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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 31.03.2022

Pronounced on : 28.04.2022

CORAM

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Criminal Appeal Nos.114 and 573 of 2021

and

Crl.M.P.No.11939 of 2021 in Crl.A.No.573 of 2021

1. Ganesan
2. Selvammal ... Appellants in Crl.A.No.114 of 2021/
A2 & A3.
3. Velu ... Appellant in Crl.A.No.573 of 2021 /
A1.

-vs-

The State Rep. By
Deputy Superintendent of Police,
Neyveli Sub Division,
Kurinjipadi Police Station,
Cuddalore District.
(Crime No.294 of 2017)

... Respondent/Complainant
in both cases.

Criminal Appeals filed under Section 374(2) of the Code of Criminal Procedure, to set aside the conviction and sentence dated 22.01.2021 passed by the learned Sessions Judge, Mahila Court, Cuddalore, in S.C.No.236 of 2018.

For Appellants : Mr.S.Ashok Kumar, Sr.Advocate
for Mr.A.Sasidharan & Mr.P.Palaninathan
(Crl.A.No.114/21)
and for Mr.A.Amarnath (Crl.A.573/21)

For Respondent : Mr.Leonard Arul Joseph Selvam
in both cases Government Advocate (Crl.Side)

COMMON JUDGMENT

Both these appeals are directed against the judgment of conviction and sentence dated 22.01.2021 passed by the learned Sessions Judge, Mahila Court, Cuddalore, in S.C.No.236 of 2018.



2. The appellants in CrI.A.No.114 of 2021 are arrayed as Accused Nos.2 & 3 and the appellant in CrI.A.No.573 of 2021, is arrayed as Accused No.1, in the above referred case. They stood charged for the offence punishable under Sections 498-A and 304-B of IPC. By judgment dated 22.01.2021, the learned Sessions Judge, Mahila Court, Cuddalore, came to the conclusion that the appellants in CrI.A.No.114 of 2021/A2 and A3 are found guilty under Section 498-A alone, whereas the appellant in CrI.A.No.573 of 2021/A1 was found guilty under Sections 498A & 304-B of IPC, and accordingly, convicted and sentenced them as follows:

Accused	Offence	Sentence
A1	498-A IPC	to undergo simple imprisonment for three years and to pay a fine of Rs.10,000/-, in default to undergo simple imprisonment for six months.
	304-B IPC	to undergo simple imprisonment for seven years
A2 & A3	498-A IPC	Each of them to undergo simple imprisonment for two years and to pay a fine of Rs.5,000/-, each in default to undergo simple imprisonment for three months.
	304-B IPC	Acquitted

The trial Court ordered the sentences imposed upon A1 to run concurrently.

Challenging the said conviction and sentence, all the accused are before this Court, by way of filing these Criminal Appeals.

3. For the sake of convenience hereinafter the appellants 1 and 2 in CrI.A.No.114 of 2021 are called as Accused Nos.2 and 3 and the appellant in CrI.A.No.573 of 2021 is called as Accused No.1.

4.The case of the prosecution is as follows:

(i) PW1-Jothilingam, is the elder brother of the deceased, PW2-Chinnaponnu, is his mother and PW3-Ramalingam, is his father. PW4-Karpagajothi and PW5-Kasilingam, are related to PW1 as sister and brother, respectively. The accused No.1 in this case, is the husband of the deceased Jothilakshmi and accused Nos.2 and 3, are the parents of accused No.1.

(ii) Without getting consent from the family members of the deceased, the marriage between the deceased and accused No.1 was solemnised in the year 2016 at Pachaiaamman Temple. Before the occurrence, PW4 got married with the elder brother of accused



No.1, in the year of 2012, and later due to her husband's death, returned to her parental home, however, after two months, she again returned to the matrimonial home and stayed along with the accused. In the mean time, after the marriage of deceased, PW4 alone was having casual talks with PW2 and PW3. On the other hand, the deceased came to her parents' house only one time for attending the funeral of her senior paternal uncle [பெரியப்பா].

(iii) While at the time the deceased was admitted in the hospital for delivery, the accused refused to bear the medical expenses. In this occasion, PW1, gave Rs.50,000/- to PW4, for the medical expenses of the deceased. However, after six months from the date of the said incident, PW4 informed PW1 that the accused were creating problem in the family of the deceased, by demanding jewels and money. Later, in the year of 2017, during the time of Ayudha Pooja celebration, PW4 contacted PW1 and informed about the death of the deceased.

