



Bail Slip in Cr1.RC(MD)No.331/2017

Rathinam @ Raja Rethinam @ Sree Krishna Perumal, S/o.Thiravia Nagar, Male, aged about 59 years, Petitioner in the Revision is released on bail vide Court order Dated 19.04.2017 made in Cr1.MP (MD)No.3181/2017 in Cr1.R.C(MD)No.331/2017.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.04.2021

PRONOUNCED ON : 03.09.2021

CORAM

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

CRL.R.C.(MD) No.331 of 2017

Rathinam @ Raja Rethinam @ Sree Krishna Perumal : Petitioner

Vs.

State through
The Inspector of Police,
Rajakamangalam Police Station.
(in Cr.No.628 of 1999)

: Respondent

PRAYER: Criminal Revision Petition filed under Section 397 Cr.P.C. r/w. Section 401 of Criminal Procedure Code, to call for the records of the judgment in Cr1.A.No.21 of 2006 on the file of the Sessions Court, Kanyakumari District at Nagercoil (Mahila Fast Track Court at Nagercoil), dated 01.09.2016, confirming the sentence and enhancing the fine amount levied by the Assistant Sessions Judge-cum-Chief Judicial Magistrate at Nagercoil in S.C.No.11 of 2001, dated 25.01.2006 and quash the same.

For Petitioner : Ms.L.Victoria Gowri
For Respondent : Mr.K.K.Ramakrishnan
Additional Public Prosecutor

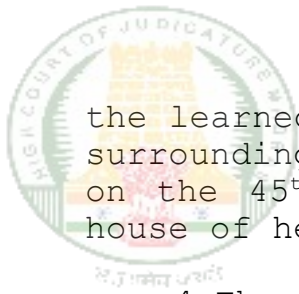
ORDER

This Criminal Revision Case is filed as against the judgment in Cr1.A.No.21 of 2006 on the file of the learned Sessions Judge, Fast Track Mahila Court, Kanyakumari District at Nagercoil, dated 01.09.2016, confirming the sentence and enhancing the fine amount levied by the Assistant Sessions Judge-cum-Chief Judicial Magistrate at Nagercoil in S.C.No.11 of 2001, dated 25.01.2006.

2.Heard Ms.L.Victoria Gowri, learned Counsel for the Revision Petitioner and Mr.K.K.Ramakrishnan, learned Additional Public Prosecutor appearing for the respondent.

3.When the case came up for hearing, Ms.L.Victoria Gowri, learned Counsel for the Revision Petitioner submitted her oral arguments. As per her oral arguments, the learned Trial Judge and

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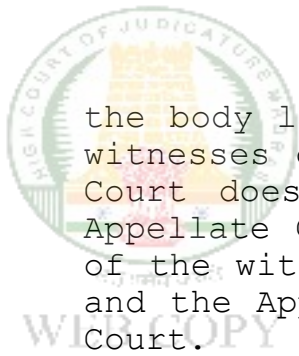
the learned Appellate Judge had failed to consider the circumstances surrounding the death of the deceased. After the date of marriage on the 45th day, she is alleged to have committed suicide in the house of her husband.

4.The Revenue Divisional Officer had conducted inquest. The suspicion was regarding the claim of dowry, whereas, the aunt of the deceased, Thanga Nadachi, had in her statement to the Revenue Divisional Officer as well as in her evidence stated that the husband of the deceased, the accused herein, had complained to his mother that his wife, newly married woman, is dark in complexion; her lips are broad and she is ugly and that his friends used to tease him for having married a dark complexioned woman. This information was shared by the deceased Rajathi to her friend Pushpavathi, wife of Thangaraj and also she is alleged to have stated that the deceased Rajathi was not allowed to lie or sleep along with her husband by her husband. Therefore, she had stated that she was not happy. This information was said to have been shared by the deceased after the marriage, when she went to her aunt and uncle's house, who had brought her up and had married her off to the accused herein, Rathinam @ Raja Rethinam @ Sree Krishna Perumal.

