



BAIL SLIP

The Appellant/Sole Accused No.1 Selvaganapathy S/o.Subramanian was directed to be released on Bail on order of this Court dated 27.03.2019 and made in Crl.MP(MD)No.1783 of 2019 in Crl.A(MD)No.75 of 2019.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 15.02.2022

DELIVERED ON : 01.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.A.(MD)No.75 of 2019

and

Crl.M.P(MD)No.10789 of 2021

Selvaganapathy

...Appellant /Accused -1

Vs.

The State Rep. by Inspector of Police,
Srirangam All Women Police,
Srirangam.

... Respondent / Complainant.

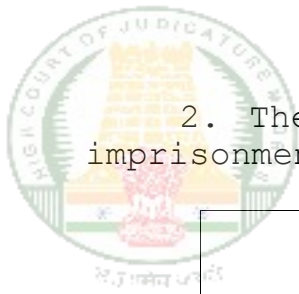
PRAYER: Criminal Appeal filed under Section 374(2) of Cr.P.C. against the judgment of conviction and sentence passed by the learned Mahila Judge, Trichy made in S.C.No.28 of 2016, dated 19.02.2019.

For Appellants	: Mr.John Sathyan for Mr.E.Kotteeswaran
For Respondent	: Mr.A.Thiruvadikumar, Additional Public Prosecutor. : Mr.K.K.Ramakrishnan Amicus Curie

JUDGMENT

R.SUBRAMANIAN, J.
AND
N.SATHISH KUMAR, J.

This appeal has been filed by the appellant / accused No.1 as against the conviction and sentence, dated 19.02.2019, passed in S.C.No.28 of 2016, by the learned Mahila Judge, Trichy.



2. The appellant/A-1 stood convicted and sentenced to undergo imprisonment, as detailed hereunder:

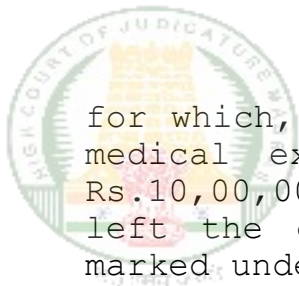
	Conviction U/s.	Sentence	Fine amount
A-1	498(A) IPC	To undergo three years rigorous imprisonment	To pay a fine of Rs.5,000/-, in default, to undergo one year rigorous imprisonment.
	304(B) IPC	To undergo life imprisonment	

(Both the sentences were directed to run concurrently.)

3. The brief facts of the prosecution is as follows:

(i) The deceased Rajalakshmi is the daughter of P.W.1 and sister of P.Ws.11 & 21. The deceased married A1 on 12.04.2012. At the time of marriage, the parents of the deceased have given 14 ½ sovereigns of gold jewels to the deceased and 3 ½ sovereigns to A1. Besides, some silver vessels were given as 'Sridhana' and they also gave a sum of Rs.10,000/-. After marriage, A1 and the deceased Rajalakshmi were residing in the house of A2, who is the mother of A1, as joint family. The marriage life of A1 and the deceased was cordial in the initial stage. After the deceased conceived, the second accused has given hard work to the deceased and hence, the deceased suffered some mental agony. Due to that, the fetus was not growing properly and as per the advise of the Doctor, the fetus was aborted in the presence of A1, A2 and P.W.1 and at the time of abortion, P.W.1 has spent some amount for medical expenses. Thereafter, the deceased conceived and the accused Nos.1 & 2 have arranged for Bangle wearing ceremony and at that time, P.W.1 has also given some amount and a girl child was born. After the child birth, P.W.1 has also given some gold chain and some other ornaments and also gave a sum of Rs.5,000/- for vaccination to the child. When they went to family deity, P.W.1 has also provided dress and other materials to the child and also gave a sum of Rs.10,000/- to A1. As P.W.21, who is the brother of the deceased, was working in abroad, A1 demanded money through the deceased and other accused, who are the mother, sister and brother-in-law of the deceased, have also caused cruelty.

