



Crl.A.(MD)No.400 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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| Reserved on: 21.09.2023 | Delivered on: 29.09.2023 |
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CORAM

**THE HON'BLE MR.JUSTICE P.DHANABAL**

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A.Ganesan

...Appellant

Vs.

1.Arumugakani

2.Thanga Ganapathi Nadar

3.Jeyalakshmi

4.Manisakthi

5.The State Rep by  
The Inspector of Police,  
Kovilpatti East Police Station,  
Kovilpatti.  
(Crime No.764 of 2011)

... Respondents

**Prayer**: Criminal Appeal filed under Section 372 of the Code of Criminal Procedure, to allow this appeal and set aside the judgment in S.C.No.189 of 2013 dated 04.08.2015 passed by the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi and convict the accused for the offence as charged.



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For Appellant : No Appearance

For R1 to R4 : Mr.M.Prabu

For R5 : Mr.M.Sakthi Kumar,  
Government Advocate(Crl.side)

### **JUDGMENT**

This criminal appeal has been filed by the appellant/P.W.5 as against the acquittal judgment passed by the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi in S.C.No.189 of 2013 dated 04.08.2015. Before the trial Court, the accused have been charged for the offence under Section 4(B) of the Tamil Nadu Prohibition of Harassment of Women Act r/w Section 34 IPC and the trial Court acquitted the accused from all the charges levelled as against them. Aggrieved over the same, the present appeal preferred.

2.The prosecution case is that the first accused married one Palrathi, who is the daughter of P.W.1/defacto complainant, on 21.08.2004. At the time of marriage, the parents of the deceased presented 20 sovereigns of jewels and Rs.25,000/- cash presented and 2 sovereigns of chain presented to A1. After marriage, they lived with their in-laws as joint family. A1 is the husband of the deceased, A2 is the father-in-law of the deceased, A3 is the mother-



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in-law of the deceased and A4 is the sister-in-law of the deceased.

For the past five years, all the accused harassed the deceased by saying that she is not fit for their house and that if she likes she can live in the house or else go and die and that they would get the first accused married to another person and scolded her in filthy language and they also abused for not having child for the past three years. Due to that mental depression, the deceased on 08.08.2011, at about 12.00 noon, consumed poison in her house and thereafter, she was taken to Ghanthirajan Hospital in Kovilpatti and she died at about 6.30 pm.

3. Thereafter, the father of the deceased gave a complaint/Ex.P.6 before the respondent police and P.W.11 registered FIR/Ex.P.7. Thereafter, the case was investigated by P.W. 12/Deputy Superintendent of Police and he examined witnesses, collected documents and filed final report as against the accused for the offence under Section 306 IPC. After filing of final report, case was committal to the Principal District Court, Thoothukudi by the learned Judicial Magistrate No.I, Kovilpatti and thereafter, Principal District Court, Thoothukudi made over the case to the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi in S.C.No.189 of 2013. The Mahalir



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Neethimandram, after hearing both sides, framed charges under Section 4(B) of the Tamil Nadu Prohibition of Harassment of Women Act r/w Section 34 IPC as against the accused. The charges were read over and explained to the accused and the accused denied all the charged and claimed for trial. Thereby, the prosecution has examined P.W.1 to P.W.12 and marked Ex.P.1 to Ex.P.10 and no material object was marked. On the side of the accused, no one was examined and no documents were marked. After completion of prosecution witnesses, the trial Court examined the accused under Section 313(1)(b) Cr.P.C., with regard to the incriminating circumstances found as against them and they denied the same. After evaluating oral and documentary evidences, the trial Court acquitted the accused from all the charges levelled as against them.

4.As against the acquittal judgment, the brother of the deceased/P.W.5 has preferred the present appeal on the following grounds:-

a) The judgement of the trial Court is contrary to law, weight of evidence and probabilities of the case.



