



Crl.A.No.220 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 28.09.2022

Pronounced on : 11.10.2022

CORAM:

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.A.No.220 of 2014

Jeyaraman,
S/o.Balakrishnan,
Aviyur,
Kariyapatti (via),
Virudhunagar,

... Appellant/Accused

/versus/

The State Rep. by,
Deputy Superintendent of Police,
Palladam Police Station,
Crime No.1228 of 2007

... Respondent/Complainant

Prayer: Criminal Appeal is filed under Section 374 (2) of Cr.P.C., pleaded to admit this appeal on file call for the connected records from the Lower Court, set aside the judgment and conviction of the Lower Court and thereby acquitting the appellant in S.C.No.73 of 2012 on the file of the Mahalir Needhimandram (Fast Track Mahila Court), Tiruppur, dated 14.03.2014 and to pass order.

For Appellant : Mr.C.Rajan, for
Mr.S.Parameswaran

For Respondent : Mr.Kishore Kumar,
Government Advocate (Crl.Side)

J U D G M E N T



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The appellant was found guilty of offence by the trial Court for offences under Sections 498-A and 304-B of I.P.C had preferred this appeal challenging the conviction and sentence imposed on him.

2. As per the prosecution, the appellant Jeyaraman and deceased Selvi got married on 17.02.2006 at Chinnakarupasamy Temple, Aviyoore, Kariyapatti Talui, Virudhunagar District. They had matrimonial home in the rented premises at Thiruppur and later, shifted to Palladam. On 24.12.2007, a case in Crime No.1228 of 2007 was registered against this appellant for offence under Section 498-A of I.P.C., based on the complaint given by Saratha, the mother of deceased Selvi and mother-in-law of the appellant alleging that her daughter, who married the appellant been subjected to dowry harassment by her husband and the Sreedhana articles given to her were pledged by her husband. In this regard, a complaint to the Aruppukottai All Women Police Station (AWPS) was lodged. They enquired and compromised them. Thereafter, they shifted their family to Palladam. A week before the complaint, there was a quarrel between her daughter and the appellant and therefore, her daughter Selvi tried to hang herself to commit suicide. The appellant saved her and



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brought her to the maternal home. After 2 days, she brought her daughter back to Palladam and advised the appellant as well as her daughter not to quarrel and live peacefully. However, on 23.12.2007 at about 9.30 p.m., she received a phone call from one Sampath resident living next to her daughter's house at Palladam, informing that, her daughter has self immolated herself and struggled for the life at hospital. She came to the hospital and saw her daughter was not able to talk. She suspect that, her daughter attempted to commit suicide due to unbearable of the torture caused by Jeyaraman, the appellant herein for demanding dowry. Hence, sought for action.

3. The said Selvi subsequently succumbed to the injury on 02.01.2008 at about 21.15 hrs. The charge was altered to Sections 498-A and 304-B of I.P.C. and on completion of investigation, Final Report was filed.

4. The trial Court framed charge under Section 498-A of I.P.C., for causing cruelty, demanding money and jewels and abetting her to commit suicide. To prove the charges, the prosecution examined 15 witnesses and marked 13 Exhibits and 2 Material Objects.



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5. After appreciating these evidences, the trial Court sentenced him to undergo 3 year R.I and to pay fine of Rs.5000/-, in default 6 months S.I. for offence under Section 498-A of I.P.C and sentenced him to under 7 years R.I and to pay fine of Rs.10,000/- in default, one year S.I for offence under Section 304-B of I.P.C. The period of sentenced was ordered to run concurrently and the period of imprisonment already undergo ordered to be set off under Section 428 of Cr.P.C.

6. The present appeal is filed on the ground that the trial Court failed to take note of the fact that there is no direct or reliable evidence to incriminate the appellant for causing cruelty or abetting the deceased Selvi to commit suicide. Admittedly, it was a love marriage between the appellant and the deceased. They were living happily in Tiruppur and later shifted the family to Palladam. The deceased Selvi, due to depression had suicidal tendency and twice she attempted to commit suicide and saved by this appellant. Even on 23.01.2007, when Selvi self immolated herself, the appellant tried to put off the fire and took her to hospital. The evidence of P.W.1, who is the mother of the



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deceased Selvi is neither direct nor reliable. She, in her complaint stated about the previous complaint to Aruppukottai (AWPS) Police but no evidence produced by the prosecution to substantiate the said allegation. Though Selvi was admitted in the Hospital on 23.12.2007, she succumbed to injury only on 02.01.2008 for nearly 10 days, she was struggling for life and there is no evidence to show that she was not fit to give statement. However, the prosecution has failed to record her statement to know the truth. Likewise, the prosecution has not sought for enquiry by RDO, though the incident took place within 7 years of the marriage. Had the prosecution requested RDO to conduct enquiry, he would have dispassionately enquired and given a report that there was no evidence for dowry harassment. Having failed to conduct RDO enquiry which is the statutory requirement, the prosecution relying upon the evidence of P.W.1 to P.W.4 who are the mother-in-law, father-in-law and two relatives of the deceased Selvi and a person not residing at the place of occurrence had convicted the appellant.

