



Crl.A.No.362 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.09.2023

Coram :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Criminal. Appeal No. 362 of 2016

Manikandan

.. Appellant

Versus

State rep. By
The Inspector of Police,
Bargur Police Station,
Erode District.
Crime No.14 of 2014.

.. Respondent

Criminal Appeal filed under Section 374 (2) of Cr.P.C to set aside the Judgment dated 31.03.2016 made in S.C. No. 83 of 2015 on the file of the learned Sessions Judge, Fast Track Mahila Court, Erode.

For Appellant : Mr. R. Marudhachalamurthy

For Respondent : Mrs. G.V. Kashthuri
Additional Public Prosecutor

JUDGMENT

This Criminal Appeal is filed by the Appellant to set aside the Judgment dated 31.03.2016 passed in S.C. No. 83 of 2015 on the file of the learned Sessions Judge, Fast Track Mahila Court, Erode.



2. The Appellant/Accused was tried for the offences punishable under Sections 324 (2 counts), 342 and 306 of Indian Penal Code. After trial, by judgment dated 31st March 2016, the Appellant was convicted and sentenced as follows:-

Convicted for the offence	Period of Sentence
S. 324 of Indian Penal Code (two counts)	To undergo rigorous imprisonment for a period of 1 year
S. 342 of Indian Penal Code	To undergo rigorous imprisonment for a period of 1 year
S. 306 of Indian Penal Code	To undergo rigorous imprisonment for a period of 5 years with fine of Rs.5,000/-failing which, to undergo simple imprisonment for a period of one year

However, the aforesaid sentences imposed against the Appellant were ordered to run concurrently.

3. The brief facts, which are necessary for the disposal of this Criminal Appeal, are as follows:-

3.1. The Appellant is the son of Maathi-P.W-4 and Shanmugam P.W-15. Apart from the Appellant, P.W-4 and P.W-15 had two other female unmarried children namely Jothi P.W-3 and Lalitha. The Appellant was married to Sitheswari P.W-14 and he was residing in a portion of the same house where P.W-4 and her two daughters reside. The deceased in this case

namely Sivalingam was the President of Bargur Primary Agricultural Co-



operative Bank and residing in Oosimalai, Bargur. It is stated that the wife of the Appellant Sitheswari had witnessed the illicit relationship between P.W-4 and the deceased Sivalingam and by referring to such illicit conduct of her mother-in-law, Sitheswari had a quarrel with the Appellant and she left the matrimonial home. The Appellant was therefore had a discord with his mother P.W-4 as also the deceased Sivalingam.

3.2. In the above situation, on the early morning of 02.04.2014 at about 01.00 am, the deceased Sivalingam came to the house where P.W-4 was staying. On seeing the deceased, P.W-4 opened the door and invited him inside her house. On seeing this, the Appellant banged the doors of the house and asked the deceased and his mother P.W-4 to come out. P.W-4 did not open the door for sometime. However, after repeated banging, the deceased and P.W-4 came out of the house. On seeing them, the Appellant hit the deceased with a wooden log on his head. The Appellant also hit the nose of his mother P.W-4 with the same wooden log. When the deceased attempted to flee from the place, the Appellant apprehended him and confined him in a room and bolted it from outside. The Appellant also scolded the deceased as to why he should behave in this manner and instead he can die by hanging. The Appellant also stated to the deceased that he will bring the Villagers so that he will sully his image and reputation in their midst. Accordingly, the



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Appellant brought Veerabadhiran P.W-11 and Mohan P.W-12 to show them that he had confined the deceased in a room in his house at 2.30 am. When they reached the house they asked the Appellant to open the doors, but the Appellant refused to do so. Later, when the Appellant attempted to open the door, he noticed that it was locked from inside. Therefore, the Appellant, P.W-11 and P.W-12 peeped through the window to find that the deceased was hanging from a ceiling with his lungi.

