

Crl.A.No.786 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.A.No.786 of 2016

Raman

...Appellant/Accused

-Vs-

State Represented by,
The Assistant Commissioner of Police,
Nungambakkam Range,
In F-5, Choolaimedu Police Station,
Crime No.2791 of 2011
Chennai Police.

...Respondent/Complainant

Criminal Appeal filed under Section 374(2) of Criminal Procedure Code, 1973, to set aside the judgment and conviction imposed on the Appellant by the learned Sessions Judge, Fast Track Mahila Court, Chennai, in S.C.No.129 of 2012, dated 18.11.2016.

For Appellant

: Mr.A.M.Rahamath Ali

For Respondent

: Mrs.G.V.Kasthuri
Additional Public Prosecutor



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JUDGMENT

WEB COPY The Appellant is the sole Accused in S.C.No.129 of 2012 dated 18.11.2016 on the file of the learned Sessions Judge, Fast Track Mahila Court, Chennai.

2. The Trial Court, vide impugned judgment in S.C.No.129 of 2012 dated 18.11.2016, has convicted the Sole Appellant/Accused as follows:-

Conviction under section	Sentence Awarded
Section 498A of IPC	To undergo two years of rigorous imprisonment and to pay a fine of Rs.3,000/- and in default, to undergo three months of rigorous imprisonment.
Section 306 of IPC	To undergo five years of rigorous imprisonment and to pay a fine of Rs.10,000/- and in default, to undergo six months of rigorous imprisonment.

The Trial Court ordered the sentences to run concurrently and has also granted set-off under Section 428 Cr.P.C. for the period of incarceration undergone by the Accused during investigation/trial. The Accused is not found guilty for the offence under Section 304B of IPC and was acquitted under Section 235(1) of Cr.P.C.



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WEB COPY 3. The challenge in this Appeal is to the above said judgment of the learned Sessions Judge, Fast Track Mahila Court, Chennai.

4. Learned Counsel for the Appellant submitted that the deceased in this case and the Accused were married on 08.02.2009. A child was born to the Accused and the deceased on 28.08.2010. The alleged occurrence took place on 06.11.2011. The Accused is a Pharmacist. The deceased, at the time of marriage, was working as a Nurse in a private Hospital in Dharmapuri. Both belonged to Dharmapuri. After marriage, both lived in Chennai. Till the delivery of the child, both lived in Chennai. For delivery, she went to Dharmapuri. After delivery, she came back to Chennai after three months. She came down to Chennai sometime in March 2011. She used to visit her parents. In June 2011, she went for the village festival. There were some misunderstandings between the husband and wife. Therefore, she stayed back at her parents house. Then she came back and joined the matrimonial home. On 06.11.2011, it was a Sunday. The Accused was at home. They had lunch together. Thereafter, the Accused went to his room to have a nap. After waking up from his short nap, he opened the door. Only then he realized that the room was locked from



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outside. He called his wife loudly, but there was no response. Again, he called his neighbours. The neighbours on hearing him, came to him and looked through the window, whereupon he informed them that the door of the bedroom had been locked from outside by his wife. When they attempted to open the door of the house, they found that the wife of the Accused was hanging in the hall. They only informed him. The neighbours collected together and broken the door of the house. The neighbour, Selvaraj, only informed the Police. The Police came to the house took down the body and took her to the Hospital, where she was pronounced dead. The earlier complaint was given by Selvaraj, the neighbour. This was suppressed by the Prosecution. The complaint before the Court was through the father of the deceased. P.W-1 is the father of the deceased. P.W-2 is the mother of the deceased.

5. Learned Counsel for the Appellant submitted that there are contradictions between the evidence of P.W-1 and the evidence of P.W-2. The evidence of P.W-1, father of the deceased, stating that his wife, mother of the deceased, contacted their daughter, deceased on mobile phone and talked to the deceased to find out whether she is comfortable.

The daughter had informed her mother that she was comfortable at the



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matrimonial home. On the same day, by 6 p.m., the Accused contacted the mother of the deceased and informed them that their daughter had died by hanging. He also told them that the body will be sent by ambulance and requested them to receive the same. Whereas the mother of the deceased, P.W-2 stated in her evidence that the daughter called her on mobile and at 2 p.m. and informed her that her husband was ill-treating her and she wanted to return to her parents house. The mother, P.W-2 requested her daughter, if you are intending to visit parents house you may come. For which the daughter replied she did not have money to pay for the bus fare. The mother of the deceased, P.W-2 told her to borrow money from neighbours and come back. On the same day, by evening 5'O' clock, the Accused contacted her on mobile phone, stating that their daughter died by suicide. The body will be sent to them by ambulance and directed them to receive it. Immediately, they proceeded to Chennai.