(iv) After hearing the same, when at the time PW1 went to the deceased house, he informed that the deceased was taken to the Government hospital at Kurinjipadi. Immediately, he went to the hospital and saw his sister's dead body. When enquired with PW4, she informed that in the evening hours when at the time she had gone to attend the milk business, the deceased committed suicide by hanging, and also during such time both the deceased and accused No.1 quarrelled with each other. She has specifically informed that during the time of quarrel, the accused No.1 demanded money from the deceased as he wanted to go abroad for job. After hearing the same, PW1 lodged a complaint before the respondent police.

(v) PW10-Chinnathambi, the then Sub Inspector of Police, Kurinjipadi on receipt of the complaint at 10.30pm on 29.09.2017, registered a case in Crime No.297 of 2017 for offence under Section 174(3) of IPC. The printed FIR has been marked as Ex.P6. After registering the case, he forwarded the copy of the FIR to the Revenue Divisional Officer, Cuddalore. He has also forwarded another copy to the Deputy Superintendent of Police, Neyveli, for investigation.

(vi) On receipt of the copy of the FIR, PW11-Rajendran, the Revenue Divisional Officer, Cuddalore visited the hospital, conducted inquest over the dead body of the deceased, by examining PW1 to PW3 and A1 to A3. He prepared an inquest report under Ex.P7. Ultimately, he came to the conclusion that the death of the deceased was due to dowry harassment. In this regard, he gave a report under Ex.P8.



(vii) After inquest, PW11 sent a requisition to the hospital authorities for conducting post mortem over the dead body of the deceased Jothilakshmi. On receipt of the requisition given by PW11-Revenue Divisional Officer, PW9-Dr.Sivakami, a medical officer attached with Government Hospital, Kurinjipadi conducted the postmortem on the dead body of the deceased Jothilakshmi and found the following injuries.

"Body of a female lying on its back. Moderately built. Symmetrical hands by its side and empty. Eyelids closed. Frothy discharge from nose and mouth. Mouth and lips closed. Tongue inside. Teeth intact. Ears: no discharge. Thorax abdomen normal. Generative organs normal. External examination: A ligature mark 17 x ½ cm extending between (R) side of neck running obliquely in front of the neck above the thyroid cartilage and left side of the neck behind the mandible. On dissection, pale parchment like. Internal Examination: Abdomen and peritoneal cavity normal. Ribs intact. Heart chambers empty. Lungs pale. Hyoid bone preserved. Stomach: undigested food material 50 ml. Liver and spleen congested. Kidneys congested. Intestines distended with gas. Bladder empty. Uterus empty. Skull intact. Membranes intact. Brain pale. Spinal cord intact. Viscera and hyoid bone preserved."

After postmortem, PW9 issued a post mortem certificate under Ex.P4 with the opinion that the deceased would appear to have died of asphyxia, due to hanging.

(viii) In the meanwhile, PW12, the then Deputy Superintendent of Police, Neyveli, on receipt of enquiry report from PW11 altered the section of law from 174(3) IPC to that of Section 304-B IPC and prepared an alteration report under Ex.P10. Before that he visited the scene of occurrence and in the presence of PW7-Velmurugan and one Kumar, he prepared an observation mahazar under Ex.P2. He had drawn the rough sketch under Ex.P9. He examined the witnesses and recorded their statement.

(ix) In continuation of investigation after altering the section of law, he arrested accused Nos.1 and 2 and sent them for remand. Further statement of PW1 has been recorded by PW12. After examining the other witnesses he came to the positive conclusion that all the accused herein are liable to be convicted under Section 304-B IPC. He filed a final report, accordingly.

5. Based on the above materials, the trial Court framed the charges as against all the accused for offence under Sections of 498-A and 304-B IPC. All the accused denied the same. They



opted for trial. Hence, they were put on trial. In order to prove the case of the prosecution as many as 12 witnesses were examined as PW1 to PW12 on their side and ten documents, were marked as Ex.P1 to Ex.P10, besides that no material object has been marked.

(i) Out of the said witnesses, PW1-Jothilingam, who is the brother of the deceased Jothilakshmi has spoken about the occurrence as in the year of 2012, the marriage between PW4-Karpagajothi and the brother of accused No.1 was solemnised. Later in the year of 2016, the husband of PW4, consumed poison and died. After the 16th day ceremony, when at the time, he along with his parents returned to their house, the deceased was found missing. On enquiry, they came to know that she eloped with accused No.1. In Panchayat, it was held that accused No.1 alone has to marry the deceased.

