

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2015

CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

Criminal Appeal (MD)No.586 of 2006

Paramasivam : Appellant/Accused No.1

Vs.

State of Tamil Nadu,
Represented by its
The Inspector of Police,
Koodankulam Police Station,
Thirunelveli District.
Crime No.128 of 2001.

: Respondent/Respondent

Prayer: Criminal Appeal is filed under Section 374 of the Code of Criminal Procedure praying to set aside the conviction and sentence passed by the learned District and Sessions Judge/Magalir Neethimandram, Thirunelveli in S.C.No.130 of 2005, dated 27.10.2006.

For Appellant : Mr.Jacob,
For M/s.Jacob & Jacob Associates

For Respondent : Mrs.S.Prabha,
Government Advocate(Crl. Side)

JUDGMENT

The appellant was arrayed as accused No.1 and her mother was arrayed as accused No.2 and both of them were charged and tried for the commission of the offences under Sections 498(A) and 306 of Indian Penal Code. The Mahila Court, Tirunelveli, vide impugned judgment dated 27.10.2006, made in S.C.No.130 of 2005, has convicted the first accused/appellant herein for the commission of the offences under Sections 498(A) and 306 of Indian Penal Code. The appellant/first accused was sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.1,000/- with the default sentence of three months rigorous imprisonment for the commission of the offence under Section 498(A) of Indian Penal Code and sentenced to undergo rigorous imprisonment for seven years and to pay a fine of Rs.1,000/- with the default sentence of three months rigorous imprisonment for the commission of the offence under Section 306 of Indian Penal Code. The Trial Court further added that the sentence of imprisonment shall run concurrently and also granted set off under Section 428 of Code of Criminal Procedure. The Trial Court has acquitted the second accused – mother of the appellant/first accused. The first accused, aggrieved by the conviction and sentence passed by the Trial Court, has filed this appeal.

2. The facts, necessary for the disposal of this appeal, briefly stated, are as follows:

2.1. The first accused/appellant herein got married to one Sudha (since deceased) – daughter of P.W.1 about six months prior to the date of occurrence. After marriage, the appellant/first accused has settled in Mumbai and taken his wife also and he has also purchased a second hand car. Both the accused used to repeatedly harass the daughter of P.W.1 to bring more dowry and on that pretext, used to send her to the parental home. Both the accused also were repeatedly taunting daughter of P.W.1 that she is not fair in complexion and the appellant/first accused repeatedly used to abuse her verbally as well as physically. The appellant/first accused and the daughter of P.W.1 had returned back to their native place and settled there and on a particular day, she came and met P.W.1 and told him that her husband wants a sum of Rs.10,000/- to paint the car and he told her that the said amount has already been paid at the time of marriage and hence, he is unable to pay the same. On 11.09.2001, the appellant/first accused has beaten her and driven her out and she, once again, came to her parental home and told P.W.1 that since he has not given a sum of Rs.10,000/-, she is not allowed to stay with the appellant/first accused and P.W.1 has pacified her and asked her to return back to matrimonial home. On the next morning on 12.09.2001, P.W.1 deputed his grandson, namely Surendran (not examined) to see his daughter and he returned and said that she is not

available. P.W.1, his wife and relatives made a search of her and somebody has told him that at about 08.30 a.m., on 12.09.2001 his daughter was walking carrying a box in her hand and when they went on that way, they found the box near the well of the land of one Ilaya Perumal. Somebody present there, looked into the well and they found the body of the daughter of P.W.1 and her body was taken out of the well and placed by the side of the well.

2.2. P.W.1 proceeded to Koodankulam Police Station and lodged a complaint under Ex.P.1, stating, among other things, that her daughter namely Sudha (deceased) was given marriage to the appellant/first accused and at the time of marriage, jewels and cash were also given and the appellant/first accused as well as his mother-accused No.2 were repeatedly harassing her to bring more dowry and also a sum of Rs. 10,000/- in cash and since it was not paid, she was murdered and thrown into the well.

2.3. P.W.9, the Inspector of Police, attached to Koodankulam Police Station, on receipt of Ex.P.1, registered a case in Crime No.128 of 2001, under Section 174(3) of Code of Criminal Procedure at about 11.30 a.m., on 12.09.2001. The printed First Information Report was marked as Ex.P.8. P.W.9 forwarded Ex.P.1 and Ex.P.8 to the jurisdictional Revenue Divisional Officer - P.W.7 for conducting the inquest.

