



CrI.A.No.593 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 18.03.2025

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.A.No.593 of 2021

Rathinam

... Appellant

Vs.

The State of Tamil Nadu,
rep. by The Inspector of Police,
Jayankondam Police Station,
Jayankondam,
Ariyalur District.
Crime No.530/2016.

... Respondent

PRAYER: Criminal Appeal is filed under Section 374 of Code of Criminal Procedure, against the order of conviction dated 05.10.2021 passed in S.C.No.72 of 2019 on the file of the Fast Track Mahila Court, Ariyalur in convicting the appellant for the offence under Section 306 of IPC and imposing the sentence of 10 years rigorous imprisonment and fine of Rs.5,000/- and in default in payment of the fine amount, to undergo six months Simple Imprisonment.



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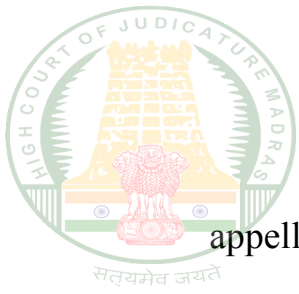
Crl.A.No.593 of 2021

For Appellant : Mr.M.Rajkumar
For Respondent : Mr.L.Baskaran,
Government Advocate (Crl. Side)

JUDGMENT

Challenging the judgment of conviction, dated 05.10.2021 in S.C.No.72 of 2019 passed by the learned Sessions Judge, Fast Track Mahila Court, Ariyalur whereby the appellant was convicted and sentenced to undergo Rigorous Imprisonment for ten years and to pay a fine of Rs.5,000/-, in default to undergo Simple Imprisonment for six months for offence under Section 306 IPC, this Criminal Appeal is filed.

2.Gist of the case is that the defacto complainant/PW1 and one Kalaiselvi (Hereinafter referred to as “the deceased”) are spouses and PW7 is their daughter. PW1 and the deceased were living happily without any dispute. Few days prior to the suicide of the deceased, the appellant constantly harassed PW1's wife Kalaiselvi/deceased. On 20.07.2016, during the night hours, when the deceased went to the field, the appellant came there and committed sexual assault and when she resisted, the



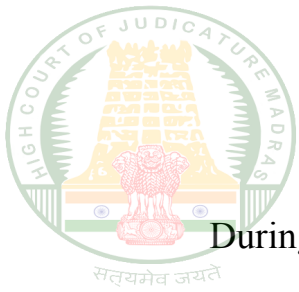
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appellant quarrelled with her. PW1's daughter PW7 at that time had also gone to the field, seen the sexual assault by the appellant, annoyed over the same, PW7 shouted and threw her slippers at the appellant, came back home crying and complained to her father/PW1 about the incident and also informed her uncle Chelladurai. From that day onwards, the deceased was in a depressed mood speaking about the incident again and again and she kept herself isolated, not attended any work. On 24.07.2016, at about 08.00 p.m, the deceased and PW7 went to the house of PW8/sister of the deceased to call her elder brother Mathan through mobile phone but she could speak to her sister-in-law. Thereafter, the deceased and PW7 came back home, the deceased informed PW7 that she needs to go back and meet her sister/PW8 again and PW7 alone came back home, informed to her father/PW1. After waiting for sometime, finding that the deceased not returned back home, PW1 and his daughter/PW7 went in search of the deceased but unable to find her. Since at that time it was heavily raining, they came back home. On the next day on 25.07.2016, the villagers ran towards the field screaming and shouting, finding the deceased committed suicide by hanging in a neem tree.



