



CrI.A.(MD)No.14 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 13.03.2024

PRONOUNCED ON : 27.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

CrI.A.(MD)No.14 of 2018

Dalbeersing @ Cheenu

...Appellant

vs.

State Rep. by
The Inspector of Police,
E1, K.Pudur Police Station (L & O),
Madurai City.
(Crime No.267 of 2012)

... Respondent

Prayer: Criminal Appeal filed under Section 374 of the Code of Criminal Procedure against the judgement and order dated 08.12.2017 in S.C.No. 379 of 2013 on the file of the Sessions Judge, Mahalir Neethimandram Madurai.

For appellant

: Mr.M.Jagadeesh Pandiyan
Amicus Curiae

For Respondent

: Mr.K.Sanjai Gandhi,
Government Advocate (Criminal Side)



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J U D G E M E N T

This criminal appeal has been filed against the judgment and order dated 08.12.2017 in S.C.No.379 of 2013 passed by the Sessions Judge, Mahalir Neethimandram Madurai, in and by which, the appellant was convicted for the offence punishable under Section 306 IPC and sentenced as under:

Section of Law	Sentence of imprisonment	Fine amount
Section 306 IPC	Rigorous Imprisonment for ten years	Rs.10,000/- in default, to undergo Simple imprisonment for two years.

The period of sentence already undergone by the appellant was ordered to be set off under Section 428 of Cr.P.C.

2. Challenging the said conviction and sentence, the appellant has come up with this Criminal Appeal.

3. A Memo dated 03.01.2024 was filed by the learned counsel who appeared for the appellant stating that he had handed over the bundle



to the appellant. Hence, on 23.02.2024, Mr.M.Jegadeesh Pandian, Advocate, Enrolment No.2956/2008 was appointed as an *amicus curiae* for assisting this Court.

4. In order to bring home the guilt of the accused, the prosecution examined 11 witnesses and marked 9 documents.

5. The case of the prosecution as could be discerned from the oral and documentary evidence is briefly as follows.

5.1. Arjunan (PW1) is the father of the deceased Sridevi. Sridevi was studying in a college at Madurai. On 21.04.2012, at about 12.00 p.m., Sridevi committed suicide by self immolation. She was immediately rushed to Government Hospital at Pudhur and thereafter, referred to Government Rajaji Hospital at Madurai. However, on 22.04.2012, at about 07.10 p.m., she succumbed to burn injuries. PW1 lodged a complaint (Ex.P1) with Thiru.Balamurugan (PW10), Sub Inspector of Police, E1 K.Pudur Police Station, Madurai on 22.04.2012 stating that her daughter used to talk to the appellant Dalbeersing @



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Cheenu and that he and his wife had chided her for the same. On 21.04.2012 Sridevi was talking over phone and his wife confronted and scolded her, as a result of which, Sridevi committed suicide by self immolation at about 12.00 p.m.

5.2. Based on his complaint, the Sub Inspector of Police, E1 K.Pudhur Police Station registered FIR (Ex.P5) in Crime No.267/2012 under Section 174 of Cr.P.C. He then placed the records before the Inspector of Police, E1 K.Pudhur Police Station for further investigation.

5.3. When Sridevi was alive and was taking treatment at Government Rajaji Hospital at Madurai, Tmt.Uma Maheswari (PW9), the then Judicial Magistrate No.II, Madurai on an information from the hospital went to the hospital and recorded the dying declaration (Ex.P4) of Sridevi on 22.04.2012 at about 03.15 a.m.. The learned Judicial Magistrate before recording the dying declaration got a certificate from the doctor that the deceased Sridevi was conscious and oriented for the purpose of giving the dying declaration. In the dying declaration, Sridevi



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(deceased) had stated that though Dalbeersing @ Cheenu expressed his love for her, he later denied it. She had a problem in the house and she accepted to marry another person as insisted by her mother and therefore, she was not able to bear the mental agony and took a decision to commit suicide.

5.4. Thiru.Immanuvel Royappan (PW11), the investigation officer took up the case in Crime No.267/2012 registered by PW10, visited the scene of offence and prepared an observation mahazar (Ex.P6) and a rough sketch (Ex.P7) in the presence of the witnesses Selvaraj (PW7) and Arumugammal (PW8). He then sent the body of the deceased for postmortem through Saleem Seth (PW6).

