



Crl.A(MD)No.1 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED : 29.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.A(MD)No.1 of 2018

1.N.Arumugam
S/o Neelamegam

2.N.Muthuramalingam,
S/o Neelamegam.

... Appellants

Vs

State of Tamil Nadu
Represented by
The Inspector of Police,
Sikkal Police Station,
Ramanathapuram District.
Crime No.16 of 2013.

... Respondent

PRAYER: Appeal filed under Section 374 of Criminal Procedure Code, to call for the records pertaining to the judgment passed by the learned Principal District and Sessions Judge cum Fast Track Mahila Court, Ramanathapuram in S.C.No.71 of 2014, dated 06.12.2017.

For Appellants : Mr.Shanmuga Sundaram for
Mr.W.Pamelin

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



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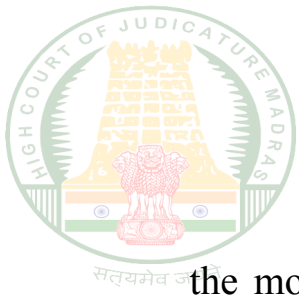
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J U D G M E N T

The appellants are the accused 1 & 2 in SC No.71 of 2014 on the file of the Principal District and Sessions Court (FTC Mahila Court), Ramanathapuram. They were tried for the offence under Section 306 IPC and the trial Court, by its judgment, dated 06.12.2017 found both the appellants guilty for the offence under Section 306 IPC and convicted, sentenced them to undergo 10 years rigorous imprisonment with fine of Rs.25,000/-, each, in default, they have to undergo one year rigorous imprisonment. Challenging the judgment of conviction, the appellants have filed this Criminal Appeal in the year 2018.

2.The brief facts of the case of the prosecution in a nutshell is as under:-

The deceased Chamundeeswari had committed suicide in her matrimonial home, by pouring kerosene on 04.04.2013 at about 6.30 a.m., The second appellant is the husband of the deceased and the first appellant is her mother-in-law. PW 1/the defacto complainant is



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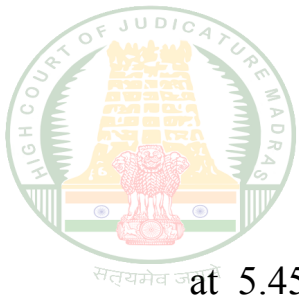
the mother of the deceased. The marriage between the deceased and the second appellant was solemnized on 29.06.2012, nine months prior to the occurrence. At the time of marriage, the deceased was studying Nursing course in Chennai and the second appellant/the husband of the deceased was working at Dubai. Both the families are relatives. The mother of the deceased was residing in the neighbouring village, namely, Deivadanampatti, which is 1 km away from the appellants' Village, namely, Senkarpadai. After the marriage, the deceased and A2/second appellant lived together for a period of 20 days. Thereafter, the second appellant left to Dubai. A1 /the mother-in-law of the deceased was abusing the deceased that she is not responsible, she is wasting groceries and not doing any household work. Therefore, both of them were in a constrained relationship, due to which, the deceased left her matrimonial home and started living along with her mother. On knowing that, A2 returned from Dubai on 31.03.2013 and went to the defacto complainant's house, called his wife to the matrimonial home, however, she refused to go with A2 and on the advice of the PW4 Udayar, her close relative, she returned to the matrimonial home. The



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first appellant left to Madurai on 03.04.2013 to attend funeral of her relative. In the early morning hours of 04.04.2013, the deceased requested the second appellant to get some milk and therefore, the second appellant has also left the house and in fact, at the time of occurrence, both A1 and A2 were not available in the house. While so, the deceased set on ablaze by pouring kerosene at about 6.30.a.m., On seeing the smoke, PW 9/ the neighbour went to the house, extinguished the fire and attempted to rescue the deceased. However, the deceased sustained 100 % burn injuries. When the second appellant, who came to the house after buying milk and on seeing the incident, he had fainted. PW 1 was informed by the Panchayat President of Senkarpadai Village and immediately, she went to the place of occurrence along with PWs 3 & 8. The service of 108 Ambulance was also called, however, the Ambulance Personnel declared that the deceased was dead. Therefore, PW 1 has lodged a complaint before the respondent police on 04.04.2013 at 11.30 a.m and the same was registered in Crime No.16 of 2013, under Section 174 of Cr.P.C., The deceased was taken to the hospital on 04.04.2013



