



BAIL SLIP

The Petitioners / Accused Viz. 1)Palanisamy, 62/M, S/o.Ammasi Gounder, 2)Aarayee, 56/F, W/o.Palanisamy, 3)Easwaran, 32/M, S/o.Palanisamy were released on bail as per the Order of this Court dated 13.09.2019 in Crl.M.P.No.11362 of 2019 in Crl.A.No.514 of 2019 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.09.2021

PRONOUNCED ON : 04.02.2022

CORAM :

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.A.NO.514 OF 2019

1.Palanisamy

2.Aarayee

3.Eswaran

...Petitioners / Accused

Vs.

State by:

The Inspector of Police,
Jalakandapuram Police Station,
Jalakandapuram,
Crime No.557 of 2014

...Respondent / Complainant

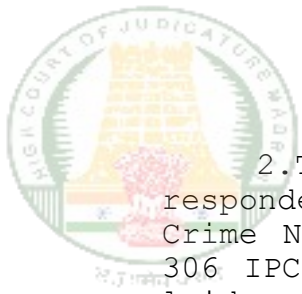
PRAYER : Criminal Appeal filed under Section 374 of the Code of Criminal Procedure, 1973, to set aside the order of conviction dated 18.03.2019 passed in S.C.No.391 of 2016 by the Sessions and Mahila Court, Salem.

For Appellants : Mr.R.Marudhachalamurthy

For Respondent : Mr.S.Sugendran
Govt. Advocate (Crl.side)

JUDGMENT

This Criminal Appeal has been filed to set aside the order of conviction, dated 18.03.2019 passed in S.C.No.391 of 2016 by the Sessions and Mahila Court, Salem.



2. Totally there are four accused in this case. The respondent police registered a case against the appellants in Crime No.557 of 2014 for the offence under Sections 498(A) and 306 IPC. The Investigating Officer, after registering the case, laid a charge sheet before the learned Judicial Magistrate No.II, Mettur, for the offence under Sections 498(A) and 306 of IPC. The learned Magistrate taken the charge sheet on file in PRC No.1 of 2016, after completing the formalities under Section 207 Cr.P.C, found that the offences are exclusively triable by a Court of Session and the Case was committed to the Court of Session. After completing the formalities, the learned Principal District and Sessions Judge, Salem, taken the case on file in S.C.No.391 of 2016 and made over to the Sessions and Mahila Court, Salem, since the offence is against women. The learned Special Judge, after receiving the records and completing the formalities framed the charges against the accused for the offence under Sections 498(A) and 306 IPC.

3. After completing the formalities, in order to substantiate the charges, on the side of the prosecution, during the trial, as many as 15 witnesses were examined as P.W.1 to P.W.15 and 11 documents were marked as Ex.P.1 to Ex.P.11 and no material object was exhibited. After completing the examination of prosecution witness, incriminating circumstances culled out from the evidence of prosecution witnesses were put before the accused by questioning under Section 313 Cr.P.C, for which, they denied the same as false and pleaded not guilty. On the side of the defence one witness was examined as D.W.1 and three documents were marked as Ex.D.1 to Ex.D.3.

4. On completion of trial, after hearing the arguments advanced on either side, the trial Court found A1 not guilty for the offence and he was acquitted from the above said case, A2 to A4 were found guilty for the offence under Sections 498A and 306 IPC and for the offence under Section 498(A) IPC, they were convicted and sentenced to undergo three years rigorous imprisonment and pay fine of Rs.5,000/-, in default to undergo six months simple imprisonment each and for the offence under Sections 498(A) and they were convicted and sentenced to undergo 10 years rigorous imprisonment and pay fine of Rs.10,000/- each, in default to undergo simple imprisonment for further period of six months for the offence under Section 306 IPC. Challenging the above said judgment of conviction and sentence, the appellants/A2 to A4 have filed the present appeal before this Court.

5. The case of the prosecution is that the first accused is the husband of the deceased, the second and third accused are the parents of the first accused and fourth accused is the brother of the first accused. The first accused married the



