



BAIL SLIP

The Appellant/Sole Accused namely Arumugam, male, 36 years, S/o. Rengasamy, was directed to be released on bail as per the order of this court, dated 07/09/2016 in CRL.MP(MD).No. 4566/2016 in CRL.A.(MD).No. 203/2016 on the file of this court.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

JUDGMENT RESERVED ON : 28.06.2021

JUDGMENT PRONOUNCED ON : 29.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

Crl.A.(MD) No. 203 of 2016

Arumugam

S/o. Rengasamy

: Appellant/Soel Accused

-vs-

State represented by

The Inspector of Police,

Orathanadu Police Station,

Thanjavur District.

Crime No.157 of 2010

: Respondent/Complainant

PRAYER:- Criminal Appeal filed under Section 374(2) of the Code of Criminal Procedure, to set aside the Judgment and Conviction dated 12.08.2015 by the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thanjavur in S.C.No.2 of 2011 and acquit the appellant.

For Appellant : Mr.S.Deenadhayalan

For Respondent : Mr.T.Senthil Kumar

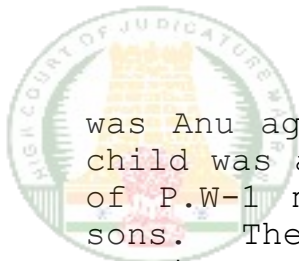
Government Advocate (Crl.Side)

JUDGMENT

This Criminal Appeal has been filed against the Judgment and Conviction dated 12.08.2015 by the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thanjavur in S.C.No.2 of 2011.

2. The brief facts, as per the prosecution, which are relevant for consideration of this appeal, are as follows:

2.1. P.W-1-Pichayammal had three daughters viz., eldest daughter Uma and second daughter Usha and third daughter Vanathi and only son Punniyamoorthy. P.W-1's husband- Kathalingam died 15 years prior to the date of occurrence. The eldest daughter Uma was married in the year 2005, her husband-Rangasamy hails from Karukadipatti Village. It was actually a love marriage. In the course of marital life, Uma delivered three children viz., eldest



was Anu aged 4 years, second daughter-Arthi aged 2 years and third child was a son Manikandan aged about 6 months. The second daughter of P.W-1 married the younger brother of P.W-1 and they have two sons. The third daughter is not married. The only son of P.W-1-Punniyamurthy was a student in 11th Standard in the School at Poiyundarkottai. The eldest daughter Uma was harassed by her husband Rangasamy seeking money and two wheeler from her mother's house. When she met her mother and informed her mother about the harassment meted out to her by her husband-Rangasamy seeking money and two wheeler, P.W-1 told her not to sever the relationship with Rangasamy and not to come back to her mother's place as it will cause problem in the youngest daughter's marriage arrangements. She had advised her eldest daughter to somehow get along with life in her husband's place. On 01.04.2010 at around 11.00 a.m., the son of P.W-1, went to the house of Uma. At that time, Punniyamurthy found half of the front door closed and other half remaining open. After calling his sister Uma, there was no response from inside the house. Therefore, he went inside the house and saw his elder sister Uma hanging from the roof of the house inside the kitchen with a Saree and her elder daughter Anu hanging from another Saree and another daughter Arthi and youngest child hanging from Dhoti. On seeing this, he cried loudly. On hearing his cries, neighbours came to the house of Uma. Punniyamurthy informed them about the death of his sister and her children. The neighbours informed him that around 7 a.m., in the morning on 01.04.2010, there was a quarrel between the husband and wife. After which the husband of Uma left home shouting that "By the time I return you should have obtained Rs.10,000/- and two wheeler from your mother's place, otherwise, I will finish you off." By uttering those words, he left for his work. Therefore, the daughter of P.W-1 had ended her life unable to bear the harassment meted out to her by her husband. She had killed her children also. The information regarding the death of Uma was conveyed to P.W-1 by her son. Therefore, P.W-1 proceeded to Orathanadu Police Station, Thanjavur District at 19.30 hours. P.W-19-Valli-Sub Inspector of Police on duty at Orathanadu Police Station had registered the FIR under Ex.P-12 in Cr.No.157 of 2010 based on the complaint under Ex.P-1 from P.W-1. The original FIR under Ex.P-12 and original complaint under Ex.P-1 were sent to the learned Judicial Magistrate, Orathanadu and copies of the same were sent to the higher Officials in the Police Department including P.W-21-Kalifula-Deputy Superintendent of Police as the death of married woman had taken place within seven years from the date of marriage attracting the Provisions of Dowry Prohibition Act. Therefore, the investigation is to be done by the Deputy Superintendent of Police. On receipt of the FIR under Ex.P-12, P.W-21 proceeded to the house of the deceased Uma by around 6.30 a.m., on 02.04.2010. P.W-21 had prepared Observation Mahazar under Ex.P-14 and Rough Sketch under Ex.P-15 in the presence of witnesses P.W-6-Iyyappan and P.W-7-Uthrapathi. He had seized the Dhoti and Sarees that were used to hang the children and herself by the deceased, under the Seizure