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3.The villagers namely Ganesan/PW3, Sountharrajan/PW4 and Senguttuvan/PW5 cut dupatta, brought the body down, placed in a cot and handed over to PW1. Since the villagers felt that retaining dupatta is a bad thing, they burnt it. Later, complaint (Ex.P1) lodged to PW13, Sub Inspector of Police, who registered FIR (Ex.P6) in Crime No.530 of 2016 under Section 174 Cr.P.C, visited the scene of occurrence, prepared Observation Mahazar (Ex.P5), Rough Sketch (Ex.P6), enquired the witnesses and recorded the statement of witnesses. Thereafter, the investigation was taken over by PW14, the Inspector of Police. PW14 conducted inquest, prepared Inquest Report (Ex.P8) and sent the body for Postmortem to the Government Hospital, Jayankondam. PW10 the Doctor conducted Autopsy on the body of the deceased, issued the Postmortem Certificate (Ex.P3) and gave final opinion that “*The deceased would have appeared to have died of Asphyxia*”. During further investigation coming to know that the appellant abetted and instigated the deceased to commit suicide, PW14/Investigating Officer altered the Section to 306 IPC by alteration report (Ex.P10), arrested the appellant on 21.01.2017 and on completion of investigation filed the charge sheet before the Trial Court.



CrI.A.No.593 of 2021

During trial, on the side of the prosecution, 14 witnesses examined as PW1 to PW14 and 10 documents marked as Exs.P1 to P10. On the side of the defence, no witness examined and no document marked. On conclusion of trial, the Trial Court convicted the appellant as stated above.

4.The learned counsel for the appellant submitted that the alleged harassment said to have given by the appellant was on 20.07.2016 and the deceased committed suicide by hanging in a neem tree was on 24.07.2016. The deceased found missing on 24.07.2016 and on 25.07.2017 morning at about 06.30 a.m., the villagers found the deceased hanging in a neem tree by using dupatta. To attract the offence under Section 306 IPC, soon before the death, there must be abetment or instigation by someone but in this case, there is no evidence or material to show that soon before the suicide, the appellant instigated or abetted the deceased to commit suicide. PW7, the daughter of the deceased informs her father/PW1 that on 20.07.2016 the appellant sexually assaulted his mother/deceased and she threw her slippers at the appellant and ran back home. After four days only, the deceased committed suicide by hanging, hence the appellant is not the proximate



cause for the deceased to commit suicide on 24.07.2016.

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5.The learned counsel further submitted that PW7 admits that on 24.07.2016 she along with her mother/deceased went to the house of PW8, sister of the deceased and when they were returning back home, the deceased informed PW7 that she again needs to go to the house of PW8 again. PW8 in her evidence stated that the deceased called her brother over phone but spoke to her sister-in-law, brother's wife. At that time, the brother of the deceased shouted at her. What was the conversation and why the brother of the deceased shouted at the deceased is not known and no investigation in this regard conducted. Hence, the shout of his brother might be the immediate cause for the deceased to commit suicide by hanging. PW8 in her evidence stated that PW1 was suspicious on the conduct of his wife and he used to harass and assault her in this regard. In this case, PW2, the maternal uncle of PW1 not supported the case of the prosecution. PW3, PW4 and PW5 are the witnesses, who are even named in the complaint (Ex.P1) who brought down the body of the deceased from neem tree cutting dupatta. On the other hand, PW4 and PW5 not supported



the case of the prosecution. PW3 admits the dupatta burnt by the villagers which is recorded in the Inquest Report (Ex.P8).

6.He further submitted that the deceased was only in the habit of wearing saree, even on the fateful day, she wore only saree. In such circumstances, the theory of committing suicide by using dupatta and disposing the same by burning, highly doubtful and real facts concealed. The Postmortem Doctor/PW10 conducted autopsy and gave the Postmortem Certificate (Ex.P3) recording the injuries that *“rope mark seen 2 cms in front of the neck”*, but the word “rope” struck down instead the word “ligature” wrote. Four lines below, *“rope mark whitish in colour parchement like appearance”* recorded. Thus, the deceased committing suicide by using rope, suppressed. He further submitted that normally in a case of suicide by hanging the ligature mark would be upward from the front of the neck but in this case the ligature mark found in front of the neck extended from the right ear to left ear. Hence, there is serious doubt the manner in which the prosecution projected the suicide committed by the deceased using dupatta.



