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CrL.A.No.284 of 2022

THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.02.2026

PRONOUNCED ON : 30.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

CrL.A.No.284 of 2022

Das @ Pragalathan,
S/o.Danusu,
Gangaiamman Kovil Street,
Kalaiyur Village, Gingee Taluk,
Villupuram District.

...

Appellant/A-1

versus

State Rep. By
The Deputy Superintendent of Police,
Gingee Police Sub Division,
Valathi Police Station,
Villupuram District.
(Crime No.31/2017)

...

Respondent/Complainant

Prayer: Criminal Appeal filed under Section 374(2) of Cr.P.C. against the judgment dated 24.02.2022 in S.C.No.264 of 2017 on the file of the District Mahalir Neethi Mandram (Fast Track Mahila Court), Villupuram.

For Appellant : Mr.S.Saravana Kumar

For Respondent : Mr.R.Kishore Kumar
Government Advocate (Crl. Side)



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JUDGMENT

The appellant/A1 has preferred this Criminal Appeal, challenging the judgment dated 24.02.2022 in S.C.No.264 of 2017 on the file of the District Magalir Neethi Mandram (Fast Track Mahila Court), Villupuram.

2. The appellant was convicted by the trial court for offences under Sections 498A and 304B of IPC and Section 4 of the Dowry Prohibition Act, 1961 [hereinafter referred to as “the Act”] and sentenced to undergo rigorous imprisonment for 7 years in respect of the major offence under Section 304B of IPC and no separate sentence has been imposed for the other offences.

3. It is the case of the prosecution that the marriage between the appellant/A1 and the deceased was solemnised on 18.04.2014 in M.R.Marriage Hall, Valathi. At the time of marriage, as per the demand of the accused(A1 to A3), 2½ sovereigns of gold and Rs.50,000/- in cash were given as dowry by PW1/mother of the deceased. After the marriage, when the deceased was living with her husband/A1 and in-laws/A2 and A3, they harassed her by demanding further 2½ sovereigns of gold and Rs.50,000/- in



cash as dowry. The issue was sorted out several times by PW1 and the relatives, stating that the dowry will be given later. Again, when the deceased was living separately with her husband/A1 in one Ajithkumar's house for rent, there also A2 and A3 had harassed the deceased by demanding additional dowry.

4. On 25.02.2016, when the sister of the deceased/PW2 had visited the deceased's matrimonial home, the accused had quarrelled and harassed the deceased stating that they will not allow her to live in the aforesaid house, if the dowry is not given. PW2 compromised the issue, saying that they will arrange and give it within 15 days. However, on the next day i.e., on 26.02.2016 at 6.00a.m., again the accused had harassed the deceased and pushed her down, causing injuries and due to the cruelty and harassment meted out, the deceased, having no other option, consumed poison.

5. The Appellant/A1 had taken the deceased to the Government Hospital, Gingee, at 7.20a.m. PW13/Doctor treated the deceased and issued the Accident Register/Ex.P9. However, not responding to the treatment, the



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deceased died at 8.00a.m. PW1/mother of the deceased lodged the complaint/Ex.P1. PW15/Sub Inspector of Police received the complaint and registered FIR/Ex.P10 under Section 174(3) of Cr.P.C. PW17/Inspector of Police took up the investigation and prepared the Observation Mahazar/Ex.P12 and Rough Sketch/Ex.P13 in the presence of PW5 and PW6.

6. After recording the statements of the witnesses, PW17 went to the Hospital and conducted inquest on the body of the deceased and thereafter sent the body for postmortem through Ex.P14. Since the death was within 7 years of marriage, PW17 through Ex.P14 referred the matter for enquiry to the Revenue Divisional Officer (RDO). PW16/RDO conducted enquiry, submitted report/Ex.P11 opining that there is no *prima facie* evidence of dowry or dowry related harassment in the death of the deceased. PW18/Deputy Superintendent of Police (DSP), who later took up the investigation, altered the offence to Section 306 IPC.

