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Crl.A.No.435 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.06.2023

PRONOUNCED ON : 23.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

CRL.A.No.435 of 2018
and Crl.MP No.9973 of 2018

Sridhar

... Appellant / Accused

-Vs-

State by
Inspector of Police,
Kitchipalayam Police Station,
Salem District.
(Crl.No.318 of 2014)

... Respondent / Complainant

PRAYER: Criminal Appeal is filed under Section 374 (2) of Criminal Procedure Code, praying to set aside the judgment dated 29.05.2018 in S.C.No.96 of 2015 on the file of the learned Sessions Judge, Mahila Court, Salem.

For Appellant : Mr.B.Vasudevan
For Respondent : Mr.L.Baskaran
Government Advocate (Crl.Side).



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JUDGMENT

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Convicted sole accused is the appellant herein. The Criminal Appeal is filed against the judgment of conviction and sentence dated 29.05.2018 made in S.C.No.96 of 2015 on the file of the learned Sessions Judge, Mahila Court, Salem.

2. (a) The case of the prosecution is that the appellant/accused namely Sridhar is the husband of the deceased Padmini. The marriage between the appellant and Padmini was solemnized on 16.11.2007 and out of the wedlock they were blessed with two children. The appellant/accused used to beat his wife Padmini after consuming alcohol frequently almost everyday and did not give money for meeting out the family expenses and the deceased Padmini told her parents about the ill-treatment caused by her husband and she was pacified by her parents and advised her to adjust with her husband for the welfare of her children.

(b) While the facts remained as stated above, on 14.09.2014, the



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appellant under the influence of alcohol scolded her in filthy language by stating that “எதற்கு உயிருடன் இருக்க போய் சாவு” and due to the verbal instigation of the appellant, the deceased got frustrated, vexed and due to the wilful conduct of the appellant/accused, the deceased committed suicide by pouring kerosene from the stove and self-immolated at about 16.00 hours on 14.09.2014. Immediately, she was taken to Government Hospital, Salem and dying declaration was recorded. Hence the complaint.

(c) Based on the complaint, a case was registered in Kitchipalayam Police Station in Crime No.318 of 2014, under Sections 506 and 511 of IPC on 15.09.2014 at about 08.15 am by Tr.Venugopal, the then Special Sub Inspector of Police, Kitchipalayam Police Station and submitted the same before Tr.Raja, the Inspector of Police, for investigation.

(d) After registering the case, the then Inspector of Police went to the scene of occurrence and examined the witnesses and recorded their



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statements. After 5 days of the occurrence, on 19.09.2014 at about 07.10am, the deceased died at Government Hospital, Salem. Based on the death intimation, the section of this case is altered to under Section 498(A) and 306 of IPC against the appellant/accused. On 01.10.2014, the then Investigation Officer, arrested the appellant/accused and he was produced before the Judicial Magistrate, Additional Mahila Court, Salem and remanded to Judicial custody.

(e) After completion of investigation on 20.02.2015, the then Investigation Officer filed charge sheet against the accused before the Judicial Magistrate Court, Additional Mahila Court, Salem and the same was taken on file vide P.R.C.No.3 of 2015. Then, this case was committed to the Mahila Court, Salem and assigned S.C.No.96 of 2015.

(f) During trial, the prosecution has examined 18 witnesses viz., PW1 to PW18 and marked 20 exhibits viz., Ex.P1 to Ex.P20 and one material object viz., M.O.1. On defence side, no witness, no exhibit and no material



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object, were marked.

(g) After conclusion of the trial, the learned Sessions Judge, Mahila Court by judgment in S.C.No.96 of 2015 dated 29.05.2018 convicted the appellant/accused and sentenced him as follows:

<i>Sl.No.</i>	<i>For offence under Section</i>	<i>Sentence imposed</i>
1	498 (A) of IPC	To undergo rigorous imprisonment for 3 years and to pay a fine of Rs.2,000/- in default to undergo simple imprisonment for three months.
2.	306 of IPC	To undergo rigorous imprisonment for 10 years and to pay a fine of Rs.2,000/- in default to undergo simple imprisonment for six months.

The sentences are directed to run concurrently and hence, the appeal

3. The learned counsel for the appellant/accused could contend that coming into existence of Ex.P13-Complaint and Ex.P14-FIR, is doubtful and presence of witnesses PW1 and PW3, the parents of the deceased, is also doubtful. The private prosecution witnesses PW1 to PW6 were examined only after four days of the alleged incident and even as per the complaint, in the drunken mood the accused had petty wordy quarrel with



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his wife and his wife was too sensitive enough to take a decision to commit suicide by self-immolation.

4. Learned Government Advocate made submissions in support of the judgment of the Sessions Court.

5. Heard the learned counsel appearing for the appellant/accused and the learned Government Advocate, appearing for the respondent police and perused the records.

6. On perusal of the private prosecution witnesses, PW1 to PW6, I find that PW1-Eswaran is the father of the deceased Padmini, PW2-Radhakrishnan, is the brother; PW3-Lalitha, is the mother; PW4-Sridhar, is another brother; PW5-Ramesh, is the sister's husband of the deceased and PW6-Rajagopal, is the brother of PW1 i.e. paternal uncle of the deceased. PW7-Umadevi and PW8-Dhanalakshmi, are the occurrence witnesses i.e., neighbours who reside in the close neighbourhood of the scene of crime,



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whose version is discussed infra.

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7. PW9-Kathiresan (Head Constable), PW10-Dhanasekaran (Head Constable), PW16-Venugopal (Sub-Inspector of Police), PW17-S.Raja (Inspector of Police) and PW18-Ravi (Inspector of Police), are the police witnesses, who deposed regarding the discharge of their official duty, for accompanying the injured person to the hospital, recording the statement of the injured, taking the dead body for post mortem, completing of the investigation, arresting of the accused and filing of the charge sheet.