(ii) When the matter stood thus, three months prior to the death of the deceased, A1 has given a complaint against the deceased to the Vadapalani Police Station, Chennai. The Police had called upon P.Ws.1 & 2 for an enquiry and in the enquiry, A1 refused to live with the deceased and also A1 stated that the deceased was suffering from mental illness and she required proper medical care,



for which, P.W.1 also gave Rs.5,000/- and again, she gave money for medical expenses. Thereafter, A1 started to demand a sum of Rs.10,00,000/- from P.W.1 to take a house on lease. Thereafter, A1 left the deceased in the P.W.1's house and sent a legal notice marked under Ex.P4.

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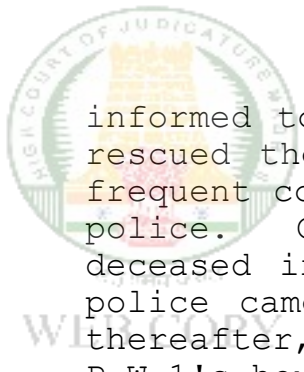
(iii) When the matter stood thus, on 12.07.2014 the deceased while in the upstairs committed suicide by self-strangulation using Dupatta. Immediately, P.W.1 has given a complaint to P.W.26-Sub-Inspector of Police, All Women Police Station, Srirangam and the same was marked as Ex.P.1. P.W.26 registered a case in Cr.No.16 of 2015 for the offence under Section 174 Cr.P.C and the same was marked as Ex.P42. Thereafter, the Sub-Inspector of Police had sent a copy of the FIR to the Revenue Divisional Officer- P.W.25 under Ex.P43 for enquiry and has also prepared an inquest for post-mortem.

(iv) P.W.11 is the elder sister of the deceased and P.W.21 is the brother of the deceased. According to them, the deceased was subjected to cruelty and they deposed in tune with the evidence of P.W.1. P.W.3 was working as a Watchman in Karpagam Apartment, where, P.W.1 was residing. One month prior to the occurrence, one day, P.W.3 heard the noise in the house of P.W.1. He went to the place and saw the deceased and A1 quarreling and A1 beat the deceased at the relevant point of time and thereafter, left the place. After a month of that occurrence, he heard the noise in the house of P.W.1 and rushed to the spot and found the deceased dead. The Police prepared the Observation Mahazar in his presence which is marked under Ex.P8.

(v) P.W.5 is also a Watchman in the same apartment. He has stated that the deceased and A1 used to come to P.W.1's house and they were also leading a happy life. After sometime, A1 left the deceased and child in the P.W.1's house and three months prior to the occurrence, the deceased was staying along with child in the P.W.1's house.

(vi) P.W.6 is the neighbour of P.W.1. Three months prior to the occurrence, he saw some wordy altercation between the deceased and A1 in P.W.1's house and thereafter, P.W.1 informed to P.W.6 that A1 demanded Rs.10,00,000/-. P.W.7 is also a resident of the same apartment and he also heard about the death of the deceased.

(vii) P.W.8 is the servant-maid working in a neighbouring house of P.W.1 and she also found the deceased. P.W.9 was the neighbour of A1 and the deceased at Chennai and she stated that when she was residing in the above locality, she had acquaintance with the deceased. In one occasion, the deceased consumed Sleeping pills and gave to the child with milk. Immediately, P.W.9



informed to the Police. The Police came, broke open the house and rescued the deceased and admitted in the hospital and thereafter, frequent complaints have been given by the husband and wife with the police. On another occasion, A1 locked the house and left the deceased inside the house and hence, P.W.9 called the police, the police came and broke open the door and rescued the deceased and thereafter, the police advised both of them and sent the deceased to P.W.1's house.

(viii) P.W.13- is the then Sub-Inspector of Police, All Women Police Station, Vadapalani. On 06.04.2015 she received the complaint from A1 and gave a receipt, which is marked as Ex.P15. In the above complaint, the husband of the deceased requested to instruct his wife to co-operate for medical examination.

(ix) P.W.22 is the then Special Sub-Inspector of Police, Valasaravakkam police station. On receipt of the information about the deceased closing the door from inside the house and threatening to commit suicide, he rushed to the house of the first accused and asked the deceased to open the door, she refused to open the door. Therefore, he broke open the door and rescued the deceased. The deceased has admittedly consumed sleeping pills and with the help of neighbours, he sent her to hospital.

