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Crl. A. No.479 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.08.2024

CORAM : JUSTICE N.SESHASAYEE

Criminal Appeal No.479 of 2017

Shanmugam

... Appellant

Vs

1.The State represented by
The Station House Officer
Danvanthari Nagar Police Station
Pondicherry

2.Devarajaou

... Respondents

Prayer : Criminal Appeal filed under Section 378(1)(b) of the Criminal Procedure Code, as against the judgment of the learned Special Officer cum Additional Sub Judge, Pondicherry dated 13.01.2015 made in S.C. No.44 of 2013.

For Appellant : Ms.E.Thiyaga
for Mr.B.Balavijayan

For Respondents : Mr.K.S.Mohandos
Public Prosecutor (Puducherry) for R1
M/s.V.Ajayaykumar &
G.Shanmugam for R2

JUDGMENT



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This appeal is preferred by the de-facto complainant challenging the judgment of the learned Special Officer cum Additional Subordinate Judge, Puducherry, acquitting the second respondent herein in S.C. No.44 of 2013 for offences under Sections 498-A and 306 IPC.

2. The case of the prosecution is that, on 11.10.2012, certain Thirupurasundari, the daughter of the appellant herein had committed suicide by hanging. It was around 11'o clock in the morning and the occurrence had happened in the house of the second respondent herein. The body was removed to Jipmer Hospital, where the appellant, the father of the deceased along with his wife and son would later visit. As the parents of Thirupurasundari were suspicious about the circumstances in which she died, the appellant preferred Ext.P1 complaint, based on which, PW10, the Sub Inspector of Police, D'Nagar Police Station, registered an FIR in Crime No.355/2012 under Section 174 IPC. Since the victim had died within five years from the date of her marriage, there was a parallel inquest by the Tahsildar.

3. On completing the investigation, PW11, the Investigating Officer, laid charge



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sheet. In all, the prosecution examined 11 witnesses, which included the investigating officials, but to prove the crime, the prosecution had examined only PW1 and PW4, the parents of the victim.

4. On appreciating the evidence, the trial court has held that the quality of the evidence made available by the prosecution only indicates that there could be petty quarrels between the spouses, and there is nothing to indicate that there was either cruelty by the accused or that he abetted his wife to commit suicide.

This is how the learned trial Judge explained what she has appreciated:

- (a) The prosecution tried to project a case of dowry harassment, but PW5, Tahsildar, in his inquest report, has indicated that there is no dowry harassment.
- (b) On the date prior to her death, both Thirupurasundari and the accused had visited PW1 and PW4 for their wedding anniversary, and it was on the following day, she had committed suicide. While the attempt of the prosecution is to project a case that the accused and his parents were demanding five sovereigns of jewellery as dowry, yet the appellant, in his Ext.P1, complaint, did not whisper anything about the same.



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And he makes improvement over his complaint only when he was in the witness box, when he spoke about dowry demand.

In this context, PW4, the mother of the victim, does speak about certain dowry demand, but there is huge inconsistency, if not contradiction, on the material aspect of dowry demand.

(c) PW1, in his cross-examination has admitted that he indeed has pledged his daughter's jewellery, which his son-in-law, the accused, has redeemed.

Summing up her appreciation, the learned trial Judge has held that there might be spousal differences, but that can only be termed as petty quarrels between them, which is not of any serious variety as to establish the charges against the accused. Eventually, she granted the benefit of doubt to the accused and set him free.

5. This judgment is now under challenge at the instance of the de-facto complainant. Heard the counsel on either side and perused the materials available on record in the form of typed set of papers.



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6. The learned counsel for the appellant essentially harped on the testimony of PW1 and stated that the testimony of PW1 in the chief examination is consistent with the version of his wife, PW4 and added that the learned Sessions Judge has failed to appreciate the same.

7. This court, however, finds it difficult to appreciate the submissions of the learned counsel for the appellant. What is required to be noted is that the appellant indeed has made improvement to his version of dowry demand in his chief examination as PW1, something he did not state in his complaint. This court can appreciate that at the time when the appellant preferred his complaint, he probably might not be in the right state of mind, and possibly might have even missed a couple of things. But, according to PW1, the very date on which the victim committed suicide, and prior to her actually committing suicide, she had spoken to her brother Karthik @ Manikandan. Therefore, despite his mental disturbances, the appellant could not have forgotten the last conversation which his daughter had with his son. Very surprisingly, the complaint did not even refer to the name of Karthik in Ext.P1-complaint. Indeed, even prosecution did not choose to cite Karthik as a witness. This would indicate that there are far too many embroideries and frills that embellishes the case.



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8. Given the nature of evidence made available, there is precious little the learned Sessions Judge could do than acquitting the accused person, and that precisely what has been done in this case. This court does not find any merit in the appeal and the same deserves to be dismissed.

9. In fine, the criminal appeal is dismissed, confirming the judgment of the learned Special Officer cum Additional Sub Judge, Pondicherry dated 13.01.2015 made in S.C. No.44 of 2013.

06.08.2024

Asr

To

1.The Special Officer cum
Additional Subordinate Judge, Pondicherry

2.The Public Prosecutor (Puducherry)



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N.SESHASAYEE.J.,

Asr

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