



Bail Slip

The Petitioner/Accused namely Alagarsamy male age 29 Years S/o.Subramaniam was directed to be released on Bail vide order dated 22.04.2015 made in Crl.M.P.No.1/2015 in Crl.A.No.200/2015 on file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.09.2021

PRONOUNCED ON :12.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Crl.A.No.200 of 2015

(Through Video Conferencing)

Alagarsamy

Appellant/Accused

Vs

The State by the Inspector of Police,
Tiruppur South Police Station, Tiruppur Respondent/Complainant

Prayer:- This Criminal Appeal is filed under Section 374 of Cr.PC to set aside the judgement of conviction and sentence, dated 19.03.2015, made in SC.No.90 of 2012 by the Magalir Needhi Mandram (FTC) Tiruppur.

For Appellants : Mr.S.N.Arunkumar

For Respondent : Mr.J.C.Duraiaraj,
Government Advocate

JUDGEMENT

1.This Criminal Appeal is filed, against the judgement of conviction and sentence, dated 19.03.2015, made in SC.No.90 of 2012, by the Magalir Needhi Mandram (FTC) Tiruppur, thereby convicting and sentencing the Appellant/Accused, for the offence under Section 498A of IPC to undergo three years Rigorous Imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo three months Simple Imprisonment and for the offence under Section 306 of IPC to undergo seven years Rigorous Imprisonment and to pay a fine of Rs.20,000/-, in default to undergo one year Simple Imprisonment and ordering



the sentences to run concurrently.

2. The case of the Prosecution has arisen on the basis of Ex.P1 complaint given by the father of the deceased Pandiammal @ Pandeewari, alleging that in 2004 the marriage between the Appellant and her deceased daughter was performed and that at the time of marriage, sreedhana was given and that a female child was born to them and that after one year, the Appellant, suspecting her fidelity, tortured and harassed her, by assaulting her physically and subjected her to cruelty and that unable to bear the harassment and cruelty meted out to her, on 20.06.2010, the deceased Pandeewari had committed suicide by hanging and also before committing suicide, hanged her daughter, due to which she also died. Hence, the Appellant/Accused was charge sheeted for the offences punishable under Sections 498A, 302 and 306 of IPC.
3. The case was taken on file in SC.No.90 of 2012 by the Magalir Needhi Mandram (FTC) Tiruppur and necessary charges were framed. The accused had denied the charges and sought for trial. In order to prove the charges against the accused, the Prosecution had examined PW.1 to PW.11 and also marked Exs.P1 to P18 and MOs.1 to 5 were marked. On completion of the evidence on the side of the Prosecution, the accused was questioned under Section 313 of Cr.PC as to the incriminating circumstances found in the evidence of the Prosecution witnesses and the accused had come with the version of total denial and stated that he had been falsely implicated in this case. The court below, after hearing the arguments advanced on either side and also looking into the materials available on record, found the Appellant/Accused guilty and awarded punishments, as referred to above, by the impugned judgement, which is challenged in this Criminal Appeal.
4. This court heard the submissions of the learned counsel on either side.
5. The learned counsel for the Appellant has assailed the impugned judgement of conviction and sentence, contending that when there is no specific allegation, attracting the offence under Section 306 IPC, especially when the appellant was not present soon before the death, when there was a delay in giving the complaint, when there are discrepancies in the evidence of the Prosecution witnesses, when there are no ingredients established to attract the offence under Section 498A of IPC, when none of the neighbours was examined as a witness, though they were cited by the Prosecution, when there was suppression of original real facts, when no independent witness was examined, but only interested witnesses were examined by the prosecution, the court below has erred in convicting and



sentencing the Appellant, as stated above, without any valid, convincing and cogent evidence, both oral and documentary and hence, he would pray for acquittal of the Appellant/Accused.

6. On the other hand, the learned Government Advocate for the Respondent would submit that the Prosecution has proved its case beyond all reasonable doubts, by convincing, valid and cogent evidence, both oral and documentary and hence, the impugned judgement of conviction and sentence does not warrant any interference by this Court.

7. I have given my careful and anxious consideration to the contentions put forward by the learned counsel on either side and thoroughly scanned through the entire evidence available on record and also perused the impugned judgement of conviction and sentence.

8. Now, it is to be seen as to whether the Prosecution has proved its case beyond all reasonable doubts, by cogent evidence or whether there are discrepancies, as projected by the Appellant and particularly, whether there is valid evidence to make out a case for the offences under Sections 498A and 306 of IPC.

9. The evidence can be rejected, if it suffers from any serious infirmities or if there is any inherent inconsistency in the testimony. At the same time, if there is intrinsic merit in the evidence of the witnesses, the same cannot be rejected. Discrepancies and contradictions if found material and substantial are in respect of vital aspects of facts, then the entire testimony cannot be discarded. Bearing in mind, the aforesaid principles, the rival submissions made by the parties are to be analysed and a detailed and proper analysis of the evidence is essentially required.