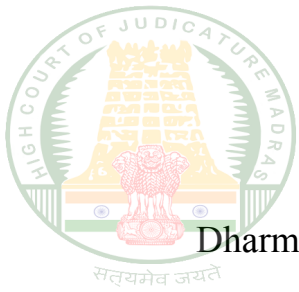
6. It is the submission of the learned Counsel for the Appellant that the father of the deceased, P.W-1 in his evidence stated that when they contacted their daughter during day time, she informed her parents that she was comfortable in Chennai. On the same day evening, they received the message that she had committed suicide. Whereas the mother, P.W-2



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stated that her daughter informed her that she had been ill-treated by her husband and she wanted to get back to the parents house, for which she informed her to get back to the parents house, for which the daughter said she did not have money. The mother advised her to get money from her neighbour and come back to her parents house. On the same evening, they received the message that she had committed suicide. This is contradictory to the evidence of P.W-1. Both had given different versions. The father says that they contacted the daughter in the afternoon and she is alleged to have stated that she was comfortable. Whereas the mother says that she complained of the ill-treatment by her husband. On the same day, she committed suicide. The learned Trial Judge failed to consider the contradictions between the evidence of P.W-1, father of the deceased and the evidence of P.W-2, mother of the deceased. Except P.W-1 and P.W-2, there is no other evidence incriminating the Accused.

7. The learned Counsel for the Appellant invited the attention of this Court to the evidence of P.W-1, father of the deceased. The learned Counsel for the Appellant invited the attention of this Court to Ex.D-1, marked through the cross-examination of D.W-1, which is a complaint given by the deceased in the month of July to the Collector of the



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Dharmapuri District, which was referred to Dharmapuri Police Station

where they held counselling. After counseling, the Accused and the deceased joined in matrimony. The father of the deceased, P.W-1 before the Trial Court had given a letter that they did not wish to proceed with the complaint. On that undertaking, the further proceedings of the complaint was dropped. The learned Counsel for the Appellant submitted that the learned Trial Judge had convicted the Accused for the offences under Sections 498A and 306 of IPC which are perverse considering the materials available before the Court through the witnesses and through documents.

8. Learned Counsel for the Appellant submitted that the father of the Accused had let in evidence, wherein he had clearly stated that the relationship between the husband and wife was very cordial and that they lived a happy life.

9. Learned Counsel for the Appellant also invited the attention of this Court to the enquiry conducted by the Executive Magistrate and the report of the Executive Magistrate under Ex.P-6 and there was no involvement of dowry harassment. Therefore, the judgment of the learned



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Sessions Judge, Magalir Neethimandram, Chennai, convicting the

Accused for the offences under Sections 498A and 306 of IPC is perverse and is to be set aside.

10. Learned Counsel for the Appellant relied on the reported judgment of the Hon'ble Supreme Court in ***Crl.A.No.953 of 2021 (Velladurai Vs. State represented by the Inspector of Police)***.

11. Learned Additional Public Prosecutor by way of reply vehemently objected to the submission of the learned Counsel for the Appellant stating that there are materials in the evidence of P.W-1 and P.W-2 indicating that it was an arranged marriage. The daughter of P.W-1 and P.W-2 was working at the Kamala Hospital in Dharmapuri Town. She used to travel by bus. Route No.4 in which the brother of the Accused was the conductor. To get to know more about her, he contacted Dr.Kamala, under whom she was working, seeking her engagement for his brother. Dr.Kamala, who contacted the parents, P.W-1 and P.W-2. Only later they arrange the marriage with the Accused whose elder brother was a conductor. The Accused was working as a Pharmacist in a medical store in Dharmapuri. In the marriage, the parents of the Accused demanded 18



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sovereigns of jewellery and a two-wheeler. P.W-1, father of the deceased

was employed in the electricity board and retired from service. He had provided jewels and two-wheeler to the Accused as per the marriage talks.

The marriage was performed on 08.02.2009. After the marriage, the Accused and the deceased shifted to Chennai. In Chennai, the deceased was working as a Nurse in a private Hospital. She was earning somewhere between Rs.8,000/- and Rs.10,000/-. She used to hand over her money to her husband who used to give her Rs.10/- daily for her expenses. When she used to come to her parents house, she used to inform them and complain about the conduct of the Accused who received full salary from her and used to give only Rs.10/- for her daily expenses. Considering her plight, P.W-1 used to give her money when she used to visit her parents house. Whatever was given by them when she visited her parents was also taken away by the husband. The Accused/husband also joined a private Hospital in Chennai as Pharmacist. The Manager of the said Hospital was examined as P.W-3, Joseph, who was the HR Manager of Madras Medical Mission College where the Accused joined as a Pharmacist. As per his evidence, the Accused joined as Pharmacist on 02.07.2010. On 12.10.2011, he resigned from the Madras Medical Mission Hospital.



WEB COPY 12. It is the contention of the learned Additional Public Prosecutor that the deceased was forced to get Rs.2 lakhs by the Accused / husband as he wanted to setup a private medical shop, for which he demanded money from the parents of the deceased. Already, they had paid as per the demand during the marriage. This is for his setting up a medical store in Chennai, for which he is alleged to have caused harassment both mentally and physically.

