



Crl.A(MD) No.941 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 17.03.2026

CORAM:

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
and
THE HONOURABLE MR.JUSTICE P.DHANABAL**

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Singarasu

... Appellant

-VS-

The Inspector of Police
G.Vilakku Police Station,
Theni District.
Crime No.54 of 2006

...Respondent

Criminal appeal filed under Section 374(2) of Cr.P.C., to call for the records and set aside the impugned judgment and conviction dated 07.07.2023, by the learned Mahila Fast Track Court, Theni, in S.C.No.58 of 2007 and acquit the appellant.

For Appellant : Mr.Mayil Vahana Rajendran

For Respondent : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



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J U D G M E N T

P.DHANABAL, J.,

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Challenging the conviction and sentence rendered by the Mahila Fast Track Court, Theni, in S.C.No.58 of 2007 dated 07.07.2023 the present criminal appeal has been filed by the appellant.

2..The trial Court acquitted A2 to A4 for the offence under Sections 498(A), 304(B), 306 r/w 109 of IPC and convicted the appellant/A1as follows:

Penal Provisions	Sentence of Imprisonment	Fine Amount
498(A) of IPC	2 years simple imprisonment	Rs.10,000/- I/d to undergo one month simple imprisonment
4 of Dowry Prohibition Act	2 years simple imprisonment	Rs.1,000/- I/d to undergo one month simple imprisonment
304(B) of IPC	Life Imprisonment	Rs.10,000/- I/d to undergo one month simple imprisonment



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3.The case of the prosecution is that P.W.2 and P.W.3 are the brothers

of the deceased and P.W.1 is the father of the deceased, who died by consuming poison. The appellant/A1 is the husband of the deceased and A2 and A3 are parents of the appellant and the A4 is the maternal uncle of A1. A1 and the deceased fell in love. While so, when the P.W.1/father of the deceased asked the marriage between the deceased and the appellant. A2 and A3 refused to conduct marriage and they demanded 10 sovereigns of gold jewels and Rs.50,000/- as dowry. Therefore, the P.W.1 father of the deceased gave a complaint before the All Women Police Station, Andipatti and thereafter, after the Panchayat, the marriage between the appellant and the deceased was solemnized. A2 and A3 have not participated in the marriage. After the marriage, the appellant was residing along with the deceased in the house of the P.W.1. The appellant, after the instigation made by A2 to A4 demanded dowry and harassed the deceased. When the deceased was alone in her house, the A2 to A4 came to the house of the deceased and threatened to give dowry. Thereby, on 21.04.2006, early morning, when the deceased was woke up, the appellant induced the deceased to commit suicide saying that “நு உயிரோடு இருந்து என்ன செய்ய போறே அறளி விதை தின்று செத்துப்போ”. Thereafter, the deceased, on the same day, at about 6.45 am, consumed Oleander seeds of the

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poisonous substance and thereafter, the deceased was taken to hospital, where she died at 10.50 am. Thereafter, the P.W.1, has lodged a complaint Ex.P.1 before the respondent police and the respondent Police/P.W.22 registered an FIR/Ex.P.8 in Crime No.54 of 2006, for the offence under Section 174 of Cr.P.C. and thereafter, the P.W.27/investigation officer had taken up the case for the investigation.

3.1.The Revenue Divisional Officer/P.W.8 conducted an enquiry on the body of the deceased and P.W.27 on 22.04.2006 at about 07.00 a.m. went to the place of the occurrence and prepared an Observation Mahazer/Ex.P5 and Rough Sketch/Ex.P12 in the presence of the witnesses and thereafter, altered the Sections into 498(A) and 304(B) of IPC. Thereafter, he examined the witnesses on 24.04.2006 and recorded the statement on the same day at about 09.00 a.m, and he also recovered the note book of the deceased/Ex.P.14 in the presence of the witnesses and thereafter, on 25.04.2006 he arrested A1 to A4 and in the presence of the Village Assistant/P.W.23 namely, Seenivasagam, and thereafter, the appellant voluntarily gave a confession statement and the said confession statement/Ex.P.9 was recorded. Thereafter, he obtained Ex.P.15/ suicide note from the P.W.2, who is the brother of the deceased and thereafter, Ex.P.14 an

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Ex.P.15 were sent for expert opinion and also he sent the seized materials

M.O.1 and M.O.2 for chemical analysis and thereafter, he filed a final report as against A1 for the offences under Sections 498(A), 304(B), 306 of IPC r/w Section 4 of Dowry Prohibition Act, and as against A2 to A4 for the offences under Sections 498(A), 304(B), 306 of IPC r/w 109 of IPC.