(x) P.W.23, the then Sub-Inspector of Police at Vadapalani. Pursuant to the complaint given by A1, he enquired the husband and wife and he also called P.W.1 and thereafter, referred the deceased to counselling. However, the deceased did not agree for counselling. P.W.1 stated that after marriage, the husband alone had to take care of her. She stated that if the mother of the deceased accompanied her, she will not take treatment. The complaint given by A1 was marked as Ex.25.

(xi) P.W.24 is the then Inspector of Police, All Women Police Station, Mathavaram, Chennai. She has forwarded all the attested copies. Ex.P.31 is the letter given by the deceased; Ex.P.32 is the letter given by A1; Ex.P.33 is the letter referring the deceased to the counselling; Ex.P.34 is the letter sent by the Sub Inspector of Police to the Counselling centre; Ex.P.35 was the statement of the deceased to the police station and after enquiry, the deceased gave a statement under Ex.P.36 and the accused statement was Ex.P.37. P.W.14 is the Head Constable. After preparing the inquest report by Revenue Divisional officer, he handed over the dead body for autopsy. P.W.17-Postmortem Doctor conducted an autopsy over the dead body and found the following injuries:-

"Face appears swollen. Eyes partially opened. Congested tongue forced between teeth. Dried frothy blood stained secretions from oral cavity, nose, ears both sides. A ligature mark, dark brown in colour, extends just 2 cm

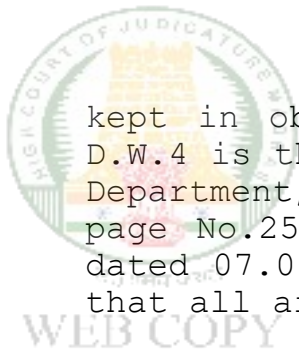


below lt angle of mandible pass downwards crosser front of neck, just above thyroid then runs. Upwards obliquely towards RT side. Neck ends just behind the RT ear, thick in consisting 23 cm in length 1 cm in breadth. Hyod Intact. No other external injuries anywhere on the body.

and opined that the deceased appears to have died of ASPHYXIA due to hanging and issued the postmortem certificate Ex.P.18.

(xii) P.W.15 is the Senior Assistant Professor in the Forensic Department at Trichy Medical College Hospital. He has given an opinion that self-strangulation is also possible for the death and he issued Ex.P16. P.W.16 is the Scientific Officer, Forensic Department. He examined the viscera and found no poison in the viscera and issued Ex.P17 report. P.W.19 is the handwriting expert. He examined the signature found in Ex.P.21 diary and Ex.P22 letter written by the deceased and gave his report under Ex.P23 with an opinion that the handwriting found in both documents were written by same person. P.W.20 Head Constable handed over all the Material Objects to the Court. P.W.25 is the Revenue Divisional Officer, who conducted an inquest over the dead body and examined the witnesses and recorded their statements under Exs.P.9, P10, P11 & P12 and prepared inquest report Ex.P.38 and also recorded the statement of the father of the deceased Ex.P.39 and recorded the statement of A1 under Ex.P.40 and finally gave an opinion that the deceased died due to dowry harassment made by the accused and gave a report under Ex.P. 41.

(xiii) P.W.27 is the then Assistant Commissioner of Police, Law and Order at Srirangam, who after receiving the FIR from P.W.26, conducted an investigation and went to the place of occurrence, prepared an observation mahazar, rough sketch, also seized the blood-stained Chudithar and after recording the evidences, handed over the dead body to the relatives. On 14.07.2015. P.W.27 received the letter and diary written by the deceased through P.W.1 under Form-95 and recorded the statements of the witnesses and has also gave requisition to the Court to send the diary for examination of handwriting expert. After examining the Bank Manager and collecting the account particulars, examined all other witnesses and finally laid a final report. Observation Mahazar Ex.P.45, Rough Sketch Ex.P46, Seizure Mahazar Ex.P.47 and alteration report Ex.P50. D.W.1-Dr.Vijayakumar working in Raj Hospital, T.Nagar, Chennai. According to him, on 28.03.2015 he gave a prescription to one Rajalakshmi for her mental illness and stress. The report was marked as Ex.D2. The accused himself was examined as D.W.2. According to him, his wife was suffering from mental illness and she undergone treatment from 2008 to 2010. D.W.3 is the Doctor running Neurology Clinic. On 18.05.2015, D.W.3 treated the deceased Rajalakshmi and in this regard, he issued Ex.P6, report stating that the deceased consumed Sleeping pills and after giving treatment the deceased was