5.There is no complaint of dowry. When that be the case, the conviction by the learned Assistant Sessions Judge-cum-Chief Judicial Magistrate, Kanyakumari at Nagercoil convicting the accused under Sections 306 and 498A IPC is without any basis. The Learned Sessions Judge, Fast Track Mahila Court, Nagercoil, confirming the same amounts to not exercising the discretion in analyzing the evidence of witness as per provisions of IPC and the finding is erroneous and perverse. Therefore, this Criminal Revision Case is filed to set aside the judgment and conviction imposed on the Revision Petitioner.

6.Mr.K.K.Ramakrishnan, learned Additional Public Prosecutor, had vehemently objected to the submissions of Ms.L.Victoria Gowri, learned Counsel for the Revision Petitioner, stating that the revisional Court shall not exercise the discretion in interfering with the appreciation of the evidence by the Trial Court and the Appellate Court. Only if there is any perverse finding, then the Revisional Court shall exercise its discretion. Here, The learned Trial Judge had appreciated the evidence before him properly as per the provisions of Indian Evidence Act and the Appellate Court had confirmed the finding of the learned Trial Judge and dismissed the appeal.

7.Even if there is a just opposite view by the learned District and Sessions Judge, Fast Track Mahila Court, Nagercoil, the reasoning of the Mahila Court shall not be imposed on the Trial Court on the ground that the Trial Court had the benefit of observing the demeanor of witnesses, which benefit is not available to the Appellate Court. The trial Court had the benefit of observing



the body language of the witnesses and the accused. The demeanor of witnesses can be appreciated by the trial Court only. The Appellate Court does not have the benefit of Trial Court. Therefore, the Appellate Court had to be cautious, while appreciating the evidence of the witnesses. The concurrent finding of the learned Trial Judge and the Appellate Judge cannot be interfered with by the Revisional Court.

8. *Point for consideration:*

Whether the finding of the Trial Court convicting the accused under Section 306 IPC and 498 (A) is to be set aside, as perverse?

9. Perused the judgment of the learned Assistant Sessions Judge-cum-Chief Judicial Magistrate, Nagercoil, in S.C.No.11 of 2001 and the judgment of the learned Sessions Judge, Fast Track Mahila Court at Nagercoil, in Crl.A.No.21 of 2006. Before the learned Assistant Sessions Judge-cum-Chief Judicial Magistrate, Nagercoil, the husband of the deceased, Rathinam @ Raja Rethinam @ Sree Krishna Perumal and also his parents stood charged under Sections 304(B), 498(A) IPC and under Section 4 of the Dowry Prohibition Act. The parents of the accused herein were acquitted from all the charges under Sections 304 (B) and 498 (A) IPC and Section 4 of the Dowry Prohibition Act and convicted the first accused alone for the offence under Sections 306 and 498(A) IPC and sentenced him to undergo two years rigorous imprisonment along with fine of Rs.500/- under Section 498(A) IPC, in default, two months simple imprisonment and sentenced him to undergo four years rigorous imprisonment with fine of Rs.1,000/-, in default, to undergo four months simple imprisonment for the offence under Section 306 IPC.

10. The learned Trial Judge had relied on the evidence let in by the witnesses stating that the accused had commented on the physical appearance of the deceased that her complexion is dark, that her lips are broad and she can be divorced on payment of Rs.25,000/- so that he can contract a second marriage. This part of evidence is available through the witnesses, PW-1, Thanga Nadar, PW-2, Thanga Nadachi and PW-5, Pushpavathi.

