



Crl.A(MD)No.137 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 31.01.2025

Pronounced on : 26.02.2025

CORAM:

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

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Karnan

... Appellant/Accused No.1

Vs.

The State rep. by

The Deputy Superintendent of Police,

Valliyoor Sub Division,

Panagudi Police Station,

Tirunelveli District.

(in Cr.No.31 of 2013)

...Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374 of the Criminal Procedure Code to call for the entire records connected to the Judgment in S.C.No.144 of 2014 on the file of the Sessions Judge, Mahila Court, Tirunelveli, dated 29.12.2020 and set aside the conviction and sentence imposed against the appellant.



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For Appellant : Mr.S.Subbaiah
Senior Counsel
for Mr.G.Aravinthan

For Respondent : Mr.T.Senthil Kumar,
Additional Public Prosecutor

JUDGMENT

(Judgment of this Court was delivered by **R.POORNIMA, J.**)

This Criminal Appeal is filed against the conviction and sentence passed against the appellant/accused No.1 in the judgment dated 29.12.2020 passed by the Sessions Judge, Mahila Court, Tirunelveli in S.C.No.144 of 2014 by convicting and sentencing the appellant for the offence punishable under Sections 304(B) IPC and 4(B) of The Tamil Nadu Prohibition of Harassment of Women Act, 1998 and sentenced to undergo imprisonment for life and to pay a sum of Rs.50,000/- in default, to undergo one year simple imprisonment for the offence under Section 304(B) IPC and sentenced to undergo imprisonment for life and to pay a sum of Rs.50,000/- in default, to undergo one year simple imprisonment for the offence under Section Section 4(B) of The Tamil Nadu Prohibition of Harassment of Women Act, 1998.



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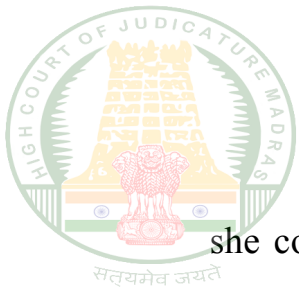
2. The case of the prosecution is as follows:

(a) On 25.06.2012, the deceased Raksha Rajabai lodged a complaint before the Valliyoore Women Police Station as follows:

The first accused is her husband, the second accused is her mother-in-law and the third accused is her sister-in-law. The marriage between the petitioner and A1 was solemnized in the year 2009. At the time of marriage, a sum of Rs.1,50,000/- was given as dowry. She was provided with 50 sovereign jewels and sridhana articles worth about Rs.75,000/-. After marriage, both the petitioner and A1 lived happily for one year.

(b) Out of said wedlock a female child was born and now she is aged about 1-1/2 years and she is currently eight months pregnant.

(c) Within two months of the marriage, A1 took all her jewels and pledged it in a Bank under the pretext of settling his debts. A1 also assaulted her and subjected her to cruelty, following the ill-advice of A2 and A3. Five months back A2 chased her, threatening that she must bring a sum of Rs.2 lakhs, if she wanted her jewels back. When



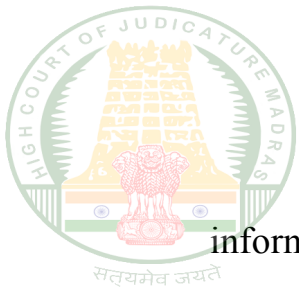
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she complained about the same to her parents, her father who was met with an accident, became bedridden and handicapped not in a position to give anything. Despite that, the accused continued to demand dowry.

(d) On 26.06.2012, at about 7.00 PM, A1 came with a sword and threatened them with dire consequences after knowing that the petitioner was pregnant stating that if they paid a sum of Rs.2 lakhs, he would live with her (complainant) or he would marry another girl. When she complained to A2 and A3, they also abused her with filthy language and threatened her with dire consequences.

(e) Subsequently, she died on 01.02.2013 at about 12.50 hours, his brother lodged a complaint with the following allegations :

Her sister was married to one Karnan during the year 2009. They had two female children. Her sister's husband had a habit of consuming alcohol. Her sister came to stay at their house. Her husband was a driver employed in Trichy, came and took her sister ten days back to his house. On 31.01.2013, they had a problem. On 01.02.2013 at about 12.15 hours, her sister's husband called him on his cell phone and



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informed that her sister was hanging up in ceiling. Immediately he along with his father had gone to his sister's house and witnessed, her sister was hanging from the ceiling fan in the upstairs bedroom, hence, he prayed for action.