2.4. P.W.10 was the Deputy Superintendent of Police of Valliyoor and on receipt of the copy of the First Information Report, took up the investigation and proceeded to the scene of occurrence. At about 05.00 p.m., on 12.09.2001, in the presence of P.W.5 and another, prepared the observation mahazar (Ex.P.9) and sketch (Ex.P.10) and was also present while the inquest was conducted by P.W.7-the jurisdictional Revenue Divisional Officer. On 12.09.2001, P.W.10 examined P.W.5 and Rajendran and recorded their statements and on 13.09.2001, recorded the statements of P.W.1-the father of the deceased, P.W.2-Shanthi and other witnesses.

2.5. P.W.7 made a requisition to the Jurisdictional Magistrate Court to conduct the post-mortem on the body of the deceased and after obtaining necessary orders, sent the body for post-mortem.

2.6. P.W.6, on receipt of the body, has commenced the post-mortem at about 04.10 p.m., on 12.09.2001 and noted the following features:

"Appearances found at the post-mortem Body lies on its back. Rigor mortis present on upper and lower limbs. No external injuries. Internal examination:- Heart empty, Lungs oedematous Surface bluish in colour. On cut section bloody fathy fluid comes out. Stomach contained about $\frac{3}{4}$ liter of

water. Liver injected, kidneys injected, Brain normal. Hyoid bone intact. Viscera preserved for chemical analysis."

P.W.6, after concluding post-mortem, opined that "the deceased would appear to have died 7 to 8 hours prior to post-mortem" and the post-mortem certificate is marked as Ex.P.4.

2.7. P.W.10 continued with the investigation and recorded the statement of P.W.6, who conducted the autopsy and also arrested the appellant/first accused on 06.12.2001 and recorded his confession statement and sent him for judicial custody. P.W.10 came to know that the second accused/mother of the appellant/first accused obtained anticipatory bail and recorded her statement on 08.02.2002. P.W.10, after completion of investigation, has filed the charge sheet on 25.06.2002, charging both the accused for the commission of the offences under Sections 498(A) and 306 of Indian Penal Code, to the Court of Judicial Magistrate, Valliyoor, which took it on file in P.R.C.No. 48 of 2003 and issued summons to both the accused and on their appearance, furnished with them, the copies of documents under Section 207 of Code of Criminal Procedure.

2.8. The Committal Court, having found that the case is exclusively triable by the Court of Sessions, has committed the same to the Court of Sessions at Tirunelveli, which, in turn, made over the same to the

Mahila Court, Tirunelveli and the said Court, on appearance of the accused, has framed necessary charges under Sections 498(A) and 306 of Indian Penal Code and questioned them. Both the accused pleaded not guilty to the charges framed against them and prayed for trial of the case.

2.9. The prosecution, in order to sustain their case, has examined P.W.1 to P.W.10 and marked Exs.P.1 to P.10..

2.10. Both the accused were questioned under Section 313(1)(b) of the Code of Criminal Procedure, 1973, with regard to the incriminating circumstances made out against them in the evidence tendered by the prosecution and they denied it as false.

2.11. On behalf of the accused, no oral evidence was let in and no documents were marked.

2.12. The Trial Court, on a consideration of oral and documentary evidences, has convicted and sentenced the appellant/first accused as stated above and acquitted the second accused – mother of the appellant/first accused and the State did not prefer any appeal challenging the order of acquittal passed against the second accused.

3. The learned counsel appearing for the appellant/first accused, drawing the attention of this Court to the oral and documentary evidences, made the following submissions:

(i) There is not even an iota of evidence adduced by the prosecution to prove and sustain that the deceased Sudha -daughter of P.W.1 was subjected to physical abuse and harassment on account of demand of dowry.

(ii) P.W.1 has made very many improvements from that of his complaint marked as Ex.P.1 and his 161(3) of Code of Criminal Procedure statement recorded during investigation. Except the interested testimonies of P.Ws.1 to 3 and 8, the prosecution has failed to adduce any evidence to show that the deceased has committed suicide unable to bear with the torture and ill-treatment on account of demand of dowry and further, on account of the repeated abuse, she was subjected, at the hands of the appellant/first accused, on account of the fact that she was not fair in complexion.

(iii) The evidence of Revenue Divisional Officer, who was examined as P.W.7 and his report marked as Ex.P.7 also do not indicate, at the earliest point of time, that the daughter of P.W.1 was subjected to dowry harassment.

