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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 12.08.2025

CORAM:

THE HONOURABLE Dr.JUSTICE R.N.MANJULA

Crl.A.(MD)No.462 of 2018

Jeyakumar

... Appellant

vs.

State through
The Inspector of Police,
Vangal Police Station, Karur.
Crime No.86 of 2014.

...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, Fast Track Mahila Court, Karur, dated 28.09.2018, in S.C.No.55 of 2018.

For Appellant : Mr.K.Ananthapadmanabhan,
Senior Counsel
for M/s.APN Law Associates

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

J U D G E M E N T

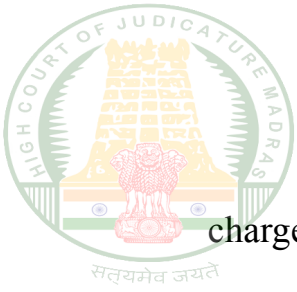
This appeal has been filed challenging the Judgement of the learned Additional Sessions Judge, Fast Track Mahila Court, Karur, dated 28.09.2018, in S.C.No.55 of 2018.



2. The appellant is the sole accused, who has been found guilty by the learned trial Judge for the offence under Section 304(B) IPC and convicted and sentenced to undergo 7 years RI.

3. The case of the prosecution as per the records is that the accused and the deceased Sarala are husband and wife and their marriage was solemnized on 13.04.2014. Their marriage is an arranged marriage. Immediately after the marriage, the accused harassed the deceased by demanding cot and bureau and the parents of the deceased had provided the same. The accused had been harassing the deceased by scolding that she was not given with sufficient jewels and dowry for marriage. The accused demanded the deceased to get 5 sovereigns of gold jewels and money from her parents. The parents of the deceased had given Rs. 40,000/-. Again, the accused demanded Rs.5,00,000/- as dowry and that has caused mental breakdown for the deceased and she had committed suicide on 28.05.2014, at about 14.30 hours, by hanging herself in the house of the accused.

4. On the complaint given by the brother of the deceased (PW1), a case has been registered in Crime No.86 of 2014 on the file of the Vangal Police Station, Karur District. After conclusion of the investigation,



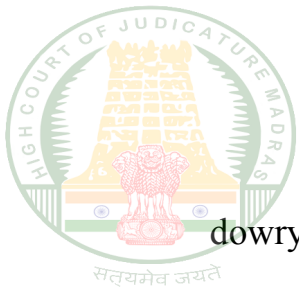
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charge sheet has been filed against the accused and after completing the legal mandates of furnishing copies and all other legal formalities, charges have been framed against the accused for the offence under Section 304(B) IPC. When the accused was questioned, he denied his involvement and claimed to be tried.

5. Before the Trial Court, on the side of the prosecution PW1 to PW13 have been examined and Exs.P1 to P15 have been marked. Material Objects M.O.1 to M.O.7 were marked. On the side of the accused, no oral or documentary evidence has been marked.

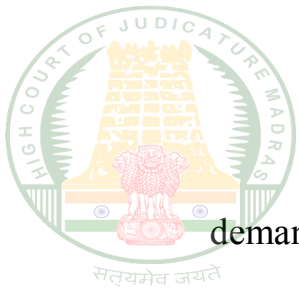
6. After the conclusion of trial, the learned trial Judge found the accused guilty for the offence under Section 304(B) IPC and convicted and sentenced him as mentioned supra. Aggrieved over that, the appellant / sole accused has preferred this appeal.

7. Mr.K.Ananthapadmanabhan, learned senior counsel appearing for the appellant submitted that the Sreedhana articles allegedly given by the parents of the deceased are in the house of PW1; the appellant did not demand any dowry and there was some other issue between the deceased and the appellant; the prosecution has not established that there was any