deceased viz., Sumathi 13 years prior to the occurrence dated 10.11.2014 and lived at Kallikaran Valavu in Karikkapatty Village and they blessed with two children. Due to some land dispute, the family of the accused developed some enmity with their relatives. A1 was running Furniture shop at Vandimedu in Jalakandapuram. The de-facto complainant, who is the father of the deceased Sumathi, has purchased 60 cents of land in the name of deceased Sumathi. The first accused, who is the husband of the deceased Sumathi, has illicit intimacy with one woman and due to which, the first accused sustained loss and forced to sell the shop to some other person and gave a mental torture to the deceased Sumathi. Further, one Rajeswari, D/o Ponkodi, who is the sister of the first accused, was in love with one Sakthivel, S/o.Mani, who is inimical with the family of the accused. The deceased Sumathi was in support of the said Rajeswari, while the accused were opposing the love affairs. On 16.11.2014 at about 08.00 a.m., when the first accused demanded money from the deceased Sumathi to go to Sabarimalai, there was a wordy quarrel between them. When the deceased Sumathi told the first accused that only clean people should go to Sabarimalai, for which, the first accused shouted at Sumathi and asked her to die, before coming from Sabarimalai and also get away from his life. Therefore, the first accused caused cruelty by giving mental torture to the deceased Sumathi. On the same day at about 04.00 p.m., on seeing the said Rajeswari talking with Sakthivel in the presence of Sumathi, the appellants/accused 2 to 4, scolded at Sumathi and also harassed her and gave a mental cruelty. Due to which, the deceased Sumathi committed suicide on 16.11.2014. Therefore, the appellants/ accused have committed mental cruelty and also induced her to commit suicide. Therefore, the appellants/accused have committed the offence under Sections 498(A) and 306 IPC.

6.The learned counsel appearing for the appellants/accused would submit that there are material contradictions between the prosecution witnesses and the complaint given by P.W.1, who is the father of the deceased Sumathi and also the statement given before the police under Section 161(3) Cr.P.C. Further, P.W.2 gave a statement before the police, in which, there is also a contradiction. P.W.3 is the brother of P.W.1 and he knows the hearsay witness of P.W.9, who is the daughter of the deceased Sumathi. Further, the learned counsel would submit that the Doctor/P.W.10, clearly deposed that there is no external injury, except earmark in the neck. Therefore, the evidence of P.W.1 is not trust worthy. P.W.9 is the daughter of the deceased stated that after her father went to Sabarimalai, his uncle and grandparents scolded her mother with filthy language and beaten her with stick and also they gave mental torture and induced her mother to commit suicide, whereas the doctor's evidence is there was no external injury. The trial Court, only based on the



evidence of P.W.9, wrongly framed the charges for the offence under Sections 497 and 306 IPC against the appellants/accused. The trial Court rightly found that A1 has not committed any offence, but, wrongly convicted the appellants/A2 to A4 that there is no material evidence to show before the death of the deceased there was a mental cruelty or physical cruelty caused by the appellants/accused. Therefore, all the witnesses are interested witnesses and there is no independent witness. Further, the learned counsel would submit that the complaint has also given belatedly and there is no possible explanation for giving the complaint belatedly. Further, the medical evidence clearly shows that there is no external injury, except the strangulated injury, which shows that the victim herself has committed suicide, for which, the prosecution has to prove that to convict the appellants/accused under Sections 498(A) IPC. If the appellants/accused caused mental or physical cruelty to the deceased, the prosecution has to prove that there was an inducement or abatement, soon before committing suicide. In this case, absolutely there is no material to connect the appellants/accused for conviction under Sections 498(A) and 306 IPC. Therefore, the Prosecution failed to prove its case beyond all reasonable doubts, but the trial Court, except the case of the defence against the first accused, wrongly convicted the appellants/accused for the offence under Sections 498(A) and 306 IPC. Therefore, the judgment of the trial Court is perverse and the same is liable to be set aside.

7.The learned Government Advocate(Crl.side) would submit that admittedly the deceased was the wife of the first accused and the accused 2 and 3 are the parents of the first accused and the fourth accused is the brother of the first accused. There is no dispute that the relationship between the accused and the deceased. The charge reveals that the first accused caused mental cruelty by demanding money and he has also had illegal intimacy with one lady and not taking care of his family and also lost his business. P.W.9, the daughter of the deceased has not spoken about the incriminating materials against A1 and therefore, the trial Court acquitted the first accused from both the charges, because on the date of occurrence, the first accused gone to Sabarimalai, but on the way to Sabarimalai, he received the news that his wife committed suicide. Therefore, he returned back from the middle of his travel. P.W.9 has clearly stated that on the date of occurrence, when her mother was grassing cattle, P.W.8 and P.W.5 were present and they were talking each other and on seeing the same, A2 to A4 scolded the deceased that she was the only reason for talking P.W.5 and P.W.8 and she only has given link to them. The learned Government Advocate (Crl.side) would further submit that the trial Court disbelieved the entire evidence of P.W.9 and considering the medical evidence that there was no external



injury, except the strangulated injury and therefore, the deceased herself committed suicide, but, however the evidence of P.W.9 stated that the appellants scolded her mother soon before her death. A1 went to Sabarimalai at that time, P.W.5 and P.W.8 talking each and the deceased Sumathi was also present and on seeing the same, they were scolded the deceased that she has given a link to his sister to P.W.5. There was an enmity between the appellants family and P.W.8's family and therefore, they are opposing to talk with P.W.8. Therefore they scolded the deceased and also beaten her with stick and caused mental cruelty and also induced her to commit suicide and therefore, there was abatement and also harassment and cruelty. Therefore, the appellants have committed the offence and therefore, the trial Court rightly appreciated the evidence and convicted the appellants/accused and there is no merit in the appeal and hence, he prays for dismissal of the appeal.

