



*Crl.A.(MD)No.144 of 2017*

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 18.07.2025**

**CORAM:**

**THE HON'BLE DR.JUSTICE R.N.MANJULA**

**Crl.A(MD)No.144 of 2017**

P.Murugesan

... Appellant

Vs

The Inspector of Police,  
Thirmayam Police Station,  
Pudukkottai District  
Cr.No.102/2013.

... Respondent

**Prayer:** This Criminal Appeal Case filed under Section 374 of Cr.P.C to set aside the Judgment and order, dated 18.04.2017 made in SC No.17 of 2015 on the file of learned Sessions Judge, Mahila Court, Pudukottai and allow this appeal.

For Appellant : Mr. P.Aju Tagore

For Respondent : Mr.K.Gnanasekaran  
Government Advocate (Crl.Side)



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### **JUDGMENT**

The present Criminal Appeal has been filed challenging the Judgment of the learned Sessions Judge, Mahila Court, Pudukottai, dated 18.04.2017 made in S.C.No.17 of 2015.

2.The appellant is the sole accused, who has been convicted and sentenced in the following manner:

| S.No. | Provisions under which convicted | Sentence of imprisonment       | Fine amount                                                   |
|-------|----------------------------------|--------------------------------|---------------------------------------------------------------|
| 1     | 498(A) IPC                       | 3 years rigorous imprisonment  | Rs.1,000/- in default to undergo 6 months simple imprisonment |
|       | 306 IPC                          | 10 years rigorous imprisonment | Rs.1,000/- in default to undergo 6 months simple imprisonment |

The sentences were ordered to be run concurrently.

3.The case of prosecution as it appears from the records is that PW1, who is the father of the deceased is a resident of Mullipattikarai Village; The deceased is his daughter, who has been married to the accused before 8 years of the occurrence; the accused was in the habit of consuming alcohol and



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was harassing the deceased; due to that misunderstanding, the deceased had gone to her father's house and was residing there; the defacto complainant compromised and convinced his daughter and sent her back to the house of accused; on 21.09.2013, at about 8:30 p.m., the deceased called PW1 and told him that the accused had manhandled and tortured her by abusing that she should not live; even before PW1 arrived, at about 12 hours, the deceased had committed suicide in the kitchen.

4.As the charge sheet has been filed and the accused denied his involvement, he was subjected to trial. At the conclusion of the trial, the accused was found guilty under Sections 498(A) and 306 and he was convicted and sentenced as stated *supra*.

5.Aggrieved over that, the accused has filed this appeal.

6.The learned counsel for the appellant submitted that there is no material evidence to prove that the appellant instigated the deceased to commit suicide and there is a delay of 6 ½ hours in filing the complaint and registering the FIR; the trial Court has relied on the words of the interested



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witnesses, without seeking for any corroboration of independent witnesses; the accused himself was not present at the time of occurrence and he had gone to the hospital to attend his mother's treatment, but that was not considered by the trial Court; in various decisions of Hon'ble Supreme Court it is held that frequent domestic quarrels alone do not constitute the offence under Section 306 IPC, unless there is a clear intentional aid or instigation; the prosecution has not proved before the Court that there was any demand for dowry or cruelty as defined under Section 498(A) IPC, hence the conviction of the accused should be set aside.

7.The learned Government Advocate (Crl.Side) submitted that PW1, who is the father of the accused has stated about the unhappiness of his daughter due to the harassing habit of the accused; PW6 has also witnessed the harassment made by the accused to his wife in front of the public; he has stated that he had even pacified the accused, but he did not heed; PW7 also corroborated the same; the son of the deceased was eight years old, who has been examined as PW11 and he has stated that his father was in the habit of manhandling his mother and on the day of occurrence, there was a fight in his family and his mother died. As the events proximating suicide of the



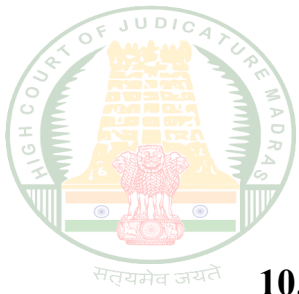
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deceased will show the active involvement of the accused in abetting the deceased to commit suicide, it is right for the trial Court to fix the guilt against the accused under Sections 498(A) and 306 IPC.