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at 5.45 p.m and the Revenue Divisional Officer has conducted an inquest on 05.04.2013 from 3.00 pm to 9 p.m. Post mortem was also conducted on 05.04.2013 at 4.50 pm. The doctor, who has conducted the post mortem noted down that the deceased suffered Grade II to III degree burns, seen all over the body and therefore, the injuries sustained by the deceased were 100% burn injuries. He has also given a report that the deceased appears to be died of hypovolemic shock 24 to 36 hours prior to Autopsy. On completion of investigation, the respondent police has filed a final report as against the appellants for the offence under Section 306 IPC and the case was taken on file in S.C.No.71 of 2014.

3.During the trial, the mother of the deceased /defacto complainant, her sister, her cousin brother and another close relative were examined as PWs 1 to 4 respectively. Totally 16 witnesses were examined and 14 documents were marked on the side of the prosecution. On the side of the accused, the doctor, who treated the deceased prior to her death was examined as DW1. Medical history



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and scan reports were marked as Ex.D1 to D4. Material objects M.O.1 to M.O.4 were also marked. The appellants /accused were questioned under Section 313 of Cr.P.C., In conclusion of the trial, the trial Court has found the appellants/A1 and A2 guilty for the offence under Section 306 IPC and convicted and sentenced them as stated above.

4.The learned senior counsel appearing for the appellants submits that at the time of occurrence, both the appellants /accused were not in the house. A1 had left the house even on the previous day itself to attend the funeral of her relative. A2 was sent out by the deceased to buy some milk. A2 was in abroad and he has returned just four days prior to the occurrence. The deceased has also returned to the matrimonial home on 03.04.2013 only. The prosecution has not placed any materials that these appellants had induced the deceased to commit suicide. However, the trial Court has wrongly presumed that the deceased was pregnant at the time of occurrence and in view of the harassment made by the appellants, she has committed suicide and convicted the appellants. There is no medical evidence that the

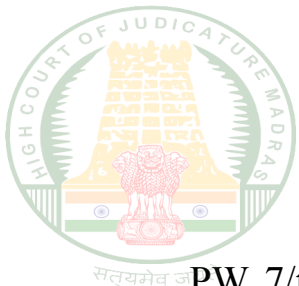


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deceased was pregnant at the time of occurrence. In fact, she was undergoing treatment for certain ailments, which was not disclosed by the prosecution. However, it was elucidated by DW 1, who treated the deceased, prior to her death. According to PW 9, who attempted to rescue the deceased immediate to the occurrence has stated in his statement that the deceased was not in a position to speak anything. However, PW 1/the mother of the deceased had deposed that she has stated something to her that A2 has abused her. There is no possibility of giving any statement by the deceased to PW 1 and other witnesses, at that relevant point of time. However, on frustration that her daughter died by self-immolation, PW1/the mother of the deceased has lodged a complaint.

4.1.The learned Senior Counsel by referring to the evidence of PW 7/ the Revenue Divisional Officer submits that during inquest, PW 1/the mother of the deceased has informed him that she was unable to understand as to what the deceased had stated after the occurrence. Therefore, according to the learned Senior Counsel, both



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PW 7/the Revenue Division Officer and PW 9, the neighbour of the appellants have categorically stated that the deceased was not in a position to speak. However, the entire prosecution case has been projected as if the deceased gave an oral dying declaration to PW 1 and other witnesses PW 2, PW 3 and PW 8, who are the close relatives. In view of the specific admission by PW 7 and PW 9, the statements of PWs 1, 2, 3 and 8 that the deceased has given oral dying declaration to them cannot be accepted.

4.2.The allegation as against the first appellant is that she scolded the deceased that she was not assisting them in agricultural work and using groceries above the required quantity. Insofar as the second appellant is concerned, he abused the deceased when she refused to come with her on 03.04.2013. The evidence of PW 1 has not been supported by PW 2, the sister of PW 1 that she has not canvassed what was transpired in the matrimonial house of the deceased. Similarly, the other evidences of PWs 1, 3, 8 have also deposed that they were unaware of the happenings in the matrimonial house of the



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deceased. There is no substantial evidence to conclude that the deceased was treated with cruelty in the matrimonial home. Admittedly, A2 was employed in Dubai and returned to India only four days prior to the occurrence. Therefore, according to the learned senior counsel, initial burden upon the prosecution to prove the necessary ingredients on 306 IPC had not been satisfactorily proved to invoke the presumption under Section 139 of Indian Evidence Act. There is no consistent, reliable, cogent and trustworthy evidence that the deceased was treated with cruelty by A1 and A2.