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dowry harassment to the deceased immediately prior to her death; in order to establish an usual presumption in favour of the prosecution in respect of the charge under Section 304(B) IPC, it has to be first proved that the deceased was subjected to cruelty and harassment in connection with the demand for dowry soon before her death; PW1 has stated that his sister called him on 28.05.2014 and spoken about a Temple Festival and not about any demand for dowry; the occurrence is said to have taken place on 28.05.2014, had the deceased was subjected to cruelty or harassment in connection with the demand for dowry, the deceased would have conveyed this to her brother PW1; there are exaggerations and contradictions in the evidence of PW1; the mother of the deceased has also stated in her evidence that there was some other problem between the deceased and the appellant. The evidence of PW2 (mother of the deceased) and PW3 (sister of the deceased) with regard to the demand and the money given to the appellant is quite contrary to the evidence of PW1; no independent witness has been examined; from RDO Enquiry Report, it is revealed that the RDO did not enquire the brothers of the appellant; if he had enquired, he would have known about the real reason for the occurrence; the Investigation Officer has stated in his evidence that PW1 to PW6 have not stated that the appellant demanded 20 sovereigns of gold and in the complaint, PW1 has not stated about the



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demand for 1 lakh, 5 lakhs and 5 sovereigns of gold as dowry; the cross examination of the Investigation Officer revealed that there are lots of exaggerations and contradictions in the evidence of prosecution witnesses PW1 to PW4; and the trial Court has not properly appreciated the same and found the appellant guilty, convicted and sentenced him.

8. Mr.R.Meenaksh Sundaram, learned Additional Public Prosecutor appearing for the respondent submitted that the trial Court has properly appreciated the evidence of the defacto complainant and other witnesses; the prosecution witnesses have stated in their evidence about the demand of dowry made by the appellant; the trial Court has rightly given the benefit of initial presumption in favour of the prosecution and has concluded the same as conclusive proof in view of the evidence available on record in support of the prosecution.

9. The marriage between the deceased and the appellant had taken place on 13.04.2014. The occurrence had taken place on 28.05.2014, hardly one and a half months after the marriage. It is the case of the prosecution that the appellant was in the habit of demanding dowry right from the date of marriage and that caused mental agony to the deceased and hence, she committed suicide.

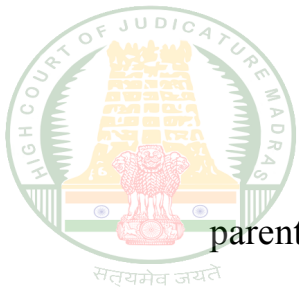


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10. The defacto complainant / brother of the deceased (PW1) has stated in his evidence that on 26.05.2014, the appellant asked the deceased not to go to her parents' house after work and he abused her in filthy language while she was at the bus stop. He has further stated that the appellant insisted her to get down at Panchamadevi bus stop and told her that his brother would come and take her to home. The cross examination of PW1 revealed that the deceased usually go to work at 07.00 a.m. and return at 09.00 p.m. and that someone has to take her to the bus stand in order to facilitate her to take a bus to the office.

11. From 14.05.2014 to 24.05.2014, the deceased was staying at the house of her parents and she was going to her workplace only from there. On 26.05.2014, when his sister came to Karur Bus Stand, the appellant was working in the Hospital and it was not possible for him to take the deceased to home and he told the deceased that his brother would come and pick her up. The cross examination of PW1 revealed the above facts and there is no untowardness that had happened on 26.05.2014 when the deceased came to Karur bus stand from her work.

12. From the date of marriage i.e., on 13.04.2014 till her death 28.05.2014, the deceased was predominantly staying at the house of her



parents and not at the house of the appellant. As the deceased has been staying at the house of her parents from 14.05.2014 to 24.05.2014 and was going to work from there, there was no necessity to go and stay at the house of the appellant. Only on 26.05.2014, she had happened to go to the house of the appellant as he had called her. PW1 has stated in his evidence that he has stated during RDO Enquiry that the appellant had intimacy with one Sumathi and that has caused problems. Even on 28.05.2014, the deceased has not stated about the demand for dowry to her brother. She had simply discussed about some Temple Festival. This itself would confirm that she has not been subjected to harassment or cruelty soon before her death in connection with dowry.

13. In fact, PW1 has stated that he has given Rs.1,00,000/- to the appellant on his demand, but the appellant continued to demand Rs. 5,00,000/- along with some gold jewels. Despite the same, such facts were not stated by PW1 in his complaint. No doubt, the complaint need not be an encyclopedia, but, when the complaint has been given on certain specific allegations like demand for dowry, there should be some averments as to the demand or atleast the quantum of the demand. In the complaint Ex.P1, there are some generalized allegations without any material details.