7. PW12/Doctor conducted the postmortem and issued the postmortem certificate/Ex.P8. Thereafter, again PW18/DSP altered the



offences to Sections 498A and 304B IPC through alteration report/Ex.P15 and arrested the accused. The confession statement of A1 was recorded in the presence of PW10 and PW11 and empty pesticide bottle/MO1 was recovered through recovery mahazar/Ex.P16 in the presence of PW10 and PW11. The signatures of PW5 and PW6 in Ex.P12 is marked as Ex.P2 and Ex.P3 respectively and the signatures of PW10 in the confession statements and the recovery mahazar are marked as Ex.P4 and Ex.P5 respectively. The signature of PW11 in the confession statements and the recovery mahazar are marked as Ex.P6 and Ex.P7 respectively. The marriage invitation and the empty pesticide bottle recovered in Ex.P16 were sent to court in Form-91/Ex.P17 and Ex.P18. On completion of the investigation, PW18 filed the final report before the learned Judicial Magistrate, Gingee, which was taken in P.R.C.No.31 of 2017.

8. On issuing summons and appearance of Accused, the learned Judicial Magistrate, complied with Section 207 of Cr.P.C., and committed the case to the learned Principal Sessions Judge, Villupuram, which was taken in S.C.No.264 of 2017 and made over to the District Magalir Neethi Mandram (Fast Track Mahila Court), Villupuram.



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9. On committal, the trial court on hearing both sides, framed the charges under Sections 498A and 304B IPC and Section 4 of the Act. On being questioned, the accused pleaded not guilty and stood trial. In order to prove the charges, the prosecution examined PW1 to PW18 and marked Ex.P1 to Ex.P18. The empty pesticide bottle recovered was marked as MO1.

10. On completion of the prosecution evidence, when the accused were questioned under Section 313 of Cr.P.C., about the incriminating materials available, they denied the same as false. However, the accused have not examined any witnesses or produced any documentary evidence.

11. On conclusion of the trial and arguments, after considering the oral and documentary evidence available, the trial court found A1 guilty of the charges and convicted him for offences under Sections 498A, 304B of IPC and Section 4 of the Act and imposed the sentence of 7 years rigorous imprisonment for offence under Section 304B IPC alone, but however, the trial court had acquitted A2 and A3, who are father and mother of A1, from all the charges. Assailing the conviction and sentence imposed, the appellant/A1 has preferred the above appeal.



12. Mr.S.Saravana Kumar, learned counsel for the appellant argued that there is absolutely no evidence of demand of dowry and also no proof that the deceased was subjected to any cruelty in demand of dowry soon before her death. He further submitted that when the same witnesses had been examined by PW16/RDO and had submitted the report/Ex.P11 where dowry or dowry related harassment resulted in the death of the deceased was completely ruled out, there was no occasion for PW18 to alter the offence under Section 306 to 498A and 304B IPC.

13. The witnesses in the observation mahazar, rough sketch and confession statements viz., PW5, PW6, PW10 and PW11 had all turned hostile. None of the witnesses have supported the case of the prosecution. In fact, PW2/sister of the deceased who was alleged to be present in the house on the prior day of occurrence in whose presence the deceased was harassed, has not supported the same. When PW3 and PW4 are all hearsay witnesses, who had no direct knowledge, even PW1 had only deposed that for purchasing a house, money was arranged and given to A1 for interest. Further, no injuries on the deceased were noted in the Accident



Register/Ex.P9 and the deceased had not said anything against the accused or harassment before PW13/Doctor while making entry in the Accident Register. The prosecution also failed to mark the inquest report prepared by the PW17 on examining the body of the deceased.

14. He further submitted that PW18 had categorically submitted that he had found no evidence of dowry harassment and only the offences were altered based on the postmortem report/Ex.P8, where there are lot of discrepancies, which is admitted by the PW12/Doctor who issued postmortem report. Both the Doctors/PW12 and PW13 had admitted that the bruises noticed might be possible due to fits. The trial court had simply gone by the chief examination of PW1 and PW2 and convicted the appellant by raising the presumption under Section 113B of the Evidence Act when the prosecution had failed to prove the foundational facts to raise the presumption.

