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CRL A No. 599 of 2018



Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-10-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL A No. 599 of 2018

CNR: {HCMA013024102018}



T.Deivakumar

..Appellant

Vs

1. The State Rep. By Deputy Superintendent of Police,
Udumalpet Sub Division, Tirupur.
Cr.No. 994 of 2010.

2. C.Senthilkumar

..Respondents

Prayer: Petition filed under Section 312 of the Criminal Procedure Code, to call for the records and set aside the order of acquittal dated 23.04.2018 passed in S.C.No.31 of 2015 on the file of the Maglir Neethimandram (Fast Tract Mahila Court) Tiruppur.

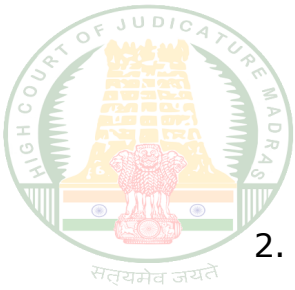
For Appellant(s): Mr.K.Sudhakar

For Respondent(s): Ms.Sharada Vivek
Additional Public Prosecutor
for R1

Mr.V.Ayyapparaja
for R2

JUDGMENT

The appeal challenges the judgment passed in S.C.No.31 of 2015, acquitting the second respondent for the offences under Sections 498A and 306 of the Indian Penal Code, 1860 [for brevity, hereinafter referred as "IPC"].



2. It is the case of the prosecution that the deceased in this case was married to the second respondent on 14.09.2008; that the deceased was subjected to cruelty by the second respondent in connection with dowry demand at the time of Diwali Festival; that the second respondent had an illicit relationship with another lady; that he did not take good care of the deceased and that the deceased committed suicide by jumping into the water channel along with her one and a half year old child and hence, the second respondent is guilty for the offences under Sections 498A and 306 IPC.

3. On the complaint given by the brother of the deceased initially for "woman missing", a case was registered in Crime No.994 of 2010. Thereafter, investigation revealed that the deceased committed suicide along with her minor child and the second respondent had subjected her to cruelty and had abetted commission of suicide. Therefore, the final report was filed against the second respondent for the offences committed under Sections 498A and 306 IPC.

4. The prosecution had examined witnesses *P.W.1* to *P.W.11* and marked *Exhibits P.1* to *P.13* to prove its case.

5. The Trial Court found that the prosecution had not established the dowry demand and also the illicit relationship of the second



respondent and therefore, presumption under Section 113A of the Indian Evidence Act, 1872, could not be drawn and in any case, there is no evidence to suggest cruelty of such nature which will drive a woman to commit suicide.

6. The State had not preferred any appeal challenging the judgment of acquittal. The appellant, who is the brother of the deceased and the *defacto* complainant, had filed the instant appeal.

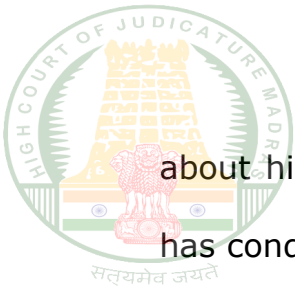
7. *Mr.K.Sudhakar*, learned counsel for the appellant, would submit that the learned Judge had ignored the evidence of the appellant, his mother and the other witnesses and held that the illicit relationship of the second respondent was not established, since the lady, with whom he is said to have been in illicit relationship, was not examined; that the said findings of the learned Judge is perverse and liable to be set aside; that evidence of *P.W.2* is clear and cogent and would suggest that the deceased was subjected to cruelty in connection with dowry demand; that the learned Judge had erroneously appreciated the evidence, holding that the second respondent had not demanded dowry directly from *P.W.2*; and that, in view of the perverse findings, the judgment of acquittal has to be set aside. The learned counsel pointed out to the evidence of the witnesses in support of his submissions.