11. The learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, had discussed the same in paragraph Nos.10, 11 and 12 of the judgment. Even in the Revenue Divisional Officer's enquiry, the same fact was spoken to by Pushpavathy, a friend of the deceased Rajathi. PW-5, Pushpavathy and PW-6, Krishnammal, were neighbours of the deceased in her aunt's house. Her maternal aunt had brought her up. She had informed her. Therefore, based on that particular aspect, causing harassment, the attitude and the conduct of the newly married husband towards his wife, teasing her on her physical appearance and expressing his mind to divorce her by paying



Rs.25,000/- as compensation had made her disappointed and depressed. Also, she had informed her friend, Pushpavathy, wife of Thangaraj, who is a neighbour of her aunt, that this fact need not be disclosed to her aunt and uncle, who had brought her up with great difficulties and challenges and if it is informed to them, they may feel depressed and helpless, as she did not want to give them any more trouble. This part of evidence cannot be ignored by any Court of law.

12.A newly married girl died committing self immolation in the house, where, she was living with her husband immediately after the 45th day of her marriage. The arguments of the learned Counsel for the Revision Petitioner that the Court had failed to appreciate the evidence in proper perspective and it is a perverse judgment, cannot be accepted, in the light of perusal of the evidence and the Judgment of the trial Court as confirmed by the Appellate Court.

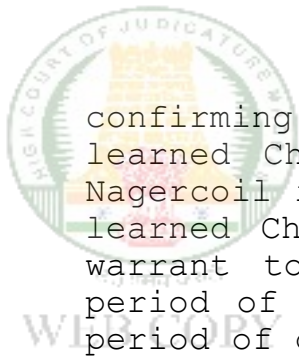
13.The learned Counsel for the Revision Petitioner seeking indulgence of this Court to interfere with the finding of the learned Trial Judge and the learned Appellate Judge and to set aside the conviction recorded against the accused cannot at all be accepted. The evidence let in by the witnesses are appreciated in the light of the provisions of Indian Evidence Act. This Court arrives at a conclusion that the Revision Court cannot go into the evidence of witness regarding the death of a newly married bride.

14.In the reported ruling of the Honourable Supreme Court in the case of ***State represented by the Drugs Inspector vs Manimaran***, in ***(2019) 13 SCC 670***, held that the Revision Court cannot go into the concurrent findings:

"D.Criminal Procedure Code, 1973 - S.401 - Revisional jurisdiction - Scope - Revisional Jurisdiction of High Court different from appellate jurisdiction - High Court, in revisional jurisdiction cannot interfere with concurrent findings of facts unless perverse or arrived at ignoring material evidence."

15.On perusal of the judgment of the learned Trial Judge and the Appellate Judge, it is found that it had properly discussed the law as well as the evidence in proper perspective. The point for consideration is answered in favour of the Prosecution and against the Revision Petitioner/accused. The finding of the learned trial Judge, convicting the Accused under Section 306 and 498 (A) IPC is found not perverse warranting interference by this Court, Revisional Court.

In the result, this Criminal Revision is dismissed. The judgment in Crl.A.No.21 of 2006 on the file of the learned Sessions Judge, Fast Track Mahila Court at Nagercoil, dated 01.09.2016, which



confirming the sentence and enhancing the fine amount levied by the learned Chief Judicial Magistrate-cum-Assistant Sessions Judge at Nagercoil in S.C.No.11 of 2001, dated 25.01.2006, is confirmed. The learned Chief Judicial Magistrate, Nagercoil is directed to issue warrant to secure the appellant/accused to undergo the remaining period of sentence and to collect the fine from the accused. The period of detention already undergone by the appellant/accused is to be set off under Section 428 of Cr.P.C.

Sd/-

Assistant Registrar (AS)

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/ /2021

Sub Assistant Registrar(CS)

To

- 1.The Sessions Judge,
Fast Track Mahila Court,
Kanyakumari District at Nagercoil.
- 2.The Chief Judicial Magistrate-
cum-Assistant Sessions Judge, Nagercoil.
- 3.The Judicial Magistrate No.1,
Nagercoil.
- 4.The Inspector of Police,
Rajakamangalam Police Station,
Kanyakumari District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

CRL.R.C.(MD) No.331 of 2017
03.09.2021

RS (29.09.2021) 5P 8C