15. Per contra, Mr.R.Kishore Kumar, learned Government Advocate (Crl. Side) appearing for the respondent argued that the mother/PW1 and sister of the deceased/PW2 had spoken about the



harassment meted out towards demand of dowry. The deceased had admittedly been present in the house of A1 at the time of occurrence and she was driven to take the extreme step of committing suicide by consuming poison due to the cruelty and harassment meted out by the accused. PW12/Doctor had deposed about the injuries found and noted in the postmortem report/Ex.P8, which corroborates that the deceased was harassed and injured towards demand of dowry soon before death. A1 had not brought in any evidence to rebut the presumption and therefore, the trial court had rightly acquitted the parents while convicting A1/husband.

16. Heard the rival submissions and considered the materials available on record.

17. The marriage between the appellant/A1 and the deceased/Venda @ Lakshmi was solemnised on 18.04.2014. At the time of marriage, 2½ sovereigns of gold and Rs.50,000/- in cash were stated to have been given as dowry. The accused are alleged to have harassed and due the cruelty meted out, the deceased is said to have consumed poison on 26.02.2016 in the house of the accused and died on the same day in the hospital. The accused



are charged for offences under Sections 498A and 304B IPC and Section 4 of the Act.

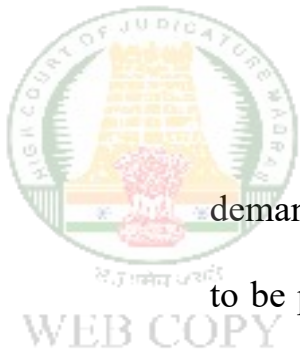
18. PW1/mother of the deceased had deposed that her daughter was married to A1 around 1 ½ years ago. At the time of marriage, 2½ sovereigns of gold and Rs.50,000/- in cash were given as dowry. A1 and the deceased lived happily for nearly one year. Subsequently, after 9 months, the accused harassed the deceased by demanding additional dowry of 2½ sovereigns of gold and Rs.50,000/- in cash, which was given but again the deceased had come to the house and informed that the accused were again harassing and demanding dowry. After 9 days, she got information that her daughter was not well and was admitted in the Government Hospital, Gingee and when PW1 went to the hospital, she found injuries on the face and head of her daughter and she was not alive.

19. When PW1 has lodged the complaint/Ex.P1, in the cross examination, she had deposed that she does not know how to read and write and the Police in the Vallathi Police Station had written the complaint/Ex.P1. Already a complaint was lodged in the year 2005 regarding the demand of



dowry. After the marriage, A1 and her daughter were residing in PW1's house and A1 was taking care of and maintaining the properties of PW1. They lived happily in PW1's house and only after a year, they resided separately. Since the accused asked money for purchase of a house, PW1 arranged and gave Rs.50,000/- for 3 paise interest. When PW1 went to the hospital, her daughter was administered with glucose and the deceased was in the Government Hospital, Gingee, for 3 days. When in her statement before RDO/PW16, she has stated that the deceased came to her home on 24.02.2016 and 25.02.2016, but in her evidence, She denied that the deceased had come to her house on the previous day of the date of occurrence.

20. PW2 had deposed that her sister was married to A1 around 1 ½ years ago. At the time of marriage, articles worth Rs.1,00,000/-, Rs.50,000/- in cash and 2½ sovereigns of gold were given as dowry. They lived happily for 9 months. Thereafter, the deceased informed that the accused were harassing by demanding dowry. Whenever the deceased came to the parental house, she asked for Rs.5,000/- and Rs.10,000/-, stating that otherwise they would kill her or she would commit suicide. Again, the accused had



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demanded 2½ sovereigns of gold and Rs.50,000/- in cash, which was agreed to be paid. One day prior to the date of occurrence, A2 came to their house and informed that her sister was admitted in Government Hospital, Gingee and when they went and saw her sister, she was not alive and there were injuries on the face. In the cross examination, PW2 had deposed that they had not given any complaint earlier regarding the dowry harassment and the distance between their house and the accused's house is around 3 kms.

21. PW3 and PW4 are the cousin brothers of the deceased. Both the witnesses have no direct knowledge. They have deposed that A1 and the deceased lived happily for 9 months and they were informed by PW1 that there were certain problems regarding demand of Rs.50,000/- and they told PW1 to give that money and sort out the issues.