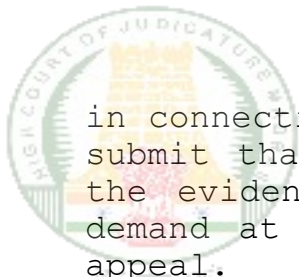
kept in observation and thereafter, discharged from the hospital. D.W.4 is the Handwriting expert working in Regional Forensic Science Department, Madurai and he has compared the handwriting found in page No.25 of diary in the year 2012 and in the year 2013 diary, dated 07.01.2013 to 10.01.2013 and also Ex.P.20 and gave an opinion that all are written by same person.

(xiv) The prosecution, in order to bring home the guilt of the accused, examined as many as 27 witnesses as P.W.1 to P.W.27, marked 53 documents as Exs.P1 to P53. The accused examined 4 witnesses as D.W.1 to D.W.4, marked 9 documents as Exs.D1 to Ex.D9.

(xv) After going through the evidence both oral and documentary, the learned trial Judge has found the first accused guilty under Sections 498(A) and 304(B) IPC., and sentenced the accused as above. Assailing the same, the present Criminal Appeal is filed.

3. The learned counsel appearing for the appellant would submit that the trial Court has convicted the accused without any legal evidence. The trial judge has infact considered the document, which was neither proved nor exhibited by the prosecution. It is the further contention that unfortunately, the deceased committed suicide due to mental ailments, which has not been considered by the trial Court. Demand of dowry spoken by P.W.1, P.W.11 & P.W.21 is an after-thought. The trial Court has failed to consider the previous history of the deceased about taking treatment for mental illness and complaint given by the husband against the wife and the statement given by the deceased. Even, the so called letter said to be the suicidal note of the deceased Ex.P22 do not show the demand of dowry of Rs.10,00,000/-, as alleged by P.W.1, P.W.11 & P.W.21. There is an ample evidence of record to show that the deceased was suffering from mental illness and she was advised to take treatment, but the deceased refused to do so. The fact that the deceased made many attempts to commit suicide and she was rescued by the police officials, has not been considered by the trial Court.

4. Further, prior to the occurrence, the deceased herself has written a diary and gave a statement before the police officers, in which nothing stated about the demand of dowry and other things by the husband or his family members. Therefore, the evidence of P.W.1,11 & 21 with regard to the alleged demand of dowry of Rs.10,00,000/- is highly unreliable and after thought. Ex.P4 is the legal notice sent by first accused to deceased seeking divorce, on the ground of mental illness, which was opposed by the deceased by way of reply notice Ex.D1. Even, in the above reply notice, no whisper whatsoever is made as to the alleged demand of Rs.10,00,000/-. Therefore, he would submit that the deceased had suicidal tendency and she was living in a parental home for more than three months prior to suicide. Therefore, at no stretch of imagination it could be said that there was a cruelty or harassment



in connection with the dowry soon before the death. Hence, he would submit that the entire prosecution is totally unreliable, whereas, the evidence clearly established the fact that there was no such demand at any point of time by A1. Hence he prays to allow the appeal.

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5. Learned Additional Public Prosecutor appearing for the respondent would submit that there are some materials in the form of statement of the deceased though it does not indicate the demand of dowry, but the statement clearly constituted cruelty. Therefore, the prosecution has established the case beyond the reasonable doubt and hence, prays for dismissal of this appeal.

6. We have perused the entire materials.

7. Unfortunately, the deceased has committed suicide on 12.07.2015 in her mother's house by self strangulation. The post-mortem doctor P.W.17, who conducted postmortem, opined that the deceased died due to severe asphyxia. Apart from that, P.W.15 the Senior Professor in Forensic Science Department of the Medical College Hospital, Trichy, gave an opinion that death by self strangulation is also possible. The above evidence of the doctor established the fact that the death is suicidal. We do not want to venture further to probe whether the self strangulation would not cause death or not. Be that as it may, the deceased died within 7 years from the marriage. The evidences of mother, sister and brother of the deceased would go to show that the deceased died due to cruelty in connection with demand of dowry of Rs.10,00,000/- prior to her death by A1. Besides A2 to A4 have also caused cruelty on her. To establish the dowry death, the charge under Section 304 (B) IPC., THE following ingredients has to be established that:

- (a) if there is a married lady;
- (b) if her death was due to burn or bodily injury or if it is an unnatural death; that has occurred within seven years of the marriage;
- © if it is found that soon before her death she was subjected to cruelty or harassment by her husband or any of his relative, the death shall be called dowry death. .

