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MANKAMMA
v.
STATE OF KERALA
(Criminal Appeal No. 1198 of 2003)

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OCTOBER 8, 2009

[V.S. SIRPURKAR AND DEEPAK VERMA, JJ.]

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Penal Code, 1860 – s. 306 – Abetment of suicide – Conviction of mother-in-law u/s. 306 for abetting suicide of her daughter-in-law by courts below – Correctness of – Held: Evidence of witnesses as also last letter written by deceased to her husband and letter written by deceased's sister-in-law to her brother and deceased, does not show that deceased committed suicide only and only because of the so-called ill-treatment by mother-in-law – With regard to offence u/s. 306 much stronger evidence is required – Evidence falls short of the required standard of proof – Thus, findings by courts below set aside and accused is acquitted.

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The question which arose for consideration in this appeal is whether the courts below were justified in convicting and sentencing the accused-mother-in-law for the offence punishable u/s. 306 IPC on the allegation that she abetted the suicide of her daughter-in-law.

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Allowing the appeal, the Court

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HELD: 1. Ordinarily this Court would not interfere in the matter by re-appreciating the evidence as this Court normally does not go into the task of re-appreciating the evidence. However, when it is found that the evidence has been appreciated in a mechanical manner and without proper consideration of facts and circumstances on record this Court in the interest of justice re-appreciates

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the evidence. [Para 2] [1156-C-D]

2.1. Considering the evidence of all the witnesses namely PW 1, PW 2-father of deceased, PW 3-brother of deceased, PW 4-classmate of deceased and PW 10-sister-in-law of deceased, it does not come out that the deceased committed suicide only and only because of the so-called ill-treatment by the mother-in-law. What was that ill-treatment, how often she was ill-treated by the mother-in-law has remained mystery and has not been brought out in evidence of any of these witnesses. [Para 7] [1159-A-C]

2.2. The prosecution heavily relied upon the last letter written by deceased to her husband which appears to be in the nature of suicide note. The only portion in this letter against the accused is that the accused has been called a horrible lady and that she did not approve of anything done by the deceased. The deceased had also written that the child should not be given in the custody of the accused. The letter clearly suggests that the deceased was completely dis-illusioned about her husband with whom she had eloped much against the will of her parents and further that her husband did not take notice of her very existence and did not bother about her at all. Insofar as the reference to the accused is concerned, the reference is by way of the instruction to her husband that her child should not be given in the custody of the accused as she was horrible. Other letter is the letter written by a loving sister to her younger brother and his wife to mend their ways. The author has proved it. It becomes clear from the letter that the husband of the deceased had become a drunkard. She had advised her brother not to drink and not to start humiliating quarrels and fighting. True, it is stated to the effect that the mother should be comfortable and she

A should be made happy and the mother did not know how
to talk and all of them had suffered the pain because of
the talks of their mother. However, the daughter is careful
enough to write that it should not be taken seriously and
nobody should feel about it, and being the mother she
B should be ignored. This witness has written in the letter
that Amma may say something without knowing
consequence of the same. These letters are not sufficient
to hold that she was so bad and she ill-treated the
deceased so much that the deceased was driven to
C commit suicide only because of these factors. [Para 8]
[1159-C, 1160-A-H, 1161-A]

2.3. In the matter of offence u/s. 306 IPC much
stronger evidence is expected than what is presented.
The evidence about what happens within the four corners
D of walls is not available to the Investigating Agency. But
in this case, very strangely, the Investigating Agency has
not proceeded against the husband against whom there
was a very strong suspicion. The Investigating Agency
has instead made a scapegoat of the old mother perhaps
E trying to rely on the age old concept of bickerings
between the mother-in-law and daughter-in-law. That is
not the universal truth. The courts below should have
therefore in such a matter appreciated the evidence with
discerning eyes. The evidence should have been
F weighed with more care and the finding should have
been arrived at that for but such ill-treatment by the
accused, the deceased would not have committed
suicide. Such would be the standard of proof in the
matter u/s. 306 IPC. The court has to appreciate the
G evidence with open mind and not being driven by the age
old concepts. Applying all these principles, the evidence
falls short of the required standard of proof. Therefore,
the findings of the courts below cannot be concurred
with. The judgments of the courts below are set aside and
H the accused is acquitted. [Para 9] [1161-A-E]

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal A
No. 1198 of 2003.

From the Judgment & Order dated 29.11.2002 of the High
Court of Kerala at Ernakulam in CRRP No. 730 of 1994.

Jayant Muthuraj, S.K. Dubey, Rakesh Sharma, P.V. Dinesh B
for the Appellant.

G. Prakash for the Respondents.

The Judgment of the Court was delivered by C

V.S. SIRPURKAR, J. 1. This appeal is filed by the
accused Mankamma challenging her conviction for the offence
punishable under Section 306, IPC on the allegation that she
abetted the suicide of her daughter-in-law, Bindu. All the three D
courts below have found her guilty of that offence. The first two
courts had awarded her the rigorous imprisonment for two years
with fine of Rs. 2,000/- in default to undergo rigorous
imprisonment for a further period of six months. The High Court
while confirming the sentence reduced the sentence to one year
rigorous imprisonment and also reduced the amount of fine E
from Rs. 2,000/- to Rs. 1,000/-.