22. PW5 and PW6 are the villagers/mahazar witnesses in whose presence Observation Mahazar/Ex.P12 and Rough Sketch/Ex.P13 were prepared by PW17. PW5 and PW6 had been treated as hostile as they did not support the case of the prosecution.



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23. PW7, PW8 and PW9 are the nearby residents of the accused in Vallathi Village. PW7 to PW9 have been examined to prove that there was a dispute and quarrel on 25.02.2016 in the presence of PW2 regarding demand of dowry and again there was a quarrel and harassment at 6.00a.m, on 26.02.2016 in which A1 had pushed the deceased and injured due to which the deceased consumed poison. However, all these witnesses/ PW7 to PW9 turned hostile and they have not supported the case of the prosecution.

24. PW10 and PW11 are agriculturalists who are residing in Kannalam Village. PW18 had recorded the confession of A1 in the presence of PW10 and PW11 and had recovered the empty pesticide bottle/MO1 through Ex.P16. However, PW10 and PW11 also have not supported the case of the prosecution and they have been treated as hostile.

25. As such PW5 to PW11 have all turned hostile and they have not supported the case of the prosecution. The villagers who are the independent witnesses/PW7 to PW9 had not stated anything about the demand of dowry or harassment. The evidence of PW5, PW6, PW10 and PW11 has not



supported the observation mahazar and the rough sketch prepared and the confession and the recovery made in Ex.P16. It is also to be noted that MO1 recovered is admitted to have the date of manufacture as 07.11.2016, which was allegedly recovered on 27.06.2017, whereas the occurrence had happened on 26.02.2016 itself. PW18 having admitted the empty bottle containing the date of manufacture, which is prior to the date of occurrence, coupled with the fact that PW10 and PW11 had not supported the case of the prosecution, completely makes the confession and the recovery doubtful.

26. PW16/RDO had conducted enquiry and had recorded the statement of PW1 to PW4 and PW9. In the enquiry, PW1 had given statement that the deceased had come to her house on 24.02.2016 and 25.02.2016 and returned to matrimonial home only on 25.02.2016 evening. The next day at 8.00a.m, she was informed that her daughter was taken to Government Hospital, Gingee and when she went there, she was informed by the Doctors that her daughter, died. After enquiry, PW16 had submitted his report/Ex.P11 and opined that there is no prima facie evidence of dowry or dowry related harassment in the death of the deceased.



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27. When as per the complaint/Ex.P1, there was a demand for money and gold 10 days prior to the occurrence where PW1 had informed the deceased that the same cannot be given as there are other sisters to her and PW1 sent her daughter, saying that she will talk to A1. However, as per the charges framed, PW2 had come to the house of the deceased on 25.02.2016 and in the presence of PW2, the accused had quarrelled and demanded dowry of 2½ sovereigns of gold and Rs.50,000/- in cash, which PW2 agreed to give in 15 days, but again, the deceased was harassed on the next day morning on 26.02.2016, causing injuries driving the deceased to consume poison. However, PW2 in her evidence had not deposed anything about going to the house of the deceased on 25.02.2016 or deposed anything about the demand of dowry or the compromise made by her on that day.

28. The evidence of PW1 before the court and the statement made in the RDO enquiry are completely inconsistent. Even as per the evidence of PW1, A1 and the deceased happily lived in her house for nearly more than a year and A1 was taking care of her properties. When admittedly, they had lived happily in the house of PW1, in which period there was no demand of dowry or dowry related harassment, in the balance period of 6 months prior



to the date of occurrence, where A1 and the deceased lived independently, there is no evidence regarding a specific instance of demand of dowry or harassment. PW1 had strangely deposed that there was an earlier complaint regarding dowry harassment in the year 2005, but even assuming that the year has been wrongly stated, still no material has been produced regarding any complaint given earlier. In this regard, PW18/DSP had also deposed that there had been no prior complaint regarding demand of dowry.