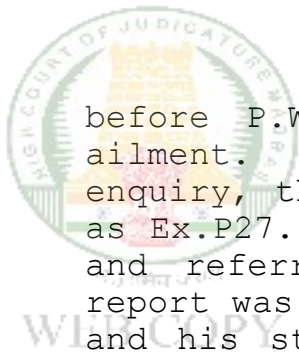
8. If it is proved by the prosecution that soon before the death, she was subjected to cruelty and harassment by the accused or in connection with any demand of dowry, then the statutory presumption available under Section 113(B) of the Indian Evidence Act, will come into operation.

9. With the above legal position when the evidence is analysed, the deceased Rajalakshmi married A1 on 12.04.2012. As she conceived first time, due to doctor's advise, the fetus was aborted and at the time of abortion, the fetus was also present and thereafter, she gave birth to

demanded
their ev

11. Though the criminal Court cannot expect minute details as to the occurrence, but the fact remains that their evidence is general with omnibus allegation without any specific instances. We say so in view of admitted documents available on record, it is relevant to note that the deceased had come to P.W.1's house three months prior to the death. This fact is not in dispute. When the deceased and A1 were residing in Chennai, she has consumed sleeping pills, which has also been spoken by P.W.9 neighbour of the deceased and A1 in Chennai.

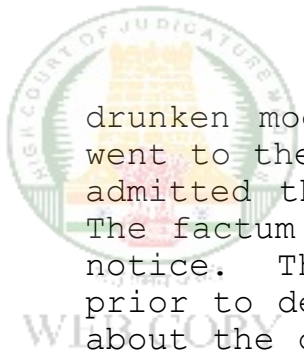
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before P.W.23 that the deceased is taking tablets due to some ailment. Those complaints were marked as Ex.P25 and Ex.P26. On enquiry, the deceased agreed to go for counseling and gave a letter as Ex.P27. P.W.24 in her evidence clearly spoken about the enquiry and referring the deceased to the counselling. The counselling report was marked as Ex.P44. D.W.1 Dr.Vijayakumar was also examined and his statement shows that the deceased was treated for mental ailment and he has also given prescription and the same was marked as Ex.D2. Ex.P31 is a letter sent by the deceased to the Sub-Inspector of Police, Vadapalani, wherein, she has agreed to appear for counselling on 09.06.2015. Ex.P30 is the letter written by A1. Thereafter, the Sub-Inspector of Police, Vadapalani referred the parties to counselling and sent a letter to the family counselor under Ex.P.33. Ex.P35 is the statement given by the Rajalakshmi to the Vadapalani All Women station, wherein, the deceased has stated that till now she was happily residing and after the marriage, she suffered some ailment and taking treatment in Ramachandra Hospital. However, she panicked even when others came near her and she has also expressed her unwillingness to accompany her mother to the hospital for taking treatment. She expressed her willingness to go for treatment along with her husband. Similarly, after the enquiry, she has also given a statement before P.W.26, wherein, she has also stated that after counselling she appeared before the Sub-Inspector of Police and has stated that for continuing three months treatment, she will go to her mother/s house. Thereafter, she also requested her husband to meet her once in a week during her stay at Srirangam.

13. In all these documents referred to above, she never whispered anything about the alleged cruelty or demand of dowry, particularly, a demand of Rs.10,00,000/- as spoken by P.Ws.1,11 & 21. The nature of the statement given by the deceased before the Sub-Inspector of Police, who was also examined before the Court, indicates that she suffered some depression and she did not want even her mother to be with her while taking treatment and agreed to take a treatment with her husband. Ex.P36 is the last statement given by the deceased before the Inspector of Police P.W.23. In that statement, she stated that she left her matrimonial home only for the purpose of taking treatment. This statement was made in the month of June ie., on 09.06.2015 and in that statement there is no whisper whatsoever is made with regard to demand of dowry etc., It is relevant to note that, after the deceased went to her house, a legal notice was issued by the accused, which was marked Ex.P4, wherein, he has mainly alleged that the deceased developed suicidal tendency and has been creating lot of problems. She also tried to kill her child. Therefore, he expressed his intention not to live with the deceased and sought divorce. This legal notice was sent on 21.05.2015 much prior to the counselling conducted by P.W.23.