(f) P.W.16, Thiru.Manoj Kumar, Sub Inspector of Police, after receipt of the complaint Ex.P2, registered a FIR-Ex.P10 in crime No.31/2013 for the offence under section 174 Cr.P.C. He had sent the FIR to the Revenue Divisional Officer and copies to the Valliyoor Deputy Superintendent of Police through Thiru.Subramanian, Head Constable 899, for further course of action.

(g) P.W.17, Tmt.Paji Payaraj Rohini Ramdoss, deposed that when she was working as Sub Collector, Cheran Mahadevi, after receipt of the FIR had gone to the place of occurrence, on 01.02.2013 at about 10.30 hours and conducted inquest on the dead body and prepared an inquest report under Ex.P11. Thereafter, sent the dead body for postmortem through Thiru.Ramanathan, Head Constable 1844. During inquest, she examined Malliga, mother of the victim, Michael Robinson, the complainant, neighbours viz., Gajendran, Karnan, Mani, Shanthi and



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panchayatdhars Jayaraj, Selvakumar, Muthuraman, Paulmani, Rajan and

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recorded their statements. In her report, she opined that accused used to create problem with the deceased by demanding dowry often led to quarrel and the deceased would have died due to demand for dowry.

(h) P.W.18, Thiru.Stanly Jones, Deputy Superintendent of Police, took the file for investigation and on 01.02.2013 went to the place of occurrence at about 6.30 a.m. in the presence of witnesses, Jayaselvan and Jayaram, prepared observation mahazar Ex.P4 and rough sketch Ex.P.12.

(i) He examined the witnesses, Michael Robinson, Samuvel Nadar @ Swami Nadar, Malliga, Gajendran, Esakkiammal, Selvi, Jayaram and Jaya Selvan and recorded their statements. Since the deceased died within seven years of marriage, Cheran Mahadevi, Sub Collector conducted inquest on the dead body.

(j) On 02.02.2013, he also examined Muthaiah, Paulmani, Muthuraman, Rajan and recorded their statements. In his examination, it



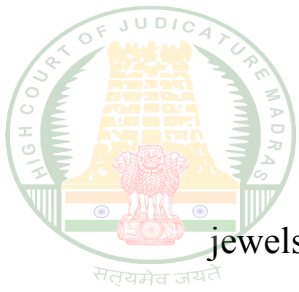
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was revealed that the deceased had committed suicide due to demand of dowry, at about 7.30 hours he had arrested the accused and sent to judicial custody. Thereafter, he altered the section of law under section 304(B) IPC under Ex.P13 and send the same to the concerned Judicial Magistrate.

(k) On 03.02.2013, he examined the witnesses, Selvakumar, Fr.Abraham Selvaraj, Jayammalar and recorded their statements and obtained the Marriage Registration Certificate which was produced by Fr.Abraham Selvaraj.

(l) He also examined Thiru.Manoj Kumar, Sub Inspector of Police, Head Constable Thiru.Ramanathan and recorded their statements. He examined P.W.15 Tmt.Judy, Inspector of Police who had examined the complaint in C.S.R.No.213/2012 on the file of All Women Police Station, Valliyoor and received connected documents.

(m) On 19.02.2013, he examined P.W.13 Thiru.Ashokan, Assistant Manager, Tamil Nadu Mercantile Bank, Valliyoor, in which the



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jewels of the deceased was mortgaged. He examined Mrs.Stella, the Officer of BWDA Finance Ltd., (BFL) Panagudi and recorded her statement and came to know that the deceased Raksha Rajabai, had repaid a sum of Rs.50,000/- in the loan obtained by her husband and received the statement produced by the said witness under Ex.P14.

(n) On 25.03.2013, he examined P.W.11 Dr.Sridharan. Dr.Sridharan, who had issued the postmortem report under Ex.P6 and final opinion under Ex.P7 and described the injuries on the dead body as follows:

“APPEARANCE FOUND AT THE POST MORTEM:

Moderately nourished body of a female. Finger and toe nails blue.

