



BAIL SLIP

The Appellant/Accused viz., R.Duraimurugan, S/o.Ramadoss was directed to be released on bail as per order dated 21.12.2015 in Crl.M.P.No.1 of 2015 in Crl.R.C.No.1335 of 2015 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON 20.07.2021	ORDERS PRONOUNCED ON 28.09.2021
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CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.1335 of 2015

R.Duraimurugan

.. Petitioner/Accused

.Vs.

State Rep.by
The Inspector of Police,
Valathy Police Station,
Villupuram District.
Crime No.98/2011

.. Respondent/Complainant

PRAYER :

Petition filed under Sections 397 and 401 of the Criminal Procedure Code, praying to call for the records in C.A.No.38 of 2013 and set aside the judgment dated 10.12.2015 on the file of learned II Additional District and Sessions Judge, Tindivanam in S.C.No.22/2012, dated 28.03.2013 on the file of learned Assistant Sessions, Judge, Gingee, Tindivanam, Villupuram District.

For Petitioner : Mr.G.Ravikumar

For Respondent : Mr.R.Vinoth Raja
Government Advocate

ORDER

The convicted sole accused is the revision petitioner herein.



2. The accused has filed the above Crl.R.C against the order of conviction passed on 10.12.2015 by the learned II Additional Session Judge, Tindivanam, Villupuram District made in C.A.No.38 of 2013 confirming the sentence of 3 years simple imprisonment and payment of Rs.2,000/- in default the petitioner has to undergo simple imprisonment for one month imposed by the learned Assistant Sessions Judge, Gingee in S.C.No.22 of 2012 dated 28.03.2013.

3. The respondent police has filed a charge sheet against the appellant and 4 others before the learned Judicial Magistrate, Gingee for an offence under Section 306 I.P.C.

4 (a) The case of the prosecution is that the petitioner is working as Driver in Chennai and the deceased Maheswari also working in Chennai. Both the deceased Maheswari and the petitioner are hailing from the Neganur Village having love affairs for the past about 3 years. While this is so, on 21.06.2011 the petitioner herein married the deceased Maheswari at Chennai under compulsion by tying Thali in a Hindu Temple at Chennai and thereafter delayed the visit to their native place.

(b) Aggrieved by this, the deceased Maheswari alone visited the petitioner's house at Neganur Village on 22.06.2011 at 06.00 p.m. and asked the father of the petitioner (A2) "that your son had tied Thali to me" and thereafter the 2nd accused pulled the hair of the deceased Maheswari and attacked with hands. The other accused namely mother and sisters of the petitioners (A3, A4 and A5) scolded her with abusive language and beaten up with their hands.

(c) Aggrieved by the conduct of the petitioner for neglecting take her to native place after tying Thali in Hindu Temple at Chennai, he further neglected her and the relatives of the petitioner also scolded her and attacked with the hands.

(d). As a result, the said deceased Maheswari was upset and committed suicide by pouring kerosene on 24.06.2011 at 11.00 a.m and set fire herself. Subsequently she was taken to Government Hospital, Gingee in which the Doctor who recorded accident register mentioned that the said Maheswari sustained "suicidal burns in her residence at around 11.00 a.m. on 24.06.2011". Subsequently, she was transferred to Jipmer Hospital, Puducherry. However the deceased Maheswari died on the same day at 01.50 p.m in the Hospital.

5. In these circumstances, the respondent filed the charge sheet against the accused persons for abatement of suicide which is punishable under Section 306 I.P.C After committal by the learned Judicial Magistrate, Gingee, the case was made over to



the learned Assistant Session Judge, Gingee for trial. After conclusion of trial, the learned Assistant Session Judge, Gingee to convict the petitioner only for an offence under Section 306 I.P.C and sentenced to undergo 3 years simple imprisonment and fine of Rs.2,000/- in default of payment of fine the sentence of one month imprisonment was imposed by the trial Court on 28.03.2013. The accused 2 to 5 were acquitted by the trial Court. However the petitioner was not present at the scene of the occurrence on 24.06.2011 and he was convicted by the trial Court by mere application.

6. The learned counsel for the petitioner has submitted that aggrieved by the judgment and conviction of the trial Court, the petitioner preferred an appeal before the learned Principal Session Judge, Villupuram and the same was numbered as C.A.No.38 of 2013. The appeal was made over to learned II Additional District and Session Judge, Tindivanam for disposal. Thereafter the learned II Additional District and Session Judge, Tindivanam heard the appeal and dismissed the appeal preferred by the petitioner on 10.12.2015 and consequently confirmed the trial Court judgment.

7. During the course of argument in the Criminal Revision, the learned counsel for the revision petitioner/first accused filed a typed set of papers consisting of Accident Register of the deceased Maheswari issued by the Government Hospital, Gingee dated 24.06.2011.

8. At the time of the admission of the accused, Dr. S.Padma Rani is said to have admitted the accused with the injury and draw my attention to the said fact. Admittedly, this Accident Register has been burked by the prosecution and not produced before the trial Court.

9. The prosecution has been examined as P.W.1 to P.W.4 and Exhibits P1 to P8 were marked.

10. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

11. A2 to A5 were found not guilty while A1 was convicted 3 years imprisonment and hence he has preferred the revision and appeal was dismissed.

