



BAIL SLIP

The Petitioners namely 1.S.Saravanan, 2.U.Pakkirisamy were to be released on bail as per order of this Court dated 25.08.2015 and made in CRL.M.P.No.1 of 2015 in CRL.RC.No.796 of 2015 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	17.11.2021
PRONOUNCED ON	08.12.2021

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

CRL.R.C.NO.796 OF 2015

1.S.Saravanan
2.U.Pakkirisamy

...Petitioners/A1 & A2

Vs

The Sub-Inspector of Police,
Thittacherry Police Station,
Nagapattinam District.
[Crime No.120/2010]

...Respondent

PRAYER: This Criminal Revision Case is filed under Section 397 r/w.401 Cr.P.C., against the judgement of the learned Sessions Judge, Fast Track Mahila Court, Nagapattinam dated 11.06.2015 passed in Crl.A.No.44 of 2011, dismissing the Criminal Appeal and by confirming the Judgment dated 17.08.2011 in S.C.No.198 of 2010 passed by the learned Assistant Sessions Judge (Sub-Judge), Nagapattinam, by convicting the petitioners under Sections 354 r/w. 109 IPC and sentencing both of them to undergo 2 years Rigorous Imprisonment for two years and to pay a fine of Rs.5,000/- and in default of payment of fine, further sentenced to undergo Simple Imprisonment for another two months.

For Petitioners : Mr.W.Camyles Gandhi

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side)



O R D E R

This Criminal Revision Case has been filed by the petitioners challenging the judgment passed by the learned Sessions Judge, Fast Track Mahila Court, Nagapattinam, in CrI.A.No.44 of 2011, dated 11.06.2015, confirming the Judgment passed by the learned Assistant Sessions Judge (Sub-Judge), Nagapattinam, in S.C.No.198/2010, dated 17.08.2011, wherein, the petitioners were convicted for the offence under Section 354 r/w. 109 IPC and sentenced to undergo 2 years Rigorous Imprisonment and fine of Rs.5,000/-, and in default of payment of fine, sentenced to undergo Simple Imprisonment for another two months.

2. The case of the prosecution is that three women by names Devi, Parimala and Sathya were belonged to Tiruchenkattenkudi Village and they were all working in Banian Company at Tiruppur. One person, by name Manickam was also working in the said company and he fell in love with the Sathya. After some time, they got married without the knowledge of the parents of Sathya. Father of Sathya gave a compliant to the village panchayat by stating that the said Devi had encouraged the love marriage of Sathya and Manickam and she was the reason for their marriage. In view of the said complaint, Devi was brought from Tiruppur to the village panchayat on 08.05.2010. The panchayat was convened at Tiruchenkattenkudi Mariamman Temple and she was enquired by the panchayat. In the said Panchayath the village Nattamai Saravanan (A1) and Village Odumpillai Pakkirisamy (A2) had beaten the said Devi with tamarind stick in front of village people. Because of such humiliation, Devi committed suicide by self immolation. Despite she was taken to the hospital for intensive treatment, she died on 17.05.2010. On the basis of the complaint statement given by Devi herself, an FIR was registered under Section 309 IPC. Ex.P1 is her complaint statement and the FIR is Ex.P2.

3. After her death, the charge was altered from Section 309 IPC to Section 306 IPC. PW5/Sub-Inspector of Police, took up the investigation; went to the Government Hospital, Nagapattinam and recorded the statement of Devi. He also recorded the statement of her father Nagaraj and her sister Usha. On the next day, he went to the scene of occurrence and prepared Ex.P3-Observation Magazar and Ex.P4-Rough Sketch in the presence of witnesses. After getting intimation from the Government Hospital about the death of Devi, he altered the charges from Section 309 IPC to 174 Cr.P.C., and thereafter, to Section 306 IPC and prepared the alteration report under Ex.P5.



4. Further investigation was taken up by PW18/T.R.Somasundaram, Inspector of Police, who visited the place of occurrence; examined the witnesses and thereafter, he went to the hospital and conducted inquest on the body of the deceased and prepared the inquest report and the same is marked as (Ex.P10). Thereafter, he arrested the accused at about 4 p.m., on 17.05.2010 and sent them to judicial custody. He got the post mortem certificate and after completing the investigation, he filed the charge sheet against the accused for the offence under Section 306 IPC.

5. The case was taken on file by the learned Judicial Magistrate-II, Nagapattinam in PRC No.19/2010 and after observing the legal mandates, the case was committed to the Court of Sessions at Nagapattinam and there it got numbered as S.C.No.198 of 2010. The learned trial Judge framed charge against the accused under Section 306 of IPC. After giving due opportunity to the accused, he conducted trial.