3.3. In this regard, intimation was given to P.W-1, the Village Administrative Officer of Bargur and he reached the scene of occurrence along with his Village Assistant at about 7.30 a.m. in the morning. P.W-1 enquired the Jothi P.W-3 daughter of P.W-4 and she has stated that when the deceased came to his house in the early hours of 02.04.2024 and he went to a room where P.W-4 was staying and they had went inside the room and locked it. On seeing the same, the Appellant, her brother, banged the door and later when they came out, the Appellant attacked them with a wooden log and confined the deceased in a room. Subsequently, when the Appellant came along with P.W-11 and P.W-12, they saw the deceased hanging in the ceiling. She has also stated that intimation was given to the Police and they came to the scene of occurrence, broke open the door, which was locked from inside. When they went inside the room, they found the deceased hanging from the ceiling. In



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On this regard, P.W-1 had given a complaint to the Bargur Police Station. On the basis of such complaint, P.W-23 along with Head Constable Mr. Murugan went to the scene of occurrence where a complaint was given by P.W-1, which was marked as Ex.P-1. Based on such complaint, a case in Crime No. 14 of 2014 was registered for the offence under Section 174 of the Code of Criminal Procedure. The copy of the First Information Report was also sent to higher Police officials.

3.4. On receipt of a copy of the First Information Report at 10.00 am, P.W-24, had taken up the case for investigation and proceeded to the scene of occurrence at about 10.30 am, where, in the presence of P.W-1 and the Village Assistant inspected the dead body and prepared a rough sketch under Ex.P-15 as well as observation mahazar under Ex.P-2. He also directed the dead body to be photographed which is M.O-9 series. He also collected blood stained cement flooring and sample flooring from the scene of occurrence. At about 11.45 am, he had conducted an inquest over the dead body of the deceased in the presence of Sanna Gouder P.W-2, Pandhaiyan, Kannappan and Sindhumari. He also enquired those witnesses and recorded their statement and prepared Inquest Report under Ex.P-16. Later, at about 1.45 pm, he sent the dead body for postmortem through Head Constable Murugan along with a requisition under Ex.P-17 to the Medical Officer, Andhiyur Government



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Hospital. The Medical Officer at Andhiyur Government Hospital had sent the dead body for postmortem to the Government Head Quarters Hospital, Erode.

P.W-24 enquired the witnesses P.W-1, Village Assistant – Ganesan, Jothi P.W-3 sister of the Appellant and P.W-18, Doctor who had conducted the postmortem and recorded their statement. The personal wares of the deceased have been collected by the Head Constable and entrusted to P.W-24, who in turn sent them to the Court under Form 91. P.W-24 enquired Lalitha, sister of the Appellant and Mathi P.W-4, mother of the Appellant and recorded their statement. After completing the investigation, P.W-24 laid the final report of the investigation against the Appellant for the offences punishable under Sections 324, 342 and 306 of the Indian Penal Code before the learned Judicial Magistrate, Bhavani.

3.5. The learned Judicial Magistrate, Bhavani had taken cognisance of the offences under Sections 324, 342 and 306 of IPC. Since the offence under Section 306 of IPC is triable by the Court of Sessions, the case was taken on file by the learned Judicial Magistrate, Bhavani as P.R.C.No.21 of 2014. On appearance of the Accused, copies were furnished to him under Section 207 of Cr.P.C. and the case was committed to the learned Principal District and Sessions Judge, Erode, Accused was bound over to the Court of the learned Principal District and Sessions Judge, Erode. On appearance of the Accused



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and on receipt of the records in P.R.C.No.21 of 2014, the learned Principal District and Session Judge, Erode, had taken the case on file and numbered it as S.C.No.83 of 2015 and made over the same to the Court of the learned Sessions Judge, Fast Track Mahila Court, Erode and bound over the Accused to the Court of the learned Sessions Judge, Fast Track Mahila Court, Erode.

3.6. On receipt of case records from the learned Principal Sessions Judge, Erode, the learned Sessions Judge, Fast Track Mahila Court, Erode upon hearing the arguments of learned Public Prosecutor and the learned Counsel for the Accused framed charges for the offences under Section 324 of IPC (two counts), Section 342 of IPC and Section 306 of IPC. The Accused was also furnished with the copies under Section 207 of Cr.P.C.

3.7. After complying with the formalities and upon hearing the arguments of the learned Public Prosecutor and the learned Counsel for the Appellant, the learned Sessions Judge, Fast Track Mahila Court, Erode passed the Judgment dated 31.03.2016 in in S.C.No.83 of 2015 whereby the Appellant was convicted and sentenced as mentioned supra. Aggrieved by the aforesaid Judgment dated 31.03.2016, the present Criminal Appeal is filed.