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b)The learned Trial Court erred in acquitting the accused even though the prosecution has proved the case beyond all reasonable doubt.

c)The learned Trial Court erred in not considering the evidence put forth by the P.W.1 and 5 in its proper perspective.

d)The learned Trial Court erred in disbelieving the evidence put forth by P.W.10 who is independent witness supported the case of the prosecution.

e)The learned Trial Court has not considered the complaint of the husband of P.W.1 which clearly establishes the occurrence.

f)The learned Trial Court has failed to consider the evidence of P.W.2.

g)The learned Trial Court went wrong in holding that there are contradictions in the evidence of the witnesses. In this connection, the learned Trial Court below failed to see that the contradictions are trivial and immaterial.

h)The Trial Court has not considered the evidence put forth by P.W.1 whose evidence clearly established the motive behind the occurrence.

i)The other reasons given by the learned Trial Court in support of the Judgment are incorrect and untenable.

5.When the matter is taken up for hearing no representation



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for the appellant and already so many times this case was posted for arguments. At the request of the both side counsels, the case was posted under the caption "for orders". Thereafter, no representation for the appellant. Since already ample chances given to the appellant and not ready to proceed with the case, this Court heard the counsel for the respondents and then reserved for judgment. The case of the appellant is that he is the brother of the deceased and the deceased was married to A1 and he along with other accused have harassed the deceased, due to not having child and thereby, the deceased consumed poison and died in the hospital. The prosecution has examined P.W.1 to P.W.12 and marked Ex.P.1 to Ex.P.10. The prosecution witnesses have categorically deposed the harassment made by the accused. But the trial Court failed to consider the evidences and wrongly acquitted the accused. The trial Court failed to appreciate the evidence of P.W.1 to P.W.5. P.W.1 is the mother of the deceased and P.W.5 is the brother of the deceased. They categorically deposed about the harassment made by the accused and the trial Court erred in disbelieving the evidence of P.W.10, who is the independent witness. The complaint was given by the father of the deceased and the same was also not considered by the trial Court. Therefore, the trial Court has not properly appreciated the evidences of the prosecution witnesses



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and wrongly acquitted the accused. Therefore, the judgment of the trial Court is liable to be set aside by allowing this appeal and the accused are liable to be punished in accordance with law.

6.The learned counsel appearing for the private respondents/accused would contend that the evidence of prosecution are contrary to each other and there is no proper evidence adduced by the prosecution to establish the charges for the offence under Section 4(B) of the Tamil Nadu Prohibition of Harassment of Women Act r/w Section 34 IPC and there is no evidence to show that soon before death of the deceased, the deceased was subjected for cruelty and harassment made by the accused. The trial Court has correctly acquitted the accused by giving benefit of doubts and therefore, this appeal is liable to be dismissed.

7.The learned Government Advocate(Crl.side) appearing for the fifth respondent would contend that the trial Court failed to appreciate the prosecution witnesses in a proper manner. The prosecution, in order to prove the charges as against the accused, examined P.W.1 to P.W.12 and marked Ex.P.1 to Ex.P.10. The husband of P.W.1 has given complaint and P.W.5 also categorically



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deposed about the harassment made by the accused. But the trial Court failed to consider the same and wrongly acquitted the accused. Therefore, the appeal is liable to be allowed and the accused are liable to be punished in accordance with law.

8.Upon hearing both side arguments, on perusing records, judgment of the trial Court and grounds of this appeal, point for determination in this appeal is whether the prosecution has proved the charges for the offence under Section 4(B) of the Tamil Nadu Prohibition of Harassment of Women Act r/w Section 34 IPC beyond reasonable doubts.