8.Heard Mr.R.Marudhachalamurthy, learned counsel appearing for the appellants and Mr.S.Sugendran, learned Government Advocate (Crl.side) appearing for the State and perused the materials placed before this Court.

9.The specific case of the prosecution is that the appellants caused mental cruelty on the deceased to commit suicide. P.W.1 is the father of the deceased has filed a complaint, based on the said complaint, the respondent police registered a case against the appellants/accused. After completion of investigation, the respondent police laid a charge sheet against the appellants/accused and the charges were framed under Sections 498(A) and 306 IPC. In order to substantiate both the charges, on the side of the prosecution, 15 witnesses were examined and 16 documents were marked. P.W.2 is the brother of P.W.1 and he has spoken about the relationship and went to the house of the first accused on 16.11.2014, at that time, the first accused preparing for going to Sabarimalai. P.W.4 is also relative of P.W.1 and he has spoken about the news of the death of her sister on 16.11.2014. P.W.8 is also the relative of P.W.1. However, P.W.5 is the sister of A1 and daughter of A2 and A3 and according to the prosecution, P.W.5 and P.W.8 had fell in love, which was opposed by the appellants, since there was an enmity with the family of P.W.8. Therefore, they did not like P.W.5 talked with P.W.8. On 16.11.2014, A1 went to Sabarimalai, as the deceased Sumathi was in the menses period, she did not attend the function and she was in the field of grassing cattle. After A1 left to Sabarimalai, P.W.5 was also with the deceased Sumathi, at that time, P.W.8 came to that place and talked with them about the trip of A1 to Sabarimalai. On seeing the same, A2 to A4 came there and shouted the deceased that she was the only reason for the love affairs between P.W.5 and P.W.8. Therefore, they scolded the deceased and also took her to the house and



beaten her and induced her to commit suicide. Therefore, they caused cruelty to the deceased and also soon before the death, they induced her to commit suicide. The evidence of Doctor/P.W.10, which clearly shows that due to hanging, the deceased Sumathi was died and there was no external injury found all over the body. Therefore, the trial Court disbelieved the same and came to the conclusion that due to mental cruelty and also the inducement she wantonly committed suicide. Therefore, soon before the death, there was a cruelty made by the appellants/accused and also soon before the death there was a inducement/abatement made by the appellants on the deceased. Therefore, the deceased committed suicide.

10.The evidence of P.W.8 clearly shows that P.W.8 and P.W.5 were present on 16.11.2014 at 3 to 4 p.m., in the field. On seeing the presence of P.W.5 and P.W.8 along with the deceased, the appellants/accused blamed the deceased and also scolded her with filthy language and also beaten her and induced her to take away her life. Therefore, she committed suicide. The evidence of doctor/P.W.10, also corroborated the same. The deceased was died, due to hanging. Therefore, the trial Court has rightly appreciated the evidence. On 16.11.2014 at the time of occurrence, the appellants/A2 to A4, scolded the deceased and A1 was not there and he left to Sabarimalai and therefore, there was no direct evidence to prove that A1 caused any cruelty to the deceased, soon before she committal suicide. Therefore, he was acquitted from the evidence of P.W.1, P.W.2, P.W.5, P.W.8, P.W.9 and P.W.10.

11.In view of the above, this Court finds that all the appellants have committed the offence under Sections 498(A) and 306 IPC and the trial Court has rightly appreciated the evidence and found guilty of the appellants. Therefore, this Court does not find any merit in the appeal and the same is liable to be dismissed. Accordingly, this Criminal Appeal stands dismissed. The trial Court is directed to secure the accused to serve for remaining period of concerned sentence imposed by the trial Court.

Sd/-

Assistant Registrar (CS-IV)

// True Copy //

Sub Assistant Registrar

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To

1.The Sessions and Mahila Judge,
Salem.



2.The Superintendent,
Central Prison,
Salem.

3.The Inspector of Police,
Jalakandapuram Police Station,
Jalakandapuram.

4.The Public Prosecutor,
High Court, Madras.

5.The Judicial Magistrate No.2,
Mettur.

6.Thro : The Chief Judicial Magistrate,
Salem. (For Information)

CRL.A.No.514 of 2019

SPD(CO)
RVM(15/02/2022)