2. The prosecution case in extremely short conspectus is
that Bindu was married to Prakasan, son of the appellant and
it was a love marriage. They belonged to different communities F
and hence the marriage was not approved by the parents of
Bindu. So much so, Bindu ran away with Prakasan to get
married . The prosecution case reveals that there is one son
born out of the wedlock. Bindu was married in the year 1987
and was residing in the matrimonial house with her husband G
and the accused. The incident in question had taken place on
15.06.1989 i.e. just within two years of their marriage. On the
said day at about 8.30 a.m. it was reported by PW1, Vijayan
that Bindu had committed suicide by pouring kerosene on her H

A body and set herself ablaze. On that information Crime No. 189/1989 was registered. Inquest was held and post mortum was also conducted. PW9, the Assistant Commissioner took up the investigation initially and thereafter PW11, Sub-Inspector of Police, Jayendran K., completed the investigation and filed the chargesheet before the Court. In all 11 witnesses were examined by the prosecution including the father, brother, sister-in-law of the deceased as also her friend, Ameer Jan. The allegation against the appellant are that because of her cruel treatment to Bindu, she was ultimately driven to commit suicide and that is how the accused had abetted her suicide and had committed offence under Section 306, IPC. There can be no doubt that all the three courts below have held the appellant guilty on the basis of the evidence led before them. Ordinarily we would not have interfered in the matter by re-appreciating the evidence as this court normally does not go into the task of re-appreciating the evidence. However, when it is found that the evidence has been appreciated in a mechanical manner and without proper consideration of facts and circumstances on record we in the interest of justice re-appreciate the evidence. That has happened here.

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3. Mr. Jayanth Muthuraj, Learned counsel appearing on behalf of the accused painstakingly took us through the evidence. Besides the oral evidence, the prosecution also relied on two letters, one written by Bindu to her husband and the other written by her sister-in-law to her and her husband. In support of his argument learned counsel points out that Bindu after her elopement with her husband Prakasan was not in contact with her own family members because she had married into a different caste.

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4. We were taken through the evidence of the relation witnesses and it is pointed out from that evidence by learned counsel that insofar as the evidence of PW2, Kumaran, father of the deceased is concerned he is totally silent about his personal knowledge regarding the treatment given by the

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accused to the deceased. In his evidence he asserts that about two months prior to the death of Bindu when she came to his house she had told about the ill-treatment by the accused since no money was given to the baby of Bindu. Very strangely, this witness kept quiet and did not bother to even ask his son-in-law about the treatment meted out by his mother to Bindu. He admits that after the marriage for almost a year his family did not go to the house of Prakasan and they visited her only after about a year and there was no correspondence between the family. It was only after the delivery of Bindu that for the first time this witness seems to have visited his daughter and son-in-law. In his evidence he concedes "I was told that the accused had created trouble for not paying money but the in-laws and husband of Bindu did not speak to him directly in this regard." We are not much impressed by the evidence of this witness particularly because it does not pin point that it was only because of the cruel behaviour on the part of the accused that Bindu was driven to commit suicide. Significantly enough in his cross-examination it was asked to him as to whether his son-in-law Prakasan used to take drinks and smoke ganja to which he replied that he did not know whether Prakasan used to take drink or smoke ganja. Silence of this witness and his not making any complaint to the police or anybody else put the question mark on the credibility of this witness.

5. The other evidence is that of PW1 Vijayan, who turned hostile. However, in his examination in Chief, he significantly admits that on 15.6.1989 in the morning when he was in the house the accused came running and crying and told him that she heard some noise from the top of the house and she also stated that Bindu was not to be seen. This version would clearly go against the prosecution. If the accused had strained relationship with the deceased, there was no reason to make a hue and cry about Bindu's disappearance. Moreover, she could not have any reason for crying before PW1. PW3, Satheeshan, who is the brother of Bindu deposed that 18 days prior to the incident when he had gone to the house of Bindu,

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A she was crying. On his asking repeatedly he was told that she was beaten by her mother-in-law.

B Ordinarily, we would have expected the witness to react and to complain atleast to his father. However, his father also did not say anything complaining against this beating incident. This is apart from the fact that PW3 also kept quiet and had not chosen to lodge any complaint with the police. He admits that though he saw deceased with injury he did not tell this to any body. That is very unnatural and should have been so realised by the courts below. The other unnatural feature of the evidence of PW3 is that he never talked about all these things to his brother in law, Prakasan which would be a relevant circumstance.

D 6. Insofar as the other evidence is concerned it is of PW4 Ameer Jan who was the class-mate of Bindu. Her evidence has been used for getting EX-P2 which is alleged to be a letter written by Bindu to her husband, as she claimed that she was conversant with the hand-writing of Bindu. In her cross-examination, this witness admitted that Bindu had loved Prakasan very much and she was under the impression that Prakasan was the person without bad habits and Bindu used to hate people who had bad habits. She also admitted that after marriage Bindu had not told that Prakasan had bad habits and that her life with Prakasan was very happy. She also admitted that Bindu had the habit of becoming upset with any unusual incident. PW4 does not appear to be helping the prosecution excepting proving the letter which is EX P-2. We will consider that letter a little later.

