



Crl.A.No.1741 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2025

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

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The State of Tamil Nadu
Rep. By The Inspector of Police
Pattabiram Police Station
Tiruvallur District
[Cr.No.681/2018]

... Appellant/Complainant

-VS-

Venkatesh Kumar

... Respondent/Accused

Prayer: Criminal Appeal is filed under Section 378 of Cr.P.C/419 of BNSS. against the acquittal rendered in judgment 13.09.2024 made in Sessions Case No.79 of 2019 on the file of learned Magalir Neethimandram (Fast Track Mahila Court), Tiruvallur by allowing this criminal appeal.

For Appellant : Mr.A.Damodaran
Addl. Public Prosecutor
Assisted by Ms.M.Arifa Thasneem



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Advocate

For Respondent : Mr.N.Arunkumar



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J U D G M E N T

(By N.Sathish Kumar, J.)

The prosecution has filed the present appeal challenging the judgment of the trial Court acquitting the accused for the charge under Sections 302 and 498-A IPC.

2. The brief case of the prosecution is as follows:

2 (i) The deceased is the wife of the respondent / accused and PW1 is the mother of the deceased. The deceased and the accused fell in love with each other and they got married on 01.06.2017. Thereafter, they set up a house at Ambattur. It is the case of the prosecution that the accused started torturing the victim demanding money to purchase a separate house. Therefore, a rental house was set up near the house of PW1 at Pattabiram itself. At the time of marriage, 36 sovereigns of gold was given to the deceased and three sovereigns of gold was given to the accused. As the accused demanded for a separate house, PW1 gave a sum of Rs.15,00,000/-

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to the land owner to purchase a property by selling 36 sovereigns of jewels,

remaining 7 lakhs was borrowed by the deceased from the Bank and the

accused gave only Rs.1,25,000/-. Due to some dispute between husband and

wife, they got separated, the deceased came to PW1's house. 2(ii)

Thereafter, the accused called the deceased under the pretext of first

marriage anniversary and the deceased also went to the accused house on

01.06.2018. On that day, at about 09.30am, PW2, the landlord of the house

where the accused and the deceased were residing informed PW1 that the

accused cut the deceased and attempted to murder her. PW1 and PW3, who

is the son of PW1, rushed to the house and found the deceased lying in a

pool of blood with severe injuries and the accused also tried to commit

suicide by self-inflicting injuries on neck. The deceased was grappling for

life and informed PW1 and PW3 that the accused asked money from the

deceased, as she refused to give, he stabbed and both were taken to the

hospital. Thereafter, Ex.P1 complaint was filed in the police station. PW14,



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(Venkatesan), who is the son of PW2, was living in the first floor and the

accused and deceased were living in the ground floor. On the date of occurrence, on hearing the sound, PW2 rushed to the spot and saw both husband and wife lying in the pool of blood. On hearing the news from PW2, PW14 also rushed to the spot. The public also gathered and saw the accused and deceased lying in the pool of blood and they were not in a position to speak.

2(iii) According to PW3, he also went along with PW1 and found his sister in a pool of blood as also the accused with several injuries. According to PW3, the deceased informed him that accused only stabbed her. PW4, who is the friend of PW3, accompanied PW3. According to him, when he visited the place of occurrence, the deceased has informed that the accused stabbed her as she refused to pay the amount demanded by the accused. PW5 is the Sub-Inspector of Police and according to him, there was earlier complaint alleging cruelty against the accused and the same has been



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registered in Cr.No.153 of 2018 and PW5 advised both husband and wife to

lead a normal life. PW6 also accompanied PW1 to the police station and

gave Ex.P1 complaint and in his presence Observation Mahazar (Ex.P2)

was prepared and material objects MO1 to MO3 were seized by the police.

PW7 has also seen body of the deceased. The police recorded the

confession of the accused in the presence of PW8. PW9 also signed the

confession of the accused and put his signature in Ex.P9 (Seizure Mahazar).

