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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 09-10-2026

PRONOUNCED ON : 29-10-2026

CORAM

THE HON'BLE MR.JUSTICE S.KARTHIKEYAN

CRL A(MD) No. 426 of 2018

CNR:{HCMD011052532018}

1. Chinnakodi

2. Kamayee

..Appellants/Accused 1 and 2

Vs

State represented by,
The Inspector of Police,
Usilampatti Circle,
Madurai.
(Crime No.138 of 2010)

..Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374 of Cr.P.C., to call for the records relating to the judgment dated 16.08.2018 made in S.C.No. 334 of 2012 on the file of Sessions Judge, Mahila Court, Madurai and set aside the conviction made against Appellants and allow the appeal.

For Appellants : Mr. C. Ramesh,
for Mr. M. Suresh Kumar.

For Respondent : Mr.G.Ganesh Kumar,
Government Advocate (Crl. Side)

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JUDGMENT

This Criminal Appeal is directed against the judgment of conviction and sentence passed by the learned Sessions Judge, Mahila Court, Madurai, in S.C. No. 334 of 2012, dated 16.08.2018.

2. On perusal of the records, it is found that on 27.02.2010, at about 11.30 a.m., PW10 Senthilkumar, the then Sub-Inspector of Police, Usilampatti Town Police Station received Ex.P1 complaint from PW1, Dharmarajan and registered Ex.P5 First Information Report in Crime No.138 of 2010 under Section 174 of the Code of Criminal Procedure and Section 306 of the Indian Penal Code. He forwarded the First Information Report to the Inspector of Police for investigation. He also forwarded the original complaint and the First Information Report to the learned Judicial Magistrate, Usilampatti, and sent the other copies to his superior officers.

3. PW11 Dhanapal, the then Inspector of Police, Usilampatti, has taken up the investigation on 27.02.2010. He visited the place of occurrence and, at about 12.30 p.m., prepared Ex.P2 Observation Mahazar and Ex.P6 Rough sketch in the presence of Gurunathan and PW7 Mokkamayan. Thereafter, he visited the Government Rajaji Hospital and conducted inquest over the body of the deceased in the

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presence of witnesses and panchayatars and prepared Ex.P7 Inquest Report. He then examined the de-facto complainant and the witnesses, PW2 Jeyamani, PW3 Maharajan, Sekar, PW5 Petchi, PW4 Singam, PW6 Panju and Muthusamy and recorded their statements.

4. On 11.03.2010, at about 12.00 p.m., PW11 arrested the Second Accused, at Nalluthevanpatti Village with the assistance of a Woman Police Constable. He thereafter brought her to the police station and remanded her to judicial custody. On 21.05.2010, he examined Dr. Purushothaman, who had conducted the post-mortem examination on the body of the deceased, and recorded his statement.

5. Subsequently, PW15 has taken up the investigation on 09.02.2011. After perusing the investigation conducted by PW11 Dhanapal, he laid the final report before the learned Jurisdictional Magistrate.

6. The final report was taken cognizance by the learned District Munsif-cum-Judicial Magistrate No. I, Usilampatti. The learned Magistrate issued summons to the Accused and, upon their appearance, furnished them with copies of the documents relied upon by the prosecution under Section 207 of the Code of Criminal Procedure. Since

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the offences alleged were exclusively triable by the Court of Sessions, the case was committed to the Principal District and Sessions Court, Madurai.

7. The Principal District and Sessions Court, Madurai, has taken cognizance of the said case in S.C. No.334 of 2012 and made it over to the Trial Court for trial in accordance with law. Upon the appearance of the Accused and after hearing both sides, the Trial Court has framed charges against A1 to A4 for the offences punishable under Sections 498-A, 306 and 406 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act. The charges were read over and explained to the Accused. They denied the charges and claimed to be tried.

8. On the side of the prosecution, P.W.1 to P.W.15 were examined and Ex.P1 to Ex.P7 were marked. Upon the closure of the prosecution evidence, the incriminating circumstances appearing in the evidence against the Accused were put to them under Section 313(1)(b) of the Code of Criminal Procedure. The Accused denied the same as false and stated that they have witnesses to examine on their side. However, no witness was examined on the side of the defence, and the defence evidence was closed.

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9. After hearing both sides, the Trial Court found A1 and A2 guilty of the offences punishable under Sections 498-A and 306 of the Indian Penal Code and sentenced each to undergo Rigorous Imprisonment for two years and to pay a fine of Rs.5,000/-, each in default each to undergo Rigorous Imprisonment for six months for the offence under Section 498-A IPC and sentenced each to undergo Rigorous Imprisonment for five years and to pay a fine of Rs.5,000/-, each in default each to undergo Rigorous Imprisonment for one year for the offence under Section 306 IPC. However, they were acquitted of the charges under Section 406 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act. A3 and A4 were acquitted of all the charges framed against them under Sections 498-A, 306 and 406 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.

10. Aggrieved by the judgment of conviction and sentence, A1 and A2 preferred the present appeal. Pending the appeal, the Second Appellant, Kamayee, died on 05.02.2024, and consequently, the appeal stood abated insofar as A2 is concerned. The present appeal is pressed only by A1/First Appellant.

11. The learned counsel for the appellant and the learned Government Advocate (Criminal Side), appearing for the State were

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heard. The Trial Court records were called for and perused.

12. **Point for Determination:-**

Whether the judgment of conviction and sentence passed against the First Appellant is sustainable?

Answer:-

13. On a careful perusal of the records, it is found that it is the case of the prosecution that the deceased, Tamilselvi, was the daughter of P.W.1 Dharmarajan, and that A1, the First Appellant, was her husband. A2 and A3 are the parents of A1, while A4 is his elder brother. The deceased was given in marriage to A1 ten years prior to the occurrence. At the time of marriage, her parents gave her 37 sovereigns of gold jewellery and household articles worth about Rs.1,00,000/-. In the wedlock, one female child and two male children were born. Three years prior to the occurrence, at the time of the ear-boring ceremony, PW1 gave Rs.50,000/- in cash and articles worth Rs.50,000/-. It is further alleged that A1 to A4 sold the gold ornaments belonging to the deceased and demanded her to bring a sum of Rs.1,00,000/- from her father as dowry, threatening her that otherwise she could leave the home and die.

14. According to the prosecution, due to the mental torture

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inflicted by the Accused, the deceased attempted to commit suicide on 15.02.2010. Thereafter, on 18.02.2010, she lodged a complaint against all the Accused before the All Women Police Station, Usilampatti. On 25.02.2010, the police enquired into the matter in the presence of both parties, attempted to resolve the dispute and directed them to appear on another day.

15. It is further alleged that on 25.02.2010, at about 4.30 p.m., all the Accused abetted the deceased to commit suicide by subjecting her to harassment over the demand for dowry. Consequently, the deceased committed suicide by consuming phenobarbitone poison. Thus, according to the prosecution, the actions of the Accused are punishable under Sections 498-A, 306 and 406 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act. To substantiate its case, the prosecution examined P.W.1 to P.W.15 and marked Ex.P1 to Ex.P7.

16. As stated supra, the Trial Court found A1, the First Appellant, guilty of the offences punishable under Sections 498-A and 306 of the Indian Penal Code. The appellant was acquitted of the charges under Section 406 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act. Neither the victim nor the State has preferred an appeal against the order of acquittal.

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17. Now, the question is whether the conviction and sentence imposed on the First Appellant for the offences punishable under Sections 498-A and 306 of the Indian Penal Code are sustainable.

