



CrI.A.(MD)No.165 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2023

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CrI.A.(MD)No.165 of 2016

1.Mohamed Beevi

2.Noorjakhan

... Appellants

Vs.

State rep by
The Inspector of Police,
Sethu Baavaa Chathiram Police Station,
Tanjore District.
(Crime No.170 of 2010)

... Respondent

PRAYER : Criminal Appeal filed under Section 374(2) of the Code of Criminal Procedure, to set aside the judgement and conviction dated 28.04.2016 by the learned Sessions Judge, Magalir Neethimandram, Fast Track Mahila Court, Tanjore in S.C.No.135 of 2012 and acquit the appellants.

For Appellants : Mr.B.Senthilkumar

For Respondent : Mr.T.Senthil Kumar,
Additional Public Prosecutor



CrI.A.(MD)No.165 of 2016

WEB COPY

JUDGMENT

This Criminal Appeal has been filed to set aside the judgement and conviction dated 28.04.2016 passed by the learned Sessions Judge, Magalir Neethimandram, Fast Track Mahila Court, Tanjore in S.C.No. 135 of 2012 and acquit the appellants.

2.The case of the prosecution is that on 14.03.2010, the deceased was married to son of the second accused. During their marriage, Rs.50,000/- and 17 sovereigns of gold jewels were presented to them. After two months, again the accused persons demanded Rs.10,000/-, for which, Rs.4,000/- along with new cloths worth about Rs.1,500/- were presented to the accused family. Even then, without satisfying with the presentation, they demanded more dowry and they also threatened by stating that if the deceased family failed to give dowry, then they will apply for divorce. Therefore, the deceased got humiliated and committed suicide by hanging herself.



CrI.A.(MD)No.165 of 2016

WEB COPY

3. Based on the complaint, FIR was registered in Cr.No.170 of 2010 under Section 174 Cr.P.C. On receipt of report from the Revenue Divisional Officer, the case has been altered into the offence under Section 304(B) r/w Section 4 of the Prohibition of Dowry Harassment Act. There are five accused. On the side of the prosecution, they had examined P.W.1 to P.W.16 and marked Ex.P.1 to Ex.P.9. On the side of the accused persons, no one was examined and no documents were marked. On perusal of oral and documentary evidence, the trial Court found the appellants guilty for the offence punishable under Section 304(B) r/w Section 4 of the Prohibition of Dowry Harassment Act. They were sentenced to undergo seven years rigorous imprisonment each and to pay fine of Rs.1,000/- each in default to undergo six months simple imprisonment. Aggrieved over the same, the appellants preferred the present appeal.

4. The learned counsel appearing for the appellants would submit that the appellants are mother-in-law and sister-in-law of the deceased. No one had adduced that the appellants abducted the deceased to commit



suicide at any point of time. There was no demand of dowry and no harassment was made till her death. There were material contradiction between evidence of P.W.1 and Ex.P.4/FIR. The trial Court only based on the report submitted by the Revenue Divisional Officer, convicted the appellants. No witnesses supported the case of the prosecution to bring the charges under Section 304(B) r/w Section 4 of the Prohibition of Dowry Harassment Act to home. The trial Court mechanically convicted the appellants and prayed for acquittal.

5.The learned Additional Public Prosecutor appearing for the respondent police would submit that the deceased had committed suicide by hanging herself, when she was at four month pregnancy. No women committed suicide during her pregnancy unless there is humiliation, due to dowry harassment and other cruelty. P.W.1 and P.W.2 categorically deposed that even at the time of marriage, after presentation of jewels and cash, the appellants demanded more dowry. When they asking Rs.10,000/-, the deceased family gave Rs.4,000/- and cloths worth about Rs.1,500/-. Therefore, the appellants scolded and abused the victim, one day before the date of occurrence and as such, she committed suicide, on



CrI.A.(MD)No.165 of 2016

the next day, by hanging herself. Before the Revenue Divisional Officer, the husband of the deceased categorically deposed that one day before the date of incident, the appellants demanded dowry from the victim. Therefore, the prosecution clearly proved its case beyond any doubt and the trial Court correctly convicted the appellant and it does not warrant any interference by this Court.

6.Heard both sides and perused the materials available in the records.

7.Admittedly, the deceased got married to the son of the first appellant on 14.03.2010. During their marriage, they were presented Rs.50,000/-, 17 sovereigns of gold jewels and other household articles. Thereafter, the appellants demanded additional dowry of Rs.10,000/-. However, the deceased family had given only Rs.4,000/- and cloths worth about Rs.1,500/-. Therefore, on 23.08.2010, the deceased committed suicide by hanging herself, when her husband was not in house. The first information report has been registered only as against the in-laws and not as against the husband. The father of the deceased was



CrI.A.(MD)No.165 of 2016

examined as P.W.1. He deposed that one day before the date of occurrence, they had given Rs.4,000/- and new cloths worth about Rs.1,500/-. It was questioned by the appellants and demanded more money. On the next day, the victim committed suicide by hanging herself. The evidence of P.W.2 corroborated the same.

8.On perusal of report submitted by the Revenue Divisional Officer, which was marked as Ex.P.3 reveals that the deceased committed suicide only because of the dowry harassment by the appellants. The trial Court mainly relied upon the report submitted by the Revenue Divisional Officer, to convict the appellants. Further, the husband of the deceased was examined as P.W.11. He did not supported the case of the prosecution. He also deposed before the Revenue Divisional Officer that the deceased committed suicide without any reason. In fact, on 22.08.2010, the deceased family came there in order to celebrate Ramzan and presented dresses and it was disputed by the appellants and asked more money. However, the husband of the deceased deposed that the first appellant prepared tea and served to the deceased and her husband, at about 11.00 pm. On the next day, on



CrI.A.(MD)No.165 of 2016

23.08.2010, when the husband of the deceased went for his work, the deceased committed suicide in the house. Therefore, soon before the death, there was no dowry harassment. That apart, even till her suicide, there was no complaint on allegation that the appellants made harassment and asked huge dowry from the deceased. The trial Court only on the assumption, that too, on the basis of the report of the Revenue Divisional Officer, convicted the appellants. Therefore, the prosecution failed to prove its case beyond any doubt as against the appellants. There was also contradictions in the deposition of P.W.1, P.W.2 and FIR. That apart, the husband of the deceased was not implicated as an accused, which is also fatal to the case of the prosecution.

9.Considering the above facts and circumstances of the case, the conviction cannot be sustained as against the appellants and liable to be set aside. Accordingly, the conviction and sentence imposed by the trial Court in S.C.No.135 of 2012 is hereby set aside and this criminal appeal is allowed.

21.06.2023

NCC : Yes / No
Index : Yes / No



CrI.A.(MD)No.165 of 2016

Internet : Yes / No
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G.K.ILANTHIRAIYAN,J.

gns

To

- 1.The Sessions Judge,
Magalir Neethimandram,
Fast Track Mahila Court,
Tanjore.
- 2.The Inspector of Police,
Sethu Baavaa Chathiram Police Station,
Tanjore District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.A.(MD)No.165 of 2016



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CrI.A.(MD)No.165 of 2016

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