An incomplete oblique ligature mark of size 29 x 3cm seen in front and sides of neck with a gap of items in between the ends. The ligature mark lies 9 cms below right ear, 8 cm below chin and 7cm below left ear and 9 cm above supra sternal notch. The skin at the ligature mark is dark in colour and hard in consistency. On bloodless dissection of neck underlying soft tissues appears pale and there is no



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extravasation of blood in the surrounding soft tissues.

OTHER FINDINGS:

Heart: Tardieu spots seen over surface, coronaries vessels: patent.

Hyoid bone: Intact.

Stomach: Contains 200gms of partially digested cooked rice particles, no specific smell and mucosa congested.

Lungs: Tardieu spots seen over surface, c/s congested.

Liver, Spleen & Kidneys: normal, c/s congested.

Brain: surface vessels are prominent, petechial haemorrhage over surface, c/s congested.

Small intestine: Contains 100gms of partially digested cooked rice particles, no specific smell and mucosa congested.

Bladder: empty.

Uterus: normal, c/s empty, right ovarian cyst present.

Viscera preserved for chemical analysis.

Death would have occurred 12 to 24 hours prior to postmortem examination.

OPINION AS TO THE CAUSE OF DEATH:

RESERVED, PENDING CHEMICAL ANALYSIS REPORT.”



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In his final opinion Ex.P7, he stated that

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“the deceased would appear to have died due to Asphyzia due to ante mortem hanging.”.

(o) P.W.18, the Investigating Officer, deposed that on 25.03.2013 he examined P.W.17 Tmt.Paji Payaraj Rohini Ramdoss. Sub Collector, Cheran Mahadevi, and recorded her statement. On 12.04.2013, he examined P.W.12 Tmt.Kala Lakshmi, Forensic Officer and recorded her statement.

(p) On 07.08.2013, he completed the investigation and filed final report/charge sheet against A1 to A3 accused for the offence under sections 406, 304(B) IPC and section 4(B) of TNPWH Act, 1998.

3. On receipt of the records, the Judicial Magistrate, Valliyoor took up the case in P.R.C.No.36 of 2013 and issued summons to the accused. After appearance of the accused, copies of all the entire records were furnished to him free of costs under Section 207 Cr.P.C.



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4. Since the offence was exclusively triable by the Sessions

Court, the learned Judicial Magistrate committed the case records to the Principal District and Sessions Judge, Tirunelveli, under Section 209(A) Cr.P.C. for further action.

5. The Principal District Judge, Tirunelveli received the case records, numbered it as S.C.No.144 of 2014 and made over it to the Sessions Judge, Mahila Court, Tirunelveli for disposal according to law.

6. After receipt of the case records, the learned Sessions Judge, Mahila Court, Tirunelveli, framed charges against A1 to A3 for the offence under Sections 304(B) IPC section 4(B) of TNPWH Act, 1998. The charges were read over and explained to the accused. The accused denied the charges and claimed to be tried. Therefore, the case was posted for trial.

7. In order to prove the case of the prosecution, on the side of the prosecution, P.W.1 to P.W.18 were examined and Ex.P1 to Ex.P14 were marked. Material Objects M.O.1 was produced. On the side of the accused, no witness was examined.



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8. After full trial, the trial Court acquitted A2 and A3 from the charges and convicted the appellant/accused No.1, for the offence punishable under Section 304(B) IPC and section 4(B) of TNPWH Act, 1998 and sentenced him to undergo imprisonment for life and to pay a sum of Rs.50,000/- in default, to undergo one year simple imprisonment for the offence under Section 304(B) IPC and sentenced to undergo imprisonment for life and to pay a sum of Rs.50,000/- in default, to undergo one year simple imprisonment for the offence under Section Section 4(B) of The Tamil Nadu Prohibition of Harassment of Women Act, 1998, against which, the present Criminal Appeal has been filed on the following among other grounds:-

(i) That the trial Court cannot apply two different yard stick, in the appreciation of evidence, both oral and documentary, one set, as against the appellant and the other set as against A2 and A3, whereas, the appreciation of evidence, ultimately holding in favour of A2 and A3 clearly applies to the appellant as well.

(ii) That the trial Court has not at all considered the evidence of P.W.5 to P.W.8, though, they were treated as hostile witnesses, as against



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the settled law that the evidence of the hostile witnesses also ought to be considered.

(iii) That the trial Court ought to have seen that the disputes in between the appellant and his wife the deceased are only on account of the financial loss sustained by the appellant, and not on account as spoken to by the entrusted witnesses P.W.1 to P.W.3.