18. On careful perusal of the evidence projected on the side of the prosecution, it is found that Dharmarajan, the father of the deceased Tamilselvi, who set the criminal law in motion, was examined as P.W.1. He, in his evidence, deposed that he was residing at Bodhikulam, near Usilampatti, and was engaged in agriculture. He has two daughters. His elder daughter, Tamilselvi, was married to the First Appellant herein ten years prior to her death. The family of the First Appellant owned an old rice mill and agricultural land. At the time of the marriage, he had given 37 sovereigns of gold jewellery and household articles worth about Rs.1,00,000/-. In the wedlock, they had three children, their elder daughter, Harini, and two sons, Lokesh and Vignesh.

19. PW1 further deposed that for about four or five years after the marriage, the deceased and the Accused lived together as a joint family. The Fourth Accused was residing nearby until her death. The deceased lived in the joint family along with Accused Nos.1 to 3. They lived happily for about ten years. When the children underwent the ear-boring

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ceremony, P.W.1 offered gift worth Rs.50,000/- and a cash gift of Rs.50,000/-.

20. PW1 further deposed that thereafter, Accused Nos.2 and 3 constructed a house for their two sons near the rice mill. The 37 sovereigns of gold jewellery given to the deceased at the time of her marriage were sold for the purpose of constructing the house. The cash given as a gift was also utilised for the said purpose. When the deceased demanded to return her jewellery, the Accused refused to return it. Further, as there was no male heir in the deceased's family, the Accused demanded to bring her share in her father's property and subjected her to assault and harassment. The deceased informed P.W.1 about the same over the phone.

21. PW1 further deposed that he sent his co-brother, Maharajan and one Sekar, a resident of his village, to negotiate with the family of the Accused. Through them, P.W.1 informed the Accused and asked them to wait for a few days and that he would give them Rs.1,00,000/- within a month. He also asked his daughter to remain there.

22. PW1 further deposed that on 15.02.2010, the deceased consumed poison. One Petchi, admitted her in the hospital. His grand

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daughter, Harini, aged about 9 years and studying in the fourth standard, informed P.W.1 about the incident after returning from school. When P.W.1 visited his daughter at the hospital and enquired why she had consumed poison, she told him that she could not live with the Accused, that they were harassing her, and that it was better to die.

23. PW1 further deposed that on 17.02.2010, the deceased was discharged from the hospital and returned to the house of the Accused. On 18.02.2010, the Accused picked a quarrel with her and abused her, stating that she had degraded them by consuming poison. They also questioned her as to why she had survived.

24. PW1 further deposed that on 18.02.2010, the deceased had lodged a complaint at the All Women Police Station, Usilampatti. On 18.02.2010, she had informed P.W.1 that she would not return to her matrimonial home and would commit suicide, as the Accused were demanding money and partition of the property and were subjecting her to harassment. At about 5.00 p.m., P.W.1 compromised her by saying that she has three children and asked her to return to her matrimonial home. He assured her that he would partition the property and give her an equal share. On 18.02.2010, she returned to her matrimonial home.

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25. PW1 further deposed that on 25.02.2010, the deceased again consumed poison. She was brought to the hospital by a 108 ambulance at about 5.30 p.m., one Mokkamayan of Nalluthevanpatti informed P.W.1 about the incident. P.W.1 and his wife went to the hospital and enquired of their daughter why she had consumed poison again, despite they sought one month time. They also told her that, if she was unable to live with the Accused, she could have come to their house.

26. PW1 further deposed that the deceased told them that she could not live with the Accused. She further stated that all the four Accused had assaulted her and told her to leave, stating that, as her parents were young, they would not partition the property and therefore asked her to die instead. She also stated that the Accused continued to demand money and partition of the property, despite 37 sovereigns of gold jewellery, Rs.1,00,000/- in cash and household articles already having been given at the time of marriage. They told her to obtain her share in the property and return, failing which she should not live with them. They also showed her the poison used for agricultural purposes and asked her to consume it.

27. PW1 further deposed that the deceased was forwarded to the Government Hospital, Madurai, on 25.02.2010 for further treatment and

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was taken there at about 7.00 or 7.30 p.m. On 27.02.2010, at about 10.00 or 10.30 a.m., she died. None of the Accused came to see her. P.W.1 lodged Ex.P1 complaint at the Usilampatti Police Station.

28. P.W.1 further deposed that his elder grand daughter, Harini, and the younger grandson, Vignesh, were brought up by him, while the other grandson, Yogesh, was brought up by the Accused. After coming out of prison, the First Appellant went to the school where his grand daughter, was studying in the fourth standard. He threatened to kill her in the same manner as her mother and asked her to come with him. He also stated that, if she remained at her grandmother's house, they would demand the return of the cash and 37 sovereigns of gold jewellery. The Accused allegedly assaulted his grand daughter and told her that, if she accompanied them, they could get the property back. The grand daughter informed P.W.1 about the incident. In this regard, a complaint was lodged before the Deputy Superintendent of Police, Usilampatti, and the same is pending adjudication.

29. Jeyamani, the mother of the deceased, was examined as P.W.2. She deposed that she was born along with two elder sisters and one younger sister. Her elder sister died within seven days of giving birth, and the child was brought up in their family. The deceased's husband was

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P.W.2's maternal uncle and, therefore, the deceased was married to her maternal uncle, who was also her brother-in-law.

30. PW2 further deposed that the deceased was married to the First Accused, who is the Appellant herein, ten years prior to her death. At the time of the marriage, 37 sovereigns of gold jewellery and household articles worth Rs.1,00,000/- were given as dowry. Five years later, the ear-boring ceremony of the children was conducted, during which each child was given a half-sovereign gold stud, and a cash gift of Rs.50,000/- was also given.

31. P.W.2 further deposed that the Accused subjected her daughter to severe harassment. They demanded a share in the property belonging to the deceased's parents and stated that they could not wait until her parents die. The deceased informed P.W.2 about these demands over phone.

32. PW2 further deposed that the Accused did not even provide a salt for the deceased to cook food and did not purchase the necessary household articles for her. P.W.2 used to purchase the required household articles and send them to her daughter through an auto.

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33. PW2 further deposed that her grand daughter and grandson were admitted to Jayaseelan School, Usilampatti. As the school fees had not been paid, the children were not permitted to write their examinations. Her daughter wept and informed P.W.2 about the same. P.W.2 paid Rs.17,000/- and brought the children to her house, where they stayed for about one month without sending them to school to see whether the Accused were sending the children to school. However, the Accused did not send them to school. Thereafter, P.W.2 admitted her grand daughter and grandson to another school at Usilampatti and send them to school from her house. After one year, the Accused took back only the grandson, while the grand daughter refused to return to them.

34. PW2 further deposed that when her grand daughter was studying from the house of P.W.2, she used to purchase the necessary household articles every Saturday and send them through her grand daughter. She also used to give Rs.300/- towards her daughter's expenses. Whenever P.W.2 sent her daughter back, she arranged for her to travel safely by auto. However, the Accused would sent her back by bus. When P.W.2 questioned her daughter about this, the deceased would state that she did not have sufficient money to send her back by auto.

35. PW2 further deposed that prior to her death, in Tamil month of

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'Thai', on 20th, the deceased called P.W.2 over phone in the morning and informed her that the gold jewellery given to her had already been emptied and that the remaining seven sovereign of jewellery were in mortgage. She further stated that she intended to obtain a loan of Rs.20,000/- from a women self-help group to redeem the said jewellery. She had paid the money on Saturday and was expecting the jewellery to be returned the following day. She told P.W.2 that she would come on the next day. However, when the deceased did not arrive on Sunday, P.W.2 called her, but her mobile phone was switched off and did not receive any call until 6.00 p.m.

36. PW2 further deposed that five days later, on the following Saturday, P.W.2 sent her grand daughter by auto to enquire about the condition of her mother. Her grand daughter reached the village after 1 ½ hours and subsequently informed her that her mother had consumed poison. The deceased had been admitted in the hospital for about five days and had been discharged on that day.