8.I have given my anxious consideration to the submissions made on either side and carefully perused the records.

9.The fact that the deceased, Amsavalli was the wife of the accused is not denied. PW1 is the father of the deceased and he has stated in his evidence that the marriage between his daughter and the accused held before eight years from the date of the occurrence. The accused was in the habit of consuming alcohol and every weekend whenever he gets wages, he would consume alcohol and come home just to beat his daughter and that has created frustration in the mind of his daughter. There were frequent quarrels between the husband and wife, therefore, the deceased had come to his house and informed the same. Later, PW1 has pacified the couple and advised them. Thereafter, the deceased was living with the accused.



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**10.**In the complaint given by PW1, he has stated that the accused tortured his daughter. Just before one month of the occurrence, the deceased was sent to the house of the accused at the conclusion of Panchayat which was held to resolve the dispute between the deceased and the accused. On 21.09.2013, the deceased has called her father, PW1 and told him that there was a quarrel at her house and he should come immediately. Even before he reached the house of the deceased, she had committed suicide.

**11.**The brother of PW1, PW2 and brother's wife of the accused, who were also living in one portion of the house have stated that they have also told PW1 about the quarrel that had occurred between the deceased and the accused. His cross examination would reveal that, after consuming alcohol, the deceased used to abuse and harass the deceased.

**12.**PW2, who is the brother of PW1 has also stated in his evidence that there was frequent quarrel between the deceased and the accused and each time, PW1 convinced the deceased to go with her husband. Even though the accused would behave well for some time, he would repeat the same behaviour. On the day of occurrence also, one such episode had happened



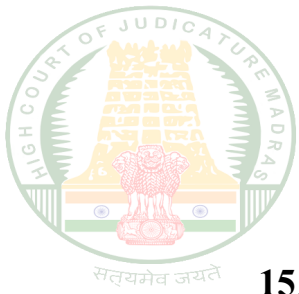
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and the accused fetched up a quarrel with the deceased. The cross examination of PW2 has not brought out anything to falsify his evidence given in chief examination.

13. PW3 is also a relative of PW1, who was aware of the frequent dispute between the deceased and the accused, in view of the alcoholic habit of the accused and the resultant harassment caused to the deceased. PW4 is the sister-in-law of the deceased. She has stated in her evidence that the deceased and the accused were living peacefully and there was no quarrel between them. However, she was treated as hostile. PW6 and PW7, who are the residents of the area have stated in their evidence that they have also seen that the accused had fetched up quarrel with the deceased and they tried to pacify him.

14. The deceased had committed suicide by hanging, shortly after making a call to her father. She has stated that she was subjected to harassment by the accused and that she did not have any other option except to commit suicide. PW7 has also witnessed once when the accused harassed the deceased in front of the public at the street.



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**15.**The Doctor, PW9, who had done the post-mortem on the body of deceased has stated in his evidence that shortly before the death of the deceased there was a skirmish and two injuries found on the body of the deceased could have inflicted before her death. The contusion could have been caused by strangulation and the Doctor has given his opinion on that aspect. PW10, is one of the Panchayadars, who held a Panchayat to settle the dispute between the deceased and the accused and he has stated in his evidence that he had advised the accused not to fetch up quarrel with his wife and to live peacefully.

**16.**The son of the deceased, PW11 has stated in his evidence that on the day when his mother died, there was a quarrel between his father and mother and during that course his father had thrown a stone on his mother. Even though PW11 has stated in his chief examination about the quarrelsome attitude of his father, in his cross examination he has stated that he did not know what had happened that night, as he would have slept early.

