



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 17.07.2025

CORAM:

THE HONOURABLE Dr.JUSTICE R.N.MANJULA

Crl.A.(MD)No.420 of 2018

K.Senthilkumar

... Appellant

vs.

The State Rep. by
The Inspector of Police,
Subramaniyapuram Police Station,
Madurai.

...Respondent

PRAYER : This Criminal Appeal has been filed under Section 374 (2) of Criminal Procedure Code against the Judgement of the learned Additional Sessions Judge, Mahila Court, Madurai, dated 28.06.2018 in S.C.No.161 of 2012.

For Appellant : Mr.G.Thiruvartselvan

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

J U D G E M E N T

This appeal has been filed challenging the Judgement of the learned Additional Sessions Judge, Mahila Court, Madurai, dated 28.06.2018 in S.C.No.161 of 2012.



2. The appellant is the sole accused who has been found guilty for the offence under Section 306 IPC, convicted and sentenced by the learned Additional Sessions Judge to undergo 5 years RI and to pay a fine of Rs.10,000/-, in default, to undergo 1 year SI.

3. The case of the prosecution as per the records is that the deceased Pandeewari is the wife of the accused whom she married two and half years before the date of occurrence. The accused used to pledge the jewels of the deceased, consume alcohol and quarrel with the deceased by suspecting her character. The accused was not supporting the family with his income. The father of the deceased has found a house and settled the deceased and her husband at a place nearby his house. On 16.09.2009, the deceased had gone to her father's house and at about 10 p.m., the accused called her and asked her to come back with the child, or else, he would not care even if she died. The deceased was disturbed and lamented about the behaviour of the deceased with her father and then left to her house. During that night, the deceased got upset due to the misunderstanding, poured kerosene upon her and immolated herself. Immediately, the deceased was taken to the hospital, but, she succumbed to burnt injuries.



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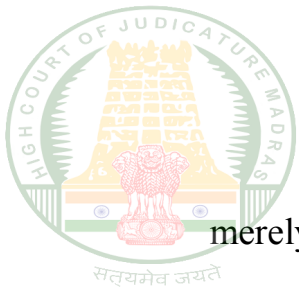
4. Originally a case was registered under Section 174 of Cr.P.C. and thereafter altered to a case under Section 306 IPC. After conclusion of the investigation, charge sheet has been filed against the accused for the offences punishable under Section 306 IPC.

5. After completing the legal mandate of furnishing copies and all other legal formalities, charges have been framed against the accused for the offences under Section 306 IPC. When the accused was questioned, he denied his involvement and claimed to be tried.

6. Before the Trial Court, on the side of the prosecution PW1 to PW20 have been examined and Exs.P1 to P12 have been marked. M.O.1 has been marked. On the side of the accused, no oral or documentary evidence has been marked.

7. After the conclusion of trial, the learned Additional Sessions Judge convicted and sentenced the accused as mentioned supra. Aggrieved over that, the appellant / accused has preferred this appeal.

8. Mr.G.Thiruvartselvan, learned counsel appearing for the appellant submitted that the Trial Court has convicted the appellant



merely on the basis of the evidence of the hearsay witnesses; there is no eye witness to the occurrence; PW1 and PW2 have stated in their evidence that the deceased left just half an hour before the occurrence; something that had happened at the house of the parents of the deceased has not been brought to light; even if the appellant had abused the deceased through phone that would not amount to aiding her to commit suicide; the prosecution had omitted to record the dying declaration of the deceased despite there was time between her admission in the hospital and her death; and without giving any positive action on the side of the appellant to abet the suicide, he has been convicted.

9. Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor appearing for the respondent submitted that the deceased had committed suicide only after she arrived to the house of the appellant where she was subjected to torture and unable to withstand the same, she had committed suicide; PW16 Doctor has stated in his evidence that the deceased was brought to the hospital by her father and that she was conscious; the Doctor further stated that the deceased had given first statement that on 16.09.2009, at about 11.45 p.m., she poured kerosene on herself in view of the quarrel arose between herself and her husband; the Doctor has sent intimation to the Judicial Magistrate for recording



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dying declaration, but, before the Magistrate arrived, she died; Inquest conducted by PW18 Revenue Divisional Officer revealed that the appellant was in the habit of suspecting the character of the deceased and he pledged the jewels of the deceased and there was misunderstanding between herself and her husband; and even the parents of the deceased have stated during the Inquest that the deceased had poured kerosene upon herself and lit fire.

10. PW1 who is the father of the deceased has stated in his evidence that the distance between his house and the house of the deceased was just 10 minutes walk away. He has further stated in his evidence that the appellant had asked her daughter to come home or he would not care even if she died. But, that was not the statement given by PW1 before the Revenue Divisional Officer during his Inquest. Cross examination of PW20 Investigation Officer revealed that PW1 has stated in the complaint that the appellant only had spoken wrongly on the phone. In fact, the sister of deceased was married to the younger brother of the appellant. PW1 has stated in his evidence that marriage between the brother of the appellant and the sister of the deceased was convened by the appellant in the Police Station without the approval of PW1. The above evidence shows that PW1 himself is not happy with the appellant.