37. PW2 further deposed that thereafter, she sent her elder sister's husband, Maharajan and Sekar to enquire into the matter. P.W.2 and her husband did not go directly to the house of the Accused because they apprehended that the Accused would quarrel with them. When Maharajan

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and Sekar questioned the Accused as to why they had not informed the parents of the deceased about the incident, the Accused allegedly replied that they would inform them only after burning Tamilselvi.

38. PW2 further deposed that the Accused did not admit the deceased to the hospital. Instead, a neighbour, Petchi, admitted her. None of the Accused visited the deceased while she was undergoing treatment in the hospital.

39. PW2 further deposed that when Maharajan and Sekar questioned the deceased as to why she had consumed poison, she replied that she had gone to redeem the jewellery on Sunday and that her husband and father-in-law asked her not to come to the pawn shop to redeem the jewels and requested the pawn shop peoples to hand over the jewels to them. Accordingly, her daughter informed the pawnshop peoples to hand over the jewels to her husband and father-in-law. They went to the pawnshop, received the jewels, took them to Madurai and sold them. Her daughter waited until 6.00 p.m. for them to return with the jewels and then contacted them over the phone. They informed her that they would hand over the jewels to her. At around 7.30 p.m., they returned. When she questioned them about the jewels, they scolded her, asking why she needed the jewels, and demanded Rs.1,00,000/- in cash

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and property. Since she did not bring the cash and property, they had sold the jewels. They assaulted her and drove her out of the house. Therefore, she consumed poison.

40. PW2 further deposed that Maharajan and Sekar informed the Accused that they would pay Rs.1,00,000/- after six months and asked them to return by 4.00 p.m. After they left, the Accused scolded her, stating, "Why did you come alive? We asked you to die. You consumed poison only for that reason. That is why we have not come to meet you in the hospital. Go and die or bring property." On the next day, her daughter took her three children to the All Women Police Station, Usilampatti and lodged a complaint. After lodging the complaint, she contacted her mother and informed her about the same. She stated that she could not live with them and had therefore lodged the complaint, and asked her mother to come. Accordingly, she and her husband went to the police station.

41. PW2 further deposed that the police enquired with the Accused, who promised to return 37 sovereigns of gold jewellery within a week. After one week, they again went to the police station. As the Accused claimed that they had no money and had children to take care of, the police pacified the parties, compromised them and sent them back. On

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the same day, at around 5.30 hours, a relative of her daughter from Nallathevanpatti called and informed her that her daughter had consumed poison and that nobody was present in the house. She called the 108 ambulance and requested them to take her daughter to the Government Hospital, Usilampatti. Accordingly, they went to the Government Hospital, Usilampatti, where her daughter was brought by a 108 ambulance.

42. PW2 further deposed that she asked her daughter why she had consumed poison again. Her daughter informed her that the Accused had scolded the deceased, stating that by lodging a complaint with the police, she had brought disrepute to them and that she should not be allowed to live. They had kept poison and asked her to consume it and die. They had locked the doors and left the place. Consequently, she consumed poison.

43. PW2 further deposed that as her condition became serious at the Government Hospital, Usilampatti, she was forwarded to the Government Hospital, Madurai. Despite receiving treatment for two days, she died. While she was in the hospital, her husband lodged a complaint with the Usilampatti Town Police Station.

44. PW2 further deposed that after obtaining bail, the Accused

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went to the school where her grand daughter was studying and threatened her, stating that if she went to the house of her maternal grandfather, they would kill her just as they had killed her mother. They further stated that only if she came to their house, they could claim a share in the property. They also assaulted her. Her grand daughter informed her about the incident over phone. As her husband was not at the station, after two days, they went to the school, and enquired about the said incident and lodged a complaint. The said case is pending before the Usilampatti Court.

45. P.W.3 Maharajan deposed that P.W.2 was his sister-in-law. The First Accused married the daughter of P.W.1 in the year 2000. At the time of marriage, 37 sovereigns of gold jewellery and household articles were given. Three children were born in the wedlock. Thereafter, the ear-boring ceremony for two children were conducted. P.W.1 gave Gift articles worth about Rs.50,000/- and a cash gift of Rs.50,000/-. During the ear-boring ceremony, cash gifts to the tune of Rs.50,000/- were given. The appellant spent the said amount and demanded a further sum of Rs.1,00,000/- from P.W.1 through Tamilselvi.

46. P.W.3 Maharajan further deposed that Tamilselvi came to her father's house. P.W.1 called P.W.3 and informed him about the same. He

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and Sekar convinced the deceased, assuring her that they would arrange the money and send it to her, and thereafter sent her back to her matrimonial home. Tamilselvi consumed poison after her husband assaulted her and scolded her for returning home without bringing the money.

47. P.W.3 Maharajan further deposed that even after three days, she had consumed poison. They did not know about the said occurrence. When she had gone to Usilampatti casually. A person from the accused native place informed him that his co-brother's daughter had consumed poison. On receiving the information, he went to Nallathevanpatti, the village where Tamilselvi resided and questioned the First Accused as to why he had not informed them that Tamilselvi had consumed poison for three days. The Accused replied that he had thought of informing them only after her death.

48. P.W.3 Maharajan further deposed that at that time, Tamilselvi was in her husband's house. He informed her that he would give her the money once it was arranged and left her there. On the next day, Tamilselvi lodged a complaint at the All Women Police Station. On coming to know of the same, he, his co-brother and Sekar went to the police station. The police advised Tamilselvi not to lodge a complaint

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against her husband and to withdraw the complaint and to return to her matrimonial home.

49. P.W.3 Maharajan further deposed that when she returned home, her husband, mother-in-law, father-in-law and sister-in-law assaulted her, questioning how she could lodge a complaint against them at the police station and why she had returned without getting the money. Consequently, Tamilselvi consumed poison again on the next day. She was initially taken to the Usilampatti Hospital and thereafter shifted to the Madurai Hospital. P.W.2 informed him about the same. Despite intensive treatment, Tamilselvi died after three days. The Accused did not attend her cremation. After her death, P.W.1 has been bringing up the two children.

50. P.W.4 Singam deposed in line with the evidence of P.W.3. However, he stated that he did not know why Tamilselvi had consumed poison and died. P.W.5 Petchi did not support the case of the prosecution and was treated as hostile by the prosecution.

51. P.W.6 Panju, in her evidence, deposed that Tamilselvi, the daughter of P.W.1, was married to the First Accused. She used to work at the house of P.W.1. At the time of marriage, 37 sovereigns of gold

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jewellery were given. During the ear-boring ceremony, Rs.50,000/- was given as a gift. Thirty-one baskets of rice were also given. Tamilselvi frequently visited her father's house. When P.W.6 questioned her about the same, Tamilselvi informed her that she had come to obtain Rs.1,00,000/-. She returned to her matrimonial home on the next day.

52. When P.W.6 went to Usilampatti to grind spices, Petchi informed her that Tamilselvi had consumed poison and had been admitted in the hospital. P.W.6 went to the hospital and saw her. At that time, no one from either side was present. Petchiammal informed her about the incident, but P.W.6 did not know when Selvi had consumed poison.

53. PW6 further deposed that after some time, Selvi's parents arrived. P.W.6 questioned Selvi as to why there were frequent quarrels. Selvi informed her that her husband was demanding Rs.1,00,000/- and picking quarrels with her. After the parents of the deceased arrived, P.W.6 left the hospital.

54. PW6 further deposed that after two days, Selvi was discharged, and a panchayat was convened at Boothipuram. During the panchayat, they assured the deceased that the money would be paid within two or

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three days and sent her back along with her children. After one week, P.W.6 came to know that Selvi had consumed poison again. She went to Madurai where Selvi died.