4. The learned Counsel for the Appellant submitted that the Appellant is the son of P.W-4 and P.W-15. The deceased had illicit relationship with P.W-4, mother of the Accused. On 02.04.2014 at about 01.00



am, the deceased entered into the house and went into the room where P.W-4 was staying. This was witnessed by the Appellant and therefore, he knocked the door of the room where the P.W-.4 and the deceased were staying. When they opened the door, the Appellant assaulted them and caused injuries on the head of the deceased and at the nose of the the mother of the Accused P.W-.4. Subsequently, the Appellant confined the deceased in a room and scolded him as to why he should be alive and instead he can die. The Appellant also stated that he will bring the neighbours or Villagers and show them the confinement of the deceased and that his image will be sullied. But when the Appellant came back with P.W-11 and P.W-12, he saw the deceased hanging in the ceiling fan in the room where he was locked.

5. The learned Counsel for the Appellant invited the attention of this Court to the discussion by the learned trial Judge in SC.No.83 of 2015 to contend that the discussion was commenced with the deposition of P.W-3 & P.W-4 who are the sister and the mother of the Accused. The learned Judge states in the judgment that they cannot be expected to support the Prosecution case as they are related to the Accused. Further, the learned Judge in the course of the discussion arrived at the conclusion based on the surmises and conjunctures and based on the deposition of P.W-1, Village Administrative Officer of the Village that the offence committed by the Appellant has been



proved. The learned Counsel for the Appellant submits that P.W-1 reached the house of the Appellant and saw the deceased committed suicide. In this context, P.W-1 stated that he enquired P.W-3 who was present in the house and as narrated by P.W-3, he had given the complaint under Ex.P-1. Therefore, it is clear that P.W-1 has not witnessed the alleged words uttered by the Appellant, scolding the deceased to die.

6. The learned Counsel for the Appellant invited the attention of this Court to the charges framed by the Trial Court. The first charge is under Section 324 of IPC (2 counts), the second charge is under Section 342 of IPC and the third charge relates to the offence under Section 306 of IPC. When the Accused was questioned regarding the charges, the Accused pleaded not guilty. Therefore, trial was ordered. During the course of trial, to prove the charges, the Prosecution examined P.W-1 to P.W-24. On assessment of evidence, the charge framed against the Accused had not proved with cogent evidence, however, the learned Trial Judge concluded that the Accused alone had caused the death of the deceased. In the course of the evidence, it is found that the deceased had locked the door from inside, when the villagers – P.W-11 and P.W-12 came to the house along with the Appellant. They saw the Accused committed suicide by hanging. The door was broke open after the Police reached the occurrence house. Therefore, the allegation that the



Appellant abetted the deceased to commit suicide has not been proved at all.

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7. The learned Counsel for the Appellant invited the attention of this Court to the evidence of P.W-.1 to P.W-.15. Further, he submitted that the alleged stick used to attack was recovered based on the confession of the Accused, but there was no mahazar witnesses to support the case of the Prosecution that the reaper used to attack P.W-4 and deceased by the Accused was based on the recovery under Section 27 of the Indian Evidence Act. That part of the evidence under Section 27 of the Indian Evidence Act is not found before the Court. Therefore, the confession alleged to have been given by the Appellant to recover the wooden log is not proved before the Court and no mahazar witness have been cited.

8. It is the case of the learned Counsel for the Appellant that the charge framed by the Trial Court had not been proved beyond reasonable doubt through the witness available. P.W-.1 evidence is not supported by the evidence of P.W-3 & P.W-4. P.W-4 is the mother of the Appellant who had stated that on the alleged date of occurrence, the deceased entered her house and attempted to misbehave with her. Therefore, she had attacked the deceased with the reaper causing injuries on him. Later, the deceased snatched it from her and attacked her thereby causing injuries on her nose.



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Hearing the commotion, P.W-.3 and the Accused came to the rescue of their mother P.W-4, whereupon, the deceased locked in the room. The deposition of P.W-4 assumes significance. However, she was treated as hostile witness. Except the deposition of P.W-4, there is no other evidence available to support the case of the Prosecution that the Appellant attacked the deceased as well as P.W-4. Therefore, the offence under Section 324 (2 counts) of IPC has not been proved.