14. The reply notice was sent by the deceased on 01.07.2015, which was marked as Ex.D1. The entire reply notice shows that the deceased made allegation that on 06.04.2015 A1 came in a



drunken mood and caused some harassment and therefore, the matter went to the police station. In the above reply notice, she has also admitted that in order to threaten her husband, she cut her hand. The factum of consuming sleeping pills also not denied in the reply notice. The reply notice was sent on 01.07.2015, which was 11 days prior to death of deceased. In that notice, she had never whispered about the demand of dowry as spoken by P.Ws.1,11 & 21. Ex.P22, said to have been written by the deceased and the handwriting was also proved by the prosecution by examining the handwriting expert. In the diary, she has admitted that only as per the doctor's advise first fetus was aborted.

15. The entire letter proceeded as if one Subramani, the fourth accused one of the partner of her husband's business, had created problem between the husband and wife and tried to separate them and he was a instrumental to give a complaint against her husband. She also admitted that when she left her husband went to Srirangam, she decided to commit suicide. She has also admitted that P.W.22 has rescued her and she also narrated how she met the medical expenses. She also stated that she made an attempt to burn all the certificates and made an attempt of self-immolation and thereafter only the accused took the deceased to her mother's house and told her to stay for three days and at that time, the accused met her mother. Her statement further indicates that her mother went to the police station and the police advised to A1 to live with the deceased in a separate home and advised A1 to visit the deceased once in a month. However, A1 did not agree for that. He has stated that he is not willing to live with the deceased. Therefore, he brought back the deceased to her parents' house. Thereafter, A1 went to Trichy. The entire Ex.P.22 so called suicidal note does not implicate the accused in respect of any demand of dowry, whereas she has stated that some expenses are spent at the time of marriage, except that she has never spoken that the accused have demanded any money soon before her death.

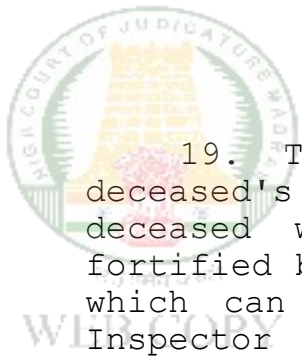
16. The handwriting found in the Ex.P22 has been proved by the prosecution. Similarly, Ex.D8 and Ex.D9 diaries said to have been written by the deceased also proved by the handwriting expert. In the Ex.D8 diary the deceased written some pages as Sloga and some pages she has also written some expenses. In page No.25 of the diary, which is also compared by the expert, she has written that if anything happens to her life, she alone is responsible. Similarly, Ex.D9 diary said to have been written by the deceased. She wrote the diary from 03.01.2014. She wrote the diary from the date of her marriage indicating how their marital life went, wherein, she has stated in Page No.9 she wrote that A1 has loved her much and she also loves him and she has not suppressed anything to her husband. She praised her husband. In fact, she praised her husband first and next her child. This diary further indicates that it was written only after the deceased and A1 started their life. The entire Ex.P.22 so called suicidal note does not implicate the accused in respect of any demand of dowry, whereas she has stated that some expenses are spent at the time of marriage, except that she has never spoken that the accused have demanded any money soon before her death.



03.01.2014 and she has just expressed her unwillingness over the separation. The above diary also do not show any cruelty and other things.