55. P.W.7 Mokkamayan, deposed that Accused Nos.1 and 2 are his uncles. He also deposed in line with P.W.1. Further, he stated that the police came to the scene of occurrence and prepared Ex.P2 Observation Mahazar, in his presence. He identified his signature in the observation mahazar.

56. P.W.8 Dr.Purushothaman, who conducted the post-mortem examination on the body of the deceased, deposed that the viscera of the deceased was collected and forwarded to the Forensic Science Laboratory. The forensic report revealed that the deceased had consumed Phenobarbitone. Accordingly, he issued Ex.P3 opinion, stating that the deceased would have died due to the effect of poisoning. The post-mortem report was marked as Ex.P4.

57. P.W.9 Shanti, the then Inspector of Police, All Women Police Station, Usilampatti, deposed that on 18.02.2010, while she was in charge of the said police station, the deceased Tamilselvi appeared along with her parents and lodged a complaint stating that, despite spending of 37

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sovereigns of gold jewellery and Rs.50,000/-, her husband's family members were demanding a further sum of Rs.1,00,000/-. The complaint further stated that she had consumed poison on 15.02.2010.

58. P.W.9 recorded the same in Community Service Register (CSR) on 25.02.2010 and conducted preliminary enquiry. During the preliminary enquiry, she found that the jewels and cash given to the deceased had been spent by her husband's family. The family members of her husband agreed to convey half of the rice mill and the house in her favour. The parents of the said girl accepted the proposal and arrived at a compromise. P.W.9 instructed them to appear before the police station on 01.03.2010. However, they did not return. Even before that date, the Usilampatti Town Police informed her that the deceased had consumed poison and died due to harassment and the demand for money by her husband's family members.

59. P.W.10 Senthilkumar received complaint from P.W.1 and registered Ex.P5 First Information Report. P.W.11 Dhanabal and P.W.15.Jayaraman are the investigating officers. They deposed about the investigation conducted by them. P.W.12 Dharmar, the post-mortem constable, identified the body of the deceased for post-mortem examination and thereafter handed over the body and its belongings to

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her relatives. P.W.13 Thenammal deposed in line with the evidence of P.W.6 Panju.

60. P.W.14 Harini, the daughter of the deceased, deposed that she and her brother Lokesh were studying in the First Standard and LKG, respectively, at Jayaseelan Matriculation School. The First Accused refused to pay their school fees. Consequently, their grandmother paid the fees and ensured that they continued their education. Their grandmother admitted P.W.14 in the Second Standard and her brother in the First Standard at Nadar School. Their grandmother took good care of them.

61. PW14 further deposed that every Sunday, P.W.14 used to visit her mother at Nallathevanpatti. As her mother was facing difficulties, her grandmother used to give her money for the visits and she would travel by auto. Whenever she visited her mother's house, her paternal grandmother would pick quarrels with her. She would also scold P.W.14 and her mother for not bringing the property and ask them to go and die.

62. PW14 further deposed that on one occasion, while P.W.14 was playing and writing on the gate, her paternal grandmother poured hot water on her. Her father had also assaulted her mother with a piece of firewood, causing an injury on her forehead. Thereafter, P.W.14 went to

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her grandmother's house.

63. PW14 further deposed that when P.W.14 was studying in the Fourth Standard, she again visited her mother's house. At that time, her paternal grandmother, Kamayee, picked up quarrel with her mother and asked her to die. Her brother informed her that the quarrel was related to the jewels, and she conveyed the same to her maternal grandmother.

64. PW14 further deposed that her brother subsequently informed her that their mother had consumed poison. P.W.14 stated that she would inform her family about the same. Her father, however, claimed that her mother had not consumed poison. P.W.14 and her maternal grandmother went to the hospital, where one Petchi had accompanied her mother.

65. PW14 further deposed that the Accused told her mother that she could return only after obtaining a share in the property; otherwise, she should consume poison and die. After two days, her mother was returned home. She went to school. Her mother and grandmother informed her that they were going to the police station. One person came to the school to take her. At the All Women Police Station, a quarrel was going on and she was standing outside. At that time, her mother informed her that she would bring her another brother, as the Accused would not

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take care of him.

66. While she was standing at the bus stop, she received information that her mother had consumed poison and was being taken to the hospital by ambulance. They went to the Government Hospital, Usilampatti. She asked her mother why she had consumed poison. Her mother informed her that the Accused had asked her to consume poison and die and that she had therefore consumed it. Thereafter, her mother became unconscious and was taken to the Government Rajaji Hospital, Madurai. She also accompanied her mother. Her mother was admitted to the Intensive Care Unit (ICU), where she was given treatment. However, she died after two days. The Accused did not come to see her. The villagers of Nallathevanpatti quarrelled with them while they were in the hospital.

67. PW14 further deposed that Forty-five days after her mother's death, her father and senior paternal uncle came to the school. They threatened to kill her just as they had killed her mother, asked her to come to their house and assaulted her. She informed her teachers and family members about the incident. She is now living with her maternal grandparents.

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68. On careful perusal of the evidence of P.W.1, P.W.2, P.W.3, P.W.4, P.W.6, P.W.7, P.W.13 and P.W.14, it is found that the deceased, Tamilselvi, was married to the First Accused in the year 2000. At the time of marriage, 37 sovereigns of gold jewellery and household articles worth Rs.1,00,000/- were given to her. Further, during the ear-boring ceremonies of two children, gold studs worth about Rs.50,000/- and a cash gift of Rs.50,000/- were given.

69. The Accused reconstructed the house near their rice mill for the residence of both brothers. They sold all the 37 sovereigns of gold jewellery given to the deceased at the time of marriage and demanded a further sum of Rs.1,00,000/- from her parents. Further, as the parents of the deceased had only two daughters, the Accused demanded that their property be partitioned during their lifetime and that the share of the deceased Tamilselvi be given to her.

70. In this connection, frequent quarrels arose between the Accused and the deceased, and she was often driven out of her matrimonial home and sent to her parental home. On one such occasion, on 15.02.2010, the deceased was unable to bear the torture inflicted by the Accused in connection with their demand for money and consumed poison. She was admitted in the hospital by P.W.5 Petchi, [though P.W.5

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did not support this fact in her evidence, all the other witnesses deposed that P.W.5 Petchi had admitted the deceased in the hospital.]

71. The Accused did not visit the deceased while she was undergoing treatment. After being discharged from the hospital on 18.02.2010, the deceased Tamilselvi lodged a complaint with P.W.9 Shanti, the then Inspector of Police, All Women Police Station, Usilampatti. In this connection, P.W.9 conducted an enquiry on 25.02.2010. During the enquiry, the Accused agreed to give half of the rice mill and the house to the deceased. P.W.9 instructed the parties to appear for further enquiry on 01.03.2010.

72. However, on 25.02.2010 itself, the deceased consumed poison once again. She was admitted to the Government Hospital, Usilampatti, and was thereafter shifted to the Government Rajaji Hospital, Madurai. Despite treatment, she died on 27.02.2010.

73. P.W.8 Dr.Purushothaman, conducted the post-mortem examination. The viscera of the deceased was collected and forwarded to the Forensic Science Laboratory. The Forensic Science Laboratory report revealed that the deceased had consumed Phenobarbitone poison. Accordingly, the doctor opined that the deceased had died due to

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complications arising from the consumption of poison.

74. The question that arises for consideration is whether the death of the deceased was caused by the abetment of the appellant?