9. The learned Counsel for the Appellant further drawn the attention of this Court to the deposition of P.W-5 to P.W-.12, who are the villagers residing in the same neighbourhood. None of the Prosecution witness P.W-5 to P.W-12 have witnessed the occurrence. They have come to the scene of occurrence much after the alleged attack by the Appellant with the wooden log. Therefore, the judgment of the learned Sessions Judge, Fast Track Mahila Court, Erode relying exclusively on the evidence of P.W-1 and observing as if he is the eye witness to the entire occurrence is *per se* without application of mind. On the basis of such observation, the trial Court convicted the Accused and it is liable to be set aside.

10. The learned Additional Public Prosecutor Mrs.G.V.Kasthuri appearing for the State vehemently objected to the line of arguments of the



learned Counsel for the Appellant. The learned Additional Public Prosecutor invited the attention of this Court to the evidence of P.W-16 Doctor who had treated the deceased and issued Ex.P-4, Wound Certificate to P.W-.4. In Ex.P-4, it was stated that P.W-16 cannot give opinion as the patient P.W-4 got admitted and received treatment from a private hospital. Regarding the injury on the nose of P.W-.4 she informed the Doctor P.W-16 that she was attacked by her son in the early morning hours at 1.00 a.m. Therefore, this testimony of P.W-4 would prove that the offence against the Appellant under Section 324 of IPC is proved. Even though P.W-3 and P.W-4 were treated as hostile, still the material part of the deposition to the effect that it was the Appellant who scolded the deceased has been brought out. This would only show that it was the Appellant, who had abetted the suicide of the deceased. When the Appellant threatened the deceased to bring the villagers to show his conduct and to bring disrepute to his reputation, the deceased had committed suicide. Therefore, as a whole, it is the Appellant who was instrumental for the death of the deceased. The trial Court, on appreciation of the oral and documentary evidence, had rightly convicted and sentenced the Accused and it does not warrant any interference by this Court.

Points for consideration:



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***Whether the judgment of the learned Sessions Judge,
Fast Track Mahila Court, Erode, in S.C.No.83 of 2015 dated
31.03.2016 is to be set aside as perverse and the Appellant is
entitled for acquittal from the charges?***

11. Heard the learned Counsel for the Appellant and the learned Additional Public Prosecutor. Perused the charges framed by the learned Trial Judge. Perused the evidence of the witnesses P.W-1 to P.W-24 and documents under Ex P-1 to Ex.P-20 and the judgment of the learned Trial Judge.

12. P.W-.1 is the Village Administrative Officer of the village where the occurrence took place. P.W-2 is father of the deceased, P.W-3 is the sister of the Accused/Appellant. P.W-4 is the mother of the Accused/Appellant. P.W-5 to P.W-12 are neighbours. P.W-13 is the Secretary of the society where the deceased was the President. P.W-14 is the wife of the Accused. P.W-15 is the father of the Accused. P.W-16 and P.W-17 are the Doctors who have treated P.W-4 mother of the Accused. P.W-18 is the Doctor, who had performed the autopsy on the body of the deceased. P.W-19 is the Junior Scientific Officer from the Regional Forensic Science Laboratory, Coimbatore. P.W-20 is the Judicial Magistrate. P.W-21 is the first Grade Police Constable who had submitted the First Information Report before the learned Judicial



Magistrate, Bhavani and to the Police Officials. P.W-22 is the Head Constable who had attended the body of the deceased to the postmortem along with the requisition letter. P.W-.23 is the Sub Inspector of Police who had registered the case based on the complaint of P.W-.1. P.W-.24 is the Investigation Officer.