4.3.The learned Senior Counsel has also projected the defence theory that the deceased was leading a peaceful life in the matrimonial home with her in laws and she was suffering with bulky uterus and pelvic inflammation disease, resulted in severe stomach ache. The deceased had been taking medical treatment for her ailment, which is appraised by the prosecution witnesses, however, it was substantiated through the defence witness DW 1 and the medical records Exs.D1 to D4. Therefore, according to the learned Senior



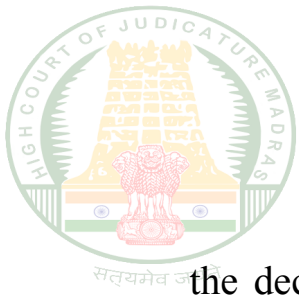
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Counsel, the deceased committed suicide out of frustration and due to unbearable pain. Moreover, the accused has rebutted the presumption by examining the doctor/DW 1 and exhibiting Exs.D1 to D4 medical records. The learned Senior counsel has also relied on the judgment of this Court in CrI.A334 of 2015, dated 21.07.2020 to substantiate his case.

4.4.The learned Senior Counsel has pointed out from the evidence of the Revenue Divisional Officer that there is no demand of dowry and PW 1/the mother of the deceased had admitted that all the jewels were returned by the accused after the occurrence. Therefore, the judgment of conviction is liable to be set aside.

5.In response to the above submissions made by the learned Senior Counsel, the learned Additional Public Prosecutor appearing for the respondent submits that the deceased committed suicide within nine months from the date of her marriage. A2 /her husband went abroad within 20 days, and A1 had harassed the deceased. Therefore,



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the deceased has left the matrimonial home and she had been living along with her mother. A2 returned to India on 31.03.2013 and called the deceased to the matrimonial home, however, she has refused to go with A2. Only after the advice of PW 4, the deceased went to her matrimonial home. A2 has abused the deceased as if she refused to share the bed with him and whether she would share the bed with her brother. It is, in fact, had provoked the deceased to commit suicide. The learned Additional Public Prosecutor has also relied upon paragraphs 63 and 64 of the judgment rendered by the trial Court and submits that the reasonings of the trial Court is proper to convict the accused and it is not a fit case to interfere with the findings of the trial Court. The trial Court, in fact found the accused guilty, based on the evidence of PWs 1, 2,4 and 8 and also under the impression that the victim was pregnant at the time of occurrence. According to the learned Additional Public Prosecutor, a woman, who was in such a condition would never decide to commit suicide and the accused had driven her to commit suicide.



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6.This Court considered the rival submissions made and also perused the materials placed on record.

7.The marriage between the second appellant and the deceased was solemnized only on 29.06.2012, just nine months prior to the occurrence. The second appellant was working in Dubai and the deceased was studying nursing course at Chennai at the time of marriage. It is, in fact, the deceased has not accepted for marriage and she wanted to pursue her nursing course. Her close relative PW 4 has also advised PW 1/the mother of the deceased not to insist her for marriage, when she is interested in her studies. However, PW 1 has compelled her daughter for the marriage, considering this alliance(bridge groom) as a best one.

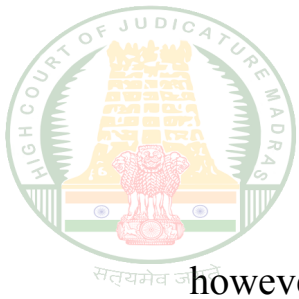
8.The deceased has committed suicide by ablaze by pouring kerosene on 04.04.2013 at about 6.30 a.m., Admittedly, A1 and A2 were not present in the house at the time of occurrence. On seeing the smoke, PW 9, their neighbour extinguished the fire and rescued the



