



BAIL SLIP

The Petitioner / Accused namely V.Praveenkumar, S/o.Velliangiri be and hereby was directed to be released on bail as per order of this Court dated 18.10.2019 in Crl.M.P.No.14791 of 2019 in Crl.A.No.707 of 2019.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.08.2021
PRONOUNCED ON : 12.01.2022

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRL.A.No.707 of 2019

V.Praveenkumar

...Appellant

Vs

The State rep by
Inspector of Police,
Erode Town Police Station,
Erode District,
Crime No.773 of 2012.

...Respondent

Criminal Appeal filed under Section 374(2) of Code of Criminal Procedure to set aside the conviction imposed in judgment dated 20.09.2019 made in S.C.No.48 of 2018 by the learned Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court) Erode by allowing this Criminal Appeal.

For Appellant : Mr.N.Manoharan

For Respondent : Mr.S.Vinoth Kumar
for Public Prosecutor

J U D G M E N T

This Criminal Appeal has been filed against the judgment dated 20.09.2019 passed in S.C.No.48 of 2018 by the learned Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court) Erode.

2.The case of the prosecution is that the marriage between the appellant/accused and the deceased Mythili had taken place on 24.10.2007 and at the time of marriage, the parents of the



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deceased gave 100 sovereigns gold jewels as sridhana for the deceased Mythili and 7 sovereigns of gold jewels to the accused and also spent money towards marriage expenses and gave all the house hold articles. At the time of customary celebration, the accused was given cash and gold jewels by the father of the deceased. Subsequently, the accused assaulted her and treated cruelly and demanded more jewels and cash. Due to the torture meted out to her by the appellant, the deceased committed suicide by hanging herself on 18.04.2012 at the house of the appellant situated at Thillainagar.

3.She died, within seven years of her marriage, hence, the respondent police registered a case in Crime No. 773 of 2012 against the appellant for the offence punishable under Sections 498A and 306 IPC and 174 (3)(i) Cr.P.C. After completion of the investigation, the respondent police filed a charge sheet against the appellant/accused for the offence under Sections 498A and 306 IPC before the learned Judicial Magistrate No.II, Erode and the same was taken on file in P.R.C.No.6 of 2017. Thereafter, on appearance of the accused, the copies of the documents relied on by the prosecution were furnished to him under Section 207 of Cr.P.C., finding that the case was triable by the Court of Sessions, the learned Magistrate committed this case to the file of the learned Principal District and Sessions Judge, Erode in S.C.No.48 of 2018 and the same was made over to the learned Sessions Judge, Magalir Neethi Mandram (Fast Track Court), Erode for trial.

4.In order to prove the case of the prosecution before the trial Court, on the side of the prosecution as many as 15 witnesses were examined as P.W.1 to P.W.15 and marked 22 documents as Exs.P1 to P22 and 9 material objects were marked as M.O.1 to M.O.9. After examining the prosecution witnesses, the incriminating circumstances culled out from the evidence of the prosecution witnesses were put before the accused/appellant and questioned under Section 313 of Cr.P.C., he denied all the incriminating circumstances as false and pleaded not guilty. On the side of the defence, no oral and documentary evidence was produced.

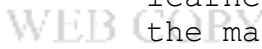
5.The Court below, after hearing the arguments advanced on either side and also materials available on record, found that the accused/appellant is guilty for the offence under Section 498(A) IPC and sentenced him to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of three months. The accused is acquitted under Section 235(1) Cr.P.C for the offence under Section 306 IPC. Being aggrieved by the said judgment of conviction and sentence, the appellant is before this Court.



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6. The learned counsel for the appellant submitted that none of the witnesses had deposed that the appellant abetted or instigated the deceased to commit suicide. Further neither the accused nor his relatives never demanded dowry. The appellant and the deceased is having two children and they are running their life happily and there is no quarrel between them. He would further submit that prior to the occurrence, the deceased went to her parents house and stayed and thereafter, she committed suicide. Further, there are vital contradictions between the evidence of the prosecution witnesses and their statements recorded under Section 161 Cr.P.C and statement before the Revenue Divisional Officer. The prosecution has not examined any independent witnesses and also the neighbours of the appellant's house. The respondent police examined the witnesses only on the pick and choose method and there are no materials to prove that the accused had instigated or abetted the deceased to commit suicide. The trial Court rightly acquitted the appellant for the offence under Section 306 IPC. However, without any materials to substantiate that the appellant caused cruelty on the deceased, he cannot be held liable for the offence under Section 498(A) IPC and thereby the conviction imposed on him, cannot be sustained. Therefore, the judgment of conviction and sentence imposed on the appellant by the trial Court is liable to be set aside and the present appeal to be allowed.