Thereafter, the marriage between accused No.1 and the deceased was solemnised in Pachaiamman Koil. However, on the side of the deceased none attended the function, later, PW4 alone used to return to her parents' house. In the meanwhile, in the year of 2017, PW4 informed that the deceased Jothilakshmi was suffering from some illness at the time of giving birth to a female child. PW1 further says as after hearing the said news, he gave Rs.50,000/- to PW4 towards the medical expenses of the deceased. Further, he came to know that the accused all herein have demanded the deceased to bring money. Thereafter during the relevant point of time, he received the information as the deceased committed suicide.

(ii) PW2-Chinnaponnu, is the mother of the deceased, spoken about the occurrence as during the relevant point of time, the deceased Jothilakshmi eloped with accused No.1 and later during the time of Panchayat, they left the deceased with accused No.1 and returned to their home. Later, through PW1 and PW4, she came to know that the accused herein abused the deceased as barren dog [மெட்ட நாயே]. In the meantime, PW2 gave two sovereigns of gold to the deceased through PW4. Further she was informed by PW4 that the said chain was taken away by accused No.1. Later PW2 gave five sovereigns of gold to the deceased and the same was also taken away by accused No.1. During the time, the deceased was admitted in the hospital for delivery, PW4 informed PW2 as accused No.1 has not spent any amount towards the medical expenses of the deceased. Therefore, PW1 gave Rs.50,000/- to PW4 with a direction to give the same to the deceased. Only in the said circumstances, the deceased came to the house of PW2 and informed that her husband demanded to bring some more amount in order to spend the same for going to foreign country. In the meantime, she received information that the deceased committed suicide.



(iii) PW3-Ramalingam is the husband of PW2. He has also spoken about the occurrence as the deceased eloped with accused No.1 and later married him. After some time, from the date of marriage, PW4 informed that the accused herein have demanded to bring more dowry. In the mean time, during the time of Ayudha Pooja, he got information that the deceased committed suicide.

(iv) PW4-Karpagajothi, has spoken about the occurrence as, her husband is the brother of accused No.1 and he died in the year of 2016. Before completing her husband's final rites, accused No.1 eloped with the deceased and after coming to know the same, the Accused Nos.2 and 3 arranged the marriage of accused No.1 with the deceased. She has stated further that after the marriage, accused No.1 becomes addicted to gambling and also in this regard harassed the deceased. According to her, the jewels having by the deceased were taken away by the accused and when at the time the same was questioned by the deceased, he created a problem. Further, when at the time the deceased was admitted in the hospital for delivery, the accused refused to bear the medical expenses and therefore, she received Rs.50,000/- from her parents house for performing caesarian to the deceased. The remaining amount was handed over to the deceased and after knowing the same, accused No.1 received Rs.15,000/- from the deceased and spent it in the gambling. Thereafter, the deceased was suffering from epilepsy and in this regard also, PW1 spent the medical expenses. Accused No.1 is having the habit of going away from the family for short periods, without any information. During such time, the deceased was found weeping. Later, during the time of occurrence, while she was outside for attending the milk business, the deceased committed suicide. However on the said date, accused No.1 demanded the deceased to bring some money from her parents house saying that he is going abroad.

(v) PW5-Kasilingam is the brother of the deceased. He has also spoken about the occurrence as stated by PW1 to PW4.

(vi) PW6- Murugan is the relative of PW1 to PW3. He had spoken about the occurrence as due to the quarrel arose between accused No.1 and deceased, the deceased committed suicide. He gave further evidence as in the year of 2017, during the time when he was in the temple for celebrating Ayudha Pooja, he heard the hue and cry from the deceased's house and afterwards, all persons who were assembled there, went inside the deceased house and found the deceased hanging.

(vii) PW7-Velmurugan, is the witness attested in the observation mahazar. He therefore gave evidence as to the preparation of the observation mahazar by the investigation officer.



(viii) PW8-Vanitha is the doctor attached with Government Hospital, Kurinjipadi, spoken about the injury sustained by the deceased, also about the declaration made for the death of the deceased. According to her, she issued the death certificate under Ex.P3.

(ix) PW9-Sivagami, is also the doctor attached with the same hospital, spoken about the conduct of postmortem on the dead body of the deceased Jothilakshmi.

(x) PW10-Chinnathambi, the then Inspector of Police has given evidence about the receipt of complaint from PW1 and about the registration of the case.

