



Crl.A.No.129 of 2015

IN THE HIGH Court OF JUDICATURE AT MADRAS

DATED: 28.10.2022

CORAM

THE HON'BLE Dr.JUSTICE G.JAYACHANDRAN

Crl.A.No.129 of 2015

A.Palanisamy

... Appellant

-Vs.-

1.Subramani @ Suresh

2.Duraisamy

3.Valliammal

4.The State,
rep by, The Inspector of Police,
Anamalai Police Station,
Coimbatore
(Crime No.303 of 2006)

.. Respondents

Criminal Appeal filed under Section 372 of Code of Criminal Procedure to call for the records in S.C.No.89 of 2007 on the file of the learned Sessions Judge, Magalir Neethimandram (Mahila Court), Coimbatore, dated 19.12.2012 and on perusal thereafter set aside the acquittal of accused (1) to (3).



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For Appellant : No appearance

For Respondent : Mr.P.M.Duraiswamy, for R1 to R3

Mr.R.Kishore Kumar,
Government Advocate (Criminal side)
for R4

J U D G M E N T

This Criminal Appeal, which is filed by the *de facto* complainant, has been preferred against the order of acquittal of the accused.

2. The facts of the case is that the daughter of the appellant got married to one Subramani @ Suresh/first respondent on 08.09.2005. On 07.07.2006, Maheswari/ daughter of the appellant, committed suicide and since the death of the daughter of the appellant was within a year from marriage, the case was registered for the offences under Section 4 of Dowry Prohibition Act and Section 498A and 304B IPC. In view of the material collected during the RDO enquiry and the police investigation, the husband of the deceased, father-in-law of the deceased and mother-in-law



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of the deceased were arrayed as accused A1 to A3 respectively.

3. To prove the charges, the prosecution has examined 16 witnesses and marked 23 exhibits and two pieces of nylon rope, used by the deceased for hanging herself, were marked as MO.1 and MO.2. In defence, two witnesses were examined and a document was marked.

4. On considering the charges of demand of dowry, the trial Court found that it was not proved and for lack of evidence to prove that the daughter of the *de facto* complainant was abated to commit suicide, the trial Court has acquitted the accused, A1 to A3, from all the charges.

5. Aggrieved by the said acquittal, the *de facto* complainant has preferred this appeal on the ground that the Court below has failed to properly appreciate the evidence let in by the prosecution, particularly, the demand of balance dowry amount of Rs.5,000/- made by A1 a day before the suicide of daughter of the PW1, which was spoken by PW1 and also about the panchayat held regarding the demand of dowry, which was



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spoken by PW2, PW3 and PW4. The same was erroneously disbelieved and not properly appreciated by the Court below.

6. The prime contentions of the appellant/*de facto* complainant is that death of his daughter within a year of marriage was due to dowry harassment caused by the respondent. However, on considering the facts illustrated during the cross examination through DW1 and DW2, the trial Court has found that the mother of the deceased was not compatible with the in-laws family of the deceased and from the day of marriage, there was quarrel. The abortion of 1½ months of fetus of the deceased has caused depression and led her to committing suicide.

7. On considering the evidence marshaled by the prosecution, particularly, from the evidence of PW1/appellant/*de facto* complainant, PW2/Malliga/wife of PW1, PW3/cousin of the deceased and PW4/a family member of the deceased, this Court finds that there is allegation of demand of additional dowry after marriage and the deceased, who was conceived, could not get along with the pregnancy due to her health



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conditions. Therefore on the advise of the Doctor, fetus was aborted.

Thereafter, though PW1 stated that there was dispute between the spouses and the persons of the village panchayathars, deceased was sent to the accused home, there is no evidence from the panchayathar to substantiate the said fact.

8. That apart, the recovery of two pro-notes executed by PW2 alleged to have been recovered in the course of the investigation and the same is marked as Ex.P2 and Ex.P3. A perusal of these two pro-notes, indicates that PW2/mother of the deceased has borrowed Rs.20,000/- each, under these two pro-notes from one Senathipathi, who is examined as PW4. These two pro-notes were alleged to have been recovered by the police long after incident, that is on 08.07.2006 and the same has been forwarded to the learned Judicial Magistrate much later on 02.04.2007. Therefore, in the light of this delay in surfacing these two pro-notes and evidence of PW4/Senathipathi, who happens to be the lender of Rs.20,000/- each under two pronotes to PW2, this Court finds that this has no relevance to the allegation of the dowry demand on the



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accused/respondent. The money, which was borrowed from PW4/Senathipathi, was paid to the respondents. Though PW4/Senathipathi says that the money was borrowed from him by PW2 to give it to A1, this will not lead to an inference that it was given as dowry on the demand of A1.

9. That apart, the trial Court has rightly suspected the genuineness of the documents on considering the the delayed introduction of these two documents and production of these documents before Court after nearly 10 months of the occurrence. Yet another reason to suspect the genuineness of Ex.P2 and Ex.P3 to co-relate with the dowry demand is that Ex.P2 is dated 10.11.2005 and Ex.P3 is dated 15.03.2006. Though the statement of accounts maintained by PW4 appear to have been seized by the Investigating Officer and marked as Ex.P5, the actual statement of accounts was not marked.

10. The incriminating evidence against A1 is the statement of PW9,



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PW10, PW11, who are the residents living near the house of the victim.

According to them, the demand of Rs.20,000/- was made by A1 to support his banyan business and it does not carried in trappings of dowry demand.

11. Further, though the enquiry report of RDO, which is marked as Ex.P17, indicates that the deceased was beaten up and hanged, the postmortem report indicates that the death is a suicidal death by hanging herself. Ex.P8/Postmortem report concludes stating that aberration on the back of the left elbow and left leg are the external injuries, apart from ligature mark running on the upper part of neck. The Doctor has opined that deceased could have appear to be died due to asphyxia caused by hanging.

12. Therefore the prosecution has failed to prove the demand of dowry by cogent evidence and what was alleged to have been given to A1, during the marriage and thereafter, was not on demand as dowry but voluntarily offered as Seedhana and financial assistance to run his business. Relying upon some of the rules of the Hon'ble Supreme Court,



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the trial Court had extended benefits of doubt and acquitted the accused.

Since the accused have probalised their defense stating that the marriage between deceased and A1 was solemnized against the wish of PW1 and PW2 and they went to break the marriage and put pressure on the deceased causing mental disturbance, the trial Court had arrived at above conclusion of acquittal. The appellant has earned double benefits of doubt and acquittal by the trial Court and the view taken by the trial Court is justified by appropriate reasons and evidence.

13. In view of the above, this Court finds that there is no reason to interfere the findings of the trial Court. Accordingly, this Criminal Appeal against acquittal is dismissed.

28.10.2022

Speaking/Non-speaking order

Index: Yes/No

Internet : Yes/No

nsa

To

1.The Sessions Judge,
Magalir Neethimandram (Mahila Court),



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WEB COPY Coimbatore.

2.The Inspector of Police,
Anamalai Police Station,
Coimbatore
(Crime No.303 of 2006)

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



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Dr.G.JAYACHANDRAN.J.,

nsa

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