3.2. On appearance of the accused, and compliance of Section 207 of Cr.P.C., finding that the case was exclusively triable by the Court of Sessions the learned Magistrate had committed the case to the Court of Sessions and it was made over to the Mahila Fast Track Court, Theni, in S.C.No.58 of 2007 for trial

3.3. After receipt of case records, the trial Court has framed charges as against the appellant for the offence under Sections 498(A), 304(B), 306 of IPC r/w Section 4 of Dowry Prohibition Act and as against A2 to A4 for the offence under Sections 498(A), 304(B), 306 r/w 109 of IPC and the above charges were read over and explained to the appellant and other accused. The appellant and other accused denied the charges and claimed to be tried.



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3.4. The prosecution examined P.W. 1 to P.W.27 and marked exhibits Ex.P.1 to P.16 and two material objects M.O.1 and M.O.2 were produced. After completion of prosecution witnesses the appellant and other accused were examined under Section 313 (1)(b) of Cr.P.C., with regard to the incriminating circumstances appearing against them, they denied the same as false. On the side of the appellant and other accused, no one was examined and two documents were marked as Ex.D1 and Ex.D1.

3.5. After analyzing the evidence and upon hearing both sides, the trial Court has convicted the appellant for the offences as stated supra and acquitted A2 to A4 for the offences as stated supra. Aggrieved by the said judgment of conviction the present appeal has been filed by the appellant.

4. The learned counsel appearing for the appellant would submit that the appellant has been charged for the offence under Sections 498(A), 304(B), 306 of IPC r/w Section 4 of Dowry Prohibition Act and A2 to A4 have been charged for the offence under Sections 498(A), 304(B), 306 r/w 109 of IPC. The trial Court acquitted A2 to A4 from all the charges and convicted the accused for the offence under Sections 498(A) and 304(B) of

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IPC r/w Section 4 of Dowry Prohibition Act. In fact, the framing of charges

itself is not in consonance with the provisions of Cr.P.C., and no specific charges for distinct offences have been framed. Thereby, the same caused prejudice to the appellant. In this case, both the appellant and the deceased had not attained the legal age for marriage . The prosecution has failed to prove the marriage took place between the deceased and the appellant. When the appellant was aged about 18 years and 1 month and the deceased was aged about 17 years on the date of occurrence, the marriage itself is void and the deceased had also not even completed 17 years on the date of marriage. There is no evidence to prove that the marriage took place between the appellant and the deceased. P.W.1 is the father of the deceased and he categorically admitted that the deceased as well as the appellant were aged about 17 years on the date of marriage. There are no evidence to constitute the offence under Section 304(B) of IPC to prove that soon before the death, there was no demand for dowry. There is no marital relationship between the deceased and the appellant as husband and wife based on the marriage. When the marriage itself has not been proved by the prosecution, the offence under Sections 498(A) and 304(B) and Section 4 of the DP Act would not attract.



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4.1. Even as per the evidence of P.W.1, the marriage was solemnized

between the deceased and the appellant while they were 17 years and after the marriage, the appellant and the deceased were residing at the house of P.W.1 and nowhere stated about the demand of dowry and what kind of dowry demanded by the appellant has not been specifically stated by the P.W.1. The P.W.2 is none other than the brother of the deceased. He was not an eyewitness to the occurrence. Though the second accused has spoken about the dowry, there is no mention of the nature of the amount and the dowry demanded by the appellant. The P.W.2 has stated about the suicide note. However, he has not stated as to where the suicide note was present and how could he know about the suicide note and thereby, the evidence of P.W.2 is very doubtful. As far as P.W.3 is concerned, he is also brother of the deceased and he only stated that the accused demanded six sovereigns of gold jewels and Rs.50,000 through the parents of the appellant. However, none of the witnesses have spoken about the quantum and nature of dowry. The P.W.3 has stated this for the first time before this Court, therefore his evidence is also highly doubtful. As far as the P.W.4 is concerned, she is the neighbour and the deceased told her that the appellant demanded dowry and she has not stated about the specific words spoken by the deceased in respect of the dowry demand, therefore, the prosecution has failed to prove

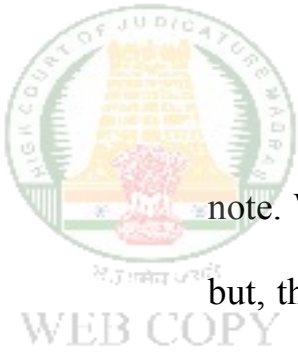


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the marriage between the appellant and the deceased and the alleged dowry demand made by the appellant.