(iv) That the trial Court ought to have held that the prosecution has not made out any case as against the appellant on the charges levelled and framed as against him and consequently should have acquitted the appellant.

(v) That the trial Court failed to consider that there is no provision even under Section 4(B) of TNPHW Act, for the imposition of the sentence with imprisonment of life, whereas, even the maximum imprisonment could only be for the imprisonment for a term which may extend to 10 years, but the imposition of the sentence to undergo imprisonment of life is equally without any power or jurisdiction.



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(vi) That the trial Court failed to consider that absolutely there is

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no explanation as to why, there is no reference to the alleged acts of cruelty committed by the appellant, even in a short version, ultimately leading to the alleged suicide committed by the deceased Raksha Rajabai, only on account of the cruelty committed by him by demanding dowry and hence, the judgment of the trial Court is liable to be set aside.

9. The learned Additional Public Prosecutor appearing for the respondent states that since the deceased filed a complaint against the accused regarding dowry harassment and cruelty, the mortgaged jewel receipt and repayment of loan amount by the deceased proved that the deceased's jewels were mortgaged at the instigation of accused and she paid the loan borrowed by accused. The children are still in the custody of the complainant. Soon after the occurrence the accused absconded. The prosecution proved the case beyond all reasonable doubt. He submitted that there was no need to interfere with the judgement of trial Court and prayed for dismissal of the Criminal Appeal.

10. Heard the learned counsel on either side and perused the materials available on record.



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11. Now this court has to decide whether the judgement rendered by trial Court is proper or liable to be set aside.

12. Section 113 B – Indian Evidence Act, deals with

Presumption of dowry death will be on the proof of the following essentials:

The question before the Court must be whether the accused had committed the dowry death of a woman (means that the presumption can be raised only if the accused is being tried for the offence under section 304(B)IPC

a)The woman was subjected to harassment by her husband, his relatives,

b) Such cruelty and harassment was for, or in connection with, demand for dowry

c) For such harassment was soon before the death

Essential ingredients of Section 304(B) of IPC reads as follows :

1. The death of a woman must have been caused by any burns or bodily injury or must have occurred otherwise than under normal circumstances.



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2. Such death must have been occurred within seven years of her marriage

Soon before her death, she was subjected to cruelty or harassment by her husband or a relative of her husband

Such cruelty and harassment must be in connection with the demand of Dowry and

Such cruelty is shown to have been meted out to the woman soon before her death.

13. Section 4 of Dowry Prohibition Act as follows :

“4. Penalty for demanding dowry.— If any person demands, directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.



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14. It is not in dispute that the deceased is the wife of A1, the marriage between the deceased and A1 was solemnized on 07.09.2009 and she died on 01.02.2013, within seven years of marriage.

15. Explanation,-for this section, dowry shall have the same meaning as in section 2 of the Dowry Prohibition Act 1961.

Who-so-ever Commits. Dowry death shall be punished with imprisonment for a term which shall not be less than seven years, but which may extend to imprisonment for life.

Definition of dowry :

Dowry means any property or valuable security given or agreed to be given either directly or indirectly -

(a) by one party to a Marriage to the other party to the marriage; or

(b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person,

at or before or any time after the marriage in connection with the marriage of the said parties, but does not include dowry or Mahr in case of a person to whom the Muslim Personal Law (Shariat) applies



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Explanation for the removal of doubt, it is hereby declared that any presence made at the time of marriage to either party to the marriage in the form of cash, ornaments, clothes, or articles, shall not be deemed to be dowry within the meaning of this Section, unless they are made as a consideration of the marriage of the said parties.

Explanation II. The expression “valuable security” has the same meaning as in Section 30 of IPC.

E.Meaning of cruelty

Any willful contact, of such a nature as is likely to drive a woman to commit suicide or to cause grave injury or danger to life, limb or health or;

Harassment of women, abusing, insulting or otherwise harming one in regular works is leading to is to coerce her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such

Section 103B of the Evidence Act is also relevant to the case at hand. Both section 103B of the Indian Evidence Act and 304B of the Indian penal code were inserted by the Dowry Prohibition Act 43 of 1986 with a view to Kardi dowry death



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16. Section 113B of Indian Evidence Act reads as follows :

Section 113B – Presumption as to dowry death -

When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.