8. *Ms.Sharada Vivek*, learned Additional Public Prosecutor, reiterated the submissions made by the learned counsel for the appellant, though the State had not filed any appeal. The learned Additional Public Prosecutor submitted that both *P.W.1* and *P.W.2* have stated about the dowry demand and the Revenue Divisional Officer, in his report, also has confirmed that he suspected that there was dowry demand and prayed for setting aside the impugned judgment.

9. *Mr.V.Ayyapparaja*, learned counsel for the second respondent, however, would submit that even assuming that the reasons for acquittal are not justified, the evidence would disclose that the prosecution had neither established the dowry demand nor the fact that the second respondent had an illicit relationship and had caused cruelty in connection with dowry demand and therefore, prayed for dismissal of the appeal.

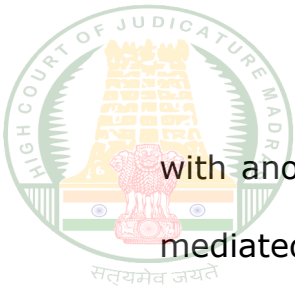
10. As stated above, the prosecution had examined 11 witnesses. *P.W.1* is the *defacto complainant* and the brother of the deceased; *P.W.2* is the mother of the deceased; *P.W.3* is the Executive Magistrate who conducted the inquest; *P.W.4* is the Scientific Officer, Forensic Science Laboratory, Coimbatore, and had issued reports marked as *Exhibits P.4* and *P.5*; *P.W.5* and *P.W.6* are witnesses who spoke about the dispute between the second respondent and the deceased and about their mediation of the said dispute; *P.W.7* is another witness who spoke about the dispute between the deceased and the second respondent and also



about his identifying the body of the deceased; *P.W.8* is the Doctor who has conducted postmortem of the deceased; *P.W.9* is the Sub Inspector of Police, who registered the First Information Report; *P.W.10* is the Inspector of Police, who conducted investigation initially and *P.W.11* is the Inspector of Police who filed final report.

11. The above narration would show that the prosecution had examined *P.W.1* and *P.W.2*, the relatives of the deceased, and *P.W.5* to *P.W.7* to establish the offence under Section 498A of the IPC and the fact that the deceased was subjected to cruelty of such a nature which drove her to commit suicide along with her child. *P.W.1* is the brother of the deceased. He had deposed that the deceased was aggrieved by the fact that the second respondent had an illicit relationship with another lady. He would also state that a few days before the occurrence had took place on 03.11.2010, the deceased told *P.W.2*, her mother, that the second respondent demanded dowry and was causing cruelty in connection with the said demand. *P.W.2* is the mother of the deceased, who also corroborated the evidence of *P.W.1* as regards the dowry demand of five sovereigns of gold and Rs.75,000/- in cash, said to have been made by the second respondent a few days prior to the occurrence.

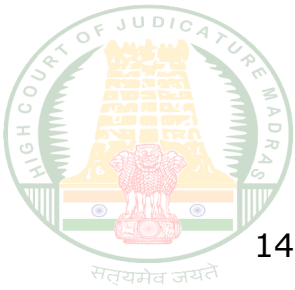
12. The inquest report of *P.W.3* would show that he had opined that the deceased could have died due to the dowry harassment and aggrieved by the fact that the second respondent had an illicit relationship



with another lady. *P.W.5* to *P.W.7* are the villagers who are said to have mediated the dispute between the second respondent and the deceased.

P.W.5 to *P.W.7* have stated that there was matrimonial difference between the two of them primarily because the second respondent had an illicit relationship with another lady. Though there is reference of alleged dowry demand, the allegation is vague as could be seen from their depositions. As stated above, their evidence only suggest that there was matrimonial difference on account of illicit relationship.