12. P.W.1/defacto complainant is the mother of the deceased. While P.W.2 is the father. P.W.3 and P.W.4 are brothers and P.W.5 is sister of the deceased respectively. Resident of the village are examined as P.W.6 to P.W.10. Doctor who has conducted Postmortem is examined as P.W.1 and P.W.12 to P.W.14 are Police witnesses could deposed regarding discharge of the



official duty in connection with receipt of Ex.P1 complaint and registration of Ex.P3 F.I.R.

13. During the course of examination of P.W.1, a suggestive case has been put up by the accused, the accident has not taken place as described in the final report and earlier complaint given by the defacto-complainant to All Women Police Station was burked Accident Register copy at the time of the admission of the girl is also marked alleged suicide known is also burked.

14. The scene of the crime as projected in the final report is that on the junction of the road in a public place around. As pointed out by the learned counsel for the revision petitioner had there been such incident in such a time definitely a general public could have come to rescue since it is a village and hence the S.O.C projected by the prosecution is false and unbelievable.

15. The suggestive case of the defence during the cross examination of the private prosecution witness is that the alleged marriage has spoken to by police is never taken place and in the absence of any positive evidence to show the accused has married the deceased, since they are belong to different religion though residing in a close. An earlier complaint given by the deceased to the All Women Police Station, the All Women Police Station for the reasons best known has ignored the petition. Having dejected in action on the part of police, she committed suicide inside the house. In short victim having dejected over the in action on the part of the police she committed suicide inside the house. However in order to cover up the lapse on the part of the police they shifted the scene of the crime from the house of the deceased to the street and also cooked up the story as if there was a marriage between the accused and the deceased.

16. On perusal of the accident register issued to the deceased on 24.06.2011 which appears to have been burked by the prosecution entirely destroyed the case of the prosecution and support of the case accused.

17. After going through the evidence and also taking note of the fact that the Accident Register now produced by the revision petitioner appears to have been burked by the prosecution not marked before the trial session.

18. After going through the final report filed by the respondent police and the evidence of P.W.6 to P.W.7, the Villagers, I find that, the main plank of prosecution is destroyed by the Accident Register. Furthermore, the scene of the crime as projected by the prosecution also appears to be



under cloud. The accident register said to have been registered based upon the statement given by the victim girl who subsequently died appears to have been not brought to the light right and not brought before the lower Appellate Court and hence, I find that the final report and the prosecution evidence let in before the trial Court lacks fairness.

19. Had the Accident Register dated 24.06.2011 has been placed before the Court, the true fact could have been surfaced before the Court to determine the real issue as to the charges surface under Section 306 I.P.C. is made out or not.

20. In view of the order to be passed in the subsequent paragraphs, I am imposing is self restriction upon myself on commenting upon further on A.R copy, which is burked by prosecution has led to colossal failure of justice. Since, the Accident Register was not marked either in the trial Court or before the appellate Court, an opportunity has to be given to the defense/ accused to summon the original document by filing necessary application before the lower Appellate Court and to examine the connected persons therewith as an additional witness on behalf of the defense before the appellate Court.

21. Taking into consideration the way in which the prosecution was conducted, I hereby direct the learned Assistant Sessions Judge, Tinidivanam to call for the Accident Register dated 24.06.2011 from the Gingee Government Hospital and to examine the Doctor connected therewith as an additional witness. If the defense counsel files an application and if not Court shall do the same as a Court witness since the prosecution appears to have been framing the accused for the latches on their part.

22. Accordingly, this Criminal Revision Petition is allowed and the matter is remitted back to learned Additional sessions Judge, Tindivanam and liberty is given to the defense counsel to file necessary application to send for the document and to examine the additional competent witness in connection thereto. If no such application is filed, the Court shall proceed with as stated supra in the preceding paragraphs.

23. In the result,

(i) This Criminal Revision Petition is allowed.

(ii) The conviction and sentence passed by the learned Additional District and Sessions Judge, Villupuram District at Tindivanam in C.A.No.38/2013 is set aside.



(iii) The matter is remitted back to the learned II Additional District and Sessions Judge, Tindivanam for re-consideration after giving opportunity to the accused to summon A.R. copy as stated in the body of the judgment and to lead additional evidence in accordance with Cr.P.C, thereafter, to decide and dispose of the said C.A.No.38/2013 on merits.

(iv) Such exercise as stated in the above clause, the conviction and sentence passed in S.C.No.22/2012 on the file of the learned Assistant Sessions Judge, Gingee, Villupuram District shall stand suspended and the accused has to sign before the learned Additional District Judge on first working day as stated in the order of suspension by this Court in M.P.Nos.1 and 2 of 2015 in CrI.R.C.No.1335 of 2015.

(v) The learned Additional Sessions Judge, Tindivanam is required to dispose of the case within a period of three months in accordance with law.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The II Additional District and Sessions Judge, Gingee, Villupuram District.
2. The Assistant Sessions Judge, Gingee, Tindivanam, Villupuram District.
3. The Judicial Magistrate, Gingee, Villupuram District.
4. The Chief Judicial Magistrate, Villupuram, (For Information)
5. The Inspector of Police, Valathy Police Station, Villupuram District.
6. The Section Officer, Criminal Section, High Court, Madras.



7. The Public Prosecutor,
High Court, Madras-104.

Crl.R.C.No.1335 of 2015

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CS/12/10/2021