Explanation. - For the purpose of this section, "dowry death" shall have the same meaning as in Section 304-B of Indian Penal Code.

17. The court has to decide whether the deceased was subject to cruelty or harassment by her husband and his relatives whether such cruelty or harassment was for or in connection with the demand for dowry, and whether the cruelty or harassment was soon before her death.

18. Though charges were framed against A1, husband A2 mother of the accused, A3 sister of the accused, A2 and A3 were acquitted of from all the charges, against which no appeal has been preferred by the State.



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19. In the instant case, the record reveals that on the date of occurrence, the deceased was found hanging in her matrimonial home, where she was living with her husband, but the complaint made by none other than the brother of the victim not by the accused.

20. During the trial, the evidence of family members, viz, mother, brother, and sister, clearly stated that the deceased was cruelly treated by the accused who was in the habit of demanding dowry, chased her from the matrimonial home to her parents home. The continuous cruelty and harassment were not only spoken by the family members, but the deceased herself made Complaint on 25.06.2012 before the Valliyoor All Women Police Station, describing the cruelty, demand of money and harassment meted out to her by the accused.

21. On careful perusal of the entire records, the prosecution case that unfolded from the evidence of P.W.1 to P.W.18 is as follows:

(i) The categorical statement of the complainant, brother of the deceased who was examined as PW1. He deposed that during the



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year 2009, his sister married the appellant/A1 at Rosmiapuram CSI church. For the marriage, she was provided with 50 sovereigns of gold jewels and cash Rs.1-1/2 lakhs as sridhana. At the time of marriage, A1 run a furniture shop in Sholinganallur at Arakkonam. After the marriage, she was living with her husband and in-laws. A1 suspected her fidelity and treated her cruelly. The same was narrated by her sister through phone. Her sister was staying with the accused for 1-1/2 years at Chennai. Thereafter, her sister, the deceased, her husband A1, her mother-in-law, had come to the their native place Thalavaipuram. Thereafter, sister's husband was not employed anywhere. Her sister's some of the jewels were sold and spent money for drinking alcohol. He has not spent any money for the family expenditure. His father alone helped by providing monthly provisions. A3 took the food cooked by her sister, both A2 and A3 assaulted her sister. Her sister the deceased used to call him over phone and narrated everything by weeping. The distance between the residence of the complainant and her sister is 5 k.m. Soon after her sister came to Thalavaipuram, she became pregnant. A1 took the remaining jewels and spent lavishly. Therefore, due to the above, her sister tried to commit suicide but the complainant and his family saved her life.



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(ii) After discharge from the hospital, they made her sister to stay in his residence. She became pregnant for the second time. A1 had gone to Trichy. After delivery of the second child, her husband came to Thalavaipuram. His parents had a peace talk with A1 and sent her to her matrimonial house. Within a month, A1 sold the jewels belonging to the deceased and consumed alcohol. Again problem started. Her sister lodged complaint against the accused before Valliyoor All Woman Police Station. The complaint has been marked as Ex.P1. The Police called her sister and the accused. The accused had undertaken that he would not create any problems. The Police sent her sister with the accused to Thalavaipuram.

(iii) After two months, A1 went to Chennai for employment, his father alone looking after both the deceased and the children. Both A2 and A3 treated her sister cruelly and assaulted her, inflicting injury on her left ear. She went to hospital at Madurai and took treatment. Thereafter, past three months she was staying with her children in their residence, till 10 days before her death. A1 came to the residence and assured her that he would not create any problem and took her sister to



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his residence. Again they demanded money which was stated by his sister. She was continuously harassed by the accused. The accused took the complainant's two-wheeler and tried to sell the same. The deceased sister called him and informed him that the accused was going to sell his bike. They had gone to his house to bring back the bike, her sister informed them that her husband had a quarrel and left the place. Thereafter, they went and collected the bike from the accused on the same day at about 11.15 hours. Thereafter, her sister contact his father twice on his phone, he did not attend the call as he slept. At about 12.30 hours A1 called him and informed that his sister was hanging in the upstairs. Immediately he had gone to his sister's house but the accused and his mother was not found in the house. His sister was found hanging, the children were crying in the house. Immediately he contacted his father and informed him about the same. His father and other relatives had come to the house at about 2.30 a.m. Thereafter, he had lodged a complaint. He was enquired by the Sub-Collector and the Inspector of Police. His sister committed suicide due to the harassment meted out to her by her husband and other accused. A1 sold her jewels, assaulted her and treated her with cruelty, also demanded a sum of Rs.1,00,000/- as dowry. His father died on 10.05.2015. His sisters'



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children are staying with him. Recently, A1 contacted him over phone and threatened him.

