



Crl.R.C(MD)No.862 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.862 of 2016

Vincent

... Petitioner/
Appellant/Sole Accused

Vs.

The Inspector of Police in Nesamani Nagar Circle,
Asaripallam Police Station,
Kanyakumari District.

In Crime No.298 of 2003.

... Respondent/
Respondent/Complainant

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, against the Judgment, dated 20.09.2016 made in C.A.No.78 of 2007 on the file of the Fast Track Mahila Court, Nagercoil, partly allowed the Judgment of the trial Court and convicted the petitioner to undergo one year Rigorous Imprisonment and imposed fine of Rs.10,000/- in default to undergo one year Rigorous Imprisonment for the offence punishable under Section 306 of I.P.C made in S.C.No.145 of 2005, dated 17.04.2007.

For Petitioner : Mr.G.Aravinthan

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)



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ORDER

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This Revision has been filed to set aside the Judgment, dated 20.09.2016 made in C.A.No.78 of 2007 on the file of the Fast Track Mahila Court, Nagercoil, partly allowed the Judgment dated 17.04.2007 made in S.C.No.145 of 2005 on the file of the learned Assistant Sessions Judge cum Chief Judicial Magistrate, Nagercoil, thereby convicted the petitioner to undergo one year Rigorous Imprisonment and imposed a fine of Rs.10,000/-, in default to undergo one year Rigorous Imprisonment for the offence punishable under Section 306 of I.P.C.

2.The case of the prosecution is that the deceased got married to the petitioner herein and gave birth to a child. There was cruelty committed by the petitioner and as such, the deceased went to her sister-in-law's house. Thereafter, the petitioner agreed to settle some property in favour of the minor child and there was a compromise by the Panchayatars. Therefore, again, the victim went to her matrimonial home. Even thereafter, the petitioner used to quarrel with the victim, saying that she is not looking good and also committed cruelty. While being so, on 23.11.2003, when the petitioner came from Kerala, after completion of his avocation, there was a quarrel between them and as such, the victim consumed



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poison and committed suicide. Therefore, the petitioner was charged for the offence punishable under Section 306 of I.P.C.

3.Before the trial Court, on the side of the prosecution, they had examined P.W.1 to P.W.15 and marked Exs.P.1 to P.15 and on the side of the petitioner, no one was examined, and no document was marked.

4.On perusal of the oral and documentary evidence, the trial Court found the accused guilty for the offence under Section 306 of I.P.C and sentenced him to undergo seven years Rigorous Imprisonment and also imposed a fine of Rs.10,000/- in default, he shall undergo one year Rigorous Imprisonment. Aggrieved by the same, the petitioner preferred an appeal in Crl.A.No.78 of 2007 on the file of the Fast Track Mahila Court, Nagercoil and the Appellate Court also confirmed the conviction under Section 306 of I.P.C and reduced the sentence alone from 7 years Rigorous Imprisonment to one year Rigorous Imprisonment. Aggrieved by the same, present Revision.



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5.The learned counsel appearing for the petitioner would submit that there were contradictions between P.W.1, P.W.2 and P.W.7, who were vital witnesses of the prosecution case. Therefore, the prosecution miserably failed to prove the prosecution beyond reasonable doubt and there is absolutely no evidence in order to convict the petitioner under Section 306 of I.P.C by the prosecution. Soon before her death, there was no instigation by the petitioner in order to commit suicide by the deceased. The Doctor, who conducted Post Mortem, was examined as P.W.8. As per the Post Mortem report, no cause was found for the death of the deceased. In fact, it was found from the chemical analysis report and Post Mortem report that the deceased did not die due to the consumption of poison or causing any external injuries. Therefore, no charge is made out under Section 306 of I.P.C. Mere the petitioner is the husband of the deceased, it cannot be presumed only because of the cruelty committed by the petitioner his wife committed suicide. In support of his contention, he relied on the Judgment reported in ***Kashibai and others Vs. The State of Karnataka in S.L.P (Crl.) No.8584 of 2022.***

6.The learned Government Advocate (Criminal Side) would submit that in order to prove the charge, the prosecution had



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examined P.W.1 to P.W.15, in which P.W.1, P.W.2 and P.W.7 categorically deposed that only because of the cruelty committed by the petitioner, his wife namely, the deceased committed suicide by consuming poison. Therefore, the prosecution proved its case beyond doubt in order to prove the charge under Section 306 of I.P.C as against the petitioner. Unfortunately, the Appellate Court without any reason reduced the sentence from 7 years Rigorous Imprisonment to One year Rigorous Imprisonment. Therefore, he prayed for dismissal of the Revision.

7.Heard the learned counsel appearing on either side and perused the materials available on record.

8.The petitioner was charged for the offence under Section 306 of I.P.C. Admittedly, the petitioner is the husband of the deceased. The deceased also committed suicide even before the completion of 7 years from the date of their marriage. The mother of the deceased was examined as P.W.1 and sister-in-law of the deceased was examined as P.W.2. On perusal of the deposition of P.W.1 and P.W.2, they categorically deposed that the deceased was tortured by the petitioner due to various reasons. In fact, the



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deceased got separated from the petitioner and went to her matrimonial home. Thereafter, on the assurance given by the petitioner, she again went to the matrimonial home. She also gave birth to a female child, and the petitioner also assured her to give some property in her favour. However, on the date of occurrence, when he came from Kerala, at about 11.00 a.m., there was a quarrel between them. Therefore, she immediately consumed poison and committed suicide. Though the petitioner had been taken into the hospital, she died.

9.The learned counsel appearing for the petitioner vehemently contended that the Doctor, who had conducted post mortem on the deceased, had deposed that there was no reason for her death. It does not mean that the deceased did not commit suicide and did not consume poison. Even according to the petitioner, the deceased committed suicide by consuming poison, he had deposed before the Revenue Divisional Officer to conduct an enquiry and categorically stated that his wife, namely the deceased, consumed poison and committed suicide. Further, on perusal of the deposition of P.W.7 categorically deposed that on 23.11.2003 at about 11.00 a.m., the petitioner quarrelled with the deceased and he has also beaten her. She is being a neighbour's widow and she



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did not question the same. Immediately, she heard that the deceased consumed poison and she was taken to the hospital. Therefore, soon before the death, there was a quarrel between the petitioner and the deceased, due to which, she committed suicide by consuming poison. As per Section 113(A) of the Indian Evidence Act, when the question arises whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband, and when it is shown that she had committed suicide within a period of seven from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court can presume, having regard to the other circumstances, that such suicide has been abetted by her husband or such relative of her husband.

10. In the case on hand, admittedly, on the date of occurrence, soon before her death, there was a quarrel between the petitioner and the deceased and he had also beaten her. Therefore, she consumed poison and committed suicide. Therefore, the Courts below rightly had drawn a presumption to fall under Section 113A of the Indian Evidence Act. Hence, the Judgment cited by the learned counsel appearing for the petitioner is not helpful to the case on hand. Therefore, the Courts below rightly convicted the petitioner for the offence under Section 306 of I.P.C and the Appellate Court reduced the sentence from 7 years Rigorous Imprisonment to One



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year Rigorous Imprisonment. Therefore, this Court finds no infirmity or illegality in the order passed by the Courts below. Accordingly, this Criminal Revision Case is dismissed.

09.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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To

- 1.The Fast Track Mahila Court,
Nagercoil.
- 2.The Assistant Sessions Judge cum Chief Judicial Magistrate,
Nagercoil.
- 3.The Inspector of Police in Nesamani Nagar Circle,
Asaripallam Police Station,
Kanyakumari District.



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G.K.ILANTHIRAIYAN, J.

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