13. The learned Additional Public Prosecutor invited the attention of this Court to the evidence of P.W-1 and P.W-2, wherein they had stated that after the birth of the child, the Accused wanted the wife to go for a job and earn. He wanted a three months old baby to live under the care of her parents, ignoring the need of the mother's care, love and affection to the infant child. He was after her earnings and her money. He was torturing her for his selfishness. This part of the evidence is available through P.W-1, father and P.W-2, mother. They declined Rs.2 lakhs stating that they already provided as per the demand of the parents of the Accused during the marriage. Also, the Accused had demanded 2 sovereigns of gold jewellery for new born baby. As per the evidence of father as P.W-1, he



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had paid Rs.65,000/- to his daughter and he had arranged for Rs.1 lakh through loan from the Women's Helpline Group. Instead of gold jewels, they had provided silver anklet for a newborn baby. The same fact was stated by the mother of the deceased as P.W-2 in her evidence. As per the evidence of the mother, since parents of the deceased did not provide 2 sovereigns of gold jewels for the newborn baby, he wanted the child to be under the care of the parents of the deceased and the deceased to go for employment. Till the date of death, the child of the deceased was in the care of the parents, P.W-1 and P.W-2. Also, in their evidence, P.W-1 and P.W-2 had deposed that the Accused used to shift his residence very often within three months. Therefore, only once or twice they visited their daughter in Chennai. On the date of the occurrence after hearing the news, they gave a complaint at the All Women Police Station and through them only their residential address was traced and they travelled from Dharmapuri to Chennai by car as they were not familiar with it. On reaching Chennai, only they had given a complaint, which was marked under Ex.P-1. It is the submission of the learned Additional Public Prosecutor that there are materials available before the learned Sessions Judge, Fast Track Mahila Court, Chennai, that only due to harassment caused by the Accused, the deceased had ended her life.



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WEB COPY 14. There is evidence that the father said that the daughter was comfortable. The mother said that her daughter complained of harassment by the husband and she wanted to get back to her parents house. For which her mother asked her to come back to her native place. The daughter replied that she has no money, even to pay for transport expenses. Therefore, the plight of the deceased was that, having earned it, she was handing over the salary to her husband. She was separated from the child by the adamant attitude of the husband. Until the parents of the deceased paid Rs.2 lakhs for him to setup a medical shop, the wife had to go for work and earn for him. There is evidence that the husband, the Accused in this case had resigned from the job as Pharmacist in Madras Medical Mission Hospital in Chennai, which is available through the evidence of P.W-3, Joseph. The learned Sessions Judge had observed that the cause of death was the harassment caused by the husband, attracting Section 498-A as well as Section 306 of IPC.

15. Learned Additional Public Prosecutor also invited the attention of this Court to Ex.D-1, which is the complaint given by the wife against her husband for his adamant attitude, insisting the wife leave her three



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months old baby under the care of her parents and to come to Chennai and

earn by going to work. She wanted to be with the child as a caring, loving

and affectionate mother as any other woman. The husband in his greed,

ignores the sensibilities of a wife and mother towards the new born child.

Ignoring those things and insisting on money. The parents are unable to

pay Rs.2 lakhs for him to set up the medical shop. The husband insists on

the wife earning and handing over the money so that he can set up the

medical shop. There is evidence in the evidence of the father that he

arranged Rs.65,000/- with his own money, handed over Rs.65,000/- to her

daughter and also made an arrangement to get loan from the woman's self-

right group for Rs.1 lakh. There is evidence from the mother that they

flatly refused to pay Rs.2 lakhs insisted by the husband of the deceased

and instead of demand 2 sovereigns of gold jewels for the newborn baby

they gave the child silver anklets and waist chain. Till they pay the amount

of 2 sovereigns of gold jewels for the child, the child should be under the

care of parents of the deceased. On such condition, the Accused had taken

back the wife to Chennai and forced her to work against her will, which

might have caused depression in the minds of the wife. That much is

evident in Ex.D-1 which is the complaint given by the deceased in the

month of July to the Collector of Dharmapuri District on the day of



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grievance, which was referred by the Collector's Office to the All Women Police Station, Dharmapuri, where they had conducted counseling on behalf of the daughter. The father had stated that they were not insisting to proceed. Therefore, the Sub-Inspector of Police, All Women Police Station, Dharmapuri District, had closed the complaint on 12.08.2011. The ingredients of Ex.D-1 are found against the backdrop of the circumstances leading to the deceased committing suicide. The facts leading to the death have been stated by the parents, P.W-1 and P.W-2. Naturally, a daughter will talk freely only to her mother who is a dependable friend in all circumstances, as moral support. Here, the mother had naturally stated what was stated to her by her daughter.