(iv) In sum and substance, it is the submission of the learned counsel appearing for the appellant/first accused that the prosecution has miserably failed to prove the ingredients of Section 498(A) and 306 of Indian Penal Code and though acquitted the second accused, on similar set of defence, has committed a grave error in convicting and sentencing the appellant/first accused and prays for interference.

4. In support of his submission, the learned counsel appearing for the appellant/first accused has drawn the attention of this Court to the following judgments:

(i) AIR 2002 SC 1998 (Sanju v. State of Madhya Pradesh);

(ii) AIR 2008 SC 2108 (Sohan Raj Sharma v. State of Haryana);

(iii) AIR 2008 SC 3112 (Rajbabu v. State of M.P.);

(iv) 1999 Cri.L.J. 2696 (Annapurnabai v. State of Madhya Pradesh); and

(v) 2006(2) MWN(Cr.) 386 (Mandirakonar v. State).

5. Per contra, Mrs.S.Prabha, learned Government Advocate (Criminal side) made a vehement and forcible submission to the effect that in case of offences involving dowry harassment and the suicide of a married woman, normally, the witnesses will be the relatives and they

are the best witnesses to speak about the commission of the said offences and in the case on hand, the prosecution, through the testimonies of P.Ws.1 to 3 and 8, had amply proved and established the guilt on the part of the appellant/first accused beyond any reasonable doubt. The learned Government Advocate (Criminal side), drawing the attention of this Court to the testimonies of the said witnesses, would submit that the appellant/first accused has purchased a car and to paint the car, has demanded a sum of Rs.10,000/- and few days prior to the occurrence, the daughter of P.W.1 came to the parental home and asked for it and P.W.1 has said that the money has been given at the time of marriage and he has no resources to pay the same and sent her daughter back to matrimonial home and once again, on 11.09.2001, she came back and told P.W.1 that she was physically abused, on account of the non-payment of sum of Rs.10,000/-, which, according to the learned Government Advocate (Criminal side), is nothing but a demand of dowry on the part of the appellant/first accused.

6. It is also the submission of the learned Government Advocate (Criminal side), apart from the fact that the daughter of P.W.1, was repeatedly subjected to physical abuse on account of demand of dowry, she has been subjected to physical and verbal abuse also for the reason that she is not having fair in complexion and in fact, she is black and the appellant/first accused has also threatened to divorce her to marry for the second time and since she was repeatedly subjected to

such a kind of verbal and physical abuse, it has reached a flash point and unable to bear with it, she committed suicide on 12.09.2001 by jumping into a well.

7. Insofar as the decisions relied upon by the learned counsel appearing for the appellant/first accused are concerned, it is the submission of the learned Government Advocate (Criminal side) that the reaction to the physical and verbal abuse depends upon a personality of each individual and such a kind of reaction cannot be put in a strait-jacket formula and the prosecution has amply established the fact that the wife of the appellant/first accused, namely Sudha, daughter of P.W.1 was also repeatedly subjected to verbal and physical abuse, on account of the fact that she is not having fair in complexion.

8. Lastly, it is submitted by the learned Government Advocate (Criminal side) that the Trial Court, on an in-depth analysis of oral and documentary evidences in proper perspective, has rightly reached the conclusion to hold the appellant/first accused guilty of the offences and sentenced him adequately and hence, prays for dismissal of this appeal.

9. This Court has considered the submissions made by the learned counsel appearing for the appellant/first accused and the learned Government Advocate (Criminal side) and also scanned through the materials placed before it in the form of oral and documentary

evidences and also the original records.

10. It is an admitted fact that the daughter of P.W.1 has committed suicide within seven years from the date of the marriage and the marriage was also an arranged one. Immediately after marriage, the appellant/first accused – husband of Sudha, along with her settled at Mumbai and sometime thereafter, they returned back and settled near Avudaiyalpuram, Radhapuram Taluk, Tirunelveli District. The appellant/first accused had been eking out his livelihood by doing coolie work and he has also purchased a second hand car and according to the prosecution, he demanded a sum of Rs.10,000/- to paint the car and it was not met by the father of the deceased, namely P.W.1 and hence, it can be construed as a dowry.