75. In this regard, the evidence of P.W.2 reveals that a relative of her daughter contacted P.W.7 from Nallathevanpatti and informed him that the deceased had again consumed poison and had been taken to the Government Hospital, Usilampatti. P.W.2 rushed to the hospital and questioned the deceased as to why she had consumed poison. The deceased informed her that the Accused had scolded her for lodging a complaint against them, stating that she had brought disrepute to them and, therefore, insisted them that she should not live. They had placed poison before her and asked her to consume it and die. They had then locked the doors and left the house. Consequently, she consumed the poison.

76. The said evidence of P.W.2 is corroborated by the evidence of P.W.14 Harini. When P.W.14 questioned her mother as to why she had consumed poison, her mother disclosed that the Accused had induced her to consume poison and die and that she had consumed it.

77. From the evidence of the prosecution witnesses, it is clear that

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the Accused continuously harassed the deceased by demanding money after selling the 37 sovereigns of gold jewellery given to her at the time of marriage. They also demanded that her parents' property be partitioned. Unable to bear the said harassment, the deceased consumed poison on 15.02.2010. However, the Accused did not take care of her or make arrangements for her treatment.

78. On 18.02.2010, the deceased lodged a complaint with the police, and an enquiry was conducted on 25.02.2010. After returning home, the Accused again quarrelled with the deceased and placed poison before her, asked her to consume it and die. Induced by that provoked by their conduct and unable to bear the continuous harassment, the deceased took the extreme step of ending her life by consuming poison.

79. The evidence of P.W.2 and P.W.14 regarding the statements made by the deceased to them concerning the circumstances in which she consumed poison constitutes a dying declaration within the meaning of Section 32 of the Indian Evidence Act, 1872. Therefore, the circumstances proved by the prosecution clearly indicate the guilt of the appellant.

80. However, the learned counsel for the appellant contended that

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the earlier complaint lodged in this case had been suppressed by the prosecution. The learned counsel relied upon the cross-examination of P.W.1. P.W.1 admitted that, on 18.02.2010, his daughter had lodged a complaint at the All Women Police Station, Usilampatti. The said complaint was allegedly suppressed by the prosecution.

81. Further, the learned counsel for the appellant contended that P.W.1 admitted in his cross-examination that, on 15.02.2010, he, his wife and his daughter had gone to the police station and lodged a complaint in the presence of the Head Constable. P.W.2 also admitted in her cross-examination that, at the Government Rajaji Hospital, Madurai, a Head Constable had examined P.W.1 and P.W.2 and reduced their statements to writing, in which her husband had signed.

82. Further, the learned counsel for the appellant contended that P.W.2, in her cross-examination, admitted that, on the date of the death of the deceased, at around 12.00 hours, the Inspector of Police and the Deputy Superintendent of Police came to the hospital, conducted an enquiry, reduced her statement to writing and obtained her signature. Similarly, they recorded the statement of her husband and obtained his signature. Therefore, according to the learned counsel for the appellant, the prosecution had suppressed the original information and subsequently

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fabricated Ex.P1 complaint belatedly to suit the prosecution case. Hence, the learned counsel contended that the said complaint could not be given any credence.

83. However, from the evidence of the prosecution witnesses, it is found that, on 18.02.2010, the deceased lodged a complaint at the All Women Police Station, Usilampatti. P.W.9 has also deposed about the same. At the time of lodging the complaint, P.W.1 and P.W.2 accompanied the deceased. P.W.1 has spoken about the said complaint only. Though it was not produced before the Trial Court. P.W.9 has deposed about the receipt of the complaint, its entry in the Community Service Register and the preliminary enquiry conducted on the said complaint. Therefore, though the complaint lodged by the deceased was not produced before the Trial Court, in view of the evidence of P.W.9, the lapse on the part of the investigating agency in not producing the said complaint would not, by itself, affect the case of the prosecution.

84. Further, though P.W.1 and P.W.2 stated in their cross-examination submitted that they had given statements which were reduced to writing and signed by them, they had not stated so in their statements recorded by the investigating officer. It appears that, due to a lapse of memory, they deposed that they had signed the statements.

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Section 162 of the Code of Criminal Procedure bars the person making a statement to the police during investigation from signing such a statement. Therefore, the answers given by the witnesses in this regard cannot be given much credence. Hence, the contention of the learned counsel for the appellant that the original information had not been produced is not factully correct.

85. Further, the Trial Court relied upon the decision of the Apex Court in ***Hema vs State Tr.Insp.of Police***, reported in ***(10) SCC 192***, wherein the Hon'ble Supreme Court held as follows:

> *"Further, even if there had been negligence on the part of the investigating agency or omissions etc., it is the obligation on the part of the Court to scrutinize the prosecution evidence de hors such lapses to find out whether the said evidence is reliable or not and whether such lapses affect the object of finding out the truth."*

86. Therefore, in view of the decision of the Hon'ble Supreme Court cited supra, even though there are the lapses on the part of the investigating agency, such lapses would not, by themselves, affect the case of the prosecution.

87. The learned counsel for the appellant further contended that the deceased died on 25.02.2010, whereas the First Information Report was registered only on 27.02.2010, and that there was, a delay in

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registering the First Information Report. However, on a careful perusal of the evidence of the prosecution witnesses, it is found that the deceased consumed poison on 25.02.2010 but died only on 27.02.2010. P.W.1 lodged the complaint with the police only after her death. When the deceased was undergoing treatment in a serious condition, it cannot reasonably be expected that P.W.1 and P.W.2, being her parents, would leave her at the hospital and rush to the police station to lodge a complaint. Though the learned counsel for the appellant contended that the date in Ex.P1 complaint had been altered from 28.02.2010 to 27.02.2010, on a careful perusal of Ex.P1, it is found that the complaint reached the police on 27.02.2010 itself. Therefore, the said error in the date appears to be a clerical error in recording the date.

88. Further, on a careful perusal of Ex.P5, the First Information Report, it is found that the learned Magistrate made an endorsement stating that the First Information Report, along with the original complaint, was received at 1.25 p.m. on 27.02.2010. Therefore, it is clear that the First Information Report was registered on 27.02.2010 itself, and there is no doubt regarding the date of its registration.

89. The learned counsel for the appellant further contended that the deceased was initially taken to the Government Hospital, Usilampatti,

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for treatment and was thereafter referred to the Government Rajaji Hospital, Madurai. However, the prosecution had neither produced the Accident Register maintained at the Government Hospital, Usilampatti, nor examined any Doctor from the said hospital. Therefore, according to the learned counsel for the appellant, the information furnished to the Doctor at the Government Hospital, Usilampatti, had been suppressed by the prosecution.

90. It is true that the deceased was initially taken to the Government Hospital, Usilampatti, and thereafter shifted to the Government Rajaji Hospital, Madurai. However, the evidence discloses that the deceased was not in a position to speak. Therefore, it is not clear from the evidence whether an Accident Register was registered at the Government Hospital, Usilampatti. In the absence of any concrete evidence to show that the deceased was admitted in Usilampatti Hospital and the Accident Register prepared by the Doctor at the Government Hospital, Usilampatti, the non-production of the Accident Register will not affect the case of the prosecution, as it cannot be expected from the prosecution to produce a document which is not in existence at all.

91. Further, the learned counsel for the appellant further contended that, though the deceased was undergoing treatment for about two days,

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no dying declaration was recorded. However, from the evidence of P.W.1, it is found that the deceased became unconscious and did not regain consciousness before her death. In the absence of any evidence to show that the deceased regained consciousness before her death, the non-recording of a dying declaration cannot be put against the prosecution.

