



CrI.A.No.220 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.A.No.220 of 2018

The State rep. by
The Inspector of Police,
Nettapakkam Police Station,
Puducherry.
(Crime No.20 of 2011)

...Appellant

-Vs-

Prabu S/o Narasappan

... Respondent

Prayer: Criminal Appeal filed under Section 397 r/w Section 401 of Code of Criminal Procedure, against the judgment of learned Assistant Sessions Judge/Chief Judicial Magistrate, Pondicherry, dated 05.09.2017 in S.C.No.25 of 2012 thereby acquitting the respondent/accused for the charge of offence punishable under Section 306 of IPC.

For Petitioner : Mr.V.Balamurugane
Public Prosecutor (Puducherry)

For Respondent : Mr.R.Rajarajan



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ORDER

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This Criminal Appeal has been preferred as against the order of acquittal in S.C.No.25 of 2012 on the file of the Assistant Sessions Judge / Chief Judicial Magistrate, Pondicherry, dated 05.09.2017 thereby acquitted the respondent for the offence under Section 306 IPC.

2. The case of the prosecution is that the deceased had fell in love with the respondent and their marriage was solemnized in the year 2011. After their marriage they led the marital life in the upstairs of the appellant's house. They lived happily for three months and thereafter, the father of the deceased had presented 12 sovereigns of jewels and washing machine. Further, the jewels presented by her father was pledged to meet out the expenses of her mother's medical treatment. In this regard, the respondent picked up a quarrel with the deceased. Further, the respondent demanded a portion of the building to run his business. Therefore, the respondent used to harass the deceased, due to which, she committed suicide on 03.03.2011. Hence the complaint.

3. Based on the complaint, the appellant registered FIR in Crime No.20 of 2011 for the offence under Section 306 IPC. After completion of



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investigation they filed final report and the same has been taken cognizance for the offence under Section 306 IPC by the trial Court.

4. On the side of the prosecution PW1 to PW16 were examined and Exs.P1 to P11 were marked as exhibits and on the side of the respondent no one was examined and no document was marked as Exhibits. The prosecution also produced material objects M.O.1 to M.O.3.

5. On perusal of the oral and documentary evidence, the trial Court found the respondent not guilty for the offence under Section 306 IPC and acquitted him. Aggrieved by the same the prosecution preferred this appeal.

6. The learned Public Prosecutor (Puducherry) submitted that the prosecution examined the father of the deceased (PW1) and mother of the deceased (PW2). As per the statement of PW1 and PW2, they categorically deposed that they presented jewels weighing 12 sovereigns in favour of the deceased daughter. After their marriage, it was pledged by the father of the deceased to meet out the medical expenses of PW2. Thereafter, he could not redeem the same as such, the respondent used to harass the victim. The



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respondent also spoke to him that if he had married the other caste person, he would have got more dowry. Therefore, it lead to the deceased to commit suicide. Further, the trial Court without considering the same, acquitted the respondent herein.

7. He would further submit that the victim was living with her parents and they were eking out their livelihood by running a tea shop. The appellant was working in a tailoring shop which is located opposite to the house of the victim, they fell in love and got married. In fact, even before their marriage, she got pregnant. In spite of difference in caste, they decided to get the deceased married to the accused. However, the deceased pregnancy got aborted subsequently. Only due to dowry harassment, the deceased committed suicide. In fact, the accused also tortured the deceased for dowry and also demanding two wheeler.

8. A perusal of records revealed that the prosecution had examined PW1 to 16 to bring the charge under Section 306 IPC against the sole accused namely the respondent herein.



9. On perusal of the deposition of PW1 and PW2 revealed that they are parents of the deceased and PW3 is the brother of the deceased. On receipt of the complaint, the respondent registered FIR under Section 174 Cr.P.C., since the deceased committed suicide within seven years from the date of her marriage, enquiry was ordered to be conducted by the Executive Magistrate. On receipt of the enquiry report, the respondent altered the offence into 306 IPC and filed final report.

10. It is also seen that the deceased committed suicide by hanging herself in upstairs of her parent's house. Even according to the PW1 to 3, the deceased fell in love with the accused and got married and after marriage, the parents of the victim presented 12 sovereigns of jewels. Thereafter, PW1 pledged the said jewels to meet out the medical expenses of PW2. Therefore, there is no evidence to show that the respondent demanded dowry from PW1 to PW3.

11. That apart, there is no evidence to show that the respondent abetted or instigated the deceased to commit suicide. There is no inducement by the respondent before her death. In fact, the PW1 to PW3 did not even whisper that the respondent induced and instigated the deceased to commit suicide. In the



absence of specific overt act regarding the inducement and abutment, the respondent cannot be hold liable to be punished for the offence under Section 306 IPC.

12. It is relevant to extract the provision under Section 306 IPC is hereunder;-

"306. abutment of suicide.- If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine".

Thus, it is clear that in order to convict any person for inducing to commit suicide, it is to be established that the victim committed suicide only by the instigation and inducement of the accused persons.

13. It is also relevant to extract provision under Section 113B of Indian Evidence Act, 1872, is hereunder;-

*" 113B. Presumption as to dowry death.---
When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or*



harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.

Explnation.-- For the purpose of this Section, "dowry death" shall have the same meaning as in Section 304B of the Indian Penal Code (45 of 1860)".

Thus it is clear that the action under Section 113 of Indian Evidence Act, 1872, can be dropped when it is proved that suicide has been committed within seven years of marriage and that the husband or any relative, subjected the deceased to cruelty. In fact, the deceased and the respondent were living together happily in the first floor of her parents house. There was no complaint of any dowry harassment or any cruelty of the deceased or by her parents. Hence, there is no *prima facie* case made out by the prosecution for dowry harassment by the respondent.

14. The Hon'ble Supreme Court and this Court rightly held that before holding the accused guilty for the offence under Section 306 IPC, the Court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty



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harassment meted out to the deceased, had left the deceased with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused, which led or compelled to a person to commit suicide, conviction in terms of Section 306 IPC is not sustainable. Therefore, the trial Court rightly acquitted the respondent and this Court finds no infirmity or illegality in the orders passed by the Court below and this appeal is liable to be dismissed.

15. Accordingly, the Criminal Appeal stands dismissed.

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Index : Yes/No
Speaking/Non Speaking order
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To

The Assistant Sessions Judge / Chief Judicial Magistrate,
Pondicherry.



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G.K.ILANTHIRAIYAN. J.

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