



Crl.A(MD)No.253 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 24.07.2025

CORAM :

THE HONOURABLE Dr. JUSTICE R.N.MANJULA

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Kaviraj ... Appellant/Sole Accused

Vs.

State represented by
The Inspector of Police,
Thiruvudaimaruthur Police Station,
Thanjavur District
(Crime No.85 of 2012)

... Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374(2) of Criminal Procedure Code, to call for the records in S.C.No.250 of 2016 on the file of the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thanjavur, Thanjavur District dated 30.05.217 and acquit the appellant of the charges levelled against him.

For Appellant : Mr.M.Suri
for Mr.N.Subramani

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



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JUDGMENT

This Criminal Appeal has been preferred challenging the judgment of the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thanjavur, Thanjavur District, dated 30.05.2017 in S.C. No.250 of 2016.

2. The case of the prosecution is that the accused had married the deceased Kalaivani on 28.10.2011 without the consent of her parents; The deceased and the accused have been living in the house of the accused as joint family; During that time, the accused had ill-treated the deceased Kalaivani and she was unable to withstand the torture; On 30.03.2012 at about 6.00 p.m, the deceased had consumed rat poison and was admitted in hospital and she died subsequently on 01.04.2012 due to the effect of poison; On the complaint given by the father of the deceased (P.W.1), the case has been registered and taken up for investigation.



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The appellant/sole accused has been charged for the offences under Section 306 IPC and Section 4(B) of Tamil Nadu Prohibition of Harassment of Woman Act, 1998. The same was taken cognizance by the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thanjavur, Thanjavur District, in S.C.No.250 of 2016.

4. At the conclusion of the trial, the appellant was found not guilty for the offence under Section 4(B) of Tamil Nadu Prohibition of Harassment of Woman Act, 1998 and he was found guilty for the offence under Section 306 IPC. The Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thanjavur, Thanjavur District convicted and sentenced him as under:

Offence u/s	Punishment
306 IPC	10 years (R.I), a fine of Rs.1,000/- i/d six months (R.I)

Challenging the judgment of conviction, the appellant is before this Court.



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5. The learned counsel for the appellant submitted that the appellant was convicted only on the basis of the evidence of P.W.1 to P.W.3 and P.W.13, who are the interested witnesses. The contradictions in their evidence were not properly appreciated by the trial court. After conducting an enquiry, P.W.12, the Revenue Divisional Officer has stated that there is no demand for dowry. But, that was not appreciated by the Sessions Court.

6. The learned counsel for the appellant further submitted that there is no specific evidence with regard to cruelty attributed to the deceased and specific instances of such nature have not been projected by the prosecution; There was no evidence to show the proximate dispute occurred prior to the occurrence; The independent witnesses have been examined as P.W.10 and P.W.11 and they have not supported the case of the prosecution; P.W.12, the Revenue Divisional Officer has stated that the aunty of the deceased by name Vijaya has given statement to him that there was a cordial relationship between the appellant and the deceased;



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The accused has not committed any act to aid or abet the deceased to commit suicide.

7. The learned Government Advocate (Crl.side) submitted that the deceased has committed suicide in the house of the appellant, who had married her without the consent of her parents. Prior to the death of the deceased, she called her sister and told that she was being ill-treated by her husband and the sister of the deceased (P.W.3) also deposed the same before the Court. He further submitted that the prosecution witnesses P.W.1 to P.W.3 and P.W.13 have clearly stated about the harassment given to the deceased and the trial court has rightly appreciated the same and found the accused guilty.

8. I gave my anxious consideration to the submissions made on either side and carefully perused the materials available on record.

9. The deceased is the daughter of P.W.1. The marriage of the deceased with the appellant had taken place on 28.10.2011 without the



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consent of her parents. After her marriage, she was living with the appellant at his house. On 31.03.2012, i.e, hardly after five months of her marriage, the deceased had consumed poison and died. It appears from the evidence of P.W.1 and P.W.2 that subsequent to her marriage, the deceased did not visit her parents' house; on 30.03.2012, phone call was received by the sister of the deceased (P.W.3) and the deceased told her that in the in-laws' house, she had been ill-treated and she was unable to withstand the same and she came out of the house without taking any things and she intended to commit suicide. P.W.3, the sister of the deceased stated this fact in her evidence also. However, during the cross-examination, the Investigating Officer, who has been examined as PW. 14, has stated that P.W.3 did not state about these facts during his enquiry. P.W.3 stated in her evidence that she did not inform her parents about the critical condition in which the deceased was placed in her life. The brother of the deceased who was examined as P.W.13 stated in his evidence that the parents did not permit any contact to the deceased and for that reason he did not convey about the phone calls of the deceased to her parents.



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10. P.W.13 deposed in his evidence that the appellant had been torturing the deceased by demanding dowry and she did not prefer to live. Even P.W.13 did not tell these facts to his parents due to the fear that they would seize the phone, if he did not listen to their words.