G 7. The evidence of PW10 Thankam is the only other evidence of the relation of the deceased. She significantly is the daughter of the appellant. She only proved the letter EX-P8 written by her to both Bindu and Prakasan. She admitted the contents of the letter. We will consider the letter a little later along with EX-P2. In her cross-examination PW10 admitted H that Bindu had never told her that accused assaulted her and

she understood that the accused was very cordial with Bindu and Bindu was unhappy in the beginning as she had to leave her house. Significantly this witness was not declared hostile and therefore her version that the relationship of the accused with Bindu was very cordial goes unchallenged. Considering the evidence of all these witnesses, it does not come out that Bindu committed suicide only and only because of the so-called ill-treatment by the mother-in-law. What was that ill-treatment, how often she was ill-treated by the mother-in-law has remained mystery and has not been brought out in evidence of any of these witnesses.

8. Learned counsel then took us firstly to the EX-P2 on which the prosecution has relied heavily. This appears to be in the nature of suicide note or put it more correctly it happens to be the last letter written by Bindu to her husband. The following contents of Ex P-2 are very relevant.

“My beloved Prakasan, You need not worry, you should look after my child better. You have not done anything wrong but one thing is there, I asked you many times, shall I serve rice? Shall I serve Tea? How many times, how many time I asked. You have not even said yes or no to me. If you do not like me, you can marry someone else, but you should look after after my child properly, that is enough. You do not like me for the last many days. Now, I am not required. I must get this. I had been told everybody in the past that I should not go with him. My parents had told me, that he may leave me after sometime. But, I did not obey their words and came on my own decision. Now, I am getting this gift. I got my child, and now, I got a gift bigger than that. Prakasan, you need not obey me, need not fear me, you can live whatever way you like. When you came late night, I would not disturb you by asking, where were you. Now onwards, my disturbance would not be there. You are not able to do anything due to my existence. So I leave according to my wishes. Your mother is more horrible. Whatever I do is wrong for her. You should not given my child to her. You can give my

A child to Thankamma sister I know that she will look after my child properly.”

The only portion that we find in this letter against the accused is that the accused has been called a horrible lady and that she did not approve of anything done by the deceased. The deceased had also written that the child should not be given in the custody of the accused. The letter clearly suggests that the deceased Bindu was completely dis-illusioned about her husband with whom she had eloped much against the will of her parents and further that her husband did not take notice of her very existence and did not bother about her at all. Insofar as the reference to the accused is concerned, the reference is by way of the instruction to her husband that her child should not be given in the custody of the accused as she was horrible. We do not think that this expression is such a strong expression that the courts could come to the conclusion that it was only and only because of the behaviour and the treatment of the accused to the deceased that she was driven to commit suicide. This takes us to the other letter namely the EX-P8 which has been proved by its author. When we see that letter it becomes clear that Prakasan, the husband of the deceased had become a drunkard. This is a letter written by a loving sister to her younger brother and his wife to mend their ways. She had advised her brother not to drink and not to start humiliating quarrels and fighting. True, it is stated to the effect that the mother should be comfortable and she should be made happy and the mother did not know how to talk and all of them had suffered the pain because of the talks of their mother. However, the daughter is careful enough to write that it should not be taken seriously and nobody should feel about it, and being the mother she should be ignored. This witness has written in the letter that Amma may say something without knowing consequence of the same. We do not think that this letter which has painted the accused with black brush is sufficient to hold that she was so bad and she ill-treated the deceased so much that the deceased was driven

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to commit suicide only because of these factors.

9. In the matter of offence under Section 306, IPC we would expect much stronger evidence than what is presented. True it is that the evidence about what happens within the four corners of walls is not available to the Investigating Agency. But in this case, very strangely, the Investigating Agency has not proceeded against the husband against whom there was a very strong suspicion. The Investigating Agency has instead made a scapegoat of the old mother perhaps trying to rely on the age old concept of bickerings between the mother-in-law and daughter-in-law. That is not the universal truth. The courts below should have therefore in such a matter appreciated the evidence with discerning eyes. The evidence should have been weighed with more care and the finding should have been arrived at that for but such ill-treatment by the accused, the deceased would not have committed suicide. Such would be the standard of proof in the matter under Section 306, IPC. It is indisputable true that the court has to appreciate the evidence with open mind and not being driven by the age old concepts. Applying all these principles we find that the evidence falls short of the required standard of proof. We are, therefore, not in a position to agree with the courts below in so far as their findings are concerned. In our opinion, the evidence in this case fell miserably short of the required standard of proof. In that view we would allow the appeal and acquit the accused. The judgments of the courts below are set aside and the accused is acquitted. Her bail bonds are cancelled.

N.J.

Appeal allowed.