13. P.W-.1 Village Administrative Officer, in his evidence stated that he had reached the house of the Accused at around 7.30 a.m on 02.04.2014. At that time, there was a crowd outside the house of the Accused. He saw P.W-4 Mathi sitting in the hall with bleeding injury and when he enquired her, she did not respond. When he enquired P.W-3, Jothi, she stated that the Appellant confined the deceased in a room, but the deceased locked the room from inside and committed suicide by hanging. Therefore, the deposition of P.W-1 is only hear-say and he had deposed what he heard from P.W-3. He was not a witness either to the alleged attack by the Appellant or the words said to have been uttered by the Appellant driving the deceased to commit suicide. In fact, in the chief-examination, he has stated that P.W-4, when questioned, did not respond. But in the cross-examination, P.W-1 stated that P.W-4 had informed him that the Appellant attempted to misbehave with her and therefore, she had attacked the deceased. On hearing the commotion, the Appellant came and



confined the deceased in a room, where he had committed suicide. Therefore, the deposition of P.W-1 itself is contradictory and unbelievable.

14. P.W-2 is the father of the deceased. He has stated that the deceased was the President of the Co-operative Bank and on 02.04.2014, somebody called the deceased over his phone and he had left his house at about 10.00 p.m. He further stated that on the way, some persons inimical to his son have attacked him and hanged him. He also stated that after committing the murder of his son, the assailants have hanged him to make it as if he had committed suicide. Therefore, it is the evidence of P.W-4 that his son/deceased did not commit suicide but he was murdered. The Prosecution has cross-examined P.W-4, ultimately, but he simply denied the suggestions made.

15. P.W-3 Jothi is daughter of P.W-4 and younger sister of the Accused. She had stated that on 01.04.2014, she along with her sister and elder brother were sleeping in a room. On the intervening night of 02.04.2014, on hearing some commotion, they came out of the room and saw their mother P.W-4 bleeding from her nose. On enquiry with her mother, she had stated that the deceased came inside the house and attempted to misbehave with her,



therefore, she attacked him with a stick, however, the deceased snatched it from her and attacked her with the same stick, thereby, she suffered bleeding injury in her nose. Immediately, the Appellant came to the spot and locked the deceased in a room and taken the key with him. Such evidence of P.W-3 runs contrary to the case projected by the Prosecution. In any event, P.W-3 was treated as a hostile witness.

16. P.W-4 is the mother of the Appellant. She in her evidence has stated that on the fateful night she was separating tamarind seeds from the tamarind fruit so that she could sell it in the market. At that time, the deceased Sivalingam entered the house and attempted to misbehave with her, therefore she attacked him with a stick. However, he snatched it from her and retaliated by which she suffered injuries in her nose. On hearing the commotion, her son/Appellant and daughters came to her rescue. Even before they could come to her rescue, the deceased went inside a room and locked it from inside. Therefore, the Appellant went to inform the occurrence and to summon the neighbours. She also further deposed that it was the Appellant, who had gone to the Police Station and the Police reached the house of the Accused along with the Appellant. This manner of deposition of P.W-4 also do not support the case of the Prosecution. In any event, P.W-4 was treated as hostile



witness.

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17. P.W-5, Tmt. Thottathayee is the neighbour of P.W-4. She is just a hear-say witness. She was not cross examined. Her deposition only says that she knows the Appellant as well as the Accused.

18. P.W-6 Tmt. Eerammal is also neighbour of P.W-4. She also deposed as a hear-say witness and she was also not cross examined.

19. P.W-7 Tmt. Parvathy is also the neighbour of P.W-4. She is also a hear-say witness and she was also not cross examined. Similarly, P.W-8 Tmt.Bommi is a neighbour of P.W-4 and a hear-say witness. P.W-9 Thiru. Thottasidhan is also a neighbour. According to P.W-9, he had gone to the house of P.W-2, father of Sivalingam and brought him to the house of the Accused.

20. P.W-10 Devaraj is also a neighbour and the resident of the same village. He has stated that on hearing that the deceased had confined himself in a room in the house of the Appellant, he along with some other Villagers went to inform it to P.W-2. However, P.W-2 did not come for the Panchayat



to rescue his son/deceased. Therefore, he along with P.W-12 and others went to the Police Station and given complaint. This deposition is totally in contradiction to the case of the Prosecution. According to the Prosecution, it was P.W-1, who had given a complaint based on which the Police came to the house of the Appellant.

21. P.W-11 Veerapathiran is also a neighbour and a villager from the place of occurrence. He had also stated that he had accompanied the Accused Manikandan to the Bargur Police Station to lodge a complaint.

