



Bail Slip

The Appellant/Accused viz Valli, W/o. Palani Murugan was directed to be released on bail as per order dated 09.12.2019 made in CrI.M.P.No.15603/2019 in CrI.A. No. 739/2019 on the file of the High Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 21.02.2022

Judgment Pronounced on : 20.04.2022

CORAM : JUSTICE N.SESHASAYEE

CrI.A.No.739 of 2019

Valli

...Appellant/Accused

Vs

State by the Inspector of Police

Omalur Police Station

Salem.

Crime No.43/2014

...Respondent/Complainant

Prayer: Criminal Appeal filed under Section 374(2) of Cr.P.C., against the order of conviction passed by the Sessions Judge, Mahila Court, Salem in S.C.No.302/2016 dated 17.10.2019 convicting the appellant / accused-2 under Section 498(A) and sentence to 3 years RI, and a fine of Rs.10,000/-, in default to undergo SI for 6 months, U/s.304(B) IPC 7 years RI and fine of Rs.50,000/-, in default to undergo SI for 2 years and U/s. 4 of Dowry Prohibition Act, sentenced to 1 year RI and fine of Rs.5,000/-, in default to undergo SI for 3 months.

For Appellant : Mr. S.Doraisamy
for Mr.R.Murugabharathi

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (CrI. Side)

JUDGMENT

Appellant herein is A-2 in S.C.No.302/2016 before the Sessions Judge, Mahila Court, Salem. She is the mother-in-law



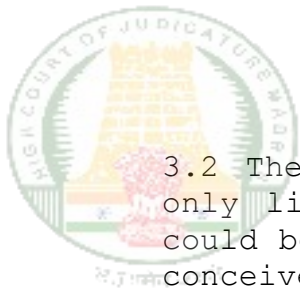
of certain Meena. On 17.01.2014, Meena committed suicide by hanging. She was arrayed as an accused along with her son (A1) (who is the husband of Meena) and her own husband A-3. While A1 and A-3 were acquitted by the Sessions Court, A-2 was convicted for offences under Sec.498(A), 304(b) IPC and Sec.4 of Dowry Prohibition Act and was sentenced as under:

Offences	Conviction
Section 498 (A) IPC	Sentenced to undergo 3 years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default to undergo simple imprisonment for 6 months.
Section 304 (B) IPC	Sentenced to undergo 7 years rigorous imprisonment and to pay a fine of Rs.50,000/- in default to undergo simple imprisonment for 2 years.
Section 4 of Dowry Prohibition Act	Sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.5,000/-, in default to undergo simple imprisonment for 3 months.

The sentences were directed to run concurrently. A-2 now challenges her conviction in this appeal.

2. Meena was barely 18 years old when she died. She was married to A1 on 05.12.2011. Since her death was within 7 years of the marriage, a complaint was preferred by Meena's mother (P.W.1), and a case came to be registered by P.W.12 in Cr.No:43 of 2014 vide Ext.P12 FIR. Thereafter, P.W.13 took up the investigation.

3.1 The case of the prosecution was that, Meena had married A1 on 05.12.2011. On 17.01.2014, at around 3.00p.m., A2, the mother-in-law of the deceased Meena, had cellphonically called P.W.2, the brother of the victim and had informed him that Meena had committed suicide by hanging. On obtaining this information, both P.W.1 and P.W.2., along with few friends of P.W.2 had reached the house of the accused where Meena had committed suicide. Thereafter, on the same night, P.W.1 had preferred the complaint.



3.2 The complaint was cryptic with no material details. The only line of information other than the suicide of Meena that could be gathered from Ext.P1 complaint is that, Meena could not conceive and it was a matter for worry in the family of the accused. In the course of investigation. P.W.13 recorded the material statement of witnesses and laid his final report. The essence of the final report is that: That there was a demand for 5 sovereigns of gold jewellery at the time of marriage of the victim to A-1, that the mother of the victim could mobilise only 3 sovereigns at the time of the marriage, and that the demand for the remaining 2 sovereigns persisted. There was an additional demand, and this pertains to the demand made by all the accused persons to settle a house-property that stands in the name of the defacto complainant be settled in the name of A1. The investigating officer was of the view that the accused persons had committed offences under Sec.498(A), 304(b) IPC and Sec.4 of Dowry Prohibition Act.

4. The matter was then committed to Sessions, where the learned Sessions Judge framed charges under Sections 498A ad 304(B) IPC., against all the three accused persons.

5. During trial, prosecution has examined 13 witnesses, of whom P.W.1 and P.W.2 are respectively the mother and the brother of the victim. P.W.3 is a relative of the P.W.1, who is said to have arranged the marriage of the victim with A1. P.W.4 and P.W.5 are yet other relatives of P.W.1. Witnesses P.W.6 to P.W.13 are official witnesses.

6. It was established during trial that at the time of occurrence, both A1 and A3, the husband and father-in-law of the victim were not in the house. The trial Court therefore found that both A1 and A3 not guilty and acquitted them, and convicted A2, the mother-in-law of the victim for the offences under Sections 498(A), 304(B) IPC., and Section 4 of Dowry Prohibition Act, and sentenced her, the details of which are provided in paragraph No.1 above. Challenging the same, A2 has appealed to this Court.