8. PW14-Kalaivani (JM-1, Salem), is the Judicial Officer, who had recorded Ex.P10-Dying declaration and it was attested by PW15-Dr.Ravi as to the physical fitness of the injured person to give a statement.

9. As stated supra, PW11-Dr.Dhanaraju, has registered the Accident Register [Ex.P5] immediately after the admission of the injured into the



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Government Hospital, Salem. PW12-Dr.Manikandan, has given the death intimation under Ex.P6. PW13-Dr.Sangeetha, has conducted the postmortem and issued Ex.P8-Postmortem certificate to show that the deceased died due to the extensive burn injury.

10. The points for consideration in this appeal are as follows:

- (i) Whether the accused has abetted the suicide of his wife? and
- (ii) Whether the sentence awarded is in commensurate with the proved charges?

11. On a close scanning and scrutiny of the private prosecution witnesses. viz., PW1 to PW6, they are the relatives of the deceased as father, mother, brothers, sister's husband and paternal uncle. Their evidence is to the limited extent that the accused used to consume alcohol and used to have quarrel with the deceased Padmini. It is the specific evidence of PW1 that on the date of occurrence, accused came to the house under the



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influence of alcohol and abused Padmini with filthy language and due to that Padmini committed suicide by pouring kerosene and setting fire on her. The evidence of PW2, PW3 and PW4 duly corroborates, the evidence of PW1 regarding the alcohol consuming habit of the accused and also that of the regular quarrel between the parties.

12. PW7-Umadevi and PW8-Dhanalakshmi are the neighbours. They have spoken about the quarrel between the appellant and deceased Padmini on the date of occurrence. Thereafter, they saw the deceased when she set the fire on her and when accused has taken her to the hospital. The evidence of independent witnesses PW7 and PW8, assumes significance.

13. The above evidence of the independent witnesses PW7 and PW8 coupled with the statement of PW10, that the deceased has stated to the police, under Ex.P4 and also the dying declaration recorded by PW14 under Ex.P10, the learned Sessions Judge has come to the conclusion that with



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regard to the incident, PW15 has issued a fitness certificate to the deceased viz., Ex.P11 wherein the dying declaration was recorded by PW14-Judicial Magistrate and the said dying declaration is marked as Ex.P10.

14. On a combined reading of the evidence of PW15 and PW14 and documentary evidence of Ex.P10 and Ex.P11, the learned Sessions Judge has rightly come to the conclusion that the dying declaration speaks about the act of the accused upon the deceased, which compelled her to commit the suicide by self immolation. The words spoken to by the deceased immediately before death falls under Section 32 of the Indian Evidence Act and in the absence of any infirmity in the evidence of PW14 and Ex.P10, the learned Sessions Judge has rightly come to the conclusion that Padmini committed suicide by self immolation and the charges under Section 498(A) and 306 of IPC, are proved. Therefore, I find that the conviction laid by the learned Sessions Judge under Section 498-A and 306 IPC are just and does not call for any interference by this Court.



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15. On the point of quantum of sentence, the learned counsel for the appellant/accused is heard.

16. The accused is confined to Central Prison, Salem, from the date of the judgment i.e., 29.05.2019 and he is still in the prison.

17. Heard the learned Government Advocate.

18. After going through the dying declaration and also the statement of the private prosecution witnesses, I am of the view that the injured Padmini has taken an extreme step because of her sensitive nature. It is seen from the communication dated 17.06.2023 sent by the Superintendent of Prisons (i/c), Central Prison, Salem, that as on 16.06.2023, the accused /convict-Sridhar has completed 5 years and 3 months and 28 days.

19. Therefore, taking into consideration the entirety of the circumstances and the sensitive nature of the injured/deceased Padmini and



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also the age of the accused/convict and that his two children are being under the custody of PW1-grandfather and have been looked after by his brother-in-law, who is supplying water cans to small hotels, I am inclined to modify the sentence imposed upon the appellant/accused for the offence under Section 306 of IPC. Accordingly, it is ordered as follows:

(i) The Criminal Appeal stands partly allowed.

(ii) The conviction passed by the learned Sessions Judge, Mahila Court, Salem, vide dated 29.05.2018 in S.C.No.96 of 2015, for the offence under Sections 498 (A) and 306 IPC, is confirmed.

(iii) The sentence of three years rigorous imprisonment awarded with default clause for the offence under Section 498 (A) of IPC is hereby confirmed.

(iv) However, the sentence imposed for the offence under Section 306 of IPC is hereby modified into six years rigorous imprisonment instead of ten years rigorous imprisonment. Fine



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amount and the default clause imposed by the trial Court, remains unaltered.

(v) Except the above modification, the judgment of conviction and sentence imposed upon the appellant/accused by the learned Sessions Judge, Mahila Court, Salem, vide dated 29.05.2018 in S.C.No.96 of 2015, remains unaltered. The sentences are directed to run concurrently.

(vi) As stated supra the appellant/accused is in jail and the period of sentence already undergone by the accused shall be set off under Section 428 of the Code of Criminal Procedure.

(vii) Consequently, the connected Crl.M.P.No.9973 of 2018, is closed.

23.06.2023

Index: Yes / No
Speaking/Non-Speaking order
Neutral Citation: Yes/No.
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RMT. TEEKAA RAMAN, J.

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To

1. The Sessions Judge,
Mahila Court, Salem.
2. The Inspector of Police,
Kitchipalayam Police Station,
Salem District.
3. The Public Prosecutor,
High Court, Madras.

Pre-delivery Judgment made in
CRL.A.No.435 of 2018

23.06.2023