22. P.W-12 Mohan is also a neighbour and a villager from the village where the occurrence took place. He had clearly stated that on being informed of the occurrence by the Accused he had accompanied the Accused in the house of the Accused at that time, Sivalingam was alive inside the room. He requested P.W-12 to rescue him some how. To rescue the deceased, his father/ P.W-2 was summoned by him. Since P.W-2 did not come, the elders in the village advised the Accused to lodge a Police complaint. When the Appellant and others returned from the Police station, the deceased committed suicide.

23. P.W-14 Sitthaswari is the wife of the Accused Manikandan and



she was treated as a hostile witness. She had denied the suggestion that P.W-4 mother in law and the deceased had illicit relationship. Nothing could be elicited from her deposition to support the Prosecution case.

24. P.W-15 Shanmugam is the father of the Appellant and P.W-3 and husband of P.W-4. As per his evidence, on the date of occurrence, he was not at home. He came to know that the deceased entered into his house in his absence. By that time, when he reached the house, he found the deceased committed suicide.

25. P.W-16 is the Doctor who in his evidence stated that on 02.04.2014 around 2.30 p.m, P.W-4 Mathi accompanied by P.W-3 Jothi visited Anthiyur Government Hospital. On enquiry, P.W-4 stated that she was attacked by her son with a stick causing blood injury on her nose. Suspecting that the bone in the nose might have fractured, she referred P.W-4 Mathi to the Government Headquarters Hospital, Erode. In the cross examination, she had admitted that in Ex.P-4 Wound Certificate she had entered it as “assaulted by one known person subsequently she had included the words “son Manikandan”.



26. P.W-17 Dr. Arun Pradaph who was then employed in P.G.K. Private Hospital. He had deposed that on 02.04.2014 around 3.30 p.m P.W-4 Mathi accompanied by her daughter P.W-3 Jothi came to P.G.K. Hospital. They brought with them the wound certificate issued by the Government Hospital, Anthiyur. P.W-17 admitted P.W-4 in the hospital where she was given treatment from 03.04.2014 till her discharge. She had issued Ex.P-5 wound certificate in which it is stated that the injuries said to have been suffered by P.W-4 is simple injury.

27. P.W-18 Dr.Ravichandran, who had performed the autopsy on the body of the deceased Sivalingam. He had issued Ex.P-6 Postmortem certificate and Ex.P-7 final opinion.

28. P.W-19 is the Junior Scientific Officer from the Regional Forensic Science Laboratory, Coimbatore. He had issued Ex.P-8 forensic report regarding the blood strains on the baniyan, jetti, Dhoti, half-sleeved white shirt. Ex.P-9 is the letter addressed by the learned Judicial Magistrate on the request of the Inspector of police, Andiyur Circle regarding the properties seized and forwarded to the Forensic Science Laboratory. Ex.P-10 is the letter from the learned Judicial Magistrate addressed to Assistant



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Director of Regional Forensic Science Laboratory, Coimbatore, regarding the seized items.

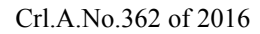
29. Ex.P.11 is the passport issued to the Head constable attached to Bargur Police Station to obtain opinion from the Forensic Expert regarding iron rod recovered from the deceased. Ex.P-12 is the letter addressed to the Forensic Department by the learned Judicial Magistrate, Coimbatore. Ex.P-14 is the FIR in Crime No. 14 of 2014. Ex.P-15 is the summon served to the Panchayatdhars for the investigation conducted by the Investigating Officer on the body of the deceased. Ex.P-16 is the inquest report prepared by the Investigating Officer, Ex.P-17 is the letter addressed by the Investigating Officer to the Medical Officer, Government Hospital, Andiyur to find out the cause of the death of the deceased. Ex.P-18 is the alteration report given by the Station House Officer to the learned Judicial Magistrate. Ex.P-19 is the seizure mahazar. Ex.P-20 is the confession made by the Accused on arrest by the Investigation Officer in this case.

30. On perusal of the deposition of the witnesses, it is found that P.W-2, father of the deceased was cross-examined by the Prosecution. However, he was treated as hostile witness. P.W-3 is the sister of the



Accused. P.W-4 is the mother of the Accused and they remained hostile.