16. Therefore, the learned Additional Public Prosecutor submitted that there are materials available before the Trial Court indicating the circumstances leading to the newly married woman committing suicide after 2 years within 3 years of the marriage after the delivery of the child. In all circumstances, the learned Sessions Judge had observed that there is no evidence regarding the employment of the Accused after resigning from Madras Medical Mission Hospital. Therefore, the learned Sessions Judge had observed that the conduct of the Accused alone had caused the wife to



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end her life. Therefore, the learned Additional Public Prosecutor sought to reject the contention of the learned Counsel for the Appellant as having no merit. There may be minor contradictions, but it does not affect the incriminating circumstances stated before the Court through the mouths of the witnesses, P.W-1 and P.W-2, who are none other than the parents of the deceased, who had lost their lovable and affectionate daughter. Therefore, the learned Additional Public Prosecutor sought to dismiss this Appeal as having no merit and to confirm the judgment of conviction by the learned Sessions Judge, Fast Track Mahila Court, Chennai.

17. The learned Additional Public Prosecutor also relied on the same ruling in ***Crl.A.No.953 of 2021 (Velladurai Vs. State represented by the Inspector of Police)*** stating that there are observations in the Hon'ble Supreme Court in the very same judgment, wherein it is observed as follows:-

“Instigation can be inferred where the accused had, by his acts or omission created such circumstances that the deceased was left with no other option except to commit suicide. In the instant case, the allegation against the appellant is that there was a quarrel on the day of occurrence. There is no other material on record which



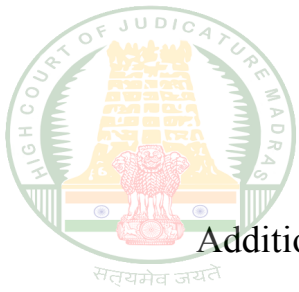
indicates abetment. There is no material on record that the appellant-accused played an active role by an act of instigating the deceased to facilitate the commission of suicide.”

18. The learned Additional Public Prosecutor also invited the attention of this Court to the enquiry held by the Executive Magistrate, wherein the witnesses or Panchayatdars had spoken against the Accused, which is available under Ex.P-6, wherein there are incriminating materials regarding the conduct of the Accused forcing his wife to hand over the child to her parents and to go for work in Chennai as they had not heeded to the request or demand of the Accused for Rs.2 lakhs and 2 sovereigns of gold jewels. Therefore, the learned Additional Public Prosecutor sought to dismiss this Appeal and confirm the judgment of conviction.

Point for consideration:

Whether the judgment of the learned Sessions Judge, Fast Track Mahila Court, Chennai, convicting the Accused for the offences under Sections 498A and 306 of IPC by judgment in S.C.No.129 of 2021 dated 18.11.2016 is to be set aside as perverse?

19. Heard the learned Counsel for the Appellant and the learned



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Additional Public Prosecutor for the State.

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20. Perused the evidence of the Prosecution Witnesses, P.W-1 to P.W-9 and Ex.P-1 to Ex.P-15 and the judgment of the learned Sessions Judge, Fast Track Mahila Court, Chennai, in S.C.No.129 of 2021 dated 18.11.2016.

21. On perusal of the evidence, it is found that P.W-1 and P.W-2, the parents of the deceased, had cogently narrated the entire incident, commencing from the marriage till the date of death of their daughter. As pointed out by the learned Counsel for the Appellant, there are contradictions, but it does not affect the gist of the case.

22. As rightly pointed out by the learned Additional Public Prosecutor, the evidence of P.W-1 and P.W-2, parents of the deceased, incriminates the conduct of the Accused in this case. When the marriage was performed, both the deceased and the Accused were working at Dharmapuri. After the marriage only they shifted to Chennai. The deceased was holding a Diploma in Nursing and was working in a private Kamala Hospital in Dharmapuri. She used to go for work in Route No.4



bus, where the elder brother of the Accused was serving as a Conductor.

On getting acquainted with the daughter of P.W-1 and P.W-2, he sought Dr.Kamala's help for marrying the nurse working under Dr.Kamala for his brother. With Dr.Kamala's help, the elder brother of the Accused and the relative approached the parents of P.W-1 and P.W-2 for the marriage. As per the demand of the parents of the Accused, P.W-1 and P.W-2, parents of the deceased provided 18 sovereigns of jewels and a two-wheeler to the Accused. As per evidence of P.W-1, the marriage expenses was borne by the parents of the Accused. After the marriage, both shifted to Chennai. The daughter of P.W-1 and P.W-2 worked in a private Hospital at Chennai and they were not aware of her salary.

23. P.W-1 clearly states that she was earning somewhere between Rs.8,000/- and Rs.10,000/- and in the evidence, he had further states that when she returned to her parents house, she used to complain about the conduct of the husband, who received the entire salary and paid her Rs.10/- everyday for her daily expenses. Considering her difficulties, her father used to pay her when she used to come to her parents house. Those money also the Accused used to receive from her. The daughter of P.W-1 and P.W-2 was working as a Nurse in a private Hospital till she became

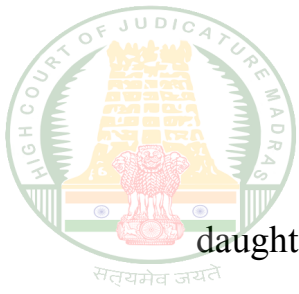


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pregnant and for delivery, she left for her parents house. Till such time she was working. After the delivery of the child, nearly after three months she came back to Chennai at the insistence of the husband. The husband did not want her to bring the child along with her as a feeding mother, as any other woman would have care and consideration for the newborn child. The wife of the Accused wanted to be with the child, but he insisted his wife to leave the child under the care of P.W-1 and P.W-2. If she wanted to be with the child, he wanted Rs.2 lakhs to be paid by the parents for him to setup a medical shop, and the husband also wanted 2 sovereigns of gold jewels for the newborn child. It is to be noted that P.W-1 was a retired Inspector from the Electricity Department.