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7.He further submitted that PW1, the husband of the deceased suspicious and doubted the conduct and character of his wife is not seriously disputed. In this case, the maternal uncle of PW1 (PW2) and brother of PW1 (PW4) not supported the case of the prosecution. On the other hand, there are evidence to show that only due to the harassment caused by PW1, the deceased might have committed suicide by hanging. The dupatta which was used for hanging not produced. The Trial Court had gone by the evidence of PW1 and PW7, which are contradictory to each other. The learned counsel further submitted that the normal conduct of the husband/PW1 and daughter/PW7 in search of the deceased on 24.07.2016 during night hours, unable to find her, not continued the search, but went back home and only on the next day, the villagers found the deceased hanging in a neem tree and thereafter PW3 to PW5 brought down the body, placed in a cot and brought to the house of PW1, highly artificial. Thus, the evidence of PW1 and PW7 are doubtful and not supported with the medical evidence. On the contrary, the Trial Court convicting the appellant based on the evidence of PW1 & PW7 along with medical evidence/PW10 is not proper. Hence, the judgment of the Trial Court is liable to be set aside.



8.The learned Government Advocate (Crl. Side) appearing for the

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respondent Police submitted that in this case, PW1 and the deceased Kalaiselvi are husband and wife, PW7 is their daughter. On 20.07.2016, when the deceased went to the field to attend nature's call at about 08.00 p.m, at that time the appellant misbehaved with the deceased and committed sexual assault, which was resisted by her. PW7, daughter of the deceased went to the field, saw the appellant misbehaving with her mother, threw the slippers at the appellant, ran back home crying and informed her father/PW1. Since the marriage proposal for PW7 was on going, PW1 not precipitated the issue. On 24.07.2016, the deceased and her daughter/PW7 went to the house of PW8, sister of the deceased where the deceased attempted to contact her brother, but could spoke to her sister-in-law and informed the incident. Thereafter, when the deceased and PW7 returned back home, the deceased informed PW7 that she needs to meet her sister/PW8 again and she went back to the house of PW8 and PW7 alone went to her home. Finding that the deceased not returned back home even after considerable time, PW1 and PW7 went in search of the deceased at the dead of the night but unable to find her. Since it was heavily raining, they



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returned back home. On the next day morning, the villagers found the deceased hanging in a neem tree by using Dupatta. PW3 to PW5 brought down the body of the deceased by cutting the dupatta and placed body in a cot and brought to the house of PW1. PW1 immediately lodged a complaint to PW13/Sub Inspector of Police, who registered FIR (Ex.P6) under Section 174 Cr.P.C, visited the scene of occurrence, prepared Observation Mahazar (Ex.P5), Rough Sketch (Ex.P7), enquired the witnesses and recorded their statements. Thereafter, PW14/Inspector of Police took up further investigation, conducted inquest, prepared Inquest Report (Ex.P8) and sent the body for postmortem. PW10, the Doctor conducted autopsy on the body of the deceased, issued Postmortem Certificate (Ex.P3) and gave final opinion (Ex.P4) that “*the deceased would have appeared to have died of asphyxia*”. PW7, the daughter of the deceased confirmed that on 24.07.2016 the appellant came to her house in a drunken state, threatened, abused and informed that he would print hand bills and propagate through out the village about her conduct and character and would cause disturbance to her, which acted as a trigger and it is the reason for the deceased to commit suicide by hanging. On the statement of witnesses, it was



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confirmed the appellant instigated and abetted the deceased to commit suicide by hanging, PW14 altered the Section to 306 IPC by Alteration Report (Ex.P10), arrested the appellant, thereafter on completion of investigation, charge sheet filed before the Trial Court. During trial, 14 witnesses examined as PW1 to PW14 and 10 documents marked as Exs.P1 to P10. The Trial Court on the evidence of witnesses and materials produced, had rightly convicted the appellant.

9.This Court considered the rival submissions and perused the materials available on record.