4.2. Moreover, the Ex.P.1/complaint itself has not been mentioned about the dowry. According to the complaint, on the date of occurrence, at about 7.30 am, the appellant, after taking his dresses, left the house, at that time, her daughter told that she had a sensation of vomiting, when he asked about the same, she stated that there was some dispute between her and the appellant, thereby she consumed poison. Therefore, the evidence of P.W.1 itself reveals that the deceased herself consumed poison for the dispute between the appellant and the deceased, but there was no mention about the demand of dowry. In the complaint also, it was mentioned that 10 sovereigns of gold jewels and Rs.50,000/- were demanded and therefore, the said demand of dowry made by the parents of the deceased, prior to the marriage. After the marriage, there was no evidence for the demand of dowry and no complaint was lodged by the complainant's side for the alleged demand of dowry, and thereby, the prosecution has failed to prove the charges leveled against the accused. Further, when the prosecution seized the suicide note of the deceased, no Mahazer has been prepared and the prosecution failed to prepare Mahazer for the recovery of the suicide

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note. Whereas the record note of the deceased was seized through Mahazer but, the same investigation officer failed to prepare Mahazer for the suicide note, which is vital document, and thereby, they failed to prove the recovery of the suicide note, and there is no evidence that Ex.P.14 belongs to the deceased, and thereby, the comparison of the handwritings itself is not in accordance with law, and hence, the accused is entitled to acquittal.

5.The learned Additional Public Prosecutor appearing for the respondent Police would submit that the deceased and the appellant fell in love and thereafter, the deceased got pregnant. When the parents of the deceased insisted to marry the deceased, the parents of the appellant refused for the marriage, and thereby, the PW.1 lodged a complaint against the appellant before the All Women Police Station, Andipatti and they had registered a case in C.S.R.No.11 of 2006, and thereafter, the complainant's side withdrew their complaint, since the matter has been amicably settled between them. Thereafter, the P.W.1 and his family members solemnized the marriage between the deceased and the appellant and thereafter, the appellant was residing along with the deceased in the house of the P.W.1. The appellant, at the instigation of his parents, demanded dowry, and thereby, induced the deceased to commit suicide and she died by consuming

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the Oleander seeds. Thereafter, P.W.1 lodged a complaint and based on the complaint, the respondent registered an FIR/Ex.P.8 in Crime No.54 of 2006, for the offence under Section 174 of Cr.P.C. and the case was investigated by the investigation officer. The investigation officer/P.W.27 examined the witnesses, recorded the statements, collected materials and filed final report. As per the final report, there were *prima facie* materials available as against the appellant for the offences under Sections 498(A), 304(B), 306 of IPC r/w Section 4 of Dowry Prohibition Act. Thereafter, the trial Court framed the charges as against the appellant and other accused. In order to prove the case of the prosecution, they examined P.W. 1 to P.W.27 and marked exhibits Ex.P.1 to P.16 and two material objects M.O.1 and M.O.2 were produced and on the side of appellant, no one was examined and two documents were marked as Ex.D1 and Ex.D1. The P.W.1 has categorically deposed about the demand of dowry. Further, the appellant also caused cruelty to the deceased and thereby, the deceased committed suicide by consuming the Oleander seeds. The prosecution witnesses have categorically deposed about the occurrence and the postmortem doctors, P.W.20 and P.W.25, who conducted the autopsy of the deceased, have categorically deposed regarding the cause of death stating that the deceased died after consuming a poisonous substance namely Oleander seeds. The

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prosecution has thus established its case. The trial Court also after elaborate discussion based on evidence came to a conclusion that the prosecution has proved the charges levelled as against the appellant and rightly convicted the appellant and awarded sufficient punishment and hence the appeal is liable to be dismissed.