10. In order to attract the provisions of Section 498A of IPC, the cruelty or harassment meted out to the wife by her husband or relatives of her husband should be to the extent that it became unbearable. Thus, the essential ingredients of Section 498A of IPC are:-

1. A woman must be married.

2. She must be subjected to cruelty.

3. Cruelty must be of the nature of harassment of such woman, with a view to coerce her to meet unlawful demand for property or valuable security.

11. To bring home the guilt of the Appellant/accused for the offence under Section 306 of IPC, the Prosecution should prove that there has to be a clear mens rea to commit an offence and



that there ought to be an active or direct act leading the deceased to commit suicide, being left with no option.

12. In this case, it is not in dispute that the Appellant is the husband of the deceased Pandiammal and that their marriage took place in 2004 and that on 20.06.2010, between 9.00 a.m. to 2.00 p.m. the deceased Pandiammal, aged about 26 years, committed suicide, by hanging herself and before committing suicide, she had hanged her daughter, Nivedha, due to which, the child also died.

13. PW.6, Doctor, had conducted post mortem on the body of the deceased Pandiammal, at 03.40 p.m. on 21.06.2010 and issued Ex.P3 post mortem report and a final report under Ex.P4, opining that the deceased Pandiammal died of suffocation due to strangulation by hanging. PW.6 had also conducted post mortem on the body of the child 4.35 p.m. on 21.06.2010 and issued Ex.P5 post mortem report and issued a final report under Ex.P6, opining that the deceased child died of suffocation due to strangulation by hanging and PW.6 had also deposed to that effect.

14. As per Ex.P2 observation mahazar, prepared by the concerned Police and in the absence of denial by the Appellant regarding the place of occurrence, it was established that the occurrence took place in their house.

15. Ex.P7 is the First Information Report. In so far as the contention of the learned counsel for the Appellant that the delay in giving the complaint is fatal to the case of Prosecution, is concerned, it is seen from Ex.P7 that though PW.1 had received the information on 20.06.2010 at 4.00 p.m., he travelled from Andipatti to Tiruppur Government Hospital and after seeing the bodies of the deceased there, he came back and gave the complaint on the next morning, i.e. on 21.06.2010 at 09.30 a.m. and thus, the delay in giving the complaint is satisfactory explained and as such, the said ground has to fail.

16. Ex.P1 is the complaint given by PW.1, father of the deceased Pandiammal. PW.1 had deposed about the incident and the Appellant, harassing the deceased Pandiammal and causing cruelty to her. PW.2 and PW.4, who are the mother and brother of the deceased Pandiammal and PW.3 brother of PW.1 all in one voice in their oral evidence have spoken about the incident and the harassment and cruelty caused to the deceased Pandiammal by the Appellant. The evidence of PW.1 to PW.4 are corroborative in nature.



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17. In the complaint, it is stated that the Appellant/Accused, suspecting her fidelity, had harassed physically and caused mental cruelty, by frequently saying @brj;J bjhiy@. Hence, it cannot be stated that the case of the Prosecution is unbelievable.

18. Since, admittedly, the death of the deceased Pandiammal had occurred within 7 years from the date of marriage, on intimation, PW.9 Revenue Divisional Officer had conducted inquest and a detailed enquiry, wherein he examined the Prosecution witnesses and the Panchayatars and recorded their statements under Ex.P8 to Ex.P14, based on which, he had deposed that the deceased committed suicide by hanging, unable to bear the torture and cruelty meted to her by the Appellant/Accused, however, there was no dowry harassment. Ex.P15 is the inquest report issued by PW.9. From the evidence of PW.1 to PW.4, who are the relatives of the deceased Pandiammal, it is established that the Appellant/Accused, suspecting her fidelity, harassed, tortured her physically and caused mental cruelty to her, which abetted and induced the deceased Pandiammal to commit suicide.

19. It is seen from the entire evidence that the offences under Section 498A and 306 of IPC levelled against the Appellant/Accused were proved by the Prosecution, beyond all reasonable doubts, by valid and cogent evidence, which was rightly accepted by the court below and accordingly, punishment was awarded as stated above, by the impugned judgement, which is proper.

20. Further, this Court is unable to find any rebuttal evidence let in by the Appellant/ accused to discard the conviction and sentence imposed on them. On the other hand, the evidence let in by the Prosecution as discussed above is sufficient to sustain the conviction and sentence imposed on the Appellant/ accused by the court below and there is no perversity or infirmity or illegality in the impugned judgement of the court below.

21. In fine, this Criminal Appeal is dismissed.

Sd/-

Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

Srcm



To

1. The Sessions Judge,
Magila Court (Fast Track Court),
Tiruppur.
2. -do-through The Principle Sessions Judge,
Tiruppur.
3. The Additional Sessions Judge,
Magalir Court (Fast Track Court),
Tiruppur.
4. The Inspector of Police,
Tiruppur South Police Station,
Tiruppur.
5. The Superintendent,
Central Prison,
Coimbatore.
6. The Public Prosecutor,
High Court, Madras-104

Copy To

The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.C.Ramkumar, Advocate SR.No.2488

Crl.A.No.200 of 2015

MT (CO)
GMY (24/02/2022)