(iv) P.W.2, Tmt.Malliga, mother of the deceased also corroborated the evidence of PW1. P.W.3, Ms.Ramona Jeyamalar, sister of the deceased also supported the evidence of P.W.1 and P.W.2.

(v) PW4, PW5, PW6 are neighbours of deceased did not supported the prosecution case, turned hostile, cross examined by the prosecution

(vi) P.W.7, Thiru.Jeyaselvan deposed about the preparation of observation Mahazar and rough sketch by the investigating officer

(vii) P.W.8 Thiru.Muthaiah, neighbour of the deceased deposed that deceased compelled the accused to register the house of A1 in her favour, since A1 refused to execute a deed in favour of the deceased, both had problem. He is not known the real cause of death of the deceased.



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(viii) P.W.9 Thiru.Ramachandran did not support the prosecution case and turned hostile

(ix) P.W.10, Fr.Abraham Selvaraj deposed about the marriage between A1 and the deceased, he produced the Marriage Registration Certificate Ex.P.5

(x) P.W.11 Dr.Sridharan deposed about the postmortem, and injuries sustained by the deceased, he stated that there is no poison substance found in the viscera.

(xi) P.W.13, Thiru.Asokan, Assistant Manager, Tamil Nadu Mercantile Bank Ltd., deposed that deceased Raksha Rajabai pledged 36 gms of gold jewels and borrowed a sum of Rs.65,000/- as loan. The letter issued by him is marked as Ex.P.9.

(xii) P.W.14 Thiru.Ramanathan, Special Sub Inspector of Police spoke about the postmortem, handing over of viscera, and



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recovered the dresses from the dead body of deceased.

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(xiii) P.W.15, Tmt.Judy, Inspector of Police Valliyoor All Women Police Station stated that deceased lodged a complaint against A1 about the dowry demand, pledging her jewels for housing loan, and also stated that she was chased from her matrimonial home. On receipt of the complaint, both the husband and wife were summoned to the Police station and counselling them, A1 admitted guilt and assured that he would not commit the mistake again. The deceased Raksha Rajabai also accepted and requested to not to take any action against her complaint/statement and therefore, it was recorded. The complaint was closed. Subsequently, she learnt that she committed suicide on 13.02.2013.

(xiv) P.W.16, Thiru.Manoj Kumar, Sub Inspector of Police deposed about the preparation of FIR and handing over the same to the Revenue Divisional Officer and copies to the Valliyoor Deputy Superintendent of Police for appropriate action.



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(xv) P.W.17 Tmt.Paji Payaraj Rohini Ramdoss, Sub

Collector, Cheran Mahadevi, deposed about the inquest on the dead body and preliminary investigation. Based on enquiry she opined that due to dowry harassment the deceased would have committed suicide.

(xvi) P.W.18, Thiru.Stanly Jones, Deputy Superintendent of Police deposed about the investigation, arrest, confession, recovery and laying of final charge sheet.

22. The marriage between A1 and deceased was solemnized on 07.09.2009. Ex.P5, the marriage certificate issued by the Church Authority proved the same. The charge against A1 is that he demanded money and also cruelly treated the victim, Tmt.Raksha Rajabai. Ex.P1 is the complaint lodged by the deceased Raksha Rajabai on 25.06.2012 in the Valliyoor All Women Police Station, in which, she clearly stated that at the time of marriage, a sum of Rs.1,50,000/- was received by the accused family. Thereafter, 50 sovereign gold jewels and sridhana articles worth about Rs.75,000/- were provided to the deceased for her



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marriage. Within two months from the date of marriage, A1 taken her jewels and pledged the same in Muthoot Bank, thereafter, he assaulted her. He further demanded a sum of Rs.2,00,000/- and chased her parental home. Again, he came to her house on 26.06.2012 and created problem, continuously demanding money.