9.The case of the prosecution is that on 21.08.2004, marriage was solemnized between A1 and the deceased. At the time of marriage, the parents of the deceased presented 20 sovereigns of jewels and Rs.25,000/- cash and presented 2 sovereigns of chain to A1. A2 to A4 are in-laws of the deceased. All the accused harassed the deceased for issueless and they scolded and caused mental torture to the deceased. Thereby, the deceased consumed poison on 08.08.2011 and immediately, she was taken to the Ghanthirajan Hospital in Kovilpatti and she died on the same day at about 06.30 pm. Therefore, the accused have been charged for the offence



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under Section 4(B) of the Tamil Nadu Prohibition of Harassment of Women Act r/w Section 34 IPC.

10.In order to prove the charges, the prosecution examined P.W.1 to P.W.12 and marked Ex.P.1 to Ex.P.10. Ex.P.6 is the complaint given by the father of the deceased. As per complaint, all the accused harassed the deceased to get money from her parental home. Already he gave complaint and based on the complaint, the police advised them and thereafter, they lived happily. Thereafter, the accused again demanded dowry and he refused to give money. When the same was narrated by his daughter she stated that she would die due to depression. On 08.08.2011, at about 08.00 pm., he heard that his daughter consumed poison. Therefore, as per the complaint, all the accused demanded dowry. But there is no reference in the complaint as to how much amount the accused have demanded. Further, P.W.1 in her evidence stated that the accused harassed the deceased for not having child and also harassed her not to speak with her parents. Thereby, she wrote a letter on 14.03.2011 and the same was marked as Ex.P.1. But there is no reference in the evidence of P.W.1 with regard to the alleged dowry demand by the accused. Therefore, reasonable doubt would arise about the evidence of P.W.



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1 and lodging of complaint itself creates serious doubt, since there is no reference about the quantum of dowry demanded by the accused.

11.As per Ex.P.1, the deceased wrote a letter to her father. In that letter, the deceased stated that all the accused brain washed A1 as against the deceased and they caused harassment. But, P.W. 1, in her cross examination stated that, there is misunderstanding between A1 and the deceased. The deceased demanded separate house and the same was denied by A1 and further, she admitted in the cross examination that on 08.08.2011, when the police asked her to take the grandson, she refused to take him, since he was the son of the murderer. Further, she admitted that her husband insisted to write in the complaint that the accused demanded dowry. There is no reference about the alleged letter dated 14.03.2011. Further, P.W.1 admitted in her cross examination that she did not state as to how the accused harassed the deceased and in what manner they have harassed the deceased. Therefore, from the cross examination of P.W.1 reveals that the deceased already had misunderstanding with A1 and P.W.1 not even ready to take her grandson with her and there was demand by the deceased for a separate house and further, there is no reference in the complaint



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about Ex.P.1/letter and there is no specific allegations in what manner, the accused harassed the deceased. Therefore, the evidence of P.W.1 creates serious doubt over the prosecution case.

12.P.W.2, who has given treatment to the deceased deposed that she informed about the occurrence to the police and there is no any statement recorded from the deceased and she particularly stated that the deceased did not state the reason for consuming poison and police also not taken any steps to record the statement when she was alive. Therefore, this also creates serious doubt over the prosecution case. P.W.3, who conducted postmortem, has also deposed that the deceased died by consuming poison. In this case, the deceased was died, due to consumption of poison and all the accused admitted the same.

13.P.W.5/appellant, who is the brother of the deceased, has deposed before the trial Court that his sister was given marriage to A1 and after two years there was no issues to the deceased and thereby, all the accused harassed her. Even after the birth of male child, they harassed her. The deceased wrote inland letter to them by stating the harassmt made by the accused. Even according to the evidence of P.W.5, there is no specific harassmt and only



wordy quarrel between them and thereby, no any incriminating circumstances revealed from the evidence of P.W.5. Further, P.W.5 in his evidence admitted that due to misunderstanding between A1 and him, he did not go to the house of A1 and he did not even attend baby shower function of the deceased. He also admitted that he never spoken about the harassment made by the accused, when the police examined him during investigation. Prior to the consumption of poison, the deceased has not contacted him. He also admitted that already his sister gave a complaint for demanding separate house and then, the police advised them.