24. After his retirement only he had performed the marriage of his daughter. With the available resources, he had arranged the marriage of his daughter. When the daughter came to her parents house, she used to complain about the conduct of the husband/Accused. Therefore, considering the difficulties expressed by the daughter, the parents provided her a small amount of money which they could afford. That was also taken away by the Accused. After the delivery of the child, considering the adamant attitude of the husband and the mental stress undergone by the

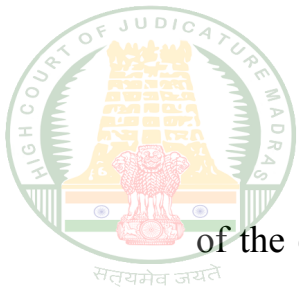


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daughter of P.W-1 and P.W-2, she had preferred a complaint under Ex.D-1

to the Dharmapuri District Collector, wherein she had clearly stated that her husband wanted her to hand over her child under the care of her parents. When she objected, she was tortured by him, both physically and mentally. When the parents of the wife objected to the conduct of the husband, the husband even went to the extent of attacking them. That is clearly stated in Ex.D-1. He also threatened her by seeking divorce from her. The complaint under Ex.D-1 referred to the All Women Police Station by the office of the Collector. By the time, there was counselling from the All Women Police Station, and the husband took back his wife with him.

25. There is evidence before the learned Sessions Judge, Fast Track Mahila Court, Chennai, through P.W-1 and P.W-2 that the child was left under the care of the parents of the deceased and she left with the Accused on the insistence of the Accused. During Diwali, which is the happy occasion for all Hindus throughout the world, when there is a celebration in the family by joining together at the family, the husband wantonly did not join the family of the wife, which was the first celebration for the newly married. Since they had not acceded to his demand, he wanted to expose it to the relatives of the wife. Therefore, he did not attend. This part



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of the evidence was also relied upon by the learned Sessions Judge while arriving at the conclusion that the conduct of the husband towards the wife and her parents, which was stated by P.W-1 and P.W-2. Considering her helplessness in the situation, the parents wanted to support the daughter morally. The father had given her Rs.65,000/- and had arranged for a loan from the self-help group for Rs.1 lakh. The evidence of P.W-2, mother of the deceased, states that they had expressed their helplessness to the demand of the Accused for Rs.2 lakhs to setup a medical shop on his own. Also, his demand for 2 sovereigns of gold jewellery for the newborn baby. With the meager resources that they have at their disposal, they have provided silver jewels for the newborn baby. Till the parents of the wife (deceased) had not acceded to the demand of the husband for Rs.2 lakhs and 2 sovereigns of gold jewels, the child has to be with the parents of his wife, which is available through the evidence.

26. Therefore, naturally, a newly married woman who had delivered a child who had left her new bornbaby from the third month of delivery before one year with the care of the parents is expressed in Ex.D-1. Added to that, on the date of her death, the child was not with the Accused or with the deceased. Therefore, the evidence of P.W-1 and P.W-2 that they used

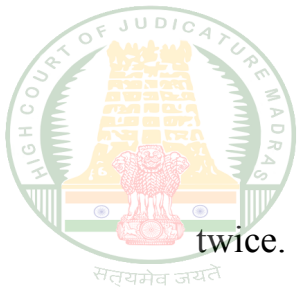


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to contact their daughter on a daily basis is found acceptable and reasonable. May be the daughter might not have informed her father about her difficulties, but the evidence of P.W-2 clearly shows that the daughter expressed her desire to return to her parents house. It should be noted that the child of the deceased was in the care of the parents. Therefore, naturally, she wanted to be with the parents. When she expressed it to the mother, the mother had replied to the daughter that she could come and join. For which, the daughter had stated that she had no money left with her to pay for transport. Therefore, the mother had advised the daughter to borrow money from the neighbour so that they could repay it. On the same day evening, they received the news from the Accused, the husband of the deceased, the son-in-law of P.W-1 and P.W-2 that their daughter had died by hanging suicide and he will send back the body in an ambulance and ask them to get the body.

