



Crl.A.No. 345 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 01.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

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1. Rajan

2. Chellammal

... Petitioners

Vs

State

Represented by the Inspector of Police,  
Thudialur AWPS Police Station,  
Coimbatore District.  
(Crime No. 2 of 2008)

... Respondent

**Prayer:** Criminal Appeal filed under Section 374(2) of the Code of Criminal Procedure, 1973, to set aside the judgement dated 25.05.2012 made in S.C.No. 37 of 2009 on the file of the Sessions Judge Maalir Neethimandram (Mahila Court), Coimbatore, in convicting the first accused under Section 498-A of IPC and sentenced to undergo rigorous imprisonment for two years and fine of Rs.3000/- and convicting the second accused under Section 498-A of IPC and sentenced to undergo rigourous imprisonment for one year and fine of Rs.1,000/- and acquit the appellants/accused and allow this appeal.

For Petitioners : Mr.N.S.Sivakumar

For Respondent : Mr.J.R.Archana  
Government Advocate (Crl.Side)



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## **ORDER**

**WEB COPY** This matter is heard pursuant to the remand by the Hon'ble Supreme Court of India by judgment dated 22.04.2025 made in Crl.A.No. 2065 of 2025.

2. By the said judgment, the Hon'ble Supreme Court considered the appeal filed by the appellants herein against the judgment of this Court in Criminal Appeal No. 345 of 2012 dated 05.11.2019. The first appellant is the husband and the second appellant is the mother-in-law of the deceased. In this case, they were jointly tried for the offences punishable under Sections 304-B, 498-A of Indian Penal Code and Section 4 of the Dowry Prohibition Act, 1961 in S.C. No. 37 of 2009. While they were acquitted of the charges under Sections 304-B and Section 4 of the Dowry Prohibition Act, 1961 by judgment dated 25.05.2012, the Trial Court convicted them for the offence under Section 498-A of IPC. Aggrieved by this, the present appeal was filed.

3. By judgment dated 05.11.2019, the criminal appeal was partly allowed by confirming the conviction imposed on the appellants and the sentence imposed by the Trial Court against the second accused, *Chellammal*, is confirmed. The sentence of two years rigorous imprisonment imposed by



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the Trial Court on first Accused *Rajan* is reduced to one year and the sentence of fine imposed by the Trial Court stands confirmed.

4. An appeal seeking special leave was filed in SLP(Crl.)No. 368 of 2020 and the Hon'ble Supreme Court of India granted leave and in main Criminal Appeal No. 2065 of 2025, while confirming the conviction, the Hon'ble Supreme Court considered the case of the appellants with reference to the sentence. After considering how first-time offenders should be treated under Section 360 of the Code of Criminal Procedure, the Court held that even if Section 360 of the Code of Criminal Procedure is not applicable, Section 4 of the Probation of Offenders Act, 1958 would be attracted. It summed up the legal position in paragraphs 28 and 29, and the Court ultimately maintained the conviction but remitted the matter to this Court to consider the question of grant of probation upon obtaining a report from the Probationary Officer.

5. It is relevant to extract paragraph Nos. 27 to 33 of the said judgment and the same is extracted hereunder for ready reference:-

*27. What logically follows from a conjoint reading of sub-section (1) of Section 4 of the Probation Act and Section 361, Cr.P.C. is that if Section 360,*



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*Cr.P.C. were not applicable in a particular case, there is no reason why Section 4 of the Probation Act would not be attracted.*

*28. Summing up the legal position, it can be said that while an offender cannot seek an order for grant of probation as a matter of right but having noticed the object that the statutory provisions seek to achieve by grant of probation and the several decisions of this Court on the point of applicability of Section 4 of the Probation Act, we hold that, unless applicability is excluded, in a case where the circumstances stated in Sub – Section (1) of Section 4 of the Probation Act are attracted, the Court has no discretion to omit from its consideration release of the offender on probation; on the contrary, a mandatory duty is cast upon the Court to consider whether the case before it warrants releasing the offender upon fulfilment of the stated circumstances. The question of grant of probation could be decided either way. In the event, the Court in its discretion decides to extent the benefit of probation, it may upon considering the report of the probation officer impose such conditions as deemed just and proper. However, if the answer be in the negative, it would only be just and proper for the Court to record the reasons therefor.*