(xi) PW11-Rajendran, the then Revenue Divisional Officer, has spoken about the preparation of the inquest report and about the enquiry conducted over the dead body of the deceased.

(xii) PW12-Venkatesan, the then Deputy Superintendent of Police, has spoken about the investigation, arrest of the accused and about the filing of the final report.

6. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., all the accused denied the same as false. However, they neither chose to examine any witness nor mark any document on their side.

7. Having considered all the above, the learned Sessions Judge, Mahila Court, Cuddalore, came to the conclusion that all the accused found guilty under Section 498-A of IPC, also, the trial court found accused No.1 guilty under Section 304-B of IPC and therefore, convicted and sentenced the accused as stated in paragraph No.2 of this judgment. Aggrieved over the said conviction and sentence, the appellants are before this Court, with these Appeals.

8. I have heard Mr.Ashok Kumar, learned senior counsel appearing on behalf of the respective counsel on record for the appellants and Mr.Leonard Arul Joseph Selvam, learned Government Advocate (Crl.Side), appearing for the State and also perused the records carefully.

9. The learned senior counsel appearing for the appellants would contend that the only relevant witness, who is the competent person to say about the occurrence is PW4, who lived along with the deceased. The evidence given by PW1 to PW3 and PW5 would clearly reveal the fact that PW4 alone had informed the occurrence to them. In this respect, PW4 has admitted in her cross examination as she has filed a partition suit against



the accused for the relief of partition of property owned by the accused family. Therefore, automatically, she is having enmity over the accused and therefore, the evidence given by her as against the accused, does not have any value to establish the involvement of the accused in the alleged occurrence.

10. The learned senior counsel further would submit that in respect to the demand of dowry and other things, the evidence given by PW1 to PW3 are having a lot of contradictions and therefore, it cannot be held that before the occurrence, all the accused committed cruelty towards the deceased Jothilakshmi. He would also submit that herein it is a case, the section of law has been altered after three months from the date of registration of the case. Further, the police examined the witnesses after two months from the date of occurrence and therefore, it cannot be held that the prosecution has proved its case beyond reasonable doubt.

11. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent police would submit that the minor contradictions found in the evidence given by the prosecution witnesses cannot be looked into for disbelieving the entire case of the prosecution. Here, it is a case registered for offence under Sections 498-A and 304-B IPC and now, the only available witnesses are the family members of the deceased and therefore, the evidence given by them cannot be thrown away easily by saying that they are close relatives of the deceased. According to him, the case of the prosecution is proved beyond reasonable doubt and therefore, the question of allowing the appeals do not arise.

12. The submissions made by the learned counsel appearing on either side are considered. Initially, in respect to the offence under Section 304-B IPC, it would be necessary for the prosecution to prove the following ingredients

- (a) There was an unnatural death of a women.
- (b) she has died an unnatural death including death by burn or by bodily injury or by poisoning etc;
- (c) that such death has occurred within seven years of the marriage
- (d) it must be found that soon before her death she was subjected to cruelty or harassment for, or in connection with any demand for dowry by her husband or any of his relatives.

13. Similarly, for proving the offence under Section 498-A of IPC, firstly, the prosecution has to show that the woman, being the wife has been subjected to cruelty as contemplated under Clause (a) or (b) of explanation of Section 498-A of IPC. Secondly, that the woman is or was married. Thirdly that the



cruelty has been practised by her husband or his relatives. In this aspect, Section 498-A and clause (a) and (b) of explanation of Section 498-A of IPC, reads as follows:

498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation.—For the purpose of this section, "cruelty" means—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

14. Further, Sections 304-B and 498-A are not mutually exclusives. These provisions deal with 2 distinct offences but they overlap on many occasions. It is true that 'cruelty' is a common essential to both the sections and that has to be proved. The Explanation to Section 498-A gives the meaning of "cruelty". On the other hand, in Section 304-B there is no such explanation about the meaning of "cruelty" but having regard to the common background to these offences, the meaning of "cruelty or harassment" will be the same as given in explanation to section 498-A under which "cruelty" by itself amounts to an offence and is punishable.

15. Accordingly, applying those factors with the case in hand, it would be necessary to see whether cruelty has been proved by the prosecution in terms of Section 498-A of IPC. In this connection, it is the submission made by the learned senior counsel appearing on behalf of the appellants/accused that there is a lot of contradiction over the evidence given by PW1 to PW5 about the cruelty committed towards the deceased.