5.5. Dr.Sathasivam (PW5) examined the body of the deceased and found the following injuries.

"Extensive superficial burns involving following areas: Whole of face, front, sides and back of neck. Front and back of chest and abdomen both upper limbs and both thighs in patchy manner. The base of



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the burnt area is reddish in colour. Peeling and blackening of skin noted all over the burnt areas in patchy manner. Partial degloving of skin noted over both hands and feet. Singeing of hairs noted on scalp eyebrows, eyelashes, armpit and pubic region.

IV drip wound noted on inner aspect of right ankle."

In the opinion of the doctor, "the deceased would appear to have died of extensive superficial burns of about 80%". PostMortem report was marked as Ex.P2.

5.6. Prasath Jegan (PW2) is the husband of the sister of the deceased. His evidence is that on the night on 21.04.2012, at about 12.00 a.m., they all woke up after hearing a loud noise and they saw the deceased Sridevi burning. They doused the fire by pouring water on her and rushed her to Government Hospital at Pudhur from where she was referred to Government Rajaji Hospital, Madurai. When he enquired his wife, she informed him that Sridevi was in love with the appellant and since he refused to marry her, she committed suicide. The other witnesses to the prosecution turned hostile.



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5.7. PW11 after concluding investigation laid a final report before the Judicial Magistrate No.VI, Madurai in P.R.C.No.60 of 2013. The learned Judicial Magistrate after furnishing copies of records to the appellant under Section 207 Cr.P.C., committed the case to the Court of Sessions. The Sessions Judge, Mahalir Neethimandram, Madurai took up the case on file in S.C.No.379/2013 and framed the charges against the accused.

5.8. After the closure of the prosecution witnesses, the appellant was questioned under Section 313 Cr.P.C. with regard to the incriminating circumstances appearing in evidence against him. He denied of having committed any offence. He examined Nishar Ahamed (DW1) and Sulthan Mydheen (DW2) on his side. The evidence of Nishar Ahamed (DW1) is that he is the owner of the house in which the deceased and her family members were residing as tenants. The appellant and his father were having a shop opposite to his house and he was informed that the deceased Sridevi was in love with the appellant. According to DW1,



it was one sided love and as per the instructions of Sridevi's father, he called Sridevi to his house and advised her suitably. He also requested the mother of the deceased Sridevi that she should not compel Sridevi to get married immediately. The evidence of Sulthan Mydheen (DW2) was that he also heard that the deceased Sridevi was in love with Dalbeersing @ Cheenu, the appellant herein, as a result of which, there was a difference of opinion between Sridevi and her mother. DW1 also asked Sridevi's family to vacate the house. The appellant thereafter went to Punjab. Sridevi came over to the shop which was opposite to her house and enquired the whereabouts of the appellant. However, she was sent back as there was a problem between the families of Sridevi and Dalbeersing @ Cheenu. It is also his deposition that he heard that Sridevi's parents were making arrangements for getting her married to some other person and when he enquired the same with her parents, they in turn informed him that the marriage arrangements are made only with the consent given by the deceased Sridevi.



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6. The argument of Mr.M.Jagadeesh Pandian, learned *amicus curiae* are as follows.

(i) The Arjunan (PW1), defacto complainant, at the first instance in his complaint had only blamed his wife as she had chided the victim about her behaviour. However, in the trial Court he had deposed that Dalbeersing @ Cheenu and his daughter were in love with each other and since he refused to marry her daughter, she committed suicide.

(ii) Arjunan (PW1) is not the biological father of the victim and the victim's mother married PW1 while she had a living husband.

(iii) The mother of the victim was not examined on the side of the prosecution in order to suppress the truth.

(iv) Both the defence witnesses and DW1 and DW2 had clearly deposed that the deceased had a one sided love with Dalbeersing @ Cheenu and he had also left for Punjab.

He therefore submitted that the appellant is innocent and prayed for his acquittal.



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7. *Per contra*, M.K.Sanjai Gandhi, learned Government Advocate (Criminal Side) made the following arguments.

(i) The evidence of PW1 clearly establishes the fact that the deceased Sridevi and Dalbeersing @ Cheenu were in love with each other.

(ii) The deceased Sridevi in her dying declaration (Ex.P4) had clearly stated before the Judicial Magistrate that since the appellant refused to marry her, she committed suicide.

(iii) The trial Court Judge after analysing the oral and documentary evidence had come to a definite conclusion that the accused is guilty of the offence punishable under Section 306 IPC.

He therefore prayed for dismissal of the appeal.

8. The case in hand is the death of a young unmarried woman who committed suicide. The doctor's (PW5) Postmortem Report (Ex.P.2) states that the cause of the death was due to 80% superficial burns she suffered while she self immolated. The prosecution has portrayed a picture that the victim's suicide was abetted by the appellant and that both



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of them were in a relationship for quite sometime and the relationship ended on a bitter note when the appellant refused to marry the victim.