7. The trial Court failed to take note of the fact that the owner of the



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premises which was occupied by the deceased and the appellant had not supported the case of the prosecution to prove dowry harassment. Likewise, the neighbouring resident P.W.6 has turned hostile who is suppose to speak about the alleged dowry harassment.

8. P.W.7, the other neighbouring resident, who in fact informed P.W.1 about the incident over phone had deposed that, soon before the incident the deceased requested him to call her mother and gave the number. When she tried to contact the mother of the deceased, it was out of reach and therefore, the deceased was not able to talk with her mother. This incident was happened at 8.00 p.m thereafter, the deceased Selvi has went to her home and by 8.30 p.m she self immolated herself. The appellant was informed by P.W.7 about this and sought help to shift Selvi to the Hospital. The appellant was along with his wife in the hospital. P.W.8, Dr.Chandra, who admitted Selvi in the Hospital also deposed that she was brought to Palladam Hospital by her husband, the appellant herein and she gave first aid to her and shifted to Coimbatore Government Hospital.

9. The Learned Counsel appearing for the appellant submitted that



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the prosecution failed to prove the dowry harassment or any abetment by the appellant, forcing the deceased to commit suicide. Further, it is submitted that the failure of the prosecution to prove the allegation of dowry harassment through independent witness and omission to conduct RDO enquiry is fatal to the case of the prosecution which has been overlooked by the trial Court. Hence, sought for acquittal by reversing the judgment of the trial Court.

10. The Learned Government Advocate (Crl.Side) appearing for the State submitted that, P.W.1 who is mother of the deceased was informed about the incident over phone by one Sampath (P.W.7). The appellant and the deceased shifted to the present address at Palladam hardly 2 months before the incident and therefore, there was no possibility of the neighbours to know about the quarrel. P.W.7 had deposed that the deceased was desperate to call her mother and sought his help to contact her mother over cell phone. Since her mother could not be contacted, the deceased has returned to her home and had committed suicide. It is incorrect to claim that the deceased Selvi suffered depression and had suicidal tendency. It is the cruelty caused by the appellant herein forced her to commit suicide. The deceased, who married the appellant



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out of love got frustrated and committed suicide. It is the conduct of the appellant who made her frustrate and forced her to take the extreme decision, hence the appellant rightly convicted for the offences under Sections 498-A and 304-B of I.P.C.

11. Section 498-A of I.P.C and explanation makes it clear that any wilful conduct which is of such a nature likely to drive a woman to commit suicide or harassment of the women with a view of coerce her or any person related to her to meet any unlawful demand of property or valuable security will attract punishment under this section for a term not exceeding to the period of three years and shall also be liable with fine.

12. Section 304-B of I.P.C deals with death of a woman otherwise than under normal circumstances within 7 years of her marriage and it is shown that soon before her death, she was subjected to cruelty or harassment by her husband or any of her relative of the husband in connection with demand of dowry such death shall be called dowry death. Therefore, the ingredient to attract these two penal provisions are cruelty in connection with demand of



dowry or harassment seeking the property or valuable security.

13. In this case, going through the evidence of P.W.1, the mother of the deceased, she has explained in her deposition the Sreedhana articles given to her daughter at the time of marriage. It is alleged that the appellant had pledged all the Sreedhana articles, jewels and spend lavishly. Thereafter, demanded further sum of Rs.50,000/- and 5 sovereigns of gold and driven her out from the matrimonial home. She has further deposed that her daughter was treated in the hospital for the injury and thereafter, she took her to Palladam and left her at the matrimonial home. Even thereafter, the accused came to her house and quarrelled demanding dowry. Unbearable of the torture, her daughter gave the complaint at Aruppukottai All Women Police Station. At the police station, the appellant agreed he will not torture Selvi any further and took her back. He also promised to return the jewels within 2 months. Then again, after one month, her daughter was driven out from the home by the appellant demanding dowry. After one month, her daughter joined the appellant at Palladam and she was living with him. P.W.1 advised both her daughter and the appellant not to quarrel with each other and promised to give 5 sovereign of



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gold jewels within 5 or 6 months. Within one week, her daughter immolated herself on 23.12.2007.