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14. PW1 has stated in his evidence that Rs.1,00,000/- given to the appellant has been arranged by him by pledging his mother's jewels for Rs.40,000/- with the State Bank of India, Pallipalayam, by receiving Rs. 20,000/- from his maternal uncle, Rs.10,000/- from his sister and Rs. 50,000/- from his friend Balan. PW2 who is the mother of the deceased has stated in her evidence that Rs.1,00,000/- was arranged by receiving a sum of Rs.20,000/- from her brother. But, she has stated that Rs.40,000/- has been obtained by selling her jewels and Rs.20,000/- has been obtained from her other son-in-law which are contrary to the evidence of PW1. PW3 who is the sister of the deceased has stated in her evidence that Rs.1,00,000/- was arranged by selling away her mother's jewels and she has contributed a sum of Rs.10,000/- and rest of the amount has been arranged by receiving amount from her uncle and brother. It is not known whether Rs.1,00,000/- has been given as financial assistance to the appellant or for the demand of dowry only.

15. Though PW2 has stated that her daughter has committed suicide only because there was demand for dowry, in the cross examination, she has stated that there was some misunderstanding between the deceased and the appellant due to the instigation made by a



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third person by name Sumathi. She has further stated that after 3 - 4 days of marriage, the deceased started to go for work. As it was not possible to send her to work from the appellant's house, the appellant left her at her mother's place and operated from there. In fact, the deceased obtained a transfer order to enable herself to work at Karur from 1st June 2014 onwards. Neither the deceased nor her family members had chosen to give any complaint against the appellant by alleging that he has demanded money and jewels as dowry. PW2 has stated in her evidence that the marriage between the deceased and the appellant has not been consummated and it was not stated that it was only because of demand for dowry. From the evidence of PW1 and PW2, it is seen that the appellant has got some relationship with one Sumathi and that has caused trouble in the marriage life of the deceased and the appellant. Apart from PW1 to PW3, other witnesses are just hearsay witnesses.

16. PW11 Investigation Officer has stated in his evidence that the witnesses have not specifically told him how Rs.1,00,000/- has been arranged and given to the appellant. PW12 Investigation Officer has stated in his evidence that the witnesses PW1 to PW4 have not stated during his enquiry that the appellant has demanded 20 sovereigns of gold jewels and that he has not conducted any investigation as to what is the

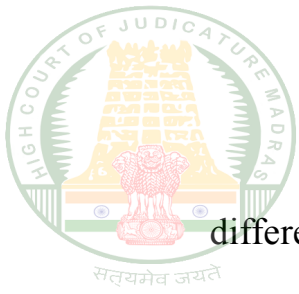


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purpose for which the alleged Rs.1,00,000/- has been given to the appellant. PW12 has also confirmed the fact that the deceased has been staying in the house of her parents more than the days spent by her at her husband's house after the marriage. The Investigation Officer has not enquired why the marriage between the deceased and the appellant has not been consummated till her death.

17. From the evidence of the prosecution witnesses, there is no concrete material to make out that the deceased was subjected to cruelty and harassment in connection with the demand for dowry soon before her death by the appellant. If the materials are not sufficient enough to make out the above fact, the prosecution will not get the benefit of presumption under Section 113B of the Indian Evidence Act [hereinafter referred to as 'the Act'] because the condition precedent to draw the presumption under Section 113B of the Act in favour of the prosecution is that the appellant ought to have demanded dowry soon before the death of the deceased.

18. In this regard, it is appropriate to cite the Judgement of the Apex Court in the case of **Surinder Singh vs. State of Haryana reported in (2014) 4 SCC 129**. In the above Judgement, it is held that every such instance of cruelty and related harassment would have made



different impact in the mind of deceased and thus there must be nexus between demand for dowry, cruelty and harassment and on that basis, presumption can be drawn under Section 113B of the Act. It is further held that the presumption under Section 113B of the Act and Section 304(B) IPC have a purpose.