6. During the course of trial, on the side of the prosecution, 18 witnesses were examined and Exs.P1 to P10 were marked. On the side of defence, no witness was examined and no documents were marked.

7. PW1, Nagaraj, who is the father of the deceased, has deposed about the assault and humiliation meted out to his daughter Devi, by A1 and A2 in front of the villagers; he heard the scream of his daughter at about 16.30 hours on 08.05.2010 and rushed inside the house; there he found his daughter poured kerosene on herself and set fire; immediately, the deceased was taken to the hospital.

8. PW2, Usha, who is the sister of the deceased, has also corroborated the evidence of PW1/Nagaraj. PW3 and PW4 are the relatives of the deceased and they also had the knowledge about the Panchayat and the suicide of the deceased. PW6 is a hostile witness. PW7/Mahendran had seen the deceased beaten by A1 and A2 and he has given the details about how she was beaten by the accused in front of the villagers and the father of the deceased. PW8/Parimala and PW10/Sathya were also working along with the deceased Devi at Tiruppur Baniyan Company and they had stated about the same and the love affair between PW10 and one Manickam.

9. However, PW10/Sathya turned hostile. PW9 stood as a witness for observation Mahsazar but he also turned hostile. PWs 10, 12, 13, 14 and 15 had not supported the case of the prosecution and they turned hostile. PW16, Dr.Kadar, who has conducted the post mortem on the body of the deceased has stated



in his affidavit that the deceased died due to burn injuries. PW17 is the Magistrate who recorded the dying declaration of the deceased, while she was in the hospital. PW18 is the investigating officer, who completed the investigation and laid the charge sheet against the accused.

10. After considering both oral and documentary evidence adduced on the side of the prosecution, the learned Assistant Sessions Judge (Subordinate Judge), Nagapattinam, found that the accused were not guilty for the offence under Section 306 IPC and acquitted them under the said charge, However he found them guilty for the offence under Section 354 r/w. 109 IPC and convicted and sentenced them as stated as below:-

Sl. No.	Rank of the Accused	Conviction passed by the trial Court	Sentence passed by the trial Court
1.	A.1	354 r/w. 109 IPC	Sentenced to undergo 2 years Rigorous Imprisonment and to pay a fine of Rs.5,000/-, and in default, to undergo Simple Imprisonment for another two months.
2.	A.2	354 r/w. 109 IPC	Sentenced to undergo 2 years Rigorous Imprisonment and to pay a fine of Rs.5,000/-, and in default, to undergo Simple Imprisonment for another two months.

11. Aggrieved over the same, the accused had preferred an appeal before the learned Sessions Judge, Fast Track Mahila Court, Nagapattinam in C.A.No.44/2011 and the said appeal was dismissed by confirming the judgment passed by the learned trial Judge. Challenging the said judgment passed by the learned Sessions Judge, Fast Track Mahila Court, Nagapattinam, the accused preferred this Criminal Revision Case before this Court.

12. The learned counsel for the petitioners / accused 1 and 2 submitted that except the interested witnesses, PWs.1, 2 and 7 and all other witnesses do not support the case of the prosecution; both the Courts below have convicted the accused based on the evidence of interested witnesses; the Courts below have omitted to appreciate the contradictions in the evidence of the witnesses in order to give the benefit of doubt to the accused. The Material Objects like kerosene, match box and tamarind stick were not recovered from the accused. By making



his submission, the learned counsel prayed that the judgments of both the Courts below should be reversed and the accused should be acquitted from the charges levelled against them.

13. The learned Government Advocate (Crl. Side) appearing for the State, submitted that the deceased was humiliated in front of the villagers and only because of the said fact, the deceased Devi had committed suicide. PWs.1, 2 and 7 were very much present in the panchayat when the deceased was beaten up by A1 and A2 and their evidence cannot be rejected as inadmissible. The Courts below have rightly appreciated the evidence in proper perspective and convicted the accused for the lesser offence under Section 354 IPC.

14. The fact that the deceased Devi was working along with PW8-Parimala and PW10-Sathya at Tiruppur Baniyan Company was not in dispute. PW10-Sathya fell in love with one Manickam and both of them got married without the knowledge of their parents and the said fact is not denied. All problems started only due to the love marriage between the said Sathya and Manickam. The parents of Sathya doubted that the deceased Devi was instrumental for promoting the love affair between Sathya and Manickam, and therefore they took up the matter to the village panchayat. The deceased was called upon by the panchayatars and she was beaten up publicly by the accused in front of the villagers. PW8-Parimala, in her evidence had deposed that the deceased committed suicide only after the deceased was beaten up by the accused in the panchayat.