27. It is in the evidence of P.W-1 and P.W-2 that the mobile phone was switched off. After such information, the mobile phone of the Accused was switched off. The stress undergone by the parents of the deceased had to be considered by the Court. They are not aware of the place in Chennai where the Accused and the deceased lived. They had visited only once or



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twice. From their daughter, they came to understand that due to the conduct of the Accused, the son-in-law of P.W-1 and P.W-2, the daughter of P.W-1 and P.W-2 and the Accused shifted their residence quite often, once in three months within the shortest period between 2009 and 2011. Only due to the helplessness of the parents of the deceased particularly, P.W-1 had given a complaint to D-1 Police Station at Dharmapuri. Only the Dharmapuri Police had traced the address in Chennai, which helped them to engage a car and come to the place. They had reached the place of the residence of the Accused and the deceased the next day morning. By the time, the Accused had not been found in the place. That much is available in the evidence of P.W-1 and P.W-2. They enquired with the neighbours of the Accused. The neighbours reported that their daughter is at Kilpauk Medical College Hospital. Therefore, they went to the Mortuary at Kilpauk Medical College Hospital. Only later they gave the complaint under Ex.D-1.

28. As pointed out by the learned Counsel for the Appellant when the case of this nature, anyone can give a complaint. It is stated that one Selvaraj neighbour has given a complaint to the Police. Based on which, the Police came to the residence of the Accused and took the body to the



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Hospital, which is available under Ex.P-9. Based on the complaint of P.W-

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1, Ex.P-1 was recorded as 161 statement under Section 161 of Cr.P.C by the Investigation Officer as FIR was already registered under Ex.P-10. Based on the statement of the father of the deceased under Ex.P-1, the alteration report under Ex.P-15 was prepared by the Assistant Commissioner of Police, Nungambakkam. The FIR registered in Crime No.2791 of 2011 at the F-5 Police Station was based on the information provided by Selvaraj, a neighbour of the Accused, for which Crime No.2791 of 2011 was registered under 174 of Cr.P.C. Only after the complaint of P.W-1 under Ex.P-1 which was reduced as 161 statement. The case was altered to an offence under Section 304-B IPC under Ex.P-15. The parents of the deceased, particularly the father of the deceased stated that their daughter could not have committed suicide in the hall and expressed suspicion. The Postmortem Certificate clearly stated that she died due to Asphyxiation, indicating hanging. Also, as pointed out by the learned Counsel for the Appellant, the information provided by Selvaraj and Ex.P-9 clearly states the incident as was reported by Selvaraj, the deceased had closed the door from outside where the Accused went to sleep after lunch after his waking up when he wanted to open the door but could not open the door. He shouted and called for help from his wife, but



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there was no response. Therefore, he called for help from his neighbours.

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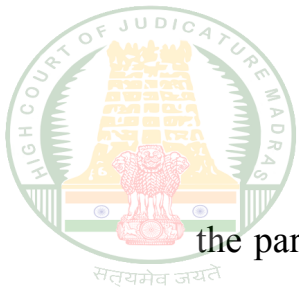
Ex.P-9 indicates the incident that the wife went for Diwali to her house and returned just four days back when she returned to Chennai to her husband's house she left her 1 ½ years old daughter under the care of her parents. On the fourth day, she had committed suicide. The husband was unable to open the door had called for help from neighbour one, Mani was summoned referred as Maniappa. He only came to the house after peeping through the window and found that the wife of the Accused had committed suicide. Since the said Maniappa referring to the father of Mani, neighbour was undergoing pilgrimage to Sabarimala, he expressed his inability to assist the Accused in getting down the body of the deceased. He had called the other neighbours. One among them is Selvaraj. They broke open the door and also informed the Police based on the complaint under Ex.P-9 Selvaraj. The Police had registered the case in Crime No.2791 of 2011 on 06.11.2011 under Section 154 Cr.P.C. by 16.45 p.m.

29. On perusal of the evidence, it was found that the Doctor who had performed the Autopsy was examined as P.W-6 had clearly stated that the deceased died due to Asphyxiation and had issued Ex.P-7, a Postmortem Certificate.



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30. The conduct of the Accused has to be seen. He had informed P.W-1 and P.W-2 that their daughter had committed suicide informing them that he will send the body by ambulance ask them to get the body and switched off the mobile phone. By the time reached the house, they found that the Accused was not there and they enquired with the neighbours, who informed them that the body is in the Kilpauk Medical College. Therefore, they proceeded to Kilpauk Medical College. That shows the indecent conduct of the Accused. Within four days, after Diwali, after reaching her husband's place, she had committed suicide. That shows the pain, agony and helplessness for separation of her newborn baby with hardly 1 ½ years left under the care of her parents, which resulted in Ex.D-1, copy of the petition given by the daughter of P.W-1 to the Collector, Dharmapuri. The evidence of P.W-1 and P.W-2 cannot be ignored, as was indicated by the learned Counsel for the Appellant that they had not visited their daughter at Chennai in the entire 2 ½ year period and therefore, they were not aware. This cannot at all be accepted in the light of the fact that the child is under the care of the parents. The relationship between the husband and wife is not cordial. Naturally, there will be apprehension in the minds of



the parents regarding their daughter. Nowadays mobile phone is available with everyone. Therefore, the evidence of P.W-1 and P.W-2 that they contacted their daughter on a daily basis cannot be rejected or ignored.