23. P.W.15 Tmt.Judi, Inspector of Police, clearly stated that the deceased women had lodged the above complaint which was registered in CSR No.213/12. She further stated that she called both husband and wife and counselled them. At that time, A1 admitted his wrong and assured that he would not create any problem in future, and the deceased, Raksha Rajabai also consented to go with her husband. She closed the file. The above complaint shows that the victim was subject to cruelty in the hands of the accused by demanding dowry.

24. Ex.P2 is the complaint given by the brother of the deceased in which, he has not stated anything about the demand of dowry, but it was contended that accused used to consume alcohol, and therefore both had problem. His sister was staying in their house, the accused came and taken her to his house on 31.01.2013. In the midnight



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at about 12.50 hours A1 contacted and informed him that she died due to

hanging.

25. In his chief examination, he had elaborately stated about the cruelty meted out to his sister, his evidence was corroborated by P.W.2-mother of the deceased, P,W,3 sister of the deceased.

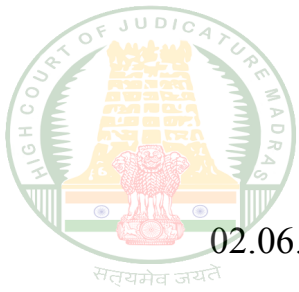
26. P.W.17 Tmt.Pajikarai Rohini Ramdas, Sub Collector conducted inquest on the dead body on 01.02.2013, she examined P.W.1, P.W.2, neighbours, Selvi, Gajendran, Karnan, Mani, Shanthi and Panchayadhars Selvakumar, Jayaraj, Muthuraman Paulmani and Rajan. The inquest report has been marked as Ex.P 11. In the statement, P.W1 and P.W.2 clearly stated that the accused demanded money and harassed her. He was in the habit of consuming alcohol roaming around the village without any employment. On the date of occurrence also, they had a problem. Apart from the relative, independent witness who were, neighbours also stated that the accused created problem with the deceased by demanding money, he used to consume alcohol and cruelly treated the victim. Based on their evidence, the Sub Collector clearly stated that the accused quarrelled with his wife after consuming alcohol



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and demanded money, and the reason for the death may be due to demand of dowry. She further stated in her report that the accused absconded soon after the incident.

27. A1 was arrested on the next day of the occurrence i.e., on 02.02.2013 at about 7.30 PM by the Investigating Officer P.W.18. Ex.P9 is the letter issued by Tamil Nadu Mercantile Bank Limited, showing that the deceased pledged her chain 36 gms. for a sum of Rs.65,000/- on 10.09.2012. In Ex.P1 complaint the deceased categorically stated that the accused repeatedly demanded money. The Inspector of Police, All Women Police Station, Valliyoor, clearly stated that she called both of them and A1 admitted his wrong and assured that he would not repeat the same, which was admitted by the deceased. P.W.9 shows that three months after the complaint, pledged her jewels for a sum of Rs.65,000/-. On 10.09.2012, the deceased remitted a sum of Rs.50,000/- for the payment of the loan, which proves that the deceased after pledging her jewels through Ex.P9 repaid the loan borrowed by the accused on the same day. Ex.P14 shows the details of the loan derived by the accused from BWDA Finance Limited at Panagudi shows that the accused borrowed a sum of Rs.1,50,000/- from the above Finance Limited on



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02.06.2011 by mortgaging the property situated in survey No.441 /3B3.

Therefore, the demand of dowry by the accused and harassment meted out to the deceased was established by the prosecution.

28. As per the appellant's counsel, it is the deceased alone compelled the accused to transfer the property in her favour. However, the evidence proved that the accused mortgaged the property for which she had pledged her jewels and paid the instalment. It infers from the above that because of the insistence of the accused, the deceased pledged her jewels, out of the said money, she paid a loan borrowed by the accused. If the accused is capable of spending money, he need not make her to pledge her jewel.

29. Further, PW1 was examined on 03.05.2016 and 22.09.2016 but he was cross-examined only on 04.07.2018 one year and eight months from the date chief examination. P.W.2 and P.W.3 were examined on 16.11.2016, cross-examined only on 29.06.2018. During cross-examination, the only defence put forth by the learned counsel for the appellant is that the deceased kept on insisting the accused to transfer his property in her favour and due to stomach ache, she committed



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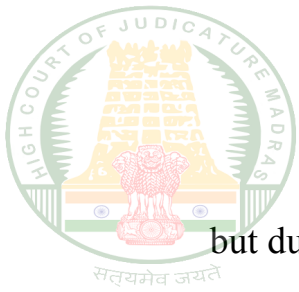
suicide for which there is no proof.