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deceased. Thereafter, it was informed to PW 1/the defacto complainant, the mother of the deceased. As per the medical evidence, the deceased sustained 100% burn injuries. It appears that the service of 108 Ambulance was also availed. The staff of the ambulance refused to take the deceased that she already died. This Ambulance personnel has not been cited as a witness and not examined. Since the deceased died within seven years of her marriage, the case was registered under Section 174 of Cr.P.C. An enquiry by the Revenue Divisional Officer was ordered and PW 7/the Revenue Divisional officer has conducted the inquest on 05.04.2013 from 3.10 pm to 9.00 p.m., The inquest report has been marked as Ex.P.5. During the inquest, PW 7 examined five persons out of which, two persons are from Deivadanampatti Village and three others are from Senkarpadai Village. According to the Revenue Divisional Officer, all the above five persons have stated before him that there was no dispute in her matrimonial house. He felt that there was some misunderstanding between the deceased and A1. PW 1 has stated before the Revenue Divisional Officer that the deceased was trying to say something,

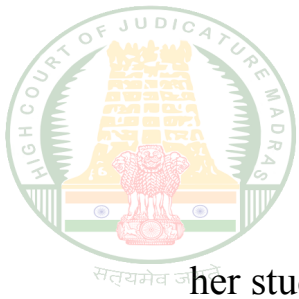


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however, it was not understandable. He also admits that the service of 108 Ambulance was availed immediate to the occurrence. PW 9, the neighbour of the accused house, has confirmed the same. PW 9 is the person, who has rescued the deceased at the time of occurrence and according to him, the deceased was not in a position to speak anything and that 108 Ambulance was called and the Ambulance personnel declared that the deceased was dead and therefore the oral dying declaration projected by the prosecution is doubtful.

9.The prosecution case has been made based on the oral dying declaration given by the deceased to PWs 1, 2, 3 & 8. The possibility of her statement before the witness is doubtful as per the evidence of PW 7/RDO, PW 9. The evidence of PW 4 disclosed that the deceased was not willing for marriage since she was pursuing her nursing course at that time. However, she was forced to accept for marriage by PW1/the mother of the deceased. PW 4 claims that he has advised PW 1 to wait for the completion of her daughter's studies. The available evidence discloses that though the deceased was interested in



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her studies, her mother PW 1 insisted for the early marriage against the advice of PW 4. PW 1 is a single parent and PW 4 is her close relative. Even prior to the occurrence, the deceased was not willing to go along with her husband and only on the advice of PW 4, she went along with her husband. According to PW 4, the deceased died due to the harassments of A1. The harassments according to him is that A1 has abused the deceased that she is wasting the groceries and rice.

10.PW 5, the doctor, who conducted post mortem has observed in the post mortem certificate that the deceased had suffered Grade II to III degree burn injuries all over the body and therefore it is 100 % burn injuries. As per the medical evidence and the evidence of PW 7, who rescued the deceased, there is no possibility for the deceased to speak anything as projected by the prosecution. PW 1 in her statement before the Revenue Divisional Officer admits that the deceased had murmured something, which could not be understood by her. PW 4 her relative has also stated so. While so, the prosecution has projected the case that the deceased had given a oral dying



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declaration that the accused had abused her and therefore, she was driven to the extent of committing suicide.

11. Admittedly, there is no dowry harassment. PW 1 and other witnesses have admitted that there is no demand of jewels and all the jewels were also returned by the accused immediately to the occurrence. A2 had left India within 20 days from the date of marriage and thereafter, he returned to India only five days prior to the occurrence and the deceased went to the matrimonial home only at the previous day night. The deceased was staying with A1 for sometime. It appears that there was some misunderstanding between A1 and the deceased, that too, with regard to the usage of groceries and doing household works. Therefore, the deceased went to her parental home and was residing along with her mother. The cruelty projected by the prosecution is that A1 scolded her daughter in law that she is wasting the groceries. This allegation even assumed to be true, cannot make out a case for abetment, which leads to committing suicide.



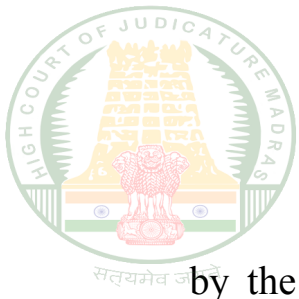
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12. The charge as against the appellant is for the offence under Section 306 IPC and the same reads as under:

“306. Abetment of suicide.—If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

13. Conviction under Section 306 IPC is not sustainable on the allegation of mere harassment without there being any positive action proximate to the time of occurrence on the part of the accused, which led or compelled the person to commit suicide. In order to bring a case within the purview of Section 306 IPC, there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established



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by the prosecution. Words uttered in a fit of anger or without any intention cannot be termed as instigation for committing suicide.