11. Since the death had occurred within seven years from the date of marriage, P.W.7-the Jurisdictional Revenue Divisional Officer has conducted the inquest and after examining all the witnesses including the parents of the deceased, has opined that the appellant/first accused as well as his mother-second accused have repeatedly harassed her and unable to bear with the same, she has committed suicide. In Ex.P.7, P.W.7 noted the fact that in spite of repeated summons, both the appellant/first accused and his mother, namely second accused did not turn up for enquiry and gave the final opinion that the death was not on account of dowry harassment but due to the fact that she was repeatedly subjected to abuse on the ground of

being not fair in complexion.

12. This Court has also scanned through the testimonies of P.Ws.1 to 3 and 8 to find out whether the prosecution has made out a case under Section 498(A) IPC. But, this Court is of the opinion that it is not so. The testimonies of the above cited witnesses, especially, that of P.W.1, would disclose the fact that what was demanded was a sum of Rs. 10,000/- to paint the car and to get that money, the daughter of P.W.1 has approached him and it did not fructify and ultimately, she has committed suicide. The said witnesses, during the course of their oral evidence, have also made very many improvements from that of their statements recorded during the course of investigation under Section 161(3) of Code of Criminal Procedure and the contradictions were also elicited through the evidence of P.W.10, namely, the investigating officer. The demand of sum of Rs.10,000/- for painting the car was a one time demand and in the light of the above facts and circumstances, it cannot be construed as a demand made towards dowry. Therefore, this Court is of the view that the conviction and imposition of sentence against the appellant/first accused, cannot be sustained.

13. Moreover, in **2006(2) MWN(Cr.) 386 (Mandirakonar v. State)**, it has been held that demand of Rs.50,000/- by the accused to improve his business cannot be construed as unlawful demand and, therefore, this Court has acquitted the petitioner for the commission of

the offence under Section 498(A) of Indian Penal Code. Therefore, the demand of a sum of Rs.10,000/- for painting the car cannot be construed as a demand towards dowry.

14. The appellant/first accused is also convicted for the commission of the offence under Section 306 of Indian Penal Code. In Ex.P.1, complaint given by P.W.1, it has been stated that her daughter was repeatedly subjected to harassment and ill-treatment on account of dowry and since it was not met, she was murdered and put inside the well. However, the prosecution, after investigation, has concluded that it is not a case of murder, but it is a case of demand of dowry and ill-treatment and further, the deceased was repeatedly taunted on account of not being beautiful and not fair in complexion and, therefore, she has committed suicide.

15. P.W.1, in the chief-examination, would depose that his daughter, while she was with her husband at Mumbai, has told him telephonically that her husband used to say that she is not beautiful and he intend to divorce her and in that context, he also went to Mumbai and pacified them and unable to bear with such a kind of act on the part of the appellant/first accused, she has committed suicide. In the cross-examination, P.W.1 would depose that as per the custom prevalent in his community, giving of jewels and cash at the time of marriage is prevalent and would further state that his daughter is really beautiful

and denied the suggestion that both of them were living happy and with regard to the contents of Ex.P.1 that his daughter was murdered and puts inside the well, P.W.1 would state that in a fit of rage, he has written so.

16. P.W.2 is the daughter of the younger brother of P.W.1 and in the chief-examination, she has deposed that the deceased, while she was alive, has told her that her husband used to taunt her that she is not fair in complexion and he is going to marry for the second time.

17. P.W.3 is the sister of P.W.2 and in the chief-examination, she has deposed that the husband of the deceased -the appellant/first accused repeatedly had a fight with his wife Sudha (deceased) and she is in the habit of repeatedly going to her house and she became aware of the same. In the cross-examination, P.W. 3 would admit that at the time of inquest conducted by P.W.7, she has not said anything about the frequent fight between the appellant/first accused and his wife.

18. P.W.8 is the son of the younger brother of P.W.1 and in the chief-examination, he has deposed that he went to Bombay and that he was a resident of Bombay for sometime and on coming to know that Sudha has got married and settled in Mumbai, he went and saw them and also met the brother of the appellant/first accused, who told that his brother has informed him that his wife, namely Sudha is not beautiful

and also made a demand to transfer the business/passbook relating to Ganesh Beedi Company and it was not acceded to. In the cross-examination, P.W.8 would admit that during the course of investigation by the police, he did not state so.

19. This Court, in the earlier paragraphs, has observed that P.Ws.1, 3 and 8 had made very many improvements from that of their statements under Section 161(3) of Code of Criminal Procedure on a vital and crucial aspects. P.W.1 did not state during the course of his examination with regard to the statement of the appellant/first accused that since his wife (Sudha) was not beautiful, he is going to marry for the second time. Likewise, P.W.3, during the course of investigation, did not state before P.W.10, as to the frequent fight between the appellant/first accused and his wife. Similarly, P.W.8 also did not state anything about the meeting of the brother of the appellant/first accused and also with regard to the demand of Rs.10,000/-.