31. As pointed out by the learned Counsel for the Appellant the father of the deceased stated that when he contacted her during day time, she informed him that she was comfortable in Chennai. Whereas her mother stated that she expressed her difficulties and that she had expressed her longing to see her infant daughter. She wanted to be in her parents house. Therefore, P.W-2- mother had asked her to come back to her parents house. For which, their daughter, the deceased expressed that she does not have money to pay for transport. Hearing this, the mother had advised her to borrow money from the neighbours and come back to her mother's place. By evening, they received a message from the husband, the Accused in this case that their daughter had committed suicide and the body will be sent to them by ambulance and they shall receive it. He was not found anywhere when they reached Chennai. They could trace out the residence of the Accused only from Dharmapuri Police. Therefore, the greed and adamant attitude of ignoring the sensibilities of the newly married woman who had given birth to a child and longing to be with the



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child and the force and abuse of the husband forcing the mother of an infant child to get separated from the child for his selfish motive for money to go for job till their parents did not pay Rs.2 lakhs as per demand of the Accused is found to attract all the ingredients of the offence under Sections 306 and 498-A.

32. Section 304-B IPC reads as follows:

Abetment of suicide

If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Section 498-A IPC reads as follows:

“Husband or relative of husband of a woman subjecting her to cruelty.

I[Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.—For the purposes of this section, "cruelty means"—

(a) anywilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave



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injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.]”

33. On perusal of the evidence of P.W-3, it is found that the Accused was employed in the Madras Medical Mission Hospital as Pharmacist. He was employed from 02.07.2010 and he resigned on 12.10.2011. Therefore, the evidence of P.W-1 and P.W-2 that the Accused demanded money for setting up an independent medical store cannot be rejected lightly. Therefore, the evidence of P.W-2, the Executive Magistrate, who conducted enquiry regarding the death of a newly married woman within seven years of her marriage, which is a mandatory magisterial enquiry as per the Dowry Prohibition Act, wherein he had examined the husband and the neighbours, the Complainant, Selvaraj, who gave a complaint under Ex.P-9 based on which the FIR under Ex.P-10 was registered in Crime No.2791 of 2011 under 154 Cr.P.C which was later converted to offence under Section 304B after receiving a complaint from



the father of the deceased, P.W-1.

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34. The report of the Executive Magistrate is available under Ex.P-6, wherein it is stated that the Executive Magistrate held an inquest over the body of the deceased. At that time, the neighbours were examined as Panchayatdars who are the neighbours,

1. Selvaraj – the Complainant under Ex.P-9, who lodged the complaint based on which FIR was registered.
2. Mani
3. Maadhu
4. Selvam
5. Mahalingam

The Panchayatdars 2 to 5 had stated that the Accused demanded 2 lakhs and 2 sovereigns jewels for the newborn child. Since the parents of the deceased did not provide it, the 1 ½ years old child was left with the care of the parents till they paid him the amount and they are of the opinion that this could have been the cause of death. The Executive Magistrate had arrived at the conclusion that the cause of death was the separation of the child from the mother and the demand for 2 lakhs and 2 sovereigns of jewels, which caused her depression. Within four days after reaching her



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husband's place, she committed suicide. Ex.P-9 clearly stated that she died on 06.11.2011 after four days on reaching the husband's place, after celebration of Diwali at her parents house. By all means, the circumstances leading to the deceased ending her life was created by the adamant attitude of the husband, the Accused in this case.

35. The learned Sessions Judge on discussion of the entire materials had stated clearly from paras 38 to 48 and arrived at an irresistible conclusion. The learned Sessions Judge also invoked Section 113A of the Indian Evidence Act 1872, the presumption regarding the death of a newly married woman within seven years of the marriage.

36. On perusing the judgment relied on by the learned Counsel for the Appellant in ***CrI.A.No.953 of 2021 (Velladurai Vs. State represented by the Inspector of Police)***, wherein it is stated as follows:

“Instigation can be inferred where the accused had, by his acts or omission created such circumstances that the deceased was left with no other option except to commit suicide. In the instant case, the allegation against the appellant is that there was a quarrel on the day of



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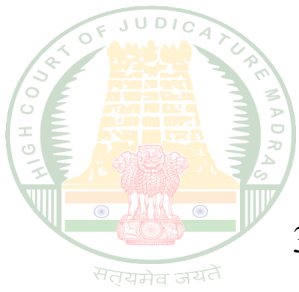


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occurrence. There is no other material on record which indicates abetment. There is no material on record that the appellant-accused played an active role by an act of instigating the deceased to facilitate the commission of suicide.”

In the light of the above context, which itself is against the Accused in this case.

37. In the reported decision of the Hon'ble Supreme Court regarding the conviction under Section 306 IPC there are judgments indicating that the mental status and personality rights of individuals vary. Therefore, there cannot be any definite explanation for cruelty. What is cruel to one person may not be cruel to another person. The circumstances for which the newly married woman is unable to adjust alone, as well as the economic conditions, make it difficult for a young woman of marriageable age to end her life and therefore, the Court cannot come to the conclusion that the conduct of the husband alone or the in-laws alone had contributed ending her life. Those rulings will not help the facts and circumstances of the case.