*29. For the foregoing reasons and in the light of the factual matrix, we are unhesitatingly of the opinion*



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*that the Sessions Judge and the High Court by omitting to consider whether the appellants were entitled to the benefit of probation, occasioned a failure to justice. Consequently, there was no worthy consideration as to whether the appellants could be extended the benefits of probation.*

30. *We are conscious that in **MCD** (supra), since followed in **State of Madhya Pradesh v. Man Singh**, this Court has held that the report of the Probation Officer referred to in Sub Section (2) of Section 4 of the Probation Act is a condition precedent and, therefore, must be complied with by the Trial Courts and the High Courts. Importantly, it has also been held that the Courts may not be bound by such report. In such view of the matter, we need to make appropriate directions.*

31. *Accordingly, while maintaining the conviction recorded against the appellants but looking to the facts and circumstances, we are inclined to remit the matter to the High Court for limited consideration of the question of grant of probation to the appellants upon obtaining a report of the relevant probation officer. It is ordered accordingly.*

32. *Till such time the appropriate Bench of the High Court decides the question as indicated above, the order of this Court dated 10<sup>th</sup> January 2020, granting the appellants exemption from surrendering will*



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*continue.*

*33. This appeal, accordingly, stands disposed of on the aforesaid terms.”*

6. Pursuant thereto, when the matter was listed before this Court on 11.07.2025, an order was passed requiring a report from the Probationary Officer, Coimbatore. Today, a detailed report has been filed. The report contains the personal history, childhood behaviour, temperament, and physical and mental history of both appellants. The report also considers their external influences, family background, and legal history. It is seen that the first appellant, *Rajan*, studied up to the 10th standard. His father is a pensioner and worked as a record clerk in the District Collector's Office. His mother, the second appellant *Chellammal*, is a daily wage labourer. The first appellant works in a foundry. He has no vices, and his previous conduct is satisfactory. His daughter is studying in the first year of BBA at a private college in Coimbatore.

7. The Probationary Officer also highlights the statement given by *Lalita*, the mother of the deceased, wherein she states that she never received any complaints about her son-in-law and that her daughter and son-in-law



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were living happily, until the fateful day when the son-in-law arrived late for the birthday celebration, which enraged her daughter and led her to take the extreme step of ending her life. More importantly, the Probationary Officer has taken into account the current position and the fact that there are no previous cases and they are law-abiding citizens. The details with reference to the second appellant are also provided in the report.

8. On a consideration of the Probationary Officer's report and independently considering the overall facts and circumstances of the case, I am of the view that the appellants can be granted the benefit of release on probation of good conduct instead of undergoing the sentence.

9. Accordingly, Criminal Appeal No. 345 of 2012 is *partly allowed* on the following terms:

(i) As already decided by the Hon'ble Supreme Court of India in Criminal Appeal No. 2065 of 2025, the conviction of both the appellants under Section 498A of Indian Penal Code stands confirmed.



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(ii) The appellants are released on probation on the

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(a) The appellants shall file an affidavit of undertaking before the Trial Court stating that they will conduct themselves as law-abiding citizens and also undertake to take care of the deceased's daughter appropriately.

(b) They shall report before the Probationary Officer, Coimbatore once in three months for a period of two years, who shall ensure the compliance of their undertaking.

(c) They shall each execute a own bond for a sum of Rs. 20,000/-.

01.08.2025

Neutral Citation: Yes/No  
nsl

To

1.The Inspector of Police,  
Thudialur AWPS Police Station,  
Coimbatore District.

2. The Sessions Judge Maalir Neethimandram,  
(Mahila Court), Coimbatore,

3. The Public Prosecutor, High Court, Madras.

4. The Probationary Officer, Coimbatore.



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**D.BHARATHA CHAKRAVARTHY, J.**

ns1

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