7. The learned Public Prosecutor appearing for the respondent submitted that P.Ws.1, 2, 3, 5 and 8, who are the parents and relatives of the deceased had clearly spoken about the demand of dowry by the accused and that the deceased was subjected to cruelty by the accused. Further P.Ws.5 and 8 clearly spoken about the harassment made by the appellant to the deceased. He would further submit that the deceased committed suicide within seven years from the date of her marriage and therefore, there is a presumption that the deceased died due to demand of dowry or cruelty. Further, the appellant had not rebutted the presumption. Further the postmortem certificate revealed that there were injuries in the body of the deceased. It is for the accused to explain as to how the deceased sustained injuries and committed suicide. It is for the inmates of the house to give a cogent explanation as to how the crime was committed and whether the other inmate caused any injuries. Therefore, the trial Court was not convinced with the materials produced for convicting the appellant for the offence under Section 306 IPC for abetment in committing suicide. However, the trial Court rightly appreciated the entire evidence and found that the appellant caused cruelty on the deceased and due to which, she committed suicide and consequently convicted the appellant for the offence under Section 498(A) IPC. Therefore, the trial Court



8. Heard the learned counsel for the appellant and the learned Public Prosecutor for the respondent and also perused the materials available on record.

10. On a careful perusal of the entire records, it reveals that the marriage between the parties are not in dispute and the deceased committed suicide is also not in dispute. In the present case, R.D.O enquiry was conducted and the R.D.O was examined as P.W.13 and the parents of the deceased were examined as P.W.1 and P.W.2 and her relatives were examined as P.W.3, 5 and 8. The prosecution witnesses had clearly spoken that the appellant and his family members demanded dowry, and subsequent to their marriage, the deceased committed suicide by hanging herself. However, from the inquest and other enquiry no charge was framed for the dowry death, even though the death of the deceased was happened within seven years from the date of her marriage and from the prosecution witnesses P.Ws.1, 2, 3, 5 and 8, the trial Court found that the accused had not instigated or abetted the deceased to commit suicide to attract Section 306 IPC and hence, the appellant was acquitted for the offence under Section 306 IPC. The prosecution or the victims have not filed any appeal against the acquittal. However, the appellant has filed the present appeal against the judgment of conviction and sentence imposed for the offence under Section 498(A) IPC. Therefore, this Court cannot go beyond the scope of appeal and revisit whether it is a dowry death or for abetment to commit suicide. However, the Court has to appreciate the evidence for convicting the appellant for the offence under Section 498(A) IPC.

12. This Court consciously considered the rival submissions and perused the materials on record. Now the only question is, whether the prosecution has established the charge against the appellant for the offence under Section 498(A) IPC that as to whether the deceased was subjected to cruelty by the appellant and whether the trial Judge has rightly appreciated and analysed the evidence on record and convicted the appellant / accused ?



13.P.Ws.1 and 2 are parents of the deceased and they had clearly stated that subsequent to the marriage, the appellant demanded dowry and P.Ws.3, 5 and 8 also stated regarding the demand of dowry made by the appellant to the deceased. Though they have not specifically stated about cruelty and harassment, but they made statement that the appellant demanded dowry and harassed her. Further the postmortem report clearly shows that the deceased sustained injuries and also as per the evidence of Doctor/P.W.6, the deceased sustained injuries even prior to committing suicide. Further, in the evidence of R.D.O, she has clearly stated that on his enquiry, he came to know that there was quarrel between the appellant and the deceased on the date of occurrence. The evidence of P.W.6 clearly shows that there was injury on the back side of the chest of the deceased, which has happened prior to her death. Therefore, from the evidence of P.W.13/R.D.O and the Doctor/P.W.6 and also other prosecution witnesses it reveals that even prior to the date of suicide, there was a quarrel between the appellant and the deceased and that the deceased sustained injuries. Therefore, it is for the appellant to explain the same. In the present case, the appellant has not explained as to how the deceased sustained injuries prior to commit suicide. Therefore, the trial Court has rightly appreciated the entire evidence and acquitted the appellant for the offence under Section 306 IPC and convicted and sentenced for the offence under Section 498(A) IPC.

14.Considering the above facts and circumstances, this Court does not find any reason to interfere with the findings given by the trial Court with reference to the conviction and sentence for the offence under Section 498(A) IPC.

15. In fine, this Criminal Appeal deserves to be dismissed and accordingly, the same is dismissed. The conviction and sentence passed in S.C.No.48 of 2018 by the learned Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court) Erode is confirmed. Hence, the trial Court is directed to secure the appellant/accused to undergo the remaining period of sentence, if any. The period of incarceration already undergone, if any, shall be given set off.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

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To

1.The Sessions Judge,
Magalir Needhi Mandram, (FTC) Erode.



2.The Inspector of Police,
Erode Town Police Station,
Erode.

3.The Public Prosecutor,
High Court, Madras.

Copy To

The Section Officer		with a direction to send back the
(Criminal Section),		original records, if any, to the
High Court, Madras.		trial Court

+1cc to M/s.N.Manokaran, Advocate Sr.No.2597

CRL.A.No.707 of 2019

AJS (CO)
RVM(25/02/2022)