16. In this occasion, on considering the submissions with the relevant records, admittedly both accused No.1 and the deceased married each other against the wishes of PW2 and PW3, who are the parents of the deceased as well as PW1, PW4 and PW5. It is the conclusive evidence given by the prosecution that the family members of the deceased have not attended the marriage happened between accused No.1 and the deceased. Accordingly, the factum of marriage has not been proved by the prosecution. However, whether the marriage between the deceased and accused No.1 is valid or not is not a question before this Court, being



the reason that on the side of the accused there was no denial, as the deceased is not the wife of accused No.1.

17. Secondly, it is the evidence of PW1 to PW3 and PW5 that every act of the accused had to be informed to them only through PW4, who is their another daughter as well as the brother's wife of accused No.1. On the other hand it is the admitted fact that PW4 filed a suit as against these accused for partition. Therefore, obviously, she is having some inimical attitude towards the accused. Hence, the evidence given by her and also the information given by her to the other witnesses have to be scrutinised with great care and caution.

18. In otherwise, it is the settled law, previous enmity cannot be the sole reason for rejecting the case of the prosecution. Furthermore, also it is the settled law that because of the reason that the witness examined on the side of the prosecution is a relative of the deceased, the said evidence cannot be discarded in toto.

19. Therefore, by applying the above two principles to the case in hand, here it is a case, PW4 gave evidence as after the marriage, accused No.1 is having the habit of leaving the family often. Further, he had taken away the jewels which belong to the deceased and spent for gambling (playing cards). Also she gave evidence as during the time the deceased gave birth to a female child, the accused refused to bear the medical expenses and therefore, she received a sum of Rs.50,000/- from her parents i.e. PW2 and PW3 and spent for the medical expenses of the deceased.

20. Further, it is specific evidence of PW4 as accused No.1 and the deceased were having dispute in respect to the pledging of vehicle and the same was pacified by her. After gave evidence as above, in her cross examination, she gave evidence as while at the time the deceased was admitted in the hospital for delivery, accused No.1 alone admitted her in the hospital. It is her further evidence that accused No.1 had taken Rs.15,000/- from the amount, which was received from her parents. After giving evidence as above, she gave further evidence as for discharging the deceased from the hospital, she pledged her ear-rings and anklets.

21. In respect to the said evidence, PW12 gave a contradictory evidence as PW4 gave statement before him as her sister was suffering from epilepsy due to malnutrition. Further, before the investigation officer, PW4 did not say anything about the incident happened on the date of occurrence and also she has not stated that her brother[PW1] alone borne the medical expenses of the deceased.



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22. In this connection, PW1 gave evidence about the cruelty committed by accused No.1 and that he gave Rs.50,000/- to the PW4, towards the expenses met out by the deceased during her delivery.

23. Similarly, PW2 gave evidence as to the cruelty committed by accused No.1 and due to the harassment committed by the accused, she gave totally 7 sovereigns of gold to the deceased and the same has also been spent by accused No.1. However, in respect to the giving of jewels to the deceased, PW1 did not say anything in his evidence. On the other hand, PW3, did not say anything about the demand made by the accused. PW4 is one of the brother of the deceased gave evidence as his mother gave 5 sovereigns of gold to the deceased and the same has also been spent by accused No.1 by playing cards.

24. In this occasion the said evidence is fully contradictory with the evidence given by either side, being the reason that the other witnesses did not say as after the marriage the deceased returned to her parents' home very often. If such evidence is true one, it is not possible for the PW2 to give gold to the deceased. Therefore, in respect to the cruelty alleged to be committed by the accused, there is no direct evidence available from the prosecution witnesses.

25. As already observed, for proving the offence under Section 304-B IPC, it should be necessary for the prosecution to show that soon before the incident, the accused has harassed the deceased by demanding dowry. In this regard the evidence given by PW1 to PW5, is having a lot of contradictions as to the harassment committed by the accused soon before the death. Though PW4 has stated that on the date of occurrence there was a quarrel between the deceased and accused No.1, the said statement was not stated either before the Revenue Divisional Officer or before the investigation officer. Moreover, it is the case that the cross examination of Revenue Divisional Officer narrates the fact that he has not prepared the inquest report by complying with Section 174 Cr.P.C. He himself admitted that the statement recorded from the witnesses contains the date 04.10.2017, which is five days after the preparation of inquest.