14.P.W.6 has deposed that the deceased consumed Zinc phosphide, which was used for rat poison. She gave Ex.P. 4/chemical report. Therefore, from the prosecution witnesses, it is clear that the deceased died due to the consumption of poison and there is no evidence that the deceased consumed poison due to the harassment made by the accused. In this case P.W.7/Revenue Divisional Officer has also stated that the deceased died due to the demand of dowry. But no other witnesses have stated about the alleged dowry demand and they only stated that the accused harassed the deceased for not having child and also scolded her. Therefore, the evidence of P.W.7 is totally contra to the prosecution



case. Further, P.W.7 in his cross examination he stated that he has not examined the witnesses, who are all residing nearby house of the deceased and one witness Murugan has stated that no any harassment made by the accused. Further, he admitted that prior to the date of occurrence, there is no quarrel between the deceased and family of the accused. Therefore, from the evidence of P.W.7, it reveals that there is no dispute between the deceased and the accused.

15.P.W.11 has deposed about the registration of FIR. P.W.12 has deposed about the investigation done by him and as per his investigation, the accused induced the deceased to commit suicide. P.W.12 in his cross examination, he admitted that there was no external injury found on the body of the deceased and he admitted that in the final report there is no mention about the alleged inland letter written by the deceased and further, he failed to send Ex.P. 1/Letter for expert opinion. The main reason for the occurrence is that the accused scolded the deceased for not having child for the past three years and he also admitted that the deceased had four years old child. While so, how it is possible that the accused harassed the deceased for not having child for the past three years. This also creates serious doubt over the prosecution case. Further,



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P.W.12 admitted that there is no evidence to show that soon before death of the deceased, she was subjected for cruelty. Therefore, available evidences adduced by the prosecution are not sufficient to prove the guilty of the accused for the offence under Section 4(B) of the Tamil Nadu Prohibition of Harassment of Women Act r/w Section 34 IPC.

16.As far as offence under Section 4(B) of the Tamil Nadu Prohibition of Harassment of Women Act is concerned, there is no sufficient evidence adduced to prove that the accused caused cruelty as defined under Section 4(B) of the Tamil Nadu Prohibition of Harassment of Women Act. As far as Section 34 IPC is concerned, there is no evidence that the accused have common intention to commit such offence. In this context, the trial Court also in its judgment elaborately discussed about the evidences adduced by the prosecution and after analysing the evidences, correctly, acquitted the accused. Further, the trial Court discussed about Ex.P.1/inland letter sent by the deceased to her parents. The postal seal contained date as 14.03.2011. But the occurrence took place on 08.08.2011. Further, P.W.1 admitted in her cross examination that since there was direct contact with her daughter, there is no reason for her daughter to write letter and further, the



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letter was produced before the Court belatedly. Even in the above said letter, the allegations are vague and there is no specific allegations as against the accused with regard to the alleged harassment made by them. Therefore, as discussed above, this Court is of the opinion that the prosecution failed to prove the charged levelled as against the accused for the offence under Section 4(B) of the Tamil Nadu Prohibition of Harassment of Women Act r/w Section 34 IPC. There is no infirmity or illegality in the judgment passed by the trial Court and there is no warrant to interfere with the same.

17.In the result, this criminal appeal is dismissed and the judgment of acquittal passed in S.C.No.189 of 2013 dated 04.08.2015 passed by the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi is hereby confirmed.

**29.09.2023**

Index :yes/No  
Internet:yes/No  
gns

**P.DHANABAL, J**

gns



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WEB COPY To

- 1.The Sessions Judge, Mahalir Neethimandram  
(Fast Track Mahila Court), Thoothukudi.
- 2.The Inspector of Police,  
Kovilpatti East Police Station, Kovilpatti.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

Pre-Delivery Order

made in  
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29.09.2023