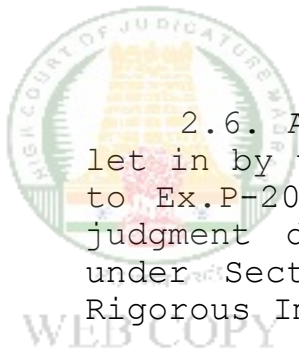
Mahazar. P.W-21 had addressed the duty Medical Officer, Orathanadu Government Hospital, he had conducted inquest on the body of the deceased and children at the house of the deceased Uma and forwarded the bodies of the deceased Uma and her three children to the Government Hospital, Orathanadu along with Head Constable No.1624-Punniyamurthy with a requisition letter to the duty Medical Officer to conduct autopsy on the bodies of the deceased. Each of the body was handed over to each of the Constables to hand over to the duty Medical Officer, Orathanadu to conduct Postmortem. He had examined the Doctors who had performed Autopsy on the bodies of the deceased and recorded their statements. He had obtained Postmortem Certificates under Ex.P-6 and Ex.P-8 to Ex.P-10 from the duty Medical Officers of the Government Hospital, Orathanadu. He had examined the witnesses and recorded their statements. After completing investigation, he had sent alteration report to the Court of learned Judicial Magistrate, Orathanadu altering the charge under Section 302 of IPC r/w.174 of Cr.P.C. to one under Section 304 (B) of IPC.

2.2. The learned Judicial Magistrate had taken cognisance of the final report filed by the Investigation Officer-Deputy Superintendent of Police, Orathanadu, numbered as P.R.C.No.20 of 2010. The learned Judicial Magistrate had sent summons to the accused. On appearance of the accused, copies were furnished under Section 207 of Cr.P.C. Since the offence is triable by the Court of Sessions, the learned Judicial Magistrate had committed the case to the learned Principal Sessions Judge, Thanjavur and bound over the accused to the Court of the learned Principal Sessions Judge, Thanjavur.

2.3. The learned Principal Sessions Judge, Thanjavur on receipt of the Court records of the learned Judicial Magistrate in P.R.C.No.20 of 2010 had numbered the case as S.C.No.2 of 2011 and on appearance of the accused charges were framed under Section 304 (B) of IPC. The case was made over to the learned Additional Sessions Judge, Fast Track Court, Pattukottai and the case was handed over to the Court of the learned Additional District and Sessions Judge, Fast Track Court, Pattukottai. On appearance of the accused, he denied charges and claimed to be tried, the trial was ordered.

2.4. During trial, the prosecution had examined the witnesses P.W-1 to P.W-21 and marked documents under Ex.P-1 to Ex.P-20 and marked Material Objects M.O-1 to M.O-4.

2.5. On closing of the prosecution evidence, the accused was examined under Section 313 of Cr.P.C., regarding the incriminating evidence available against the accused. The accused denied the incriminating evidence. After the proceedings under Section 313 Cr.P.C., the argument of the prosecution and the defence were heard.



2.6. After hearing the arguments and on assessment of evidence let in by the prosecution witnesses viz., P.W-1 to P.W-21 and Ex.P-1 to Ex.P-20 and M.O-1 to M.O-4, the learned Sessions Judge by his judgment dated 12.08.2015 convicted the accused for the offence under Section 304 (B) of IPC and imposed sentence of 10 years Rigorous Imprisonment.

3. Aggrieved by the judgment of conviction and sentence of imprisonment of 10 years, the sole accused preferred this appeal before this Court.

4. The learned counsel for the Appellant/Accused submits that the judgment of conviction recorded by the learned Sessions Judge, Fast Track Mahila Court, Thanjavur is perverse as the learned Sessions Judge had not assessed the entire evidence available before him. Therefore, the judgment is to be set aside and the accused is to be acquitted.

5. The learned Government Advocate (Crl. Side) submits that the learned Sessions Judge had properly appreciated the evidence and had arrived at a irresistible conclusion that the accused had caused death of the daughter of P.W-1 by his frequent harassment to bring Rs.10,000/- from her mother's place. The learned Sessions Judge had cogently discussed the evidence and arrived at a safe conclusion that the accused is responsible for the death of daughter of P.W-1 and her grand children. The learned Sessions Judge in his judgment, had discussed the evidence from Page Nos.183 to 216. Therefore, appeal lacks merits and it has to be dismissed.