15. The father of the deceased, PW1/Nagaraj has stated that he tried to prevent the accused from beating his daughter, but he was also pushed-aside by the accused. PW1 has stated all these facts in her evidence and his cross-examination did not demolish his chief examination. PW2, the sister of the deceased was also present when the accused was beaten up by the deceased and she has stated that the accused had beaten up her sister by using tamarind stick soaked in water. The detailed account of the events and conversation that were happened in the panchayat was spoken by PW2 in her evidence. The whole reading of her evidence would show that it is innocuous and real. Just because PW1 and PW2 are father and sister of the deceased, their ocular evidence cannot be rejected as untrustworthy.

16. Apart from PWs 1 and 2, PW7, who is also a local person of the village, had deposed in the panchayat that the accused had beaten the deceased on her chest, back and thigh. He has stated that when PW1 tried to prevent his daughter from being humiliated in the public view, he was also beaten by the accused. Immediately after some time, he heard her daughter



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screaming and he saw her running out of the house with fire on her body. When PW7 asked the deceased why she had taken that untoward decision, she told him that it was because of the harassment and humiliation undergone by her at the hands of the accused.

17. In fact, the First Information Report was registered based on the oral statement given by the deceased herself while she was in the hospital for treatment. The said statement was marked as Ex.P1. No doubt it is her spontaneous statement. In the complaint statement, she has clearly stated about the overtact of A1 and A2 in beating and shaming her. She had stated that they used tamarind stick to beat her and she felt ashamed and humiliated. The act of the deceased to kill herself by setting fire on her would show that she was in a stressful state of mind subsequent to the panchayat meeting where she was humiliated. She has also stated the same facts in her dying declaration (Ex.P9) given to the Magistrate.

18. It is submitted by the learned counsel for the petitioners that in the dying declaration PW1 did not mention about A1-Saravanan and she had stated only the name of A2. The deceased was suffering with severe burn injuries on her body while she was giving her dying declaration. Though in her statement she had stated about the broader outline of the occurrence in the same line of her complaint, it is not possible to tell all the minute details of the occurrence in that physical condition. However, the eye-witnesses have elaborately spoken about what had happened in the panchayat.

19. PW1, PW2, PW7 and PW8 are the eye-witnesses and they had stated about the overtact of both the accused in beating and harassing the deceased in front of the village public. It is true that the police have omitted to recover the tamarind stick used for the occurrence. But that flaw in the investigation to collect the corroborative factors like Material Objects alone cannot demolish the evidence of ocular witnesses or falsify the complaint statement of the deceased.

20. The Courts below have dealt with the admissibility and evidentiary value of the dying declaration of the deceased in right perspective and accepted it as a valuable piece of evidence. Despite some of the witnesses have turned hostile, the evidence of the eye witnesses viz., PW1, PW2, PW7 and PW8 have supported the case of the prosecution by stating the details of the occurrence in a cogent, clear and convincing manner. So it is right on the part of the lower courts to give credit to their evidence.



21. Neither the deceased nor the parents or relatives of the deceased had any motive or previous enmity with the petitioners/accused to implicate them falsely in this case. The reason for holding the panchayat and the sequence of the events that followed the panchayat do not appear to be imaginary. The evidence of the prosecution would prove that the PW1 got caught up in the village panchayat subsequent to the love marriage between Sathya and Manickam and in which she was humiliated in the public.

22. Since the evidence available on record is cogent and trustworthy, it just infused the confidence of the courts below for holding that the accused are guilty for the lesser offence under Section 354, though they had been charged for the offence of abetting suicide under sec.306 I.P.C. Hence I find no reason for interference.

23. In the result, this Criminal Revision Case is dismissed and the judgement of the learned Sessions Judge, Fast Track Mahila Court, Nagapattinam, dated 11.06.2015 made in CrI.A.No.44 of 2011, confirming the Judgement of the learned Assistant Sessions Judge (Sub-Judge), Nagapattinam dated 17.08.2011 made in S.C.No.198 of 2010, is confirmed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Sessions Judge,
Fast Track Mahila Court,
Nagapattinam.
2. The Assistant Sessions Judge (Sub-Judge),
Nagapattinam.
3. The Sub-Inspector of Police,
Thittacherry Police Station,
Nagapattinam District.
4. The Judicial Magistrate No.II,
Nagapattinam.



5. The Superintendent,
Central Prison,
Cuddalore.

6. The Public Prosecutor,
High Court of Madras,
Chennai.

+1cc to Mr.W.Camyles Gandhi, Advocate, S.R.No.65427

Cr1.R.C.No.796 of 2015

KG (CO)
RLP (27/12/2021)