20. In the light of the above facts and circumstances, this Court has to see whether the prosecution has established the ingredients of Section 306 of Indian Penal Code against the appellant/first accused and whether the prosecution has proved the alleged taunting on the part of the appellant/first accused that his wife is not beautiful, on account of the fact that she is not fair in complexion.

21. In **1999 Cri.L.J. 2696 (Annapurnabai v. State of Madhya Pradesh)** (cited *supra*), the facts of the case would disclose that suicide was committed by the daughter-in-law of the appellant therein within eight months from the date of marriage and the allegation is that repeated remarks were made by the appellant therein that the deceased was not beautiful. The Trial Court has convicted her for the commission of the offences under Sections 498(A) and 306 IPC and also under Section 4 of the Dowry Prohibition Act. The Madhya Pradesh High Court, taking note of the contents of the dying declaration, opined that the remark made by the mother-in-law/appellant therein that the daughter-in-law was not beautiful was not of such a nature, which would drive her to commit suicide and it was not sufficient gravity. It was further found that the deceased was very much emotional, of low tolerance and unstable mind and there was no grave and serious provocation on the part of her mother-in-law and citing the said reason, has acquitted her.

22. In **AIR 2002 SC 1998 (Sanju v. State of Madhya Pradesh)**, there was a quarrel between the husband and wife and the accused/husband told the deceased to go and die and he was charged for the commission of the offence under Section 306 of Indian Penal Code and challenging the same, he filed a quash petition, which was dismissed

and he has taken up by way of appeal before the Honourable Supreme Court of India. The Honourable Supreme Court of India has considered the suicide note and held that **"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"**. Ultimately, the Honourable Supreme Court of India has quashed the charge sheet.

23. In **AIR 2008 SC 2108 (Sohan Raj Sharma v. State of Haryana)**, the husband was convicted for the commission of the offence under Section 306 of Indian Penal Code and the Honourable Supreme Court of India, after taking into consideration the earlier decisions, has held that **"in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. The mere fact that the husband treated the deceased-wife with cruelty is not enough. [See Mahinder Singh v. State of M.P. (1995 AIR SCW 4570)]"**. The Honourable Supreme Court of India has also taken note of the suicide note left by the deceased and found that in the light of the said factual scenario, it cannot be said that the ingredients of Section 306 of Indian Penal Code has been established and, therefore, set aside the conviction and sentence passed against the appellant therein.

24. In **AIR 2008 SC 3112 (Rajbabu v. State of M.P.)**, the

scope of Section 306, 498(A) IPC and 113-A of Indian Evidence Act came up for consideration and the Honourable Supreme Court of India has held as follows:

"Any person who abets the commission of suicide is liable to be punished under Section 306 IPC. Section 107, IPC lays down the ingredients of abetment which includes instigating any person to do a thing or engaging with one or more persons in any conspiracy for the doing of a thing, if an act or illegal omission takes place in pursuance of that conspiracy and in order to the doing of that thing, or intentional aid by any act or illegal omission to the doing of that thing."

25. The Honourable Supreme Court of India has also considered Section 113-A of the Indian Evidence Act and held that the word "**the other circumstances of the case**" used in that Section suggests the need to reach a cause-and-effect relationship between the cruelty and the suicide for the purpose of raising a presumption and it is not an irrebuttable one. In spite of a presumption having been raised, the evidence adduced in defence or the facts and circumstances otherwise available on record, may destroy the presumption.

26. In **2012(9) SCC 734 [Praveen Pradhan v. State of**

Uttaranchal], the appellant therein was prosecuted for the commission of the offences under Sections 306 and 107 of Indian Penal Code. The deceased alleged that the appellant therein had long been attempting to compel the deceased to indulge in several wrongful practices at the work place and the deceased was not comfortable with complying with such orders and as a consequence, the appellant therein started making illegal demands and as the same were not fulfilled, he began to harass and insult the deceased at regular intervals and on one occasion, the deceased was also disgraced in front of the staff of the entire factory and unable to bear with the same, he has committed suicide on 07.10.2005 and also left a suicide note. After investigation, the appellant was charge sheeted and he filed a petition for quash before the High Court of Uttarakhand and it was dismissed and hence, he made a challenge by way of appeal before the Honourable Supreme Court of India. The Honourable Supreme Court of India has also taken into consideration the decisions reported in **AIR 2002 SC 1998 (Sanju v. State of Madhya Pradesh)** (cited *supra*) and **Madan Mohan Singh v. State of Gujarat** reported in **2010(8) SCC 628** and also taken into account the decision reported in **2009(16) SCC 605 (Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)** , which considered the term "**instigation**" and also extracted paragraph Nos.16 and 17 of the said decision and the same have extracted below:

"16..... 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. 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 to be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow, cannot be said to be instigation.