**17.**Even without the evidence of PW11, there are sufficient evidence to show that the deceased was subjected to harassment at the hands of the



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accused, who was having the alcoholic habit. The conduct of the accused as narrated by all the witnesses would show that the accused was subjecting the deceased to undergo cruelty at his hands. PW13, Inspector of Police has stated in his evidence that the Panchayat held shortly before the death of the deceased revealed that the accused has subjected the deceased to cruelty.

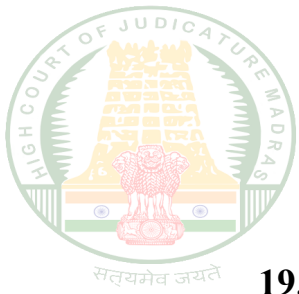
18. According to Section 498(A) IPC, it has to be proved before the Court that the accused ought to have subjected his wife to cruelty of such an intensity or nature that had driven her to commit suicide. For the sake of clarity, Section 498(A) IPC is extracted as under:

***“498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.***

***Explanation.—For the purposes of this section, “cruelty” means—***

***(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or***

***(b) harassment of the woman where such harassment is with a view to coercing 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 demand.”***



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**19.** Though there is no ingredient to show that there was a demand for dowry, there are enough materials to show that the deceased was subjected to physical and mental harassment by the accused. Each time, due to the alcoholic conduct of the accused when the deceased came frustrated, the parents of the deceased convinced her and sent her back with the accused. The very consumption of alcohol itself emboldened the accused to do whatever he liked. Though the complainant had failed to file any complaint before the police, the fact remains that the father and the Panchayatars have pacified the deceased, whenever she came to her parents' house. It is quite possible for the accused to become mad and that could have thrown her into such a despair. Even on the day of occurrence, the deceased called her father and informed him about the quarrel in the family and asked him to come and visit her. The deceased could have waited until the next day till her father arrived. But she had taken a short sighted decision of hanging herself, which is very unfortunate. The very habit of consuming alcohol itself would have allowed the accused to go mad and cause harassment against the deceased. However, the accused does not appear to have abetted his wife to commit suicide.



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20. As regards, the offence under sec.306, there may be an initial presumption as to the abetment, the marriage of the woman committing suicide should have held within 7 years prior to the occurrence and it is to be proved that her husband or relative of her husband had subjected her to cruelty. For the sake of clarity the provision under sec.113 of the Evidence Act is extracted below:

**Evidence Act -113A. Presumption as to abetment of suicide by a married woman. —**

*When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.*

*Explanation.- For the purpose of this section, "cruelty" shall have the same meaning as in [section 498-A](#) of the Indian Penal Code."*

21. In this regard, it is appropriate to cite the judgment of the Hon'ble **Supreme Court** held in **Ramesh Kumar vs State Of Chhattisgarh**, reported in **AIR 2001 Supreme Court 383**. The relevant portion is extracted hereunder:



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*12.This provision was introduced by Criminal Law (Second) Amendment Act, 1983 with effect from 26.12.1983 to meet a social demand to resolve difficulty of proof where helpless married women were eliminated by being forced to commit suicide by the husband or in-laws and incriminating evidence was usually available within the four-corners of the matrimonial home and hence was not available to any one outside the occupants of the house. How-ever still it cannot be lost sight of that the presumption is intended to operate against the accused in the field of criminal law. Before the presumption may be raised, the foundation thereof must exist. A bare reading of Section 113-A shows that to attract applicabilty of [Section. 113- A](#), it must be shown that (i) woman has committed suicide, (ii) such suicide has been committed within a period of seven years from the date of her marriage, (iii) the husband or his relatives, who are charged had subjected her to cruelty. On existence and availability of the abovesaid circumstances, the Court may presume that such suicide had been abetted by her husband or by such relatives of her husband. The Parliament has chosen to sound a note of caution. Firstly, the presumption is not mandatory; it is only permissive as the employment of expression "may presume" suggests. Secondly, the existence and availability of the abovesaid three circumstances shall not, like a formula, enable the presumption being drawn; before the presumption may be drawn the Court shall have to have regard to 'all the other circumstances of the case'. A consideration of all the other circumstances of the case may strengthen the presumption or may dictate the conscience of the Court to abstain from drawing the presumption. The expression - 'The other circumstances of the case' used in Section 113-A suggests the need to reach a cause and effect relationship between the cruelty and the suicide for the purpose of raising a presumption. Last but not the least the presumption is not an irrebuttable one. In spite of a presumption having been raised the evidence adduced in defence or the facts and*