29. When as per PW2 they had compromised with the accused, saying that she would arrange for giving of dowry but however, as per PW1, they paid a sum of Rs.50,000/- and gave 2½ sovereigns of gold for the second time, but the deceased was harassed for additional dowry once again. PW3 and PW4 having no direct knowledge, who are cousins of the deceased and, they had only deposed that PW1 had informed them that the accused are demanding Rs.50,000/- cash. When all these witnesses have been enquired and statements have been recorded and the RDO/PW16 *prima facie* found that no case of dowry or dowry related harassment is there in the death of the deceased, the evidence of PW1 and PW2 are completely inconsistent, unreliable and untrustworthy. There is no specific evidence to



the effect that there had been demand of dowry and the deceased was harassed and due to the cruelty meted out soon before death, the deceased committed suicide.

30. Even as per the evidence of PW1 and PW2, there had been a demand 10 days prior to the date of occurrence. As per the charges, there was a demand on 25.02.2016 in the presence of PW2 and the deceased was harassed at 6.00a.m. on 26.02.2016. The charge levelled has not been supported by any of the witnesses, including PW2 or PW7 to PW9. In fact, PW1 had clearly deposed that even a sum of Rs.50,000/- was arranged only for interest, for the purchase of a house. It is also to be noted that the deceased consumed poison on 26.02.2016 and was taken to the hospital at 7.20a.m. and on the same day at 8.00a.m, she died. However PW1, in her deposition, had stated that the deceased was administered with glucose and she was there for nearly 3 days. The inconsistent and exaggerated evidence given by PW1 at different stages makes her evidence unreliable. There is no material or evidence available to establish that there had been any demand of dowry or harassment meted out to the deceased. The evidence of PW1 and PW2 are inconsistent, and are not corroborated by any other materials.



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31. On 26.02.2016, immediately after the deceased had consumed pesticide, A1 had taken the deceased to the Government Hospital, Gingee, at 7.20a.m. itself. PW13/Doctor had admitted and examined the deceased and issued Accident Register/Ex.P9. When the deceased was conscious, examined and treated by PW13, the deceased has not stated about any harassment, therefore nothing has been entered in the Accident Register. Further, no injuries or anything adversely imputing against A1 is noted in Accident Register/Ex.P9. The deceased did not respond to the treatment and died at 8.00a.m. on the same day. It is also to be noted that when PW17 had conducted the inquest in the hospital, for the reasons best known, the inquest report prepared by PW17 had not been marked in the trial, which would have thrown more light about the injuries, if any were found.

32. PW12/Doctor had conducted the postmortem and issued the postmortem certificate/Ex.P8. In the postmortem certificate, on external examination, certain abrasions present have been noticed and an inclusion has been made stating it to be 2 days old. The abrasions noticed were 1 and 2 on the knee, 3 on the back of abdomen, 4 on the side of hip and 5 on right thigh. As per the evidence of PW1 and PW2, when they saw the deceased in



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the hospital, there were injuries on the face and head, but no such injury was noted in the Accident Register/Ex.P9 or the postmortem certificate/Ex.P8 and, the abrasions noticed are later included as 2 days old.

33. When, as per the statement of PW1 before RDO, the deceased was in her house on 24.02.2016 and 25.02.2016 and as per the charges, PW2 was present in the house on 25.02.2016, it is not clear as to the nature and the cause of the abrasions. These abrasions have not been noted in the Accident Register/Ex.P9. PW12/Doctor, who had issued Ex.P8, had admitted that it is not mentioned as to in which hospital the body of the deceased was kept and who identified the body. He further admitted that the report was prepared later based on the noting made earlier and when usually the same date is mentioned on the report, the postmortem report/Ex.P8 has been prepared only after 2 days on 29.02.2016. Both PW12 and PW13 had also admitted that the abrasions noted is possible to have occurred due to fits.

34. Further, Ex.P8/postmortem certificate does not contain the details of seal or details of the Doctor and PW12/Doctor had explained that



the hospital had omitted to enter the same. When originally the case was for offence under Section 306 IPC, PW18/DSP after receipt of the RDO report/Ex.P11, which specifically opined that there is no prima facie case of dowry or dowry related harassment, however altered the offence to Sections 498A and 304B and Section 4 of the Act through the alteration report/Ex.P15. When there was absolutely no material in respect of any demand for dowry and cruelty meted out, there was no occasion on the part of PW18 to alter the offences. PW18, in his cross examination, had admitted that even though no materials were available regarding the dowry demand, he came to know about the same through his discrete enquiry and relying on postmortem certificate based on which he had altered the offences and filed the final report.