10.In this case, PW1 and the deceased are husband and wife, PW7 is the daughter. On coming to know about the PW1's wife committing suicide by hanging and after the deceased body was brought to PW1's house on 25.07.2016, PW1 lodged a complaint (Ex.P1) to PW13, who registered the FIR (Ex.P6) on the same day. Prior to it, the appellant harassed the deceased whenever she had gone out for work and wherever he found her. Four days prior to the fateful day, on 20.07.2016 at about 08.00 p.m when



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the deceased went to the field to attend nature's call, the appellant attempted sexual assault on the deceased which was resisted by her. PW7, the daughter of the deceased saw the appellant attempting to misbehave with her mother, threw her slippers at the appellant, ran back home crying and informed the same to PW1. Though PW1 states that he earlier lodged a complaint to the respondent Police about this incident, neither PW13/Sub Inspector of Police nor PW14/Investigating Officer state anything with regard to any earlier complaint other than the complaint (Ex.P1). In this case, the deceased committed suicide by hanging using dupatta. The evidence of PW3 to PW5 is that they cut the dupatta, and brought the body down from neem tree. The prosecution gives an explanation that the dupatta was burnt by the villagers since retaining dupatta hurts them. In the Inquest Report (Ex.P8), the same is recorded. On the contrary, from the evidence of the Posmortem Doctor/PW10 and Postmortem Report (Ex.P3), it is seen "rope mark" found. Had the hanging is with dupatta, there cannot be any presence of rope mark. In the Postmortem Report (Ex.P3), the word "rope" struck down instead the word "ligature" written and four lines below, the words "rope mark" recorded. The Final Opinion (Ex.P4) states that *"the*



deceased would have appeared to have died asphyxia.”. Why the

prosecution withheld true facts with regard to the rope mark, is unknown.

The Trial Court giving its own reason for usage of dupatta is possible in the absence of any materials, cannot be acceptable. The Trial Court cannot fill up a weak link in the prosecution case merely on presumption and assumption.

11.The evidence of PW8 is that the husband of the deceased/PW1 suspected his wife's conduct and she was constantly harassed. In this regard a specific question put to PW1 and PW7, though they had denied the same, but facts or otherwise there was no cordial relationship between the deceased and PW1. It is to be seen that PW2 and PW4 are the father and brother of PW1 and PW8 is the sister of the deceased. The close family members not supported the case of the prosecution and no allegation made by them against the appellant. Admittedly, in this case, the alleged occurrence of attempt to sexual assault by the appellant was made on 20.07.2016 and the suicide committed by the deceased is between the midnight of 24.07.2016 and early hours of 25.07.2016 which is four days



later. There is no evidence to show that soon before the suicide the appellant acted in any manner abetting or instigating the deceased to commit suicide. The Trial Court giving explanation that there is no acceptable explanation given by the appellant to discredit the evidence of PW1 and PW7, is not proper. As stated above, the evidence of PW1 and PW7 are doubtful and contradictory to each other. The Trial Court brushed aside PW1 doubting the conduct and character of the deceased and giving reason stating it is normal and usual in every family to have difference of opinion. Difference of opinion with regard to other aspects can be common but not when it comes to questioning the morality and character of a person. PW1 suspecting the moral conduct of his wife and he abusing and harassing his wife, admitted by PW8 who is none other than the sister of the deceased. PW13/Sub Inspector of Police and PW14/Inspector of Police admitted in their evidence that none of the witnesses examined in this case complained that the appellant by bad mouth, instigated and abetted the deceased to commit suicide.



CrI.A.No.593 of 2021

12.In view of the above, this Court finds that the prosecution miserably failed to prove its case that the appellant is the immediate cause and reason and he instigated and abetted the deceased to commit suicide by hanging.

13.In the result, this criminal appeal is allowed and the judgment, dated 05.10.2021 in S.C.No.72 of 2019 passed by the learned Sessions Judge, Fast Track Mahila Court, Ariyalur is set aside. The appellant is acquitted from all charges. Bail bond if any executed shall stand cancelled. Fine amount if any paid shall be refunded.

18.03.2025

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
vv2

To

- 1.The Sessions Judge, Fast Track Mahila Court,
Ariyalur.
- 2.The Inspector of Police,
Jayankondam Police Station,
Jayankondam, Ariyalur District.



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Crl.A.No.593 of 2021

M.NIRMAL KUMAR, J.

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3.The Public Prosecutor,
Madras High Court.

4.The Central Prison,
Tiruchirapalli.

5.The Section Officer,
Criminal Section,
Madras High Court.

Crl.A.No.593 of 2021



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CrI.A.No.593 of 2021

18.03.2025