6. This Court heard both sides and perused the materials available on record.

7. In this case, the appellant has been charged for the offences as stated supra and the parents of the appellant and his maternal uncle have been charged for the offences as stated supra. The trial Court acquitted the other accused from the charges framed against them and convicted the appellant for the offences as stated supra. In this case, first of all, the trial Court failed to frame proper charges and separate charges were not framed for distinct offences, and the manner in which the charges were framed is not in consonance with the provisions of the Cr.P.C. Sections 211 and 212 of Cr.P.C., deals with the contents of charge and particulars as to time, place and person. For ready reference, Sections 211 and 212 of the Cr.P.C., are extracted hereunder:

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211. Contents of charge:-

(1) Every charge under this Code shall state the offence with which the accused is charged.

(2) If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

(3) If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged.

(4) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

(5) The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

(6) The charge shall be written in the language of the Court.

(7) If the accused, having been previously convicted of any offence, is liable, by reason of such previous conviction, to enhanced punishment, or to punishment of a different kind, for a subsequent offence, and it is intended to



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prove such previous conviction for the purpose of affecting the punishment which the Court may think fit to award for the subsequent offence, the fact, date and place of the previous conviction shall be stated in the charge; and if such statement has been omitted, the Court may add it at any time before sentence is passed.

212. Particulars as to time, place and person:-

(1) The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

(2) When the accused is charged with criminal breach of trust or dishonest misappropriation of money or other movable property, it shall be sufficient to specify the gross sum or, as the case may be, describe the movable property in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the



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meaning of section 219: Provided that the time included between the first and last of such dates shall not exceed one year.

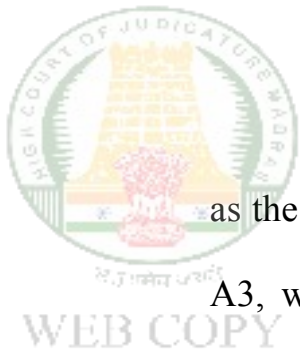
8. Therefore, the aforesaid framing of charges are not in consonance with the provisions of Sections 211 and 212 of Cr.P.C., and the same has certainly caused prejudice to the accused. Moreover, the trial Court has not properly framed the questions under Section 313 of the Cr.P.C., and the entire evidence of the particular witness has been framed as single question for each witnesses and thereby, the mandatory procedure has not been followed by the trial Court. In this case, the prosecution has projected as if the marriage between the deceased and the appellant was solemnized, while they were below 17 years. In this context, the P.W.1 in his evidence stated that when her daughter was studying 11th standard, the occurrence took place. P.W.1 admitted in his cross examination that at the time of marriage, his daughter and the appellant were 17 years old. When they gave a complaint before the All Women Police Station, Andipatti, they were minors. Thereby, the police refused to conduct marriage between them. Thereafter, the Marriage performed in the temple. Therefore, from the evidence of P.W.1, it reveals that the alleged marriage between the appellant and the deceased was solemnized while they were below 17 years. Further, 15/22



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the P.W.2, P.W.3 and P.W.4 have also in their evidence stated that the deceased was not major on the date of marriage. Particularly, the P.W.2 in his evidence stated that the Police refused to conduct marriage, since his sister was not attained majority and thereby, they conducted the marriage at Kaliyamman Temple in front of the Police Station. Therefore, from the evidence of P.W.1 and P.W.2, it is clear that the deceased and the appellant were minors on the date of alleged marriage. To attract the provisions of Sections 498(A), 304 B of IPC and Section 4 of Dowry Prohibition Act, the marriage is. *sine qua non*. But in this case, the marriage itself has not been proved by the prosecution. In the absence of proof of marriage between the deceased and the appellant, the offence under Sections 498A, 304B of IPC and Section 4 of DP Act would not attract, the trial court failed to consider the above said aspect and without proving the marriage, the trial Court convicted the accused for the above said offences.

9.Even assuming that the marriage between the deceased and the appellant was solemnized, as per the evidence of P.W.2, the complaint was lodged on 17.01.2026 and on the next day, the marriage between the appellant and the deceased was solemnized. While so, the evidence of P.W.1 and P.W.2 revealed that on the date of marriage, both the appellant as well



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as the deceased had not even completed 18 years. It is admitted that A2 and A3, who are parents of A1 had not participated in the marriage and the accused belong to the Coonor and he was taken to Andipatti and the complainants are residing at Antipatti.