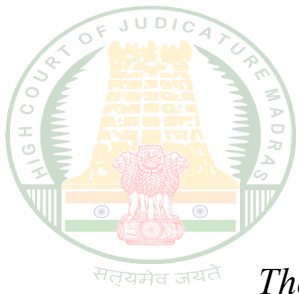
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*circumstances otherwise available on record may destroy the presumption. The phrase 'May presume' used in Section 113-A is defined in [Section 4](#) of the Evidence Act, which says-'whenever it is provided by this Act that Court may presume a fact, it may either regard such fact as proved, unless and until it is disproved or may call for proof of it.'*

22. Since it is proved that the accused was in the habit of consuming alcohol and harassing the deceased and that had caused so much pain in her mind that she had chosen to commit suicide within 7 years of marriage, the presumption as to the offence under sec.306 can be presumed against the accused. But for the presumption to become conclusive, it has to be proved before the court that the accused had abetted the deceased to commit suicide by doing any act amounting to abetment. Before arriving at a conclusion as to the presence of the act of abetment, it is essential to understand what would constitute abetment. In order to understand the position of law on this aspect, I feel it is appropriate to refer to the judgement of the Supreme court held in ***S.S. Chheena v. Vijay Kumar Mahajan***, reported in ***(2010) 12 SCC 190***. For the sake of clarity, the relevant portion of the above judgment is extracted as under,

*“26. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained.*



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*The intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide.”*

23. Though the accused was also present at the time of occurrence, he has neither poured kerosene nor lighted fire on her. The accused did not do any direct act for aiding or assisting the deceased for committing suicide. Just because the accused had told the deceased to go and die, it is not necessary that she should commit suicide. The Doctor, who had conducted the Post-mortem has also confirmed that the deceased could have died due to strangulation. However, the evidence on record does not prove any act of abetment within the meaning of sec.108 I.P.C, committed by the accused, though he had been harassing the deceased due to his alcoholic habits. In view of the above stated reasons, I feel the finding of the guilt against the accused for the offence under sec.498A I.P.C alone has to be confirmed and the finding of the guilt of the accused for the offence under sec.306 is liable to be set aside.



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24. Accordingly, this Criminal Appeal stands partly allowed in the following terms:

- *the conviction and sentence imposed on the appellant under Section 306 IPC are set aside and the appellant is acquitted from the charge under Section 306 IPC;*
- *the conviction and sentence imposed on the appellant under Section 498(A) IPC stand confirmed;*
- *the fine amount of Rs.1,000/-, imposed for the offence under Section 306 IPC is ordered to be refunded to the appellant;*
- *the bail bond executed by the appellant if any, shall stand terminated and the trial Court is directed to take steps to secure the appellant to undergo the remaining period of sentence.*

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NCC :Yes/No

Index :Yes/No

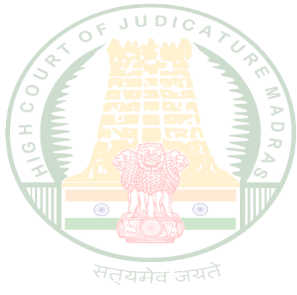
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To

- 1.The Sessions Judge, Mahila Court,  
Pudukottai.
2. The Inspector of Police,  
Thirmayam Police Station,  
Pudukkottai District.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.
- 4.The Section Officer,  
Criminal Record Section,  
Madurai Bench of Madras High Court, Madurai.



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**DR.R.N.MANJULA,J.**

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**JUDGMENT IN**

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