17. The handwriting under Ex.D8 and Ex.D9 and Ex.P22 have been proved by the handwriting expert. The trial Court never considered these documents, whereas the trial Court in paragraph-23 of the judgment has given undue importance to the letter said to have been written by the deceased on 09.06.2015. The above said document was neither marked nor proved in the manner known to law. The said letter was never sent to the handwriting expert examination. There was no reason as to why the so called letter was not sent to the handwriting expert opinion. The letter, dated 09.06.2015, wherein, it is stated that her husband did not agree to take her back, without him, she and her child has no life, therefore, she is committing suicide. The investigation officer evidence clearly shows that this letter was never seized by him and it is also stated by the counsel that the said letter was not included in the 207 copies and this letter was not exhibited before the trial court. Absolutely there is no explanation available on record as to who has produced that letter and how it came on record. The same has not been exhibited nor proved before the trial Court. Therefore, the trial Court ought not to have given importance to the letter, as it was not exhibited before the trial Court. Further, the same was not sent for handwriting expert, which is against the fundamental principles of Evidence Act. Therefore, we are unable to countenance the trial court findings based on this letter. Even the allegations found in the above letter assuming to be true, only show that deceased due to frustration in the matrimonial life decided to commit suicide. Such letter would not prove any other aspect of alleged cruelty or demand of dowry.

18. From the analysis of the various documents referred to above, it is very clear that even when the deceased and the accused were enquired in the police station on 09.06.2015, there was no whisper about the demand of dowry or alleged cruelty. Even in Ex.P4 legal notice and Ex.D1 reply notice sent on 01.07.2015 there was no allegation of cruelty. Even Ex.D8 and Ex.D9 states that during her separation, she never stated anything about her husband. All these facts clearly shows that the evidence of the P.Ws.1,11 & 21 is unreliable and appears to be exaggeration. Further, in the evidence of P.Ws.1, 11 & 21 there are a contradictions. P.W.11 has deposed that the accused demanded a sum of Rs.10,00,000/- and Rs.5,00,000/- which is never stated by other two witnesses. On examining various statements referred to above, we have no other option, except to hold that the evidence of P.W.1, P.W.11 and P.W.21 clearly indicates that as a result of frustration the deceased had committed suicide and nothing more. Taking into account the totality of the circumstances as discussed above, we hold that there is no cruelty or harassment in connection with the demand of dowry, which resulted in the death of the deceased.



19. The evidence of D.Ws.1 to 3 and the nature of the deceased's statement before the P.W.23 proves the fact that the deceased was suffering from mental depression, this has been fortified by the fact that she had a tendency of committing suicide which can be seen by the other circumstances. P.W.23 the Sub Inspector of police has rescued her when she consumed sleeping pills. In the suicide note she has also stated that for threatening her husband she took the sleeping pills. All these facts clearly lead to the strong inference that the deceased had tendency to commit suicide and she has suffering from mental imbalance due to depression. Therefore, possibility of committing suicide due to the loneliness also cannot be ruled out.

20. In the intervening circumstances and her statement before the police officials at the Madras clearly establishes the fact that there was no harassment or cruelty in connection with demand of dowry soon before her death. The evidence of P.Ws.1, P.W.11 & P.W.21 taken in entirety, except showing that they have spent some amounts for medical expenses no demand of dowry could be inferred from their statements. Further there was a long interval between the concerned payment and expenditure both in question, the existence and proximity, live link between such demand or payment and suicide is absent in this case.

21. Considering the evidence as discussed above, we are of the view that there are many circumstances favouring the accused. The factum of absence of proximate link between the effect of cruelty or harassment and consequential death. We are of the view that the findings of the trial court convicting the A1 under both sections are required to be interfered. Even for the conviction under Section 498 (A) of IPC we find that there are no materials to attract the offence. In such view of the matter, we hold that the accused is entitled to benefit of doubt. The conviction and sentences passed by the trial Court is liable to be set aside.

22. In the result, the Criminal Appeal stands allowed and the conviction and sentence imposed on the appellant/A1 by the learned Mahila Judge, Trichy, in S.C.No.28 of 2016, are set aside and the appellant/A1 is acquitted. The fine amount, if any, paid by the appellant / A1 shall be refunded to him. The bail bond, if any, executed by him and the sureties shall stand terminated.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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To

- 1.The Judge,
The Mahila Court, Trichy.
- 2.The Judicial Magistrate No.IV,
Trichy.
- 3.The Chief Judicial Magistrate,
Trichy.
- 4.The Superintendent,
Central Jail,
Trichy.
- 5.The Inspector of Police,
Srirangam All Women Police,
Srirangam.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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Judgment in
Cr1.A.(MD)No.75 of 2019
01.03.2022

nsn(CO)
GC(10.03.2022) 13P 10C