13. It is seen that in the complaint of *P.W.1*, though it was primarily given for "woman missing", *P.W.1* had specifically stated about the illicit relationship of the second respondent. There is no reference to any alleged dowry demand made by the second respondent. In fact, *P.W.1* would explain the absence of the said allegation in the complaint by stating that the deceased, after informing about the dowry demand to *P.W.2*, had told *P.W.2* not to reveal the said dowry demand to neither her father nor her brother. This explanation of *P.W.1* does not inspire confidence. *P.W.1*, who had gone to the extent of alleging illicit relationship of the second respondent in a "woman missing" complaint would have certainly mentioned dowry demand if it had been made. Similarly, *P.W.2*'s explanation that she was told by the deceased not to inform anyone also does not inspire confidence, as there is no reason to keep such an accusation secret.

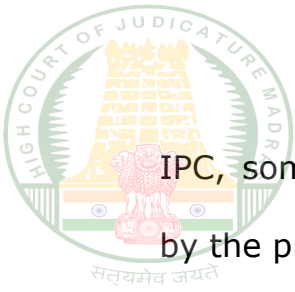


14. The reason for acquittal by the learned Trial Judge, namely that the illicit relationship had not been established because the lady with whom the second respondent had an illicit relationship was not examined, is perverse. However, the fact that the second respondent had an illicit relationship by itself would not amount to cruelty in terms of Section 498A of IPC. This position is reiterated by the judgment of the Hon'ble Supreme Court in the case of **Pinakin Mahipatray Rawal Vs. State of Gujarat**¹. Relevant portion of the said judgment reads thus:

"23. We are of the view that the mere fact that the husband has developed some intimacy with another, during the subsistence of marriage and failed to discharge his marital obligations, as such would not amount to "cruelty", but it must be of such a nature as is likely to drive the spouse to commit suicide to fall within the explanation to Section 498A IPC. Harassment, of course, need not be in the form of physical assault and even mental harassment also would come within the purview of Section 498A IPC. Mental cruelty, of course, varies from person to person, depending upon the intensity and the degree of endurance, some may meet with courage and some others suffer in silence, to some it may be unbearable and a weak person may think of ending one's life. We, on facts, found that the alleged extra marital relationship was not of such a nature as to drive the wife to commit suicide or that A-1 had ever intended or acted in such a manner which under normal circumstances, would drive the wife to commit suicide."

15. In this case also, the fact that the second respondent had an illicit relationship has been proved. On facts, this Court is of the view that it was not of such a nature as to drive the wife to commit suicide. It is well settled that in order to attract the offences under Section 498A of

¹ (2013) 10SCC 448



IPC, something more than mere illicit relationship has to be established by the prosecution, which is not so in this case.

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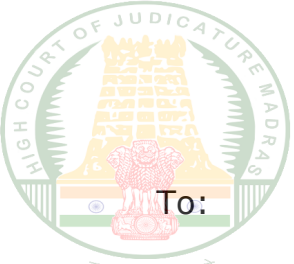
16. As regards the dowry demand, again, this Court finds the finding of the learned Judge that there was no dowry demand to *P.W.2* directly and therefore, it has not been proved by the prosecution, is perverse. It is the specific case of *P.W.2* that the deceased told her a few days before the occurrence that she was subjected to dowry demand. However, the question is whether this version could be believed or not. This Court is of the view that this version cannot be believed, since the evidence discloses that the allegation with regard to the dowry demand is improved by the prosecution witnesses as the allegation besides being vague, was not made in the earliest version.

17. Hence, on an independent assessment of the evidence, this Court finds that the prosecution had not established its case, though the reasons for acquittal by the Trial Court cannot be accepted. The criminal appeal, therefore, stands dismissed.

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

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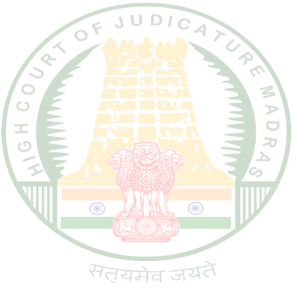
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To:

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Cr.No. 994 of 2010.

2. The Maglir Neethimandram (Fast Tract Mahila Court) Tiruppur.

3. The Public Prosecutor
High Court of Madras, Chennai.



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SUNDER MOHAN, J.

(*drm*)

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