11. During the cross-examination, it was suggested to the Investigating Officer whether, in the said phone call, the deceased had not mentioned that the torture inflicted by the appellant was related to any dowry demand and he replied "yes". The exact portion of the cross-examination of P.W.14 is extracted herein under:

"அவ்வாறு பேசும்போது வரதட்சணை கேட்டு கொடுமைப்படுத்தினார் என்று கூறப்படவில்லை என்றால் சரி"

12. Except the evidence of P.W.3 and P.W.13, there is no other evidence to show what had happened to the deceased shortly prior to her death. Even the evidences of P.W. 3 and P.W.13 are not reliable for the reasons that they have given contradictory statement before the Court and during the investigation made by the police.



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13. When P.W.13 was confronted with the contradictions in the evidence, he had admitted that he did not tell the conversation he had with his deceased sister to the parents during enquiry. When P.W.3 was also confronted about the contradictions between her evidence and the statement under Section 161 Cr.P.C, she has stated that certain facts are stated only before the court and not to the parents out of fear.

14. P.W.13, the brother of the deceased stated in his evidence that her aunt Vijaya had called from Kumbakonam and informed him that Kalaivani consumed poison and she was admitted in Vijaya Hospital at Kumbakonam. Since information has been passed through aunt Vijaya, it appears that the family of the appellant had some connection with the aunt of the deceased and only through her, parents of the deceased came to know about the admission of the deceased in the hospital after she consumed poison.

15. In fact, P.W.12, the Revenue Divisional Officer, who conducted inquest report has enquired the said Vijaya. The evidence of P.W.12 in



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the inquest report is that Vijaya has given statement to him saying that there was no chance for dowry harassment. The Revenue Divisional officer has stated that he had examined an independent witnesses, who were neighbors of the appellant and they have also stated that there was no dowry demand to their knowledge.

16. The statement of the deceased was also not elaborate. The Doctor, who had registered the Accident Register(Ex.P.3) has deposed in her evidence that the deceased has stated that the deceased herself consumed poison. The said Doctor has been examined as P.W.4 and her evidence is not helpful except to the fact that the deceased was conscious when she was brought to the hospital after she consumed rat poison.

17. Even though she was admitted in the early morning of 31.03.2012 and died in the evening of 01.04.2012, no effort had been taken to get dying declaration of the deceased. The complaint itself has been given only after her death on 01.04.2012. The Investigating Officer was examined as P.W.14. He had stated in his evidence that he has taken



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up investigation only on 02.04.2012 after registering FIR. So it appears that the hospital authorities have not informed the police immediately after the deceased was admitted in their hospital as per the guidelines to be followed in medico-legal cases.

18. In this regard, the Hon'ble Supreme Court of India in **Pt. Parmanand Katara vs Union Of India & Others** reported in **1989 (4) SCC 286** has held thus:

"The Committee under the Chairmanship of the Director-General of Health Services referred to above had taken the following decisions:

"1. Whenever any medico-legal case attends the hospital, the medical officer on duty should inform the Duty Constable, name, age, sex of the patient and place and time of occurrence of the incident, and should start the required treatment of the patient. It will be the duty of the Constable on duty to inform the concerned Police Station or higher police functionaries for further action.

Full medical report should be prepared and given to the Police, as soon as examination and treatment of the patient is over. The treatment of the patient would not wait for the arrival of the Police or completing the legal formalities"

19. In the instant case, as the above guideline was not followed by the hospital authorities, the important statement of the deceased could not



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be obtained and no efforts appear to have been taken in this regard by the family of the deceased. The evidence of the parents of the deceased and her siblings are not helpful and reliable as they did not have any contact with the deceased after her marriage with the appellant. There are also contradictions and exaggerations are present in their evidence.

20. The neighbors have been examined as P.W.10 and P.W.11. They have stated that after marriage, the parents of the deceased have celebrated reception and the deceased used to talk to them nicely. P.W.10 was treated hostile and she was examined by suggesting that she had given statement to the police that the accused used to pick up quarrel with the deceased and beat her. The suggestions so made by the prosecution to P.W.10 had been typed by the Court Typist without knowing the significance of the punctuations. The whole reading of the cross-examination of the prosecution witnesses would show that the Typist has typed full stop(.) in many places, comas(,)have to be typed. During the cross-examination, P.W.10 stated that she had given statement before the Revenue Divisional Officer that the deceased and the accused



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were happy and they did not have even small issues. In the cross-examination of P.W.11, who is another neighbor also, punctuation marks were not typed properly.

21. The mother of the deceased was examined as P.W.2. In her evidence, she had stated that when she went and saw the deceased at the hospital she noticed burnt scars of cigarette on her stomach. The Doctor, who conducted post-mortem, had stated in the post-mortem report that no external injuries are seen to be present on the body of the deceased.

22. In fact, the Doctor, who conducted post-mortem, has stated that viscera did not contain any poisonous substance. Still he concluded that she died only due to poison. It is probably because the poison in the stomach would have been washed out during treatment in the hospital.