92. The learned counsel for the appellant further contended that there was no instigation, inducement or intentional aid on the part of the appellant to abet the suicide of the deceased. No specific dates or instances of harassment were stated by the prosecution witnesses, and the allegations were omnibus in nature. The deceased had already attempted to commit suicide and, therefore, had a suicidal tendency. She had consumed jaundice syrup and attempted to commit suicide. Therefore, according to the learned counsel for the appellant, the prosecution had failed to prove the ingredients of the offences alleged against the appellant. The learned counsel for the appellant further relied upon the decision of the Hon'ble Supreme Court in ***Sanju Alias Sanjay Singh v. State of Madhya Pradesh***, reported in ***2002 SCC (Cri) 1141***, to say that a mere statement asking a person to die would not constitute intentional instigation. The relevant paragraph of the said judgment is extracted herein below:

"12. Reverting to the facts of the case, both the courts below have

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erroneously accepted the prosecution story that the suicide by the deceased is the direct result of the quarrel that had taken place on 25th July, 1998 wherein it is alleged that the ***appellant had used abusive language and had reportedly told the deceased 'to go and die'.*** *For this, the courts relied on a statement of Shashi Bhushan, brother of the deceased, made under Section 161 Cr.P.C. when reportedly the deceased, after coming back from the house of the appellant, told him that the appellant had humiliated him and abused him with filthy words. The statement of Shashi Bhushan, recorded under Section 161 Cr.P.C. is annexed as annexure P-3 to this appeal and going through the statement, we find that he has not stated that the deceased had told him that the appellant had asked him 'to go and die'.* ***Even if we accept the prosecution story that the appellant did tell the deceased 'to go and die', that itself does not constitute the ingredient of 'instigation'. The word 'instigate' denotes incitement or urging to do some drastic or unadvisable action or to stimulate or incite. Presence of mens rea, therefore, is the necessary concomitant of instigation.*** *It is common knowledge that the words uttered in a quarrel or in a spur of the moment cannot be taken to be uttered with mens rea. It is in a fit of anger and emotional. Secondly, the alleged abusive words, said to have been told to the deceased were on 25th July, 1998 ensued by quarrel. The deceased was found hanging on 27th July, 1998. Assuming that the deceased had taken the abusive language seriously, he had enough time in between to think over and reflect and, therefore, it cannot be said that the abusive language, which had been used by the appellant on 25th July, 1998 drived the deceased to commit suicide. Suicide by the deceased on 27th July, 1998 is not proximate to the abusive language uttered by the appellant on 25th July, 1998. The fact that the deceased committed suicide on 27th July, 1998 would itself clearly pointed out that it is not the direct result of the quarrel taken place on 25th July, 1998 when it is alleged that the appellant had used the abusive language and also told the deceased to go and die. This fact had escaped notice of the courts below."*

93. The learned counsel further relied upon the decision of this Court in ***P.Selvam v. State, represented by the Inspector of Police, Thavamangalam,*** rendered in ***Crl.A.No.672 of 2017***, ***dated 29.02.2024,*** particularly Paragraph Nos. 20, 25, 28 and 29, which is extracted herein below:

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"20. It is also discernible from the evidence of P.W.1 that his daughter's phone number was collected from him and no call detail records of the deceased Sumitha and himself were collected and marked. No doubt had the call detail records been marked, it would lend some support in strengthening the prosecution case. Since because the said details were not marked by the prosecution, the cogent evidence of father, mother and brother of the deceased cannot be thrown out. I find no force in the arguments of learned Senior counsel for the appellant.

25. It is relevant to refer to the judgment of Hon'ble Supreme Court in Sanju Alias Sanjay Singh Sengar V. State of Madhya Pradesh reported in 2002 (Crl.) L.J.2796 it has been observed by the Apex Court that the accused told the other person ' to go and die'. It was held that this would not satisfy the ingredients of inducement. Inducement has to be with mens rea. The suicide was committed two days after the quarrel between the accused and the deceased. ***This also showed that the suicide was not the direct result of the quarrel. The suicide note indicated that her husband was a frustrated man and given to drinking and suffered from great stress and depression.***

28. No other evidence of physical or mental torture was alleged. It is the evidence of P.W.3 Suresh, brother of the deceased Sumitha that all the jewels that were gifted to Sumitha were pledged by the accused. It is also inferable from the evidence of P.W.1 father of the deceased that the vehicle which was purchased through financier was taken away by them, obviously because of non-payment of the dues. Adding to that he was under intoxication, assaulted her and demanded her to remove her gold Thaali chain. Whether this one commission is sufficient to bring home the offence u/s.306 of I.P.C. It is not the case of the prosecution that before 31.12.2012, the accused tortured her either for dowry or for any other thing.

29. When that be the case, as she was brought up by P.W.1 in a better way with so much of dreams and expectations got married her fiance, but contrary to her expectation they had financial crisis and the deceased had lost charm in her life with her husband and she committed suicide. It would dangerous to conclude that the utterance of accused would amount to cruelty or could come in the mischief of abetment from commission of the suicide. There was no evidence of any other act of cruelty and the abetment by her husband could not be inferred. Therefore, in the interest of justice, the conviction of accused u/s.306 of I.P.C. is not possible.

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Therefore, based on the aforesaid observation, this Court is of the view that the charges u/s.498 A and 306 of I.P.C are not proved beyond reasonable doubt and the accused is ordered to be acquitted u/s.235(1) of I.P.C."

94. He also relied upon the decision of this Court in ***Thameem Ansari v. State, represented by the Inspector of Police, Guindy,*** rendered in Crl.A.No. 339 of 2022, dated 24.02.2026, particularly Paragraph Nos. 25 and 29 of the said judgment which is extracted herein below:

"25. From the above evidences on record, there is no material to prove or establish the role of the accused in driving the deceased to commit suicide with an intention. Moreover, none of these evidences suggest that there had been any live link between the harassment as alleged to have been committed by the appellant, prior in point of time which is at least one week earlier and the suicide committed by the deceased.

29. In the absence of any mens rea proved on the part of the accused in instigating the deceased to commit suicide and due to such an abetment, the deceased was left with no other option except to commit suicide, the charge under Section 306 IPC as against the appellant cannot be sustained. On reappraisal of the entire facts and materials on record, this Court finds that the findings arrived at by the trial court suffer from serious perversity and illegality. In view of the above, the conviction and sentence imposed by the trial court cannot be sustained and needs to be interfered with."

95. Further, he relied upon the decision of the Hon'ble Supreme Court in ***Gurcharan Singh v. State of Punjab***, reported in ***(2020) 10 SCC 200***, to say, no overt act or illegal omission is seen from the appellant's side, in taking due care of his deceased wife. The evidence also does not indicate that the deceased faced persistent harassment from her husband. Therefore, the conviction is reversed. He relied upon Paragraph Nos.17

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and 18 of the said judgment.

"17. While dealing with a case of abetment of suicide in Amalendu Pal alias Jhantu vs. State of West Bengal2, Dr. Justice M.K. Sharma writing for the Division Bench explained the parameters of Section 306 IPC in the following terms:

> *"12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the 2 (2010) 1 SCC 707 time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable.*
>
> *13. In order to bring a case within the purview of Section 306 IPC there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC.*

18. In the case Mangat Ram Vs. State of Haryana, which again was a case of wife's unnatural death, speaking for the Division Bench, Justice K.S.P. Radhakrishnanan rightly observed as under:-

> *"24. We find it difficult to comprehend the reasoning of the High Court that "no prudent man is to commit suicide unless abetted to do so". A woman may attempt to commit suicide due to various reasons, such as, depression, financial difficulties, disappointment in love, tired of domestic worries, acute or chronic ailments and so on and need not be due to abetment. The reasoning of the High Court that no prudent man will commit suicide unless abetted to do so by someone else, is a perverse reasoning."*

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96. The learned counsel for the appellant further relied upon the decision of the Hon'ble Supreme Court in ***Gangula Mohan Reddy v. State of Andhra Pradesh,*** reported in ***2010 (1) SCC 750***, to say, Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The learned counsel relied upon Paragraph Nos.12, 14 and 15 of the said judgment and they are extracted herein below:

> *"12. Learned counsel also placed reliance on another judgment of this court in Ramesh Kumar v. State of Chhattisgarh (2001) 9 SCC 618. A three-Judge bench of this court had an occasion to deal with a case of a similar nature. In a dispute between the husband and wife, the appellant husband uttered "you are free to do whatever you wish and go wherever you like". Thereafter, the wife of the appellant Ramesh Kumar committed suicide. The Court in paragraph 20 has examined different shades of the meaning of "instigation'. Para 20 reads as under:*
>
> > *"20. Instigation is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect. or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. the present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation."*
>
> *14. The Court in the instant case came to the conclusion that there is no evidence and material available on record wherefrom an inference of the accused-appellant having abetted commission of suicide by*

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Seema may necessarily be drawn.