9. The prosecution's theory rests on two aspects, one of which is the dying declaration (Ex.P.4) of the victim. Tmt.Uma Maheswari (PW9), the then Judicial Magistrate No.II, Madurai has deposed very clearly that she had recorded the dying declaration of the victim after ensuring that the victim was conscious and mentally well oriented to give the dying declaration. The victim in the dying declaration had spoken about the failed relationship which had caused immense mental trauma to her leading to the decision of ending her life. The second aspect relied on by the prosecution is the deposition of Arjunan (PW1), the victim's father who had elaborated on how his daughter was traumatised by the broken promise on the part of the appellant.

10. On the other side, there are many aspects which has been highlighted by Mr.M.Jagadeesh Pandian, learned *amicus curiae* which have relevance in showing the appellant as innocent. The line of



arguments taken by the appellant's counsel is that the defacto complainant (PW1) had at the first instance in his complaint, subtly blamed his wife who according to him had chided the victim about her behaviour. It was pointed out by PW1 in his complaint that his wife had scolded the victim about the phone conversation which the victim had indulged on that fateful night. However, in his deposition, PW1 found fault with the appellant for having deceived his daughter (the victim) after promising to marry her. It is also pointed out by the learned *amicus curiae* that PW1 was not the biological father of the victim and that he had married the victim's mother who had a living husband. It was also argued that the non-examination of the mother of the victim was a deliberate attempt to suppress the truth.

11. Though these aspects have less relevance to the crime, it would give a holistic view of the victim's frame of mind at the time of the self immolation. The victim had a married younger sister, a reluctant mother who has opposed to her alleged relationship and a father who was not her biological father. In such circumstances, the victim's decision



cannot be directly attributed to a particular person or cause. In fact, in her dying declaration (Ex.P4) also the victim had expressed that she did not want to be a source of burden for any of her family members and therefore, was forced to take such a drastic decision of ending her life. It cannot be denied that there was a relationship between the victim and the appellant and there were many obstacles in the form of religion, language etc. There is also no reason to believe that the appellant had promised the victim for a marriage. Even in the dying declaration, (Ex.P4) such a statement had not been made by the victim. Her statement was that the appellant had expressed the love for her and later denied it. It was also her statement that her mother had made her agree for a marriage when she was already upset over the break up with the appellant. At the same time, the version of the appellant that it was one sided love by the victim also does not carry credibility. Human minds at times of such crisis in life cannot be said to act or decide in an uniform manner and every suicide need not be attributed to any single cause or person unless the evidence of abetment is clearly substantiated. In the instant case, the prosecution has failed to prove, beyond doubt, the charge of abetment to suicide made



against the appellant.

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12. As rightly pointed by the learned *amicus curiae*, there are glaring contradictions in the complaint (Ex.P1) and the deposition of PW1. The dying declaration (Ex.P4) is also not clear on the aspect of broken promise of the appellant regarding marriage. Even if it is assumed that there was a relationship (love) on both sides, there is no acceptable evidence regarding the promise for marriage. The evidence of PW1 cannot be accepted for the material contradictions. As discussed earlier, the victim girl was under tremendous pressure in the form of unfulfilled desire, the pressurising mother to get her married (obviously to some other person) and other family pressures, driving her to take the extreme step. As far as the present case is concerned, no single reason can be found for her suicide except for her own wavering thoughts and therefore, with no concrete evidence for abetment to commit suicide or even linking the appellant with the suicide, I find no reason whatsoever to confirm the conviction and sentence passed by the trial Court Judge.



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13. In the result,

(i) This Criminal Appeal is allowed.

(ii) The conviction and sentence dated 08.12.2017 in S.C.No. 379 of 2013 passed by the Sessions Judge, Mahalir Neethimandram Madurai is hereby set aside and the appellant is acquitted of the offence under Section 306 IPC.

(iii) The bail bond executed by the appellant shall stand cancelled.

(iv) The fine amount, if already paid by the appellant, shall be refunded to him.

14. I wish to commend the contribution by Mr.M.Jegadeesh Pandian, *amicus curiae* in the matter by ably assisting this Court.

27.03.2024

NCC: Yes/No

Index : Yes/No

Speaking/Non-Speaking order

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To

- 1.The Sessions Judge,
Mahalir Neethimandram Madurai
- 2.The Inspector of Police,
E1, K.Pudur Police Station (L & O),
Madurai City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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R.HEMALATHA, J.

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Pre-Delivery Judgment in
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