14.The Honourable Supreme Court in catena of Judgments has held that a woman mind can be affected and can react in myriad ways and therefore, each case is required to be dealt with its own facts and circumstances. The Honourable Supreme Court in ***Sanju @ Sanjay Singh Sengar Vs State of M.P***, reported in ***AIR 2002, Supreme Court 1998***, has held as under:-

"Even if we accept the prosecution story that the appellant did tell the deceased 'to go and die', that itself does not constitute the ingredient of 'instigation'. The word 'instigate' denotes incitement or urging to do some drastic or unadvisable action or to stimulate or incite. Presence of mens rea, therefore, is the necessary concomitant of instigation. It is common knowledge that the words uttered in a quarrel or in a spur of the moment cannot be taken to be uttered with mens rea. It is in a fit of anger and emotional. Secondly, the alleged abusive words, said to have been told to the deceased were on 25th July, 1998 ensued by quarrel. The deceased was found hanging on 27th July, 1998. Assuming that the deceased



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had taken the abusive language seriously, he had enough time in between to think over and reflect and, therefore, it cannot be said that the abusive language, which had been used by the appellant on 25th July, 1998 drove the deceased to commit suicide. Suicide by the deceased on 27th July, 1998 is not proximate to the abusive language uttered by the appellant on 25th July, 1998. The fact that the deceased committed suicide on 27th July, 1998 would itself clearly pointed out that it is not the direct result of the quarrel taken place on 25th July, 1998 when it is alleged that the appellant had used the abusive language and also told the deceased to go and die."

In yet another judgment in *Prakash Vs the State of Maharashtra*, 2024, SC 1020, the Honourable Supreme Court has held:-

22. It could thus be seen that this Court observed that in cases of alleged abetment of suicide, there must be a proof of direct or indirect act(s) of incitement to the commission of suicide. It has been held that since the cause of suicide particularly in the context of the offence of abetment of suicide involves multifaceted and complex attributes of human behaviour, the court would be looking for cogent and convincing proof of the act(s) of incitement to the commission of suicide. This Court further observed that a mere allegation of harassment of the



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deceased by another person would not suffice unless there is such action on the part of the accused which compels the person to commit suicide. This Court also emphasised that such an offending action ought to be proximate to the time of occurrence. It was further clarified that the question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused. It was further held that if the acts and deeds are only of such nature where the accused intended nothing more than harassment or a snap-show of anger, a particular case may fall short of the offence of abetment of suicide, however, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. This Court held that owing to the fact that the human mind could be affected and could react in myriad ways and that similar actions are dealt with differently by different persons, each case is required to be dealt with its own facts and circumstances."

15.This Court is of the opinion that the evidence on record does not warrant conviction of the appellants under Section 306 IPC as there is no proximity between the prior incident (the alleged harassment made by the appellants) and the suicide committed by the deceased. In the absence of any such material to prove that there was a provocation or encouragement by the appellants to the deceased to



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commit suicide, the Appellants cannot be held guilty of abetting the suicide by the deceased.

16.In the light of the above discussions,

- i. this Criminal Appeal is allowed;
- ii. the conviction and sentence imposed on the appellants / first and second accused in S.C.No.71 of 2014, dated 06.12.2017 by the learned Principal District and Sessions Judge cum Fast Track Mahila Court, Ramanathapuram are set aside.
- iii. these appellants are acquitted of the charge framed against them and the fine amount, if any paid by them, shall be refunded.
- iv. Bail bonds, if any executed by the appellants shall stand terminated.

29.04.2025

NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

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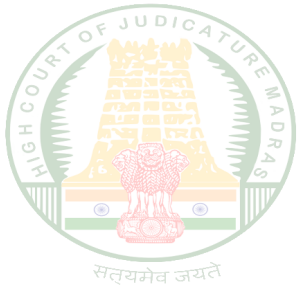
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To
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- 1.The Principal District and Sessions Judge cum Fast Track Mahila Court, Ramanathapuram.
- 2.The Inspector of Police,
Sikkal Police Station,
Ramanathapuram District.

Copy to

- 1.The Record Keeper,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.,

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Judgment made in
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