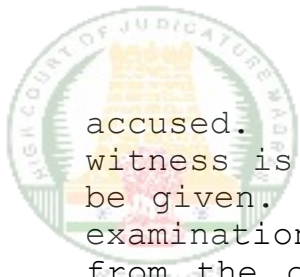
6. Point For Consideration

Whether the judgment of the learned Sessions Judge, Fast Track Mahila Court, Thanjavur convicting the accused for the offence under Section 304 (b) of IPC is perverse and warranting interference by this Court as appellate Court?

7. On perusal of the evidence of P.W-1 to P.W-21 and on assessment of documents under Ex.P-1 to Ex.P-20 and on perusal of the judgment, it is found that the learned Sessions Judge had properly appreciated the evidence.

8. As pointed out by the learned counsel for the appellant, FIR is belatedly filed, therefore, it is an embellished FIR and the entire prosecution case does not stand scrutiny.

9. As per the reported ruling of the Hon'ble Supreme Court in **(2021) 6 SCC 1 (Sabhir Singh and another Vs. State of Haryana) and Gurmeet Singh Vs. State of Punjab**, the Court while appreciating the evidence can consider the evidence of witnesses and not the lack of skills or lapses in the investigation as an advantage to the



accused. In cases of this nature, the evidence of the prosecution witness is to be assessed properly and on that basis a finding is to be given. In this case, the witnesses have stood the test of cross examination, nothing has been elicited in support of the defence from the cross examination of the prosecution witnesses. In such circumstances, there is a presumption in favour of the prosecution, in cases of death of newly married woman. In those circumstances, when there is no evidence in favour of the accused, the accused himself has to enter into the witness box and disprove the case of the prosecution. In this case, the accused had not entered the witness box. Therefore, presumption available under Section 113 of Indian Evidence Act is extended and applied in this case. On perusal of the judgment, it is found that the learned trial Judge, as per law, has properly appreciated evidence of P.W-1 to P.W-21. As rightly pointed out by the learned Government Advocate (Crl. Side) the appeal lacks merits and is to be dismissed.

10. On perusal of the judgment, it is found that though the FIR is belated, the delay is properly explained by the prosecution regarding the distance between the place of occurrence and the Police Station at Orathanadu, which created difficulty and in turn delay in lodging the complaint of P.W-1 under Ex.P-1. There is nothing available in favour of the accused. Not only that the inquest was once again done by the Revenue Divisional Officer of the District as it is mandatory inquest and enquiry conducted by the Revenue Officials and as per the report sent by P.W-20, it is a case of Dowry Harassment causing mental stress to the wife of the accused, thereby, ending her life. Therefore, from the evidence gathered by P.W-20-R.D.O, it is a case of Harassment caused by the husband resulting in, the daughter of P.W-1 committing suicide along with her children. Therefore, the accused is held liable for the death of P.W-1. Therefore, charges framed by the learned Sessions Judge, Thanjavur against the Appellant/Accused had been proved by the prosecution beyond reasonable doubt. The assessment of evidence by the learned Sessions Judge is found acceptable as per the Provisions of Indian Evidence Act. In those circumstances, nothing is found perverse warranting interference by this Court.

11. Point for consideration is answered against the Appellant/Accused and in favour of the Prosecution. The judgment of conviction recorded by the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thanjavur in S.C.No.2 of 2011 dated 12.08.2015 is not perverse.

In the result, this Criminal Appeal is dismissed.

The judgment of conviction recorded by the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thanjavur in S.C.No.2 of 2011 dated 12.08.2015 is confirmed. The learned Sessions Judge, Fast Track Mahila Court, Thanjavur, is directed to



issue warrant against the accused to forward him to Prison to undergo the remaining period of sentence imposed on the Appellant/Accused by judgment dated 12.08.2015 in S.C.No.2 of 2011. The period of detention already undergone by the Appellant/Accused is set off under Section 428 of Cr.P.C.

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Assistant Registrar (T&P)

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Sub Assistant Registrar(CS)

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To

- 1.The Sessions Judge,
Fast Track Mahila Court(Mahalir Neethinaram),
Thanjavur.
- 2.The Judicial Magistrate, Orathanadu.
- 3.Do - Through
The Chief Judicial Magistrate,
Thanjavur District at Kumbakonam.
- 4.The Superintendent, Cental prison, Trichy.
- 5.The Inspector of Police,
Orathanadu Police Station,
Thanjavur District.
- 6.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.
7. The Additional Public prosecutor,
Madurai Bench of Madras High Court, Madurai

+1 CC to M/s.S.DEENADHAYALAN, Advocate (SR-33290[F] dated 29/10/2021)

Crl.A. (MD) No.203 of 2016
29.10.2021

NA(CO)

KB(23.02.2022) 6P 9C