14. To believe her testimony, the prosecution ought to have atleast collected the complaint alleged to have been given to the All Women Police Station, Aruppukottai (AWPS), regarding dowry harassment. This fact been disclosed in the complaint (Ex.P.1) itself, but the prosecution has failed to produce this document to prove harassment demanding dowry prior to the death of Selvi. It is stated by P.W.1 that, 5 sovereigns jewels given at the time of marriage was pledged by the appellant. The prosecution has not collected any evidence regarding the gold sovereigns. In the charge framed by the trial Court, it is specifically stated that the Sreedhana jewels were pledged with Ambika Finance at Palladam by the appellant which has caused mental and physical cruelty to the deceased Selvi, hence, offence under Section 498-A of I.P.C is attracted. To prove the above said charges that Sreedhana jewels were pledged at Ambika Finance, the prosecution has not placed any documents or examined any witness to this effect.

15. The prior complaint and the pledge are two facts very crucial to establish dowry harassment or cruelty to attract offence under Section 498-A of



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I.P.C. Unfortunately, the prosecution failed to lead any evidence to prove these two facts. Unless, the facts that there was earlier a complaint of cruelty and pledging of Sreedhana jewels to met the lavish spending of the appellant, the ingredient to punish a person under Section 498-A of I.P.C fails.

16. When there is no proof of dowry demand, the reason for committing suicide has to be examined. On examination of the evidence, this Court finds that, in the cross examination of P.W.1 the contradictions and embellishment in her deposition adding new facts which was not found in the previous statement been elucidated. Further, it is also elucidated in the cross examination of P.W.1 and P.W.2, the mother and father of the deceased, it is suggested, the deceased Selvi had gynaecological problem for past few years, which delayed her getting conceived. Though P.W.1 alleges that Selvi was once conceived, but got aborted, when the appellant cruelly attacked her and Selvi was admitted in the hospital, the prosecution has not produced any proof for the same. The earlier attempt to commit suicide by hanging is found in the complaint Ex.P.1. In the absence of evidence that soon before the self immolation on 23.12.2007, Selvi was subjected to cruelty renders the



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prosecution case against the appellant for offence under section 304-B of I.P.C is unsustainable.

17. The best evidence about any cruelty soon before her death could have been only from the neighbours residing in and around the residence of the appellant and the deceased. When none of the witnesses had spoken about that the appellant cannot be held guilty of offence under Section 304-B of I.P.C more particularly, the failure of the Investigating Officer to conduct inquest by RDO and no proper explanation by the Investigating Officer for not requesting RDO to conduct the inquest, renders the case of the prosecution more suspicious. The five Panchayat members for the inquest conducted by the police as found in the inquest report which is marked as Ex.P.13, they are all from Virudhunagar, Aviyoor Village and none of them from Palladam village where the incident took place. Ex.P.13, the Inquest Report of the Deputy Superintendent of Police indicates that on 05.04.2007, Selvi attempted to commit suicide by consuming cow dung powder. She was taken to hospital for treatment and survived. On 28.11.2007, she again attempted to commit suicide by hanging and she was saved. While the Investigating Officer had information



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about the previous attempt to commit suicide and treatment given, the omission to collect those informations also dents the credibility of the prosecution case. That apart the deliberate omission of the Investigating Officer not requesting the RDO to conduct the enquiry and absence of plausible reason to the said omission warrants the reversal of the judgment of conviction.

18. For the said reason, this Court finds that there is reasonable doubt about the prosecution case and the witnesses have not proved the guilt of the accused beyond reasonable doubt. Hence, the judgment passed by the Learned Magalir Neethimandram, Tiruppur in S.C.No.73 of 2012, dated 14.03.2014 is liable to be set aside. Accordingly, ***Criminal Appeal is Allowed.*** Fine amount paid if any shall be refunded to the appellant. Bail bond executed by the appellant stands cancelled.

11.10.2022

Index : Yes/No.
Internet : Yes/No.
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To,
1. The Mahalir Needhimandram (Fast Track Mahila Court), Tiruppur



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2. The Deputy Superintendent of Police, Palladam Police Station,
Tiruppur District.
3. The Public Prosecutor, High Court, Madras.



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Dr.G.Jayachandran, J

bsm

Pre-Delivery judgment made in
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