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11. PW2, who is the mother of the deceased has stated in her evidence that the appellant was jobless after marriage and it was the parents of the deceased who took care of her family. She has stated that as there are four sisters after the deceased, she did not share much of her ordeals with her parents. PW2 has further stated that on receiving the phone call from the appellant, she went along with the deceased and left her nearby to her house. It is strange that even the mother of the deceased did not intend to go to her own son-in-law's house. During the cross examination, PW2 has stated that no family panchayat was held or no complaint has been given with regard to the alleged family issues between the deceased and the appellant. So, for some reasons, PW1 and PW2 were not happy with the appellant.

12. The appellant had given a statement to the Revenue Divisional Officer where he has stated that for the past 10 days, his wife was at the house of her parents and he was working as a supplier at a hotel at Mandapam run by PW10, who is the brother of PW2.

13. PW10, brother of PW2 has stated in his evidence that the appellant was working in his hotel for 15 days and thereafter, he had gone to Madurai saying that he would bring back his family and settle at



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Mandapam and take care of the hotel. PW10 has further stated that, on the day of occurrence, he had been to Madurai for Diwali purchase and has taken lunch at the house of the appellant and during that time, the wife of the appellant was at her parents house. As PW10 had kept his phone in the house of the appellant and went to the Railway Station, he called the deceased from the phone of the appellant who accompanied him and the deceased assured that she would bring the phone next day when she comes to Mandapam. Later he came to know that the wife of the appellant had died. The evidence of PW10 shows that the appellant had been working in the hotel as a Supplier and the statement of the appellant to the Revenue Divisional Officer also tallies with the evidence of PW10.

14. The owner of the house where the deceased and the appellant were staying has been examined as PW9 and he did not support the case of the prosecution. He just stated that the appellant and the deceased were living happily at his house.

15. None of the prosecution witnesses had given clarity as to what had happened between the deceased and the appellant shortly before the occurrence. Though PW2 has stated that the appellant had abused the



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deceased and shouted that either she should come or die, the said statement was not given to the Revenue Divisional Officer and it was also confirmed by the Revenue Divisional Officer. There may be some dispute or some misunderstanding or quarrel arose between the appellant and the deceased and the deceased would have got frustrated and set fire upon herself. Without any direct act on the part of the appellant to compel the deceased to commit suicide or put her under such circumstances that she had no other go except to commit suicide, it is not fair on the part of the Trial Court to come to the conclusion that it was the appellant who abetted the suicide of the deceased.

16. In the recent Judgement of the Apex Court in **Ayyub and others vs. State of Uttar Pradesh and another reported in (2025) 3 SCC 334**, it is held that even mere words like '**go and die**' are not sufficient to prove that the person abetted suicide. In the said Judgement, the Apex Court had made reference about various Judgements where the position of law of abetment has been settled that intention to aid or abet the deceased to commit suicide is an essential ingredient to attract Section 306 IPC. It is appropriate to extract the relevant paragraphs as hereunder.



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"20. By a long line of judgments, this Court has reiterated that in order to make out an offence under Section 306 IPC, specific abetment as contemplated by Section 107 IPC on the part of the accused with an intention to bring about the suicide of the person concerned as a result of that abetment is required. It has been further held that the intention of the accused to aid or instigate or to abet the deceased to commit suicide is a must for attracting Section 306 IPC [See Madan Mohan Singh vs. State of Gujarat and Another, (2010) 8 SCC 628]. Further, the alleged harassment meted out should have left the victim with no other alternative but to put an end to her life and that in cases of abetment of suicide there must be proof of direct or indirect acts of incitement to commit suicide [See Amalendu Pal alias Jhantu vs. State of West Bengal, (2010) 1 SCC 707 and M. Mohan vs. State, (2011) 3 SCC 626 and Ramesh Kumar vs. State of Chhattisgarh, (2001) 9 SCC 618].

21. These principles have been reiterated recently by this Court in Mahendra Awase vs. The State of Madhya Pradesh, 2025 INSC 76.

22. We find none of the ingredients required in law to make out a case under Section 306 IPC to be even remotely mentioned in the charge-sheet or are being borne out from the material on record. The utterance attributed to the appellants assuming it to be true cannot be said to be of such a nature as to leave the deceased Tanu with no other alternative but to put an end to her life."

17. In the instant case, there is not even a previous complaint given by either deceased or her parents alleging that the deceased was subjected to harassment or torture by the husband of the deceased / appellant. The consolidated evidence of the prosecution witnesses would



show that the deceased might have had some issues with her husband, but, that alone is not sufficient to hold the appellant guilty for the offence of abetting the suicide of the deceased. But, the learned Trial Judge has not applied the principle governing abetment to commit suicide correctly.

18. In view of the above discussions, the Criminal Appeal is **allowed**. The Judgement of the learned Additional Sessions Judge, Mahila Court, Madurai, dated 28.06.2018 in S.C.No.161 of 2012 is set aside. The appellant is acquitted from all the charges levelled against him. The fine amount, if any, paid by him, shall be refunded to him. Bail bond, if any, executed by the appellant shall stand cancelled.

17.07.2025

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To

1.The Additional Sessions Judge,
Mahila Court, Madurai.

2.The Inspector of Police,
Subramaniyapuram Police Station,
Madurai.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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Dr.R.N.MANJULA, J.

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