15. In the instant case, the deceased was undoubtedly hyper sensitive to ordinary petulance, discord and differences which happen in our day-to-day life. Human sensitivity of each individual differs from the other. Different people behave differently in the same situation.

97. He also relied upon the decision of the Apex Court in ***Sanjay Kumar v. State of Himachal Pradesh***, reported in ***2026 INSC 948***, to contend that mere harassment, by itself, would not constitute cruelty. He relied upon Paragraph Nos. 11, 15 and 16 of the said judgment.

"11. The Sessions Court considered all this evidence in detail. It noted that the allegations of demand of money or asking the victim to take loan were afterthought allegations. It noted that no witness had deposed that the victim was ever threatened with any consequences, whatsoever. There was no evidence at all of any unlawful demand. Mere harassment by itself could not be treated to be cruelty. In fact, it was noted that the victim was treated affectionately by the accused when she was pregnant and also after delivering a child. On that basis, the Sessions Court proceeded to acquit all the accused from the aforesaid charges. It is to be noted that the learned Judge had the occasion to note the demeanour of all the witnesses while recording their evidence.

15. It is likely that there may have been some disputes or discord in the matrimonial life of the appellant and the victim. That, however, would not be sufficient in itself to attract the provisions of Section 306 read with Section 107 of the Penal Code. In fact, there is no evidence, whatsoever, to indicate any act of abetment by the appellant. On the contrary, it has been brought on record that the appellant, on realising that the victim had ingested some liquid thinking it to be a medicine, had immediately sought medical aid from PW10. He also shifted the victim immediately to the hospital.

16. Thus, on considering the entire evidence on record, it is clear that the Sessions Court was justified in arriving at the correct conclusion that the prosecution had failed to prove the charge against the appellant beyond reasonable doubt. The High Court committed an error in reversing the acquittal of the appellant. Its judgment is, thus, liable to be set aside."

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98. Further, he relied upon the decision of the Hon'ble Supreme Court in ***M. Vijayakumar v. State of Tamil Nadu,*** reported in ***(2024) 4 SCC 633,*** to say that, the prosecution must prove the *mens rea* behind the abetment. The relevant Paragraphs of the said decisions extracted herein below:

> *"8. Thus, an analysis of the provisions under Section 306, IPC with reference to abetment as contemplated under Section 107, IPC and the decisions in M. Mohan's case (supra) and Madan Mohan Singh's case (supra) would reveal that while considering the question as to whether a person can be convicted under Section 306, IPC or whether a conviction thereunder could be sustained, one has to consider the mens rea of the accused/convict to bring about suicide of the victim. Needless to say, that it requires an active act or direct act which led the victim to commit suicide seeing no option; and in other words, the act must have been of such a degree intending to push the deceased into such a position that he/she committed suicide. Bearing in mind the aforesaid position, we will analyse the case of the prosecution and the evidence on record to find out whether the prosecution had succeeded in bringing conviction to the appellant under Section 306, IPC.*
>
> *19. In the contextual situation, in view of the analysis of the provisions under Section 306, IPC and the decisions referred to supra, we will also have to consider what is mens rea? 'Mens rea' means a guilty mind. As a general rule, every crime requires a mental element, the nature of which, will depend upon definition of the particular crime in question. Although it is impossible to ascribe any particular meaning to the term 'mens rea' as the circumstance to determine the existence of mens rea depends upon the ingredients constituting the particular offence and the expression used in the definition of the particular offence to constitute such offence. It is only appropriate to refer to Halsbury's Laws of England (4th Edn., Vol-11, Para-10), going by the same:*
>
> > *"…it is impossible to ascribe any particular meaning to the term 'mens rea', concepts such as those of intention, recklessness and knowledge which commonly used as the basis for criminal liability and in some respects, it may be said to be fundamental to it. Generally, subject to both qualification and exception, a person is not*

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to be made criminally liable for serious crimes unless he intends to cause or foresees that he will probably cause or at the lowest he may cause the elements which constitute a crime in question."

20. In the decision in Director of Enforcement v. MCTM Corp. Pvt. Ltd. & Ors.4, it was observed that mens rea is a state of mind and held that under the criminal law mens rea is considered as the "guilty intention" and unless it is found that the 'accused' had the guilty intention to commit the crime, he could not be held guilty of committing the crime.

23. We have already noted that though the prosecution got a case that one Alexander had witnessed the appellant taking the victim and wrongfully confining him in the said shop, the said Alexander was not examined by the prosecution. At any rate, the fact is that the appellant was already acquitted for the offence under Sections 342 and 365, IPC. It is also to be noted that though A-3, Muthu, (the father of the appellant) was the person to whom PW-3 said to have handed over the key of his shop, he was acquitted by the trial Court and no appeal was filed against his acquittal.

24. The impugned judgment would reveal that even after acquitting the appellant for the offences under Sections 342 & 365, IPC, the High Court confirmed his conviction under Section 306, IPC, holding that the appellant had failed to offer explanation as to how the deceased Senthil Kumar entered into the tailoring Shop of PW-3 to commit suicide in terms of Section 106 of the Evidence Act.

25. We are at a loss to understand as to how Section 106 of the Evidence Act could be applied in the case on hand against the appellant in view with facts narrated above. This Section is an exception to the general rule laid down in Section 101 which casts burden of proving a fact on the party who substantially asserts the affirmative of the issue. Section 106 is not intended to relieve any person of that duty or burden. On the contrary, it says that when a fact to be proved, either affirmatively or negatively, is especially within the knowledge of a person, it is for him to prove it. This Section, in its application to criminal cases, applies where the defence of the accused depends on his proving a fact especially within his knowledge and of nobody else.

26. In short, Section 106 cannot be used to shift the burden of proving the offence from the prosecution to the accused. It can only when the prosecution led evidence, which, if believed, will sustain a conviction or which makes out a prima facie case, that the question of shifting the onus to prove such fact(s) on the accused would arise. (See the

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decision in Sawal Das v. State of Bihar5).

27. In view of the exposition of law as above and in the absence of anything to make Section 106 applicable to shift the onus on the appellant, the High Court had committed an error in applying Section 106 of the Evidence Act, in the instant case."

99. It is true that, to constitute the offences under Section 306 of IPC, there should be an intentional instigation or persistent harassment. The evidence of the prosecution witnesses clearly reveals that the appellant herein persistently demanded that the deceased obtain her share in her parents' property and also demanded a sum of Rs.1,00,000/- urgently. In this connection, he assaulted the deceased several times and drove her out of the matrimonial home to her parental home. Two talks were held: one in the presence of P.W.3 Maharajan and another in the presence of P.W.9 Shanti, the then Inspector of Police, All Women Police Station, Usilampatti with regard to the demand of money by the appellant herein. The evidence further discloses that the deceased consumed poison on 15.02.2010 as she was unable to bear the harassment on account of demand for money. She was admitted to the hospital by P.W.5 Petchi. None of the Accused, including the appellant herein, visited her while she was undergoing treatment in the hospital. Immediately after she returned home after her discharge, the Accused again harassed her by questioning why she had returned alive and asked her to die so that they could live peacefully. This prompted her to lodge a complaint before P.W.9 on

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18.02.2010. P.W.9 conducted an enquiry, and on 25.02.2010, compromise talks were held between the family of the appellant and the family of the deceased at the police station. During the said talks, the appellant agreed to give half of the share in the rice mill and the house to the deceased.