7. Mr.S.Doraisamy, the learned counsel for the appellant would submit that according to P.W.1 and P.W.2, there was a demand for 5 sovereigns of gold jewellery at the time of marriage, that P.W.1 could only mobilise 3 sovereigns at the time of their marriage, and that there was a demand for the balance 2 sovereigns of gold. Besides that there was also a demand for settling the house of P.W.1 in favour of A-1. He then focused his arguments to contend how the prosecution case



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felt short of the standard of proof required for convicting the appellant. He would submit:

(a) As to the first part of accusation relating to demand for dowry, the reliability of the said accusation fails in the face of the testimony of P.W.3. He is a common relative to both the sides. He is the one who has arranged the marriage between A1 and Meena. He would say that at the time of marriage A2 and A3 had only wanted that Meena be given marriage to A1, and that there was no other demands. He even makes a statement that P.W.1 offered to give only 3 sovereigns of gold jewellery, and that the accused had agreed to the same. These statements he has made even in his chief examination. This instantly unsettles the prosecution's pursuit to prove the first limb of its accusation vis-a vis the demand for 2 sovereigns of gold.. The second part is about the demand for P.W.1's house. Here P.W.1 and P.W.2 makes an improvement over their complaint where they did not spell out anything about the demand for settling the house of P.W.1 in favour of A1, but have underscored the worry of Meena that she could not conceive. Turning to this specific fact, at all points of time prior to Meena's suicide, neither P.W.1 nor P.W.2 have ever lodged any complaint with the police on the alleged dowry-demand. Indeed, the relationship between the parties were so cordial, that some 3 or 4 days prior to her suicide, Meena along with A1 had visited her mother's place for Pongal festival, that they have stayed there on 14.01.2014 and 15.01.2014, and both have jointly left the house. Therefore, the demand for house is a later improvement which the defacto complainant appeared to have invented to compensate her agony over the loss of her daughter. In this context, the testimony of P.W.3 again becomes reliable.

(b) According to P.W.3, sometime in the Tamil month of 'Thai' 2015, ('Thai' 2014 Meena died, so it should have 'Thai' 2014), Meena's mother had visited the house of P.W.3, and informed him that she had received an information that Meena had not been eating for the last five days and that she was crying. P.W.3 then states that he immediately called Meena, to which her initial response was that she was absolutely alright, but then when he pressed for an answer, she stated that she had not eaten and had been starving for four days. On further enquiry, P.W.3 informs that Meena had informed him that both A1 and A3 went to the nearby town. Therefore, P.W.3 called A3, the father-in-law of Meena



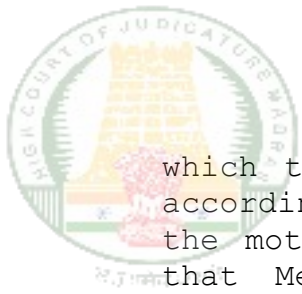
It may however have to be stated that some of the probable circumstances which the learned counsel for the appellant listed in his attempt to cause a dent on the prosecution efforts have largely gone unanswered.

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9. Meena's suicide was unfortunate. She was of tender years and missed a life before her. The point here is was it a result of her senseless act in an explicable moment of excitement, or was it induced by A-2 in the sense that A-2 had set up the circumstances which had driven Meena to a state of inescapable helplessness? Meena is dead now, and A-2 is facing the charge. Necessarily the circumstance that might have driven Meena to commit suicide might have to be reconstructed to the extent evidence in the case support. And, it is underscored that this effort of reconstructing the circumstances should not leave a probability that the prosecution version may be untrue.

10. The prosecution version of twin demands of 2 sovereigns of gold and a house, and harassment or cruelty that were alleged to be associated with the said demands needs unimpeachable proof which must now leave an unshakable setting for the suicide to occur. And here it must fit the allegation of Meena's starvation for four to five days prior to her suicide. As the learned counsel for the appellant had argued while P.W.3 dismantled the accusation of dowry demand, there is no evidence to prove the demand of a house. It should be forgotten that Meena and A1 were still living cordially, that they had visited P.W.1 for Pongal and had also stayed with her for two days very shortly before the occurrence. This aspect coupled with the fact that there was no reference to either demand for jewellery or house in Ext.P-1 complaint makes the case of the prosecution wholly improbable. It is true that in law, a complaint and hence a FIR need not be encyclopedic, but if only there was a dowry-demand coupled with cruelty then that would have dominated any mind instantly and not subsequently. Hence, the later version of the prosecution about a dowry-demand and harassment of Meena becomes doubtful and suspect.

11. In S.Balasubramaniam Vs. State Rep. by the Inspector of Police [2022-1-L.W.(Cr1.) 321], this Court had an occasion to hold that the investigation to an abetment to commit suicide should not start and end with the last known incidence before the occurrence. This applies an ample measure even to an investigation to an offence under Sec.304-B IPC. There may be cases where the investigator might have to expand the scope of investigation, and might have to probe into the mental state in



which the victim was in when she committed suicide. And this according to this Court is one such case. In Ext.P-1 complaint, the mother of the victim had highlighted without anything more that Meena was worried about the fact that she could not conceive. This is a clue merely, and could it have driven her to commit suicide? The prosecution should not waste any clue that comes their way. After all its job is to find the perpetrator of a crime and not to fix a crime on the innocent.

12. To conclude, this Court does not find that the prosecution has been able to establish that the appellant was guilty beyond all reasonable doubts, and necessarily the benefit should go to the accused, and she is now acquitted. Consequently, the charges fail and the appeals is allowed and the appellant is directed to be set free. The judgment of the learned Sessions Judge, Mahila Court, Salem dated 17.10.2019 in Sessions Case No.302/2016 is set aside.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To:

- 1.The Sessions Judge
Mahila Court
Salem.
- 2.The Inspector of Police
Omalur Police Station
Salem.
3. The Superintendent
The Special Prison for Women
Coimbatore
- 4.The Public Prosecutor
High Court, Madras.



Copy to

The Section Officer
Criminal Section
High Court, Madras 104.

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+1 CC to Mr.R.Murugabharathi, Advocate sr 27042.

Crl.A.No.739 of 2019

NR(CO)
SP(02/05/2022)