23. There are some exaggerations in the evidence of P.W.1 to P.W.3 and P.W.13 and that would only reduce the reliability of their evidence. Being the parents and siblings of the deceased, it would be quite possible



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for them to have remorse against the appellant, who married the deceased against their wishes. Further, the deceased had died at his house without living a good life after her marriage with the appellant.

24. As the evidence of the prosecution is not sufficient to prove the ill-treatment caused to the deceased during her stay at the house of the accused, more particularly, shortly before she consumed poison, it is difficult to hold that the accused had abetted the deceased to commit suicide. In order to find a person guilty for abetting some one to commit suicide, the prosecution has the burden to prove that a person has committed any of the acts enlisted under Section 107 IPC. Section 107 IPC outlines three ways in which abetment can occur (i) instigation, (ii) conspiracy, and (iii) intentional aid. Even for the sake of arguments, it is accepted that the deceased was subjected to cruelty and harassment, it should be of such a degree that the deceased had no other option to get rid off those bereavement except to commit suicide.



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25. It is quite possible for a person, who is living in a trouble some family to have low threshold to meet the challenges and hence, she could have opted to commit suicide. It may be presumed that the deceased is an educated person, who has ability to come out of the problematic place and work out the remedy with the help of her dear and near ones to resolve her issues. The inability of a person to cope up with hurdles and travails of life cannot be considered as abetment given by some other person to commit suicide. Some persons have the problem of mal-adaptability and find solace that death will be the answer for all their problems and chose such untowardness as the only option.

26. Unless a person proved to have played an active role which would come within the definition of inducement or aiding to do a thing, it could not be held that he had abetted the commission of suicide of the other. In this regard, it is relevant to cite the judgment of the Hon'ble Supreme Court of India held in **Ramesh Kumar vs. State of Chhattisgarh** reported in **2001(9) SCC 618** wherein it has been held



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that a word uttered in the fit of anger or emotion without intending the consequences cannot be said to be instigation.

27. The Hon'ble Supreme Court of India has held in **M.Mohan v. State**, reported in **2011 (2) MWN (Cr.) 173** that in order to convict the accused under Section 306 IPC, it requires an active or direct act which led to the deceased to commit suicide and that act should have been intended to push the deceased to commit suicide.

28. In the case in hand, it is not even known whether the deceased was subjected to harassment or torture and more particularly what had happened immediately prior to the consuming of poison by the deceased.

29. In the recent judgment of the Hon'ble Supreme Court of India in **Mahendra Awase Vs. State of Madhya Pradesh** reported in **2025(1) MWN (Cr) 471 (SC)**, the Supreme Court has gone one step further and held that hyperboles employed in exchanges should not, without anything more, an instigation to commit suicide. In the language of the



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Supreme Court, it is held thus:

"20. This Court has, over the last several decades, repeatedly reiterated the higher threshold, mandated by law for [Section 306](#) IPC [Now [Section 108](#) read with [Section 45](#) of the Bharatiya Nyaya Sanhita, 2023] to be attracted. They however seem to have followed more in the breach. [Section 306](#) IPC appears to be casually and too readily resorted to by the police. While the persons involved in genuine cases where the threshold is met should not be spared, the provision should not be deployed against individuals, only to assuage the immediate feelings of the distraught family of the deceased. The conduct of the proposed accused and the deceased, their interactions and conversations preceding the unfortunate death of the deceased should be approached from a practical point of view and not divorced from day-to-day realities of life. Hyperboles employed in exchanges should not, without anything more, be glorified as an instigation to commit suicide. It is time the investigating agencies are sensitised to the law [laid down by](#) this Court under [Section 306](#) so that persons are not subjected to the abuse of process of a totally untenable prosecution. The trial courts also should exercise great caution and circumspection and should not adopt a play it safe syndrome by mechanically framing charges, even if the investigating agencies in a given case have shown utter disregard for the ingredients of Section 306 IPC".



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30. In the present case, the trial Judge appears to have been influenced by the evidence of the distraught family members of the deceased without discerning their evidence in the background of various other facts and circumstances brought out during trial and discussed as above.

31. In the absence of any proof to show that the deceased was left with no other option except to commit suicide and there was an act or instigation on the part of the accused to cause the suicide, the accused cannot be found guilty for the offence under Section 306 IPC. As the trial court did not appreciate the evidence in a proper perspective and arrived at a wrong conclusion, the judgment of the trial court warrants interference.

32. In view of the same, this appeal is **allowed** and the judgment dated 30.05.2017 passed by the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thanjavur, Thanjavur District in S.C.No.250 of 2016 is **set aside** and the appellant is



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acquitted from 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.

24.07.2025

Index : Yes/No
Internet : Yes/No
CM

To,

1.The Sessions Judge, Mahalir Neethimandram
(Fast Track Mahila Court), Thanjavur, Thanjavur District

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



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Dr.R.N.MANJULA, J

CM

Judgment made in
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