100. However, immediately after returning from the police station, the Accused again picked up quarrel with the deceased, placed poison before her and asked her to consume it and die. Thereafter, they left the house after locking the doors.

101. The sequences of evidence proved by the prosecution witnesses clearly discloses that the appellant had clear *mens rea* to instigate the death of the deceased as she has not brought the money he demanded from her family. Therefore, the decision relied on by the learned counsel for the appellant has no application to the case in hand. The death of the deceased is the direct result of the actions of the appellants and the harassment made out by them.

102. He further contended that P.W.7 was an independent witness and a neighbour. However, he was inimical towards the Accused. Though he deposed against the appellant, the Trial Court failed to consider that he

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was an inimical witness and ought to have scrutinised his evidence with caution. The learned counsel for the appellant further relied upon the decision of the Apex Court in ***Padam Singh v. State of Uttar Pradesh***, reported in ***(2000) 1 SCC 621***, to say, that the inimical witnesses to be dealt with scrutiny, care and caution. The relevant Paragraph of the said judgment is extracted herein below:

> *"6. Even, if we examine the intrinsic oath of the prosecution witnesses, who are admittedly inimical, the omissions and contradictions between the statement made under Sec. 161 and the statement made in Court, as brought out in the cross-examination, makes the witnesses unreliable and the two learned Judges, without noticing the same have just brushed aside on the ground that the omissions and contradictions are not material. The said conclusion in our opinion, cannot be sustained. After going through the cross-examination of the aforesaid witnesses, in our opinion, the witnesses do not stand the test of stricter scrutiny, they being admittedly inimical towards the accused persons. In this view of the matter, no reliance could have been placed on their testimony and as such the conviction of the appellant cannot be sustained."*

However, in this case, the evidence of PW7 is clearly corroborated by other witnesses and therefore his evidence cannot be brushed aside merely because he is inimical to the Appellant.

103. The learned counsel for the appellant further contended that P.W.14 was not examined by the investigating agency and was not included in the list of witnesses. However, she was subsequently examined pursuant to an application filed under Section 311 Cr.P.C.

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According to the learned counsel, P.W.14 was only a child witness, and therefore, her evidence could not be believed. The learned counsel for the appellant relied upon the decision of the Hon'ble Supreme Court in ***Arbind Singh v. State of Bihar***, reported in ***1995 Supp. (4) SCC 416***, to contend that, while appreciating the evidence of a child witness, the Court should seek corroboration.

> *"It is well settled that a child witness is prone to tutoring and hence the court should look for corroboration particularly when the evidence betrays traces of tutoring."*

However, the investigation is not the only repository of evidence before the Court, the Trial Court is well empowered under Section 311 of Code of Criminal Procedure to examine or re examine any witness in order to arrive a just decision in the case. Therefore, the evidence of PW14 cannot be thrown out merely because she is not cited as a prosecution witness by the investigation officer. Though the child witnesses are prone to be tutored, in this case, no such materials were brought on record. Further, the evidence of PW14 was corroborated by several other prosecution witnesses and proved circumstances. Therefore, the said contention of the learned counsel for the Appellant ought to be rejected.

104. The learned counsel further submitted that the Co-Accused had been acquitted by the Trial Court on the basis of the same set of

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evidence, whereas only A1 and A2 had been convicted. The prosecution had failed to prove the alleged harassment inflicted upon the deceased so as to attract the offence under Section 498-A of IPC. The evidence of the prosecution witnesses show that the parents of the deceased are poor and the appellants are rich. Therefore, there is no question of demand of dowry. The appellant had reached the hospital, and P.W.13 had admitted the same. There was no intention on the part of the Accused to harass the deceased. Therefore, according to the learned counsel, the prosecution had failed to prove its case beyond all reasonable doubts. Therefore, he prays that the benefit of doubt to be extended to the appellants.

105. He further relied upon ***Rajesh Chaddha v. State of Uttar Pradesh***, reported in ***2025 SCC OnLine SC 1094***, to say, the absence of specific dates, times and events and making bad allegations would not attract Section 498-A of IPC. He relied upon Paragraph Nos. 4 and 14 of the said judgment, which is extracted herein below:

> *"4. It has been vehemently argued by the learned Counsel for the Appellant that the Impugned Judgment dt. 14.11.2018 passed by the High Court, suffers from non-application of mind, and non-consideration of the merits of the case. Learned Counsel for the Appellant submitted that the allegations under Section 498A IPC and Section 4 of the D.P. Act, 1961, were unsustainable qua the Appellant, as there is no independent evidence on behalf of the prosecution, and the entire case hinges upon the deposition of the father of the Complainant and Complainant herself. It was argued that the Complainant who cohabited with the Appellant only for a period of about a year, had made bald allegations without any specifics of date, time or event, in the FIR in Case Crime No.*

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60/1999, which has only been registered as a counter-blast to the Divorce Petition preferred by the Appellant. It is brought to our notice that the divorce decree in lieu of their marriage, has already been passed, and the same has never been challenged by the Complainant, and hence has attained finality.

14. The term "cruelty" is subject to rather cruel misuse by the parties, and cannot be established simpliciter without specific instances, to say the least. The tendency of roping these sections, without mentioning any specific dates, time or incident, weakens the case of the prosecutions, and casts serious suspicion on the viability of the version of a Complainant. We cannot ignore the missing specifics in a criminal complaint, which is the premise of invoking criminal machinery of the State. Be that as it may, we are informed that the marriage of the Appellant has already been dissolved and the divorce decree has attained finality, hence any further prosecution of the Appellant will only tantamount to an abuse of process of law."

106. The learned counsel further relied upon the decision of the Apex Court in ***Dara Lakshmi Narayana and Others v. State of Telangana,*** reported in ***(2025) 3 SCC 735***, Paragraph No.20, which is as follows:

"20. A bare perusal of the FIR shows that the allegations made by respondent No.2 are vague and omnibus. Other than claiming that appellant No.1 harassed her and that appellant Nos.2 to 6 instigated him to do so, respondent No.2 has not provided any specific details or described any particular instance of harassment. She has also not mentioned the time, date, place, or manner in which the alleged harassment occurred. Therefore, the FIR lacks concrete and precise allegations."

However, in the foregoing discussions, this court has elaborately discussed the incriminating materials which completely discloses that the deceased was subjected to persistent harassment at the hand of the Appellant herein on account of demand of money to the extent of

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directing the deceased to take the extreme step of committing suicide. Therefore, this court is of the considered view that there are sufficient materials to sustain the conviction under Section 498A of IPC also.

107. Therefore, this court is of the considered view that the Trial Court has rightly concluded that the appellant herein had committed the offences punishable under Sections 498-A and 306 of IPC. Hence, this Court is of the considered view that the present Criminal Appeal should fail.

108. Accordingly, this Criminal Appeal is dismissed. The judgment of conviction and sentence passed by the Trial Court in S.C. No. 334 of 2012 dated 16.08.2018 is hereby confirmed. The bail bond executed by the first appellant is cancelled. The Trial Court is directed to secure the first appellant to undergo the remaining period of sentence.

29-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

1. The Sessions Judge,
   Mahila Court,
   Madurai.

2.The Inspector of Police,
  Usilampatti Circle,
  Madurai.

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

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S.KARTHIKEYAN, J.

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