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30. Further, the conduct of the family members of the accused assumes importance. Soon after the occurrence, the accused did not make any complaint, PW1, brother of the deceased alone lodged the first information report, based on the FIR investigation commenced.

31. The RDO who had conducted the inquest, examined several witnesses and they stated before her that, the accused did not go for a job and created problem with the deceased by demanding money, and cruelly treated her. Even the learned counsel for the appellant admitted that the accused was not employed (during cross examination of P.W.2). Therefore, she opined that the deceased may commit suicide due to the demand of dowry and harassment.

32. The cogent evidence of the P.W.1 to P.W.3, supported by the inquest report, clearly proves that the accused demanded money and harassed the deceased. P.W.1 to P.W.3 clearly stated that due to constant harassment of the accused, previously she attempted to commit suicide,



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but due to the timely intervention and treatment, she survived.

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33. Apart from the above the deceased, herself complained about the accused that the accused harassed her and cruelly treated her, in Ex.P1.

34. The learned counsel for the appellant further argued that except PW1 to PW3, no other independent witnesses supported the prosecution version. The prosecution indeed examined several witnesses other than family members who were residing in the neighbourhood.

35. We cannot disbelieve the statement of PW1 to PW3, who are the family members.

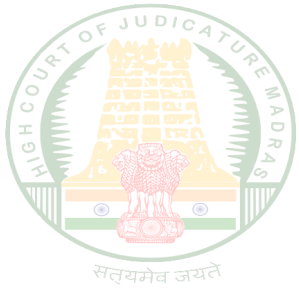
36. The learned counsel for the appellant is not in a position to prove that the evidence of the above witnesses is unreliable. Neighbours' testimony can indeed be helpful, in proving cruelty and dowry harassment, the lack of neighbours' statements does not automatically make the prosecution case, weak or fatal.



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37. In the judgement rendered in *Ilangovan versus the State of Tamil Nadu, rep. by Inspector of Police* reported in 2020(10), SCC 533 held that 'it is settled law that testimony of related or an interested witness can be taken into consideration after scrutinizing such evidence that there is nothing available to disbelieve their evidence.'

38. On careful scrutiny of the entire evidence and documents proved that the deceased was treated with cruelty by her husband, A1, who harassed her continuously by demanding dowry, soon before the death, she was subject to harassment, and induced to commit suicide. Despite this, the cruelty meted out to her, she attempted to commit suicide previously, but the family members saved her. However, the accused did not stop, continuously treated her with cruelty and also demanded money without going to any employment, the victim did not tolerate, the continuous cruelty and harassment decided to end her life, and committed suicide, the accused without trying to save her life, absconded from the place of occurrence. Till now the children are in the custody of the family members of the deceased.



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39. On careful perusal of entire records, we conclude that

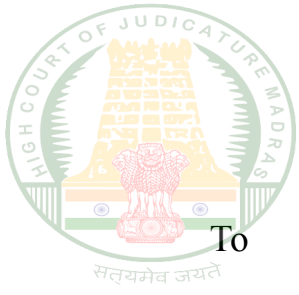
there is no material available to interfere with the judgment of the trial Court. The Criminal Appeal has no merit and hence, the Criminal Appeal is liable to be dismissed.

40. Accordingly, the Criminal Appeal stands dismissed and the judgment passed in S.C.No.144 of 2014 on the file of the Sessions Judge, Mahila Court, Tirunelveli, dated 29.12.2020 is hereby confirmed. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) & (R.P., J.)
26.02.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No

RM

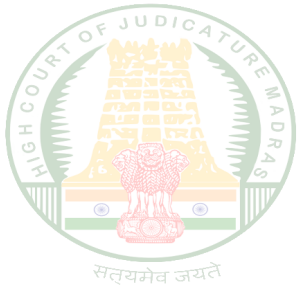


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To

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- 1.The Sessions Judge,
Mahila Court,
Tirunelveli.
- 2.The The Deputy Superintendent of Police,
Valliyoor Sub Division,
Panagudi Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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CrI.A(MD)No.137 of 2021

G.R.SWAMINATHAN, J.
AND
R.POORNIMA, J.

RM

Judgment in
CrI.A(MD)No.137 of 2021

26.02.2025