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38. The judgment relied on by the learned Counsel for the Appellant is a judgment of acquittal ordered by the Hon'ble Supreme Court. The facts of the reported decision are different where the son of the deceased and the Accused himself failed to support the Prosecution case. That is not the fact of the case before this Court. There is consistency in the evidence of P.W-1 and P.W-2 and the witness to the Panchayatdars before the Executive Magistrate, who are of the view that the separation of the child by the deceased on the insistence of the husband for Rs.2 lakhs and 2 sovereigns from P.W-1 and P.W-2 might have been the cause. Added to that, under Ex.P-9, the complaint given by the neighbour, Selvaraj, indicates that within four days after reaching her husband's place, she had committed suicide. When she returned after Diwali the child was not with her. The evidence of P.W-3 indicates that he resigned his job as a Pharmacist in Madras Medical Mission Hospital, which gives stronger incriminating circumstances against the husband that he wanted to setup an independent medical store for which he needed Rs.2 lakhs. Therefore, the learned Sessions Judge had arrived at the conclusion that the conduct of the husband alone had caused the wife to end her life.

39. When the Trial Judge on proper appreciation of evidence arrived



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at the conclusion recording the conviction of the Accused. In Appeal, the

Appellate Judge shall not disturb the finding as per the reported ruling of the Hon'ble Supreme Court, wherein guidelines had been issued to the Appellate Courts that the finding of fact recorded by the Trial Judges shall not be disturbed if it is on proper appreciation of evidence, as per the provisions of the Indian Evidence Act. This is due to the fact that the Trial Judge had the advantage of observing the demeanour of the witnesses as well as the Accused in criminal cases and the parties to the proceedings in civil cases. This disadvantage is not available to the Appellate Judges. Therefore, if, on the same set of evidence, the Appellate Judge arrives at an opposite finding, the finding of the Appellate Judges shall not be thrust on the Trial Judge. The said principle applies in this case also. The learned Trial Judge had convicted the Accused based on the proper appreciation of evidence. Therefore, the same cannot be considered perverse.

40. The submission of the learned Counsel for the Appellant seeking to set aside the judgment of conviction as perverse is rejected and the argument of the learned Additional Public Prosecution seeking to dismiss this Appeal as having no merit and to confirm the judgment of the learned



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WEB CO Sessions Judge, Fast Track Mahila Court, Chennai, which is a well-reasoned judgment and is found acceptable.

41. The Point for consideration is answered in favour of the Respondent and against the Appellant. The judgment of the learned Sessions Judge, Fast Track Mahila Court, Chennai, convicting the Accused for the offences under Sections 498A and 306 of IPC by judgment in S.C.No.129 of 2021 dated 18.11.2016 is found proper.

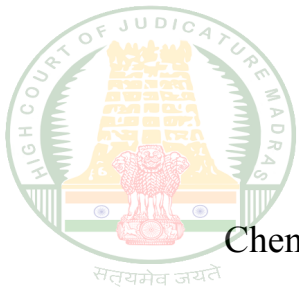
In the result, **this Criminal Appeal stands dismissed.** The judgment of the learned Sessions Judge, Fast Track Mahila Court, Chennai, in S.C.No.129 of 2012 dated 18.11.2016 is hereby confirmed.

29.04.2024

cda
Speaking/Non-speaking order
Neutral Citation : Yes/No

To

- 1.The Sessions Judge,
Fast Track Mahila Court, Chennai.
- 2.The Assistant Commissioner of Police,
Nungambakkam Range,
In F-5, Choolaimedu Police Station,



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Chennai.

3. The Public Prosecutor,
High Court, Madras.

4. The Section Officer,
VR Records, High Court, Madras.

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SATHI KUMAR SUKUMARA KURUP, J.,

At the time of pronouncing the judgment, the learned Counsel for the Appellant sought modification of sentence of imprisonment of 5 years imposed on the Accused under 306 IPC.

2. Considering the request of the learned Counsel for the Appellant and also considering the occurrence is of the year 2011 and the Appeal is of the year 2016, the sentence is reduced to 3 years, the sentence of Rigorous Imprisonment of five years imposed on the Appellant/Accused is modified and reduced to 3 years Rigorous Imprisonment. The period of detention already undergone by the Accused is set off under Section 428 of Cr.P.C.

3. The Appellant/Accused is directed to surrender before the learned Sessions Judge, Fast Track, Mahila Court, Chennai, within a period of two weeks from the date of uploading of this judgment on the website of this Court.

4. The learned Sessions Judge, Fast Track, Mahila Court, Chennai, is directed to issue warrant to secure the Accused in continuation of the judgment recorded in S.C.No.129 of 2012, dated 18.11.2016 and



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detain him in prison to undergo the period of sentence as modified by this
Court.

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29.04.2024

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SATHI KUMAR SUKUMARA KURUP, J.,

cda

Judgment in
Crl.A.No.786 of 2016