35. There are lot of discrepancies in the manner in which Ex.P8 has been issued and further no injuries have been noted in Ex.P9/Accident Register and the inquest report prepared by PW17 had also not been brought on record. When there is inconsistent evidence in respect of the presence of the deceased in the house of A1 and even according to PW1, the deceased was present in her house on 24.02.2016 and 25.02.2016 and further, when



both PW12 and PW13 had admitted that there is a possibility of abrasions due to fits, there is absolutely no material to establish that there had been any demand of dowry or harassment by the accused prior to the date of occurrence.

36. It could be seen that, according to the deposition of PW1 and PW2, there was a demand for dowry 10 days prior to the occurrence. Unless it is established that the deceased was subjected to cruelty in connection with demand of dowry soon before death, the presumption under Section 113B of the Evidence Act cannot be raised and the offence under Section 304B IPC will not get attracted. Further, though for an offence under Section 498A IPC, the cruelty in respect of the demand of dowry or harassment is sufficient, still there is no evidence or material available to establish that the deceased was harassed and put to cruelty at the hands of the accused.

37. When admittedly the deceased committed suicide within 1 ½ years of marriage and the evidence of PW1, PW2 and even PW3 and PW4 are consistent to the effect that A1 and the deceased lived happily in the house of PW1 for one year, there is absolutely no material to show that there



had been any instance of cruelty or harassment meted out to the deceased by the accused thereafter in 6 months prior to the date of occurrence. In the absence of any such evidence, the charge for offences under Sections 498A and 304B of IPC and Section 4 of the Act are not proved.

38. The trial court, by relying on the evidence in chief examination of PW1 and PW2, had come to the conclusion that they had spoken about the demand of dowry and from the evidence of PW12/Doctor and postmortem certificate/Ex.P8 had presumed that in view of abrasions noted, raised the presumption under Section 113B of the Evidence Act that the deceased was driven to commit suicide due to the harassment meted out in respect of demand of dowry and had convicted the appellant for offences under Sections 498A and 304B of IPC and Section 4 of the Act. The trial court failed to note that only when the prosecution proves the foundational facts and there is evidence to show that the cruelty was meted out to the deceased in respect of demand of dowry soon before death, the presumption under Section 113B of the Evidence Act would arise.



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39. On reappraisal of the entire materials and evidence available on record, this Court is of the considered opinion that the charges against the appellant/A1 are not proved. The prosecution had not proved the foundational facts to raise the presumption under Section 113B of the Evidence Act. There is absolutely no material or evidence in respect of demand of dowry, which has also been confirmed and opined by RDO/PW16 in Ex.P11. All the witnesses, PW5 to PW11, including mahazar and confession witnesses, have all turned hostile. PW2's evidence even did not support the charge levelled against A1. The evidence of PW1 is inconsistent and unreliable. There is a huge discrepancy between Ex.P8 and Ex.P9 and the evidence of PW12 and PW13. All these aspects have not been considered by the trial court in arriving at a finding in convicting the appellant. The findings arrived at by the trial court are perverse and cannot be sustained.

40. In such circumstances, the conviction and sentence imposed on the appellant/A1 by the District Magalir Neethi Mandram (Fast Track Mahila Court), Villupuram, in S.C.No.264 of 2017 dated 24.02.2022, are set aside. The appellant is acquitted from all the charges. The bail bond, if any



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executed, shall stand cancelled. The fine amount, if any, paid by the appellant, shall be refunded to him.

41. Accordingly, this Criminal Appeal stands *allowed*.

30.03.2026

Speaking order

Index : Yes

Neutral Citation : Yes

sri

To

1.The District Magalir Neethi Mandram (Fast Track Mahila Court),
Villupuram.

2.The Deputy Superintendent of Police,
Government of Tamil Nadu,
Gingee Police Sub Division,
Valathi Police Station,
Villupuram District.

3.The Public Prosecutor,
High Court, Madras.



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G.ARUL MURUGAN, J.

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Pre-Delivery Judgment made in
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