They were also cross-examined in which they have stated that they wanted to help the Accused to wriggle out of the situation and therefore, they wantonly given different version of the incident. P.W-5 to P.W-12 were not cross examined. Further, it is found that the learned Trial Judge misdirected himself and arrived at an erroneous conclusion that the conduct of the Accused had caused the death of the deceased. The learned Judge had observed that P.W-3 and P.W-4 cannot be expected to depose against the Accused as they are the sister and mother of the Accused. At the same time, the learned Judge failed to take note of the fact that the Village Administrative Officer had come to the place of occurrence much after the occurrence. Whereas the witnesses P.W-5 to P.W-12, villagers of the same area came to the place of occurrence much later. From the evidence of P.W-5 to P.W-12 it can be inferred that the deceased had entered the house of the Accused in the intervening night. The deceased, who is not related to the family members of the Appellant, entered the house in the intervening night with some ulterior motive and he had been caught by the inmates of the house. It is also stated that the deceased has a good reputation in the society and he was holding the post of Chairman/ President of Co-operative Bank. Immediately after the occurrence, the Accused herein had gone to the house of the deceased and informed his father



Further, the villagers P.W-5 to P.W-12 had gone to the Police station and informed about the occurrence before the Police could reach the place of occurrence.

31. From the above circumstances, it can be considered that the deceased was scared of the Police case. He might have thought that if the Police reach the place of occurrence and arrest him, it would spoil his reputation and his image will be sullied. Therefore, apprehending that he could not live with honour, he committed suicide.

32. From the evidence available before the Trial Court, the Prosecution case can be presumed to be true that there was some relationship between P.W-4 mother of the Accused and the deceased. It is not the case of the Prosecution or the witnesses P.W-3 and P.W-4 where the Accused broke open the door and entered the house. P.W-3 and P.W-4 suppressed material facts as to how the deceased entered the house. Therefore, part of the case can be presumed that there was illicit relationship. At the same time, when the deceased was caught in the intervening night and the Accused gathered the



neighbours to prove the conduct of the deceased entering the house in the intervening night on 02.04.2014 the deceased, ashamed of his own acts, committed suicide.

33. The deceased is the Chairman of the Co-operative Bank in which P.W-13 was a Manager. Therefore, before the Police arrived, he thought of ending his life for which the Accused cannot be held liable. Even otherwise, when some one intrude into his house for any reason, particularly at 1.00 am in the early morning, the person like the Appellant would only treat him harshly and would attempt to slap him. The case of the Prosecution is that the Appellant not only caused injuries to the deceased but scolded him, which resulted in the deceased committing suicide. At the outset, there is nothing to show that the Appellant driven the deceased to commit suicide, for, the Appellant, soon after confining the deceased in the room, went into the Village to inform the Villagers. There is no evidence available to show that the Appellant scolded the deceased to die. Even otherwise, the Appellant might have committed suicide fearing that his reputation and honour will be sullied in the midst of the Villagers. In such circumstances, this Court is of the view that there is no evidence made available to connect the Appellant to the offences alleged. The Prosecution has not proved that it was the Appellant



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who had committed the offences for which he was charged. While so, it is wholly unsafe to conclude that the Appellant is guilty of the offences levelled by the Prosecution.

34. In the light of the above discussion, the point for consideration is answered in favour of the Appellant and against the Prosecution. The judgment of the learned Sessions Judge, Fast Track Mahila Court, Erode, in S.C.No.83 of 2015, dated 31.03.2016 is found perverse and the same is to be set aside.

In the result, **this Criminal Appeal is allowed.** The judgment of conviction passed by the learned Sessions Judge, Fast Track Mahila Court, Erode, in S.C.No.83 of 2015, dated 31.03.2016 is set aside. The Appellant is acquitted from all the charges. The bail bond, if any, executed by the Appellant shall stand cancelled. The fine amount, if any, paid by the Appellant shall be refunded.

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Internet : Yes/No

Index : Yes/No

Speaking order/Non speaking order



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SATHI KUMAR SUKUMARA KURUP, J

drl

- 1.The Sessions Judge,
Fast Track MahilaCourt,
Erode.
- 2.The Inspector of Police,
Bargur Police Station,
Erode District.
- 3.The Public Prosecutor,
High Court Madras,
Chennai – 600 104.

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05.09.2023