PW10, the Revenue Divisional Officer, at the relevant point of time

examined the statements of the witnesses and gave a report stating that

death is not due to the dowry harassment and his report has been marked as

Ex.P10. PW12, who is the neighbour, also seen both husband and wife

lying in the pool of blood. PW16 examined the deceased on the date of

occurrence at 10.15 and noted the following injuries:

i) Cut injury of size 3 x 2 cm above the right shoulder

ii) Blood clot of size 10 x 2 cm in the front side of neck



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iii) Cut injury of size 5 x 2 x 5cm in the right side chest

iv) Cut injury of size 5 x 3 x 5cm in the right side chest

v) Two cut injuries below the left side chest of size 5 x 3 x 5cm

and 3 x 3 x 5cm

vi) In the upper abdomen two cut injuries of size 3 x 3 x 5 cm and

4 x 3 x 5 cm

vii) Two cut injuries on the lateral aspect of right elbow joint of

size 3 x 2 cm and 2 x 1 cm

viii) Cut wound of size 3 x 2 cm in the left hand

ix) Bone fracture in the left arm

x) Cut wound of size 3 x 2 x 5 cm in the right side of the back

xi) Two cut wounds on the left side hip upper part of size 5 x 3 x

5 cm and 7 x 3 x 7 cm

xii) Two cut wounds on the left side hip upper part of size 5 x 3 x

5 cm and 7 x 3 x 7 cm

xiii) Cut wound of size 6 x 3 x 8 cm on the upper side left hip and



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in the right side buttocks

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xiv) Cut wound of size 7 x 4 x 7 cm on the right thigh and old

wound scar was seen on her left hand and right thigh

3. PW13 (Dr.Muralidharan) has deposed that post-mortem was conducted by one Dr.Rajesh and since Dr.Rajesh died, he is deposing on his behalf. The post-mortem certificate has been marked as Ex.P12. According to PW13, the deceased died due to shock and haemorrhage due to various stab injuries. PW17, after receipt of the FIR (Ex.15) registered by the Station House Officer, went to the place of occurrence and prepared Observation Mahazar and rough sketch and recorded the statement of witnesses and also seized blood stained materials from the place of occurrence under Exs.P17 (Seizure Mahazar) and sent the same to the Court under P18 (Form 91) and also forwarded the copy to the Revenue Divisional Officer for further enquiry. PW17, sent the deceased to the hospital and also gave a requisition for conducting post-mortem. After recording the statements he has also seized the material objects from the

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accused, namely dresses of the accused on 13.06.2018. He arrested the accused at the bus stand after his discharge from the hospital, recorded confession in the presence of witnesses (Pws 8 and 9), seized the material objects and sent the same to the Court and took steps to forward the material objects collected during investigation to the forensic examination. After completing the investigation, handed over the case file to the Inspector of Police for filing final report. PW18 finally laid the final report against the accused.

4. To prove the case, the prosecution has examined as many as 18 witnesses as P.W.1 to P.W.18 and marked Exs.P1 to P25 and produced M.Os.1 to 8.

5. After trial, the trial Court came to the conclusion that the prosecution has not proved the case and acquitted the accused. The accused faced charges for the offences under Sections 498-A and 302 IPC. Challenging the acquittal recorded by the trial Court, the State has preferred



the present appeal.

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6. It is the contention of the learned Additional Public Prosecutor that

the trial Court has failed to appreciate the evidence of Pws 1, 3 and 4, who have clearly spoken about where the accused and deceased were residing and the oral dying declaration made before PWs 1, 3 and 4 has also been not considered by the trial Court. The learned Additional Public Prosecutor further submitted the trial Court failed to apply presumption under Section 106 of the Indian Evidence Act. The motive aspect has also been clearly established through recovery and has also clearly spoken to by the Investigating Officer.

7. Heard Mr.N.Arunkumar, learned counsel appearing for the respondent and perused the entire materials placed before this Court.

8. On a careful perusal of the entire prosecution case, it is seen that the specific charge against the accused is that he caused cruelty on the deceased and demanded money besides the accused has also caused her death on 01.06.2018. Though the mother of the deceased (PW1) and the



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brother of the deceased (PW3) have spoken about the previous cruelty said

to have been caused by the accused, in the cross-examination, the same has not been substantiated. Their statement is nothing but an improvement for the first time. Even before the Revenue Divisional Officer (PW10), they have not made any statement regarding cruelty. In fact, the report of Revenue Divisional Officer (Ex.P10) also rules out the allegation of demand of dowry. Therefore, we are of the view that the judgment of the trial Court acquitting the accused from the offence under Section 498-A does not require any interference.