17. Thus, to constitute 'instigation', a person, who instigates another has to provoke, incite, urge or encourage the doing of an act by the other by 'goad' or 'urging forward'. The dictionary meaning of the word 'goad' is 'a thing that stimulates someone into action; provoke to action or reaction' ... to keep irritating or annoying somebody until he reacts....."

27. The decision reported in 2001(9) SCC 618 [Ramesh

Kumar v. State of Chhattisgarh has also been relied upon, wherein it has been held that a reasonable certainty to incite the consequences must be capable of being spelt out. More so, a continued course of conduct is to create such circumstances that the deceased was left with no other option but to commit suicide. The Honourable Supreme Court of India has also considered the scope of Section 107 of Indian Penal Code and observed that **"the offence of abetment by instigation depends upon the intention of the person who abets and not upon the act which is done by the person who has abetted. However, the words uttered in a fit of anger or omission without any intention cannot be termed as instigation and it has to be gathered from the circumstances of a particular case and no straitjacket formula can be laid down to find out as to whether in a particular case there has been instigation which forced the person to commit suicide and in such a case, an inference has to be drawn from the circumstances and it is to be determined whether circumstances had been such which in fact had created the situation that a person felt totally frustrated and committed suicide"**.

28. As already pointed out, in Ex.P.1, P.W.1 did not state anything with regard to the repeated act on the part of the appellant/first accused and that his wife is not beautiful as she is not fair in complexion. P.W.10-the Investigating Officer, in the course of his

testimony, has also deposed that P.W.1 did not state anything with regard to the attempt made by the appellant/first accused to contract marriage for the second time on account of the fact that his wife is not beautiful and he would further depose that P.W.3 did not state anything with regard to the frequent quarrel between the deceased and her husband – the appellant herein/first accused. Similarly, P.W.8 did not state anything with regard to the demand of Rs.10,000/- on the part of the appellant/first accused from P.W.1.

29. P.W.1, in the cross-examination, would admit that his daughter prior to death has written a letter and it was handed over to P.W.10 and a suggestion was put to him that in the letter, she did not implicate the appellant/first accused and it was suppressed. P.W.10, in the cross-examination, would state that P.W.1 did not hand over any letter written by his daughter to him.

30. In the light of the improvements made by material witnesses, in the course of their testimony with regard to the important aspect, coupled with the fact that in Ex.P.1, which came into existence at the earliest point of time, nothing has been stated about the harassment on the part of the appellant/first accused given to his wife that she is not beautiful as she is not fair in complexion, coupled with the legal position, as initiated in the above cited judgments, this Court is of the considered view that the prosecution has failed to prove the commission of the

offence under Section 306 of Indian Penal Code on the part of the appellant/first accused beyond any reasonable doubt. The Trial Court has failed to take note of the vital contradictions in the testimonies of material witnesses. Therefore, the impugned judgment warrants interference.

31. In the result, the Criminal Appeal is allowed and the conviction and sentence recorded by the Trial Court against the appellant/first accused, vide judgment dated 27.10.2006, made in S.C.No.130 of 2005, on the file of the Court of District and Sessions Judge/Magalir Neethimandram, Thirunelveli, for the commission of the offences punishable under Sections 498(A) and 306 of Indian Penal Code, are set aside and the appellant/first accused is acquitted of the said charge. Fine amount, if any, paid by the appellant/first accused, is directed to be refunded to him. The bail bonds executed by him shall stand terminated.

06.03.2015

Index:Yes/No

Internet:Yes/No

SML

To

1.The Court of District and Sessions Judge/
Magalir Neethimandram, Thirunelveli.

2.The Inspector of Police,
Koodankulam Police Station,
Thirunelveli District.

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

M.SATHYANARAYANAN, J.

SML

Judgment made in
Criminal Appeal (MD)No.586 of 2006

Dated:

06.03.2015