26. Therefore, culling out the said evidence with the evidence given by others, it cannot be said that soon before the death, all the accused have committed harassment in a view to obtain dowry. Hence, I am of the view that the offence under Section 304-B has not been proved beyond reasonable doubt. In otherwise, against Accused Nos.2 and 3, none of the witnesses on the side of the prosecution made allegation as they committed



cruelty, within the terms of Section 498-A Explanation 1 and 2. They have not stated about the demand for dowry made by them.

27. The evidence let in by the prosecution witnesses disclose the fact that accused No.1 alone created problem in the family of the deceased. In respect to the same as already discussed, a lot of contradictions are available there. The total evidence projected by the prosecution is clear that due to the act committed by accused No.1, there was an unpleasant situation found in the family of the deceased. Creating an unpleasant situation in the family is nothing but amounts to causing cruelty.

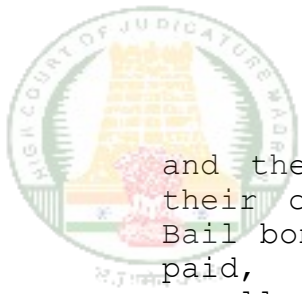
28. In this occasion, it is relevant to see the judgment of this Court in Nageshkumar Vs. State by Inspector of Police, R4 Pondy Bazaar Police Station, Chennai, reported in 2010 (2) MLJ CrI. 840, wherein, it was held as follows:

"Traditionally in the society, woman is subjected to the whims and caprices of man, especially when it relates to the relationship of wife and daughter-in-law in a joint family. Life in this case to the deceased Ramadevi had become so intolerable and so miserable, where the cruelty and ill treatment spread over to her grown up children, that had dragged them towards suicide. Unhappy atmosphere in the family of the deceased and indifferent attitude of the appellant proved that the appellant has failed to guard his wife and children and he failed in his responsibility owned to his wife and children. There is positive and convincing evidence that the indifferent attitude of her husband made her and children fed up with their life and certainly there is a proximity and nexus between the conduct and behaviour of the appellant with that of the suicide committed by his wife and the children."

29. Therefore, applying the above said judgment with the facts of the case, herein also, by way of creating an unpleasant situation, accused No.1 committed harassment and therefore, he is liable to be convicted under Section 498-A of IPC.

30. Thus, in the light of the above discussion, it is ordered as follows:

(i) The appeal in CrI.A.No.114 of 2021 is allowed. The conviction and sentence imposed upon the appellants/Accused Nos.2 and 3, by the learned Sessions Judge, Mahila Court, Cuddalore, in S.C.No.236 of 2018 dated 22.01.2021, is set aside



and they are directed to be set at liberty forthwith unless their custody is required in connection with any other case. Bail bond executed, if any, shall stand terminated. Fine amount paid, if any, is directed to be refunded to the appellants/Accused 2 and 3.

(ii) The appeal in CrI.A.No.573 of 2021, is partly allowed. The conviction and sentence imposed upon the appellant/Accused No.1, by the learned Sessions Judge, Mahila Court, Cuddalore, in S.C.No.236 of 2018 dated 22.01.2021, is modified as follows:

(a) The conviction and sentence passed against accused No.1 under Section 304-B is set aside.

(b) The conviction for the offence under Section 498-A of IPC, is confirmed. However, the sentence imposed upon him by the trial Court, is modified to the effect that the appellant/accused No.1, is sentenced to undergo simple imprisonment for two years and to pay a fine of Rs.5,000/-, in default to undergo simple imprisonment for three months.

(c) The period of remand already undergone by accused No.1 if any, is ordered to be set off under Section 428 Cr.P.C., against the sentence now imposed. Fine amount already paid is directed to be adjusted and excess, if any, is directed to be refunded to the appellant/accused No.1.

(d) If the period of remand already undergone by the accused, is two years, he is directed to be set at liberty forthwith unless this custody is required in connection with any other case.

(e) Bail bond executed, if any, shall stand terminated.

(f) Consequently, the connected CrI.M.P.No.11939 of 2021 is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ARS



To

1. The Sessions Judge,
Mahila Court,
Cuddalore.
2. The Deputy Superintendent of Police,
Neyveli Sub Division,
Kurinjipadi Police Station,
Cuddalore District.
3. The Superintendent of Prison,
Central Prison, Cuddalore.
4. The Public Prosecutor,
High Court, Madras.

common judgment in
Criminal Appeal Nos.114 and 573 of 2021

GP(CO)
TE(28/04/2022)