19. As the deceased has been staying only at the house of her parents, it is difficult to presume that the appellant or the inmates of the house of the appellant had caused cruelty and created compulsive circumstances for the deceased to commit suicide. The deceased died at occurrence spot before she was taken to the hospital. The proximate contact of the appellant with that of the death of the deceased has to be established in connection with the cruelty and dowry. In the absence of any proximity between the death of the deceased and the events that might have happened prior to the death, it is difficult to presume that the deceased had committed suicide only due to the difficulties surrounding her on the demand of dowry or jewels.

20. The law regards the distinction between 113A and 113B of the Act has been dealt by the Apex Court in the case of **Ram Pyarey Vs. the State of Uttar Pradesh in Criminal Appeal No.1408 of 2015**. In the



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said case, the distinction between 113A and 113B of the Act has been brought out by holding that the presumption under Section 113A is at the discretion of the Court, because the words employed is 'the court may presume'. But so far as Section 113B is concerned, the presumption is compulsive. Even then, it is not automatic. The presumption shall be made only when it is proved before the Court that the deceased has been subjected to cruelty or mental harassment soon before her death in connection with demand for dowry.

21. In the instant case, even without the prosecution proving the alleged demand immediately before the death of the deceased, presumption has been taken in favour of the prosecution under Section 113B of the Act and the appellant has been convicted for the offence under Section 304(B) IPC. In fact, PW1 has stated in his evidence that on 28.05.2014, at about 07.30 p.m., his sister called him, but he did not respond and hence, he called her once again at 11.00 a.m. At that time, the deceased told that she had to go to Mariyammal Temple Festival and she would call thereafter. This would confirm that the deceased has not made any complaint of harassment or cruelty or demand for dowry soon before her death.

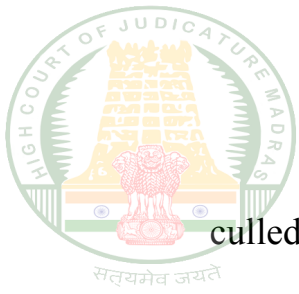


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22. Even assuming that a sum of Rs.1,00,000/- has been given by PW1 to the appellant before the date of the occurrence and it was towards the dowry demand, the family members of the deceased would have filed a complaint immediately against the appellant. The distraughted parents and the siblings of the deceased who suffered due to the death of the deceased had appeared to have vented out their anger against the appellant.

23. The Investigation Officer has omitted to investigate on the allegation that the appellant had some intimacy with one Sumathi which had caused trouble in the marriage between the deceased and the appellant. The important fact that the marriage has not been consummated between the deceased and the appellant has also not been investigated by the Investigation Officer to find out what is exactly the problem between them subsequent to the marriage.

24. There is no evidence on record to hold the appellant guilty that he has demanded money and jewels as dowry, caused cruelty and harassment to the deceased in this regard and only because of that the deceased got frustrated and committed suicide by hanging. As the important facts behind the death of the deceased have not been properly



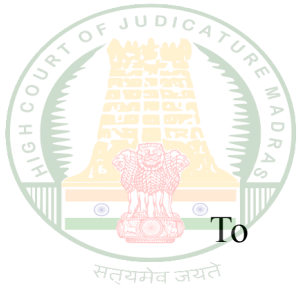
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culled out and the fact that the appellant had subjected the deceased to cruelty or harassment soon before her death in connection with the demand for dowry has not been established, I feel the appellant ought to have been given with the benefit of doubt. As the learned trial Judge has not properly appreciated the evidence and the background in which the initial presumption under Section 113B of the Act has to be given to the prosecution, I feel the Judgement of the trial Court is liable to be reversed.

25. In view of the above observations, the Criminal Appeal is **allowed** and the Judgement of the learned Additional Sessions Judge, Fast Track Mahila Court, Karur, dated 28.09.2018, in S.C.No.55 of 2018 is set aside. The appellant / sole accused is not found guilty for the offence under Section 304(B) IPC and acquitted of the charges framed against him. The bail bond, if any, shall stand cancelled and sureties, if any, shall be discharged.

12.08.2025

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Crl.A.(MD)No.462 of 2018

To

1.The Additional Sessions Judge,
Fast Track Mahila Court, Karur.

2.The Inspector of Police,
Vangal Police Station, Karur.

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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