10.In the case on hand, the evidence of P.W.1 and P.W.2 reveals that the parents of the appellant did not consent to the marriage. Thereafter, the marriage between the appellant and the deceased was conducted by the parents of the deceased. Therefore, the same would fall within the provisions of the Child Marriage Act.

11.From the above discussions, it is evident that the appellant was forced and compelled into the marriage, therefore, the same would fall under Sections 12(a) and (b) of the Prohibition of Child Marriage Act, 2006. Section 12 of Prohibition of Child Marriage Act, 2006, Reads as under:

12. Marriage of a minor child to be void in certain circumstances.—Where a child, being a minor—

(a) is taken or enticed out of the keeping of the lawful guardian; or

(b) by force compelled, or by any deceitful means induced to go from any place; or 5



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(c) is sold for the purpose of marriage; and

made to go through a form of marriage or if the minor is married after which the minor is sold or trafficked or used for immoral purposes, such marriage shall be null and void.

12. Therefore, the marriage was solemnized after taking the appellant from coonor and after removing A1 from the custody of his parents, the marriage was solemnized and by force, compelled to marry, thereby, it is void marriage. Even according to the complaint, nowhere stated about the demand of dowry. There is no evidence adduced by the prosecution to prove that soon before the death of the deceased, she was subjected for cruelty in connection with the dowry. There is no evidence to show that the appellant harassed the deceased and caused cruelty to her and there is no acceptable evidence for the demand of dowry, and thereby even on merits, there is no sufficient evidence to sustain the conviction under Sections 498A, 304B of IPC and Section 4 of DP Act as against the appellant. Therefore, the prosecution failed to prove the charges levelled as against the appellant. Further, as per the complaint, on the date of occurrence at about 7:30 a.m., when he went to the house of the deceased, she stated that she had

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consumed poison due to some dispute between the deceased and the appellant. Therefore, there is no evidence for attracting the provision of the Sections 498A, 304B of IPC and Section 4 of DP Act.

13.At this juncture, it is relevant to refer the following judgments of the Honourable Supreme Court:

13.1.In the case of *P.Sivakumar Vs. Police Etc.* reported in **MANU/SCOR/32570/2023**.

13.2.In the case of *A.Sakthivel Vs. State of Tamilnadu and another* reported in **CDJ 2019 MHC 3774**.

13.3.In the case of *Shivcharan Lal Verma and another Vs. State of Madhya Pradesh* reported in **2002 SCC Online SC 230**.

14.On careful perusal of the above said judgments, it is clear that for the prosecution under Section 498A of IPC, there must be a valid marital relationship between the appellant and the deceased. Only a legally wedded wife can claim the protection under Section 498A of IPC and that in the absence of such a legal relationship as husband and wife, a conviction under Section 498A of IPC cannot be sustained. Once the marriage between the

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deceased and the appellant has been found to be null and void, the conviction under Section 498A IPC and Section 4 of dowry Prohibition Act would not attract. As far as the charge under Section 306 of IPC is concerned, the trial Court has not convicted the accused for the offence under Section 306 of IPC and the prosecution has also not preferred any appeal against the appellant under Section 306 of IPC.

15. In view of the above said discussions, this Court is of the considered opinion that the prosecution has failed to prove the charges levelled against the appellant for the offences under Sections 498(A), and 304(B) of IPC and Section 4 of DP Act and there are so many discrepancies with regard to the framing of charges, prosecution witnesses and the marriage between the minor children. Therefore the appellant is entitled for acquittal and the conviction and sentence passed by the trial Court is liable to be set aside and the appeal is liable to be allowed.

16. In the result, the Criminal Appeal is allowed and the Judgment, dated 07.07.2023, made in S.C.No.58 of 2007, by the learned Mahila Fast Track Court, Theni, is hereby set aside and the appellant is acquitted of all the charges. The bail bond, if any, executed by the appellant shall stand

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cancelled. The fine amount, if any paid, shall be refunded to the appellant.

The appellant shall be set at liberty forthwith, if he is no longer required in connection with any other case.

[N.A.V.,J] [P.D.B.,J]
17.03.2026

Internet : Yes / No

Index : Yes / No

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To

1. The learned Mahila Fast Track Court, Theni.

2. The Inspector of Police
G.Vilakku Police Station,
Theni District.

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

4. The Record keeper
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai



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