9. So far as the charge under Section 302 IPC is concerned, the specific case of the prosecution is that the accused stabbed his wife repeatedly and thereafter he attempted to commit suicide by silting his neck. Though evidence of PWs 1, 3 and 4, namely mother, brother and brother's friend were relied upon by the prosecution to prove the theory and they have stated in one voice that when they reached the house of the deceased and



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accused, after hearing the incident from PW2, the owner of the house, it is

the specific case of the PWs 1, 3 and 4 that the deceased was grappling for

life and she has informed that only the accused stabbed her. According to

prosecution, the said statement very well fits into dying declaration and the

trial Court ought to have relied upon their statements.



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10. Admittedly, there is no eye witness to the occurrence. PW2 is the

owner of the house. In her evidence, PW2 has clearly stated that accused

and deceased were residing in her house. On the date of occurrence at

07.00 am, the deceased went out and when PW2 asked the deceased where

she is going, the deceased told PW2 that she is going to ATM to take the

money. Thereafter, she did not know when the deceased came back. Later,

only when PW2 heard the noise, she rushed to the spot and found both

husband and wife lying in pool of blood inside the house. PW14 is the son

of PW2. His evidence would also show that immediately after his mother

informed about the occurrence, he also rushed to the spot and public also

gathered and police also reached the spot. PW2 and 4, who were the persons

who reached the spot at the first instance, found both deceased and accused

were lying in the pool of blood and PW2 has never stated that the deceased

was alive and grabbing for life. PW14, who reached the spot at the first

instance in the cross examination clearly stated that the deceased was not in



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a position to speak and his evidence also clearly indicate that deceased has

not stated anything either to PWs 1, 3, 4 & 14. Therefore, when the persons,

who reached the spot at the first instance, has seen the deceased lying

unconscious and not in a position to speak anything, the theory of PWs 1, 3

and 4 that deceased gave a oral dying declaration is highly unbelievable.

Though the prosecution has stated as if the accused attempted to commit

suicide by slitting his neck, the fact remains that Medical Officer (PW16)

who examined the accused, found injuries not only on the neck, but also

noted several cut injuries on the chest and other parts of the body. The

following injuries were noted by PW16 over the accused:

- i) One cut wound of size 9 x 1 cm in the front side of neck
- ii) One cut wound of size 5 x 2 cm in the right hand
- iii) One cut wound of size 5 x 1 cm in the right side elbow
- iv) Three cut wounds of size 3 x 2 cm in the right hand
- v) Cut wound of size 3 x 2 cm on the left side chest
- vi) Cut wound of size 2 x 2 cm in the left side breast

11. Therefore, when a person has made an attempt to commit suicide by silting neck, cut injuries on the chest and other parts may not be possible



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by self-inflicting. It is to be noted that the case of the prosecution is that the accused has made an attempt to cut his throat himself but injuries noted by the Medical Officer is otherwise. Further, the prosecution has not made an attempt to find out any finger prints available. Though the material objects were very much available and seized by the Investigating Officer, they were not subjected to forensic examination. This creates serious doubt. The accused has clearly explained that while they were in the house, some one barged into the house and attacked them indiscriminately. Though the Investigating Officer also in his evidence clearly admitted that he has collected the CCTV footage near the place of occurrence, the same has not been filed for the reason best known to them.

12. Be that as it may, when the so called oral dying declaration spoken to by PWs 1, 3 and 4 is highly doubtful and improbable, when PW14, who reached the place of occurrence at the first instance, has clearly



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stated that the deceased was not in a position to speak anything, and she never spoke anything either to PW1 or other two witnesses, the theory of oral dying declaration is highly doubtful. Therefore, merely on that basis, we are not in a position to believe the prosecution theory. The defence of the accused and nature of the injuries sustained by both husband and wife cannot be ruled out. Therefore, we do not find any merit in the appeal to reverse the order of acquittal.



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Accordingly, this criminal appeal is dismissed.

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(N.S.K,J.,) (M.J.R,J.,)

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Internet: Yes

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To:

1. The Magalir Neethimandram
(Fast Track Mahila Court), Tiruvallur

2. The Public Prosecutor,

High Court, Madras.



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