remaining balance of Rs.1,00,000/- which the victim family could not paid, the deceased was subjected to cruelty and out of the demand dowry and cruelty, the victim girl had committed suicide on 29.04.2012 by hanging in the matrimonial home at 1.p.m.

11. The case of the defence from the cross-examination of PW1 to PW3 is that the father of the victim girl is a drunker by habitual and he had financial loss and due to the financial loss, the daughter was subject to mental cruelty and due the mental imbalance she has taken extreme step of committing suicide.

12. As stated supra, the relatives of the deceased were examined as PW1, PW2 & PW3; the colleagues, who are working with the PW1's husband were examined as PW4 to PW5; servant maid of the accused was examined as PW6; Revenue Divisional Officer was examined as PW7, who had issued Ex.P8 and given opinion that no anti mortem injury to Hyoid Bone; Dr.Jaganmohan, Government Head Quarters Hospital, Erode, was examined as PW8, who had issued Ex.P9 and given opinion regarding rope marks around neck and given final opinion as to the cause of suicide; Abdul Rasak, the relative of the deceased was examined as PW9; Police witnesses were examined as PW10 to PW14, they have conducted investigation and filed charge sheet; Ex.P10 is the Viscera Report as to the factum that no poison is detected in Viscera of the deceased; Ex.P11 is the Observation Mahazar; Exs.P12 & P13 are the Seizure Mahazars; Ex.P14 is FIR; From Ex.P15/Rough Sketch this Court finds that the place of occurrence is inside the house of the accused.

13. The learned Sessions Judge taking note of the material contradiction elicited in the cross examination of PW1 and also observed that there is contradiction in the statements of PW1 given to RDO and the Investigating officer PW13, who laid the charge sheet and he has also given an exaggerated statement before the Court. The mother of the victim/PW1 has not stated anything about the demand of dowry of Rs.2,00,000/- during enquiry and further as to the happening on 10.04.2012 and she has not whispered anything with the investigation officer also assumes significance.



14. Furthermore, whether PW2 has not stated anything when the deceased left from the matrimonial home; PW1 though stated in the chief examination that she came to know through her sister/PW2 about the certain complaints made by the deceased, however, in the cross examination of PW3 it is illustrated that the same is suffer from the material fact and furthermore, PW3 has not whispered anything regarding the utterance of the unparliamentary words by the accused while PW2 & PW3 had visited the house of the first accused, which was also elicited during the cross-examination of PW13 as to the demand of dowry of amount of Rs.1,00,000/-.

15. P.W.5, colleague of the accused, has not whispered anything about the said alleged demand of dowry and thus, the Sessions Judge has come to the conclusion that the prosecution has not let in any positive evidence to show the ingredients for abatement of suicide either by direct or indirect act of inducement to commit suicide. Mere fact that the husband and wife are not having parallel terms, it would not amount to abetment or inducement to commit suicide.

16. Based upon the answer elicited from the cross examination of PW13/Investigation Officer that as to what was stated by PW1 to PW3 during their investigation about the alleged crime of dowry demand of Rs.2,00,000/-, further payment of Rs.1,00,000/-, utterance of unparliamentary words against the deceased, when PW3 went along with the deceased to handover and the deceased has committed suicide in the house of the matrimonial home, the trial Court has come to the conclusion that the version of the witness PW1 to PW3, with the revenue witness/PW7 and the police witnesses PW10 to PW15 are on material contradiction, as to the payment of dowry alleged, harassment and utterance of unparliamentary words and accordingly, the trial Court has arrived at the conclusion that the prosecution has failed to prove the evidence in support of the charges framed against the accused.

17. After going through cross-examination of PW1, PW2 and PW3 with that of PW13, this Court finds that the finding rendered by the learned Sessions Judge is just and proper, does not suffer warrant any interference, at this appellant stage.

18. It remains to be stated that neither with the revenue witness nor investigation officer, such statement of demand of dowry, partial fulfillment of the said dowry and balance payment of alleged dowry within, four months and further statement of harassing the deceased with the unparliamentary words and cruelty are not deposed.



19. In view of the material contradictions with regard to the alleged demand of dowry and also alleged abetment of suicide, the learned Special Sessions Judge, Mahila Court, Erode has taken note of the material contradiction in the proper perspective and also laid that there is no abetment of suicide nor demand of dowry, as prescribed, in the IPC and accordingly, the finding rendered by the learned Special Sessions Judge, that the prosecution having failed to prove the charge under Section 498-A and 306 of IPC and hence, the charges are not proved beyond reasonable doubt. By operation of law, the accused are entitled for acquittal and such a finding does not suffer from any irregularity or illegality warranting interference at the appellate stage. In this view of the matter, in the absence of any positive evidence to interfere with such a finding, this Court finds that the appeal is devoid of merits and liable to be dismissed.

20. In the result, the criminal appeal is dismissed and the order of acquittal dated 30.01.2014 passed by the learned Sessions Judge, Fast Track Mahila Court, Erode in S.C.No.103/2013 is hereby confirmed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Mahalir Sessions (Fast Track) Court,
Erode.
2. The Judicial Magistrate III,
Erode.
3. The Public Prosecutor,
High Court, Madras - 104.

+1cc to Mr.P.Palani Nathan, Advocate, S.R.No.52079

Cr1.A.No.209 of 2015

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NSK 28/10/2021